

1. Meeting Minutes



JISC DATA DISSEMINATION COMMITTEE
Friday, August 28, 2015 (8:15 a.m. – 9:45 a.m.)
Administrative Office of the Courts
SeaTac Office Building
180000 International Blvd. Suite 1106, Conf Rm. #2
SeaTac, WA 98188
Call-in Number: 1-877-820-7831, Passcode 797974

DRAFT – MEETING MINUTES

Members Present

Judge Thomas J. Wynne, Chair
Judge Jeannette Dalton (by phone)
Judge J. Robert Leach
Judge G. Scott Marinella
Judge David A. Svaren
Ms. Barbara Miner
Ms. Brooke Powell
Ms. Aimie Vance

AOC Staff Present

Ms. Stephanie Happold, Data Dissemination Administrator
Ms. Keri Sullivan, Judicial Services Division, AOC (by phone)
Ms. Kathy Bowman, Administrative Secretary, AOC

Judge Wynne called the meeting to order at 8:20 am and began with the introduction of new Committee members Judge G. Scott Marinella with the Columbia County District Court and Judge David A. Svaren with the Skagit County District Court. The following items of business were then discussed:

1. Minutes of August 6, 2015

The Committee approved the meeting minutes by consensus. DDA Happold asked the Committee if they agreed the greater detail of discussion included in the minutes would be useful for historical purposes. All agreed to continue capturing meeting minutes in this style.

2. The News Tribute – Request for Financial Information

A request for financial data regarding penalties assessed for Boating Under the Influence (BUI) was received from Melissa Santos with The News Tribune. Judge Wynne noted that because the Data Dissemination Committee policy was not yet updated with the financial data policy, the request for financial data was brought to the Committee for approval. Ms. Miner asked if these cases were all in District Court, or if some were also in Superior Court. DDA Happold replied that there were some in

Superior Court, but mostly CLJ cases. Ms. Vance will do a review of the report once it is finished by AOC Data Warehouse programmers.

Judge Leach made the motion to provide BUI case financial data as requested by The News Tribune and based on the recommendations of AOC staff. Ms. Miner seconded and the Committee unanimously approved the request.

3. Second Engrossed Second Substitute House Bill 1276 - Changes to RCW 46.52.130

The upcoming September 26 Legislative changes to RCW 46.52.130 allows attorneys of record access to Abstract Driving Records. Judge Wynne commented that access has been allowed at the court level, and this change is actually legitimizing the current process. DDA Happold explained the problem with providing Public Defenders direct access to DOL records with JIS LINK because the access would have to be provided to all Level 20 users.

The suggested solution was to provide Public Defenders access to DOL records through a JABS account that is set up with the courts. Judge Leach asked if there was a method to monitor use of this access against abuse and Judge Wynne stated there is a random audit system already in place at the local level. The Committee unanimously approved providing Public Defenders access to DOL information in JABS.

4. Courts of Limited Jurisdiction JIS Retention Schedule Update

After a brief discussion, the Committee agreed to continue with "Iteration 1" of the ITG 41 project. Additionally, once "Iteration 2" commences, the Committee agreed that the small claims case retention should be increased from 5 years to 10 years which correlates to the life of a judgement.

DDA Happold will bring the retention schedule amendment to the Committee at the October meeting so it can be brought before the JISC in December.

Once the change to the retention schedule has been completed, the Local Records Committee will be notified.

5. Will Repository Cases Filed under RCW 11.12.265 are Currently not Available in AOC Public Website Search Engine.

Per GR15, information on sealed cases is limited but available for viewing by the public. However, cases that are sealed in entirety are not currently shown on the AOC public website. Judge Wynne stated these cases need to be searchable and available in SCOMIS. Judge Wynne commented the Superior Court docket is a problem.

Ms. Miner stated that judgements created as Case Type 9s should not be listed separately from the cases from whence they originate.

DDA Happold will meet with ISD/web services regarding making changes to the website search to allow for sealed case information per GR 15(c)(4). The exception would be juvenile records.

Judge Wynne asked DDA Happold to put this on the December agenda for follow up.

6. Review of DD Policy – Providing Individual Compiled Reports

The issue is how to provide information on a case that by statute 'should not exist'. Ms. Miner stated that unless the order to seal a juvenile record states otherwise, no one can have access to that record, including the individual of the case asking for his/her DCH. However, per the Data Dissemination policy, if a defendant or delegate asks the court for the record, it can be provided. It was noted this issue has been previously discussed by the DDC and became ITG 152. This project would create a second version of the DCH that does not include sealed juvenile cases. However, due to time and resources, the project is on hold.

DDA Happold suggested a possible solution would be to implement this in the JABS statewide viewer project. However, there is no guarantee that the project can provide this ability and she asked if the Committee would like to recommend it as a wish list item for the project. The Committee agreed that they are interested in having the AOC pursue this ability. DDA Happold stated she would inform the Project Manager Office of this request.

7. Other Business

A September teleconference will be scheduled to address the upcoming WSP request.

DDA Happold provided an update on ongoing Committee agenda issues from the past year. The JIS LINK exceptions policy still needs to be done and presented to the Committee. Also, DDA Happold will bring back the policy on non-court/clerk IT personnel access once there is an opening in the Committee's agenda.

Ms. Miner stated the Financial Policy had not yet been approved. Judge Wynne requested this to be included on the October DDC meeting agenda.

At 9:45 am, the meeting was adjourned.



JISC DATA DISSEMINATION COMMITTEE
Thursday, September 10, 2015 (12:00 p.m. – 1:00 p.m.)
Teleconference

DRAFT - MEETING MINUTES

Members Present

Judge Thomas J. Wynne, Chair
Judge G. Scott Marinella
Judge David A. Svaren
Ms. Barbara Miner
Ms. Brooke Powell
Ms. Aimee Vance

Members Not Present

Judge Jeannette Dalton
Judge J. Robert Leach

AOC Staff Present

Stephanie Happold, Data Dissemination Administrator
Angie Autry, Business Process Engineer, CLJ-CMS

Guests Present

Ms. Deborah Collinsworth – Washington State Patrol
Ms. Cynthia Marr – Pierce County District Court
Ms. Kim McFarlane – Washington State Patrol
Ms. Becky Miner – Washington State Patrol

Judge Wynne called the meeting to order and the following items of business were discussed:

1. WSP – Identification and Criminal History Section

Request for Access to Sealed Juvenile Records with JIS-LINK Account

Washington State Patrol (WSP) presented its request for access to sealed juvenile criminal case information using their JIS-LINK account. The need is based on Engrossed Second Substitute Senate Bill 5564 requiring the WSP to provide criminal justice agencies access to sealed juvenile records information through the Washington State Identification System (WASIS). E2SSB 5564, Chapter 265, Laws of 2015, Section 3, RCW 13.50.260(8)(d), July 24, 2015. WSP discovered there are issues in implementing this requirement. Courts are usually dismissing and sealing cases at the same proceeding and the data comes to WSP via the AOC data feed seven days after the event. This interval is based on the WSP built-in delay to ensure the fingerprint arrest information is in the WASIS prior to the disposition. Because of this delay, WSP is getting sealing information from the courts before the disposition transfer report and it is unknown which event to seal in WASIS. WSP is asking for access to sealed juvenile cases with their JIS-LINK account so they look up the cases and appropriately update the information in their files.

Ms. Barb Miner supported giving WSP the JIS-LINK access as the language in RCW 13.50.260(8)(d) was part of E2SSB 5564 negotiations. Judge Wynne expressed concern that RCW 13.50.260(7) prevented such access as it states that inspection of sealed juvenile cases can only be done by court order, and the provisions in RCW 13.50.010 or RCW 13.50.050 did not allow for any circumvention for WSP. Ms. Becky Miner raised RCW 43.43.743, .700 and RCW 10.97.045 and the duty of the courts to provide disposition data to

WSP. Judge Wynne did not think that chapter 43.43. RCW could supersede RCW 13.50.260(7). DDA Happold stated that AOC was giving WSP the disposition data pursuant to those statutes via the data feed that also included sealed juvenile case information. Judge Marinella asked how WSP was currently receiving the information and if access could be provided via the local courts and prosecutors. Ms. Becky Miner responded that currently, WSP is working with local court staff and prosecuting attorney's offices as a workaround to obtain the information. However, this is cumbersome and a drain on local resources. Ms. Barb Miner agreed that staffing was an issue to use this method for obtaining the information.

DDA Happold asked Ms. Barb Miner if there was any legislative history or intent that would reflect the negotiations supporting the WSP having this access. Mr. Barb Miner responded that she was not sure. Judge Wynne stated that there needed to be statutory intent before the Committee could approve anything or have the capability to do it. Judge Marinella stated that there needed to be a reconciliation of the statutes and there may need to be a legislative fix to reconcile it. Judge Wynne and Judge Svaren agreed that there needed to be legal analysis to see if RCW 13.50.260(8)(d) trumped RCW 13.50.260(7). Judge Marinella suggested pursuing an Attorney General opinion. DDA Happold was tasked with the legal analysis for AOC and the Committee suggested that WSP ask their AAG Shelly Williams for advice as well. DDA Happold stated that even if the DDC approves this request, the AOC does not know yet how to implement it because none of the JIS-LINK level profiles allow access to sealed juvenile case information.

2. CLJ-CMS Court User Work Group Questions

Can Probable Cause (PC) charges no longer be displayed to the public once they are disposed?

Ms. Angie Autry updated the DDC on the present actions of the CLJ-CMS CUWG and that it is currently sorting through requirements for a new case management system. In doing this, the CUWG had two questions for the DDC, one being if probable cause charges could no longer be displayed to the public once they were disposed. The CUWG's wish is to absorb the PC charges into the main case to avoid a listing of duplicative charges that could be held against the individual if they were displayed to the public. Ms. Aimee Vance stated that the court user would see them but they would not show to the public. Judge Wynne asked if the Committee had any issues with this approach. Ms. Barb Miner stated that she did not see any issues and it sounded better than the current process. Judge Svaren stated that the criminal charge absorbing the PC charge was a good idea, but did not agree with filtering a PC finding because the public had a right to know the outcome, and Committee members agreed.

The Committee ruled that if a PC case remains only with PC charges, the case would follow the new rules for destruction (ITG 41 Phase 2) for PC matters. However, if charges are filed following a finding on the PC charges, the PC charges do not need to appear on a person's case history but will be absorbed into the case. The PC charges would still be within the case itself (i.e. in the charge history and findings, as well as in the docket) but only the current charges would be displayed in case searches (online, link, etc.).

Can civil cases no longer be displayed if they are abandoned and/or not paid?

This question applies to civil cases that are filed but no filing fee is submitted. If the future COTS requires both parties to be entered, they would show in case searches and it could be

used against a respondent for employment, housing, etc. Because of this, the CUWG did not want a civil case to be displayed if it is abandoned. Judge Svaren seconded the recommendation as he has found so many filers walk away from these cases. He also suggested that it should just be the petitioners' names on these cases instead of the respondents. Judge Marinella agreed that just the petitioner of the case should show if they abandon the case. Judge Wynne stated that there needed to be a record without the respondent. Ms. Aimee Vance stated that if the future COTS cannot allow this then the entering of 'unknown' for respondent will be applied. Judge Svaren agreed that that is okay and Ms. Brooke Powell stated that that was more user friendly.

2. DDS Request



Jason E. Murphy
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September 8, 2015

JISC Data Dissemination Committee
C/O Data Dissemination Administrator
PO Box 41170
Olympia, WA 98504-1170
Sent via Email to stephanie.happold@courts.wa.gov

Re: Request to Modify DSA15378

Dear Stephanie,

I am requesting that the JISC Data Dissemination Committee (“**the Committee**”) permit a modification to the Data Share Agreement by and between the State of Washington Administrative Office of the Courts (the “**WA AOC**”) and Data Driven Safety, LLC f/k/a Data Driven Safety, Inc. (“**DDS**”), dated as of June 18, 2015, relating to access to certain traffic infraction case information (“**DSA15378**”).

Specifically, we are seeking the deletion of Section 10.4 which currently provides:

10.4 DDS shall not release specific case information about individuals to any subscribers or other third party entities.

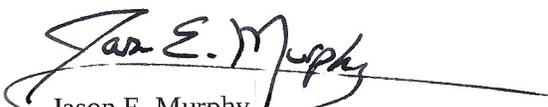
We read the current contractual requirement of Section 10.4 to preclude DDS from providing any subset of any record of the data to any person for any purpose, whatsoever. Solely by way of illustration, this clause precludes us from providing a responsive case number to our customers. Short of a “yes/no” DDS response to a customer inquiry, this restriction renders the public information all-but unusable.

To remain in compliance with all contractual obligations with the WA AOC, DDS has opted since the outset of DSA15378 to use the index solely as a “pointer file” to allow us to more efficiently pull down the identical information from JIS. We are able to use this expensive, time-consuming approach to obtain data redundant from what is contained in DSA15379 because, as the Committee is aware, neither the JIS terms and conditions nor any other MSA related to public indices include a provision similar to 10.4.

And that reaches the heart of the issue: we believe the WA AOC has sufficient contractual provisions to ensure that DDS safeguards the data (e.g., Section 7.2.1-7.2.11, 9.1-9.4, 10.1-10.3) without needing to rely on a clause that has the (unintended) consequence of altering the public nature of this index data.

Thank you for your consideration. We look forward to your decision.

Sincerely,


Jason E. Murphy
Data Driven Safety, LLC





October 23, 2015

TO: JISC Data Dissemination Committee

FROM: Stephanie Happold, AOC Data Dissemination Administrator

Background Information Regarding Data Driven Safety (DDS) Request

1. May 31, 2013, the DDC approved the DDS request for traffic infraction case information from cases disposed within the last three years. The approval was based on the recommendations DDA Alfasso provided in her memo to the Committee which is attached. The recommendations included:
 - DDS shall only use the case information that is still publicly available and is required to delete the information after three years to be consistent with the retention period for infractions.
 - DDS must update the data which is less than three years old on a quarterly basis.
 - DDS will only use the updated data in responding to requests for information from third-parties.
 - Limitations shall be placed on DDS' use of the data which are consistent with the customer's request to the JIS Data Dissemination Committee. For example, DDS stated it will not be releasing specific case information about individuals to its third-party customers.
2. April 24, 2015, DDC approved Drivers History Information's (DHI) request. The first part of DHI's request for data was similar to what DDS received from the 2013 request, except they asked for a historical file instead of a three year period. The second part of the request was for monthly updates. The AOC does not provide new datafeeds with automatic file transfers as the agency does not have the resources to monitor and maintain these new feeds. Instead, the Committee directed DHI to submit a monthly request asking for updated case information based on the specifics the DDC provided. The contract for this request had the same language as the DDS agreement: no specific case information about individuals would be provided to third-party customers.
3. May 2015, DDS asked to have the same data as what was provided to DHI and to terminate the 2013 data request. AOC staff executed this agreement with DDS that included the same language as the older DDS agreement and the DHI agreement. The agreement is attached.
4. DDS is now asking to amend section 10.4 of the contract to allow release of specific case information about individuals.
5. AOC staff does not have a recommendation for this request and will defer to the DDC and its reasons why it wanted that provision in the agreements.

