

1. Meeting Minutes



JISC DATA DISSEMINATION COMMITTEE
Friday February 26, 2016 (12:00 p.m. – 1:30 p.m.)
Administrative Office of the Courts
SeaTac Office Building
18000 International Blvd. Suite 1106, Main Conf Rm
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 – telephonically
Judge J. Robert Leach
Judge G. Scott Marinella
Ms. Barbara Miner
Ms. Brooke Powell
Ms. Aimee Vance - telephonically

Members Not Present

Judge David A. Svaren

AOC Staff Present

Stephanie Happold, Data Dissemination Administrator

Guests Present

Ms. Erin Becker – Department of Justice - telephonically
Ms. Prachi Dave – ACLU - telephonically
Ms. Sherri Hansen – Spokane County District Court - telephonically
Ms. Emily McReynolds – Washington State Access to Justice Board
Dr. Ali Rowhani-Rahbar – University of Washington Harborview - telephonically
Mr. Rowland Thompson – Washington Allied Daily Newspapers - telephonically
Mr. John Witter – Spokane District Court - telephonically

Judge Wynne called the meeting to order at 11:30 a.m. DDA Happold contacted all interested parties to update them on the earlier start time.

1. Minutes of December 4, 2015

There were no additions or corrections to the December meeting minutes and they were approved by the Committee.

2. Spokane County District Court Request for Non-Court Personnel JIS Access

Ms. Sherri Hansen presented Spokane County District Court's request to provide JIS access to employees of a contracted collections service agency. The request is to free up court staff who currently assist the agency twice a week with processing files in collections status.

Ms. Vance asked if the access was for view-only or for entering data. Ms. Hansen replied that it is view-only but there is also a need to print. The question was asked if public JIS LINK access

would be enough. Ms. Hansen replied it was not as more detail is needed than what JIS LINK level 1 can provide, such as financial information. Ms. Miner asked what do other CLJ courts do when working with collections agencies in this manner. Ms. Vance responded that she has not heard of this need before.

Various members of the Committee questioned the access and what would stop the collections agency from using it for its own needs. They asked how the use would be monitored. Ms. Hansen responded that the collections agency employees would have access on court computers located where court staff work, and would be monitored at that time. Ms. Miner asked if this would still free up the court staff and Ms. Hansen confirmed it would. Judge Marinella stated that he understood the need, but was concerned that the collections agency employees could use the information for other entities and needs other than the needs of the district court, and nothing could stop them.

Mr. Thompson asked if the collections agencies have a right to the court records that are public and therefore if access should be given to them. Judge Leach explained that the request was not for certain court files, but for access to the case management system used by court staff.

Ms. Vance stated that more information about what screens are needed should be acquired. Judge Marinella and Ms. Vance offered to meet further with the members of the District Court and determine what options are available. They will then take their findings back to the Committee. The rest of the Committee agreed and voted to deny the request and wait for Judge Marinella and Ms. Vance to meet further with Spokane County District Court.

Update: on February 27, Mr. Witter and Ms. Hansen contacted DDA Happold and withdrew the request.

3. University of Washington Harborview Research Request

Ms. Erin Becker from the Department of Justice (DOJ) presented the request for a joint study being conducted by her agency and the University of Washington Harborview Injury Prevention and Research Center to be allowed access to the study participants' Defendant Case Histories (DCH). She clarified that the request was not for JIS LINK access to the DCH screen, but rather copies of the DCHs for each person who signs up for the study and for DCH checks throughout the study's duration. The researchers would contact AOC for the case histories when needed. The contact would be approximately every three months, for an estimated 200 people, and during a two year period.

Judge Wynne asked what information the researchers would provide AOC to make sure it was a well-identified person. Dr. Rowhani-Rahbar stated that they would provide full name and AKAs, date of birth, and driver's license number. It would be a staggered enrollment and approximately 8 requests to check records. Judge Wynne mentioned that cost recovery fees would not be waived and Dr. Rowhani-Rahbar understood and expected that fees would be associated with this request.

Judge Marinella asked with whom they would share the data. Dr. Rowhani-Rahbar responded that the data would be shared only with the research team. Judge Wynne asked that any publication would not include participants' names, and Dr. Rowhani-Rahbar confirmed that the data in the publications would be anonymous.

Dr. Rowhani-Rahbar further explained that the research is an informational study that includes intervention and follow-up for community outreach. Ms. Powell asked if the study would also include juveniles. Dr. Rowhani-Rahbar responded that study participants would be 19 or older. Ms. Miner asked who would do the matching of the individuals to the DCHs. DDA Happold responded that it would be done by AOC Data Warehouse and that it was not an easy process. The cost and time estimates would include this work.

Judge Wynne stated that GR 31 allowed for researchers conducting legitimate research to have elevated access to the data. The Committee voted unanimously to approve the DOJ and the UW Harborview Injury Prevention and Research Center request.

4. Review of the Amended Data Dissemination Policy Draft

Judge Wynne presented the amended Data Dissemination Policy draft to the Committee stating that the workgroup based its review on GR 31 language and case law. In particular, the policy would now allow for public access to defendant case history (DCH) information and to other compiled reports, allow more data to be included in index reports, and incorporate GR 31 language in sections for research and public purpose agency access. The workgroup sent the draft to various associations and groups before the meeting; however, due to the tight turnaround time, DDA Happold had not received official responses back.

Judge Wynne then asked DDA Happold to go through each section and present the workgroup's edits. The Committee reviewed the sections, offered up comments and changes, and requested that DDA Happold send the updated draft policy to various associations and interested parties for comment. Ms. McReynolds from the Access to Justice Board asked the Committee to not take these changes lightly when comparing them to privacy concerns. The Committee will convene on April 22 to review the comments and finalize the draft to be forwarded to the JISC. They also asked DDA Happold to provide a full cost estimate for allowing public access to DCH/ICH screens in JIS.

As there was no other business, Judge Wynne adjourned the meeting.

2. WSIPP Data Request

April 1, 2016

Data Dissemination Committee
Office of the Administrator for the Courts
PO Box 41170
Olympia, WA 98504-1170

Attn: Stephanie Happold
Data Dissemination Administrator

Dear Members of the Committee,

I am writing to request access to information on dependency filings for families with screened-in Child Protective Services (CPS) reports for use in a legislatively-mandated evaluation of the Family Assessment Response. The outcome evaluation will be conducted by the Washington State Institute for Public Policy (WSIPP).

The 2012 Washington State Legislature made changes to the way the Department of Social and Health Services (DSHS) responds to reports of child abuse and neglect (ESSB 6555, Chapter 259, Laws of 2012). Previously, all accepted reports of child abuse and neglect were subject to an investigation, where a caseworker determined whether abuse or neglect had occurred.

The new law created a "differential response" system where only the highest risk cases will be investigated. In Washington, the differential response is called the Family Assessment Response (FAR). Low-to-moderate risk cases will receive an assessment of the families' strengths and receive services and concrete goods that reduce the likelihood of future maltreatment. WSIPP was directed to evaluate the Family Assessment Response by December 1, 2016

In January 2014, DSHS began a phase-in of FAR in three offices. To date, FAR has been implemented in 33 of 46 field offices.

The WSIPP evaluation will compare outcomes for families served by FAR to outcomes of families who met eligibility criteria for FAR but were served in offices where FAR had not yet been implemented. We will study the effect of FAR on re-reports to CPS, out-of-home placements, and dependency filings.

We are requesting that the Washington Center for Court Research (WSCCR) match children with screened-in CPS reports against SCOMIS records to identify children with dependency case filings. After identifying dependency cases, WSCCR will strip identifying information and deliver

data to WSIPP via secure file transfer protocol. Dependency data will be linked to CPS records using bogus IDs for person and case. WSIPP will reimburse WSCCR for time and materials necessary to identify dependency cases of children who were alleged victims in CPS reports.

WSIPP will receive no data unless and until the project is approved by the Washington State Institutional Review Board and access to dependency information has been approved by the DDC.

I look forward to discussing this request with the committee on April 22.

Sincerely,

A handwritten signature in blue ink that reads "Marna Miller". The signature is written in a cursive, flowing style.

Marna G. Miller, Ph.D.
Senior Research Associate

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WASHINGTON STATE INSTITUTIONAL REVIEW BOARD
Exempt Determination Request

Project Title: Outcome Evaluation of Family Assessment Response (FAR)

Principal Investigator (PI) (Name, Degree(s)): Marna G. Miller, Ph.D.

Agency or Organization Name: Washington State Institute for Public Policy

Complete Mailing Address: 110 5th Ave S.E, Suite 214

City: Olympia

State: WA

Zip: 98504

Office Telephone Number: 360-586-2745

Alternate Number:

Email: marna.miller@wsipp.wa.gov

Date Prepared: February 29, 2016

BEFORE completing this form, review the [Washington State Institutional Review Board \(WSIRB\) Procedures Manual, Section 5.1](#), and then CALL or email the DSHS Human Research Review Section (HRRS) to arrange to discuss your proposed activity. Your lack of familiarity with WSIRB procedures or failure to discuss the proposed activity with HRRS staff will result in avoidable delay. When advised by HRRS staff, complete this *Exempt Determination Request* form, and attach all required documents and materials, including Appendices, as indicated herein.

IMPORTANT NOTE: Activities that involve use of birth or fetal death confidential information will not be disclosed without WSIRB review. STOP HERE and complete the Research Application available at: <http://www.dshs.wa.gov/sesa/human-research-review-section/forms>.

