



**ILLINOIS
CRIMINAL JUSTICE
INFORMATION AUTHORITY**

120 South Riverside Plaza • Suite 1016 • Chicago, Illinois 60606 • (312) 793-8550

Memorandum

To: IIJIS Privacy Policy Subcommittee Member

From: Robert Boehmer, General Counsel

Date: June 10, 2004

Re: **Issue identification meeting**
Wednesday, June 23, 2004 from 10:00 a.m. to 12:30 p.m.

The next meeting of the IIJIS Privacy Policy Subcommittee is scheduled for June 23, 2004 from 10:00 a.m. to 12:30 p.m. at the Authority's offices. The meeting will focus on identifying the "concrete" privacy issues that confront members' agencies as we remove barriers to information sharing and automate transfers of information. This will hopefully be a very significant meeting, as we expect that these issues will help frame the final privacy policy. Your attendance is greatly appreciated.

Included in this mailing is a summary of our last meeting as well as an agenda for the upcoming meeting. Wil and I have met individually with several members of the committee to prepare for this meeting and have identified some issues that should be brought to the attention of the entire committee. It is not our goal to solve the issues at this meeting; rather, discussing these matters as a group will help determine if the issues confronting a distinct agency become more complex when applied in an integrated justice setting.

These discussions, and the additional issues that you will bring to our attention, will help focus the committee's and staff's attention on the most important issues and provide an organizational framework for future meetings. Furthermore, several of the issues that we will discuss might also lend themselves to separate, smaller projects potentially leading to resolutions separate from, but consistent with the committee's final policy recommendations.

Attached to this memorandum is a very brief bulleted list of preliminary issues. It is intended to help jump-start your thinking process and give you an idea of the direction we anticipate the meeting will take. Please contact Wil Nagel at (312) 793-7056 or wnagel@icjia.state.il.us regarding your ability to attend this meeting and if you know of someone who you think ought to attend this meeting. We look forward to a very informative meeting.



Preliminary issues confronting the sharing of justice Information in Illinois

Meeting outcome

The goal of the issue identification meeting is to create a “master set” of primary privacy issues that the committee should address and that will serve to frame the committee’s final policy recommendations. The following subjects have been brought to our attention as issues that should be addressed by a privacy policy intended to govern the sharing of justice information throughout Illinois’ justice enterprise. These subjects are only the starting point and we want to get a much better understanding of the privacy issues that confront your agencies as you share information with others.

Some preliminary issues

- ✦ Accountability of the justice system to the public.
 - What justice information ought to be made available to the public?
 - How accessible should transactional information and statistics about the administration of justice be?
- ✦ Accessibility of victim and witness information both within and outside the justice system.
- ✦ Collection, use and dissemination of social security numbers within and outside the justice system.
- ✦ Sharing officer safety information throughout the justice system.
 - Whether probation officers in the possession of officer safety information should be able to share that information with the police.
- ✦ At the initial meeting, the subcommittee agreed that the FIPs were a good foundation upon which to begin our analysis. However, while we have seen how the CHRI repository implements these FIPs, we have not discussed whether the FIPs should apply to other types of justice information systems. Should the justice enterprise be required to implement the FIPs?
 - Should every justice agency be required to draft meaningful purpose statements that will clearly articulate the reason the agency collects and uses information? (Purpose specification principle)
 - Should justice agencies be bound by their purpose statements? (Collection and use limitation principles)
 - Should justice agencies be required to institute data quality measures? (Data quality principles)
 - Would these data quality measures only apply to data that might, at some time, become publicly available?
 - Should all justice agencies provide individuals a right to access and review the information maintained about them? (Individual participation principle)
 - What factors might limit the application of this principle?
 - How open should justice agencies be about their data management practices? (Openness of data management practices)
 - What are the preferred mechanisms to making sure agencies comply with the privacy policy? (Accountability principle)



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Meeting Agenda

PRIVACY POLICY SUBCOMMITTEE

June 23, 2004
10:00 a.m. – 12:30 p.m.

- Introductory comments
- Develop a master set of issues
- Prioritize the issues
- Next Meeting's Goals
 - ▷ Continue with offender-based information
 - IDOC's Offender Tracking System
 - AOIC's POLARIS
 - CPD's CLEAR
- Adjourn

This public meeting will be accessible to persons with disabilities in compliance with Executive Order #5 and pertinent State and Federal laws upon anticipated attendance. Persons with disabilities planning to attend and needing special accommodations should contact by telephone or letter Hank Anthony, Associate Director, Office of Administrative Services, Illinois Criminal Justice Information Authority, 120 South Riverside Plaza, Chicago, Illinois, 60606-3997 at (312) 793-8550. TDD services are available at (312) 793-4170.



PRIVACY POLICY SUBCOMMITTEE MEETING NOTES

2 June 2004

Present at the third meeting of the IIJIS Privacy Policy Subcommittee were:

- Robert Boehmer, Illinois Criminal Justice Information Authority;
- John Jesernik, Illinois State Police;
- David Clark, Illinois State's Attorneys Appellate Prosecutor's Office;
- Paul Fields, Law Office of the Cook County Public Defender;
- Michael Glover, Metro Chicago Health Care Council;
- Jim Hickey, Chicago Police Department;
- Tammi Kestel, Illinois State Police;
- Leopoldo Lastre, Office of the Circuit Court Clerk of Cook County;
- Ron Lewis, McLean County Public Defender's Office;
- Michael McGowan, Office of the Chief Judge, Circuit Court of Cook County;
- Wil Nagel, Illinois Criminal Justice Information Authority;
- Allen Nance, Probation and Court Services Association;
- Steve Neubauer, Illinois Association of Chiefs of Police;
- Peggy Patty, Illinois Coalition Against Domestic Violence (by telephone);
- Deb Plante, Illinois State Police;
- Marcel Reid, Illinois State Police;
- Don Rudolph, Illinois State Police
- Lyn Schollet, Illinois Coalition Against Sexual Assault (by telephone);
- Scott Sievers, Illinois Press Association (by telephone);
- Nicole Sims, Office of the Circuit Court Clerk of Cook County;
- Luisa Vercillo, Office of the Circuit Court Clerk of Cook County; and
- Jennifer Walsh, Office of the Illinois Appellate Defender.

