



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: November 30, 2018

Title	Agenda Item Type
Judicial Branch Technology: Judicial Branch Statistical Information System (JBSIS) Dispute Resolution Process	Action Required
	Effective Date
	November 30, 2018
Rules, Forms, Standards, or Statutes Affected	Date of Report
None	November 7, 2018
Recommended by	Contact
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Executive Summary

The Court Executives Advisory Committee (CEAC) recommends that the Judicial Council adopt the Judicial Branch Statistical Information System (JBSIS) Dispute Resolution Process. As lead staff to the JBSIS Subcommittee of CEAC, the Judicial Council's Office of Court Research is delegated the authority to make determinations on how courts should report data in JBSIS. Recognizing that there might be situations when courts do not agree with the determination made by council staff, the proposed *JBSIS Dispute Resolution Process* has been developed by CEAC to provide guidance and a consistent framework to resolve disagreements on reporting statistical data in JBSIS.

Recommendation

CEAC recommends that the Judicial Council adopt the proposed *JBSIS Dispute Resolution Process* (see Attachment A). This process provides a framework for the courts and Judicial Council to resolve disagreements concerning reporting of statistical data in JBSIS. The policy would become effective the date of the council meeting: November 30, 2018.

Relevant Previous Council Action

Consistent with article VI, section 6 of the California Constitution and Government Code section 68505, the Judicial Branch Statistical Information System (JBSIS) was established by the Judicial Council to provide accurate, consistent, and timely information for the judicial branch, the Legislature, and other state agencies that require information from the courts to fulfill their mandates.

The Judicial Council is the body charged with making statewide policy relative to statistical reporting. Most recently, at its January 2018 meeting, the council adopted revised statistical data definitions for JBSIS.¹ The present report reflects CEAC's efforts to articulate additional policy guidelines and data governance principles for JBSIS. Since the data that are compiled in JBSIS now have a more prominent role in branch budgeting and decisionmaking, it has been increasingly important to ensure there are sufficient policy guidelines in place for JBSIS data reporting.

Analysis/Rationale

Currently, Judicial Council staff have been delegated the authority to make determinations on JBSIS data reporting and provide assistance to courts in determining the appropriate reporting category. The primary purpose of this policy is to provide a process for courts that disagree with the direction provided by council staff. In summary, under the proposed policy, courts may ask the JBSIS Subcommittee to review any issues in dispute following an administrative process described more fully in the policy itself. Following the outcome of the JBSIS Subcommittee's review, a court may appeal the decision to the Workload Assessment Advisory Committee for a final determination. The policy also provides guidelines for JBSIS data reporting pending final resolution of an issue.

Policy implications

Adopting this policy will provide clear guidelines to courts and council staff. In the long term, this policy helps the Judicial Council ensure that trial courts are reporting statistical data in JBSIS accurately and consistently.

Comments

This item was not circulated for public comment. A draft policy was shared with members of the JBSIS Subcommittee of CEAC at their June 2018 meeting; revisions were made based on member feedback and circulated for vote via e-mail in August 2018. During that vote, one member proposed a change to the policy related to the appeals process, which is described more fully in the next section of this report ("Alternatives considered"). The proposal was moved forward to the full CEAC membership at its August 17, 2018 meeting, where the revised

¹ <https://jcc.legistar.com/LegislationDetail.aspx?ID=3284320&GUID=F231265D-50F2-4012-BA6D-D02002253046>

language was adopted into the policy as a friendly amendment. The proposal was approved by CEAC but not unanimously.

Next, the JBSIS Subcommittee chair and CEAC chair gave an overview of the proposal and an explanation of the role that the committee would play in this process at the September 19, 2018 meeting of the Workload Assessment Advisory Committee.

