Administrative Office of the Courts

2013 Access to Justice Technology Principles Report to the Supreme Court

June 30, 2013

AOC Mission:

"To advance the efficient and effective operation of the Washington judicial system."

ATJ Board Mission:

"Recognizing that access to the civil justice system is a fundamental right, the Access to Justice Board works to achieve equal access for those facing economic and other significant barriers"

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Introduction

For more than 50 years, the Administrative Office of the Courts (AOC) has embraced the mission to “advance the efficient and effective operation of the Washington judicial system” through a variety of programs, initiatives, and functions that serve our court system.

The Washington judicial system believes in and is committed to its duty to protect individual rights, be accountable to the Constitution, defend against political interference, and to serve our citizens through equal, fair and impartial access to justice. The AOC provides services that support justice in individual cases and more broadly, serves to maintain an effective court system in Washington.

The Washington State Access to Justice (ATJ) Board was established as a permanent body by Washington Supreme Court Order in 1994. Through its justice system partners and standing committees, it works to achieve equal and meaningful access to and usability of the civil justice system for those facing economic and other significant barriers.

In recent years, the use of information technology (IT) has become increasingly important in the Judicial Branch as today’s courts remain committed to greater efficiency and effectiveness despite increasing caseloads and shrinking budgets. In 2001,the ATJ Board recognized that developments in information and communication technologies, including the Internet, pose significant challenges to full and equal access to the justice system, that technology can provide increased pathways for quality access, but it can also perpetuate and exacerbate existing barriers and create significant new barriers.

The ATJ Board developed the Access to Justice Technology Principles to promote and assure that technology enhances rather than diminishes access to and the quality of justice for all persons in Washington State. Comments of the Access to Justice Board committee drafters accompanying the Principles make clear the intent that the Principles are to be used so as to be practical and effective for both the workers in and users of the justice system, enhance the quality of decisions made by judges and other decision makers, and that the Principles do not create or constitute the basis for new causes of action or unfunded mandates.

The Washington State Supreme Court adopted the ATJ Principles by its order dated December 3, 2004. In adopting the Access to Justice Technology Principles, the Supreme Court also ordered:

> (c) The Administrative Office of the Courts (AOC) in conjunction with the Access to Justice Board and the Judicial Information System (JIS) Committee shall report annually to the Supreme Court on the use of the Access to Justice Technology Principles in the Washington State court system and by all other persons, agencies, and bodies under the authority of this Court.

This report has been prepared in accordance and compliance with the above order.

Purpose

The purpose of this report is to document the efforts of the Administrative Office of the Courts and the Access to Justice Board to implement and use technologies within Washington State's justice system in a manner that furthers the goals of the ATJ Technology Principles. ATJ Board Members, ATJ Technology Committee members, ATJ staff, and staff at AOC contributed to this report.

The Preamble to the ATJ Technology Principles describes their purpose: "The use of technologies in the Washington State justice system must protect and advance the fundamental right of equal access to justice. There is a particular need to avoid creating or increasing barriers to access and to reduce or remove existing barriers for those who are or may be excluded or underserved, including those not represented by counsel."

There are six principles, summarized as follows:

1. **Requirement of Access to Justice**: Use of technology must promote, and not reduce, equal access.

2. **Technology and Just Results**: The justice system must use technology to achieve the objective of a just result achieved through a just process and reject, minimize, or modify any use that impairs achieving it.

3. **Openness and Privacy**: Technology in the justice system should be designed and used to meet the dual responsibilities of being open to the public and protecting personal privacy.

4. **Assuring a Neutral Forum**: The justice system must ensure the existence of neutral, accessible and transparent forums which are compatible with new technologies, and discourage and reduce the demand for the use of those which are not.

5. **Maximizing Public Awareness and Use**: The justice system should promote public knowledge and understanding of the tools afforded by technology to access justice.

6. **Best Practices**: Those governed by the ATJ Tech Principles must use 'best practices to guide their use of technology so as to protect and enhance equal access to justice and fairness, including evaluation of the use of technology in doing so.

