JIS Data Dissemination Committee

April 28, 2006

MINUTES
JIS Data Dissemination Committee

AOC SeaTac Office

Members Present:
Judge Thomas Wynne, Snohomish County Superior Court, Acting Chair
Pat Crandall, Clerk/Administrator, Division III Court of Appeals
Judge Glenna Hall, King County Superior Court
Judge Kip Stilz, Thurston County District Court
Siri Woods, Chelan County Superior Court Clerk

Guests:
Anne Lee, Team Child
Barb Miner, King County Superior Court
Rowland Thompson, Allied Daily Newspapers

AOC Staff:
Brian Backus
John Bell
Kathy Kuriyama

Judge Wynne opened the meeting and introductions were made.

The minutes from the 3/24/06 meeting were approved.

RECENT FEDERAL LEGISLATION – Violence Against Women Act (VAWA)
Recent federal legislation concerning online access to protection orders was discussed. John Bell indicated he was still researching this matter and would hopefully have a summary by the next meeting. He had recently been informed that compliance may be linked to STOP Grant and other federal funding.

JIS Data Dissemination Committee

June 30, 2006

MINUTES
JIS Data Dissemination Committee

AOC SeaTac Office

Members Present:
Judge Ken Grosse, Chair, Washington State Court of Appeals
Pat Crandall, Clerk/Administrator, Division III Court of Appeals
Judge James Heller, Pierce County District Court
Judge Kip Stilz, Thurston County District Court
Siri Woods, Chelan County Superior Court Clerk – via speakerphone
Judge Thomas Wynne, Snohomish County Superior Court

Guests:
Rena Hollis, Skamania County Superior Court Clerk
Barb Miner, King County Superior Court
Rowland Thompson, Allied Daily Newspapers

AOC Staff:
Brian Backus
John Bell
Jennifer Creighton

Judge Grosse opened the meeting and introductions were made.

The minutes from the 4/28/2006 meeting were approved.

Recent Federal Amendments to the Violence Against Women Act (VAWA)

Recent federal legislation concerning online access to protection orders was discussed. John Bell summarized his memorandum and concluded that the current federal legislation only pertained to foreign protection orders. Judge Stilz stated court records that contained victims' names and addresses are not accessible online via JIS records. Whether this information was available through county websites should be a local decision and not a DD/JIS decision. Everyone agreed that JIS is in compliance with VAWA. Judge Grosse further stated that he believed that the counties are, at least, in compliance with the spirit of the law.

JIS Data Dissemination Committee

October 27, 2006

MINUTES
JIS Data Dissemination Committee

AOC SeaTac Office

Members Present:
Judge Ken Grosse, Chair, Washington State Court of Appeals
Judge Glenna Hall, King County Superior Court
Judge James Heller, Pierce County District Court
Judge Kip Stilz, Thurston County District Court
Siri Woods, Chelan County Superior Court Clerk – via speakerphone
Judge Thomas Wynne, Snohomish County Superior Court

Guests:
Sara Ainsworth, Northwest Women's Law Center
Barb Miner, King County Superior Court
Rowland Thompson, Allied Daily Newspapers
Scott Wetzel, Lexis Nexis

AOC Staff:
Brian Backus
John Bell
Jennifer Creighton

Judge Grosse opened the meeting and introductions were made.

The minutes from the 6/30/2006 meeting were approved.

Recent Federal Amendments to the Violence Against Women Act (VAWA)

Recent federal legislation concerning online access to protection orders was discussed. Justice Bridge asked the DD Committee to look at this issue again and determine if we believed JIS is in compliance. The person database allows remote access to protection orders. It does not allow access to foreign protection orders. Judge Grosse stated that the main concern should be whether there is effective enforcement of the protection orders and whether there is sufficient due process if identifying information is removed from public access.

Sara Ainsworth responded that the federal legislation was not intended to stop public access to protection orders, only internet access. She believes that this legislation applies to all protection orders which is supported by the letter written by Grace Huang of the Washington Coalition Against Domestic Violence.

Siri Woods asked if there were good reasons to have this information publicly available and if not, what it would cost to protect the identification of victims in protection orders. The Committee asked Jennifer Creighton, Information Access manager at AOC, to determine: (1) What can be done; (2) How is it done; (3) What will it cost. Ms. Creighton agreed to report back to the Committee on this information by the next meeting.

