

Public Access Committee Meeting Minutes

September 24, 2014 meeting called to order at 1:30 p.m.

Members Present: Justice Monica Márquez; Chief Judge Michael Martinez; Judge Kathy Delgado; Judge Devin Odell (via phone); Karen Salaz, District Administrator; Sandra Casselberry, District Administrator; Tammy Herivel, Clerk of Court; Sabra Millett, Clerk of Court; Rob McCallum, Public Information Officer

Non-Voting Members Present: Terri Morrison; Steven Vasconcellos; Carol Rigato; Dan Cordova

Guests: John Nebel, Kathy Oatis, and Steven Balcerovich representing BIS; Marilynn McCormick and Lee Codding representing LexisNexis; Jeff Roberts representing Colorado Freedom of Information Coalition; Manual Martinez representing Bryan Cave; Susan Thompson representing TruDiligence; Teresa Taylor Tate, Assistant Legal Counsel/SCAO; Tracy Walter, Senior ITS Manager/SCAO

Old Business/Updates

Minutes from the May 9, 2014 meeting approved.

Update on Public Access System Enhancements/ Status of Remote Access Display of Case Type and Arrest Charge Information/ LexisNexis VitalChek Alert Request Update/ Status of Data Replication Request

Tracy Walter, Senior Manager, Information Technology Services Division, SCAO

Tracy provided information regarding enhancements to the Public Access System currently being implemented that further increase system speed and performance. ITS is in process of enhancing the method in which data is transferred through the XML feed, and has implemented a new web service which will increase the speed of data transfer to between .5 – 1.5 seconds. Both vendors are testing the new data transfer service; deployment is scheduled for November 1st.

In addition, ITS is coordinating an application change with both vendors regarding the removal of criminal case type information from data available to be displayed through the Public Access System. In lieu of case type, Judicial will send information describing the highest charge with a finding/disposition. Also, criminal arrest charges will only be displayed until filed charges are entered into a case. Once filed charges are entered, arrest charges will no longer display. These changes are the result of a policy decision made by the Committee at the May 9, 2014 meeting. Testing is in process; deployment is scheduled for November 1st.

Several vendors have asked for alert request functionality and Judicial acknowledges that alerts are important to the vendors. LexisNexis is working on providing additional information to ITS regarding their needs. Initial specifications have been developed; however, significant programming will be required to create a public access alert and notification system. ITS is currently working to create a database architecture that would support this request.

These topics will remain on the agenda for a status at the January 2015 meeting.

Justice Márquez noted that the Committee has not yet taken a vote on whether data replication should be permissible from a policy perspective. In May, the Committee agreed to table the vote due to ongoing and productive conversations between Judicial and BIS. The Committee again

agreed to table the vote to allow these conversations to continue. BIS concurred. The topic will remain on the agenda for a status update at the January 2015 meeting.

Courthouse News Access Request Update

Steven Vasconcellos, Senior Manager, Court Services Division, SCAO

Steven provided the Committee with an update of ongoing discussions between Judicial and CNS regarding timely access to new civil case filings. CNS is seeking same day access to new civil complaints and Judicial has been providing monthly reports regarding the percentage of new civil case filings accepted within the same day in the largest judicial districts. "Same day" filings are considered those cases received and accepted in the clerk's electronic inbox before 4:30 p.m.; if received after 4:30 p.m., acceptance by the next business day. In April/May, approximately 50% of new civil cases were accepted in the largest districts within the same day, and by August, this increased to 60%. The Court Services Division has also been working with Clerks of Court to identify challenges they face that impact case acceptance/timeliness issues. Clerks of Court have been instrumental in increasing the same-day acceptance percentage, especially recently in Denver District Court and Boulder Combined Courts. Manuel Martinez, legal counsel for CNS, expressed his appreciation for the work being done in the Courts regarding this issue. This topic will remain on the agenda for a status at the January 2015 meeting.