March 8, 2013

TO: Dirk A. Marler, JSD Director

FROM: Lynne Alfasso, Legal Services

RE: Request to Provide Judicial Information System (JIS) Traffic Infraction Data for Commercial Purposes — Legal Services Analysis Request

Caveat. This legal analysis is intended to assist the Administrative Office of the Courts (AOC) in making policy decisions. The legal analysis is not intended to be relied upon by those outside of the AOC. Further, it is not intended as, nor should it be construed as, a legal opinion in the nature of an Attorney General's Opinion. The official legal advisor for individual courts is the county prosecutor or city attorney, not the Administrative Office of the Courts.

I. ISSUES PRESENTED

These issues were presented in a memorandum dated February 22, 2013, from Judge Thomas J. Wynne to Callie T. Dietz, State Court Administrator. These issues arise out of a request from a private company, Data Driven Safety, Inc., for an information report consisting of JIS data from traffic infraction cases disposed of in the courts of limited jurisdiction during the last three years.

- A.** Would the release of the JIS traffic infraction database of cases disposed of within the last three years violate federal or state law, including RCW 46.52.130 or 18 U.S.C. 2721?
- B.** Under what terms and conditions, if any, may the information be released?

II. ANSWERS

- A.** The release of the information by AOC would not violate state or federal law.
- B.** If the information is released, the terms and conditions in the standard agreement approved by the Judicial Information Systems Committee pursuant to GR 31 for the "bulk distribution" of court record information should adequately provide for the security and allowable use of the data, with modifications reflecting that this is a one-time distribution of information and not an ongoing subscription to data.

III. ANALYSIS

- A. What Information Has Been Requested by Data Driven Safety, Inc.?**

Data Driven Safety, Inc. has requested the following data elements from traffic infraction cases which have dispositions entered during the last three years in the courts of limited jurisdiction that use JIS (JIS case type IT):

Case Number
LEA Code (Law Enforcement Agency)
LEA Name
Name of Individual
Date of Birth (mm/dd/ccyy) (if unavailable = 01/01/1800)
Gender
Case Type ('IT' = infraction traffic)
Jurisdiction Code
Jurisdiction Description
Violation Date (mm/dd/ccyy)
Case Filing Date
Case Disposition Code
Case Disposition Description
Case Disposition Date
Driver's License State of Issuance
Statute Violated (Charge Information)

B. The Release of the Information Would Not Violate State or Federal Law

1. RCW 46.52.130 Does Not Prohibit the Courts From Releasing this Information to Data Driven Safety, Inc.

RCW 46.52.130 governs the release of an abstract of a person's driving record by the state Department of Licensing (DOL).

An "abstract" consists of the following information related to a person's driving history:

- a) An enumeration of motor vehicle accidents in which the person was driving;
- b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;
- c) The status of a person's driving privilege in this state; and
- d) Any reports of a failure to appear in response to a traffic citation or notice or infraction.

RCW 46.52.130(1).

The statute specifies to whom the DOL may release a person's abstract:

- a) The subject of the abstract;
- b) Employers or prospective employers (with the subject's consent);
- c) Volunteer organizations (with the subject's consent);
- d) Transit authorities checking on prospective volunteer vanpool drivers;
- e) Insurance carriers may receive an abstract covering the last three years only;
- f) Alcohol/drug assessment or treatment agencies may receive an abstract covering the last five years, (but with ten years of alcohol-related offenses);
- g) City attorneys and prosecuting attorneys;
- h) State colleges, universities, or agencies, or units of local government;
- i) Superintendent of public instruction.

RCW 46.52.130(2).

RCW 46.52.130 does not apply to the dissemination of information by the courts about information in public court records. The statute applies only to the dissemination of a driver's abstract by the DOL.

Public access to the information in court records is governed by GR 31, which provides for open public access to court records unless restricted by federal law, state law, court rule, court order, or case law. GR 31 (d) (1). Public access to the information in court cases is also governed by a well-developed body of common law, under which the public has a right to inspect and copy court case records. See *Nast v. Michels*, 107 Wash.2d 300, 730 P.2d 54 (1986).

The information requested by Data Driven Safety, Inc. is information found in the JIS record of traffic infraction cases (cases filed as case type IT in the courts of limited jurisdiction.) Traffic infraction cases are not restricted from public access under state law or by court rule. However, it is possible that a specific infraction case may be ordered sealed from public access pursuant to court order under GR 15.

2. RCW Chapter 46.12 Does Not Prohibit the Release of the Information Requested by Data Driven Safety, Inc.

RCW 46.12.630 places restrictions on the disclosure of lists of names and addresses of registered and legal vehicle owners by the department of licensing. RCW 46.12.636 places restrictions on the disclosure of names and addresses of individual vehicle owners. The information requested by Data Driven Safety, Inc., does not include parking infraction case information, which is linked to vehicle information; therefore, these statutes do not apply to this request. In addition, parking tickets filed with the

court become public records and are subject to public access for the reasons set forth in section III.B.1, supra.

3. 18 U.S.C. 2721 Does Not Prohibit the Courts From Disseminating the Personal Information Requested by Data Driven Safety, Inc.

The Driver's Privacy Protection Act of 1994, 18 U.S.C. §§ 2721 to 2725 (DPPA), restricts the disclosure by state departments of motor vehicles of drivers' "personal information" without the drivers' personal consent, except that the personal information can be disclosed by the state for "permissible uses". "Personal information" is defined in 18 U.S.C. 2725 (3). "Permissible uses" is defined in 18 U.S.C. 2721 (b).

The DPPA applies to the disclosure of information by state departments of motor vehicles, such as DOL. 18 U.S.C. 2721 (a). While there have been many cases decided under the DPPA reviewing whether or not the release of drivers' personal information was permissible, these cases do not concern the release of personal information by a court. There appear to be no cases under the DPPA that prohibit the release of drivers' information from a public court record by courts.

The personal information which Driver Driven Safety, Inc. has requested from the JIS database is the driver's name and date of birth. That information becomes part of the court case record because it is entered into the citation by the law enforcement agency that issues the traffic citation. A traffic citation filed with the court is a court pleading and is generally considered a public record that may be viewed and copied by the public. ARLJ 9 (a) (1).

In *Graczyk v. West Pub. Corp.*, 660 F.3d 275 (7th Cir., 2011), the court upheld the right of a commercial reseller of information to obtain the drivers' personal information and resell it to customers, so long as the customers indicated that they wanted the information for a "permissible use" under the DPPA. A similar holding was reached by the court in *Taylor v. Acxion Corp.*, 612 F.3d 325 (5th Cir., 2010). The courts in these two cases did not require that the commercial reseller have a "permissible use" for the information so long as the reseller only distributed the information to customers who stated that they had a "permissible use" for the information.

However, in contrast to *Graczyk* and *Taylor*, in *Locate.Plus.Com, Inc. v. Iowa Dept. of Transp.*, 650 N.W.2d 609 (2002), the Iowa Supreme Court held that the DPPA requires that a commercial reseller must itself have a statutorily-allowed "permissible use" for the information for the reseller to lawfully purchase the information from the state.

A federal appeals court recently held that a municipality's law enforcement agency made an impermissible use under the DPAA of a driver's personal information when a person was given a parking ticket which the city parking officer placed on the vehicle

windshield. The parking ticket displayed the vehicle's registered owner's personal information (name, address, driver's license number, date of birth, sex, height, and weight), which the parking enforcement officer had obtained from the state department of motor vehicles database. *Senne v. Palatine*, 695 F. 3d 617 (7th Cir., 2012). The appellate court held that the municipality had included "too much" personal information on the ticket and, therefore, the exemptions from the provisions of the DPPA which a government agency normally enjoys in carrying out a government function were not applicable.

The municipality has filed a petition for writ of certiorari in the U.S. Supreme Court, which has not yet decided whether it will grant the petition and accept the case for review. This case has caused consternation among municipalities, since the form of the parking citation used by the Village of Palatine to cite Mr. Senn, and the manner in which he was cited, is apparently widely used to enforce parking regulations, and several amici curiae have filed briefs asking the Supreme Court to accept this case for review. (See <http://www.scotusblog.com/case-files/cases/village-of-palatine-v-senne/>.)

Mr. Murphy, the spokesperson for Data Driven Safety, Inc., mentioned a Wisconsin case involving liability imposed for violation of the DPPA that was of interest to Judge Wynne. (*Memorandum from Judge Wynne to Callie T. Dietz dated February 22, 2013.*) That case was *Deicher v. City of Evansville*, a trial court decision that is summarized on page 3, footnote 11, of the November 2012 *Comment* of the League of Wisconsin Municipalities (attached hereto as Appendix 1.) *Deicher* also involved a law enforcement agency; an officer made improper use of a driver's personal information by providing a woman's address, which the officer obtained from state department of motor vehicle records, to the woman's estranged husband.

The personal information which Driver Driven Safety, Inc. has requested from the JIS database is the driver's name and date of birth. That information becomes part of the court case record because it is entered into the citation by the law enforcement agency that issues the traffic citation. If it is a violation of the DPPA for the law enforcement agency to include this information on a citation which the law enforcement agency knows will become a public record, then the law enforcement agency should be liable, for disseminating the information for an "impermissible use", not the court. However, it should be noted that the information requested by Driver Driven Safety, Inc., has been publicly available both at the courthouse and in JIS for many years.

C. Under What Terms and Conditions Should the Information Be Released?

Data Driven Safety, Inc. has requested traffic infraction case data from cases with dispositions entered during the last three years in the courts of limited jurisdiction. Three years after disposition (or seven years for a case with a deferred disposition) is the

retention period in JIS for the IT case type. (*District and Municipal Court Records Retention Schedule, Section 2.2, Civil Infractions.*)

GR 31 governs access to court records. GR 31 (c) (3) defines “bulk distribution” as the “distribution of all, or a significant subset, of the information in court records, as is and without modification.” Data Driven Safety, Inc., is requesting a significant subset of the information in court records on this case type. Therefore, the rules governing the “bulk distribution” of data, which are found in GR 31 (g), should apply to this request. GR 31 (g) states as follows:

- (1) A dissemination contract and disclaimer approved by the JIS Committee for JIS records or a dissemination contract and disclaimer approved by the court clerk for local records must accompany all bulk distribution of court records.
- (2) A request for bulk distribution of court records may be denied if providing the information will create an undue burden on court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.
- (3) The use of court records, distributed in bulk form, for the purpose of commercial solicitation of individuals named in the court records is prohibited.

The contract approved by the JIS Committee for the dissemination of bulk records is set forth as Appendix 2. Since Appendix 2 contemplates a customer who is an ongoing subscriber to JIS data, the provisions will need to be modified for this one-time report for Data Driven Safety, Inc. Some edits have been proposed to the contract provisions, as set forth in Appendix 2:

- The contract in Appendix 2 provides that a subscriber may only use the court data which is the most recent download of information provided by AOC to the customer, to ensure that the subscriber uses the most recent case information which is publicly available. (Paragraph 7.2.6) To ensure that Data Driven Safety, Inc., only uses the case information that is still publicly available, the customer should be required to delete the case information after it is three years old, to be consistent with the JIS retention period for these cases (which Data Driven Safety, Inc., has stated that it is willing to agree to.)
- The Data Dissemination Committee should consider whether or not to require Data Driven Safety, Inc., to update the data which is less than three years old on a quarterly basis, if there is any concern that the dispositions on the cases may be updated by the courts or that cases may be sealed. Paragraph 9 of the

Agreement in Appendix 2 requires the subscription customers to update their data quarterly, and to only use the updated data in responding to requests for information from third-parties.

- The Data Driven Safety, Inc., should pay AOC's programming costs to provide the data, which is a typical requirement for a custom JIS data report.
- Limits should be placed on Data Driven Safety, Inc.'s use of the data which are consistent with the customer's request to the JIS Data Dissemination Committee. For example, the customer has stated it will not be releasing specific case information about individuals to its third-party customers.
- On cases which have been sealed pursuant to court order, only those data elements allowed by GR 15 (c)(4) should be released to Data Driven Safety, Inc.: case number, names of the parties, the notation "case sealed," the case type, and cause of action.
- All other terms and conditions in the contract in Appendix 2 should be included.

IV. Conclusion

The Data Dissemination Committee has asked whether the release of the traffic infraction case information requested by Data Driven Safety, Inc., will violate any state or federal laws. Release of the requested information will not violate any such laws. By using the Agreement already approved by the JISC for the "bulk distribution" of JIS data, the Data Dissemination Committee will ensure that release of the information is consistent with the policies adopted by the JISC to require that persons who receive JIS data in bulk are responsible in their use of that information and that any risk of liability is borne by the customer and not the state.

Cc: Nan Sullins

February 5, 2013

TO: JISC Data Dissemination Committee

FROM: Lynne Alfasso, Data Dissemination Administrator

RE: Data Driven Safety, Inc. Request for Information -- Meeting on February 12, 2013

Data Driven Safety (DDS) has requested information from the Judicial Information System (JIS). The DDS Request for Information, dated December 3, 2012, is attached hereto as Exhibit A. DDS requests the following information from the Judicial Information System (JIS): Three years' of traffic infraction case information.

In a telephone conversation with AOC staff, DDS indicated that the specific data elements the company wants from traffic infraction cases are set forth below:

Case Number
LEA Code (Law Enforcement Agency)
LEA Name
Name of Individual
Date of Birth (mm/dd/ccyy) (if unavailable = 01/01/1800)
Gender
Case Type ('IT' = infraction traffic)
Jurisdiction Code
Jurisdiction Description
Violation Date (mm/dd/ccyy)
Case Filing Date
Case Disposition Code
Case Disposition Description
Case Disposition Date

DDS intends to use the requested information for commercial purposes.

ISSUE

Does the Data Dissemination Policy allow the release of the JIS traffic infraction database of cases disposed of within the last three years? If so, under what terms and conditions should the information be released?

BACKGROUND INFORMATION

The Administrative Office of the Courts (AOC) does not currently provide a bulk public Index of traffic infraction cases to which the public may subscribe. The public can subscribe to bulk indexes with information on criminal and civil cases. The indexes on criminal cases contain information similar to what DDS is requesting on traffic infraction cases.

A sample subscription contract for index information on court of limited jurisdiction criminal cases is set forth as Exhibit B. Subscribers receive an updated index quarterly from AOC to ensure that subscribers are receiving the most current information on a case. Subscribers may only use the information in the most current quarterly index and are prohibited from using any of the information once the subscription is terminated by the subscriber or AOC.

THE LENGTH OF RETENTION IN JIS OF TRAFFIC INFRACTION CASES IS ONLY THREE YEARS

Traffic infraction cases are only retained in JIS for three years after disposition (or seven years if the case is disposed of by a deferred penalty.) In contrast, the judgment and sentence in a criminal case from a court of limited jurisdiction is retained permanently in JIS, as required by court rule. *CrRLJ 7.2(d)*. Therefore, the information on infraction cases is only available to the public for a relatively brief period of time.