The full text of the Principles and their associated Comments may be found at www.courts.wa.gov and www.atjweb.org.

This report is presented under the following sections:

- AOC Processes supporting ATJ Tech Principles
- AOC Initiatives Supporting the ATJ Board Mission and ATJ Tech Principles
- ATJ Board and Committee Efforts Underway in Washington State
- ATJ Tech Principles Impact Outside Washington State
- Conclusion

AOC Processes Supporting ATJ Tech Principles

AOC has implemented several processes and broad initiatives that advance the ATJ Tech Principles in all its projects and initiatives. These processes guide all projects to ensure that the ATJ Tech Principles are adhered to and to ensure that appropriate opportunities are identified within the projects to implement the Principles. The following are three such initiatives:

1. IT Governance

The AOC has implemented an Information Technology (IT) Governance process.

The goal of the process is to:

> Initiate, analyze, and prioritize IT projects to benefit the court community and the justice system in the state so that they will be more efficient and more effective in delivering equal high quality justice for all.

The Access to Justice Technology Principles are among the key items considered and used when evaluating each project for its impact on courts and other stakeholders.

The process has been designed to ensure that maximum transparency to all interested parties is maintained throughout the consideration of each project. The IT Governance process has developed a Public IT Governance Portal that is publicly accessible so that all projects under consideration can be reviewed by any interested party.

Just as important, the IT Governance process automatically notifies more than 40 associations, agencies, boards, and commissions when projects reach a key stage in the consideration process so they are prompted to provide input as each project reaches critical stages in the prioritization process. This includes the Washington State Bar Association, the Access to Justice Board, the Minority and Justice Commission, The Gender and Justice Commission, the Northwest Justice Project, Columbia Legal Services, and the American Civil Liberties Union, along with many others.

This process supports all of the Access to Justice Technology Principles.

2. Enterprise Architecture

AOC has implemented Enterprise Architecture (EA) principles which use the Access to Justice Technology principles as the higher order principles.

The goals of the Enterprise Architecture Management processes are to:

> Promote solutions that ensure the use of technology to maximize access to justice. The AOC emphasizes the selection of solutions through the Judicial Information Systems that promote and facilitate access to understandable and useful judicial information and services to the public at little or no cost, certainly affordable for all, and

Use technologies that can easily be accessed, understood, and used by persons without extensive technological ability and, where possible, by persons with disabilities. Through the established solutions analysis and architecture review processes, all solutions are reviewed for their suitability and impact on all stakeholders based on the Access to Justice Technology Principles.

The AOC has also developed and/or adopted several technology standards such as the National Information Exchange Model (NIEM) that ensure that justice data can be shared and accessed by all authorized justice partners and the public.

The Enterprise Architecture processes serve all Access to Justice Technology Principles and ensure their implementation in the various projects and initiatives at AOC.

3. Data Quality and Governance Initiative

The AOC is implementing a data quality and governance initiative. Data quality and governance will ensure the quality and usability of data by monitoring it for completeness, timeliness, and accuracy.

The goals of the initiative include:

Establishing processes to investigate and resolve data quality issues, by identifying quality improvements through a governance process and by maintaining business and usage rules.

Making more reliable data available for all users of JIS systems and data. Future direction includes the establishment of a Data Governance framework, securing and implementing a Data Quality Tool, and outreach with the courts and other stakeholders to ensure the data quality needs of all parties are addressed within this initiative.

The data quality and governance initiative serves all Access to Justice Technology Principles.

4. Data Dissemination

The Judicial Information System Committee (JISC) created the Data Dissemination Committee to address issues with respect to access to the Judicial Information System and the dissemination of information from it.

The goals of the Data Dissemination Committee are to:

Act on requests for access to the Judicial Information System (JIS) by non-court users, and

Recommend to the JISC changes in policy, statute, and court rule regarding court record access.

