# Data Dissemination Policy


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## I. AUTHORITY AND SCOPE

A. These policies govern the release of information in the Judicial Information System (JIS) and are promulgated by the JIS Committee, pursuant to JISCR 12 and 15(d). They apply to all requests for computer-based court information subject to JISCR 15.

1. These policies are to be administered in the context of the requirement of Article I, § 10 of the Constitution of the State of Washington that "Justice in all cases shall be administered openly, and without unnecessary delay," as well as the privacy protections of Article I, § 7.
2. These policies do not apply to requests initiated by or with the consent of the Administrator for the Courts for the purpose of answering a request vital to the internal business of the courts. See JISCR 15(a).

## II. DEFINITIONS

A. Records

1. "**JIS record**" is an electronic representation (bits/bytes) of information either stored within, derived from, or accessed from the ~~OAC~~AOC. *(Amended February 27, 1998.)*
2. "**JIS legal record**" is a JIS record that is the electronic duplication of the journal of proceedings or other case-related information which it is the duty of the court clerk to keep, and which is programmed to be available in human readable and retrievable form. Case information reflecting the official legal file and displayed by JIS programs are JIS legal records.

B. JIS Reports

1. "**JIS reports**" are the results of special programs written to retrieve and manipulate JIS records into a human readable form, other than the JIS legal record.
2. "**Compiled reports**" are based on information related to more than one case or more than one court. As used in this policy, "compiled reports" do not include index reports.

**Commented [HS1]:** Can examples of these definitions be provided?

C. Data Dissemination Management

1. "**Data dissemination**" is the reporting or other release of information derived from JIS records.
2. The "**data dissemination manager**" is the individual designated within the ~~Office of the Administrator for~~Administrative Office of the Courts and within each individual court and assigned the responsibility for administration of data dissemination, including responding to requests of the public, other governmental agencies, or other participants in the judicial information system. The name and title of the current data dissemination manager for each court and the ~~Office of the Administrator for~~~~Administrative~~Administrative Office of the Courts shall be kept on file with the ~~Office of the Administrator for~~ Administrative Office of the Courts.

D. **Electronic Data Dissemination Contract**

The **"electronic data dissemination contract"** is an agreement between the ~~Office of the Administrator for~~Administrative Office of the Courts and any entity, except a Washington State court (Supreme Court, court of appeals, superior court, district court, or municipal court), that is provided information contained in the JIS in an electronic format. The data dissemination contract shall specify terms and conditions, as approved by the Judicial Information System Committee, concerning the data including but not limited to restrictions, obligations, and cost recovery agreements. Any such contract shall at a minimum include the language contained in Exhibit A – Electronic Data Dissemination Contract. *(Amended February 27, 1998.)*

**Commented [HS2]:** Is this possible with employee turnover at the Courts and Clerk's offices?

**Commented [HS3]:** Still use an 'exhibit A'? Want to update language? Or remove last sentence and just say that a contract is needed?

## III. ACCESS TO JIS LEGAL RECORDS

A. **Open Records Policy**. The following principles apply to the interpretation of procedural rules or guidelines set forth in this policy.

1. Information related to the conduct of the courts' business, including statistical information and information related to the performance of courts and judicial officers, is to be disclosed as fully as resources will permit.
2. In order to effectuate the policies protecting individual privacy which are incorporated in statutes, case law, and policy guidelines, direct downloading of the database is prohibited except for the index items identified in Section III.B.6. Such downloads shall be subject to conditions contained in the electronic data dissemination contract. *(Amended February 27, 1998.)*
3. Dissemination of compiled reports on an individual, including information from more than one case, is to be limited to those items contained in a case index, as defined in Section III.B.6.
4. Privacy protections accorded by the Legislature to records held by other state agencies are to be applied to requests for computerized information from court records, unless admitted in the record of a judicial proceeding, or otherwise made a part of a file in such a proceeding, so that court computer records will not be used to circumvent such protections.

