Automated Decision Systems (ADS) Workgroup

Meeting Notes

Meeting Date: Thursday, October 28, 2021
Meeting Time: 2:30 pm PT – 4:30 pm PT

I. Welcome and Administrative Updates

- Revised versions of Draft Report ("Draft") sections were distributed to workgroup members for review. The October 28 Workgroup meeting was called to facilitate further discussion of these documents and support an on-time delivery to the Governor's Office.

II. Review and Discussion of Report Draft and Recommendations

Presented by Katy Ruckle, Chief Privacy Officer, Office of Privacy and Data Protection.

The Draft was distributed to workgroup members by Katy Ruckle prior to the October 7 workgroup meeting, during which additional sections and content were proposed and submitted. Discussion of these sections and their proposed edits are described in further detail below.

Discussion Points – General

- Workgroup members may be more concerned with verbiage and wordsmithing rather than substantive issues. Future meetings should be dedicated to identifying and documenting areas for which there remains no consensus. An appendix may be an appropriate way to explain these differences of opinion

Discussion Points – Guiding Principles

- The initial intent of this section was to distill the presentations by subject matter experts, including the issues agencies should consider when developing or using these technologies. This section may require additional clarification of its intent to ensure best practices or principles are not presented as recommendations for implementation, regardless of agency or context.
- The concept of a prioritization framework based on risk ratings (or "the matrix") has been noteworthy topic of conversation. It should be clear, however, that the inclusion of these concepts in the Final Report ("Report") is intended to provide an example rather than a proposed solution for the evaluation of ADS.
- There remains a lack of consensus on whether ADSes that conform to rules, laws, or other standards (and would, in theory, solve algorithms in the same manner as a human in accordance with stated requirements) should undergo evaluation for bias. While some maintain that these systems simply automate existing processes, others suggest these systems may still require evaluation to better

understand their potential for bias and any mechanisms to challenge or appeal those decisions.

Discussion Points – Policy

- The workgroup agrees that jurisdictional information will be moved to an appendix.
- A glossary was submitted by Jon Pincus to the workgroup in support of Task 08.02. He will draft definitions for consideration by the workgroup with additional support offered by Vickie Ybarra.

- Task 09.01 – Jon Pincus and Vickie Ybarra will draft definitions for the Report glossary.

Revised Recommendations

Presented by Katy Ruckle, Chief Privacy Officer, Office of Privacy and Data Protection.
Redline edits to the October 21 Draft have been included below.

- **Recommendation #1**
  As a part of the procurement process, assess new ADS systems procured by the state. The assessment should include evaluation of the potential impacts of the automated decision-making on the risk to rights and freedoms to an "identified or identifiable natural person" and determine whether or not to procure/implement the system based on level of unacceptable risk. "Identified or identifiable natural person" means an individual who can be readily identified, directly or indirectly.
- **Recommendation # 2**
  Automated decision-making systems used by the state that produce legal effects on identified or identifiable natural persons should be assessed if they are processing identifiable data on a large scale.
- **Recommendation #3**
  Require transparency of use, procurement, and development of automated decision-making systems, including monitoring or testing for accuracy and bias, that produce legal effects on identified or identifiable natural persons.
- **Recommendation #4**
  The state should adopt a framework to evaluate state agency use of ADS technology or use of artificial intelligence-enabled profiling to determine whether or not its use should be prohibited.
- **Recommendation #5**
  Ongoing monitoring or auditing should be performed on ADS systems that have legal effects on identified or identifiable natural person's to ensure they do not have unintended differential effects on vulnerable populations that result over time; or discriminate against an individual, or treat an individual

less favorably than another, in whole or in part, on the basis of one or more factors enumerated in RCW 49.60.010.

- **Draft Recommendation #6**
Require training of state employees who develop, procure, operate, or use ADS systems as to risks of automation bias.

Discussion Points

- Assessment of ADS may occur at many different points before, during, and after the procurement process. Agencies should determine before procuring ADS whether the use of the system is acceptable and what level of assessment would be appropriate to assess risk, as described by Recommendation #1. Any restrictions or requirements that could potentially be included in a framework, as described by Recommendation #4, should be communicated to contractors and vendors who must comply with them.
  - o Recommendation #1 and Recommendation #4 should be substituted for one another.
  - o Risk #1 should additionally cite considerations for prohibition and the risk matrix for higher risk system.

III. Workgroup Discussion

Action Item 8.01 – Responses regarding the DOC WA One System

- The DOC provided supplemental answers to the ADS questions being considered by the workgroup. Their responses concerning accuracy and bias testing were regarded as unclear, including whether such testing would be conducted.
- The proviso requires the workgroup to consider how recommendations would impact the system.

- Task 09.02 – Bill Block, David Luxton and Jen Lee will lead drafting of a section describing how recommendations could affect the DOC WA One System.

IV. Answers to Open Tasks

Task	Resolution
Task 05.03 – All workgroup members will submit their agency/organization logo to Katy Ruckle.	Ongoing.
Task 06.02 – Workgroup members will further discuss the ADS report and recommendations in small groups if needed.	Ongoing

Task 06.03 – Workgroup members will contribute towards report writing.	Ongoing
Task 08.01 – Katy Ruckle will provide the Workgroup with the DOC's supplemental answers to the ADS questions being considered by the workgroup.	Completed. DOC's supplemental responses were sent to the workgroup on 10/21.
Task 08.02 – All workgroup members will consider key terms for inclusion in the Report's glossary.	Ongoing Jon Pincus submitted proposed glossary terms to the workgroup.

V. Open Discussion

Meeting opened for comment from public. None received.

VI. Adjourn

Meeting adjourned at 3:38 pm.

VII.   Action Items

Action Item*	Description	Person Responsible	Deadline
09.01	Draft definitions for glossary terms.	Jon Pincus Vickie Ybarra	11/4/21
09.02	Lead drafting of a section describing how recommendations could affect the DOC WA One System.	Bill Block David Luxton Jen Lee	11/4/21

* Action Item number designated by ADS Workgroup Meeting number (1-11) and the sequential order each was discussed during the meeting.

VIII.   Remaining ADS Workgroup Meetings

Nov. 4, 2021	2:30 pm PT - 4:30 pm. PT
Nov. 18, 2021	2:30 pm PT - 4:30 pm. PT