The committee carries out its duties in the context of Article I, Section 7 of the Constitution of the State of Washington, which requires that "Justice in all cases shall be administered openly, and without unnecessary delay" as well as the privacy protections of Article I, section 7. It is also governed by GR 31(a) "it is the policy of the courts to facilitate access to court records as provided by Article I, Section 10 of the Washington State Constitution. The governmental duty to provide and enhance public and personal safety is also a key consideration and guide.

The work of the Data Dissemination Committee serves Access to Justice Principle 3: Openness and Privacy.

AOC Initiatives Supporting the ATJ Principles

There are several projects and initiatives at AOC that support and further the ATJ Technology principles. This section describes efforts that have been completed in the last year or are currently underway at AOC.

1. Pro Se Plan Elements

AOC is an active partner in the efforts of the ATJ Board through its Pro Se Project to convert all the Domestic Relations pattern forms to plain language.

The goal of the initiative is to:

> Create simple, clear, user-friendly forms written in easy-to-understand "plain language" and presented in an intuitive easy-to-navigate format. With plain language forms, users understand the content more quickly, don't need to spend time asking for explanations, make fewer errors completing the forms, and when finished, feel that the process was fair and manageable. In turn, court personnel benefit as they answer fewer phone calls, write fewer explanatory letters or e-mails, and help more people in a way that is more useful. Good forms educate litigants about the law and help them better present their cases, better inform other parties of claims and issues, give the court good information on which to base their decisions, and lead to decisions and orders that are more specific, thus easier to comply with and to enforce.

A large number of people, including AOC staff and Washington Pattern Forms Committee members, are participating in the development of the plain language forms. The project timeline anticipates that the forms will be completed by January 1, 2014, and become mandatory domestic relations pattern forms on March 1, 2014, unless that date is extended July 1, 2014, to accommodate 2014 legislative changes.

The Plain Language Forms initiative aligns with the Preamble of the ATJ Technology Principles in that, among other things the plain language forms will help persons to assert a claim or defense and to create, enforce, modify, or discharge a legal obligation.

> The Initiative also aligns with the Principles' requirement of enhancing Access to Justice in that the plain language forms use updated Microsoft Word features and page layout

concepts that assist persons in navigating through the forms. These advance access and participation by making the forms easier to use and more effective.

Technology and Just Results: The language in the plain language forms assists persons in understanding what kind of information they need to provide. If persons present clearer and more relevant information, judicial officers will have a better understanding of the issues and are better able to make well-informed decisions.

2. Online Document Assembly Capability, part of Phase 1 of the Pro Se Plan:

The goal of online document assembly program is:

> Along with plain language content and format, it is preferable that the online forms eventually be "interactive" which means that the user is "interviewed" and in fact coached in plain understandable language on necessary information in a logical format that assembles the document along the way. This interactive form technology walks the user through the process by using a graphical interface to assist in understanding and using legal terms. Users are able to preserve their information which will automatically populate the next form if the same information is called for. This interactive format could significantly benefit self-represented litigants through understandability, ease of usage and time savings.

The Online Document Assembly program aligns with the ATJ Technology Principles of Requirement of Access to Justice in that online forms will be accessible from home, libraries, kiosks, community centers, and many other convenient places with internet access. An online program would help people fill out the forms. The online forms would advance access and participation by making it easier for persons to fill out the forms, provide necessary information to the courts, and enable quicker, better and more affordable court services.

3. Fillable PDF Forms:

AOC is currently updating fillable PDF versions of the mandatory Domestic Relations pattern forms. Fillable PDFs of approximately one-third of the mandatory Domestic Relations forms are ready to post on the courts' web site.

The goal of the fillable PDF initiative is to:

> Improve access for sight-impaired persons with visual and associated disabilities using screen readers which read the fillable PDF forms; make it easier for persons to fill out forms, without needing to know how to use Microsoft Word, and; ensure completed forms are legible and properly formatted when filed.

The fillable PDF project aligns with the ATJ Technology Principle of Requirement of Access to Justice in that use of the fellable PDF form increases access to justice by making the forms more accessible to persons with visual and associated disabilities by making the forms easier for all persons to fill out.

