WASHINGTON COURTS

Administrative Office of the Courts

2017-2019 Access to Justice Technology Principles Report to the Supreme Court

December 4, 2019

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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Table of Contents

Table of Contents 2
Introduction 3
Purpose 4
AOC Initiatives Supporting the ATJ Principles 4
1. Legal Advice vs. Legal Information 4
2. Inmate eFiling 5
3. Online Document Assembly Capability, Part of Phase 1 of the Pro Se Plan 5
4. Information Networking Hub and Enterprise Data Repository 5
5. Superior Court Case Management System (SC-CMS) 6
6. Appellate Courts Enterprise Content Management System (AC-ECMS) 6
7. Courts of Limited Jurisdiction Case Management System (CLJ-CMS) 7
ATJ Board Efforts Underway in Washington State 7
8. 1. ATJ Technology Principles 8
9. 2. Support for Net Neutrality 8
10. 3. Liaisons to Judicial Information Systems Committee and Court–User Work Groups 9
11. 4. Technology-Assisted Forms 9
12. 5. Proposed Changes to GR 24 9
Conclusion 10

Introduction

Washington State Administrative Office of the Courts (AOC) and the Washington State Access to Justice Board (ATJ) Technology Committee are pleased to present the Biennial Access to Justice Technology Principles Report for the period July 2015 to June 2017.

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 the public through equal, fair, and impartial access to justice. The AOC provides services that support justice and, more broadly, maintain an effective court system in Washington.

Since the Supreme Court established ATJ in 1994, the ATJ has recognized that access to the civil justice system is a fundamental right and the ATJ Board works to achieve equal access for those facing economic and other significant barriers. In 2004, the Washington State Supreme Court adopted the ATJ Technology Principles that guide the use of technologies in the Washington State justice system which must protect and advance the fundamental right of equal access to and delivery of justice for all.

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 Technology 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.

In addition, in its amended order adopting the ATJ Technology Principles, the Supreme Court also required the AOC and ATJ Board to report biennially on progress and activities related to

the Access to Justice Technology Principles. This report has been prepared in compliance with that order.

Purpose

The purpose of this report is to document the progress and 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. It provides information on the progress made towards incorporating the ATJ Technology Principles in information technology projects and practices, special initiatives, and technology governance processes.

ATJ Technology Committee members, ATJ staff, and AOC staff contributed to this report. Both Judicial Information Systems Committee (JISC) and the ATJ Board have reviewed this report before presenting it to the Washington State Supreme Court.

This report is presented in the following sections:

- AOC Initiatives supporting the ATJ Board Mission and ATJ Technology Principles
- ATJ Board and Committee Efforts Underway in Washington State
- Conclusion

AOC Initiatives Supporting the ATJ Principles

AOC, through efforts of its Court Services, Management Services, Administrative Services, and Information Services Divisions, has executed several projects and initiatives that support and further the ATJ Technology Principles. This section describes efforts that have been completed in the last biennium or were started last biennium and are currently underway at AOC.

1. Legal Advice vs. Legal Information

AOC staff, working with the Court Management Council, developed an interactive online tutorial to help court personnel understand the difference between giving legal advice and giving legal information. The Court Management Council consists of the State Court Administrator and leadership from the appellate court clerks, Washington State Association of Council Clerks, Association of Washington Superior Court Administrators, Washington Association of Juvenile Court Administrators, and the District and Municipal Court Management Association.

The tutorial is intended to explain ways court system personnel can and should assist the public. Court system personnel are sometimes wary of answering questions for fear they may be providing legal advice. The tutorial, paired with a model curriculum and materials also developed by the Court Management Council, should make court personnel better informed and more comfortable providing important information.

2. Inmate eFiling

In collaboration with the Department of Corrections (DOC) and the appellate courts, AOC successfully implemented a pilot program in the Washington State Penitentiary at Walla Walla that allows incarcerated persons to electronically file documents with the Supreme Court and Division III of the Court of Appeals. This program provides more timely access to the courts by inmates, reduces secure mail handling by staff at the institution, and is more efficient for the appellate courts.

There were 199 successful filings with the Supreme Court and 122 with Division III during 2019 alone. The AOC and the appellate courts are working with DOC to expand the program to other institutions and to the other divisions of the Court of Appeals in 2020.

