

Automated Decision Systems (ADS) Workgroup

Meeting Notes

Meeting Date: Thursday, October 21, 2021

Meeting Time: 2:30 pm PT – 4:30 pm PT

I. Welcome and Administrative Updates

Meeting called to order at 2:34 pm PT.

- Timeline reminder



- Proposed additional meeting on Thursday, October 28.
- Proposed cancelling meeting on Thursday, December 2.

II. Review and Discussion of Report Draft and Recommendations

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

The Preliminary Draft Report (“Draft”) was distributed to workgroup members by Katy Ruckle prior to the October 7 workgroup meeting, during which additional sections and content were proposed. These sections are described in further detail below.

Guiding Principles

Introduced by Bill Block, American Civil Liberties Union (ACLU) of Washington.

This section describes the information provided to the workgroup by subject matter experts. Through these discussions, the general principles of appropriate functionality, privacy protections, transparency, and accountability emerged. This section includes recommendations for a prioritization framework for ADS reviews, including proposed criteria such as whether the system: (1) creates significant effects on natural people, (2) affects a large number of natural people, or (3) involves a high risk of error.

Discussion Points

- Although this section draft is intended to be aspirational, further consideration of these guiding principles is required to distinguish them from requirements, preconditions, recommendations or directions.
- Some workgroup members are concerned by potential requirements for transparency, restricting state agencies to only using systems with open code. The Report should consider ADS protected by intellectual property agreements;

those that have been reviewed, vetted or audited by third parties; and whether there are any disadvantages to complete transparency, including business risk or the actual utility of this information to the public.

Findings Section

Introduced by Jennifer Lee, American Civil Liberties Union (ACLU) of Washington.

This section reflects current research and discussions surrounding ADS, including what these systems are, the rapid evolution of these technologies, contexts in which they may be used, and purported benefits and risks of these systems. It introduces case studies of ADS use in Arkansas and Idaho and describes how Washington state agencies deploy and use a large number of these systems, which range in their complexity.

This section additionally highlights the findings from [“Algorithmic Accountability for the Public Sector,”](#) an August 2021 report by the Ada Lovelace Institute, AI Now Institute and Open Government Partnerships.

Discussion Points

- The Report should highlight the lack of consensus on findings, bias, or specific definitions for ADS. The findings from other reports may not perfectly align with the Workgroup’s own findings. This information may best be included as an appendix to make this distinction.
- The Report should include a discussion of the risks associated with limiting or prohibiting ADS, including increased costs to replace existing systems or decreased capacity to provide services and programs.

Policy

Introduced by Jon Pincus and Maria Angel.

This section includes details of current research and regulations, including specific language featured in ADS legislation in other jurisdictions. This section was designed to provide legislators with a better understanding of current policy considerations.

Discussion Points

- This content may be included as an appendix to the Report and should include a disclaimer that it represents a snapshot in time and is not intended to be inclusive of all policies, regulation or research addressing ADS.
- Feedback from the Workgroup has been requested on comprehensiveness of the drafted content and whether any language could be leveraged for the Workgroup’s own recommendations.

Risk Rating

Introduced by Kirsta Glenn, Department of Labor and Industries.

Rating risks of ADS used by state agencies and publishing findings could promote transparency and demonstrate other guiding principles. The proposed risk ratings take into

account the potential impact on individuals, the likelihood of impact, and the complexity of the system. Assessments of systems should also review the potential for bias.

(See slide deck of presentation in website materials.)

Discussion Points

- One Report recommendation includes the ongoing assessment of ADS to ensure changes to the system's context are appropriately taken into account.
- Workgroup members were generally supportive of the approach of using a matrix but were cautious on prescribing specific parameters. The matrix may best serve as an example for state agencies. The state should consider adopting an interim prioritization framework while determining a more appropriate long-term solution.

Revised Recommendations

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

Redline edits to the October 4 Draft have been included below.

- **Recommendation #1**
As a part of the procurement process, assess new ADS systems procured by the state ~~that are intended to profile or predict a natural person's behavior~~. 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."
"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 sensitive identifiable data on a large scale.
- **Recommendation #3**
Require transparency, procurement, and development of use of automated decision-making systems 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 persons to ensure they do not have differential effects that result from changing regulations or changing populations 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 or procure ADS systems as to risks of automation bias.

Discussion Points

- Consistent use of language should be considered in drafting the Report, including the terms “data,” “personal data,” “identifiable data,” “personally identifiable data,” etc. The term “data” seemed most appropriate for Draft Recommendation #2, as the broader term would capture any information that could be used by an ADS.
- Clarification should be provided on transparency as discussed in Draft Recommendations #3 and #5. This may include transparency about testing and monitoring for bias in development or transparency regarding intended use(s) of the system (#3).
- Differential effects may emerge from other sources than those described in Draft Recommendation #4. The language may require broadening to capture other scenarios.
- Draft Recommendation #6 should be expanded to include employees who operate or use ADS. Additionally, training should cover additional topics, including role-based training on risk scoring as a part of the procurement process.

III. Workgroup Discussion

Action Item 6.01 – Responses regarding the DOC WA One System

Courtney Bagdon-Cox provided the workgroup with information on bias and accuracy testing for the Department of Corrections’ (DOC) WA One system. She has provided additional resources and reports completed by Washington State Institute for Public Policy (WSIPP) and during development for clarification.