4. Interpreter Profile System

The AOC implemented the Interpreter Profile System (IPS) web site. The IPS was recognized by the Consortium for Language Access in Courts with the award for the "Use of Technology and Software" to eliminate language barriers.

The goal of the system is to:

> Automate and streamline a paper-based system for tracking interpreters' languages, contact information, work areas, certification and continuing education. The IPS allows interpreters to update their own information online which provides more accurate and up-to-date information on interpreters available online.

The IPS web site serves the following Access to Justice Technology Principles:

Principle 1: Requirement of Access to Justice,
Principle 4: Assuring a Neutral Forum and
Principle 6: Best Practices.

5. Information Networking Hub

The AOC has undertaken an information exchange initiative called the Information Networking Hub (INH) project. In addition, a separate project is also underway to support data exchanges for superior courts (SCDX).

The goals of the projects are to:

> Establish the necessary infrastructure, as well as web services, to enable standardized sharing of information among justice partners and public. The INH project also plans to implement a data quality program to ensure that the quality of personal records meets the highest standards ensuring public safety and preventing issues relative to persons' criminal history and other background information, and
>
> Create a uniform set of standards for entering, storing, and sharing data within the Judicial Information System. The intended benefit is primarily assurance of statewide use of quality standards, increased efficiency and accessibility through consistency, reduction of duplicative data entry, and enhanced access for justice information.

The INH and SCDX project serves the following Access to Justice Principles:

Principle 1: Requirement of Access to Justice and
Principle 2: Technology and Just Results.

6. Superior Court Case Management System (SC-CMS)

AOC is currently working on providing a new case management system for Superior Courts.

The goal of the project is:

> To replace the current system supporting the superior courts (SCOMIS) and provide several new functions and capabilities that are needed by the Superior Courts.

The project is currently in contract negotiation stage. The SC-CMS project has a planned completion date of Dec. 2017.

In addition to the project team, AOC teams supporting the Court Business Office (CBO) and Enterprise Architecture continuously review the future state business processes for Superior Courts as well the technology to ensure that it meets the ATJ Technology Principles. In addition, the ATJ Technology Committee has a representative on the SC-CMS Court Users Work Group (CUWG).

The SC-CMS project will incorporate all six ATJ Principles.

7. Appellate Courts Enterprise Content Management System (AC-ECMS)

AOC is currently working on providing a new case management system for Appellate Courts.

The goal of this project is:

> AC-ECMS seeks to improve access to the Washington Appellate Court Record and Data System (ACORDS) by providing a standard interface for all appellate courts to use. AC-ECMS is also intended to provide a web interface for the public, and support electronic filing of court documents.

The project is currently in the Request for Proposal (RFP) Evaluation stage.

The AC-ECMS project will incorporate all the six ATJ Technology Principles.

8. Adult Static Risk Assessment

The AOC implemented the Adult Static Risk Assessment (ASRA) application in May of 2012. The application was developed by AOC. The ASRA application is based on the static risk assessment portion of the Static Risk and Offender Needs Guide (STRONG) instrument created by Dr. Robert Barnoski and validated by the Washington State Institute for Public Policy.

The goal of the application is to:

> Provide an indicator of a defendant's risk to re-offend and an easily accessible criminal history summary. This indicator provides additional objectivity into the court's pre-trial release and sentencing decision process. The risk assessment provides an easily accessible summary of criminal history for the judicial officer, prosecutors, and defense counsel. This information can be helpful to the court to determine appropriate conditions for the offender pending trial/plea and

sentencing. The risk assessment may be conducted pre-sentence, prior to the first appearance (if the person is in custody), or prior to the arraignment (if the person is summoned to appear). Because the risk assessment portion is based entirely on Washington State and Non-Washington State criminal conviction history and other static information, it can be completed without contact with the offender.

