JISC DATA DISSEMINATION COMMITTEE
February 12, 2013
12:00 - 1:00 p.m.
Teleconference

DRAFT - MEETING MINUTES

Members Present
Judge Thomas J. Wynne, Chair
Judge J. Robert Leach
Ms. Barbara Miner
Judge Steven Rosen

Members Absent
Judge Jeanette Dalton
Judge James R. Heller
Mr. William Holmes

Guests Present
Mr. Brandon Reed
Ms. Jean McElroy, WSBA
Mr. Jason Murphy, Data Driven Safety
Mr. Mike Katell, Access to Justice Tech Committee (Present for the discussion of the Data Driven Safety matter only)

AOC Staff Present
Lynne Alfasso, AOC Data Dissemination Administrator

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

1. Brandon Reed – Request for Information

Mr. Reed announced that he would tape record the teleconference.

The Committee members discussed the Request for Information dated January 3, 2013, filed by Mr. Reed, requesting the following information from the Judicial Information System (JIS):

> The name, WSBA number, mailing address, telephone number, e-mail address, fax number, WSBA membership status (both current and historical), date(s) of admission, and WSBA committee membership, practice area, and languages spoken of all attorneys licensed to practice in Washington State as disclosed by the WSBA to the Supreme Court according to APR 13(B) and (C) by the WSBA.

Mr. Reed said that he felt the information he was requesting was public information to which he should have access, and that he intended to use the information for noncommercial purposes.

It was noted that the attorney information is provided by the WSBA (Washington State Bar Association) and entered into the JIS pursuant to court rule, for use for court purposes, and that the use of the data in JIS is restricted to the purpose for which it is provided.

It was also noted that, while the JIS Data Dissemination Policy references the state Public Records Act which is now found in RCW Chapter 42.56 but was formerly part of RCW Chapter 42.17, that reference in the Data Dissemination Policy is only for the purpose of

incorporating certain definitions from the Public Records Act into the Policy. Under Washington case law, the state Public Records Act is not applicable to court or JIS records.

The WSBA has its own policy setting forth the conditions under which it will disseminate its members' contact information. Ms. McElroy, the WSBA representative, stated the following:

- Mr. Reed's request is for all WSBA members, active and inactive;
- The WSBA sells the member information for law-related purposes;
- Each sale of the information is for a one-time use by the customer;
- The attorney information is available for free on the WSBA website, in the lawyer directory;
- Some attorneys have been allowed to make their contact information private, under either WSBA rules or other statutes;
- The WSBA is not required to provide the information in the spreadsheet format requested by Mr. Reed;
- The WSBA is not subject to the state Public Records Act;
- That whether or not the WSBA is a "state agency" is a matter of dispute;
- That the WSBA is subject to the rules adopted by the Supreme Court.

The Committee members suggested that Mr. Reed request the attorney contact information directly from the WSBA. It was also suggested that Mr. Reed request a waiver or reduction in the fee the WSBA charges for such information. This Committee has no authority over the WSBA's fees and no information on how the WSBA arrives at its fees.

A motion was made and seconded to deny Mr. Reed's request for the compiled attorney contact information in the JIS, which is provided by the WSBA pursuant to court rule. The motion was approved unanimously by the Committee members.

2. Request for Information – Data Driven Safety

The Committee considered the Request for Information from Data Driven Safety (DDS) dated December 3, 2012. DDS has requested traffic infraction case information from traffic infraction cases disposed of within the last three years. The data elements requested by DDS are:

- Case number
- Law enforcement agency code
- Law enforcement agency name
- Name of individual
- Date of birth
- Gender
- Case type
- Jurisdiction code
- Jurisdiction description
- Violation date
- Case filing date
- Case disposition code
- Case disposition description
- Case disposition date,

- Driver's license state of issuance,
- Charge information.

Mr. Jason Murphy, from DDS, explained his company's request to the Committee members. Although traffic infraction case information is available to JIS-Link subscribers on a case-by-case basis, DDS is concerned that it would be very costly to obtain the information that way and, therefore, prefers to have AOC prepare a single custom data report with the information. The cost to the requestor for such a single "bulk" report would be AOC's actual programming and administrative time to obtain the data from the JIS and prepare a report. Mr. Murphy explained that DDS aggregates traffic case information from sources throughout the country and resells the information in various formats to interested third parties. Mr. Murphy stated that his company would be willing to include in its data contract with AOC such provisions as limits on how long DDS would retain any data it received from AOC pursuant to this request, a promise to comply with all state and federal laws relating to the data, and maintenance of liability insurance with AOC as an additional insured.

It was noted that the retention period in JIS for traffic infraction cases is only three years after date of disposition (and seven years if the penalty is deferred). There does not appear to be documentation at AOC on why this period was chosen; however, three years is also the length of time covered by the abstract of a person's driving record that the state Department of Licensing may release to an insurance company. It was noted that once court case records are released to third parties, it is difficult to control how those records are used or how long they are retained.

The Committee discussed the Data Dissemination Policy, section III.A.4, which states that privacy protections accorded by the Legislature for records held by other state agencies are to be applied to requests for computerized information from court records, so that court computer records are not used to circumvent such protections. The legislature has adopted restrictions on the dissemination of the abstract of a driver's record held by the Department of Licensing, as set forth in RCW 46.52.130. Those abstracts are not available to the public, but are available to various categories of requestors. For example, insurance companies are permitted to get abstracts on insureds or applicants, but the abstract may only cover a three-year period. The committee also discussed the Driver's Privacy Protection Act, 18 U.S.C. §§ 2721-2725, which restricts the dissemination by state licensing authorities of drivers' personal information, as defined in the Act, except for the purposes enumerated in the Act.

Due to the Committee members' questions about the implications of state and federal law on the DDS request for the release of the traffic infraction case information, it was moved and seconded that the Committee ask the State Court Administrator to request an informal letter opinion from the Attorney General on this issue. The motion passed unanimously.

After the Attorney General's opinion is received, this matter will be put back on the Committee's Agenda for further action. Mr. Murphy asked if he could work with AOC staff to prepare a proposed contract which would then be available for review by the Committee in the event the Committee decided to grant the DDS request; the Committee had no objection to this proposal.

3. JIS Data Dissemination Committee Meeting on April 12, 2013

This Committee will hold an in-person meeting on April 12, 2013, at the Snohomish County Superior Court, starting at 1:30 p.m., to discuss whether to propose revisions to GR 15 to the Supreme Court, because of recent case law on the issue of sealed records. Judge Wynne is preparing a draft of proposed revisions for the Committee's review. More information on this meeting will be forthcoming.

4. Information Only – ITG 152—Sealed Juvenile Case Information on the DCH Screen

Staff reported on the status of ITG 152, which was a request from this Committee to AOC to create a new version of the Defendant Case History (DCH) screen which does not include any information on sealed juvenile cases. Courts will be able to print out this new version of the DCH for the subject of the record or the subject's designee. This request received final approval earlier this month from the ITG Multi-Court Level User Group (MCLUG). The MCLUG also gave ITG 152 a "High" priority rating, as compared to other requests.

5. Interim Committee Staff

John Bell, the AOC Contracts Manager, will be acting as staff for the Committee on an interim basis until a new Data Dissemination Administrator is hired by AOC.

6. Recording Policy

It was suggested that this Committee adopt a uniform policy regarding the electronic recording of meetings. Staff was asked to put this matter on the Committee's agenda at a later date.

There being no other business to come before the Committee, the meeting was adjourned.