(See slide deck of presentation in website materials.)

- Task 08.01 – Katy Ruckle will provide the Workgroup with the DOC’s supplemental answers to the ADS questions being considered by the workgroup.

Additional Topics

Q1. Should a glossary be included as a part of the report?

- There has been a lack of consensus on several key terms. However, a glossary may benefit the reader by providing important information about the Report. Workgroup members should consider terms to be identified in the glossary during their reviews of the Draft.

Q2. Should the Report address agency capacity for auditing and documenting ADS as a recommendation?

- The Office of the CIO collects an inventory of state agency systems as a part of its annual certification process. This application inventory identifies several

attributes, including whether it is an essential application, if it supports user productivity, or if it is a legacy system. This inventory could provide an understanding of the scope of systems, but it may be unclear whether a system would be considered ADS.

- The State of WA IT Portfolio Overview could act as an initial resource. This dashboard describes the type of information that WaTech has historically published around applications. It can be viewed on the "Evaluating Agency Health: Portfolio Metrics" tab <https://ocio.wa.gov/statewide-performance-dashboard>
 - An additional recommendation requesting state agencies to conduct an inventory of ADS could be included in the Report.
- Task 08.02 – All workgroup members will consider key terms for inclusion in the Report's glossary.

IV. Answers to Open Tasks

Task	Resolution
<u>Task 05.03</u> – All workgroup members will submit their agency/organization logo to Katy Ruckle.	Ongoing.
<u>Task 06.01</u> – Courtney Bagdon-Cox will provide the workgroup with additional resources and insight on the Risk Needs Responsivity Model and its relevance to other risk assessments.	Completed. Materials will be distributed to workgroup and were discussed in further depth during the October 21 Workgroup Meeting.
<u>Task 06.02</u> – Workgroup members will further discuss the ADS report and recommendations in small groups if needed.	Ongoing
<u>Task 06.03</u> – Workgroup members will contribute towards report writing.	Ongoing
<u>Task 07.01</u> – Jennifer Lee will lead the drafting of a section describing ADS principles/best practices featured in previous discussions, slides, notes and presentations by subject matter experts.	Completed. Draft materials were distributed to workgroup members 10/19 and 10/21.
<u>Task 07.02</u> – Jon Pincus and Maria Angel will lead the drafting of a section on the ADS landscape and a discussion of jurisdictional ADS legislative updates.	Completed. Draft materials were distributed to workgroup members 10/19.

V. Open Discussion

VI. Adjourn

Meeting adjourned at 4:04 pm.

VII. Action Items

Action Item*	Description	Person Responsible	Deadline
08.01	Provide the Workgroup with the DOC's supplemental answers to the ADS questions being considered by the workgroup.	Katy Ruckle	10/21/21
08.02	Consider key terms for inclusion in the Report's glossary.	All Workgroup Members	Ongoing

* 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
Dec. 2, 2021	2:30 pm PT - 4:30 pm. PT

IX. Attendance Roster

	Last Name	First Name	Organization	Present (X)
1	Pincus	Jon	A Change Is Coming	X
2	Lee	Jennifer	ACLU	X
3	Gonzalez	Eric	ACLU	X
4	Block	Bill	ACLU	X
5	Aguilar	Nancy	CHA	
6	Auffray	Brianna	CAIR-WA	X
7	Krustsinger	Allison	DCFY	
8	Mason	Aaron	DCYF	
9	Ybarra	Vickie	DCYF	X
10	McGrew	Elena	DES	
11	Japhet	Robin	DES	
12	Fisher	Greg	DOC	
13	Luxton	David	UW	X
14	Adams	Gena	DOC	X
15	Palma	Sergio	DSHS/ALTSA	
16	Gogan	Jenise	DSHS/BHA	
17	Mancuso	David	DSHS/RDA	X
18	Henson	Crystal	DVA	
19	Allred	Robert	ESD	X
20	Gordon	Elizabeth	Governor's Committee for Disability Issues and Employment	X
21	Chen	Christopher	HCA	X
22	Ott	Cathie	HCA	
23	Del Villar	Ashley	La Resistencia and Mijente	
24	Glenn	Kirsta	LNI	X
25	Ruckle	Katy	OCIO	X
26	Angel	Maria	UW Law	X
27	Puckett	Derek	WaTech	X

ACLU = American Civil Liberties Union
 CHA = Commission on Hispanic Affairs
 CAIR = Council on American-Islamic Relations Washington (CAIR-WA)
 DCYF = Department of Children Youth and Families
 DES = Department of Enterprise Services
 DOC = Department of Corrections
 DSHS/ALTSA = Department of Social and Health Services/Aging and Long-Term Services Administration
 DSHS/BHA = Department of Social and Health Services/Behavioral Health Administration
 DSHS/RDA = Department of Social and Health Services/Research and Data Analytics
 DVA = Department of Veteran Affairs
 ESD = Employment Security Department
 HCA = Health Care Authority
 LNI = Labor and Industries
 OCIO = Office of the Chief Information Officer
 UW = University of Washington
 WaTech = Consolidated Technology Services