Defendant's Addresses

Judge Stilz reported that the focus group of the Data Exchange Committee has expressed the opinion that the case/name search website omit providing addresses. Judge Stilz stated the focus group believed that the addresses were unreliable and out-of-date. Judge Stilz further commented that he did not believe the courts would be in compliance with the federal VAWA law if addresses were made available through the website.

This issue would be discussed further at the next meeting.

JIS Data Dissemination Committee

February 23, 2007

MINUTES
JIS Data Dissemination Committee
AOC SeaTac Office

Members Present:
Judge Kip Stilz, substitute chair, Thurston County District Court
Judge Glenna Hall, King County Superior Court
Judge James Heller, Pierce County District Court
Siri Woods, Chelan County Superior Court Clerk
Judge Thomas Wynne, Snohomish County Superior Court

Guests:
Grace Huang, Washington Coalition Against Domestic Violence
N.F. Jackson, Administrator, Whatcom County Superior Court
Barb Miner, Clerk, King County Superior Court
Mark Weiss, Attorney

AOC Staff:
John Bell

Judge Stilz opened the meeting and introductions were made. Judge Stilz stated the meeting needed to be adjourned early because there was a JIS Executive Committee meeting scheduled for 10 am that some members of the Data Dissemination Committee needed to attend.

The minutes from the 10/27/06 meeting were approved.

The issue regarding recent amendments to the Violence Against Women Act regarding protection orders and the remote accessibility of these orders was briefly discussed. Grace Huang and Mark Weiss indicated they would like to see all victim identification in protection orders removed from internet access. John Bell presented a memorandum regarding his recent discussions with the VAWA Division of DOJ in Washington D.C. regarding this amendment. He stated a DOJ attorney, Jennifer Kaplan, told him that she believed that the legislation applied to all protection orders, but that DOJ would not issue a formal opinion on this issue. She also stated that she did not believe that there was any “enforcement mechanism” and that it would not be tied to grant money. He also distributed a Maryland Attorney General Opinion and a Maryland AOC memorandum that concluded the VAWA legislation only applied to foreign protection orders.

Judge Stilz stated there may be policy reasons to keep victim information in protection orders confidential and asked that Jennifer Creighton address the Committee next meeting on different ways JIS could maintain this information. The issue was tabled until Ms. Creighton could report to the Committee.

JIS Data Dissemination Committee

April 27, 2007

MINUTES
JIS Data Dissemination Committee
AOC SeaTac Office

Members Present:
Judge Ken Grosse, Chair, Washington State Court of Appeals
Judge Glenna Hall, King County Superior Court
Judge James Heller, Pierce County District Court
Judge Kip Stilz, Thurston County District Court
Siri Woods, Chelan County Superior Court Clerk

Guests:
Grace Huang, Washington State Coalition Against Domestic Violence
Don Horowitz, Attorney, ATJ
Molly Lawrence, Attorney, Northwest Women's Law Center
Barb Miner, Clerk, King County Superior Court
Rowland Thompson, Allied Daily Newspapers

AOC Staff:
Tim Bates
John Bell
Jennifer Creighton

Judge Stilz opened the meeting and introductions were made.

The minutes from the 02/23/07 meeting were approved.

VAWA
Jennifer Creighton, AOC Information Access manager, was present to answer and ask questions regarding the implementation of a possible policy regarding Domestic Violence petitions. The question is whether is needed to comply with VAWA law. The Committee agreed that the Supreme Court wants all court records to be available on a one-tiered basis. In order to comply with the most liberal reading of the VAWA law (that it applies to all domestic violence protection orders) and the Supreme Court's mandate that accessed be one-tiered, would required that all DV protection orders be confidential. The question is whether this would promote effective law enforcement. If not, then we would continue to have the law apply only to foreign protection orders. Siri Woods and Barb Miner were asked to look into the feasibility of enforcing confidential (to the public) domestic violence protection orders. The discussion will continue next meeting.

The remaining items were tabled due to time restraints.

