

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION § 1-605:)	<u>No. 2011 - 93</u>
REQUESTS FOR BULK OR COMPILED)	(Affecting Administrative
DATA)	Order No. 2009-131)
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An amendment to the above captioned section of the Arizona Code of Judicial Administration having come before the Arizona Judicial Council on June 20, 2011, and having been approved and recommended for adoption,

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 1-605 is amended as indicated on the attached document. All other provisions of § 1-605, as originally adopted, remain unchanged and in effect.

Dated this 31st day of August, 2011.

REBECCA WHITE BERCH
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 1: Judicial Branch Administration
Chapter 6: Records
Section 1-605: Requests for Bulk or Compiled Data

A. Purpose. Rule 123, Rules of the Supreme Court of Arizona (“Rule 123”) authorizes courts to release bulk or compiled court data. This section sets forth the procedure for releasing bulk or compiled data, for either a commercial or a non-commercial purpose, to members of the general public, users enrolled in a subscription service, members of the media, and all other individuals and entities not specifically covered under Arizona Code of Judicial Administration § 1-606.

B. Definitions. In addition to the definitions found in Rule 123, the following definitions apply to this section:

“Protected personal identifiers” means a street address, the numerical day of the month of birth, the last four digits of a social security and a driver license number.

“Subscription service” means the dissemination of data from case records by a custodian of bulk data on a periodic basis to the same requestor, for a commercial purpose, which is often, but not always, re-disseminated by the requestor in whole or in part to customers as another data product.

C. [no change]

D. ~~Procedure for~~ Providing Bulk or Compiled Data.

1. ~~Subscription Service~~-service. Upon request, a custodian of bulk data may make such data or a portion thereof available through a subscription service, pursuant to the provisions of Rule 123, this section, and all other applicable rules and laws. The custodian of bulk data shall require ~~the requestor~~ a subscriber to enter into a dissemination agreement containing, at a minimum, the terms set forth ~~below~~ in subsection (D)(2) or (D)(3) and pay a fee for the service in an amount specified by the custodian.
2. ~~Dissemination Agreement~~ agreement for bulk data containing protected personal identifiers. A custodian of bulk data shall require all individuals or entities requesting bulk or compiled data that includes any protected personal identifiers as defined in subsection (B) to provide proof of identification satisfactory to the custodian, pay any applicable fees, and execute a dissemination agreement and disclaimer that includes the following provisions:
 - a. Requestor agrees to comply with all current laws, rules and policies governing the confidentiality of any data provided by the custodian.
 - b. Requestor will not use or resell data for the purpose of commercial solicitation of any individual named in the data.

- c. Requestor will not publish or re-disseminate the data for the purpose of unrestricted access on the Internet with the personal identifiers set forth in Rule 123(j)(4), Rules of the Supreme Court of Arizona.
- d. Requestor agrees that the custodian may audit requestor's compliance with the terms and conditions of the dissemination agreement and that requestor will cooperate fully with any law enforcement investigation concerning the use of the data by requestor or any of its subscribers.
- e. Requestor agrees to ~~provide its users only the most recent data obtained from the custodian~~ defend, indemnify, and hold harmless the custodian, the supreme court, the court from which the data is disseminated, and the State of Arizona and their officers, agents and employees from all risk of loss and damages incurred because of any claims, judgments, or executions arising out of any use made of the data obtained under the agreement.
- f. ~~Upon notice from the custodian, requestor agrees to remove from its files within two business days any data that has been amended, corrected, sealed, or otherwise restricted and notify its subscribers to do the same. The notice from the custodian shall identify the cases that are to be corrected, removed, or otherwise restricted~~ Requestor agrees to purchase and maintain commercial general liability insurance with minimum coverage limits of \$1,000,000 per each claim, naming the custodian, the supreme court, the court from which the data is disseminated, the State of Arizona and their officers, agents and employees, as additional insureds. Non-commercial users may be excepted from this requirement.

A dissemination agreement shall include the following additional terms when the requestor is receiving data pursuant to a data subscription service:

- g. ~~Requestor must enter a written subscriber agreement with each of its subscribers that specifically details the authorized uses of the data accessed, conditions access to lawful use, and includes a provision for immediate termination of the agreement in the event of improper use of the data. The agreement shall also require the subscriber to remove from its files any data that has been amended, corrected, sealed, or otherwise restricted, within two business days from receiving notice from requestor. The agreement shall further require the subscriber to provide a disclosure statement to each customer, client, or other third party at the time any of the data obtained under the agreement is provided, which states:~~

~~The custodian of bulk data provides no warranties, express or implied, that the data provided is accurate, current, correct, or complete. It is expressly understood that it is the responsibility of the requestor and/or its subscribers, customers, clients, or other third parties to whom the data is supplied to verify the data obtained under this agreement with the official court records.~~

Requestor agrees to provide its users only the most recent data obtained from the custodian.