Alternatives considered

The JBSIS Subcommittee considered several alternatives for the sequencing of the Dispute Resolution Process. One option was to have CEAC serve as the body that would hear any appeal of the decision made by the JBSIS Subcommittee. However, it was decided that the appeal function should be performed by an advisory group that consisted of both judges and court executives. The subcommittee also contemplated having the Executive and Planning Committee hear the appeal. However, it was ultimately decided by CEAC that the Workload Assessment Advisory Committee was best suited for the role, having both (1) the ideal membership composition (judges and court executives), and (2) familiarity with the subject matter and data definitions given the use of JBSIS data in the workload models that the committee oversees.

Fiscal and Operational Impacts

This item does not incur any new costs for the agency or the courts, other than minor administrative costs incurred to hold the meetings, analyze the data, and prepare any reports or presentations. This proposal would create some costs for courts that wish to prepare an appeal. However, the current experience is that most JBSIS-related issues are resolved at the council staff level, and it is not anticipated that this policy would result in many appeals.

Attachments

1. Attachment A: *JBSIS Dispute Resolution Process*

JBSIS Dispute Resolution Process

I. Definitions

- a. JBSIS:** the Judicial Branch Statistical Information System. This is the data repository for statistical data submitted to the Judicial Council and is the source of trial court operational data for the judicial branch, the Legislature, and other state agencies consistent with article VI, section 6 of the California Constitution and Government Code section 68505.
- b. JBSIS Manual:** the JBSIS manual provides the data definitions and reporting specifications for JBSIS. The current version of the manual is 2.3. There is a separate reporting manual for courts that report via the JBSIS web portal, but all of the portal data definitions are subsumed within the JBSIS manual.
- c. OCR:** Office of Court Research. A group within the Budget Services office of the Judicial Council that is responsible for ensuring the timely and accurate submissions of JBSIS data by the trial courts.
- d. The JBSIS Subcommittee of the Court Executives Advisory Committee (CEAC):** this body was formed in 2017 to provide oversight for JBSIS, and to oversee changes and updates to the JBSIS reporting definitions.

II. Introduction

California Rules of Court, rule 10.400 outlines the establishment of and reporting requirements for courts to submit statistical data to JBSIS. The data definitions and reporting guidelines are memorialized in the JBSIS manual. The manual is updated periodically, with the current version being 2.3.

JBSIS data serves many functions for the judicial branch. Most importantly, it is used as the basis for workload models (the Resource Assessment Study model and the Judicial Needs Assessment) that are used as the basis for making funding and resource allocation decisions. As such, it is critical that the data in JBSIS be accurate and consistent.

III. Role of the Court Executives Advisory Committee

California Rules of Court, rule 10.48(b)(3) outlines the Court Executives Advisory Committee's role with respect to JBSIS, in that CEAC must "review and make proposals concerning the Judicial Branch Statistical Information System or other large-scope data collection efforts." CEAC has had a JBSIS Working Group for several years, serving as a sounding board for periodic enhancements and updates to JBSIS reporting. In 2017, in recognition of the need for

ongoing input on JBSIS issues and for a more formal advisory body, the working group became a subcommittee of CEAC. OCR staffs the JBSIS Subcommittee of CEAC.

IV. Role of the Office of Court Research

As the subject matter experts with regard to the JBSIS manual's reporting requirements, OCR staff are responsible for maintaining and overseeing the JBSIS reporting rules, as well as ensuring the integrity of JBSIS data reporting. OCR staff also monitor the courts' regular JBSIS report submissions and provide technical assistance as needed on JBSIS reporting issues.

As lead staff to the JBSIS Subcommittee of CEAC, OCR is delegated the authority to make determinations on how courts should report data in JBSIS. Courts that need clarification on the reporting of JBSIS data receive assistance from OCR staff in determining the appropriate reporting category. On occasion, when OCR staff is unable to provide a response, subject matter experts from the courts may be consulted by OCR to provide supplemental guidance. OCR is responsible for initiating that assistance and then distilling it in order to provide guidance to the requesting court.

