Public Access Committee Meeting Minutes

May 14, 2021, at 1:30 pm

1300 Broadway

Denver, CO 80203

Supreme Court Conference Room

**Attendees**

**Voting Members Present**: Judge Jerry Jones, committee chair, Chief Judge Mark D. Thompson, 5th Judicial District, Chief Judge Michael Martinez, 2nd Judicial District, Judge Don J. Toussaint, 18th Judicial District, Peggy Gentles, Court Executive, 14th Judicial District, Marci Hoffman, Court Executive, 19th Judicial District, Dawn Garey, Clerk of Court, Garfield County, Anne Deyell, Clerk of Court, Dolores County, Sarah Meyers, Colorado Lawyer Assistance Program, Timothy Lane, Colorado District Attorney’s Council, April McMurray, Office of Attorney Regulation Counsel, Darren Cantor, Office of Alternate Defense Counsel, Melissa Thompson, Office of Respondents Parent Counsel, James O’Conner, Office of the Public Defender, Kent Wagner, Office of Judicial Performance Evaluation, Jason Bergbower, Manager of Data Analytics, SCAO

**Non-Voting Members Present**: Justice William W Hood III, Colorado Supreme Court, Terri Morrison, Legal Counsel, Colorado Judicial Branch, Steven Vasconcellos, State Court Administrator, Colorado Judicial Branch, Jeremy Ford, Court Programs Analyst, SCAO, Sherri Hufford, Probation Services, SCAO,

**Guests:** Kayla Cooley, Court Programs Analyst, SCAO

**Approval of Minutes of the September 18, 2020, meeting**  ([Attachment 1](file:///C:\Users\B88JRF\Documents\Public%20Access\Committe%20Agenda\5.14.21\Public%20Access%20Draft%20Minutes%209.18.2020%20(003).docx)).

Terri Morrison found two typographical errors. On page 3, “to the court” should be “to SCAO” and “shares” should be “share”. Tim Lane moved for the committee to approve the minutes as amended. Multiple seconds. The motion passed unanimously.

**Old Business**

**Proposed changes to section 4.40(a)(6) of CJD 05-01 and Addendum A.  (Terri Morrison, Darren Cantor)**  ([Attachment 2](file:///C:\Users\B88JRF\Documents\Public%20Access\Committe%20Agenda\5.14.21\CJD%2005-01%20Amendments%20adopted%20at%209.18.2020%20PAC%20with%20amend%20to%20Addendum%20A.docx))

Terri Morrison has accepted all accepted all changes made to date. She shared just those that still needed approval from the committee. There is a concern with data not being shared with others, when multiple requests are being made for the same information. Edits were made to allow for sharing of data if all parties have submitted the addendum. This would limit the requests received by SCAO and be a more efficient process for all parties.

Terri requests approval, and if approved will updated the tabled of contents, draft a summary of changes and submit to the Chief Justice for adoption.

Peggy Gentles moves to recommend the changes to the Chief Justice. Judge Thompson seconds the motion. The motion passed unanimously.

**Update on additions of Civil Rule 5(g) and County Court Rule 305(g) relating to attorneys’ obligation to redact documents before filing.  (Judge Jones)**

Clerks offices around the state have wanted the responsibility to redact documents to be that of the party or attorney filing the document. Federal courts currently require this of the filing party. Judge Jones worked on a proposal to add a subsection to civil and county court civil that would provide this change. This proposal has passed the Civil rules committee but has not been sent to the Supreme court. This will be sent after the June meeting along with a variety of other changes that are being requested. If adopted, education of the bar may be required. This could be a topic of an upcoming agenda item for this group to discuss.

**Update on approval of Crim. P. 55.1 relating to sealing and suppressing documents in criminal cases.  (Judge Jones)**  ([Attachment 3](file:///C:\Users\B88JRF\Documents\Public%20Access\Committe%20Agenda\5.14.21\Rule%20Change%202020(34)(Crim%2055.1).pdf)).

This Rule was adopted several months ago and went live in the courts on May 10th. The change resulted from entire cases or parts of a case being suppressed and then being left that way, and the public was denied access when they shouldn't have been. Judge Jones will be chairing a subcommittee of the Civil Rule committee that will meet in June to discuss having a similar rule in the civil rules. The idea was to use the change in the Criminal Rules committee as a template for other case classes (CV, county court, Juvenile, Probate).

**Update on proposal to add new subsection (26) to section 3 of PAIRR concerning confidentiality of identities and information relating to judicial branch training and education programs.  (Judge Jones)**

Jennifer Mendoza and Judge Fish wanted to add a subsection to PAIRR to remove personal documents as they relate to judicial training. There is not a similar exception in CORA. It was determined that is not be the proper time to address this issue.

**Added agenda item: Chief Justice asked Judge Jones and Terri to prepare a document that compares PAIRR and CJD to CORA.**

They have been asked to identify where they are similar and where they are different, and when they are different and why. Terri will work with AG's office on this task. The purpose is informational, at this time. Possibly, this could be presented to the legislature to show the changes that have been made to more align PAIRR with the CORA in recent years, and why we have different needs. Peggy and Sherri offered to assist Terri with this task.

**New Business**

**Suggested changes to section 4.30 of CJD 05-01.  (Terri Morrison)**

This came to be as the legal team was writing an MOU for a very large data request. Currently bulk requests only mean the entire CMS, but with enough large requests someone could create their own database with our data. The goal of this change is to more clearly define this term and allow SCAO to decide based on available resources whether a request can be granted. Judge Jones was ok with the language but has concerns about the discretionary language perhaps being an issue in the future. Proposed - page 8, track changes on attachment 2.

Judge Thompson moves to approve the proposed changes. Anne Deyell seconds the motion. The motion is passed unanimously.

Both versions to be sent out by Jeremy Ford prior to sending to Andy Rottman.

**Kayla Cooley – Raised an issue regarding the courts requesting clarification on properly handling Suppressed cases and Suppressed status.**

Kayla requested the committee look at suppressed cases and offer more guidance on suppressed cases as to what information is publicly available. Some examples of questions are: Can you tell the person the names of the parties? Can the public sit in on hearings? Judge Jones can take this to the civil rules committee to try to provide some more clear guidance. Kayla offered to send out a survey to clerks of court statewide to gather some data on how courts are handling this issue today and the other questions they may have.

**Question raised: Is there a ballot proposal for a constitutional amendment to allow the release judicial discipline records?**

At this time nothing definitive as this time.

**Next Meeting Date**

The next meeting will be set in September and a doodle poll with potential dates will be sent as we get closer. This group confirmed that Friday afternoon remains the preferred time slot to hold these meetings going forward. At this time, there is no determination for the next meeting being held in person or virtually. Regardless, a video option will be provided. Please send any prospective agenda items to Judge Jones.