- h. ~~Requestor agrees to defend, indemnify, and hold harmless the custodian, the supreme court, the court from which the data is disseminated, and the State of Arizona and their~~

~~officers, agents and employees from all risk of loss and damages incurred because of any claims, judgments, or executions arising out of any use made of the data obtained under the agreement~~ Upon notice from the custodian, requestor agrees to remove from its files within two business days any data that has been amended, corrected, sealed, or otherwise restricted and notify its subscribers to do the same. The notice from the custodian shall identify the cases that are to be corrected, removed, or otherwise restricted.

- i. The custodian may immediately terminate the dissemination agreement at any time if, in the custodian's sole discretion, the data is used ~~improperly~~ contrary to law or this agreement.
- j. A requestor who transfers bulk data to another customer on a periodic or on-going basis must enter a written agreement with each of these customers that specifically details the authorized uses of the data accessed, conditions access to lawful use, and includes a provision for immediate termination of the agreement in the event of improper use of the data. The agreement shall also require the customer to remove from its files any data that has been amended, corrected, sealed, or otherwise restricted, within two business days from receiving notice from requestor. The agreement shall further require the customer to provide a disclosure statement to each customer, client, or other third party at the time any of the data obtained under the agreement is provided, which states:

The custodian of bulk data provides no warranties, express or implied, that the data provided is accurate, current, correct, or complete. It is expressly understood that it is the responsibility of the requestor and/or its subscribers, customers, clients, or other third parties to whom the data is supplied to verify the data obtained under this agreement with the official court records.

- 3. Dissemination agreements for bulk data not containing protected personal identifiers. A custodian of bulk data shall require all individuals or entities requesting bulk or compiled data that does not include any protected personal identifiers as defined in subsection (B) to execute a dissemination agreement that includes the following provisions, and pay any applicable fees. Bulk data released pursuant to this subsection shall include the city, state and zip code of an individual's address, and the month and year of birth, when available.
 - a. Requestor will not use or resell data for the purpose of commercial solicitation of any individual named in the data.
 - b. The parties shall engage in good faith efforts to agree on how the records or data will be exchanged, including the format and timing.
 - c. If data will be exchanged over a period of time, the parties shall agree on a change management process and allocation of responsibilities for ensuring any unilateral software modifications do not disrupt the ongoing exchange of electronic case record information.

~~This requirement to execute a dissemination agreement and disclaimer to receive bulk or compiled data shall apply to all existing or ongoing dissemination arrangements and future requests for bulk or compiled data.~~

E. Providing Custom custom data reports through a court-contracted vendor. As provided in Supreme Court Rule 123(c)(4), court records custodians are not required to provide customized reports of data by indexing, compiling, reformatting, programming or otherwise reorganizing existing records to create new records not maintained in the ordinary course of business in responding to requests for access to court records. A custodian who uses a case management system other than an AOC-supported system may contract with one or more persons or organizations to perform this function, as permitted by Rule 123(j)(1)(B). The administrative director may contract with one or more persons or organizations to perform this function for any custodian who uses an AOC-supported case management system. Any such contract shall be competitively procured and, at a minimum, include the following provisions:

1. Vendor shall not access the custodian's data or disseminate any information obtained under the contract except as necessary to fulfill the purposes of the contract.
2. Vendor's customized reports may include only the following personal identifiers about a party: name, address, date of birth, last four digits of a social security number or driver license number, as permitted by Rule 123(j)(3).
3. Vendor agrees to abide by the custodian's electronic record system security needs.
4. Vendor agrees to comply with all current laws, rules and policies governing the confidentiality of any data provided by custodian.
5. Vendor agrees that the custodian may audit vendor's compliance with the terms and conditions of the contract and that vendor will cooperate fully with any law enforcement investigation concerning the use of the data by the vendor or any of vendor's customers.
6. Vendor will notify each of its customers of the authorized uses of vendor's data reports, including the prohibition against commercial solicitation of an individual named in a report.
7. The vendor shall provide the following disclosure statement to each customer:

The custodian of the data provided in this report makes no warranties, express or implied, that the data provided is accurate, current, correct, or complete. It is expressly understood that it is customer's responsibility to verify the data contained in vendor's report with the official court records.

8. Vendor agrees to defend, indemnify, and hold harmless the custodian, the supreme court, the court from which the data is obtained, and the State of Arizona and their officers, agents and employees from all risk of loss and damages incurred because of any claims, judgments, or executions arising out of any use made of the data obtained under the agreement.
9. Vendor agrees to purchase and maintain commercial general liability insurance with minimum coverage limits of \$1,000,000 per each claim, naming the custodian, the

supreme court, the court from which the data is obtained, and the State of Arizona and their officers, agents and employees as additional insureds.