SECTION 1: Is the Proposed Activity Research?

Research is defined in the federal regulations at 45 CFR 46.102(d) as “a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.”

There are a wide range of activities that employ many of the features of research, such as rigorous design, systematic data collection, statistical analyses and scholarly dissemination, which may not necessarily be considered research under this federal regulatory definition. The key to distinguishing between research and non-research activities is to determine the intent of the activity. The intent of research is to increase the stock of knowledge, including knowledge of humankind, human and organizational behavior, culture and society, and the use of this stock of knowledge to devise new applications. Research, whether basic or applied, may involve the study of the fundamental aspects of phenomena and of observable data, and may include hypotheses generation or testing, drawing outcomes, inferences or conclusions, and/or advancing or informing theories, principles and statements of relationships. Research is often characterized by creative work undertaken on a systematic basis whose objectives may include developing and evaluating the feasibility and practicality of proposed solutions and determining their parameters, and expanding and applying acquired knowledge through the extrapolation of findings to wider or other populations or contexts.

An activity that combines both research and non-research is considered research for purposes of this Exempt Determination Request.

Check the box below that best describes the activity being proposed and explain your answer:

- A. **Research** -- as defined above. IMPORTANT NOTE: Research that involves newborn dried blood spots and/or specimen information cannot in accordance with applicable laws¹ be exempt from IRB review. For these activities, STOP HERE and complete the Research Application available at: <http://www.dshs.wa.gov/sesa/human-research-review-section/forms>. Otherwise, proceed to Section 2, REGARDLESS of whether any other category below may also describe the activity.

Explain:

- B. **Program Evaluation activities** – in which the primary intent is to assess the success of an established program or intervention in achieving its objectives in a specific population, and in which the information gained will be used only to provide feedback to the program, to ensure service quality, or to make improvements in the program, **are generally not considered research.**

Explain:

The intent of this evaluation is to inform the legislature of the results of implementing FAR in Washington. Specifically, the legislature wants to know the effect of FAR on child safety and out-of-home placements.

The differential response model, upon which FAR is based, is only loosely specified. Eligibility criteria for the differential pathway, services offered, and case duration vary from state to state. Likewise, outcomes differ among the states.

In its application for a Title IV-E waiver featuring FAR as the main innovation, based on evaluations conducted in Minnesota, DSHS assumed that FAR would significantly reduce the rate of out-of-home placement and re-reports to CPS. This evaluation will determine whether the differential response model – as implemented in Washington – is producing similar findings. And of most concern, compared to the investigative path, does FAR, result in decreased child safety.

- C. **Surveillance activities** - which involve the regular, ongoing collection and analysis of health-related data in order to monitor the frequency of occurrence and distribution of diseases and/or health conditions in a population, and which are authorized by state statute or regulation which specify the intent of the activity, its purpose, and uses of the data, and in which all the data collected are used only for these purposes, **are generally not considered research.**

Explain:

- D. **Disease Investigation and/or Emergency Response activities** - authorized under state statute or regulation which are undertaken to identify, characterize, and solve an immediate health problem, and in which the information gained will directly benefit those participants involved in the investigation or their communities, **are generally not considered research.**

Explain:

- E. **Quality Assurance and/or Quality Improvement activities** - in which existing individual level data will be collected and analyzed by or on behalf of an institution and in which there is a formal commitment by the institution in advance of data collection to a corrective action plan related to any of a number of possible outcomes of the analyses **are generally not considered research.**

Explain:

- F. **Other Non-Research activities** – for example, program audits, resource utilization, service utilization and/or drug utilization studies using existing institutional records; client outcome

¹ See <https://www.congress.gov/bill/113th-congress/house-bill/1281/text> and <http://app.leg.wa.gov/wac/default.aspx?cite=246-650&full=true>.

monitoring in which individual level data are routinely collected and analyzed by or on behalf of an institution to determine the extent to which the institution's clients are experiencing intended program outcomes; client satisfaction and needs assessment surveys which collect data from persons eligible to receive the institution's program services; and other similar activities that are designed to directly benefit only an existing, well-defined and discrete client, patient or beneficiary population, **are generally not considered research.**

Explain:

- G. **Activities Conducted Solely for Educational Purposes** – which fall into one of the non-research categories above, but in which the primary intent is related to training in research methods in partial fulfillment of requirements for an undergraduate or advanced degree, **are generally not considered research.**

HOWEVER, activities for which the primary intent is related to training in research methods but which activities are also designed to develop or contribute to generalizable knowledge are generally considered research; for these activities do NOT check this box; instead, check the "Research" box above and proceed to Section 2.

Explain:

If any box 1.B—1.G is checked and box 1.A is NOT checked, proceed to Section 4. Note however that if we find that your activity is "research" as that term is defined above, you will be required to satisfy all requirements specified herein.

SECTION 2: Does the Research Involve Human Subjects as Defined in Federal Regulations?

A "human subject" is defined in federal regulations (45 CFR 46.102(f)) as a living individual about whom an investigator obtains (i) data through intervention or interaction with the individual, AND/OR (ii) identifiable private information.

Are the proposed research subjects living individuals?

- No.** If none of the subjects are living, the activity **does not** involve human subjects. (Skip to Section 4)
- Yes.** Indicate the type of information about subjects that would be collected in the research.
- A. If the research obtains data about subjects through interaction or intervention with individuals, including interviews, surveys, physical procedures, manipulations of the subject or the subject's environment, and any other direct contact or communication with the subject, **the research involves human subjects.** (Proceed to Section 3)
- B. If the research obtains identifiable private information about subjects from informants, or from confidential records, such as medical charts, computer databases, patient registries and/or personal records, **the research involves human subjects.** (Proceed to Section 3)
- C. The research does not involve obtaining data about subjects through interaction or intervention with individuals, and does not involve obtaining identifiable private information about subjects from confidential records. (Skip to Section 4)

SECTION 3: Is the Research Exempt from WSIRB Review?

Does this research involve prisoners as "human subjects"? The term "prisoner" (as defined at 45 CFR 46.303(c)) means any individual involuntarily confined or detained in a penal institution. The term is intended to encompass individuals sentenced to such an institution under a criminal or civil statute, individuals detained in other facilities by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing.

Yes, the research involves prisoners. STOP here. Research that involves prisoners cannot in accordance with federal law be exempt from IRB review. Complete the Research Application available at: <http://www.dshs.wa.gov/sesa/human-research-review-section/forms>.

No, the research does NOT involve prisoners. (Proceed to the next paragraph below)

If the activity checked in Section 1 is considered research, the activity involves “human subjects” as determined in Section 2, AND the activity does NOT involve prisoners as indicated above, then the activity may be exempt from WSIRB review if the only involvement of human subjects is in one or more of the following three categories A, B and/or C (check only as applicable):

- A. Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior, provided that:
1. The research does not involve children as subjects in survey procedures, interview procedures, or observations of public behavior when the researchers participate in the activities being observed (The term “children” means, as defined at 45 CFR 46.402(a), persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted);
 2. The research does not involve use or disclosure of an agency’s non-public information for purposes of contacting human research subjects or prospective subjects;
 3. The information obtained does not deal with sensitive aspects of the subject's own behavior or experiences, such as illegal conduct, drug use, sexual behavior, or physical, sexual, or emotional abuse, and is not likely to cause the subjects undue stress, fatigue, or other psychological or emotional reactions;
 4. The information obtained is recorded in such a manner that human subjects cannot be identified by researchers directly or through identifiers linked to subject;
 5. Any disclosure of the human subjects’ responses outside the research could not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subject’s financial standing, employability, or reputation; and,
 6. The research does not involve collecting information from subjects who are unable to provide legal consent for their own participation.

If the research does not meet ALL of the above conditions A.1 through A.6, STOP HERE and complete the Research Application available at: <http://www.dshs.wa.gov/sesa/human-research-review-section/forms>.

B. Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior that is not exempt above, if the human subjects are elected or appointed public officials or candidates for public office.

- C. Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, provided that:
1. These sources are publicly available; or,
 2. Washington State agency records will be used by or disclosed to the researchers in such a manner that these records are not identifiable, (e.g., these records do not contain information which reveals or can likely be associated with the identity of the person or persons to whom

the information pertains), AND the records are not Protected Health Information (PHI) in accordance with 45 CFR 160.103, and 164.512(i) or 164.514(e)(3); and/or

3. Non-Washington State agency record information will be recorded by the researcher in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects, AND the information is not PHI in accordance with 45 CFR 160.103, and 164.512(i) or 164.514(e)(3).

If the research does not meet the above conditions C.1 or C.2 and/or C.3, STOP HERE and complete the Research Application available at: <http://www.dshs.wa.gov/sesa/human-research-review-section/forms>.

All human subject research which is exempt as specified in Sections 3.A—3.C above must be conducted in accordance with: (1) The Belmont Report²; (2) Washington State Agency administrative procedures to ensure valid claims of exemption; and (3) orderly accounting for such activities.

If any exempt category A, B and/or C above is checked, proceed to Section 4.

If NO exempt category A, B and/or C above is checked, then the **proposed activity is not exempt** – STOP here. Complete the Research Application available at: <http://www.dshs.wa.gov/sesa/human-research-review-section/forms>.