**Commented [HS4]:** *The rationale for this position is derived from Department* ***of Justice v. Reporters Committee for Freedom of the Press****, 489 U.S. 749, 109 S.Ct. 1468, 103 L.Ed.2d 774 (1989), in which the Court upheld the FBI's refusal to turn over to the press the criminal history "rap sheet" of an individual--even though the press sought only those items which were already a matter of "public record." "Plainly there is a vast difference between the public records that might be found after a diligent search of courthouse files, county archives, and local police stations throughout the country and a computerized summary located in a single clearinghouse of information." 109 S.Ct. at 1477.*

5. **Contact Lists**: Access to JIS information will not be granted when to do so would have the effect of providing access to lists of individuals for commercial purposes, defined as set forth in RCW ~~42.17.260(6)~~ 42.56.070(9)~~ and WAC 390-13-010~~, i.e., that in connection with access to a list of individuals, the person requesting the record intends that the list will be used to communicate with the individuals named in the record for the purpose of facilitating profit expecting activity.
6. Except to the extent that dissemination is restricted by Section IV.B, or is subject to provisions in the electronic data dissemination contract, electronic records representing court documents are to be made available on a case-by-case and court-by-court basis as fully as they are in hard copy form. *(Amended February 27, 1998.)*

B. All access to JIS information is subject to the requirements of the criteria for release of data specified in JISCR 15(f): availability of data, specificity of the request, potential for infringement of personal privacy created by release of the information requested, and potential disruption to the internal ongoing business of the courts. JIS information provided in electronic format shall be subject to provisions contained in the electronic data dissemination contract. *(Amended February 27, 1998.)*

1. Court data dissemination managers will restrict the dissemination of JIS reports to data related to the manager's particular court, or court operations subject to the supervision of that court, except where the court has access to JIS statewide indices.
2. Routine summary reports will be made available to the public upon request, subject to the payment of an established fee and so long as such request can be met without unduly disrupting the on-going business of the courts.
3. Access to JIS legal records, in the form of case-specific records, will be permitted to the extent that such records in other forms are open to inspection by statute, case law and court rule, and unless restricted by the privacy and confidentiality policies below.
4. Individuals, personally or through their designees, may obtain access to compiled legal records pertaining to themselves upon written request, accompanied by a signed waiver of privacy.
5. No compiled reports will be disseminated containing information which permits a person, other than a judicial officer or an attorney engaged in the conduct of court business, to be identified as an individual, except that data dissemination managers may disseminate the following:
    a. Public agency requested reports. Reports requested by public agencies which perform, as a principal function, activities directly related to the prosecution, adjudication, detention, or rehabilitation of criminal offenders, or to the investigation, adjudication, or enforcement of orders related to the violation of professional standards of conduct, specifically including criminal justice agencies certified to receive criminal history record information pursuant to RCW 10.97.030(5)(b).

**Commented [HS5]:** I believe this language is confusing.

Comments from 1998:
*Generally names, including those in case captions, will "permit a person . . . to be identified as an individual," as will social security numbers. Under a former draft of the policy, the Data Dissemination Committee decided to treat a business as a "person" for purposes of this rule. (Some privacy statutes specify that only natural persons are protected.)*
*The committee's determination to exempt judicial officers and attorneys from this prohibition stems from considering the interest of the public in the operation of the courts, and the need for the courts and attorneys as officers of the courts to be accountable to the public. "Judicial officers" should be read to include commissioners as well as judges, and pro tem judges when acting in that capacity, but not other court employees. In their private capacities, i.e., when not engaged in the business of the courts, attorneys and judicial officers are entitled to the confidentiality protections under the policy.*

b. Personal reports, on the request or signed waiver of the subject of the report.
c. On court order.

6. An index report, containing some or all of the following information, may be disseminated: *(Amended February 27, 1998.)*
   a. filing date;
   b. case caption;
   c. party name and relationship to case (e.g., plaintiff, defendant);
   d. cause of action or charge;
   e. case number or designation;
   f. case outcome;
   g. disposition date.