STATE LAW RESTRICTS WHO HAS ACCESS TO DRIVERS' ABSTRACTS

While state law has no restrictions on who may access a person's criminal case history, state law restricts who may access a compiled abstract of a person's driving record. Under RCW 46.52.130, the department of licensing may furnish an abstract only as follows:

- To the subject of the abstract;
- To the employer or prospective employer of the subject of record, with the signed consent of the subject;
- To volunteer organizations, with the signed consent of the subject;
- To transit authorities checking prospective volunteer vanpool drivers for insurance and risk management needs;
- To insurance carriers (may get abstract covering **last three years only**, for insurance purposes);
- To alcohol/drug assessment or treatment agencies, to which the subject of the record has applied or been assigned;
- To city attorneys and county prosecuting attorneys;
- To state colleges, universities, or agencies, or units of local government, for purposes of related to employment and risk management,

The release of the abstract to third parties by any of the authorized persons or entities is prohibited by law.

FEDERAL LAW RESTRICTS THE SALE OR RELEASE OF A DRIVER'S PERSONAL INFORMATION BY THE STATE DEPARTMENT OF LICENSING

The federal Driver's Privacy Protection Act, restricts the sale or release of a driver's personal information by a state department of motor vehicles, except for permissible purposes, as defined by statute. 18 U.S.C. 2721 (set forth in Appendix B.) "Personal information" is defined to include information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the zip code), telephone number, and medical or disability information. 18 U.S.C.2725(3).

THE JIS DATA DISSEMINATION POLICY

The JIS Data Dissemination Policy (hereinafter referred to as the DD Policy) Section III.A.4 provides as follows:

Privacy protections accorded by the Legislature to records held by other state agencies are to be applied to requests for computerized information from court records, unless admitted in the record of a judicial proceeding, or otherwise made a part of a file in such a proceeding, so that court computer records will not be used to circumvent such protections.

The Data Dissemination Committee should not release the traffic infraction database if to do so would violate privacy protections accorded to the Legislature to this compiled information. Both state and federal law are protective of a driver's personal information and history to a much greater extent than a criminal defendant's personal information and history are protected.

While traffic infractions are open to public access on a case-by-case basis, these cases are only available in JIS for three years after disposition (or seven years in the case of a deferred penalty.) Releasing the entire index of cases in an electronic format would allow the requestor to easily prepare compiled reports on drivers who received infractions and to retain the information.

RCW 46.52.130 protects a person's compiled driver's history from public inspection. Dissemination of the traffic infraction index would allow the requestor to easily compile a driver's history on the individuals with traffic infractions. It would also allow the requestor to easily retain the information, even though RCW 46.52.130 places time limits on the abstract history that requestors such as insurance companies are allowed to see. Dissemination of the index to DDS would also disseminate drivers' personal information in a compiled format that federal law prohibits state departments of licensing from releasing under 18 U.S.C. 2721.

The complaints that AOC receives about background companies who use stale or incorrect JIS data are always about information that a background company has received in an index from AOC (as opposed to case information which the company has researched on a case-by-case basis in JIS-Link.) There seems to be more instances of companies misunderstanding the information in indexes or not updating that information when case dispositions change. Releasing additional information in a bulk format would potentially exacerbate this problem.

There are other ways for DDS to obtain the traffic infraction information. These cases are available in JIS-Link on a case-by-case basis to subscribers, for the length of the JIS retention period.

The retention period in JIS of only three years after disposition of the traffic infraction case (for most cases) seems to mirror the provision in state law that only allows a three-year driver's abstract to be released to insurance companies. Release of the entire traffic infraction database, with the potential for that information to be retained for a longer period, would seem to go against the intent of the legislature that compiled driver history information not be available publicly and not be retained for a long period of time. If the traffic infraction is released, a contract similar to the contracts required for the release of other complete indexes should be required, with a time limit on the retention of the information of the requestor.

December 3, 2012

Callie T. Dietz
State Court Administrator
Washington Administrative Office of the Courts
PO Box 41170
Olympia, WA 98504-1170

Re: One-Time, 3-Year, Traffic Infraction History File Request

Dear Ms. Dietz:

I am requesting on behalf of Data Driven Safety, Inc. (DDS) access to a one-time report containing three (3) years of 'traffic infraction' case information handled by the Washington courts of limited jurisdiction.

DDS is a small attorney-owned company dedicated to improving public safety. Due to the breadth of our service offerings, our customers range from large corporations to small franchisees and beyond. Moreover, we offer certain nonprofit traffic safety organizations with complimentary search results from our data sets in furtherance of their research efforts.

In Washington, we provide driver monitoring services to more than 8,000 employee and vanpool drivers via the Washington State Transit Insurance Pool (WSTIP) and through interlocal agreements, to an expanding number of municipalities. This service couples access to DOL monthly driver abstract data and judicial information on relevant traffic offenses through a comprehensive driver improvement platform that contains integrated record and learning management systems. Based on its success over the last two years, Envision was selected by the WSTIP board as the first and only 'member-required' program. For more information, please feel free to contact Ms. Tracey Christianson, Member Services Manager at (360) 586-1800 x213.

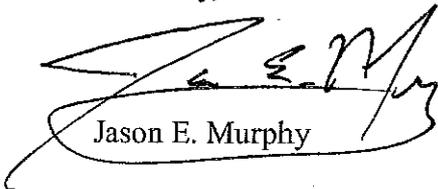
While we subscribe to each of the various abstracts that relate to motor vehicle offenses, receive dockets and indices from various district and superior courts, monitor the public access pages at the state-wide level and conduct limited JIS confirmation searches, the lack of a state-wide report or index makes it all but impossible to gather information related to the entirety of the more than one million traffic infraction (TI) charges filed each year in Washington.

As a result, there is no viable mechanism to obtain information to support a number of our services (including the Envision lookback service and an upcoming graduated driver licensing national enforcement study for the AAA Safety Foundation). While we are willing to invest in the exceptional expense of obtaining this information for all TI cases directly from JIS on a go-forward basis, attempting to extract several million records at \$0.06 per click is not practical.

Instead, we are seeking a simple one-time report that uses the same data fields as the current Traffic Crimes Index be created to provide information on the prior three years of traffic infractions. We will gladly bear the cost of this programming to extract the information present in your JIS system.

Should you have any questions, please do not hesitate to contact me directly at the number above. Thank you in advance for your thoughtful consideration.

Sincerely,



Jason E. Murphy

cc: Ms. Lynne Alfasso, Data Dissemination Administrator

Exhibit B

State of Washington

Administrative Office of the Courts

DATA TRANSFER SUBSCRIPTION

AND

LICENSING AGREEMENT

FOR

**PUBLIC COURTS OF LIMITED
JURISDICTION CRIMINAL INDEX**

Exhibit B

State of Washington
Administrative Office of the Courts

**DATA TRANSFER SUBSCRIPTION
AND
LICENSING AGREEMENT**

Table of Contents

1.	Purpose	1
2.	Definitions	1
3.	Application for Subscription	1
4.	Grant of License	1
5.	Subscription	1
6.	Term and Effective Date of Agreement	1
7.	Basic Transaction	2
	7.1 Responsibilities of the AOC	2
	7.2 Responsibilities of the Licensee	2
8.	Costs	2
9.	Ongoing Data Scrubbing and Update Requirements	2
10.	Restrictions on the Use of Information and Data Provided Under This Agreement	3
11.	Licensee Subscriber Provisions	3
12.	Disclosure Requirements	3
13.	Audits	3
14.	Cooperation with AOC and Prosecutorial Authorities	4
15.	Contract Compliance Monitoring and Auditing	4
16.	Compliance with Authorities	4
17.	Resale of Data	4
18.	Rights and Interest	4
19.	Changes Relating to Information and Data	4
20.	Support/Assistance	4
21.	Disclaimer of Warranties	5
22.	Limitation of Liability	5
23.	Indemnification	5
24.	Insurance	5
25.	General Terms and Conditions	5
	25.1 Alterations and Amendments	5
	25.2 Assignment	6
	25.3 Disputes	6
	25.4 Entire Agreement	6
	25.5 Governing Law	6
	25.6 Headings	6
	25.7 Conflicts of Authority	6
	25.8 Independent Status of Parties	6
	25.9 Non-Exclusivity	6
	25.10 Notices	6
	25.11 Records Maintenance	6
	25.12 Savings	6
	25.13 Severability	6
	25.14 Subcontracting	6
	25.15 Survival	7

<u>25.16</u> Termination	7
<u>25.17</u> Termination Procedure	7
<u>25.18</u> Waiver	7
<u>26.</u> Signatures	7

State of Washington
Administrative Office of the Courts
1206 Quince Street SE
PO Box 41170
Olympia, Washington 98504-1170

DATA TRANSFER SUBSCRIPTION AND LICENSING AGREEMENT
Public Courts of Limited Jurisdiction Criminal Index

This Agreement is entered into by and between the Administrative Office of the Courts, an office of the Judicial Branch of the Washington State government, hereinafter referred to as the "AOC" and Licensee's _____ or "Licensee." The _____ address _____ is _____

IN CONSIDERATION of the mutual promises made to each other, as hereinafter set forth, the AOC and the Licensee agree as follows:

1. **PURPOSE:** The purpose of this Agreement is to establish the terms and conditions under which the AOC agrees to transfer to the Licensee, on a subscription basis, data files containing the Public Courts of Limited Jurisdiction Criminal Index in print image format ("Index") and to grant the Licensee a license for use of the Index.
2. **DEFINITIONS:** As used throughout this Agreement, the following terms shall have the meanings set forth below:
 - 2.1 "AOC" shall mean the Administrative Office of the Courts of the State of Washington, any division, section, office, unit, or other entity of the AOC, or any of the officers, other officials, employees, volunteers, or others acting as representatives lawfully representing the AOC.
 - 2.2 "Court" shall mean the Washington State Supreme Court, any division, section, office, unit, or other entity of the Court, or any of the officers, other officials, employees, volunteers, or others acting as representatives lawfully representing the Court.
 - 2.3 "Licensee" shall include all officers, employees, and agents of the Licensee.
 - 2.4 "Data" shall include any computer readable copies of the Index and any computer readable copies of any data provided to the Licensee.
 - 2.5 "Information" shall mean material provided by the AOC in any format, including reports.
 - 2.6 "Subscriber" shall mean a client of Licensee to whom information and/or data is given on a case-by-case basis.
3. **APPLICATION FOR SUBSCRIPTION:** The Licensee has submitted a written Subscription Application (application) to the AOC, a copy of which is attached as Exhibit A and is incorporated by reference as part of this Agreement. The Licensee warrants the information in the application is correct and the Licensee will use the Index solely for the purposes set forth in the application.
4. **GRANT OF LICENSE:** The AOC hereby grants a non-exclusive license to the Licensee for the use of the Index and the data contained in it and to distribute such data to its subscribers subject to said terms and conditions contained herein.
5. **SUBSCRIPTION:** The AOC will provide the Licensee with the Index on a subscription basis. As long as this Agreement remains in effect the AOC will provide the Index according to the following schedule:

Five year FTP file updated quarterly (January, April, July, and October)
6. **TERM AND EFFECTIVE DATE OF AGREEMENT:**
 - 6.1 The initial term of this Agreement is from the date of its execution by the AOC through December 31 of the current year, unless sooner terminated as provided herein.

- 6.2 This Agreement automatically extends for successive six-month periods unless either of the parties notifies the other in writing, electronic mail being sufficient, at least 30 days prior to the automatic renewal date that they wish to terminate the Agreement.
- 6.3 The Agreement may be terminated in accordance with the provisions of Subsections 25.16.1, 25.16.2, and 25.16.3 below.

7. BASIC TRANSACTION: This Agreement sets forth the responsibilities of the parties, costs, and the terms and conditions under which the Index will be provided.

7.1 RESPONSIBILITIES OF THE AOC: The AOC shall:

- 7.1.1 Provide the Licensee with access to an FTP server containing the five-year Public Courts of Limited Jurisdiction Criminal Index file.
- 7.1.2 The FTP file will be updated on a quarterly basis (January, April, July, and October).

7.2 RESPONSIBILITIES OF THE LICENSEE: The Licensee shall:

- 7.2.1 Comply with the provisions of this Agreement and all of the terms and conditions contained herein or attached hereto.
- 7.2.2 Make payments to the AOC pursuant to the provisions of Subsections 8.1 and 8.2 below.
- 7.2.3 Establish written procedures which shall describe the process the Licensee uses to meet the terms and conditions of this section of the Agreement.
- 7.2.4 Recognize and hereby acknowledge that the user identifiers and passwords, if any, supplied by the AOC to the Licensee are the confidential property of the AOC, subject to the proprietary rights of the AOC, and agrees to hold such user identifiers and passwords, if any, in the strictest confidence. The Licensee further agrees to exercise at all times the same care with respect to the user identifiers and passwords, if any, or any other materials or information provided hereunder by the AOC as the Licensee would exercise in the protection of the Licensee's own confidential information or property and to not release or disclose it to any other party except with the written consent of the AOC.
- 7.2.5 Provide the AOC with access at no charge to any database created using information from the FTP file provided hereunder for the purpose of monitoring and auditing contract compliance.
- 7.2.6 Replace, whenever a quarterly update becomes available, any automated files it maintains which contain Index information with the information from most recent quarterly FTP files.
- 7.2.7 Return to the AOC or destroy any information and data provided by the AOC under this Agreement in any form, held by the Licensee or any officer, employee or agent of the Licensee on the date and to the extent specified in the notice of termination or at the expiration of the Agreement.

8. COSTS:

- 8.1 The Licensee shall make a non-refundable advance semi-annual payment within 30 days of invoice receipt.
- 8.2 Rate Schedule:
 - Semi-annual fee: \$900.00

9. ONGOING DATA SCRUBBING AND UPDATE REQUIREMENTS:

- 9.1 Sealed and otherwise restricted cases: The Licensee agrees to remove from its files cases sealed (or otherwise restricted) after their appearance in data files provided to the Licensee. The data provided to the Licensee will contain transactions identifying the cases that are to be removed.
- 9.2 Dispositions: The Licensee agrees to update promptly all cases when disposition information is received.
- 9.3 Cases amendments: The Licensee agrees to update in its files cases where the charge is amended after their first appearance in data files provided to the Licensee. The data provided to the Licensee will contain transactions identifying the cases that are to be amended. The Licensee agrees that its

files will contain only the most current charges.

10. RESTRICTIONS ON THE USE OF INFORMATION AND DATA PROVIDED UNDER THIS AGREEMENT:

- 10.1 The information and data provided to the Licensee under this Agreement is subject to the restrictions contained in Subsection 7.2.6 and Section 9 above relating to data scrubbing and update requirements.
- 10.2 The Licensee is responsible for ensuring that access and use of the data by its subscribers is conducted in a proper and legal manner and that access is available only to authorized subscribers.
- 10.3 To the extent that the data being accessed is covered by other laws, statutes, court rules, and administrative rules and regulations which restrict access to and use of such information and data, the restrictions contained in such laws, statutes, court rules, and administrative rules and regulations shall apply to the data accessed under this Agreement.
- 10.4 Any exceptions, revisions, or waivers to these limitations requested by the Licensee must be approved in writing by the AOC and received by the Licensee prior to the requested use or dissemination of the information and data received under this Agreement.