SECTION 4: Use or Disclosure of Washington State Agency Records

- 4.1 Does this activity involve use or disclosure of DSHS, DOH, HCA, L&I, DEL and/or OFM personal records? ("Personal records" mean any information obtained or maintained by a state agency which refers to a person and which is declared exempt from public disclosure, confidential, or privileged under state or federal law).

- No (Proceed to Section 4.6)
 Yes (Proceed to Section 4.2)

- 4.2 Does this activity involve use or disclosure of DSHS, DOH, HCA, L&I, DEL and/or OFM data that may, alone or through linkage to ANY other data, be identifiable or PHI?

- No (Proceed to Section 4.3)
 Yes; prepare an [Appendix G](#) form for each system of DSHS, DOH, HCA, L&I, DEL and OFM records from which data are requested; under the Investigator section of Appendix G, insert the description of your proposed activity from Section 6 of this Exempt Determination Request. If DSHS, DOH, HCA, L&I, DEL and/or OFM records will be accessed or disclosed in electronic form, also complete and submit [Appendix J](#), following all instructions therein. Proceed to Section 4.4.

- 4.3 The PI must discuss the request for disclosure and use of any agency's records with the dataset's data manager (see contact information [here](#)). You may be asked to provide a data manager with an [Appendix G](#) form with your portion completed. Plan accordingly. (Proceed to Section 4.5)

- 4.4 The PI must discuss the request for disclosure and use of any agencies' personal records with the dataset's data manager (see contact information [here](#)). Provide each data manager with the separate [Appendix G](#) form with your portion completed. (Proceed to Section 4.5)

- 4.5 Is the PI a current employee of an agency (DSHS, DOH, HCA, L&I, DEL or OFM) from whose dataset(s) records will be requested?

- No; You may be expected to produce for a data manager a letter, provided by DSHS, DOH, HCA, L&I, DEL and/or OFM leadership, that documents support of your project, including disclosure and use of these agency's records. Plan accordingly. (Proceed to Section 4.6)

See section 9 of the attached legislation, ESSB 6555, 2012 and note in RCW 26.44.260.

Yes (Proceed to Section 4.6);

4.6 Does this activity require other assistance or resources from DSHS, DOH, L&I, HCA, DEL and/or OFM (e.g., identification of and/or direct recruitment or distribution of study-related information to prospective subjects; extraction or linkage of agency records; use of agency staff, facilities or equipment to conduct study activities)?

No (Proceed to Section 4.7)

Yes; complete [Appendix H](#), following all instructions therein; under the Investigator Section of Appendix H, insert the description of your proposed activity from Section 6 of this Exempt Determination Request. Proceed to Section 4.7.

4.7 Will signed or verbal informed consent, assent and/or parental permission for study participation and/or authorization for use or disclosure of identifiable Washington State Agency records or PHI be obtained from all study subjects?

This activity does not involve interaction or intervention with study subjects NOR the disclosure or use of identifiable Washington State Agency records or PHI. (Proceed to Section 4.8).

Check here IF signed or verbal informed consent, assent and/or parental permission for study participation and/or authorization for use or disclosure of identifiable Washington State Agency records or PHI will NOT be obtained from study subjects. Complete sections 1-4 of [Appendix I](#), as applicable. Go to the following statement before proceeding to Section 4.8.

Check here IF signed or verbal informed consent, assent and/or parental permission for study participation, and/or authorization for use or disclosure of identifiable Washington State Agency records or PHI WILL be obtained from study subjects. Complete [Appendix F](#), following all instructions therein as applicable. Proceed to Section 4.8.

4.8 All activities involving use or disclosure of identifiable DSHS, DOH, L&I, HCA, DEL, Department of Corrections (DOC) and/or OFM records without the informed consent of the person to whom the records pertain—or their legally authorized representative—are subject to the Washington State RCW 42.48 legal requirement for a Confidentiality Agreement. A Confidentiality Agreement may be required under other circumstances. A Confidentiality Agreement must be executed before such records may be used or disclosed. You will be informed accordingly. (Proceed to Section 5)

SECTION 5: Conflicts of Interest

State agency policy, as well as federal regulatory requirements under [42 CFR 50 or 45 CFR 94](#) applicable to research funded by any U.S. Public Health Service component (e.g., CDC, FDA, NIH, and SAMHSA), regarding conflicts of interest require that the WSIRB and HRRS screen all research activities to determine how these requirements may apply. Complete [Appendix N](#) ONLY if you checked box 1.A above, following all instructions therein as applicable. Additionally, you may be required to comply with your own institution's policy for disclosing significant financial interests, completing related training, and managing financial conflicts of interest. See your institutional official and the HRRS Financial Conflicts of Interest page at <https://www.dshs.wa.gov/sesa/human-research-review-section/financial-conflicts-interest> for further information.

Proceed to Section 6

SECTION 6: Description of Proposed Activity (Required for ALL activities)

Attach supporting documents (e.g., abstract, applicable parts of a grant application, a contract, a work plan, thesis prospectus, etc.) that describe the purpose and intent of the activity, the proposed study methods, and the methods of contacting and recruiting subjects and/or accessing, using, and linking confidential records needed to conduct the activity. Attach all required materials and documents, including all Appendices, as directed above, and all data collection instruments and related materials.

Specify source of funding: This project is funded in the state budget, based on the fiscal note submitted for ESSB 6555. See the Evergreen State College section in the fiscal note.
<https://fortress.wa.gov/binaryDisplay.aspx?package=32524>

Amount of funding: \$157,679.

Description of proposed activity (use additional pages as needed):

The Family Assessment Response (FAR, also known as differential response and alternative response) represents a change in the way Child Protective Services (CPS) responds to low-risk, screened-in reports of child abuse and neglect (CAN). Prior to FAR, all accepted reports of CAN received a forensic investigation; the investigation would result in a finding that CAN had occurred or was unfounded. Under FAR, caseworkers serving low-risk families assess the needs of the family and provide services and concrete materials necessary to prevent further allegations of maltreatment.

In 2012, the Washington State Legislature (ESSB 6555) directed the Department of Social and Health Services (DSHS) to implement FAR and directed the Washington State Institute for Public Policy (WSIPP) to evaluate the effect of this program on child safety and out-of-home placements. DSHS began a phase-in of FAR in January 2014 in 3 offices and continued to expand the program. To date the program has been implemented in 33 of 46 CPS offices.

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|----------|--------------|
| Cohort 1 | January 2014 |
| Cohort 2 | July 2014 |
| Cohort 3 | October 2014 |
| Cohort 4 | January 2015 |
| Cohort 5 | April 2015 |

The WSIPP evaluation will examine the effect of FAR on new reports to CPS, filing of dependency cases, and out-of-home placements. The approach will be to match families receiving FAR to families eligible for FAR but served in offices where FAR had not yet been implemented. We will use a propensity score protocol that includes parent race, parent age, age of youngest child, type of alleged maltreatment, family zip code, date of the CPS report, TANF receipt at the time of the report (as a measure of family poverty), and urban/rural status of local offices.

We assume we should allow 6 months following the initial date to reflect full implementation of FAR. We will be evaluating the effect of FAR on new screened-in reports to CPS within discrete time periods following the report (i.e. 6 months, 12 months) of the initial intake, out-of-home placements tied to the index report (within 90 days of intake) and later placements tied to subsequent reports, and dependency filings within 6 months and one year following intake. Because of a lag in data, to limit evaluation to offices with at least a 6 month follow-up, we will evaluate outcomes for just the first 3 cohorts. Families will have varying follow-up periods; therefore, we will also conduct survival analysis.

We will ask DSHS Research and Data Analysis (RDA) to create a dataset with information on screened-in CPS reports where the alleged subject is a parent or guardian received between January 1, 2008 and April 1, 2016 and out-of-home placements where removal dates occurred between January 1, 2008 April 1,

2016. We will request intakes and placements prior to the start of FAR (January 1, 2014) to create a history of prior intakes and placements for families. We request that TANF eligibility be matched for all screened-in intakes in this period.

We will ask that RDA create bogus case and child IDs, then forward the dataset to the Washington State Center for Court Research (WSCCR). WSCCR will match cases against dependency filings to identify children for whom dependency petitions were filed. After matching, WSCCR will strip names and FamLink identifiers from records before transmitting to WSIPP via secure file transfer protocol.

PROJECT DIRECTOR'S STATEMENT:

By submitting this form I affirm that the information provided is accurate and complete to the best of my knowledge.

Send an electronic copy of this form and all attachments to: wsirb@dshs.wa.gov

Phone: 360.902.8075

<http://www.dshs.wa.gov/sesa/research-and-data-analysis/human-research-review-section>

² The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research, The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, April 18, 1979.



Washington State Institutional Review Board (WSIRB)
Application for WSIRB Review

Appendix G: State Agency Records Request

Investigators shall complete and submit a separate Appendix G for each DSHS, DOH, L&I, HCA, OFM and/or DEL system of records from which records are requested. Note that a state agency may have two or more systems of records (e.g., birth certificate, hospital discharge, and cancer registry records for DOH; child welfare, mental health and public assistance records for DSHS), which may therefore require two or more Appendix G forms from a single state agency. If you are requesting one state agency's records from another (e.g., requesting HCA Medicaid records from DSHS rather than HCA), then a separate Appendix G form must be completed and submitted to the state agency from which records will be requested (e.g., DSHS) AND the state agency whose records will be used (e.g., HCA).