Introductions

After welcoming everyone to the third meeting of the IIJIS Privacy Policy Subcommittee, Mr. Boehmer introduced new members and guests in attendance: Chief Steve Neubauer, of the Elmhurst Police Department would be representing the Illinois Association of Chiefs of Police; Ms. Jennifer Walsh from the Office of the State Appellate Defender agreed to discuss her agency's work educating the public on expungement and sealing their records; and Ms. Luisa Vercillo and Mr. Leopoldo Lastre from the Office of the Clerk of the Circuit Court of Cook County were present to discuss what the Court Clerk's office does to seal or expunge a court record. After introductions, Mr. Boehmer explained that we would complete our review of the CHRI regulations and move on to sealing and expungement of records as the next privacy issue the committee would address.

Data quality requirements of CHRI

Lt. Jesernik of the Illinois State Police reviewed with the committee why data quality is an important privacy concern and what the Bureau of Identification (B of I) does to ensure the data in the repository is of sufficient caliber to base justice decisions upon. After pointing out that the B of I's mission is directly related to ensuring data quality, he explained that data quality measures include both computer and human

review of information as well as internal and external audits. Responding to questions posed by committee members, Lt. Jesernik stated that RAP sheets have a “shelf-life” of 30 days and that agencies using the data must seek a new RAP sheet thereafter. He pointed out that the B of I has found itself in the position where it must weigh the ability to receive quality data with receiving any data at all and that this issue might confront the collection and use of justice data throughout the justice enterprise.

Summary: FIP Implementation in CHRI regulations

Mr. Nagel provided a brief summary of how the Illinois State Police (ISP) CHRI repository implements the Fair Information Practices (FIPs). He explained that the committee had earlier agreed that the FIPs provided a good starting point for our analysis of Illinois’ current privacy policy choices. Mr. Nagel stated that the committee’s review of Illinois’ CHRI regulations revealed that those regulations substantially comply with the FIPs. In particular, the B of I only collects and uses information to fulfill its function as the state’s criminal history repository. Furthermore, the B of I implements the legislatively required access and review procedures and also has in place several mechanisms to ensure data quality. The B of I also substantially complied with the Openness Principle by publishing their administrative rules in the Illinois Administrative Code as well as publishing the Guide to Understanding Background Check Information on the Illinois State Police website. Because Accountability was not discussed, the B of I’s compliance with that FIP was not evaluated.

Illinois’ expungement statute – “Why Johnny can’t read it”

Mr. Nagel began the committee’s discussion of the Illinois’ sealing and expungement policies by pointing some of the reasons the statute is difficult to understand and implement. The PowerPoint presentation provided some basic readability statistics and identified the top five longest sentences in the statute. The presentation also compared the statute’s Flesch Reading Ease score with other publications and explained that the statute’s Flesch-Kincaid Grade Level score was equivalent to 27.4 years of formal schooling. Mr. Nagel advised the members that any committee recommendations should not be written like the statute.

Expungement and sealing of justice records in Illinois

The last hour of the meeting focused on 1) exploring how the statute is being implemented throughout the state, and 2) identifying any issues confronting the implementation of Illinois’ policies where justice information systems share and store information that subsequently gets sealed or expunged.

Ms. Walsh explained her role in educating the public on the expungement and sealing process in Illinois. She began by stating that she answers 20-25 calls per day regarding whether the caller is eligible under the terms of the statute. She also briefly pointed out the limited applicability of the expungement statute. For instance, it does not apply to non-Illinois records, records maintained by the Secretary of State, private databases, nor FBI records.

During the course of the discussion, members identified potential gaps in who receives orders of expungement/sealing. Specifically, there was concern with sealing law enforcement records when individuals are arrested by one agency but booked by another; the concern also arose when records systems download a copy of the booking on their way to the ISP repository.

Additionally, the discussion revealed that expungements and sealings are extremely labor intensive and that in recent years the number of requests has increased. Relying on 20 ILCS 2630/5(f), which states, “Any court order contrary to the provisions of this Section is void,” the B of I indicated that it will not comply with an order of the court sealing or expunging a record where that record is not eligible under the statutes.

Mr. Lastre and Ms. Vercillo briefly summarized the Clerk's sealing and expungement guidelines and pointed out that there is no continuity between the notice requirements for petitions to seal and petitions to expunge. Both the court clerk and the B of I were asked to provide some preliminary figures regarding the number of sealing/expungement petitions and orders processed in recent years.

Mr. Nance mentioned that probation departments are not served with orders to seal or expunge, but added that probation records are already made confidential by the Probation and Probation Officers Act, 730 ILCS 110/ *et seq.*

Next Meeting's Goals

The next meeting of the IIJIS Privacy Policy Subcommittee was scheduled to take place in 3 weeks, on June 23, 2004. During that meeting, members will help committee staff identify specific privacy issues that confront their agencies. These issues will guide the future activities of the committee and lead to several actionable recommendations in the near future.

Adjourn

The meeting adjourned at 12:05 p.m.