   *(III.B.6.f. and III.B.6.g. added December 5, 1997.)*

   An index report provided in electronic format shall be subject to the provisions contained in the electronic data dissemination contract. *(Amended February 27, 1998.)*

7. A report sorted by case resolution and resolution type, giving index criteria except individual names, may be compiled and released. *(Section added June 21, 1996.)*

8. Financial Data.

   a. Requestor will try to provide as much detail as possible of what financial information is needed. Explanations may include such information as specific codes; accounting or non-accounting needs; statewide aggregate, court aggregate or case-by-case data; and what court levels.
   b. The AOC or the court will review the requests and submit any clarifications to the requestor. Meetings may need to take place between the staff and the requestor so the parties know what is being asked for and what can be provided. The time taken for clarifications and meetings will be in addition to any time estimates given for compiling the data. Further, the requestor will be charged for the staff time under the approved cost recovery fee for research/programming.
   c. Prior to release of the report, the data will be reviewed by delegated court and/or county clerk representatives.

**Commented [HS6]:** Does this section apply to the public indexes AOC provides? Something else?
To allow for bulk extracts with JIS-LINK replacement, this section needs to define what is an "index report." There also needs to be another section to allow for the bulk extractions. If this section applies to the AOC public indices -it needs to be updated. Currently, more data is provided to the user than is listed in this section. For example, DOB is provided so the cases can be matched to the correct individual and reduce errors.

**Commented [HS7]:** Comments from 1997/1998:
*This will be the major response to requests for "compiled reports." A case index for the location of cases has traditionally been open to the public, as reflected in ARLJ 9. The committee considered that the items above would serve the case location function, and that searches or sorts of this limited type of information should be permitted without restriction.*
*Sections III.B.6.f and III.B.6.g were added to the Policy on December 5, 1997. The JISC added these sections in response to requests it received from users of the JIS database for these items in order to make index reports a more complete history of a particular case. Users who wish to electronically download the index information will be asked to enter into an electronic data dissemination contract, as defined in Section II.D of the Policy, which will provide certain restrictions on the use and dissemination of the index information by the user.*

*A significant distinction between this information and the "compiled report" is that the index contains no identifying information beyond the case caption or party name. Indeed, where public access terminals are available, the individual should be guided to the terminals to search themselves, in order to clarify that the index should not be used without verifying reference to the case file(s), to make determinations about specific individuals. Any prepared index report should be accompanied by the disclaimer in V.B below, and the disclaimer should also be incorporated in the procedures through which the public is given computer access to the index information.*

**Commented [HS8]:** What does this section mean? Still relevant?

## IV. JIS PRIVACY AND CONFIDENTIALITY POLICIES

A. Information in JIS records which is sealed, exempted, or otherwise restricted by law or court rule, whether or not directly applicable to the courts, may not be released except by specific court order.

B. Confidential information regarding individual litigants, witnesses, or jurors that has been collected for the internal administrative operations of the courts will not be disseminated. This information includes, but is not limited to, credit card and P.I.N. numbers, and social security numbers. Identifying information (including, but not limited to, residential addresses and residential phone numbers) regarding individual litigants, witnesses, or jurors will not be disseminated, except that the residential addresses of litigants will be available to the extent otherwise permitted by law. *(Section amended September 20, 1996; June 26, 1998.)*

C. A data dissemination manager may provide data for a research report when the identification of specific individuals is ancillary to the purpose of the research, the data will not be sold or otherwise distributed to third parties, and the requester agrees to maintain the confidentiality required by these policies. In such instances, the requester shall complete a research agreement in a form prescribed by the ~~Office of the Administrator for~~ Administrative Office of the Courts. The research agreement shall 1) require the requester to explain provisions for the secure protection of any data that is confidential, using physical locks, computer passwords and/or encryption; 2) prohibit the disclosure of data in any form which identifies an individual; 3) prohibit the copying or duplication of information or data provided other than for the stated research, evaluative, or statistical purpose. *(Amended June 6, 1997.)*

## V. LIMITATION ON DISSEMINATION OF JUVENILE OFFENDER COURT RECORDS*

The dissemination of juvenile offender court records maintained in the Judicial Information System shall be limited as follows:

A. Juvenile offender court records shall be excluded from any bulk distribution of JIS records by the Administrative Office of the Courts otherwise authorized by GR 31(g), except for research purposes as permitted by statute or court rule.