This form documents whether the records requested by the investigator exist and are available in the format and type requested. Prior to submitting a study for review, an investigator MUST discuss their research records request with the state agency data manager who is authorized to approve or release the specific state agency records requested for research purposes. Note that each state agency may have a different data manager for different systems of records—investigators must separately discuss their data requests with each data manager as applicable. Use this [Contact List](#) on the WSIRB website in order to find which Authorized Individual you should contact.

After completing the Investigator Section below, investigators must forward this Appendix G and related attachments to the state agency data manager for completion of the State Agency Authorized Individual Section; investigators must also include a copy of this Appendix G and related attachments with the Application, Study Amendment Request or Exempt Determination Request that is sent to the WSIRB. The State Agency Authorized Individual (data manager) will forward the completed Appendix G and related attachments to the WSIRB.

For use of DSHS records, the DSHS agency's data manager's approval of release of records from a DSHS system of records is required PRIOR to submitting a study for review. A study will not undergo review without such data manager's approval. You are advised to plan accordingly.

Project Title: **Outcome Evaluation of Family Assessment Response**
PI Name: **Marna G. Miller**
Email Address: **marna.miller@wsipp.wa.gov**
Telephone Number: **(360) 586-2745**

INVESTIGATOR Section:

The Family Assessment Response (FAR, also known as differential response and alternative response) represents a change in the way Child Protective Services (CPS) responds to low-risk, screened-in reports of child abuse and neglect (CAN). Prior to FAR, all accepted reports of CAN received a forensic investigation; the investigation would result in a finding that CAN had occurred or was unfounded. Under FAR, caseworkers serving low-risk families assess the needs of the family and provide services and concrete materials necessary to prevent further allegations of maltreatment.

In 2012, the Washington State Legislature (ESSB 6555) directed DSHS to implement FAR and directed the Washington State Institute for Public Policy (WSIPP) to evaluate the effect of this program on child safety and out-of-home placements (see note in RCW 26.44.260). DSHS began a phase-in of FAR in January 2014 in 3 offices and continued to expand the program. To date the program has been implemented in 33 of 46 CPS offices.

Our approach will be to match families receiving FAR to families eligible for FAR but served in offices where FAR had not yet been implemented. We will use a propensity score matching protocol to identify
DSHS 02-569G (REV. 11/2015)

comparison families. We will match on parent race, parent age, age of youngest child, type of alleged maltreatment, date of CPS report, family zip code demographic information, TANF receipt at the time of the report, and urban/rural status of local offices.

We will then compare rates of new reports to CPS, out-of-home placements, and dependency filings for the two groups.

- A. Identify the system of records requested from DSHS, DOH, L&I, HCA, OFM and/or DEL (e.g., Medicaid / ProviderOne, FamLink, TARGET, birth records, CHARS, WSCR, etc.). Use this [Contact List](#) on the WSIRB website to find the system of records.

RDA has modified FamLink data for internal use and for use in the evaluation of the Children's Administration's Title IV-E Waiver. RDA will provide us portions of the FamLink data, matched to ACES records.

RDA will match children and families to ACES records to identify whether the family was eligible for TANF at the time of the CPS referral (as a proxy for family poverty).

After identifying families receiving TANF, RDA will create bogus case numbers and person IDs and then transmit the dataset to the Washington State Center for Court Research (WSCCR) via secure file transfer process.

We will request that WSCCR will match cases against dependency filings to identify children for who dependency petitions were filed. After matching, WSCCR will strip names and from records before transmitting to WSIPP via secure file transfer protocol.

- B. Specify the selection criteria for the requested data extract.

All families meeting eligibility for TANF for whom a CPS intake was screened in and where the alleged subject is a parent or guardian of a child. Case records will be flagged if the family was eligible for TANF at the time of the intake.

- C. Specify the from – through dates (MMDDYY – MMDDYY) of the requested records (e.g., births occurring from January 1, 1999 through December 31, 2000; Medicaid claims paid between July 1, 2005 and June 30, 2006; child out-of-home placements for calendar year 2010). Information about the dates ON WHICH you will or plan to request records should not be provided here, but in the Application, Study Amendment Request or Exempt Determination Request, as may be applicable.

Description

We request of information on dependency petitions for children who were alleged victims on CPS intakes.. for whom dependency petitions were filed the time of screened-in intakes between January 1, 2008 and April 1, 2016 and out-of-home placements where removal dates occurred between January 1, 2008 April 1, 2016. We request intakes and placements prior to the start of FAR (January 1, 2014) to create a history of prior intakes and placements for families.

- D. Specify the requested geographical areas.

We request statewide information. That is, we do not want data subsetted by geography.

- E. ATTACH IN TABLE FORMAT a list of each specific data variable that is requested from the records. Provide variable names, titles and descriptors using ONLY the nomenclature as provided in the applicable data dictionary or index. Contact the agency data manager to obtain the data order table, dictionary or index so that your list is an accurate representation of the available variables. The WSIRB will only approve disclosure and use of the minimum data variables

necessary to conduct the research. The table is required in order for the WSIRB to make this determination, and the table will be incorporated by reference and attachment to a Confidentiality Agreement, if applicable.

F. Will the identifiable records from DSHS, DOH, L&I, HCA, OFM and/or DEL be linked to any other records, including other State agency records?

No

Yes. Identify and describe (1) the other records, including but not limited to primary and publicly available data collected for this research and the name of the agency that has jurisdiction over each type of records; (2) the identifiers (use variable names) that will be used to link all records; and (3) the linking protocol or process.

Description

DSHS Research and Data Analysis will match families with screened-in intakes to ACES records to identify families eligible for TANF at the time of the intake. This will serve as an indicator of family poverty. RDA will create bogus case numbers and person IDs.

Washington State Center for Court Research (WSCCR) will match cases against dependency filings to identify children for who dependency petitions were filed.

After identifying children with dependency cases, WSCCR will strip names and FamLink person and case IDS before transmitting to WSIPP via secure file transfer protocol.

INVESTIGATOR'S Statement:

As Principal Investigator I attest that I, or my designate, have discussed this records request with the designated state agency data manager responsible for the system of records from which records are sought. For investigators requesting DSHS records, I attest that I have received approval for release of records prior to submitting my study for review. By submitting this form I affirm that this research, *if approved*, will be conducted in compliance with all applicable federal and state laws, *Washington State Agency Policy on Protection of Human Research Subjects*, *Washington State Institutional Review Board Procedures Manual*, and the Washington State Institutional Review Board approved procedures and requirements.

STATE AGENCY AUTHORIZED INDIVIDUAL Section:

Complete this section ONLY if the investigator's data request is sufficiently described for purposes of extracting and disclosing the requested data AND the required table of requested data variables has been provided. Feel free to return this form to the investigator for clarification or revision, or if incomplete.

Name: **Stephanie Happold**
Title: **Data Dissemination Administrator**
Email Address: **Stephanie.Happold@courts.wa.gov**
Telephone Number: **360-705-5315**

By forwarding this completed form to the WSIRB I confirm that, at the time of this request, the variables and records of the type requested by the investigator ARE AVAILABLE in the State Agency's database. Checking this box does not imply or commit to State Agency approval of the request.

Comments

The records of the type requested by the investigator are not available in the State Agency's database.

Comments

FOR DSHS DATA MANAGERS ONLY: Check here if actual release of the records of the type requested would be approved by your Administration or program after approval of the study or exempt determination, your DSHS Administration leadership's concurrence with WSIRB approval, and an executed Confidentiality Agreement, as applicable, is signed by your DSHS Administration leadership.

Comments

Forward this completed form and related tables of variables to wsirb@dshs.wa.gov and to the principal investigator. Please

contact Review Staff at 360.902.8075 if you have any questions.

3. Data Dissemination Policy Draft

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~~This policy governs the release of information ~~in from~~ the case management systems that the Administrative Office of the Courts (AOC) maintains, such as the Judicial Information System (JIS), the Superior Court Management Information System (SCOMIS), the Appellate Court System (ACORDS) and Odyssey, as well as data collected by AOC from other court case management systems. The policy has been approved ~~and are promulgated~~ by the Judicial Information System Committee (JIS Committee), pursuant to JISCR 12 and JISCR 15(d). ~~They, and apply applies~~ to all requests for computer-based court information subject to JISCR 15.
- B. ~~These policies are to~~This policy is 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, and GR 31.
- C. ~~These policies do~~This policy does not apply to requests initiated by or with the consent of the ~~Administrator for the Courts~~State Court Administrator or his/her designee for the purpose of answering a request vital to the internal business of the courts. See JISCR 15(a).
- D. This policy does not apply to documents filed with the local courts and county clerk's offices.

II. DEFINITIONS

- A. "JIS" is the acronym for "Judicial Information System" and as used in this policy represents all the case management systems that the AOC currently maintains.

B. ~~Records~~—"JIS record" is an electronic representation of information stored within, or derived from the case management systems that the AOC maintains. It is programmed to be available in human readable and retrievable form.

1. ~~"JIS record"~~ is an electronic representation (bits/bytes) of information either stored within, derived from, or accessed from the OAC. *(Amended February 27, 1998.)*

"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.

C. JIS Reports

1. **"JIS reportsreports"** are the results of special programs written to retrieve and manipulate JIS records into a human readable form, ~~other than the JIS legal record.~~ It includes, but is not limited to, index reports, compiled aggregate numbers, and statistics.

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.

3.2. **"Index reports"** are reports containing bulk court data with set data elements.