11. LICENSEE SUBSCRIBER PROVISIONS:

- 11.1 Licensee shall establish procedures for screening and qualifying potential subscribers.
- 11.2 The Licensee shall verify the identification of its potential subscribers to the Licensee's satisfaction, obtain proof from each potential subscriber sufficient to demonstrate to the Licensee's satisfaction that the potential subscriber is the type of entity the potential subscriber claims to be, and obtain a certification from the potential subscriber stating that the potential subscriber will use the information only for those purposes allowed by law and under the subscriber agreement. The Licensee shall maintain a record of these facts for a period of not less than six years from the latest date the Licensee disclosed information to the subscriber and shall provide such record to the AOC upon request.
- 11.3 Licensee will enter a written subscriber agreement with each of its subscribers. Such agreements shall specifically detail the access that the subscriber will have to the Licensee's database, detail authorized uses of the data accessed, condition access to authorized use, and include a provision for immediate termination of the agreement in the event of improper use by the subscriber of the data which the subscriber has been authorized to access.
- 11.4 The Licensee agrees to provide a list of the Licensee's subscribers to the AOC upon request by the AOC.

12. DISCLOSURE REQUIREMENTS: When the information and data covered by this Agreement is provided in any form by the Licensee to a subscriber, customer, client, or other third party, the Licensee hereby agrees to provide each such subscriber, customer, client, or other third party with the information contained in the **DISCLAIMER OF WARRANTIES** and **LIMITATION OF LIABILITY** sections of this Agreement. At a minimum, the Licensee will ensure that a statement is displayed or provided to each such subscriber, customer, client, or other third party at the time of each transaction which states:

The information or data provided is based on information obtained from the courts as of the period of time covered by the quarterly update. The Administrative Office of the Courts and the Washington Courts: 1) do not warrant that the information is accurate or complete except for court purposes; 2) make no representations regarding the identity of any persons whose names appear in the Index; and 3) deny liability for any damages resulting from the release or use of the data. To verify the information, the user should personally consult the "official" record reposing at the court of record.

13. AUDITS:

- 13.1 The AOC may, at its discretion, perform audits of the Licensee to verify compliance with the terms and conditions of this Agreement and the appropriate use of the data provided by the AOC.
- 13.2 The Licensee shall include provisions in the agreements that the Licensee enters with its subscribers that the Licensee may perform an audit of the subscriber to verify appropriate use of the data provided by the AOC. Such provisions shall authorize the Licensee to: i) conduct random audits of subscribers; (ii) conduct audits of specific customers at any time the Licensee has reason to believe

that the subscriber is violating any of the terms of the subscriber agreement; or (iii) if the AOC requests an audit for any reason.

- 13.3 Failure of the Licensee:** to include audit provisions in its subscriber agreements, to conduct random audits, to conduct specific audits when there is evidence of a violation of the terms of the subscriber agreement, or when requested by the AOC may result in the immediate termination, without notice, of this Agreement.

14. COOPERATION WITH AOC AND PROSECUTORIAL AUTHORITIES:

- 14.1** The Licensee agrees to cooperate with the AOC and other authorities authorized by law in any audit that is conducted of the Licensee or any of the Licensee's subscribers.
- 14.2** The Licensee agrees to cooperate fully with prosecutorial authorities in any action brought against the Licensee or any of the Licensee's subscribers relating to the reproduction, distribution, dissemination, or other use of the information and data provided by the AOC under this Agreement. PROVIDED, that nothing in this provision limits or abridges the Licensee's constitutional rights against self-incrimination.
- 14.3** Failure to cooperate with prosecutorial authorities may result in the immediate termination, without notice, of this Agreement.

- 15. CONTRACT COMPLIANCE MONITORING AND AUDITING:** The Licensee agrees that the AOC may include "control" or "salted" data as a portion of the provided information as a means to ensure that any personally-identifiable information is not used for commercial solicitation purposes or in an indiscriminate and reckless manner. Furthermore the Licensee agrees to allow the AOC to perform audits, at its discretion, to detect the unauthorized removal of control data or the warehousing of stale-dated information subsequently expunged, restricted, or amended by the AOC.

16. COMPLIANCE WITH AUTHORITIES:

- 16.1** During the term of this Agreement, the Licensee shall comply with all current, or as subsequently amended state and federal laws, court rules, administrative regulations and policies governing, regulating, and/or relating to the dissemination of information and data, to privacy, and to the confidentiality of the information and data provided by the AOC under this Agreement.
- 16.2** In the event of the Licensee's noncompliance or refusal to comply with any such state and federal laws, court rules, administrative regulations and policies, this Agreement may be rescinded, canceled or terminated in whole or in part, and the Licensee may be declared ineligible for further agreements with the AOC.

- 17. RESALE OF DATA:** The Licensee shall not reproduce or distribute or disseminate the transferred database files in bulk but only in response to an individual record inquiry. "In bulk" shall include, but is not limited to, via multiple record or on CD-ROM or other electronic or optical media.

- 18. RIGHTS AND INTEREST:** The Licensee shall not gain any proprietary right to or interest in any information and data provided by the AOC as a result of this Agreement. Any rights or interest, or any portion thereof, derived by the Licensee under this Agreement are personal to it and may not be transferred, assigned, or sold for any purpose whatsoever to any person, corporation, partnership, association, or organization of any kind.

- 19. CHANGES RELATING TO INFORMATION AND DATA:** The AOC specifically reserves the right, at its sole discretion, to make any changes it deems appropriate relating to the information and data provided under this Agreement at any time and without prior notice. Such changes include, but are not limited to: altering the character and format of the information and data, changing the production media, and/or modifying the production schedule. If such changes are made, the AOC will notify the Licensee as soon as is practical.

- 20. SUPPORT/ASSISTANCE:** The Licensee acknowledges and accepts that all information and data provided under this Agreement is provided on an AS IS basis and that the AOC shall not be responsible for providing support or assistance of any nature to the Licensee or to any third party on behalf of the Licensee.

21. DISCLAIMER OF WARRANTIES:

- 21.1 THE AOC PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO INFORMATION OR DATA PROVIDED UNDER THIS AGREEMENT.
- 21.2 THE AOC PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, THAT THE INFORMATION OR DATA PROVIDED IS ACCURATE, CURRENT, CORRECT, OR COMPLETE. IT IS EXPRESSLY UNDERSTOOD BY THE PARTIES THAT IT IS THE RESPONSIBILITY OF THE LICENSEE AND/OR ITS CUSTOMERS, CLIENTS, OR OTHER THIRD PARTIES TO WHOM THE INFORMATION AND DATA WAS SUPPLIED TO VERIFY INFORMATION OR DATA OBTAINED UNDER THIS AGREEMENT WITH OFFICIAL COURT INFORMATION REPOSING AT THE COURT OF RECORD.

22. LIMITATION OF LIABILITY: THE LICENSEE ACKNOWLEDGES AND ACCEPTS THAT ALL INFORMATION AND DATA PROVIDED UNDER THIS AGREEMENT IS PROVIDED ON AN AS IS BASIS AND THAT THE INFORMATION AND DATA MAY BE SUBJECT TO ERROR OR OMISSION AND THEREFORE AGREES THAT AOC SHALL NOT BE RESPONSIBLE NOR LIABLE IN ANY WAY WHATSOEVER FOR THE VALIDITY OF ANY DATA PROVIDED OR FOR THE USE OF THE INFORMATION AND DATA PROVIDED. SPECIFICALLY:

- 22.1 THE AOC SHALL NOT BE LIABLE FOR ANY DEMAND OR CLAIM, REGARDLESS OF FORM OF ACTION, FOR ANY DAMAGES RESULTING FROM THE USE BY THE LICENSEE OF ANY INFORMATION OR DATA PROVIDED UNDER THIS AGREEMENT.
- 22.2 THE AOC SHALL NOT BE LIABLE FOR ANY DEMAND OR CLAIM, REGARDLESS OF FORM OF ACTION, FOR ANY DAMAGES ARISING FROM INCORRECT OR INCOMPLETE INFORMATION OR DATA PROVIDED UNDER THIS AGREEMENT.
- 22.3 THE AOC SHALL NOT BE LIABLE TO THE LICENSEE OR ANY OTHER PARTY FOR ANY LOSS, INCLUDING REVENUE, PROFITS, TIME, GOODWILL, COMPUTER TIME, DESTRUCTION, DAMAGE OR LOSS OF DATA, OR ANY OTHER INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGE WHICH MAY ARISE FROM THE USE, OPERATION, OR MODIFICATION OF DATA PROVIDED UNDER THIS AGREEMENT.

23. INDEMNIFICATION: The Licensee hereby agrees to defend, indemnify, and hold harmless the AOC, its employees, and the State of Washington from all loss, risk of loss, and damages (including expenses, costs, and attorney fees) sustained or incurred because of or by reason of any claims, demands, suits, actions, judgments, or executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of, or relating in any manner to any use made of the information or data obtained under this Agreement.

24. INSURANCE: The Licensee shall, at his or her own expense, maintain, for the duration of this Agreement, liability insurance sufficient to fulfill its responsibilities under Section 23 above.

- 24.1 Such insurance must have limits of not less than one million dollars each occurrence and two million dollars general aggregate. The insurance shall cover liability arising out of any use made by the Licensee of the information or data obtained under this Agreement and shall contain separation of insured's (cross liability) provisions.
- 24.2 The State of Washington, the AOC, its elected and appointed officials, agents, and employees shall be named as additional insured on said policy.
- 24.3 The Licensee shall furnish evidence in the form of a Certificate of Insurance satisfactory to the AOC that insurance has been secured. Failure to provide proof of insurance as required or the lapsing or cancellation of such insurance coverage will result in termination of the Agreement.

25. GENERAL TERMS AND CONDITIONS:

- 25.1 **ALTERATIONS AND AMENDMENTS:** This Agreement may be amended by the AOC at any time

by sending notice to Licensee.

- 25.2 ASSIGNMENT:** The Licensee may not transfer or assign: (i) this Agreement or any portion thereof; (ii) any right or benefit accruing to the Licensee under this Agreement; nor (iii) any claim arising under this Agreement.
- 25.3 DISPUTES:** Except as otherwise provided in this Agreement, when a bona fide dispute concerning a question of fact arises between the AOC and the Licensee, and it cannot be resolved, either party may take the dispute to the Judicial Information System Data Dissemination Subcommittee. The initiating party shall reduce its description of the dispute to writing and deliver it to the other party. The other shall write a response, and the matter shall be scheduled to be heard by the Data Dissemination Subcommittee. Both parties agree to exercise good faith in dispute resolution and to avoid litigation whenever possible.
- 25.4 ENTIRE AGREEMENT:** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous discussions and agreements. Understandings, representations, or warranties not contained in this Agreement or a written amendment hereto shall not be binding on either party.
- 25.5 GOVERNING LAW:** This Agreement shall be governed in all respects by the laws and statutes of the State of Washington. The jurisdiction for any action hereunder shall be the Superior Court for the State of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, Washington. The Licensee, by execution of this Agreement, acknowledges and agrees to the jurisdiction of the courts of the State of Washington in all matters relating to this Agreement.
- 25.6 HEADINGS:** The headings and table of contents used herein are for reference and convenience only and shall not enter into the interpretation hereof unless otherwise specified herein. In the interpretation of this Agreement, the terms and conditions shall be construed to be complementary.
- 25.7 CONFLICTS OF AUTHORITY:** If any provision of this Agreement shall be deemed in conflict with any statute or rule of law, such provision shall be deemed modified to conform to said statute or rule of law.
- 25.8 INDEPENDENT STATUS OF PARTIES:** The parties to this Agreement will be acting in their individual capacities and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one party shall not be considered or construed to be the employees or agents of the other party for any purpose whatsoever.
- 25.9 NON-EXCLUSIVITY:** This Agreement is non-exclusive. During the term of this Agreement, the AOC reserves the right to enter into agreements with other parties as it deems fit. Nothing contained in this Agreement shall be construed to limit in any way the AOC's right to enter a like or similar agreement or grant a like or similar license to any other entity or party on such terms as the AOC may in its sole discretion deem appropriate.
- 25.10 NOTICES:** Any notice required or permitted to be given under this Agreement shall be effective if and only if it is in writing. Notice must be given by personal delivery or sent by United States mail; mail to the Licensee must be sent to Licensee's address as set forth in this Agreement and mail to the AOC must be sent to the Data Dissemination Administrator, Administrative Office of the Courts, 1206 Quince Street SE, PO Box 41170, Olympia, WA 98504-1170, or to such other address as each party has notified the other in writing.
- 25.11 RECORDS MAINTENANCE:** The Licensee will retain all books, records, documents, and other materials relevant to this Agreement, including records of all recipients of information obtained from the Licensee, for six years after termination of this Agreement and make them available at all reasonable times to inspection, review, or audit by personnel authorized by the AOC, the Office of the State Auditor, federal officials and other officials so authorized by law.
- 25.12 SAVINGS:** In the event that after the effective date of this Agreement and prior to normal completion, funding from state, federal, or other sources is withdrawn, reduced, or limited in any way, the AOC may terminate the Agreement without cause upon 30 days written notice subject to renegotiation under those new funding or project limitations and conditions.
- 25.13 SEVERABILITY:** If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.
- 25.14 SUBCONTRACTING:** The Licensee shall not enter into subcontracts relating to this Agreement without obtaining prior written approval from the AOC.

25.15 SURVIVAL:

25.15.1 For as long as the Licensee continues to use any portion of the data provided under this Agreement, the Licensee must comply with the terms of this Agreement.

25.15.2 In addition, the provisions of Sections 21, 22, and 23 of this Agreement shall survive the termination of the Agreement.

25.16 TERMINATION:

25.16.1 General: This Agreement may be terminated without cause by either the AOC or the Licensee upon thirty (30) days written notice.

25.16.2 Termination for Cause: The Licensee accepts full responsibility and liability for any violations of this Agreement by the Licensee or any officer, employee, or agent of the Licensee and any such violation shall result in immediate termination by the AOC of all data and information provided to the Licensee or any officer, employee, or agent of the Licensee in any form and immediate forfeiture to the AOC of any AOC-provided data and information in any form held by the Licensee or any officer, employee, or agent of the Licensee. In such event, the Licensee shall be liable for damages as authorized by law.

25.16.3 Termination For Nonpayment: The AOC may immediately, without notice, terminate this Agreement for failure of the Licensee to pay an invoice outstanding longer than 30 days.

25.17 TERMINATION PROCEDURE: After receipt of notice of termination for failure to pay an invoice timely, and except as otherwise directed by the AOC, the Licensee shall:

25.17.1 Stop dissemination of any information and data provided by the AOC under this Agreement on the date and to the extent specified in the notice.

25.17.2 Return or destroy all information and data provided by the AOC as stated in Subsection 7.2.7.

25.18 WAIVER: No term or condition of this Agreement shall be held to be waived, modified, or deleted, and no breach excused, except by a written instrument signed by the parties hereto. Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach.

26. SIGNATURES: The parties hereto, having read this Agreement in its entirety, do agree thereto in each and every particular.

