



JISC DATA DISSEMINATION COMMITTEE
Friday, August 27, 2021, 8:30 a.m.- 9:55 a.m.
Zoom Teleconference
URL: provided via invite

MEETING MINUTES

Members Present

Judge John Hart, Chair
Judge Scott Ahlf
Ms. Barbara Miner
Judge Kathryn Loring
Dave Reynolds
Judge Lisa Worswick

Staff Present

Phil Brady, Contracts Manager
Kevin Cottingham, Data Dissemination
Administrator
Michael Keeling, ISD Operations Manager
Jan Nutting, Public Records Officer
Christopher Stanley, MSD Director

Guests Present

Heidi Percy, Snohomish County Clerk
Lt. Col. Sebastian N. Andres of the National
Guard
Sgt. Dolan Santero of the National Guard

0. Call to Order

Judge Hart called the meeting to order at 8:32 a.m. and welcomed all participants.

1. June 25, 2021, Meeting Minutes

Ms. Miner asked that the statement made on page 2, paragraph 2, be removed or attributed to DDA Kevin Cottingham.

With that change, Ms. Miner moved that the minutes be approved as amended. Judge Ahlf seconded the motion, and the minutes were approved unanimously.

2. Regarding the Washington National Guard's Elevated JIS-Link Site

DDA Cottingham reviewed the question before the Committee. The state National Guard's unusual ability to access an elevated level of information was brought to the attention of the DDA by Dave Reynolds, who had been contacted by a military recruiter with regard to confidential JUVIS information. The National Guard's ability to see a JUVIS number provides evidence that there was a juvenile case associated with the search—where a JUVIS number is attached to an individual in JABS with no visible case data, the individual performing the search can rightly assume the presence of confidential cases.

Elevated access was granted to the Washington National Guard in 2006. No other agency has been allowed this exceptional access, as contracts for JABS access limit the purposes for which that access may be used. It was noted that even an employee of the Supreme Court was recently denied permission from the DDC to use JABS for research. As a result, the Administrative Office of the Courts recommends that the Committee cease granting this exception.

Judge Worswick asked how the elevated access was allowed in the beginning, and if there was a legal basis. Although DDA Cottingham did not know the details, he found evidence that the

DDA was aware of the elevated access in 2011, and the site itself was created in 2006. Permission would have been granted within that timeframe, but nothing specific could be found.

DDA Cottingham also confirmed that recruiters from other military organizations have public level JIS access. Only the Washington National Guard has elevated access.

Ms. Ortega asked if individuals are able to research their own juvenile records. Dave Reynolds answered that usually a court order is sometimes required even to inspect one's own sealed records. Recruiters, likewise, would also need a court order to view non-public cases, including the cases tied to the JUVIS numbers at issue.

Judge Hart inquired about alternatives available for the Washington National Guard to conduct background checks. DDA Cottingham said there are two options:

1. The public level JIS site, which is used by various businesses for background checks.
2. The Washington State Patrol's WATCH site, which is the official source for criminal history information. WATCH does not share juvenile non-offender data.

Judge Ahlf explained that some information in JABS is not available from WATCH. DDA Cottingham confirmed that neither the public JIS access nor WATCH includes all JABS information.

Lt. Andres expressed understanding of the challenges faced by the Committee and said that there are a number of state and federal laws the recruiters must follow. He stated that recruiters do have the consent of the applicant to conduct the investigation and do not pull information related to JUVIS cases, but just need to know of the existence of a case to be sure the candidate has disclosed everything in the record as required by federal authorities. Losing elevated access will make a recruiter's job more difficult. The National Guard may consider seeking legislative action, but that will take time.

SFC Santero discussed the fact that public level access doesn't give him all the information he needs and agreed that petitioning the legislature is probably appropriate if access to JABS is withdrawn. The Department of Defense collects and reviews all background information to verify accuracy before granting high security clearance, so it is vital to ensure that new soldiers have not overlooked any past cases. Lt. Andres added that Washington State has a number of top secret units so there will be a larger number of candidates here that need higher clearance.