4.3. **"Compiled aggregate numbers"** are JIS reports containing only total numerical quantities without case level data elements.

5.4. **"Routine summary reports"** are JIS reports automatically generated by courts, county clerk's offices, or the AOC during the scope of daily business.

D. Data Dissemination Management

1. **"Data dissemination"** is the reporting or other release of information derived from JIS records.

2. ~~The~~ **"data-Data dissemination manageradministrator"** is the individual designated within the ~~Office of the Administrator for~~ Administrative Office of the Courts and within each individual court or county clerk's office 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. Courts and county clerk's offices may use multiple staff to satisfy this role. ~~The name and title of the current data dissemination manager for each court and the Office of the Administrator for~~ Administrative the Courts shall be kept on file with the Office of the Administrator for the Courts.

E. **Electronic Data Dissemination Contract**

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

III. ACCESS TO JIS ~~LEGAL RECORDS~~

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

A. Access to and release of JIS data will be consistent with Article I, § 10 of the Constitution of the State of Washington, GR 31 and Washington state statutes. Statutes, court rules, case law, and policy guidelines that protect individual privacy and confidential court records shall be adhered to when JIS records or JIS reports are disseminated. All access to JIS records and JIS reports 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 records or JIS reports provided in electronic format shall be subject to provisions contained in the data dissemination contract. 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. 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.

B. Privacy protections accorded by the United States Congress and by the Washington State Legislature to records held by other state agencies are to be applied to requests for ~~computerized information from court~~ JIS records or JIS reports, unless such record is a "court record" as defined in GR 31 and access is

~~controlled by GR 31(d) and GR 31(e), 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.~~

~~C. **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) 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. The use of JIS records or JIS reports for the purpose of commercial solicitation of individuals named in the court records is prohibited. Requests for JIS data for this purpose will be denied.~~

~~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.)~~

~~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.)~~

~~D. Court and county clerk data dissemination managers-administrators will restrict the dissemination of JIS reports to data related to the manager's-administrator's particular court, or court operations subject to the supervision of that court, except where the court has access to JIS statewide indices.~~

~~E. Courts and county clerk's offices may direct requestors to the Administrative Office of the Courts if the request falls under GR 31 (g)(2) and creates an undue burden on the court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.~~

~~F. 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).~~
- b. ~~Personal reports, on the request or signed waiver of the subject of the report.~~
- e. ~~On court order.~~

G. An index report, containing some or all of the following information, may be disseminated: (Amended February 27, 1998.) shall not contain confidential information as determined by Court Rules, Washington state law and Federal law. This includes but is not limited to:

1. filing date; social security numbers;
2. case caption; financial account numbers;
3. party name and relationship to case (e.g., plaintiff, defendant); driver's license numbers;
4. cause of action or charge; date of birth of a minor child;
5. case number or designation; party's telephone number;
6. case outcome; witness address and phone number;
7. disposition date; abstract driving record as defined in RCW 46.52.130; and
8. victim information.

(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.)

~~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.)~~

H. Financial Data.

1. Requests to courts or county clerk's offices will be handled by that individual office in the same manner as all other requests for court data.
2. Requests to the AOC for statewide financial court data or for an individual court's data will be handled in the following manner:
 - a. Requestor will provide as much detail as possible regarding specific financial information requested. Explanations may include such information as specific codes, accounting or non-accounting needs, statewide aggregate, court aggregate or case-by-case data, and court levels.
 - b. The AOC will review the request and submit any clarifications to the requestor. Communications may need to take place between the AOC 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.

IV. JIS PRIVACY AND CONFIDENTIALITY POLICIES

- A. Information in JIS records which is sealed, exempted, or otherwise restricted by law, ~~including or~~ court rule, whether or not directly applicable to the courts, may not be released except by specific court order or by statutory authority.
- B. Confidential information regarding individual litigants, witnesses, or jurors that ~~has been collected for the internal administrative operations is contained in case management systems~~ 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 administrator~~ 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 administrators~~, shall be as set forth in policies issued by the ~~Office of the Administrator for the Courts~~ Administrative Office of 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, the county clerk's office, and the Administrative Office of the Courts can make no representation regarding the identity of any persons whose names appear in the report, and ~~that the court makescan make~~ no representation as to the accuracy and completeness of the data except for court purposes.

Commented [HS1]: Disclaimer that is currently sent with the reports:
The Administrative Office of the Courts, the Washington Courts, and the Washington State County Clerks:
1) Do not warrant that the data or information is accurate or complete;
2) Make no representations regarding the identity of any persons whose names appear in data or information; and
3) Do not assume any liability whatsoever resulting from the release or use of the data or information.
The user should verify the information by personally consulting the "official" record reposing at the court of record.

VII. ACCESS TO AND USE OF DATA BY COURTS

The Courts courts, the county clerk's offices, 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. Each year, all court staff, county clerk staff, and anyone receiving access from a court or a county clerk's

office, including prosecutors and public defenders with access to JABS, will sign a confidentiality agreement by January 31. The courts and the county clerk's offices will then submit a Statement of Compliance to the AOC by March 31 confirming that their staff and any other users receiving access from their office have executed the agreements.

VIII. ACCESS TO AND USE OF DATA BY CRIMINAL JUSTICE AGENCIES AND BY THE WASHINGTON STATE ATTORNEY GENERAL'S OFFICE

- A. "Criminal justice agencies" as defined in ~~RCW Chapter~~ 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.
- E. The Washington State Attorney General's Office will be provided additional access to JIS records for those cases in which it represents the State.

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. A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the request.
- ~~C. Upon approval by the JIS Committee, public purpose agencies may be granted additional access to JIS records beyond that which is permitted the public.~~
- D.C. Agencies requesting additional access under this provision shall identify the information requested and the proposed use(s). In reviewing such requests, the ~~HSC courts, the county clerk's offices, and the JIS Committee~~ 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.

The courts, the county clerk's offices, and the JIS Committee must determine that fulfilling the request will not violate GR 31, and must determine the minimum access to restricted court records necessary for the purpose of the request.

E.D. Access by public purpose agencies shall be governed by an electronic data dissemination contract ~~with each such agency~~. The contract shall:

1. Require the requestor to specify provisions for the secure protection of any data that is confidential.
- ~~1.2. Specify the data to which access is granted. Prohibit the disclosure of data in any form which identifies an individual.~~
- ~~2.3. Specify the uses which the agency may make of the data. Prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose.~~
- ~~3.4. Include the agency's agreement that its employees will access the data only for the uses specified. Maintain a log of any distribution of court records which will be open and available for audit by the court, the county clerk's office or the AOC. Any audit should verify that the court records are being appropriately used and in a manner consistent with GR 31.~~

~~X. — E-MAIL~~

~~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.X. 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

DRAFT

DRAFT-TRACKED CHANGES INCORPORATED

Data Dissemination Policy

- [AUTHORITY AND SCOPE](#)
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 - [VERSION HISTORY](#)
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I. AUTHORITY AND SCOPE

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- B. This policy is 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, and GR 31.
- C. This policy does not apply to requests initiated by or with the consent of the State Court Administrator or his/her designee for the purpose of answering a request vital to the internal business of the courts. See JISCR 15(a).
- D. This policy does not apply to documents filed with the local courts and county clerk's offices.

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 - 4. "**Routine summary reports**" are JIS reports automatically generated by courts, county clerk’s offices, or the AOC during the scope of daily business.
- D. Data Dissemination Management
 - 1. "**Data dissemination**" is the reporting or other release of information derived from JIS records.
 - 2. "**Data dissemination administrator**" is the individual designated within the Administrative Office of the Courts and within each individual court or county clerk’s office 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. Courts and county clerk’s offices may use multiple staff to satisfy this role.
- E. **Data Dissemination Contract**

The "**data dissemination contract**" is an agreement between a county clerk’s office, a Washington state court, or the Administrative Office of the Courts and any non-Washington state court entity for release of data contained in the JIS. The data dissemination contract shall specify terms and conditions, as approved by the JIS Committee, concerning the data including but not limited to restrictions, obligations, and cost recovery fees.

III. ACCESS TO JIS RECORDS

- A. Access to and release of JIS data will be consistent with Article I, § 10 of the Constitution of the State of Washington, GR 31 and Washington state statutes. Statutes, court rules, case law, and policy guidelines that protect individual privacy and confidential court records shall be adhered to when JIS records or JIS reports are disseminated. All access to JIS records and JIS reports 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 records or JIS reports provided in electronic format shall be subject to provisions contained in the data dissemination contract..

- B. Privacy protections accorded by the United States Congress and by the Washington State Legislature to records held by other state agencies are to be applied to requests for JIS records or JIS reports, unless such record is a “court record” as defined in GR 31 and access is controlled by GR 31(d) and GR 31(e).
- C. **Contact Lists:** The use of JIS records or JIS reports for the purpose of commercial solicitation of individuals named in the court records is prohibited. Requests for JIS data for this purpose will be denied.
- D. Court and county clerk data dissemination administrators will restrict the dissemination of JIS reports to data related to the administrator’s particular court, or court operations subject to the supervision of that court.
- E. Courts and county clerk’s offices may direct requestors to the Administrative Office of the Courts if the request falls under GR 31 (g)(2) and creates an undue burden on the court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.
- F. 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.
- G. An index report shall not contain confidential information as determined by Court Rules, Washington state law and Federal law. This includes but is not limited to:
 - 1. social security numbers;
 - 2. financial account numbers;
 - 3. driver’s license numbers;
 - 4. date of birth of a minor child;
 - 5. party’s telephone number;
 - 6. witness address and phone number;
 - 7. abstract driving record as defined in RCW 46.52.130; and
 - 8. victim information.

