WASHINGTON COURTS

Administrative Office of the Courts

August 23, 2013

TO: Justice Mary Fairhurst

FROM: Stephanie Happold, Data Dissemination Administrator

RE: Data Dissemination Committee Authority

FACTS

In 2008, a workgroup (CLJ Retention Schedule Workgroup) was organized at the direction of the Judicial Information System Committee (JISC) and the Data Dissemination Committee (DDC) to review the retention schedules of the Courts of Limited Jurisdiction (CLJ). The CLJ workgroup presented its findings to the DDC. The DDC, in turn, presented to the JISC a retention schedule based on the CLJ workgroup's recommendations. The JISC approved this retention schedule and asked AOC to implement this schedule as required under JISCR 8. This schedule was never implemented. Another workgroup was established and is again reviewing CLJ retention schedules with the hope of making recommendations to the DDC and the JISC.

ISSUES

1. Does the DDC have the authority to create retention schedules for electronic records in the Judicial Information System (JIS)?

2. Once adopted, should the retention schedule be set forth in the current Data Dissemination Policy?

SHORT ANSWERS:

1. The DDC does not have the authority to create retention schedules. The DDC acts under the direction of the JISC. It makes recommendations to the JISC regarding the dissemination of JIS data. Historically, the DDC recommendations were changes to statutes and court rules that govern access to court records. However, if directed by the JISC, the DDC can review a number of JIS issues, including JIS data retention schedules. That said, the DDC can only make *recommendations* regarding JIS data retention schedules and its *recommendations* are *subject to the approval* of the JISC.
2. If the JISC approves a retention schedule recommended by the DDC, the retention schedule should not become part of the Data Dissemination Policy. Rather, the JISC approved retention schedule should be adopted by the Administrative Office of the Courts (AOC) as required under JISCR 8.

LEGAL ANALYSIS

1. **Data Dissemination Committee may create and recommend JIS court records retention schedules at the request of the JISC.**

Oversight of the Judicial Information System (JIS) is established in JISCR 1. JISCR 1; *See* RCW 2.68.010. The JIS is designed and operated by the AOC under the direction of the Judicial Information System Committee (JISC) and with the approval of the Supreme Court pursuant to chapter 2.56 RCW. *Id*. The Data Dissemination Committee (DDC) was established by Article 7 of the JISC Bylaws. The subcommittee has the power and responsibility to recommend to the JISC changes to policy regarding JIS access and to recommend changes to statutes and court rules governing access to court records. JISC Bylaws, Article Seven, Sec. 2.3-4. Historically, this has been its primary function. However, the DDC may address other JIS issues that are assigned to it by the JISC. JISC Bylaws, Article Seven, Sec. 2.5. In 2008, the JISC asked the DDC to review the JIS court record retention schedule for the CLJs.

GR 15 sets forth the allowable procedures for destroying court records. GR15(a). One such allowable action is the the routine destruction of court records pursuant to "applicable retention schedules." GR 15(h)(5). The "applicable retention schedules" with regard to JIS records, including CLJ records, are the responsibility of the JISC and AOC. JISCR 8 states:

> The Administrator for the Courts shall establish retention periods for all computerized records based upon the recommendations of the Judicial Information System Committee and consistent with state law.

The protocols followed in the adoption of the JIS CLJ retention schedule in 2008, as well as the current review, are consistent with the directions set forth in JISCR 8.

The DDC made recommendations to the JISC based on the CLJ workgroups' findings. The JISC must then approve the retention schedule for CLJ court records contained in JIS. If approved, the retention schedule will be implemented by AOC. This protocol is proper under JISCR 8 and JISC Bylaws. As long as the DDC acts under the direction of the JISC, the review of the JIS CLJ retention schedule is allowable under the court rules and the JISC rules.

2. **The Data Dissemination Policy does not need to be amended for AOC to implement the retention schedule.**

It has been suggested that the Data Dissemination Policy be amended to reflect the CLJ retention schedule approved by the JISC in 2008 and recently revisited by a new CLJ workgroup. Such an amendment is unnecessary and may be contrary to court rules. JISCR 8 states that it is the responsibility of AOC to establish a retention

schedule for JIS records based on recommendations by the JISC. Here, the schedule has been drafted by a workgroup that was and is being staffed by AOC. Once a retention schedule is approved by the JISC, it may be implemented by AOC. It should not become part of the Data Dissemination Policy, which addresses access and dissemination of JIS records, not retention schedules.

CONCLUSION

The JISC has the authority to request the DDC to review retention of CLJ records and to request the DDC to make recommendations to the JISC based on its review. If those recommendations are approved by the JISC, the AOC must implement them. The retention schedule becomes part of AOC retention policies regarding JIS records. The retention schedule should not be part of the Data Dissemination Policy.