Dan Cordova, Supreme Court Librarian, updated the Committee regarding an issue involving CNS and access to public access terminals in the Supreme Court Library. The question was raised as to whether the four public access terminals in the library were enough to meet the current public demand for their use. During periods of high demand, it became necessary to limit any single individual's extended use of the public access terminals, including CNS staff. To meet increased demand, it was determined that four new public access terminals will be placed in the library. Dan is hopeful that all four new terminals can be dedicated for media use. One existing terminal will be dedicated for use by self-represented parties, and the remaining for legal research. A sign-in method will be implemented if necessary, but Dan is confident that the additional terminals will address current need.

Update Regarding Public Access Rule on Administrative Records

Teresa Tate, Assistant Legal Counsel, Colorado Judicial Department

Teresa provided status of work being done to complete a draft Public Access Rule for Administrative Records. A subcommittee has been formed and charged to complete the draft Rule; meetings will be held monthly. A timeline regarding when the draft Rule will be presented to this Committee has not yet been determined. Teresa is currently seeking to identify those Judicial Branch agencies that commit to be covered by this policy, and to determine what is needed in the policy specific to those agencies. This item will remain on the January 2015 agenda for status.

Subcommittee to Review Public Access Policy and Recommend Updates – Steven Vasconcellos

Work continues regarding the review of CJD 05-01 and drafting recommended changes.

Subcommittee members met in September and began identifying recommended changes regarding terminology and business practice. The subcommittee was able to work through approximately half of CJD 05-01 in September, and is hopeful to complete their review when they meet again on January 20th. Once the subcommittee completes their review, a "track-changes" version of recommended changes to CJD 05-01 will be posted on the Committee website, and then presented to this Committee for discussion. The subcommittee will aim to provide a preliminary report to the Committee in January 2015. This item will remain on the January 2015 agenda for status.

Subcommittee on Criminal E-Filing Update

Terri Morrison, Legal Counsel, Colorado Judicial Department

In July, the Criminal Rules Committee passed a rule governing the process of criminal e-filing. Terri worked with the Committee and internal staff to ensure that the criminal e-filing process and rule protects documents and information as required in CJD 05-01 and the Criminal Justice Records Act. The rule is currently in Justice Coats' chambers awaiting signature. Once the rule is signed, other CJDs that reference the e-filing process will also be amended to ensure information is current and includes references to criminal e-filing. The criminal e-filing pilot is scheduled to begin in Pueblo on October 6th. It will take approximately one year to bring all court locations on-line with criminal e-filing. An additional challenge will occur when incorporating File-Bound documents into the system, but the ITS Division is prepared to address that issue. File-Bound is currently used in only a few court and probation office locations statewide. Criminal e-filing will remain on the January 2015 agenda for status.

New Business

Recent Changes to CJD 05-01: Sealed/Suppressed/Protected/Restricted Records – Terri Morrison

Terri updated the Committee regarding the September 4th amendments made to CJD 05-01 by the Chief Justice. In May, a discussion was held at a chief judges meeting between trial court and Court of Appeals judges regarding sealed/suppressed documents. In response to the discussion, CJD 05-01 was amended to add definitions for sealed, suppressed, protected, and restricted court records. Conforming amendments were also made in accordance with the added definitions. CJD 05-01 was also amended to reflect that the Chief Justice may (in addition to the Public Access Committee) recommend amendments to CJD 05-01 to the rest of the Supreme Court. This amendment provides the Chief Justice the ability to recommend public access policy amendments quickly if the need arises, given that the Committee meets only three times per year.

Terri further clarified that a restricted record is a court record in a criminal case that includes a charge of sexual assault. Victim identifying information must be redacted from a restricted court record before releasing the record to the public, and an unredacted record is only accessible to judges, court staff, the filing party, any party served with the court record, and all criminal justice agencies. A strict interpretation of statute indicates that the defendant and their attorney cannot access an unredacted restricted record. As a result, Terri is investigating whether a proposed change to legislation is needed to allow defendants unredacted access to their own records when charges of sexual assault are filed.

SCA/Record Custodian Update

Carol Rigato reported that data requests received last quarter were able to be addressed within the existing Public Access policy. SCAO receives approximately 300 trial court data requests per year.

Next Meeting Dates

- January 30, 2015 at 1:30
- May 8, 2015 at 1:30
- September 16, 2015 at 1:30

The meeting was adjourned at 2:10 pm.