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

H. Financial Data.

1. Requests to courts or county clerk's offices will be handled by that individual office in the same manner as all other requests for court data.
2. Requests to the AOC for statewide financial court data or for an individual court's data will be handled in the following manner:
 - a. Requestor will provide as much detail as possible regarding specific financial information requested. Explanations may include such information as specific codes, accounting or non-accounting needs, statewide aggregate, court aggregate or case-by-case data, and court levels.
 - b. The AOC will review the request and submit any clarifications to the requestor. Communications may need to take place between the AOC 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.

IV. JIS PRIVACY AND CONFIDENTIALITY POLICIES

- A. Information in JIS records which is sealed, exempted, or otherwise restricted by law, including court rule, whether or not directly applicable to the courts, may not be released except by specific court order or by statutory authority.
- B. Confidential information regarding individual litigants, witnesses, or jurors that is contained in case management systems of the courts will not be disseminated. 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 administrator 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 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 administrators, shall be as set forth in policies issued by the Administrative Office of 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, the county clerk's office, and the Administrative Office of the Courts can make no representation regarding the identity of any persons whose names appear in the report, and can make no representation as to the accuracy and completeness of the data except for court purposes.

VII. ACCESS TO AND USE OF DATA BY COURTS

The courts, the county clerk's offices, 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. Each year, all court staff, county clerk staff, and anyone receiving access from a court or a county clerk's office, including prosecutors and public defenders with access to JABS, will sign a confidentiality agreement by January 31. The courts and the county clerk's offices will then submit a Statement of Compliance to the AOC by March 31 confirming that their staff and any other users receiving access from their office have executed the agreements.

VIII. ACCESS TO AND USE OF DATA BY CRIMINAL JUSTICE AGENCIES AND BY THE WASHINGTON STATE ATTORNEY GENERAL'S OFFICE

- A. "Criminal justice agencies" as defined in 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 a 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.
- E. The Washington State Attorney General's Office will be provided additional access to JIS records for those cases in which it represents the State.

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 42.56.010 and other non-profit organizations whose principal function is to provide services to the public.
- B. A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the request.
- C. Agencies requesting additional access under this provision shall identify the information requested and the proposed use(s). In reviewing such requests, the courts, the county clerk's offices, and the JIS Committee 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. The courts, the county clerk's offices, and the JIS Committee must determine that fulfilling the request will not violate GR 31, and must determine the minimum access to restricted court records necessary for the purpose of the request.

D. Access by public purpose agencies shall be governed by a data dissemination contract. The contract shall:

1. Require the requestor to specify provisions for the secure protection of any data that is confidential.
2. Prohibit the disclosure of data in any form which identifies an individual.
3. Prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose.
4. Maintain a log of any distribution of court records which will be open and available for audit by the court, the county clerk's office or the AOC. Any audit should verify that the court records are being appropriately used and in a manner consistent with GR 31.

X. 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

Current Data Dissemination Policy

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 OAC. (*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.
- 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 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 the Courts shall be kept on file with the Office of the Administrator for the Courts.
- D. **Electronic Data Dissemination Contract**
- The **"electronic data dissemination contract"** is an agreement between the Office of the Administrator for 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.*)

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.

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) 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).

- 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.*)

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 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 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 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

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

**STAKEHOLDER COMMENTS
FOR DATA DISSEMINATION
POLICY DRAFT**



MEMBERS

Brean L. Beggs
Hon. Laura Bradley
Hon. Anita Crawford-Willis
Ishbel Dickens, Chair
Nicholas P. Gellert
Lynn Greiner
Mirya Muñoz-Roach
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March 24, 2016

Justice Mary Fairhurst
Chair, Justice Information Systems Committee
Temple of Justice PO Box 40929
Olympia, WA 98504-0929

Judge Thomas J. Wynne
Chair, Data Dissemination Committee
Judicial Information Systems Committee
3000 Rockefeller Ave
Everett, WA 98201-4060

Re: Comments on Proposed Changes to Data Dissemination Policy

Dear Justice Fairhurst and Judge Wynne:

Our liaison to the Judicial Information Systems Committee meeting reported back to the Access to Justice Board, through the Technology Committee co-chairs, that changes have been proposed to the Data Dissemination Policy. The members of the technology committee reviewed the changes and have proposed the following comments, which were approved by the Access to Justice Board at our March meeting.

Does the policy adequately protect individual privacy? One of the primary concerns about the policy is that it appears to anticipate that case management systems will not be developed with a "public facing" version that limits the information that is currently reserved for parties or their designees. It appears that the same information that would be disclosed to parties would also be available to those with no personal interest in the litigation. To the extent this is true, we recommend a more careful balancing of individual privacy rights and GR 31.

Will the courts be collecting data related to representation status or language preference? The technology committee recommends collection of SRL status by party type. In addition, we recommend collection of data regarding language needs of litigants, jurors, and witnesses. This data will be helpful in understanding and projecting the needs of SRL and LEP litigants and participants, both now and in the future. While we understand that the data may be collected in other systems currently, we recommend inclusion in the case management systems for economy and ease of use.

Overall, we appreciate the provisions for the juvenile court records as we believe they represent sound public policy.

The policy does not seem to address the privacy and safety concerns or need of victims of crimes. While we have not had time to research the topic fully, we note that at least two state statutes protect the identity and records of crime victims – the Crime Victims Compensation Act and the Victims of Sexual Assault Act. We recommend careful consideration of the rights of victims of crimes, to the extent information about them is entered into and maintained in case management systems.

There should be a provision for waiver of fees for those who qualify due to inability to pay. We recommend that litigants who qualify for fee waivers under GR 34 be allowed to access and obtain copies of records without cost. This should be true of their attorneys as well.

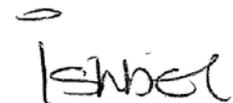
What laws, regulations, and court rules apply and should be consulted? In several locations, the policy indicates compliance with laws, regulations, and/or rules are required. Although we understand that the committee would not want to revise the policy every time a new rule or law is issued, it would be helpful to point to some of the most important rules and laws applicable to the release of data, perhaps with a qualifier of "including but not limited to." Similarly, there are a couple of locations where additional rules should be cited as annotated in the attached appendix.

Personal identifiers should include residential address, email address, mobile phone numbers, and date of birth for all, not just minors. Those should not be disclosed.

Maintaining records of records released. We did not note any provisions requiring courts or AOC, or the case management systems, to maintain records of bulk requests in the event that routine, authorized disclosures have unintended consequences. Cases of data dissemination resulting in inappropriate reidentification of anonymized data are frequently reported. Having an audit trail to identify the source of an unintentional data leak would be helpful in such cases.

In addition, the comments of one member are attached for your consideration. Thank you for the opportunity to provide input on this important policy. If you have any questions, please contact Laura Bradley (laura.bradley@bija.wa.gov or (360) 753-6823 ext. 1239), one of the co-chairs of the technology committee.

Sincerely,



Ishbel Dickens
Chair, Access to Justice Board

C: Paula Littlewood, Executive Director, Washington State Bar Association

Data Dissemination Policy

- [AUTHORITY AND SCOPE](#)
 - [DEFINITIONS](#)
 - [ACCESS TO JIS LEGAL RECORDS](#)
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 - [VERSION HISTORY](#)
-

I. AUTHORITY AND SCOPE

- A. This policy governs the release of information from the case management systems that the Administrative Office of the Courts (AOC) maintains, such as the Judicial Information System (JIS), the Superior Court Management Information System (SCOMIS), the Appellate Court System (ACORDS) and Odyssey, as well as data collected by AOC from other court case management systems. The policy has been approved by the Judicial Information System Committee (JIS Committee), pursuant to JISCR 12 and JISCR 15(d), and applies to all requests for computer-based court information subject to JISCR 15.
- B. This policy is 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, and GR 31.
- C. This policy does not apply to requests initiated by or with the consent of the State Court Administrator or his/her designee for the purpose of answering a request vital to the internal business of the courts. See JISCR 15(a).
- D. This policy does not apply to documents filed with the local courts and county clerk's offices.

II. DEFINITIONS

- A. "JIS" is the acronym for "Judicial Information System" and as used in this policy represents all the case management systems that the AOC currently maintains.

B. "JIS record" is an electronic representation of information stored within, or derived from the case management systems that the AOC maintains. It is programmed to be available in human-readable and retrievable form.

Commented [DH1]: Not necessary, plus makes it consistent with rest of document

C. JIS Reports

1. "**JIS reports**" are the results of special programs written to retrieve and manipulate JIS records into a readable form. It includes, but is not limited to index reports, compiled aggregate numbers, and statistics.
2. "**Index reports**" are reports containing bulk court data with set data elements.
3. "**Compiled aggregate numbers**" are JIS reports containing only total numerical quantities without case level data elements.
4. "**Routine summary reports**" are JIS reports automatically generated by courts, county clerk's offices, or the AOC during the course and in the scope of daily business.

