Judicial Information System Committee Meeting July 19, 2013

DECISION POINT – Amendment to Data Dissemination Policy Regarding Retention of Court Records by Courts of Limited Jurisdiction

MOTION:

I move to adopt the Data Dissemination Committee's proposed amendment to the Data Dissemination Policy regarding retention of court records by courts of limited jurisdiction.

I. BACKGROUND

The JISC Data Dissemination Policy (Policy) is promulgated by the JISC pursuant to JISCR 12 and 15(d), and provides guidelines in which data is released from the Judicial Information System (JIS). The Policy applies to all requests for computer-based court information subject to JISCR 15. The last time the Policy was amended by the Data Dissemination Committee was June 26, 1998.

The Data Dissemination Committee was established by Article 7 of the JISC Bylaws and acts on the behalf of the JISC in addressing issues regarding the access to the JIS and the dissemination of information from the database. The Data Dissemination Committee also recommends to the JISC changes to the JIS policy and to statutes or court rules regarding access to court records.

In 2008, a work group was organized at the direction of the Data Dissemination Committee and chaired by Pierce County District Court Judge James Heller to review the retention schedules of courts of limited jurisdiction.

Based on the work group's recommendations, the Data Dissemination Committee and the JISC voted to enact a retention schedule. This policy amendment memorializes the decisions of these two committees.

II. DISCUSSION

On May 31, 2013, the Data Dissemination Committee voted unanimously to amend the Data Dissemination Policy and forward it to the JISC for approval. The Committee also provided a comment period for interested parties to submit their commentary about the proposed change.

As of July 3, 2013, staff for the Data Dissemination Committee received four comments that are attached to this memo and are summarized as follows:

1. On June 25, 2013, Douglas County District Court Administrator Marcella Presler requested language be added to the Data Dissemination Policy amendment so that the new subsection V.D stated:

   > "A judge may order or have in place a policy that a specific record shall not be purged. The court shall enter specific findings on the record supporting its decision or follow the policy as set forth and signed by the judge."

2. On July 3, 2013, the District and Municipal Court Judges' Association (DMCJA) submitted a letter expressing:

   A. Concern from DMCJA members that non-conviction data for domestic violence offenses be kept longer than the proposed retention schedule allowed.

   B. Concern about purging cases that have case types with no disposition after three years when the Judicial Needs Estimate uses five years of data to make necessary calculations.

   C. Concern over the Policy's new subsection V.D that allows a judge to order a specific record not to be purged and to enter findings on the record supporting the decision. DMCJA requested that the JISC not adopt this provision unless a corresponding policy or set of criteria for such retention be established.

3. On July 3, 2013, Washington Defender Association Executive Director Christie Hedman commented that all "not guilty" and "not committed" cases be kept in perpetuity instead of being purged at ten years. Her reasoning is that those who are found not guilty should have the same ability to prove their verdicts as those who are convicted.

4. On July 3, 2013, Linda Callahan of Callahan Law, P.S., Inc. also submitted concerns that "guilty" findings are kept in perpetuity, whereas "not guilty" findings are purged after ten years. Ms. Callahan also expressed frustration over the limited JIS access to attorneys who are not prosecutors and public defenders.

III. DATA DISSEMINATION COMMITTEE RECOMMENDATION

The Data Dissemination Committee recommends to the Judicial Information System Committee that the Data Dissemination Policy be amended to include the new amendment regarding retention of court records by courts of limited jurisdiction.

IV. OUTCOME IF NOT PASSED

Provide direction to the Data Dissemination Committee for amending the Data Dissemination Policy or provide language to be added to the Policy. If the Policy is not passed, there are still concerns about the impact of non-conviction data on an individual's opportunities in such areas as housing or employment.