ADMINISTRATIVE OFFICE OF THE COURTS

LICENSEE

N. A. Stussy, Administrator

Signature/Title

DATE: _____

DATE: _____

Westlaw.

18 U.S.C.A. § 2721

Exhibit C

Page 1

C**Effective: October 23, 2000**

United States Code Annotated Currentness

Title 18. Crimes and Criminal Procedure (Refs & Annos)

▣ Part I. Crimes (Refs & Annos)

▣ Chapter 123. Prohibition on Release and Use of Certain Personal Information from State Motor Vehicle Records

→→ § 2721. Prohibition on release and use of certain personal information from State motor vehicle records

(a) In general.--A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information, as defined in 18 U.S.C. 2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9): *Provided*, That subsection (a)(2) shall not in any way affect the use of organ donation information on an individual's driver's license or affect the administration of organ donation initiatives in the States.

(b) Permissible uses.--Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321-331 of title 49, and, subject to subsection (a)(2), may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of

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Exhibit C

non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only--

(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under chapter 313 of title 49.

(10) For use in connection with the operation of private toll transportation facilities.

(11) For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.

(12) For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.

State of Washington

Administrative Office of the Courts

**DATA SHARE
AGREEMENT FOR**

**COURTS OF
LIMITED JURISDICTION
TRAFFIC INFRACTION
DATA**

State of Washington
Administrative Office of the Courts
DATA SHARE AGREEMENT
Table of Contents

1	PURPOSE	1
2	DEFINITIONS	1
3	REQUEST	1
4	APPROVAL	1
5	DATA UPDATES	1
6	TERM AND EFFECTIVE DATE OF AGREEMENT	2
7	BASIC TRANSACTION	2
	7.1 RESPONSIBILITIES OF THE AOC	2
	7.2 RESPONSIBILITIES OF DDS	2
8	COSTS	3
9	ONGOING DATA SCRUBBING AND UPDATE REQUIREMENTS	3
10	RESTRICTIONS ON THE USE OF INFORMATION AND DATA PROVIDED UNDER THIS AGREEMENT	3
11	DDS SUBSCRIBER PROVISIONS	4
12	DISCLOSURE REQUIREMENTS	4
13	AUDITS	4
14	COOPERATION WITH AOC AND PROSECUTORIAL AUTHORITIES	4
15	CONTRACT COMPLIANCE MONITORING AND AUDITING	5
16	COMPLIANCE WITH AUTHORITIES	5
17	RESALE OF DATA	5
18	RIGHTS AND INTEREST	5
19	CHANGES RELATING TO INFORMATION AND DATA	5
20	SUPPORT/ASSISTANCE	5
21	DISCLAIMER OF WARRANTIES	5
22	LIMITATION OF LIABILITY	5
23	INDEMNIFICATION	6
24	INSURANCE	6
25	GENERAL TERMS AND CONDITIONS	6
	25.1 ALTERATIONS AND AMENDMENTS	6
	25.2 ASSIGNMENT	6
	25.3 DISPUTES	6
	25.4 ENTIRE AGREEMENT	6
	25.5 GOVERNING LAW	6
	25.6 HEADINGS	7
	25.7 CONFLICTS OF AUTHORITY	7
	25.8 INDEPENDENT STATUS OF PARTIES	7
	25.9 NON-EXCLUSIVITY	7
	25.10 NOTICES	7
	25.11 RECORDS MAINTENANCE	7
	25.12 SAVINGS	7
	25.13 SEVERABILITY	7
	25.14 SUBCONTRACTING	7
	25.15 SURVIVAL	7
	25.16 TERMINATION	7
	25.17 TERMINATION PROCEDURE	7
	25.18 WAIVER	7
26	SIGNATURES	8

**DATA SHARING AGREEMENT
BETWEEN
THE STATE OF WASHINGTON
ADMINISTRATIVE OFFICE OF THE COURTS
AND
DATA DRIVEN SAFETY, INC.**

AOC Contract Number DSA15378

This Agreement is entered into by and between the Administrative Office of the Courts, an office of the Judicial Branch of the Washington State government located at 1206 Quince St. SE, PO Box 41170, Olympia WA 98504-1170, hereinafter referred to as the "AOC" and Data Driven Safety, Inc., or "DDS," located at 209 Delburg Street, Suite 205, Davidson, NC 28036.

IN CONSIDERATION of the mutual promises made to each other, as hereinafter set forth, the AOC and DDS agree as follows:

- 1 PURPOSE:** The purpose of this Agreement is to establish the terms and conditions under which the AOC agrees to provide data files to DDS containing the Courts of Limited Jurisdiction traffic infraction data from **June 1, 2012 – May 31, 2015**, and to provide similar traffic infraction data files for subsequent DDS monthly requests.
- 2 DEFINITIONS:** As used throughout this Agreement, the following terms shall have the meanings set forth below:
 - 2.1** "AOC" shall mean the Administrative Office of the Courts of the State of Washington, any division, section, office, unit, or other entity of the AOC, or any of the officers, other officials, employees, volunteers, or others acting as representatives lawfully representing the AOC.
 - 2.2** "Court" shall mean the Washington State Supreme Court, any division, section, office, unit, or other entity of the Court, or any of the officers, other officials, employees, volunteers, or others acting as representatives lawfully representing the Court.
 - 2.3** "DDS" shall include all officers, employees, and agents of DDS.
 - 2.4** "Data" shall include any computer readable copies of the information provided to DDS.
 - 2.5** "Information" shall mean material provided by the AOC in any format, including reports.
 - 2.6** "Subscriber" shall mean a client of DDS to whom information and/or data is given on a case-by- case basis.
- 3 REQUEST:** DDS has submitted a written request to the AOC, a copy of which is attached as "Appendix A" and is incorporated by reference into this Agreement. DDS warrants the information in Appendix A is correct and DDS will use the data and information solely for the purposes set forth in its request.
- 4 APPROVAL:** The JISC Data Dissemination Committee (DDC) approved DDS's request in May 2015 after approving Driver's History Information (DHI) request for the same data during its April 24, 2015 meeting. The AOC has determined that the DDS's request clearly specifies the information and/or data sought and the purposes for which the information and/or data will be used, and therefore will provide DDS with the data and information requested. Therefore, AOC will provide the report requested for **June 1, 2012 – May 31, 2015**. The DDC and the AOC also approve of DDS submitting monthly requests for traffic infraction data for that month that includes data updates and new cases.
- 5 DATA UPDATES:** DDS shall promptly update its files and databases upon receiving monthly data files from AOC or from any other data source. Monthly requests for traffic infraction data that includes updates and new cases will be submitted by DDS to AOC on the JIS Request for Information form. DDS shall adhere to update requirements as described in Section 9.



6 TERM AND EFFECTIVE DATE OF AGREEMENT:

- 6.1 The initial term of this Agreement is from the date of its execution by the AOC.
- 6.2 The Agreement's period of performance will be three years, unless terminated as provided herein.
- 6.3 The Agreement may be terminated in accordance with the provisions of Subsections 25.16.1, 25.16.2, and 25.16.3 below.

7 BASIC TRANSACTION: This Agreement sets forth the responsibilities of the parties, costs, and the terms and conditions under which the data will be provided.

7.1 RESPONSIBILITIES OF THE AOC: The AOC shall:

- 7.1.1 Provide DDS with one-time access to an FTP server containing the Courts of Limited Jurisdiction traffic infraction data from **June 1, 2012 – May 31, 2015**.
- 7.1.2 Provide the following data fields to DDS:
 - Case File Date
 - Case Number
 - Case LEA Initials
 - Case LEA Name
 - Defendant Name
 - Defendant Birth Date (mm/dd/yyyy. If unavailable than 01/01/1800)
 - Defendant Gender
 - Defendant Drivers License State Code
 - Court Name
 - Jurisdiction Name
 - Violation Date
 - Charge Sequence Number
 - Charge Law Number / RCW
 - Charge Law / RCW Description
 - Charge Disposition Code
 - Charge Disposition
 - Charge Disposition Date
- 7.1.3 Provide monthly data reports containing the infraction data fields listed in Subsection 7.1.2 upon receipt of DDS's monthly Request for Information form submittal. Reports will provide updated information to recently disseminated cases and newly filed cases for that calendar month. Monthly files will be provide via email or on the FTP server.
- 7.1.4 Not include data and information for cases that are sealed pursuant to a court order.

7.2 RESPONSIBILITIES OF DDS: DDS shall:

- 7.2.1 Comply with the provisions of this Agreement and all of the terms and conditions contained herein or attached hereto.
- 7.2.2 Submit Request for Information forms for each monthly report as needed. The requests shall reference this data agreement.
- 7.2.3 Make payments to the AOC pursuant to the provisions of Section 8 below.
- 7.2.4 Establish written procedures which shall describe the process DDS uses to meet the terms and conditions of this section of the Agreement.
- 7.2.5 Recognize and hereby acknowledge that the user identifiers and passwords, if any, supplied by the AOC to DDS are the confidential property of the AOC, subject to the proprietary rights of the AOC, and agrees to hold such user identifiers and passwords, if any, in the strictest confidence. DDS further agrees to exercise at all times the same care with respect to the user identifiers and passwords, if any, or any other materials or information provided hereunder by the AOC as DDS would exercise in the protection of DDS's own confidential information or property and to not release or disclose it to any other party except with the written consent of the AOC.
- 7.2.6 DDS agrees to securely protect any data that is confidential, and any information which identifies an



individual, including but not limited to name, date of birth, social security number, and court case number, by maintaining the data in a physically secure location when not in use and by using computer passwords and/or encryption, physical locks and restricting access to those persons necessary to conduct the work described in Appendix A.

- 7.2.7 Provide the AOC with access at no charge to any database created using information from the FTP file provided hereunder for the purpose of monitoring and auditing contract compliance.
- 7.2.8 Update the data and information as described in Section 5 and Section 9.
- 7.2.9 Return to the AOC or destroy any information and data provided by the AOC under this Agreement in any form, held by DDS or any officer, employee or agent of DDS on the date and to the extent specified in the notice of termination or at the expiration of the Agreement.
- 7.2.10 Not use the provided data and information for the purpose of commercial solicitation of individuals named in the court records.
- 7.2.11 Delete the provided data and information as described in Subsection 9.4.

8 COSTS:

- 8.1 DDS shall make a non-refundable payment within 30 days of invoice receipt.
- 8.2 DDS shall be invoiced for the initial data request and for any monthly requests made thereafter.
- 8.3 Rate Schedule:
DDS agrees to pay the following amount to AOC to provide the data described in this Agreement:

Administrative Fee	\$25
Evaluation/Research/Programming	\$40.00 per hour
JIS System Run Time	\$10.00 per minute or portion thereof (two-minute minimum)

9 ONGOING DATA SCRUBBING AND UPDATE REQUIREMENTS:

- 9.1 Sealed and otherwise restricted cases: DDS agrees to remove from its files cases sealed (or otherwise restricted) after their appearance in data files provided to DDS.
- 9.2 Dispositions: DDS agrees to update promptly all cases when disposition information is received.
- 9.3 Cases amendments: DDS agrees to update in its files cases where the charge is amended after their first appearance in data files provided to DDS. The data provided to DDS will contain transactions identifying the cases that are to be amended. DDS agrees that its files will contain only the most current charges.
- 9.4 DDS shall remove infraction data from its database and files after three years of final disposition to adhere to the Washington State District and Municipal Court Records Retention Schedule, Section 2.2.

10 RESTRICTIONS ON THE USE OF INFORMATION AND DATA PROVIDED UNDER THIS AGREEMENT:

- 10.1 The information and data provided to DDS under this Agreement is subject to the restrictions contained in Subsection 7.2 and Section 9 above relating to data scrubbing and update requirements.
- 10.2 DDS is responsible for ensuring that access and use of the data by its subscribers are conducted in a proper and legal manner and that access is available only to authorized subscribers.
- 10.3 To the extent that the data being accessed is covered by other laws, statutes, court rules, and administrative rules and regulations which restrict access to and use of such information and data, the restrictions contained in such laws, statutes, court rules, and administrative rules and regulations shall apply to the data accessed under this Agreement.
- 10.4 DDS shall not release specific case information about individuals to any subscribers or other third party entities.
- 10.5 Any exceptions, revisions, or waivers to these limitations requested by DDS must be approved in writing by the AOC and received by DDS prior to the requested use or dissemination of the information and data received under this Agreement.

11 DDS SUBSCRIBER PROVISIONS:

- 11.1 DDS shall establish procedures for screening and qualifying potential subscribers.
- 11.2 DDS shall verify the identification of its potential subscribers to DDS's satisfaction, obtain proof from each potential subscriber, sufficient to demonstrate to DDS's satisfaction, that the potential subscriber is the type of entity the potential subscriber claims to be, and obtain a certification from the potential subscriber stating that the potential subscriber will use the information only for those purposes allowed by law and under the subscriber agreement. DDS shall maintain a record of these facts for a period of not less than six years from the latest date DDS disclosed information to the subscriber and shall provide such record to the AOC upon request.
- 11.3 DDS will enter a written subscriber agreement with each of its subscribers. Such agreements shall specifically detail the access that the subscriber will have to DDS's database, detail authorized uses of the data accessed, condition access to authorized use, and include a provision for immediate termination of the agreement in the event of improper use by the subscriber of the data which the subscriber has been authorized to access.
- 11.4 DDS agrees to provide a list of DDS subscribers to the AOC upon request by the AOC.

- 12 DISCLOSURE REQUIREMENTS:** When the information and data covered by this Agreement is provided in any form by DDS to a subscriber, customer, client, or other third party, DDS hereby agrees to provide each such subscriber, customer, client, or other third party with the information contained in the DISCLAIMER OF WARRANTIES and LIMITATION OF LIABILITY sections of this Agreement. At a minimum, DDS will ensure that a statement is displayed or provided to each such subscriber, customer, client, or other third party at the time of each transaction which states:

The information or data provided is based on information obtained from the courts as of [DATE OF AOC PROVIDING DATA TO DDS]. The Administrative Office of the Courts and the Washington Courts: 1) do not warrant that the information is accurate or complete except for court purposes; 2) make no representations regarding the identity of any persons whose names appear in the data; and 3) deny liability for any damages resulting from the release or use of the data. To verify the information, the user should personally consult the "official" record reposing at the court of record.

13 AUDITS:

- 13.1 The AOC may, at its discretion, perform audits of DDS to verify compliance with the terms and conditions of this Agreement and the appropriate use of the data provided by the AOC.
- 13.2 DDS shall include provisions in the agreements that DDS enters with its subscribers that DDS may perform an audit of the subscriber to verify appropriate use of the data provided by the AOC. Such provisions shall authorize DDS to: i) conduct random audits of subscribers; ii) conduct audits of specific customers at any time DDS has reason to believe that the subscriber is violating any of the terms of the subscriber agreement; or (iii) if the AOC requests an audit for any reason.
- 13.3 Failure of DDS: to include audit provisions in its subscriber agreements, to conduct random audits, to conduct specific audits when there is evidence of a violation of the terms of the subscriber agreement, or when requested by the AOC may result in the immediate termination, without notice, of this Agreement.