The ASRA application serves Access to Justice Tech Principle 2: Technology and Just Results by providing additional objective data for judicial officers making bail, sentencing and other dispositive decisions.

ATJ Board Efforts Underway in Washington State

In addition to efforts previously described in this report, and among many other ongoing initiatives, some current efforts of the ATJ Board that further the ATJ Technology Principles include the following:

1. Promising Practices Project

ATJ Board completed the Promising Practices Project that is focused on developing the criteria that custom-developed applications must meet to comply with the Technology Principles. This project was originally intended to focus on delivering a set of online applications for use by the access to justice community. However, because of the availability of the commercial off-the-shelf (COTS) applications that can easily be configured and the relative ease with which organizations can procure these applications, the ATJ Board restructured the project. The project was funded by a grant approved by the State Justice Institute and the Attorney General's Office. The practice guides are available on the ATJ website.

2. Best Practices Development

A second effort is that in November 2012, the American Bar Association approved a grant of $20,000 to the ATJ Board, to be used for efforts to ensure that electronic court records systems adopted by the counties of Washington State are developed, adopted and serviced in a manner enhancing the public's access to such records. The ATJ Board has recently retained an expert consultant to assist the ATJ Technology committee and the ATJ Board in developing and issuing a set of Best Practices, to be a resource for any county judiciary and associated system and stakeholders seeking to institute and implement an electronic court records system.

3. Website Improvements

www.ATJWeb.org, the ATJ Board's independent website that details access to justice issues in Washington State and nationally, has been overhauled aesthetically to promote accessibility to the site and to provide news, information, and resources regarding access to justice initiatives. The site now includes commentary on current events as well as the text of the ATJ Technology Principles in multiple languages.

4. Collaboration with the Bar and the Courts on Statewide Civil Rules on Discovery of Electronically Stored Information

A few years ago it became apparent to many in the bar and the courts that the Civil Rules of Procedure relative to discovery needed updating because of the many documents and other information that were increasingly being stored electronically. For the past three years, the ATJ Board and its Technology Committee have worked in collaboration with the Rules Committee of the Washington State Bar Association to develop workable and fair discovery rules in civil cases, particularly relative to electronically stored information. The first rule addressed was CR 34, which recently concluded its time on the Supreme Court Rules Committee's comments calendar. The Board is optimistic the changes will be adopted by the Court.

The ATJ Board and its Technology Committee are continuing the collaboration on revisions to CR 26 with the goal of developing a well-balanced, effective rule that best serves the persons who work in and are served by the Washington State justice system.

5. Representation on Key Judicial System Bodies

After years of the ATJ Board having a liaison to the JISC, in 2012 an ATJ Board representative was appointed to the WSBA position as a voting member of the JISC. The ATJ Board also added a liaison to the Data Dissemination Subcommittee of the JISC. In addition, the committee has a representative on the Court User Work Group (CUWG) for SC-CMS project. These are important steps forward and represent not only the implementation but indeed the institutionalization of the Access to Justice Technology Principles in the State of Washington and its justice system.

ATJ Principles Impact Outside Washington State

The Tennessee Access to Justice Commission Technology Principles, adopted this year, are largely derived from the state of Washington's ATJ Technology Principles. The ATJ Technology Committee has reviewed the Tennessee Principles; although they bind only the Tennessee Access to Justice Commission, their language tracks the Washington Principles, and the Committee is optimistic that they will influence Tennessee's justice system for the better.

Conclusion

AOC and the ATJ Board continue to make progress in implementing and hopefully institutionalizing the ATJ Technology Principles. At the same time, the ATJ Board believes that implementation and institutionalization of the ATJ Technology Principles requires active vigilance and effort by and for judicial systems and their stakeholders and participants across the state. It is not enough to promulgate rules and regulations; entities throughout the Washington State justice system must be made aware of the ATJ Tech Principles and the rules and other means to accomplish their intent and purpose, persuaded to support them, and assisted in implementing them. Doing so will make increasingly real our common goal of providing equal, high quality and meaningful justice every day for all persons in Washington State.