WASHINGTON COURTS

March 6, 2015

TO: JISC Data Dissemination Committee

FROM: Stephanie Happold, AOC Data Dissemination Administrator

RE: The Snohomish County Prosecuting Attorney's Office Request for Researcher Access

Issue

Can a Snohomish County Human Services Department researcher working with the Snohomish County Prosecuting Attorney's Office on a recidivism study be given Level 25 JIS-LINK prosecutor access?

Background

The Snohomish County Prosecuting Attorney's Office (PAO) is conducting a recidivism study on its Therapeutic Alternatives to Prosecution Program that provides alternatives to prosecution of individuals with drug, alcohol or mental health problems. The PAO is working with a researcher from the Snohomish County Human Services Department and is requesting JIS-LINK access for that researcher. The AOC is unable to provide JIS-LINK level 25 access to the individual as he is not part of the prosecutor's office. Therefore, the request is being brought before the Data Dissemination Committee (DDC) to review.

The JIS Committee (JISC) authorized the DDC to act on its behalf in reviewing and acting on requests for JIS access by non-court users.[1] The DD Policy sets forth criteria which this Committee may use in deciding these 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]

Washington State County Prosecuting Attorneys and City Attorneys are granted JIS-LINK level 25 access. This level is given more access to data contained in the JIS database than members of the public, public defenders and law enforcement. Level 25

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

users can see confidential information contained on the DCH, DOL, PER, and case financial screens. Before level 25 users are given this elevated access, Prosecuting Attorney and City Attorney Offices must sign a JIS-LINK Service Agreement attesting that account will be used only by office employees in "conducting official prosecuting attorney business." JIS-Link City County Attorney Level 25 Service Agreement, 5.b.i.

RCW 36.27.020 describes the duties of a County Prosecuting Attorney:

(1) Be legal adviser of the legislative authority, giving it his or her written opinion when required by the legislative authority or the chairperson thereof touching any subject which the legislative authority may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or the county or any school district in the county may be a party;

(4) Prosecute all criminal and civil actions in which the state or the county may be a party, defend all suits brought against the state or the county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or the county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when the prosecuting attorney has information that any such offense has been committed and the prosecuting attorney shall for that purpose attend when required by them if the prosecuting attorney is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before district judges at the trial of which the prosecuting attorney was not present, before they are lodged with the legislative authority for payment, whereupon the prosecuting attorney may retax the same and the prosecuting attorney must do so if the legislative authority deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to the prosecuting attorney's knowledge to the special consideration of the proper jury;

(10) Examine once in each year the official bonds of all county and precinct officers and report to the legislative authority any defect in the bonds of any such officer;

(11) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law.

RCW 36.27.020.

In the current matter, the PAO study could, perhaps, fall under RCW 36.27.020(11); however, it does not allow for a researcher outside the office to given the same elevated access to confidential JIS information as prosecutors.

Recommendation

The AOC staff recommends denying the request because Washington state prosecuting attorney's offices have elevated JIS-LINK accounts that provide access to confidential information not available to the public, public defenders and law enforcement. This access is granted to the PAO for the purpose of "conducting official prosecuting attorney business." Allowing the same access to a researcher who is part of the County's Human Services Department does not fall under prosecutorial duties listed in RCW 36.27.020(11). The access is also beyond the scope of the JIS-LINK service agreement with PAO that provides the account for office employees only.

An alternative to level 25 access would be to give the researcher JIS-LINK level 1 public access or provide the information in a one-time data dissemination request.