WASHINGTON COURTS

February 24, 2014

TO: JISC Data Dissemination Committee

FROM: Stephanie Happold, AOC Data Dissemination Administrator

RE: Washington State Liquor Control Board Licensing Division Request for Law Enforcement Level 22 JIS-Link Access

The Washington State Liquor Control Board Licensing Division (WSLCB Licensing) is requesting Level 22 JIS access allocated to law enforcement agencies, DOC, probation departments, and WSP certified criminal justice agencies. A customer's access level determines which JIS screens are available to that subscriber. WSLCB Licensing is making this request in order to access the DCH screen during the review of marijuana license applications. The DCH screen displays the Defendant Case History and lists all the criminal cases in which the subject was a party.

AOC Concerns with this Request

The DCH is a compiled JIS report that contains information from more than one case and/or court. Because it is a compiled record, it is not available to Level 1 JIS users. Most governmental agencies that are not public defenders, prosecutors, city attorneys, juvenile agencies, probation departments, law enforcement agencies, DOC, and WSP certified criminal justice agencies, are given Level 1 public access. However, the Data Dissemination Policy (DD Policy) permits "public purpose agencies" to be granted additional access to JIS records beyond that which is permitted the public.[1] A public purpose agency is a governmental agency included in the definition of agency in RCW 42.17.020.[2]

The JIS Committee (JISC) authorized the Data Dissemination Committee (DDC) to act on its behalf in reviewing and acting on requests for access to JIS by non-court uses.[3] The DD Policy sets forth criteria which this Committee may use in deciding the WSLCB Licensing request:

- The extent to which access will result in efficiencies in the operation of a court or courts.
- The extent to which access will enable the fulfillment of a legislative mandate.
- The extent to which access will result in efficiencies in other parts of the criminal justice system.
- The risks created by permitting such access.[4]

[1] DD Policy, Sec. IX.B.
[2] Definition of "agency" in RCW 42.17.020 was later recodified in RCW 42.17A.005(2).
[3] JISC Bylaws, Article 7, Secs. 1 and 2.
[4] DD Policy, Sec. IX.C.

In the current matter, WSLCB Licensing qualifies as a “public purpose agency” as it falls under the statutory definition of “agency.” Unlike the WSLCB Enforcement Division, WSLCB Licensing is not a WSP Certified Criminal Justice Agency and does not have Level 22 JIS access in order to check criminal history. However, Initiative 502, later codified in RCW 69.50.331(1), states that WSLCB Licensing may consider prior criminal conduct of an applicant for a license to produce, process or sell marijuana. RCW 69.50.331(1), states in pertinent part:

> “For the purpose of reviewing any application for a license [to produce, process, or sell marijuana] and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor control board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor control board and a criminal history record information check. The state liquor control board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to these cases. Subject to the provisions of this section, the state liquor control board may, in its discretion, grant or deny the renewal or license applied for.”

RCW 69.50.331(1) provides a mechanism for WSLCB Licensing to obtain criminal history record information by directing it to the Washington State Patrol and to the FBI for prior arrests and convictions of the applicants. Because WSLCB Licensing is not a WSP Certified Criminal Justice Agency and RCW 69.50.331(1) gives it a specific path for obtaining criminal history record information, AOC does not believe Level 22 JIS access should be provided. WSLCB Licensing needs to explain to the DDC why the process provided in RCW 69.50.331(1) is not enough for its application reviews.