WASHINGTON COURTS

April 25, 2014

TO: JISC Data Dissemination Committee

FROM: Stephanie Happold, AOC Data Dissemination Administrator

RE: The Kitsap County Public Defense request for access to dependency case type 7s and the JIS PER Screen.

Issues

1. Should Public Defenders have access to dependency case type 7 information in JIS?
2. Should Public Defenders have access to the PER screen in JIS?

Background

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 users.[1] Along with Washington state statutes and court rules, the DD Policy also sets forth criteria which this Committee may use in deciding the requests:

- 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.[2]

A. Public Defenders should not have access to Dependency Case Type 7 cases in JIS.

Dependency cases are governed by chapter 13.34 RCW. RCW 13.34.115 states that all hearings are public, unless the judge finds that excluding the public is in the best interest of the child, or if a parent, the child's attorney, or guardian ad litem moves to close the hearing and the judge finds it is in the best interest of the child to do so. RCW 13.34.115(1)-(2). Dependency court records are governed by RCW 13.50.100 and are confidential. RCW 13.50.100(1)-(2). The records produced by a juvenile justice or care agency may only be released to other participants in the juvenile justice or care system that has an investigation or case involving the juvenile in question, or if it is assigned

[1] JISC Bylaws, Article 7, Secs. 1 and 2.
[2] DD Policy, Sec. IX.C.

responsibility of supervising the juvenile. RCW 13.50.100(3). Defense attorneys are included in the definition of juvenile justice or care agency per RCW 13.50.010(1)(a).[3]

Juvenile justice or care agencies, including defense attorneys, are allowed access to dependency case records; however, the access is under restricted circumstances expressed in statute and only for the dependencies of which they are involved. Because of these restrictions, no JIS-Link user is given access to case type 7 dependencies. This includes prosecutors, law enforcement, non-JIS courts, and public defenders. Furthermore, public defenders have level 20 JIS-Link[4] access, the same as DOL and DSHS Financial Recovery. There is no way to split the level 20 access. If one group gets additional information, it is accessible to all the groups in that level. If the Committee grants this request, defense attorneys would have access to dependency cases beyond those they are involved in, and the access would extend to DOL and DSHS Financial Recovery. As this access is beyond what is allowed in statute, AOC Staff recommends denial of KCPD's request for dependency case type 7s.

B. Public defenders should not have access to the PER screen in JIS.

The 'person record' or PER[5] screen in the JIS database contains the personal information of individuals involved in such cases as criminal, dissolutions, civil lawsuits, protection orders and parenting plans. The PER screens are created for parties and victims[6], and contains the name, date of birth, address, phone number, state ID, driver's license, juvenile # and social security number. Currently, JIS-Link access levels 30 (non-JIS courts), 25 (prosecutors), and 22 (law enforcement) have access to the PER screens. JIS-Link access level 20 users: public defenders, DOL and DSHS Financial Recovery, do not have access.

Granting access to the PER screen to JIS-Link level 20 users would give this access not only to public defenders, but would also give access to personal information to DOL and DSHS agencies. There is no way to split the groups in JIS-Link level 20. If one group gets an additional screen, it is accessible to all the groups in that level. Access to the PER screen would give public defenders and state agencies access to victim information, including those under protections orders or under other confidential restrictions. Furthermore, public defenders would have personal information not just for cases of which they are the attorney of record, but for all cases they can view in JIS.

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[3] RCW 13.50.010(1)(a) defines "juvenile justice or care agency" as any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of the family and children's ombuds, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415.
[4] JIS-Link Security Levels for Non-JIS Organizations is attached to this memo.
[5] An example of the JIS PER screen are attached to this memo.
[6] PER screen is not created for witnesses.

For these reasons, AOC Staff recommends denying KCPD's request for access to the PER screen.

Recommendations

Public defenders have JIS-Link level 20 access, the same as DOL and DSHS Financial Recovery. There is no way to split the level 20 access. If one group gets additional information, it is accessible to all the groups in that level. If the Committee granted public defenders access to dependency case type 7s and the JIS PER screen, public defenders would have access to all dependency cases and access to all personal information to cases they can view in JIS, not just the cases of which they are the attorney of record. Furthermore, this access would extend to DOL and DSHS Financial Recovery. As this access is beyond what is statutorily allowed, the AOC Staff recommends the DDC deny the Kitsap County Public Defense's request for access to dependency case type 7s in JIS and to the JIS PER Screen.