JIS Data Dissemination Committee

June 29, 2007

Members Present:

Judge Thomas Wynne, Snohomish County Superior Court, Substitute Chair
Judge Ken Grosse, Washington State Court of Appeals, speakerphone
Judge Glenna Hall, King County Superior Court
Judge Kip Stilz, Thurston County District Court
Siri Woods, Chelan County Superior Court Clerks

Guests:

Cathy Grindle, King County District Court
Molly Lawrence, attorney, Northwest Women's Law Center
Joel McAllister, Finance Manager, King County Superior Court Clerk's Office
Judge Annette Plese, Spokane County District Court
Rowland Thompson, Allied Daily Newspapers

AOC Staff:

Tim Bates
John Bell
Stephen Comfort-Mason
Jennifer Creighton
Butch Stussy

Judge Wynne opened the meeting and introductions were made.

The minutes from the 04/27/07 meeting were approved.

VAWA

Siri Woods stated she and Barb Miner looked at the possibility of having all protection orders confidential. Siri stated if that occurred then law enforcement agencies, employers, schools, etc. may not have access to protection orders and that would defeat the purpose behind the issuance of protection orders. Judge Grosse agreed and asked if the representatives of victims of domestic violence wanted the consequences of sealing this information from the public. Molly Lawrence stated she did not believe that is what the federal law required and she believed that the federal law only required that the protection orders not be placed on the internet. The Committee agreed that is a two tiered system and that the Supreme Court has indicated that it would not endorse a two-tiered system. Judge Stilz indicated he would like to see a flow chart that includes all protection orders covered under VAWA. Judge Wynne stated protection orders are issued in many different types of cases and that would make two-tiered sealing even more difficult. Judge Grosse agreed to meet with Molly Lawrence and discuss the history behind the two-tiered and one-tiered philosophy. Jennifer Creighton will prepare a flow chart and send it to the Committee.

ACTION BY COMMITTEE: Judge Wynne asked if any member of the committee wanted to make a motion to have a two-tiered system for protection orders. Judge Hall made the motion. **The motion failed for lack of a second**.

The Functions and Responsibilities of the Data Dissemination Committee and Data Management Committee

This issue was tabled from the last meeting. Judge Grosse and Stilz wanted to discuss the responsibilities of the two different committees. Tim Bates indicated that his view was that the Data Management Committee focuses the management of data from a technical standpoint. The Data Management Committee determines how data is exchanged and the technical requirements necessary to make those exchanges. It does not make policy decisions. Policy decisions are made by the Data Dissemination Committee and any issues regarding policy are referred to the DD Committee. Tim stated that the VAWA issue had been raised at a Data Management Committee. The issue was not discussed, but referred to this committee. It was pointed out that the chair of Data Management Committee, Rich Johnson, will also be a member of this committee starting next meeting.

JIS Data Dissemination Committee

October 26, 2007

MINUTES
DATA DISSEMINATION COMMITTEE
October 26, 2007, 9:00 a.m. to 10:30 p.m.
SeaTac Facility, SeaTac, WA

Members Present:
Judge C. Kenneth Grosse, Chair (via telephone)
Judge Glenna Hall
Mr. William Homes
Mr. Richard Johnson
Ms. Siri Woods
Judge Thomas Wynne

Guests Present:
Mr. Greg Banks (via telephone), WAPA
Chief Robert Berg, WASPC
Ms. Grace Huang, WSCADV
N. F. Jackson, Whatcom County Clerk
Ms. Molly Lawrence, NWLC
Ms. Barb Miner, King County Clerk
Judge Michael Trickey, King County Superior Court

Members Absent:
Judge James Heller
Judge Clifford L. Stilz

Staff Present:
Mr. John Bell
Ms. Jennifer Creighton
Ms. Denise Dzuck
Mr. Jeff Hall
Ms. Suzanne Hellman
Mr. Gregg Richmond

CALL TO ORDER
Judge Wynne called the meeting to order at 9:00 a.m., and introductions were made.

Motion: A motion was made, seconded, and unanimously carried to approve the June 29, 2007 meeting minutes as written.

PROPOSED AMENDMENTS TO GR 22 – Access to Family Law and Guardianship Court Records
John Bell indicated he received an e-mail from Don Horowitz, the Access to Justice Board's liaison, adding some verbiage to the draft. Mr. Horowitz suggested the following addition in sections (c)(2), (g)(1), and (g)(3).

". . . copies of judicial information system database records <u>submitted to, raised by, or</u> considered by the court for parenting plan approval as set forth in (f) of this rule . . ."