14 COOPERATION WITH AOC AND PROSECUTORIAL AUTHORITIES:

- 14.1 DDS agrees to cooperate with the AOC and other authorities authorized by law in any audit that is conducted of DDS or of any DDS subscriber.
- 14.2 DDS agrees to cooperate fully with prosecutorial authorities in any action brought against DDS or any DDS subscriber relating to the reproduction, distribution, dissemination, or other use of the information and data provided by the AOC under this Agreement. PROVIDED, that nothing in this provision limits or abridges DDS constitutional rights against self-incrimination.
- 14.3 Failure to cooperate with prosecutorial authorities may result in the immediate termination, without notice, of this Agreement.

15 CONTRACT COMPLIANCE MONITORING AND AUDITING: DDS agrees that the AOC may include "control" or "salted" data as a portion of the provided information as a means to ensure that any personally-identifiable information is not used for commercial solicitation purposes or in an indiscriminate and reckless manner. Furthermore DDS agrees to allow the AOC to perform audits, at its discretion, to detect the unauthorized removal of control data or the warehousing of stale-dated information subsequently expunged, restricted, or amended by the AOC.

16 COMPLIANCE WITH AUTHORITIES:

16.1 During the term of this Agreement, DDS shall comply with all current, or as subsequently amended, state and federal laws, court rules, administrative regulations and policies governing, regulating, and/or relating to the dissemination of information and data, to privacy, and to the confidentiality of the information and data provided by the AOC under this Agreement.

16.2 In the event of any DDS noncompliance or refusal to comply with any such state and federal laws, court rules, administrative regulations and policies, this Agreement may be rescinded, canceled or terminated in whole or in part, and DDS may be declared ineligible for further agreements with the AOC.

17 RESALE OF DATA: DDS shall not reproduce or distribute or disseminate the transferred database files in bulk but only in response to an individual record inquiry. "In bulk" shall include, but is not limited to, via multiple record or on CD-ROM or other electronic or optical media.

18 RIGHTS AND INTEREST: DDS shall not gain any proprietary right to or interest in any information and data provided by the AOC as a result of this Agreement. Any rights or interest, or any portion thereof, derived by DDS under this Agreement are personal to it and may not be transferred, assigned, or sold for any purpose whatsoever to any person, corporation, partnership, association, or organization of any kind.

19 CHANGES RELATING TO INFORMATION AND DATA: The AOC specifically reserves the right, at its sole discretion, to make any changes it deems appropriate relating to the information and data provided under this Agreement at any time and without prior notice. Such changes include, but are not limited to: altering the character and format of the information and data, changing the production media, and/or modifying the production schedule. If such changes are made, the AOC will notify DDS as soon as is practical.

20 SUPPORT/ASSISTANCE: DDS acknowledges and accepts that all information and data provided under this Agreement are provided on an AS IS basis and that the AOC shall not be responsible for providing support or assistance of any nature to DDS or to any third party on behalf of DDS.

21 DISCLAIMER OF WARRANTIES:

21.1 THE AOC PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO INFORMATION OR DATA PROVIDED UNDER THIS AGREEMENT.

21.2 THE AOC PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, THAT THE INFORMATION OR DATA PROVIDED IS ACCURATE, CURRENT, CORRECT, OR COMPLETE. IT IS EXPRESSLY UNDERSTOOD BY THE PARTIES THAT IT IS THE RESPONSIBILITY OF DDS AND/OR ITS SUBSCRIBERS, CUSTOMERS, CLIENTS, OR OTHER THIRD PARTIES TO WHOM THE INFORMATION AND DATA WERE SUPPLIED TO VERIFY INFORMATION OR DATA OBTAINED UNDER THIS AGREEMENT WITH OFFICIAL COURT INFORMATION REPOSING AT THE COURT OF RECORD.

22 LIMITATION OF LIABILITY: DDS ACKNOWLEDGES AND ACCEPTS THAT ALL INFORMATION AND DATA PROVIDED UNDER THIS AGREEMENT ARE PROVIDED ON AN AS IS BASIS AND THAT THE INFORMATION AND DATA MAY BE SUBJECT TO ERROR OR OMISSION AND THEREFORE AGREES THAT AOC SHALL NOT BE RESPONSIBLE NOR LIABLE IN ANY WAY WHATSOEVER FOR THE

VALIDITY OF ANY DATA PROVIDED OR FOR THE USE OF THE INFORMATION AND DATA PROVIDED. SPECIFICALLY:

- 22.1 THE AOC SHALL NOT BE LIABLE FOR ANY DEMAND OR CLAIM, REGARDLESS OF FORM OF ACTION, FOR ANY DAMAGES RESULTING FROM THE USE BY DDS OF ANY INFORMATION OR DATA PROVIDED UNDER THIS AGREEMENT.
 - 22.2 THE AOC SHALL NOT BE LIABLE FOR ANY DEMAND OR CLAIM, REGARDLESS OF FORM OF ACTION, FOR ANY DAMAGES ARISING FROM INCORRECT OR INCOMPLETE INFORMATION OR DATA PROVIDED UNDER THIS AGREEMENT.
 - 22.3 THE AOC SHALL NOT BE LIABLE TO DDS OR ANY OTHER PARTY FOR ANY LOSS, INCLUDING REVENUE, PROFITS, TIME, GOODWILL, COMPUTER TIME, DESTRUCTION, DAMAGE OR LOSS OF DATA, OR ANY OTHER INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGE WHICH MAY ARISE FROM THE USE, OPERATION, OR MODIFICATION OF DATA AND INFORMATION PROVIDED UNDER THIS AGREEMENT.
- 23 INDEMNIFICATION:** DDS hereby agrees to defend, indemnify, and hold harmless the AOC, its employees, and the State of Washington from all loss, risk of loss, and damages (including expenses, costs, and attorney fees) sustained or incurred because of, or by reason of, any claims, demands, suits, actions, judgments, or executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of, or relating in any manner to any use made of the information or data obtained under this Agreement.
- 24 INSURANCE:** DDS shall, at its own expense, maintain, for the duration of this Agreement, liability insurance sufficient to fulfill its responsibilities under Section 23 above.
- 24.1 Such insurance must have limits of not less than one million dollars each occurrence and two million dollars general aggregate. The insurance shall cover liability arising out of any use made by DDS of the information or data obtained under this Agreement and shall contain separation of insured's (cross liability) provisions.
 - 24.2 The State of Washington, the AOC, its elected and appointed officials, agents, and employees shall be named as additional insured on said policy.
 - 24.3 DDS shall furnish evidence in the form of a Certificate of Insurance satisfactory to the AOC that insurance has been secured. Failure to provide proof of insurance as required or the lapsing or cancellation of such insurance coverage will result in termination of the Agreement.
- 25 GENERAL TERMS AND CONDITIONS:**
- 25.1 **ALTERATIONS AND AMENDMENTS:** This Agreement may be amended by the AOC at any time by sending notice to DDS.
 - 25.2 **ASSIGNMENT:** DDS may not transfer or assign: (i) this Agreement or any portion thereof; (ii) any right or benefit accruing to DDS under this Agreement; nor (iii) any claim arising under this Agreement.
 - 25.3 **DISPUTES:** Except as otherwise provided in this Agreement, when a bona fide dispute concerning a question of fact arises between the AOC and DDS, and it cannot be resolved, either party may take the dispute to the Judicial Information System Data Dissemination Subcommittee. The initiating party shall put its description of the dispute in writing and deliver it to the other party. The other party shall write a response, and the matter shall be scheduled to be heard by the Data Dissemination Subcommittee. Both parties agree to exercise good faith in dispute resolution and to avoid litigation whenever possible.
 - 25.4 **ENTIRE AGREEMENT:** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous discussions and agreements. Understandings, representations, or warranties not contained in this Agreement or a written amendment hereto shall not be binding on either party.
 - 25.5 **GOVERNING LAW:** This Agreement shall be governed in all respects by the laws and statutes of the State of Washington. The jurisdiction for any action hereunder shall be the Superior Court for the State of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, Washington. DDS, by execution of this Agreement, acknowledges and agrees to the jurisdiction of the courts of the State of Washington in all matters relating to this Agreement.



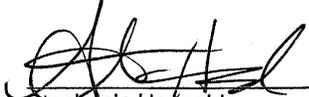
- 25.6 HEADINGS:** The headings and table of contents used herein are for reference and convenience only and shall not enter into the interpretation hereof unless otherwise specified herein. In the interpretation of this Agreement, the terms and conditions shall be construed to be complementary.
- 25.7 CONFLICTS OF AUTHORITY:** If any provision of this Agreement shall be deemed in conflict with any statute or rule of law, such provision shall be deemed modified to conform to said statute or rule of law.
- 25.8 INDEPENDENT STATUS OF PARTIES:** The parties to this Agreement will be acting in their individual capacities and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one party shall not be considered or construed to be the employees or agents of the other party for any purpose whatsoever.
- 25.9 NON-EXCLUSIVITY:** This Agreement is non-exclusive. During the term of this Agreement, the AOC reserves the right to enter into agreements with other parties as it deems fit. Nothing contained in this Agreement shall be construed to limit in any way the AOC's right to enter a like or similar agreement or grant a like or similar license to any other entity or party on such terms as the AOC may in its sole discretion deem appropriate.
- 25.10 NOTICES:** Any notice required or permitted to be given under this Agreement shall be effective if and only if it is in writing. Notice must be given by personal delivery or sent by United States certified mail. Notices must be sent to DDS to the address set forth in this Agreement, and notices to the AOC must be sent to the Data Dissemination Administrator, Administrative Office of the Courts, 1206 Quince Street SE, PO Box 41170, Olympia, WA 98504-1170, or to such other address as each party has notified the other in writing.
- 25.11 RECORDS MAINTENANCE:** DDS will retain all books, records, documents, and other materials relevant to this Agreement, including records of all recipients of information obtained from DDS, for six years after termination of this Agreement and make them available at all reasonable times to inspection, review, or audit by personnel authorized by the AOC, the Office of the State Auditor, federal officials and other officials so authorized by law.
- 25.12 SAVINGS:** In the event that after the effective date of this Agreement and prior to normal completion, funding from state, federal, or other sources is withdrawn, reduced, or limited in any way, the AOC may terminate the Agreement without cause upon 30 days written notice subject to renegotiation under those new funding or project limitations and conditions.
- 25.13 SEVERABILITY:** If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.
- 25.14 SUBCONTRACTING:** DDS shall not enter into subcontracts relating to this Agreement without obtaining prior written approval from the AOC.
- 25.15 SURVIVAL:**
- 25.15.1** For as long as DDS continues to use any portion of the data provided under this Agreement, DDS must comply with the terms of this Agreement.
 - 25.15.2** In addition, the provisions of Sections 21, 22, and 23 of this Agreement shall survive the termination of the Agreement.
- 25.16 TERMINATION:**
- 25.16.1** General: This Agreement may be terminated without cause by either the AOC or DDS upon thirty (30) days written notice.
 - 25.16.2** Termination for Cause: DDS accepts full responsibility and liability for any violations of this Agreement by DDS and any such violation shall result in immediate termination by the AOC of all data and information provided to DDS in any form, and shall also result in immediate forfeiture to the AOC of any AOC-provided data and information in any form held by DDS. In such event, DDS shall be liable for damages as authorized by law.
 - 25.16.3** Termination for Nonpayment: The AOC may immediately, without notice, terminate this Agreement for failure of DDS to pay an invoice outstanding longer than 30 days.
- 25.17 TERMINATION PROCEDURE:** After receipt of notice of termination for failure to timely pay an invoice, and except as otherwise directed by the AOC, DDS shall:
- 25.17.1** Stop dissemination of any information and data provided by the AOC under this Agreement on the date and to the extent specified in the notice.
 - 25.17.2** Return or destroy all information and data provided by the AOC as stated in Subsection 7.2.9.
- 25.18 WAIVER:** No term or condition of this Agreement shall be held to be waived, modified, or deleted, and no

breach excused, except by a written instrument signed by the parties hereto. Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach.

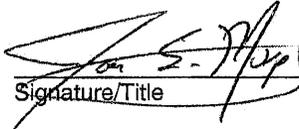
26 SIGNATURES: The parties hereto, having read this Agreement in its entirety, do agree thereto in each and every particular.

ADMINISTRATIVE OFFICE OF THE COURTS

DATA DRIVEN SAFETY, INC.



Stephanie Haggold,
Data Dissemination Administrator
DATE: 6/18/15

 June 18, 2015

Signature/Title
JASON E. MURRAY
DATE: _____

APPENDIX A



Jason E. Murphy
CEO and General Counsel
DATA DRIVEN SAFETY, INC.
209 Delburg Street, Suite 205
Davidson, North Carolina 28036
jasonmurphy@datadrivensafety.com
» 704.255.6073 (W)
» 704.780.0795 (M)

May 8, 2015

JISC Data Dissemination Committee
C/O Data Dissemination Administrator
PO Box 41170
Olympia, WA 98504-1170
Sent via Email to stephanie.happold@courts.wa.gov

Re: Public Record Request

Dear Stephanie,

I am seeking a data file on behalf of Data Driven Safety, Inc. (“**DDS**”) substantially similar in format and layout as that previously provided to my organization pursuant to AOC Contract Number DSA 14019 (the “**Original Bulk Request Contract**”) for Traffic Infraction (“**TI**”) charges that were either filed and/or disposed during the period May 1, 2012 to Present. In addition, I am asking for the right to request updates to the file on a monthly basis.

As you will recall, DDS is an attorney-owned company headquartered in North Carolina that is dedicated to improving public safety. After spending many years as a prosecutor and an in-house attorney, I co-founded Data Driven Safety in 2009 on the belief that better access to law enforcement and judicial information will improve the safety of our roadways. To accomplish this mission, our organization works directly with governmental agencies to obtain public records.

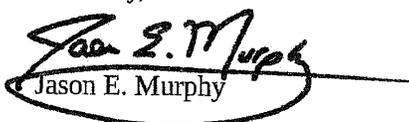
DDS gathers information from thousands of state and local judicial, law enforcement and “DMV” agencies across the country. That information allows us to provide driver monitoring services to employers (including municipalities and state risk pools in the State of Washington), assist health care service providers and payors with their insurance subrogation efforts and deliver analytical and underwriting information to the life and auto insurance industries. Due to the breadth of our service offerings, our customers range from large corporations to municipalities to non-profits to small franchisees and beyond.

True to the commitment I provided to the JISC Data Dissemination Committee (“**the Committee**”) via telephone in early 2013, DDS has not sought any updates to the data we obtained via our Original Bulk Request Contract. Instead, we have incurred very significant expenses and expended incredible effort in obtaining go-forward TI information through tens of thousands of paid monthly searches in JIS – each and every month. We were waiting patiently for the inclusion of the TI information in an index similar to those available for criminal civil case filings/dispositions or for another commercial entity to receive data akin to that which DDS originally sought.

If our request is approved, we acknowledge that the data will be subject to contractual restrictions similar in nature to those contained in the Original Bulk Request Contract and that a fee for retrieving the records will be due in a timely manner. We are ready, able and willing to adhere to these legal requirements.

As always, it is a pleasure to work with you and AJ. Both of you set the standard for responsiveness, diligence and courtesy. Thank you for your consideration.