B. The Administrative Office of the Courts shall not display any information from an official juvenile offender court record on a publicly-accessible website that is a statewide index of court cases.

* Juvenile offender court records shall remain publicly accessible on the JIS Link notwithstanding any provision of this section. *(Section added September 6, 2013.)*

## VI. PROCEDURES

A. Uniform procedures for requesting JIS information, and for the appeal of decisions of data dissemination managers, shall be as set forth in policies issued by the Office of the Administrator for the Courts pursuant to JISCR 15(d).

B. In any case where a report is provided, the report must be accompanied by a suitable disclaimer noting that the court can make no representation regarding the identity of any persons whose names appear in the report, and that the court makes no representation as to the accuracy and completeness of the data except for court purposes.

## VII. ACCESS TO AND USE OF DATA BY COURTS

Courts and their employees may access and use JIS records only for the purpose of conducting official court business. Such access and use shall be governed by appropriate security policies and procedures.

## VIII. ACCESS TO AND USE OF DATA BY CRIMINAL JUSTICE AGENCIES

A. "Criminal justice agencies" as defined in ~~RCW~~ Chapter 10.97 RCW shall have additional access to JIS records beyond that which is permitted the public.

B. The JIS Committee shall approve the access level and permitted use(s) for classes of criminal justice agencies including, but not limited to, law enforcement, prosecutors, and corrections. An agency that is not covered by a class may request access.

C. Agencies requesting access under this provision shall identify the information requested and the proposed use(s).

D. Access by criminal justice agencies shall be governed by an electronic data dissemination contract with each such agency. The contract shall:

1. Specify the data to which access is granted.
2. Specify the uses which the agency may make of the data.
3. Include the agency's agreement that its employees will access the data only for the uses specified.

## IX. ACCESS TO AND USE OF DATA BY PUBLIC PURPOSE AGENCIES

A. "Public purpose agency" includes governmental agencies included in the definition of "agency" in RCW ~~42.17.020~~42.56.010 and other non-profit organizations whose principal function is to provide services to the public.

B. Upon approval by the JIS Committee, public purpose agencies may be granted additional access to JIS records beyond that which is permitted the public.

C. Agencies requesting additional access under this provision shall identify the information requested and the proposed use(s). In reviewing such requests, the JISC will consider such criteria as:

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

D. Access by public purpose agencies shall be governed by an electronic data dissemination contract with each such agency. The contract shall:

1. Specify the data to which access is granted.
2. Specify the uses which the agency may make of the data.
3. Include the agency's agreement that its employees will access the data only for the uses specified.

## X. E-MAIL

Commented [HS9]: Is this section still needed?

The JIS provides e-mail for official court business use only. Access to judicial officers' and court employees' e-mail is restricted. Access to a judicial officer's e-mail files shall only be granted with the permission of the judicial officer involved. Request for access to a court employee's e-mail or to logs containing records on an employee's e-mail shall be subject to the review and approval of the county clerk if the employee is employed in the clerk's office, or the presiding judge or court administrator if the employee is employed by the court. Nothing in this policy shall be used as a reason to withhold records which are the subject of a subpoena or otherwise available to the public.

## XI. VERSION HISTORY

These policies shall take effect 30 days from the date of their adoption by the Judicial Information Systems Committee, May 19, 1995.

- Adopted May 19, 1995
- Amended June 21, 1996
- Amended September 20, 1996
- Amended June 6, 1997
- Amended December 5, 1997
- Amended February 27, 1998
- Amended June 26, 1998
- Amended September 6, 2013