After a lengthy discussion about whether the court would want items in a file not considered, it was the consensus of the Committee to wait until Judge Hall arrived to make a decision on Mr. Horowitz's suggestion.

PROPOSED AMENDMENTS TO GR 31 – Access to Court Records
John Bell stated Judge Stilz asked that some language be put together for foreign protection orders in relation to the federal Violence Against Women Act (VAWA) of 2005. Mr. Bell proposed the following language be added to GR 31, section (d)(1).

"(1) The public shall have access to all court records except as restricted by federal law, state law, court rule, court order, or case law or any foreign protection order filed under the authority of chapter 26.52 RCW."

Judge Wynne indicated that foreign protection orders are almost always filed under the context of civil proceedings except for one case which was filed under domestic proceedings.

Greg Banks stated the concern from the prosecutors is that the publication of any information has the potential to help a determined stalker find his or her victim. However, the orders need to be available to law enforcement agencies so they can be enforced. In reading the VAWA legislation, it is significant that it makes a distinction between publication of information on the Internet as opposed to restricting access to documents, and the proposed rule talks about court records.

Judge Grosse stated this is because there is a policy against two-tiered access, and that policy will not be altered according to the Chief Justice.

Judge Wynne indicated that since the Supreme Court is not going to allow two-tiered access, the only alternative is to restrict all access whether at the courthouse or over the Internet.

During discussions, Barb Minor clarified that there are two types of case indexes. One is public case types, and the other is for confidential cases (adoption, mental illness, and juvenile dependency). The confidential case index is not available to the public; and for an in-person request for case information from the court, a person must have the case number in order for the court to release any information—name identification is not enough. However, if protection orders are filed as a case type 2 (civil) or 3 (domestic), both parties names would show up in the case index which is available to the public. And, if a case is sealed, the names still show up in the index although no other information is available to the public.

Judge Wynne indicated there are differing opinions about whether the VAWA legislation applies to both foreign and intrastate protection orders. Judge Wynne also mentioned there is a legal question as to whether congress has the authority to impose any requirements on intrastate protection orders. The state constitution also comes into play in terms of what the state constitution allows the courts to do—it's a more complicated issue if someone goes beyond the foreign protection orders.

Molly Lawrence, from the Northwest Women's Law Center (NWLC), stated she and Judge Grosse met last August to discuss options. Judge Grosse agreed that if the NWLC and the Washington State Coalition Against Domestic Violence (WSCADV) could figure out a solution that worked that is not a two-tiered system, they could present it to the Committee for discussion.

Ms. Lawrence indicated over the last few months, meetings have been held with David Martin, Sandra Shanahan of the King County Prosecutor's Office, and Barb Miner. Ms. Lawrence handed out a one page summary of a proposal for discussion (copy attached for reference). Ms. Lawrence indicated the summary starts with an entirely sealed file, and then makes just the protection order itself publicly available with redacted information.

Judge Wynne asked if the case were a dissolution, would the entire dissolution file become sealed? Ms. Lawrence stated the first part of this would be to unembed all the domestic violence protection orders (DVPOs) from the underlying civil cases, so this would not be an issue. This would mean the court would need to have the DVPO case number associated back somehow to the other

related case for purposes of the courts' consideration, but the DVPO would have it's own cause number and would be indexed separately.

Siri Woods indicated this is the same issue courts are dealing with regarding paternity cases. Everything from the order up is public. The problem is that courts have to actually give the order a different case number in order to make it public at that point. It is very confusing for the courts—some courts are doing this and some are not because it is so confusing, and the prosecutors are struggling with this as well. The new order under the new case number is filed as a case type 3 (domestic) which is a lot of work for the clerks.

Ms. Lawrence stated this proposal is about making sure peoples' information about the fact they are domestic violence victims is not made public to anybody; to protect those victims from any number of different people who might wish to harm them or discriminate against them.

After a lengthy discussion about how this would affect or be handled by the case index, Ms. Lawrence stated she appreciated Judge Hall's efforts to connect this issue to the VAWA language and Barb Miner's comments that this proposal is different that what the VAWA legislation is about. Since Judge Grosse had the intrastate order on the agenda, Ms. Lawrence felt this was a good time to bring a proposal to the Committee that dealt with the local orders to begin the dialogue.