3. Online Document Assembly Capability, Part of Phase 1 of the Pro Se Plan

As part of the Pro Se Plan, AOC is an active partner with the Access to Justice Board, Northwest Justice Project, and the Office of Civil Legal Aid in the Technology Assisted Forms (TAF) Advisory Committee which is developing an online document assembly system for the users. The goal of the online document assembly system 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, consistency of content, and time savings.

The online document assembly system aligns with the ATJ Technology Principles, in particular, 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 will help people complete forms and advance access as well as participation by making it easier for individuals to provide necessary information to the courts, and enable quicker, more efficient, and more affordable court services.

4. Information Networking Hub and Enterprise Data Repository

Since 2011, the AOC has undertaken an information exchange initiative called the Information Networking Hub (INH). In June 2015, the legislature approved funds for the Expedited Data Exchange (EDE) program for implementation of the next phase of the INH project. The EDE Program implements the Enterprise Data Repository (EDR) based on the statewide data sharing specified in the JIS Standard for Alternative Electronic Court Record Systems. It also authorized AOC to work with two pilot courts, King County District Court (KCDC) and the King

County Clerk's Office (KCCO), to send data from independent case management systems to the EDR.

In July 2019, KCCO became the first independent case management system to send court data to the EDR. AOC processes their data to establish links between matching person records from KCCO and the JIS case management systems. AOC systems such as the Judicial Access Browser System (JABS) now retrieve and display data from the EDR. This enables AOC to present a complete, statewide record even when courts use different case management systems. AOC also uses data from the EDR to report statewide court data to other agencies, such as the Washington State Patrol.

KCDC continues to work to integrate with the EDR and plan to implement their new case management system and integration to the EDR in late 2019.

The INH EDR project serves the following Access to Justice Principles:

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

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

AOC completed implementing a new case management system, Odyssey, for 37 of the 39 Superior Courts and the County Clerks' offices.

The goal of the project was:

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

The SC-CMS project implemented the Odyssey case management system in 37 counties by November of 2018. Included with the implementation is the Odyssey Portal and a method for sharing and viewing documents on a case. AOC also implemented a "link-only" option for documents for some courts that needed to use their own document management systems.

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

The SC-CMS project incorporates all six ATJ Principles.

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

AOC has implemented a new content management system for Appellate Courts and moved to enhance the system in the period 2017-2019.

The goal of this project is to centralize document and business workflow management into a common enterprise content management system for all appellate courts to use. AC-ECMS also provides an improved electronic filing system.

The AC-ECMS system has been deployed to the Supreme Court and all 3 Court of Appeals Divisions.

For the 2019 – 2021 Biennium, the focus is on providing appropriate access to electronic Appellate Court documents for case participants, justice partners, and the public; automating the remaining business processes; and furthering data integration between the content management system and case management system.

The AC-ECMS project incorporates all six ATJ Principles.

7. Courts of Limited Jurisdiction Case Management System (CLJ-CMS)

AOC is working on implementing a new case management system for Courts of Limited Jurisdiction (CLJ).

The goal of the project is:

To replace the current system supporting the district and municipal courts (DISCIS or JIS) and provide new functions and capabilities that are needed by the CLJs.

The CLJ-CMS project began in January of 2016 and has been conducting work for procurement of a Commercial Off-the-Shelf case management system. AOC did not enter into a contract with the previously announced Apparent Successful Vendor (ASV); instead the project team partnered with Gartner to complete a full synopsis of the available options while the project steering committee established some guiding principles to be used by the team. Since the receipt of the Gartner study, the project has decided to continue along the path of using a Commercial-Off-The-Shelf product and has initiated conversations with a vendor. The project expects to contract with the vendor partner in early 2020 and to start work shortly thereafter.

The CLJ-CMS project team, AOC teams supporting the Court Business Office (CBO), and Enterprise Architecture Team continuously review the future state for CLJ Courts' business processes as well as the technology to ensure that they meet and support the ATJ Technology Principles. In addition, the ATJ Board has a representative on the CLJ-CMS Court Users Work Group (CUWG).

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

ATJ Board Efforts Underway in Washington State

The ATJ Board, primarily through its Technology Committee, has also been working to finalize and advance the ATJ Technology Principles. Some of the more significant activities and accomplishments are summarized here.