Sincerely,


Jason E. Murphy



4. Review of Data Dissemination Policy

REVIEW OF DATA DISSEMINATION POLICY:

- 1. IS THE DATA DISSEMINATION POLICY STILL NEEDED?**
- 2. PROVIDING COMPILED REPORTS**
-Does III.B.4 need to be changed?
- 3. REVIEW OF DRAFT FINANCIAL DATA POLICY**
-DDA Happold tracked edits are included
- 4. REVIEW FOR ALLOWING BULK FILES WITH JIS-LINK REPLACEMENT**
-Clarification of language in the DD Policy needs to be provided

DATA DISSEMINATION POLICY IS PROMULGATED UNDER JISCR 12 AND JISCR 15

JISCR 12 DISSEMINATION OF COURT INFORMATION

The Judicial Information System Committee will adopt rules, consistent with all applicable law relating to public records, governing the release of information contained within the Judicial Information System. Such rules and any amendments thereto shall be forwarded to the Supreme Court and, unless altered by the court or returned to the Judicial Information System Committee for its further consideration and recommendations, shall take effect 45 days after the receipt of such rules by the Supreme Court.

JISCR 15 DATA DISSEMINATION OF COMPUTER-BASED COURT INFORMATION

It is declared to be the policy of the courts to facilitate public access to court records, provided such disclosures in no way present an unreasonable invasion of personal privacy and will not be unduly burdensome to the ongoing business of the courts.

Due to the confidential nature of some court information, authority over the dissemination of such information shall be exercised by the judicial branch. This rule establishes the minimum criteria to be met by each information request before allowing dissemination.

(a) Application. This rule applies to all requests for computer-based court information submitted by an individual, as well as public and private associations and agencies. This rule does not apply to requests initiated by or with the consent of the Administrator for the Courts for the purpose of answering a request vital to the internal business of the courts.

(b) Excluded Information. Records sealed, exempted, or otherwise restricted by law or court rule may not be released to the general public except by court order.

(c) Data Dissemination Committee. Rescinded.

(d) Data Dissemination Policies and Procedures. The Administrator for the Courts shall promulgate policies and procedures for handling applications for computer-based information. These policies and procedures shall be subject to the approval of the Judicial Information System

Committee.

(e) Information for Release of Data. Information which must be supplied by the requestor and upon which evaluation will be made includes:

- (1) Identifying information concerning the applicant;
- (2) Statement of the intended use and distribution;
- (3) Type of information needed.

(f) Criteria To Determine Release of Data. The criteria against which the applications are evaluated are as follows:

- (1) Availability of data;
- (2) Specificity of the request;
- (3) Potential for infringement of personal privacy created by release of the information requested;
- (4) Potential disruption to the internal, ongoing business of the courts.

(g) Cost. The requestor shall bear the cost of honoring the request for information in accordance with section (d).

(h) Appeal. If a request is denied by the Administrator for the Courts, the requestor may appeal the decision to the Judicial Information System Committee in accordance with section (d). The Judicial Information System Committee shall review and act upon the appeal in accordance with procedures promulgated by the Committee for this purpose.

Data Dissemination Policy

- [AUTHORITY AND SCOPE](#)
- [DEFINITIONS](#)
- [ACCESS TO JIS LEGAL RECORDS](#)
- [JIS PRIVACY AND CONFIDENTIALITY POLICIES](#)
- [LIMITATION ON DISSEMINATION OF JUVENILE OFFENDER COURT RECORDS](#)
- [PROCEDURES](#)
- [ACCESS TO AND USE OF DATA BY COURTS](#)
- [ACCESS TO AND USE OF DATA BY CRIMINAL JUSTICE AGENCIES](#)
- [ACCESS TO AND USE OF DATA BY PUBLIC PURPOSE AGENCIES](#)
- [E-MAIL](#)
- [VERSION HISTORY](#)

I. AUTHORITY AND SCOPE

- A. These policies govern the release of information in the Judicial Information System (JIS) and are promulgated by the JIS Committee, pursuant to JISCR 12 and 15(d). They apply to all requests for computer-based court information subject to JISCR 15.
1. These policies are to be administered in the context of the requirement of Article I, § 10 of the Constitution of the State of Washington that "Justice in all cases shall be administered openly, and without unnecessary delay," as well as the privacy protections of Article I, § 7.
 2. These policies do not apply to requests initiated by or with the consent of the Administrator for the Courts for the purpose of answering a request vital to the internal business of the courts. See JISCR 15(a).

II. DEFINITIONS

- A. **Records**
1. "**JIS record**" is an electronic representation (bits/bytes) of information either stored within, derived from, or accessed from the ~~OAEOC~~. (*Amended February 27, 1998.*)
 2. "**JIS legal record**" is a JIS record that is the electronic duplication of the journal of proceedings or other case-related information which it is the duty of the court clerk to keep, and which is programmed to be available in human readable and retrievable form. Case information reflecting the official legal file and displayed by JIS programs are JIS legal records.
- B. **JIS Reports**
1. "**JIS reports**" are the results of special programs written to retrieve and manipulate JIS records into a human readable form, other than the JIS legal record.
 2. "**Compiled reports**" are based on information related to more than one case or more than one court. As used in this policy, "compiled reports" do not include index reports.

Commented [HS1]: Can examples of these definitions be provided?

C. Data Dissemination Management

1. "Data dissemination" is the reporting or other release of information derived from JIS records.
2. The "data dissemination manager" is the individual designated within the ~~Office of the Administrator for~~Administrative Office of the Courts and within each individual court and assigned the responsibility for administration of data dissemination, including responding to requests of the public, other governmental agencies, or other participants in the judicial information system. The name and title of the current data dissemination manager for each court and the ~~Office of the Administrator for~~Administrative Office of the Courts shall be kept on file with the ~~Office of the Administrator for~~Administrative Office of the Courts.

Commented [HS2]: Is this possible with employee turnover at the Courts and Clerk's offices?

D. Electronic Data Dissemination Contract

The "electronic data dissemination contract" is an agreement between the ~~Office of the Administrator for~~Administrative Office of the Courts and any entity, except a Washington State court (Supreme Court, court of appeals, superior court, district court, or municipal court), that is provided information contained in the JIS in an electronic format. The data dissemination contract shall specify terms and conditions, as approved by the Judicial Information System Committee, concerning the data including but not limited to restrictions, obligations, and cost recovery agreements. Any such contract shall at a minimum include the language contained in Exhibit A – Electronic Data Dissemination Contract. (Amended February 27, 1998.)

Commented [HS3]: Still use an 'exhibit A'? Want to update language? Or remove last sentence and just say that a contract is needed?

III. ACCESS TO JIS LEGAL RECORDS

A. Open Records Policy. The following principles apply to the interpretation of procedural rules or guidelines set forth in this policy.

1. Information related to the conduct of the courts' business, including statistical information and information related to the performance of courts and judicial officers, is to be disclosed as fully as resources will permit.
2. In order to effectuate the policies protecting individual privacy which are incorporated in statutes, case law, and policy guidelines, direct downloading of the database is prohibited except for the index items identified in Section III.B.6. Such downloads shall be subject to conditions contained in the electronic data dissemination contract. (Amended February 27, 1998.)
3. Dissemination of compiled reports on an individual, including information from more than one case, is to be limited to those items contained in a case index, as defined in Section III.B.6.
4. Privacy protections accorded by the Legislature to records held by other state agencies are to be applied to requests for computerized information from court records, unless admitted in the record of a judicial proceeding, or otherwise made a part of a file in such a proceeding, so that court computer records will not be used to circumvent such protections.

Commented [HS4]: The rationale for this position is derived from *Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 109 S.Ct. 1468, 103 L.Ed.2d 774 (1989), in which the Court upheld the FBI's refusal to turn over to the press the criminal history "rap sheet" of an individual—even though the press sought only those items which were already a matter of "public record." "Plainly there is a vast difference between the public records that might be found after a diligent search of courthouse files, county archives, and local police stations throughout the country and a computerized summary located in a single clearinghouse of information." 109 S.Ct. at 1477.

5. **Contact Lists:** Access to JIS information will not be granted when to do so would have the effect of providing access to lists of individuals for commercial purposes, defined as set forth in RCW ~~42.17.260(6)~~ 42.56.070(9) and WAC ~~390-13-010~~, i.e., that in connection with access to a list of individuals, the person requesting the record intends that the list will be used to communicate with the individuals named in the record for the purpose of facilitating profit expecting activity.
 6. Except to the extent that dissemination is restricted by Section IV.B, or is subject to provisions in the electronic data dissemination contract, electronic records representing court documents are to be made available on a case-by-case and court-by-court basis as fully as they are in hard copy form. *(Amended February 27, 1998.)*
- B. All access to JIS information is subject to the requirements of the criteria for release of data specified in JISCR 15(f): availability of data, specificity of the request, potential for infringement of personal privacy created by release of the information requested, and potential disruption to the internal ongoing business of the courts. JIS information provided in electronic format shall be subject to provisions contained in the electronic data dissemination contract. *(Amended February 27, 1998.)*
1. Court data dissemination managers will restrict the dissemination of JIS reports to data related to the manager's particular court, or court operations subject to the supervision of that court, except where the court has access to JIS statewide indices.
 2. Routine summary reports will be made available to the public upon request, subject to the payment of an established fee and so long as such request can be met without unduly disrupting the on-going business of the courts.
 3. Access to JIS legal records, in the form of case-specific records, will be permitted to the extent that such records in other forms are open to inspection by statute, case law and court rule, and unless restricted by the privacy and confidentiality policies below.
 4. Individuals, personally or through their designees, may obtain access to compiled legal records pertaining to themselves upon written request, accompanied by a signed waiver of privacy.
 5. **No compiled reports will be disseminated containing information which permits a person, other than a judicial officer or an attorney engaged in the conduct of court business, to be identified as an individual, except that data dissemination managers may disseminate the following:**
 - a. Public agency requested reports. Reports requested by public agencies which perform, as a principal function, activities directly related to the prosecution, adjudication, detention, or rehabilitation of criminal offenders, or to the investigation, adjudication, or enforcement of orders related to the violation of professional standards of conduct, specifically including criminal justice agencies certified to receive criminal history record information pursuant to RCW 10.97.030(5)(b).

Commented [HS5]: I believe this language is confusing.

Comments from 1998:
 Generally names, including those in case captions, will "permit a person . . . to be identified as an individual," as will social security numbers. Under a former draft of the policy, the Data Dissemination Committee decided to treat a business as a "person" for purposes of this rule. (Some privacy statutes specify that only natural persons are protected.)
 The committee's determination to exempt judicial officers and attorneys from this prohibition stems from considering the interest of the public in the operation of the courts, and the need for the courts and attorneys as officers of the courts to be accountable to the public. "Judicial officers" should be read to include commissioners as well as judges, and pro tem judges when acting in that capacity, but not other court employees. In their private capacities, i.e., when not engaged in the business of the courts, attorneys and judicial officers are entitled to the confidentiality protections under the policy.

- b. Personal reports, on the request or signed waiver of the subject of the report.
 - c. On court order.
6. An index report, containing some or all of the following information, may be disseminated: *(Amended February 27, 1998.)*
- a. filing date;
 - b. case caption;
 - c. party name and relationship to case (e.g., plaintiff, defendant);
 - d. cause of action or charge;
 - e. case number or designation;
 - f. case outcome;
 - g. disposition date.

(III.B.6.f. and III.B.6.g. added December 5, 1997.)

An index report provided in electronic format shall be subject to the provisions contained in the electronic data dissemination contract. *(Amended February 27, 1998.)*

7. A report sorted by case resolution and resolution type, giving index criteria except individual names, may be compiled and released. *(Section added June 21, 1996.)*

8. Financial Data.

- a. Requestor will try to provide as much detail as possible of what financial information is needed. Explanations may include such information as specific codes; accounting or non-accounting needs; statewide aggregate, court aggregate or case-by-case data; and what court levels.
- b. The AOC or the court will review the requests and submit any clarifications to the requestor. Meetings may need to take place between the staff and the requestor so the parties know what is being asked for and what can be provided. The time taken for clarifications and meetings will be in addition to any time estimates given for compiling the data. Further, the requestor will be charged for the staff time under the approved cost recovery fee for research/programming.
- c. Prior to release of the report, the data will be reviewed by delegated court and/or county clerk representatives.

Commented [HS6]: Does this section apply to the public indexes AOC provides? Something else? To allow for bulk extracts with JIS-LINK replacement, this section needs to define what is an "index report." There also needs to be another section to allow for the bulk extractions. If this section applies to the AOC public indices -it needs to be updated. Currently, more data is provided to the user than is listed in this section. For example, DOB is provided so the cases can be matched to the correct individual and reduce errors.

Commented [HS7]: Comments from 1997/1998: *This will be the major response to requests for "compiled reports." A case index for the location of cases has traditionally been open to the public, as reflected in ARLJ 9. The committee considered that the items above would serve the case location function, and that searches or sorts of this limited type of information should be permitted without restriction. Sections III.B.6.f and III.B.6.g were added to the Policy on December 5, 1997. The JISC added these sections in response to requests it received from users of the JIS database for these items in order to make index reports a more complete history of a particular case. Users who wish to electronically download the index information will be asked to enter into an electronic data dissemination contract, as defined in Section II.D of the Policy, which will provide certain restrictions on the use and dissemination of the index information by the user.*

A significant distinction between this information and the "compiled report" is that the index contains no identifying information beyond the case caption or party name. Indeed, where public access terminals are available, the individual should be guided to the terminals to search themselves, in order to clarify that the index should not be used without verifying reference to the case file(s), to make determinations about specific individuals. Any prepared index report should be accompanied by the disclaimer in V.B below, and the disclaimer should also be incorporated in the procedures through which the public is given computer access to the index information.

Commented [HS8]: What does this section mean? Still relevant?

IV. JIS PRIVACY AND CONFIDENTIALITY POLICIES

- A. Information in JIS records which is sealed, exempted, or otherwise restricted by law or court rule, whether or not directly applicable to the courts, may not be released except by specific court order.

- B. Confidential information regarding individual litigants, witnesses, or jurors that has been collected for the internal administrative operations of the courts will not be disseminated. This information includes, but is not limited to, credit card and P.I.N. numbers, and social security numbers. Identifying information (including, but not limited to, residential addresses and residential phone numbers) regarding individual litigants, witnesses, or jurors will not be disseminated, except that the residential addresses of litigants will be available to the extent otherwise permitted by law. (*Section amended September 20, 1996; June 26, 1998.*)
- C. A data dissemination manager may provide data for a research report when the identification of specific individuals is ancillary to the purpose of the research, the data will not be sold or otherwise distributed to third parties, and the requester agrees to maintain the confidentiality required by these policies. In such instances, the requester shall complete a research agreement in a form prescribed by the ~~Office of the Administrator for~~ Administrative Office of the Courts. The research agreement shall 1) require the requester to explain provisions for the secure protection of any data that is confidential, using physical locks, computer passwords and/or encryption; 2) prohibit the disclosure of data in any form which identifies an individual; 3) prohibit the copying or duplication of information or data provided other than for the stated research, evaluative, or statistical purpose. (*Amended June 6, 1997.*)

V. LIMITATION ON DISSEMINATION OF JUVENILE OFFENDER COURT RECORDS*

The dissemination of juvenile offender court records maintained in the Judicial Information System shall be limited as follows:

- A. Juvenile offender court records shall be excluded from any bulk distribution of JIS records by the Administrative Office of the Courts otherwise authorized by GR 31(g), except for research purposes as permitted by statute or court rule.
- B. The Administrative Office of the Courts shall not display any information from an official juvenile offender court record on a publicly-accessible website that is a statewide index of court cases.