Judge Grosse stated that if the Committee is concerned about what the law of the land is or isn't, all the Committee needs to deal with right now is foreign protection orders. To the extent that what was proposed by Ms. Lawrence goes beyond foreign protection orders, it seems that maybe this Committee doesn't provide the best means to deal with this proposal. Judge Grosse indicated his original position was to look at not just foreign protection orders, but all protection orders. If this is necessary to protect the victims of domestic violence, it should be done across the board. The reason the two-tiered system was given up is because it doesn't do anything to protect the victims. If a name is in the public index, it will be made available on the Internet unless victims are protected some other way. In order to protect the victims some other way, a plan needs to be developed to respond to Ms. Lawrence's proposal. Judge Grosse indicated he agreed with Judge Wynne's suggestion that another case type might be the answer. These are issues beyond the scope of judicial rules and should be dealt with by the legislature.

Judge Grosse further indicated that if the legislative determination says the victims of domestic violence deserve these protections, then the question is how can this be accomplished. The way these orders are entered into the JIS system is more a matter of practical necessity for the current systems, and this can be changed. The Committee can then ask someone who builds databases how this could work, and then ask the clerks and other interested parties to find out what it means to them from the standpoint of costs and practicality and if there might be any unforeseen consequences. If the Committee doesn't want to take on this issue and staff it, it should be sent to the legislature.

Judge Wynne indicated the Judicial Information System Committee (JISC) doesn't have the resources to staff something like this right now because of the work being done on the new case management system.

Grace Huang from the WSCADV indicated the federal government is currently in budget negotiations, and the delegation has been very good at bringing money into Washington to deal with issues. If there is a serious interest in doing this, Ms. Huang feels the delegation has the ability to influence this process and could help provide resources for this project.

Greg Banks stated this issue is dealing with some broad social policies, and it is his understanding the Data Dissemination Committee's function is to make sure rules are not set that conflict with state laws or the state Constitution and to see that the public has access to court information. If the Committee is not talking about adopting a rule that complies strictly with the new VAWA amendments, then this is something that should be discussed and decided by the legislature with full public participation. Judge Wynne and Judge Hall concurred with Mr. Banks.

Judge Grosse suggested the Committee, with assistance from the AOC, take a look at Ms. Lawrence's proposal before the next meeting and see what would be involved before taking it to the JISC or the legislature. Before the legislature gets too involved, the Committee needs to let them know what the JIS can do to accommodate any proposal and/or unforeseen consequences.

Judge Wynne asked if there was a motion with respect to foreign protection orders and GR 31 as proposed today. There being no motion, Judge Wynne stated the Committee will continue discussions at another meeting.

PROPOSED AMENDMENTS TO GR 22 – Access to Family Law and Guardianship Court Records

Judge Wynne reviewed Don Horowitz's proposed amendment to GR 22 for Judge Hall, indicating this proposal would require that anything looked at in regards to a parenting plan would need to be placed in the file and would require the information be distributed to everyone even if it's irrelevant.

Judge Hall stated that if information is not considered, there is no need for it to be placed in the file.

Motion: Judge Wynne called for a motion on GR 22 as originally drafted by John Bell. Judge Hall so moved; it was seconded by Siri Woods and unanimously passed. Judge Wynne stated it will now be sent to the JISC for consideration.

There being no further business, the meeting adjourned at 10:25 a.m.

Attachment A

Proposal to Protect Victim's Identifying Information and to Comply with VAWA
October 26, 2007
For Discussion Purposes Only

Based on discussions with law enforcement, DV advocates (both legal and non-legal), and representatives at the King County Prosecutors Office, we have developed the following proposal to protect DV victim's identifying information contained in DVPO pleadings and orders.

(1) All civil DVPO actions would be assigned a separate cause number. They would no longer be embedded in other civil files. A note would be made, however, on the DVPO file that it is linked to another civil action so that the two actions may continue to be considered together as appropriate.

(2) All DVPO actions would be filed under seal. If and when either a temporary or a final DVPO Order is issued, a complete copy of that DVPO would be retained by the Court as part of the sealed file. A redacted version of that DVPO would be made public with the victim's identifying information redacted. Only following issuance of a DVPO would the case be included in the publicly accessible index and it would be listed under the redacted caption.

(3) Criminal justice agencies (e.g., police, prosecutor, etc.) would retain the ability to access the entire DVPO file pursuant to GR 31(f)(3).