

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ESTABLISHMENT OF THE) Administrative Order
ADVISORY COMMITTEE ON) No. 2007 - 101
SUPREME COURT RULE 123)
AND DATA DISSEMINATION)
_____)

Supreme Court Rule 123 governs public access to records maintained by the judiciary. The rule requires courts to accommodate requests for access to non-confidential case information, including compilations of data from multiple cases, commonly referred to as bulk data. The rule prohibits access to confidential court data by members of the general public, but allows such access by individuals working under court supervision and by employees of other public agencies authorized by state or federal law to access confidential court records (Rule 123(b)(11)). The rule does not specify what data can be provided in bulk, nor does it establish specific parameters for access by non-judicial branch users who fall under the exception in section (b)(11).

Courts extract information from their case management system databases in responding to bulk data requests. These databases also provide the case information currently offered by some courts to the public online. A limited number of government agencies and treatment providers now have direct access to some case management systems, and additional data sharing arrangements are under consideration that raises questions about what standards to apply in assigning appropriate access levels to external agencies and others.

The need for statewide consistency in responding to bulk data requests and the expanding role of case management databases in data sharing and public access to court records warrant a focused examination of the issues identified below. In accordance with Arizona Code of Judicial Administration § 1-104, the Chief Justice may establish advisory committees to the Arizona Judicial Council to assist the Council in carrying out its responsibilities. Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the Advisory Committee on Supreme Court Rule 123 and Data Dissemination is established to examine and make recommendations on the following topics:

Bulk Data

- Should certain recipients who have a legitimate need for data not available on the public website be authorized to obtain additional bulk data, for example, government agencies, government contractors, commercial agencies subject to the Fair Credit Reporting Act, the news media, or research organizations? If so,
 - what standards should be applied to identify authorized recipients,

- what process should users undergo to establish their eligibility to receive bulk data, and
- what restrictions should be imposed on their use of the data?

Database Access

- Should certain users be authorized to directly access case management databases in real time, such as government agencies, government contractors, commercial agencies subject to the Fair Credit Reporting Act, the news media, or research organizations? If so, what standards and processes are needed to qualify for such access?

Data Retention

- Should record retention schedules applicable to paper case files apply to case management data available online? If not, how long should case records be available online?
- Should courts or the Administrative Office of the Courts maintain an archive of case management data for cases that have exceeded their retention period for the purpose of conducting research, establishing long-term trends or other related inquiries? If so, how long should case records be preserved in such an archive? Should the archive be publicly accessible, and if so, what standards and processes are needed to identify and regulate authorized users of the archive?

Case Lookup Websites

- What information should be available to the public online for individual cases?
- Should criminal case data be available online for those cases in which a conviction has been “set aside” pursuant to ARS § 13-907? If so, how should the set-aside order be indicated in the online record?

Rule 123

- Examine other issues needing resolution relating to Rule 123 that have come to light since the rule was last updated.

The Committee shall report its recommendations to the Arizona Judicial Council by December, 2008.

IT IS FURTHER ORDERED that the individuals listed on Appendix A are appointed as members of the Committee beginning upon entry of this Order and ending on December 31, 2008. The Chief Justice may appoint additional members as necessary.

IT IS FURTHER ORDERED that Committee meetings shall be scheduled at the discretion of the Chair. Pursuant to Arizona Code of Judicial Administration § 1-202, all meetings shall comply

with the public meeting policy of the Arizona Judicial Branch. The Administrative Office of the Courts shall provide staff for the Committee, who may, as feasible, conduct or coordinate research as requested by the Committee.

Dated this 20th day of December, 2007.

RUTH V. MCGREGOR
Chief Justice

Appendix A

Advisory Committee on Supreme Court Rule 123 and Data Dissemination

- Hon. Michael Jeanes, Chair
- Dave Byers, Vice Chair
- Patty Noland
- Rachelle Resnick
- Karen Westover
- Terry Stewart
- Don Jacobsen
- Jim Scorza
- Hon. Peter Swann
- Hon. John Taylor
- David Bodney, Esq.
- Patricia Sallen, Esq.
- Janna Day, Esq.