* Juvenile offender court records shall remain publicly accessible on the JIS Link notwithstanding any provision of this section. (*Section added September 6, 2013.*)

VI. PROCEDURES

- A. Uniform procedures for requesting JIS information, and for the appeal of decisions of data dissemination managers, shall be as set forth in policies issued by the Office of the Administrator for the Courts pursuant to JISCR 15(d).
- B. In any case where a report is provided, the report must be accompanied by a suitable disclaimer noting that the court can make no representation regarding the identity of any persons whose names appear in the report, and that the court makes no representation as to the accuracy and completeness of the data except for court purposes.

VII. ACCESS TO AND USE OF DATA BY COURTS

Courts and their employees may access and use JIS records only for the purpose of conducting official court business. Such access and use shall be governed by appropriate security policies and procedures.

VIII. ACCESS TO AND USE OF DATA BY CRIMINAL JUSTICE AGENCIES

- A. "Criminal justice agencies" as defined in ~~RCW~~ Chapter 10.97 ~~RCW~~ shall have additional access to JIS records beyond that which is permitted the public.
- B. The JIS Committee shall approve the access level and permitted use(s) for classes of criminal justice agencies including, but not limited to, law enforcement, prosecutors, and corrections. An agency that is not covered by a class may request access.
- C. Agencies requesting access under this provision shall identify the information requested and the proposed use(s).
- D. Access by criminal justice agencies shall be governed by an electronic data dissemination contract with each such agency. The contract shall:
 1. Specify the data to which access is granted.
 2. Specify the uses which the agency may make of the data.
 3. Include the agency's agreement that its employees will access the data only for the uses specified.

IX. ACCESS TO AND USE OF DATA BY PUBLIC PURPOSE AGENCIES

- A. "Public purpose agency" includes governmental agencies included in the definition of "agency" in RCW ~~42.17.020~~ 42.56.010 and other non-profit organizations whose principal function is to provide services to the public.
- B. Upon approval by the JIS Committee, public purpose agencies may be granted additional access to JIS records beyond that which is permitted the public.
- C. Agencies requesting additional access under this provision shall identify the information requested and the proposed use(s). In reviewing such requests, the JISC will consider such criteria as:
 1. The extent to which access will result in efficiencies in the operation of a court or courts.
 2. The extent to which access will enable the fulfillment of a legislative mandate.
 3. The extent to which access will result in efficiencies in other parts of the criminal justice system.
 4. The risks created by permitting such access.
- D. Access by public purpose agencies shall be governed by an electronic data dissemination contract with each such agency. The contract shall:
 1. Specify the data to which access is granted.
 2. Specify the uses which the agency may make of the data.
 3. Include the agency's agreement that its employees will access the data only for the uses specified.

X. E-MAIL

Commented [HS9]: Is this section still needed?

The JIS provides e-mail for official court business use only. Access to judicial officers' and court employees' e-mail is restricted. Access to a judicial officer's e-mail files shall only be granted with the permission of the judicial officer involved. Request for access to a court employee's e-mail or to logs containing records on an employee's e-mail shall be subject to the review and approval of the county clerk if the employee is employed in the clerk's office, or the presiding judge or court administrator if the employee is employed by the court. Nothing in this policy shall be used as a reason to withhold records which are the subject of a subpoena or otherwise available to the public.

XI. VERSION HISTORY

These policies shall take effect 30 days from the date of their adoption by the Judicial Information Systems Committee, May 19, 1995.

- Adopted May 19, 1995
- Amended June 21, 1996
- Amended September 20, 1996
- Amended June 6, 1997
- Amended December 5, 1997
- Amended February 27, 1998
- Amended June 26, 1998
- Amended September 6, 2013

5. CLJ JIS Retention Schedule Review

DRAFT Policy with amendment to Small Claims retention: changing from 5 years to 10 years.

AOC Departmental Policy

14.01: AOC Retention Schedule for Courts of Limited Jurisdiction JIS records.

PURPOSE AND AUTHORITY:

The purpose of this policy is to establish retention schedules for Courts of Limited Jurisdiction JIS records per JISCR 8 and upon the recommendations of the Judicial Information System Committee (JISC) during its October 25, 2013 and April 25, 2014 meetings.

POLICY:

Scope

This retention schedule applies to all Courts of Limited Jurisdiction civil and criminal records contained in the Judicial Information System.

Criteria for Use of the 'Retain Case' Flag:

Judges will have the ability to flag cases in order to retain them beyond the stated retention period. Judges should consider the following non-exclusive factors when flagging individual cases for permanent retention:

- Defendant criminal history;
- Nature of the current crime;
- If the case involves any mental health issues;
- If the case involves any substance abuse issues;
- If the Defendant has a high risk of repetitive contact with the court system;
- If the alleged crime was sexual in nature;
- If the Defendant has a history of repetitive contact, or has the potential of repetitive contact, with the alleged victim; and
- If domestic violence was involved.

These factors should be considered with the knowledge that the dismissed record is not a record of conviction and therefore, if retained, it may have negative consequences for the Defendant in acquiring employment or housing. Furthermore, flagging of individual cases, especially those that are dismissed, should be considered the exception and not the norm in judicial proceedings. If a judge decides that a case should be flagged, findings supporting the flag must be put on the record and docket entries must show the criteria used in making that decision. A flag may be removed from a case upon good cause shown. Last, the record and docket entries must reflect the reasons as to why the case was un-flagged.

Retention Schedule

Final Retention Schedule					
Retention of Records Summary					
Casetype = CV, SC, or PR. The system will determine retention based on overall casetype & cause code	Casetype	Cause Code	Retention	Notes: > All retention periods begin after case is closed > Case is retained based on the longest retention period for any violation on the case > Retention not based on a finding of Amended (AM) It is based solely on issues with findings other than AM > See Plea / Sentencing codes at Inside Courts website for code descriptions	
	CV-Civil	DVP, HAR, SXP, STK	Never Purge		
	CV-Civil	Any other	10 years & 4 months		
	SC-Small Claims	Any	10 years		
	PR - Parking	Any	5 years		
Casetype = IT, IN, CT, CN, PC, CF The system will determine retention based on casetype and disposition of each charge as well as looking for DV flag and Retain Case flag	Finding / Judgment Types Guilty / Committed	Casetype of Charge CT, CN PC, CF IT, IN			Finding / Judgment Codes Included AS, BF, C, P, G, GO, GS, GV, GR, PI, RP, GY, GZ
	Not Guilty / Not Committed	Never purged	Never purged	5 yrs	NG, NC
	46.63.070 Deferred Finding (IT only)	10 yrs	10 yrs	5 yrs	CD, DD
	Dismissed - Incompetency, or Not Guilty - Insanity	NA	NA	7 yrs	D, DO, DR, DW with reason code of IC; or NS
	10.05 Deferred Prosecution	Never purged	Never purged	5 yrs	GO, GD; or D, DO, DR, DW with dismissal reason code of DP
	Dismissed for all other reasons	Never purged	Never purged	NA	D, DO, DW, DR, DS, or OD, with a dismissal reason code of blank or anything other than IC, DP, or FD
	Vacated	10 yrs	5 yrs	5 yrs	V
	Domestic Violence Flag	Never purged	Never purged	Never purged	Applies to cases where a violation has a DV flag = yes, and the retention of the case without the DV flag was less than 15 years..
	Retain Case Flag	15 yrs	15 yrs	15 yrs	A new flag is planned, that will designate a case should be retained regardless of any other rule. Case will be retained as long as flag = Yes.
	Case Transferred	Never purged	Never purged	Never purged	BO, CV; or D with a reason of FD
	Case Transferred	5 yrs	5 yrs	5 yrs	

**6. WSP Access to Sealed
Juvenile Records with
JIS LINK**



October 23, 2015

TO: JISC Data Dissemination Committee

FROM: Stephanie Happold, AOC Data Dissemination Administrator

RE: Does RCW 13.50.260(7) bar Washington State Patrol access to sealed juvenile offender case information with their JIS LINK account?

Background and Recommendation

The Washington State Patrol (WSP) identification, child abuse, and criminal history section¹ is the repository for criminal history record information and the primary source for felony conviction histories for filings, plea agreements, and sentencing on felony cases in the state. RCW 10.98.030. The section also provides other criminal justice agencies criminal history record information pertaining to any person of whom the section has a record. RCW 43.43.705. Courts and other criminal justice agencies are required to furnish disposition data to this WSP section pursuant to RCW 43.43.745.² RCW 10.97.045. The Washington State Courts satisfy this requirement with a data feed of statewide court information that the Administrative Office of the Courts (AOC) transmits to WSP. Additionally, some courts also provide paperwork to local law enforcement who then forward it on to WSP; or the courts and the clerk's offices send the paperwork directly to WSP. The WSP also has JIS LINK accounts that provide view-only access to court data.

During this last Legislative session, Substitute Senate Bill 5564 was passed requiring the WSP-maintained Washington State Identification System (WASIS) to provide

¹ RCW 43.43.700: There is hereby established within the Washington state patrol a section on identification and criminal history hereafter referred to as the section. In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

² RCW 43.43.745(3): Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

criminal justice agencies access to sealed juvenile records information. E2SSB 5564, Chapter 265, Laws of 2015, Section 3, RCW 13.50.260(8)(d), July 24, 2015. WSP soon discovered problems implementing this law because some courts dismiss and seal the cases during the same proceeding. The dismissal comes to WSP via the AOC data feed seven days after the event because of the WSP built-in delay to ensure the fingerprint arrest information is in the WASIS prior to the disposition. Because of this delay, WSP is getting seal information from the courts before the disposition transfer report and it is unknown which event to seal in WASIS. Currently, WSP is working with local court staff and prosecuting attorney's offices to obtain the information. However, this is cumbersome and a drain on local resources. To resolve this, WSP submitted the attached request to the JISC Data Dissemination Committee (DDC) asking for access to sealed juvenile criminal case information in JIS so as to match the sealed information with the disposition data in WASIS. During the September 10, 2015, DDC meeting, members questioned if such access could be allowed per RCW 13.50.260(7)³ that states "[i]nspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as provided in RCW 13.50.010(8) and RCW 13.50.080(13)."

It is AOC's position that RCW 13.50.260(7) does not apply to providing sealed juvenile case information to WSP so it can satisfy its obligations under RCW 13.50.260(8)(d). RCW 13.50.260(7) addresses inspection of the court records and files. The Merriam-Webster dictionary defines inspection as the "act of looking at something closely in order to learn more about it, to find problems, etc." See <http://www.merriam-webster.com/dictionary/inspection>, reviewed October 16, 2015. This statute prohibits access to a requestor who simply wishes to view the sealed court file. WSP does not wish to have access to the sealed juvenile data in order to simply review it; but rather, to obtain all the information about the case in order to correctly update WASIS and to pass on the correct information to other law enforcement agencies as it is statutorily required to do under RCW 13.50.260(8)(d).

Court Rule GR 31(f)(3) also supports WSP access as it allows criminal justice agencies to request court records not publically accessible if they identify the desired records and provide the proposed use for the court record. GR 31(f)(3)(B). Access is then governed by a dissemination contact. GR 31(f)(3)(C). WSP has requested and identified the needed court records and the obligatory requirement for obtaining this information. If a JIS LINK role can be created to provide this requested access, the agreement between AOC and WSP would include the provisions laid out in GR 31(f)(3)(C).

Conclusion

As the WSP request for access to sealed juvenile case information is not for simply inspecting the court file as stated in RCW 13.50.260(7), the statute does not prevent the

³ Originally RCW 13.50.050(15); later codified during the 2014 Legislative Session into RCW 13.50.260(7).

access. The information WSP is requesting would supplement the data already received by both the courts and the AOC that is required under RCW 43.43.745 and RCW 10.97.045 and ensure the accuracy of the data in WASIS.⁴ Additionally, GR 31(f)(3) allows for the access as WSP has identified the needed records and the intended use, and would be governed by an agreement as detailed in GR 31(f)(3)(C).

⁴ AOC Staff does not assert that the JIS LINK access should be given in order to satisfy RCW 10.97.045 and RCW 43.43.745 requirements as those obligations are already being satisfied by the AOC data feed and by any additional data the individual courts are providing WSP. However, the supplemental information will help WSP satisfy its own statutory requirements as well as lighten the workload of individual courts and prosecuting attorney's offices that are currently working with WSP to compensate for the seven day delay of disposition data being transferred.



STATE OF WASHINGTON
WASHINGTON STATE PATROL

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August 17, 2015

Data Dissemination Committee
c/o Ms. Stephanie Happold
Administrative Office of the Courts
PO Box 41170
Olympia WA 98504

Dear Members of the Data Dissemination Committee:

The Washington State Patrol Identification and Criminal History Section is the repository for criminal history record information (CHRI) for the state of Washington. The information in our files consists of fingerprint cards and disposition information provided by law enforcement agencies and courts throughout the state.

Effective July 24, 2015, RCW 13.50.260(8)(d) requires the Washington State Patrol to ensure the Washington State Identification System (WASIS) criminal history database provides criminal justice agencies access to sealed juvenile records information. In order to ensure our records are updated accurately, the Identification and Criminal History Section requests our staff's access authority level in JIS be increased so that we could view sealed juvenile records. Currently, once a record is sealed in JIS, we are unable to view the record.

While implementing the new law, we have run into a bit of a snag with the process on our end. The court is dismissing and sealing the court case at pretty much the same time. The dismissal comes to us via our electronic disposition transfer process, which has a seven day built-in delay on our end to ensure we have the fingerprint arrest information entered into WASIS prior to the disposition.

This delay is causing us an issue now because we are getting the seal information from the courts before we receive the electronic disposition transfer report (EDTR). When we go into our system to seal the record, we are often unable to tell which event to seal. The seal orders or spreadsheets don't typically list the charge being sealed and other necessary information for us to update our records appropriately. We need to be able to determine what the court charge and disposition were (i.e. guilty/dismissed/etc.) prior to the dismissal so that we can annotate that information in the record.



Data Dissemination Committee

Page 2

August 17, 2015

Having the ability to view sealed juvenile information in JIS will help us in ensuring we appropriately update information in our files and will reduce the impact on local courts and prosecutors by our staff contacting them for needed information.

Thank you for your consideration. If you have any questions, please contact Ms. Becky Miner, Criminal History Records Manager at (360) 534-2111.

Sincerely,

A handwritten signature in blue ink that reads "Deborah L. Collinsworth". The signature is fluid and cursive.

Ms. Deborah L. Collinsworth
Identification and Criminal History Section

DLC:sh

cc: Ms. Becky Miner, Identification and Criminal History Section