Commented [DH2]: This is grammatical: "scope" is space; there can be no "during" of scope

D. Data Dissemination Management

1. "**Data dissemination**" is the reporting or other release of information derived from JIS records.
2. "**Data dissemination administrator**" is the individual designated within the Administrative Office of the Courts and within each individual court or county clerk's office and assigned the responsibility for administration of data dissemination, including responding to requests of the public, other governmental agencies, the judicial system, or other participants in the judicial information system. Courts and county clerk's offices may use multiple staff to satisfy this role.

Commented [DH3]: Must include all participants in the judicial system generally as well as the judicial system specifically.

E. **Data Dissemination Contract**

The "**data dissemination contract**" is an agreement between a county clerk's office, a Washington state court, or the Administrative Office of the Courts and any non-Washington state court entity for release of data contained in the JIS. The data dissemination contract shall specify terms and conditions, as approved by the JIS Committee, concerning the data including but not limited to restrictions, obligations, and cost recovery fees.

III. ACCESS TO JIS RECORDS

- A. Access to and release of JIS data will be consistent with Article I, § 10 of the Constitution of the State of Washington, GR 31 and Washington state statutes. Statutes, court rules, case law, and policy guidelines that protect individual privacy and safety, and confidential court records shall be adhered to when JIS records or JIS reports are disseminated. All access to JIS records and JIS reports 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

Commented [DH4]: What court rules? Supreme Court rules, local court rules? What about Washington Administrative Code provisions?

Commented [DH5]: Safety is at least as much our responsibility as privacy, and loss of privacy often leads to loss of safety.

personal privacy created by release of the information requested, and potential disruption to the internal ongoing business of the courts. JIS records or JIS reports provided in electronic format shall be subject to provisions contained in the data dissemination contract.-

B. Privacy or safety protections accorded by the United States Congress and by the Washington State Legislature to records held by other state agencies are to be applied to requests for JIS records or JIS reports, unless such record is a “court record” as defined in GR 31 and access is controlled by GR 31(d) and GR 31(e).

Commented [DH6]: We must also include other relevant GR’s, such as GR22 and GR15. These should be added wherever we refer to GR31. What about WACs?

C. **Contact Lists:** The use of JIS records or JIS reports for the purpose in whole or in part of commercial solicitation of individuals named in the court records is prohibited. Requests for JIS data ~~for~~that include this purpose will be denied.

D. Court and county clerk data dissemination administrators will restrict the dissemination of JIS reports to data related to the administrator’s particular court, or court operations subject to the supervision of that court.

E. Courts and county clerk’s offices may direct requestors to the Administrative Office of the Courts if the request falls under GR 31 (g)(2) or any other General Rule or WAC and creates an undue burden on the court or court clerk operations because of the amount of equipment, materials, staff time, computer time or other resources required to satisfy the request.

F. Routine summary reports will be made available to the public upon request, subject to the payment of an established reasonable fee and so long as such request can be met without unduly disrupting the on-going business of the courts.

Commented [DH7]: What about in forma pauperis? Shouldn’t some provision – such as GR34 – be included or referred to? Perhaps after the word “fee the following words should be added “and subject to GR34”

G. An index report shall not contain confidential information as determined by Court Rules, Washington state law and Federal law. This includes but is not limited to:

1. social security numbers;
2. financial account numbers;
3. driver’s license numbers;
4. date of birth of a minor child;
5. party’s telephone number;
- ~~5.6.~~ party’s address
- ~~6.7.~~ witness address and phone number;
- ~~7.8.~~ abstract driving record as defined in RCW 46.52.130; and
- ~~8.9.~~ victim information.

Commented [DH8]: Shouldn’t this be included? At least under some circumstances? Why not?

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

H. Financial Data.

1. Requests to courts or county clerk's offices will be handled by that individual office in the same manner as all other requests for court data.
2. Requests to the AOC for statewide financial court data or for an individual court's data will be handled in the following manner:
 - a. Requestor will provide as much detail as possible regarding specific financial information requested. Explanations may include such information as specific codes, accounting or non-accounting needs, statewide aggregate, court aggregate or case-by-case data, and court levels.
 - b. The AOC will review the request and submit any questions or clarifications to the requestor. Communications may need to take place between the AOC 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/may 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 [DH9]: In forma pauperis or other appropriate reason should be available to waive the fee

IV. JIS PRIVACY AND CONFIDENTIALITY POLICIES

- A. Information in JIS records which is sealed, exempted, or otherwise restricted by law, including court rule, whether or not directly applicable to the courts, may not be released except by specific court order or by statutory authority.
- B. Confidential information regarding individual litigants, witnesses, or jurors that is contained in case management systems of the courts will not be disseminated. 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 administrator 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 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 and ; -2)

Commented [DH10]: Why not include mobile phone number here as well?

Commented [DH11]: What about personal e-mail addresses?

other appropriate and effective tools; 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 or contains 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.)*

Commented [DH12]: What court rule? Supreme Court Rules, Local Rules, Juvenile Rules, others, etc.

Commented [DH13]: This is not understandable, and seems contradictory. It needs more)

VI. PROCEDURES

- A. Uniform procedures for requesting JIS information, and for the appeal of decisions of data dissemination administrators, shall be as set forth in writing and policies issued by the Administrative Office of 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, the county clerk's office, and the Administrative Office of the Courts can make no representation regarding the identity of any persons whose names appear in the report, and can make no representation as to the accuracy and completeness of the data except for court purposes.

VII. ACCESS TO AND USE OF DATA BY COURTS

The courts, the county clerk's offices, 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. Each year, all court staff, county clerk staff, and anyone receiving access from a court or a county clerk's office, including prosecutors and public defenders with access to JABS, will sign a confidentiality agreement by January 31. The courts and the county clerk's offices will then submit a Statement of Compliance to the AOC by March 31 confirming that their staff and any other users receiving access from their office have executed the agreements.

VIII. ACCESS TO AND USE OF DATA BY CRIMINAL JUSTICE AGENCIES AND BY THE WASHINGTON STATE ATTORNEY GENERAL'S OFFICE

- A. "Criminal justice agencies" as defined in 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 a 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.
- E. The Washington State Attorney General's Office will be provided additional access to JIS records for those cases in which it represents the State.

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 42.56.010 and other non-profit organizations whose principal function is to provide services to the public.
- B. A public purpose agency may request court records not publicly accessible for scholarly, governmental, or research purposes where the identification of specific individuals is ancillary to the purpose of the request.
- C. Agencies requesting additional access under this provision shall identify the information requested and the proposed use(s). In reviewing such requests, the courts, the county clerk's offices, and the JIS Committee 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. The courts, the county clerk's offices, and the JIS Committee must determine that fulfilling the request will not violate GR 31, and must determine and specify the minimum access to restricted court records necessary for the purpose of the request.

Commented [DH14]: Should also refer to other relevant GRs as I earlier stated – such as GR22 and GR15, and perhaps others such as Juvenile rules. Also perhaps WACs

- D. Access by public purpose agencies shall be governed by a data dissemination contract. The contract shall:
1. Require the requestor to specify provisions for the secure protection of any data that is confidential.
 2. Prohibit the disclosure of data in any form which identifies an individual.
 3. Prohibit the copying, duplication, or dissemination of information or data provided other than for the stated purpose.
 4. Maintain a log of any distribution of court records which will be open and available for audit by the court, the county clerk's office or the AOC. Any audit should verify that the court records are being appropriately used and in a manner consistent with GR 31.

X. 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



March 31, 2016

Via Email

Data Dissemination Committee
c/o Stephanie Happold
Data Dissemination Administrator
Administrative Office of the Courts

Re: Comments on Proposed Data Dissemination Policy

Dear Members of the Data Dissemination Committee,

The ACLU of Washington (ACLU-WA) thanks the committee for the opportunity to comment upon the proposed changes to the Data Dissemination Policy, governing access to case management information. The ACLU-WA is a nonprofit nonpartisan group of over 50,000 members and supporters dedicated to advancing civil rights and civil liberties. The ACLU-WA is strongly committed to the open administration of justice and the public's ability to oversee the courts. It also seeks to protect individual privacy, particularly in the digital age. In light of these values, we offer the following comments.

We are greatly concerned that the proposed Data Dissemination Policy is intended to open public access to report compilation tools developed by the judicial system for judicial uses. Most specifically, we are concerned that Defendant Case Histories (DCH) and Individual Case Histories (ICH) reports will be publicly accessible. As discussed below, such a change is contrary to Washington's stated public policy regarding public access to criminal histories, and is not warranted by GR 31.

I. Public Access to DCH and ICH Reports Is Contrary to Public Policy

For decades, rules regarding the availability of criminal histories have been codified in the Washington State Criminal Records Privacy Act, Chapter 10.97 RCW. Although the Act does not directly apply to court records, it nonetheless is the embodiment of Washington's public policy, with the intent of providing "for the completeness, accuracy, confidentiality, and security of criminal history record information." RCW 10.97.010.

Among other aspects of this public policy, two are particularly relevant. First, nonconviction data—records of concluded proceedings that did not result in convictions—are not generally available to the public. RCW 10.97.050, RCW 10.97.080. Second, the Washington State Patrol (WSP) is intended to be the custodian for criminal history records, and any other agency that discloses criminal histories

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EXECUTIVE DIRECTOR

must ensure their records match information maintained by WSP. RCW 10.97.090, RCW 10.97.040.

Public access to DCH and ICH reports would undercut both of those public policies. Those reports include all unsealed cases, including criminal cases in which the defendant was acquitted or had the case dismissed, i.e., nonconviction data. And there is no coordination with WSP whatsoever to ensure that the information revealed in DCH and ICH reports matches information in the official WSP criminal history records.