Judge Worswick asked specifically which information the Guard needs but cannot get from the public JIS site and the WSP. SFC Santero replied that JABS has everything that is needed in one report. The Department of Defense needs all background information, including sealed cases, and the applicant must supply accurate information. He highlighted that recruiters can only see the JUVIS number, and no information is provided about the case.

Judge Worswick then asked if the screening is provided only for those seeking top secret clearance. The recruiter said that all applicants are screened during the preliminary security check, and everything must be disclosed at that point.

DDA Cottingham told the Committee that, until RCW 13.50.260 was amended, the Washington State Patrol was permitted to send sealed information to criminal justice agencies including the Department of Defense. Under the amended statute, however, the information can be sent only to Washington State criminal justice agencies. Sealed information can no longer be provided to the Department of Defense by state entities.

Ms. Percy asked if the National Guard or Homeland Security talk with the applicant and provide a chance to explain anything that had not been previously disclosed. SFC Santero answered that a discussion with the applicant may be possible for low level concerns. For higher-level offenses, the applicant could be discharged without a discussion. Mr. Reynolds pointed out that under Washington statute, applicants would not need to disclose cases that have been sealed, as the proceedings in the case are treated as if they never occurred.

Judge Hart asked if the enhanced access could be kept if there were internal oversight to ensure appropriate use only. DDA Cottingham responded that oversight would be difficult from AOC's position, and misuse would not be known unless a complaint was received.

Ms. Percy confirmed that law enforcement agencies cannot use JABS access for background checks. DDA Cottingham stated that no one is authorized to use JABS for background checks – the proper approach is to get a fingerprint check processed by the Washington State Patrol. Judge Hart stated that not only is the Washington State Patrol the best option for carrying out a background check, but it is the official criminal history repository under RCW 10.97.

DDA Cottingham stated that are two items for consideration:

1. The Washington National Guard has enjoyed exceptional access, and that he believes that the DDC should revoke that exception.
2. He does not believe JABS should display JUVIS numbers for anyone but court users. The committee is asked to consider authorizing DDA Cottingham to research the process involved in removing JUVIS numbers from elevated access users. These JUVIS cases are largely tied to non-offender cases, and showing the case number may do more harm than good.

Judge Hart asked whether at this time the DDC would order that AOC remove the appearance of JUVIS numbers, or whether the committee would just authorize the DDA to carry out research. DDA Cottingham confirmed that only research needs to be authorized at this time.

Judge Worswick agreed that DDC direction to remove the information should be a different discussion, allowing time for the task to follow the IT Governance process. Mr. Keeling added that the ITG process can be bypassed if estimated time requirement would be under 40 hours.

Judge Loring moved to revoke the Washington National Guard's exceptional access and provide only Level 1 access as appropriate for background check purposes. Ms. Miner seconded the motion.

Judge Ahlf asked whether the National Guard can return to the DDC at a later time to discuss law enforcement level access. It was confirmed that a request for elevated access will not be banned in the future, and access would be granted if the National Guard had intent to use their access for law enforcement purposes.

Judge Hart invited additional discussion and then called the question. All present members voted to revoke elevated access and return the Washington National Guard to Level 1 access. No members were opposed and none abstained.

Judge Hart thanked the Committee and the National Guard representatives for their work. The decision was a result of thorough research, and was not made lightly. He stated that in the future, change may be made by the legislature to reconcile what is needed with what is allowed.

After National Guard representatives left the call, Judge Hart discussed the issue of displaying of JUVIS numbers further. Judge Worswick believes stakeholders can provide information needed to make a good analysis and be sure the Committee is not missing any important considerations. Mr. Reynolds said that juvenile identities are tied to WIP information rather than JUVIS numbers, and Ms. Miner noted that the clerks do not use information generated by JUVIS.

Ms. Miner moved that the Committee explore the removal of JUVIS numbers from relevant screens, assess the impacts, and gather information about the process needed to remove them from view. Judge Loring seconded the motion, which then passed unanimously.

3. Other Business

Judge Hart again thanked the Committee for its caution, diligence, and robust discussion. The meeting was adjourned at 9:37 a.m.

DRAFT