The JBSIS Dispute Resolution Process (Dispute Process) is effectuated when a court disagrees with the direction provided by OCR on reporting statistical data in JBSIS. The Dispute Process is not intended to be a forum for receiving general recommendations or feedback on JBSIS reporting standards or for other business issues related to JBSIS data reporting; those issues may be brought to the JBSIS Subcommittee as part of its public comment process. However, issues identified during the Dispute Process may guide areas for future study by the JBSIS Subcommittee. Areas of future study will be added to the subcommittee's annual agenda for review.

V. Format of the dispute

The Dispute Process originates if a court wishes to challenge a determination made by OCR on a particular reporting issue or interpretation of a definition in the JBSIS manual. A dispute for these purposes occurs only after the court has requested formal direction by OCR. If the court disagrees with OCR's formal direction on a reporting issue, the court may request a review by the JBSIS Subcommittee. A review may be requested by submitting a memorandum to the JBSIS Subcommittee chair.

The memorandum must include the court's reasoning for their position and supporting documentation or information for its position. Within 45 days, the JBSIS Subcommittee will convene a public meeting, generally via conference call, to hear the dispute. This dispute may be added to the agenda of a subcommittee meeting along with other items if a meeting has already been scheduled within this 45-day period.

Prior to the meeting, OCR will prepare and distribute to subcommittee members and to the court bringing the dispute a memo that will form the basis for the committee's review of the issue. The memo will include (1) the court's original proposed submission, including all attachments and other documentation; (2) the determination made by OCR; and (3) any supporting details or documentation for OCR's determination. The court may elect to provide additional materials or position statements for the subcommittee's review. Those items must be provided at least one week in advance of the meeting date in order to comply with the Open Meetings rules.

OCR will present this information at the subcommittee meeting. The court raising the dispute may participate in the meeting.

While the presentation of the dispute will take place during an open public meeting, the deliberations of the subcommittee will be held in closed session. Also, the JBSIS Subcommittee may need to deliberate or do additional research with court subject matter experts before making a decision. In order to be as expeditious as possible, the subcommittee will render a decision within 30 days of the review meeting. The decision will be shared with the court that raised the dispute, and a record of the dispute and its outcome will be posted on the JBSIS website to be shared with other courts for future reference.

VI. Statistical reporting during the Dispute Process

Courts that wish to raise an issue through the Dispute Resolution Process are not to submit amended data until a determination is made by the JBSIS Subcommittee. The data in JBSIS is used at various times of the year for reporting in the Court Statistics Report and for the Resource Assessment Study and Judicial Needs Assessment models; it would be impossible to synchronize the Dispute Process with the various reporting deadlines. Therefore, the data that is reported in JBSIS at any given time should conform to OCR's interpretation pending a final resolution by the Dispute Process. If the Dispute Process concludes with a resolution in favor of the court's position, then the JBSIS data should be immediately amended with the court's revised submission. All courts will similarly be notified and given the opportunity to amend their data.

VII. Appeals

The decisions of the JBSIS Subcommittee are intended to be final. However, in certain circumstances, it might be necessary for a court to be able to appeal to a higher authority. Appeals of decisions made by the JBSIS Subcommittee shall be heard by the Workload Assessment Advisory Committee (WAAC) of the Judicial Council. A court that wishes to appeal a decision made by the JBSIS Subcommittee must notify the chair of the JBSIS Subcommittee within 30 days of the date that the court was notified of the subcommittee's decision that it is appealing the decision. OCR, as staff to the subcommittee, will place the item on the next WAAC meeting agenda. If the next meeting is more than 45 days from the date of the appeal, a special telephone meeting may be held at the WAAC chair's discretion.

Prior to the WAAC meeting, OCR staff will provide the members with the same set of materials used by the JBSIS Subcommittee in their initial decision. WAAC will also be provided the subcommittee decision and response that was shared with the court. The court may provide additional materials or position statements for WAAC's review and may also participate in the WAAC meeting. WAAC will render a decision within 30 days of the meeting, and this will be considered the final decision on the matter. The decision will be shared with the court that raised the dispute, and a record of the dispute and its outcome will be posted on the JBSIS website to be shared with other courts for future reference.