Whether or not the judicial system intends this result, it is inevitable that many private entities will use DCH and ICH reports as quick-and-dirty criminal histories for purposes of background checks. Even under the existing policy, we know that some people use the “Name Search” feature of the statewide courts web site for background check purposes. This is not surprising as the courts web site is free, whereas requests for criminal histories from WSP cost a minimum of \$12. The “Name Search” results are not as comprehensive as results from WSP, and require more steps, but for some people those drawbacks are outweighed by the cost savings. Public access to DCH and ICH reports will reduce those drawbacks, and lead to even more people using the statewide courts web site for background check purposes.

This should not be lightly dismissed. There is good reason for the public policy embodied in the Washington Criminal Records Privacy Act. Innocent people are often caught up in the judicial system, as evidenced by the fact that over 15% of criminal cases are dismissed in the superior courts, with an even higher percentage in the courts of limited jurisdiction. Caseloads of the Courts of Washington for 2014. There is no reason that employers and landlords should ever see that they were in the judicial system in the first place; nonconviction data should not be used to limit these unfortunate people’s future opportunities. Yet that is exactly the result if employers and landlords look at DCH and ICH reports and see that applicants were criminal defendants; many employers and landlords will look no further and simply rule out the applicant. The judicial system should not foster such a result, counter to good public policy.

II. GR 31 Provides Public Access to Existing Court Records, Not Compiled Reports

It is our understanding that the intent of rewriting the Data Dissemination Policy is to make it consistent with GR 31. We wholeheartedly agree with that desire, but believe that only minor changes are necessitated. GR 31 was largely drafted by this very Committee, and the drafters were well aware of the Data Dissemination Policy. There are few, if any, inconsistencies between the Policy and GR 31; the greatest need for update comes instead from the changing nature of the systems used by the courts (e.g., the migration to Odyssey).

Specifically, we do not believe the provision of DCH and ICH reports is intended by GR 31, let alone required by it. GR 31 makes no mention of compiled reports, but

instead is directed solely at access to court records—defined as documents and information maintained by courts. DCH and ICH reports are not maintained by courts, but instead are *created* upon request of the user, and not maintained once the reports have been conveyed to the user. Access to report creation tools is not required by GR 31.

This is to be expected, since such access to compiled reports is not required by any public access policy known to the ACLU-WA. For example, in some respects, GR 31 is a judicial analogue of the Public Records Act (PRA), as both provide for public access to documents used by public entities. It is well settled that the PRA does not require agencies to create records; they need only provide access to records that already exist. *See, e.g., Smith v. Okanogan County*, 100 Wn. App. 7, 13-14, 994 P.2d 857 (2000) (finding no duty to compile lists of employees or attorneys).

The history of GR 31 also supports this view. Compiled reports were specifically addressed in drafts of the rule throughout the first year or more of rule development, including in the version first published for comment by the Supreme Court in 2003. It was not until March 2004 that a version was proposed that dropped the discussion of compiled reports, and instead used substantially the same language that now comprises GR 31(g). The commentary to that change is instructive, and shows that compiled reports were considered to be a form of bulk distribution, and not intended for unrestricted public access:

The requirements for a contract and disclaimer originate in the JISC Data Dissemination Policy. ... It is a better practice to have requests for “compilations” individualized and subject to contract where the requestor will be held accountable for the use of the distributed records.

GR 31 revised w/ commentary, 3/26/04, at 9. This history demonstrates that the existing restrictions on access to DCH and ICH reports in the existing Data Dissemination Policy are fully consistent with GR 31, and should not be changed.

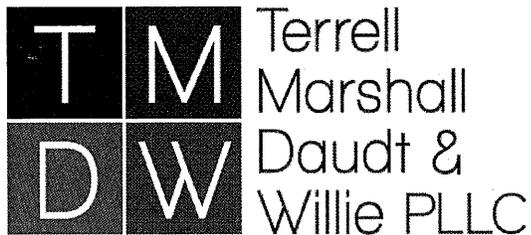
For both of the above reasons, the ACLU-WA strongly urges the Data Dissemination Committee to reject changes to the Data Dissemination Policy that will lead to public access to DCH and ICH reports.

Sincerely,

A handwritten signature in black ink that reads "Doug Klunder". The signature is written in a cursive, flowing style.

Doug Klunder
ACLU-WA Privacy Counsel

**5. ACLU Letter
 Regarding Outdated
 Criminal History Data**



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August 7, 2015

VIA EMAIL AND U.S. MAIL

Administrative Office of the Courts
c/o Stephanie Happold
Data Dissemination Administrator
1112 Quince Street SE
PO Box 41170
Olympia, WA 98504-1170
Email: stephaniehappold@courts.wa.gov

Re: Outdated Criminal History Data

Dear Ms. Happold:

I am a member of Terrell Marshall Daudt & Willie PLLC, a law firm in Seattle, Washington, and I serve as a cooperating attorney for the ACLU of Washington. I am writing to raise concerns about the handling of criminal history data obtained from the Administrative Office of the Courts (AOC) through SCOMIS, particularly data that becomes obsolete.

Imagine the following scenario: An individual makes a mistake that lands her in the criminal justice system. She is convicted and completes the terms of her punishment. She stays out of further trouble and eventually has her conviction vacated. Years later she applies for a new job. The interview goes well, and it appears she is going to be hired. When the call comes, however, she is turned down. A criminal background check revealed the prior conviction but failed to recognize that conviction has been vacated.

Scenes like this play out frequently and affect numerous Washington residents in a variety of contexts, including attempts to secure employment, housing, public benefits, and educational opportunities. Similar problems occur when companies report criminal charges for individuals who have completed the requirements of a deferred prosecution program and had those charges dismissed but the fact of dismissal is omitted.

The negative consequences associated with outdated criminal information are significant and impact not only the individuals named in the reports but also their families and the wider community. A criminal record can make it difficult for a person to access the resources necessary to reintegrate into society. For example, the basic needs of parents and children alike go unmet when parents are unable to secure housing or employment. And the community as a whole suffers when unemployment and homelessness lead to recidivism.

Prospective employers, landlords, and creditors typically obtain criminal history information from large credit reporting agencies, but such data may also be sourced from smaller companies operating primarily or exclusively on the internet. Either way, where information concerns a Washington superior court case, it most likely originated from SCOMIS. The problem seems to be that reporting agencies—large and small—are failing to ensure the information is current before reporting it. As such, they are utilizing data from SCOMIS that is sometimes years out of date.

We respectfully ask the AOC to implement measures that will substantially curb the pervasive disclosure of outdated criminal history information relating to Washington cases. A foundation for these measures already exists in both the Data Transfer Subscription and Licensing Agreement (DTSLA) that the AOC utilizes for the Public SCOMIS Criminal Index (Criminal Index) and the DTSLA that the AOC utilizes for the Public SCOMIS Index (General Index). For example, the Criminal Index DTSLA requires each licensee “to remove from its files cases sealed (or otherwise restricted) after their appearance in data files provided to the Licensee.” In addition, the AOC requires licensees “to update promptly all cases when disposition information is received” and “to update . . . cases where the charge is amended” so that files “will contain only the most current charges.” Licensees must provide the AOC with access to “any database created using information from the [AOC’s files]” so the AOC can “monitor[] and audit[] contract compliance” and “detect . . . the warehousing of stale-dated information subsequently expunged, restricted, or amended by the AOC.”

While laudable, these provisions have proven insufficient for several reasons. First, the terms do not themselves require licensees to update cases when the conviction has been vacated. Second, the AOC does not identify every case that needs to be removed from or modified in a licensee’s database, including vacated cases and cases with amended charging or disposition information. This may make it difficult for licensees to ensure they are appropriately scrubbing their files. Third, the AOC only updates the Criminal Index on a quarterly basis. Because of this, even the most compliant licensees are lagging behind in terms of current data. And finally, the AOC does not monitor or audit licensees despite reserving the right to do so. As such, there is little-to-no oversight of the maintenance or use of criminal history information obtained from the AOC, particularly as it relates to data scrubbing or the re-dissemination of such data in bulk.

Stephanie Happold
Administrative Office of the Courts
August 7, 2015
Page 3

Accordingly, we ask the AOC to do the following:

1. Revise the terms of the SCOMIS bulk distribution contract to require licensees to update cases that have been vacated.
2. Update the Criminal Index and General Index on a weekly basis as it relates to expunged cases, sealed cases, vacated cases, cases with revised or amended charges, cases with revised or amended dispositions, and cases in which the defendant's name has been changed or modified.
3. Provide each licensee with a weekly list of all cases that must be updated in the licensee's database, and obligate the licensee to require that all users, customers, clients, and other third-party recipients update their databases as well. The Administrative Office of Pennsylvania Courts implemented a similar system in 2010, and information regarding that system is attached as Appendix A to this letter.
4. Monitor and audit licensees on a regular basis to ensure that they promptly comply with all of the AOC's requirements, especially data scrubbing requirements.
5. Enforce prohibitions against the re-dissemination and re-use of criminal history data in bulk.

Thank you for your attention to these issues and for your consideration of our proposals. If you have any questions or would like to discuss this letter, please do not hesitate to contact me.

Sincerely,
TERRELL MARSHALL DAUDT & WILLIE PLLC



Toby J. Marshall

TJM
cc: Vanessa T. Hernandez (via email)