WACDL Washington Association of Criminal Defense Lawyers

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April 6, 2012

TO: The Honorable Mary Fairhurst
Chair, Judicial Information System Committee
JISC Members

FROM: Kim Gordon
WACDL President Elect

RE: JIS Overhaul – Requests for Proposal (May 4, 2012 JISC Agenda)

The Washington Association of Criminal Defense Lawyers understands that the JISC will soon be issuing a Request for Proposals to significantly overhaul and update the JIS system. To prevent serious harm to our clients and others, we believe there are important capabilities that should be included in the design for the system. Those capabilities are described below. We respectfully request that this letter be included in the materials for the JISC's May 4 meeting, so our concerns can be considered during the discussion of the RFP.

In the 2010-2013 biennium, WACDL worked with senators to propose Senate Bill 5019, which would increase privacy in non-conviction records. Many of our clients report being denied jobs and housing opportunities because their name shows up in publicly-accessible court indexes in connection with arrests or charges that did not result in a final conviction. Similarly, even clients who have obtained a court order vacating their conviction, in which the court order and statute give the individual the right to say they have not been convicted, find themselves suffering life-long barriers to employment, housing and other opportunities because the publicly-accessible court indexes continue to list the nature of the charge associated with their name. The bill proposed a remedy for this problem which would have removed certain information from publicly-accessible court records and indexes but retained non-public availability of the information for courts and law enforcement.

However, the fiscal note for 5019 estimated costs of about $400,000. The large fiscal note was based on claims that the current JIS system was incapable of removing information in the publicly-accessible indexes of court records and that therefore the courts would need to make significant changes to existing information systems in order to restrict public access to non-conviction records and other exonerating dispositions defined to include vacated convictions. While many legislators supported the policy behind SB 5019, many also expressed reluctance to undertake the expense of the bill in a time of budget scarcity.

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Other policy advocates have also been trying for years to propose legislative solutions to the harm that comes from certain kinds of publicly-accessible court records and indexes. Two examples are domestic violence protection orders where the victim suffers from being associated with the action, and unlawful detainer actions where the tenant prevails but still is denied housing due to the mere existence of the unlawful detainer record in the publicly-accessible court records or indexes. Proposals to reduce harm from publicly-accessible court records of juvenile proceedings have also been the subject of several recent legislative proposals.

JISC's efforts to redesign and upgrade the JIS system provide an excellent opportunity to design a system that can accommodate future policy changes similar to, but not limited to, those described above. The system needs to have the capability of limiting access to certain information from the publicly-accessible court records and indexes, such as a person's name or the charge, if legislation or a court order in the future mandates such action. A more flexible JIS system could accommodate those changes with minimal expense. We request that JISC take into account the probability that policy may change in the future, and ensure that its information systems are flexible enough to accommodate such changes.

If you have questions or need further information, please contact me at 206-340-6034, or our organization at the number listed below. We appreciate and thank you in advance for your time and consideration.

Very Truly Yours,

Kim Gordon
WACDL President Elect