The mission of the Access to Justice Board Technology Committee is to increase and improve access to the justice system by promoting efficient and effective inter-agency technology needs assessment, planning, collaboration and evaluation. The Committee oversees the implementation of the Access to Justice Technology Principles, adopted by order of the Washington State Supreme Court. During the reporting period the Technology Committee has had two central priorities: (1) finalizing the update of the ATJ Technology Principles and (2) collaborating with the Practice of Law Board about proposed rules for online providers of legal information and services.

8. ATJ Technology Principles

Our update of the Technology Principles began in September 2016 with the Justice & Technology Symposium held at the University of Washington. Following the speakers, we invited participants to separate into groups to discuss each principle and how it might be updated. We compiled the information for future meetings. In addition to updating the principles consistent with developments in technology, we strove to use plain language to make the principles more accessible. The workgroup recognized the increasingly rapid change in technology capability and capacity and did our best to make sure the principles will continue to have relevance as technology changes. We held a number of small group events to work on revising the principles in real time. In addition, we asked Diverse Voices of the University of Washington to gather feedback. Diverse Voices gathered feedback from groups outside the Alliance who may be impacted by the results of implementation. Those groups included formerly incarcerated, geographically diverse participants, active court players, and immigrants. We incorporated the feedback from those groups.

The revised principles were first forwarded to the Supreme Court in August 2018. Based on comments from AOC and others, the ATJ Board rescinded its request that the principles be adopted as rules. In addition, the Technology Committee proceeded to seek additional feedback from affected stakeholders. We engaged in conversation with AOC and the Judicial Information Systems Committee to address their concerns. We hosted a webinar on January 25, 2019, to allow any interested parties to call in, ask questions, and make comments. The final product was presented to the Supreme Court for adoption as principles on July 30, 2019.

9. Support for Net Neutrality

Shortly into the current federal administration's tenure, there was a proposal from the FCC to abandon the requirement of net neutrality. This became an access to justice concern because it could potentially limit access to information and services. The Technology Committee submitted a comment to the FCC encouraging them to maintain net neutrality as an access to justice issues. The Committee also collected comments and stories from the Alliance to share with our representatives in Congress of the need to maintain net neutrality and encourage the FCC to retract the proposal. The FCC's net neutrality repeal was ultimately upheld. While our

efforts did not result in our desired outcomes, this endeavor further reiterated the need for a comprehensive and deliberate focus on advocating for innovative technology solutions to access to justice.

10. Liaisons to Judicial Information Systems Committee and Court–User Work Groups

The ATJ Board and the Technology Committee members continue to serve as liaisons to the SC-CMS CUWG, CLJ-CMS CUWG, JISC, and the Data Dissemination Committee. The Technology Committee has commented on the need to sign up through a separate system to access records for each court, including having a separate log in. This requirement impacts legal service organizations that provide representation to low income people. It also limits access for unrepresented parties to their own court records. We also expressed concern to the court clerks about the cost of access to court electronic court records. These issues are not easily resolved and conversations are continuing.

11. Technology-Assisted Forms

The Technology Assisted Forms Committee reviewed proposals from vendors and selected Pro Bono Net to implement the plain language family law forms into a guide-and-file platform. Funds for the project were obtained from the state legislature through the Office of Civil Legal Aid and the Legal Services Corporation. Implementation of the project has been under the leadership of Laurie Garber of the Northwest Justice Project. Prototypes for the most commonly used forms have been developed and are being tested.

12. Proposed Changes to GR 24

The proposed changes to the rule as to what constitutes the practice of law and what safeguards should be in place for online providers generated much discussion. In order to inform the discussion by the Practice of Law Board, the Technology Committee convened a stakeholder meeting on May 29, 2019, in Seattle, where local and national figures interested in access to justice and online solutions could provide input. Microsoft co-sponsored the meeting and provided lunch for all attendees. As a result of those discussions, the Practice of Law Board rescinded it rule proposal recognizing that the proposal failed to consider serious implications to those attempting to assist low and moderate-income people seeking legal information and advice.

Conclusion

The 2017-2019 biennium has been a particularly active time for the ATJ Board, ATJ Technology Committee, and AOC in advancing the ATJ Technology Principles. AOC and the ATJ Board continue to make significant progress in driving the implementation and usage of the technology principles through a variety of projects, programs and many new initiatives that continue to support access to and delivery of justice for all.