

Public Access Committee Meeting Minutes

September 22, 2017

The meeting was called to order at 1:32 p.m.

Voting Members Present: Judge Jerry Jones, committee chair; Judge Devin Odell; Marci Hoffman, District Administrator, 19th District (via telephone); Sandra Casselberry, District Administrator, 21st District (via telephone); Lynette Cornelius, Clerk of Court, 4th District; Sabra Millett, Clerk of Court, Denver District Court; Polly Brock, Deputy District Administrator, Court of Appeals; Chad Cornelius, Chief Information Officer; Rob McCallum, Public Information Officer; Darren Cantor for Lindy Frolich, Office of Alternate Defense Counsel (via telephone); Cheryl Layne, Clerk of Court, 18th District; April McMurrey, Deputy Regulation Counsel; Barbara Ezyk, Colorado Lawyer Assistance Program; Ashlee Arcilla for Melissa Michaelis, Office of Respondent Parents Counsel; Linda Weinerman, Office of the Child's Representative; James O' Connor, Office of the Public Defender

Non-Voting Members Present: Justice Monica Márquez; Terri Morrison, Legal Counsel, Colorado Judicial Department; Steven Vasconcellos, Senior Manager, Court Services; Sherri Hufford, Probation Services; Terrie Langham, District Administrator, Denver County Court; David Quirova, Jr., Court Services

Guests: Damian Schwade representing Background Information Services; Jason Bergbower, ITS; Lee Codding and Marilynn McCormick representing LexisNexis Co Courts; Larry Hudson and David Foy representing RELX; Melissa Autin representing LexisNexis Risk Solutions; Jeff Roberts representing Colorado Freedom of Information Coalition; Manual Martinez representing Bryan Cave

Approval of Minutes from the May meeting

Polly Brock moved for the Committee to accept the minutes from the May 12, 2017, meeting as submitted. Barbara Ezyk seconded the motion. The motion passed unanimously.

Update on legislative developments

The Governor signed Senate Bill 17-040, Concerning Public Access to Files Maintained by Governmental Bodies. The bill modifies the Colorado Open Records Act. The committee is encouraged to review the bill and determine if there are any matters that the committee should consider recommending be applied to the Judicial Branch.

House Bill 17-1177, Concerning the use of alternative methods resolving disputes that arise under the Colorado Records Act, provides a mechanism for parties whose requests for information have been denied. This will create a process for parties to challenge those denials. The committee is encouraged to review this legislation, as the committee will address how persons denied requests for Judicial Branch records may challenge such denials.

Old Business/Updates

Proposed amendments to CJD 05-01, including to section 4.60(d) (suppressed or sealed documents) — Terri Morrison

Terri Morrison provided an overview of technical and substantive revisions to CJD 05-01. The committee addressed the following:

- The subcommittee on attorney access in cases other than the case in which they are the attorney of record will review section 2.00(c) release of information. It will address notary requirements for attorneys and for the public and the size of information requested, particularly by researchers. The subcommittee will also work on Addendum E. The subcommittee will report back to the committee.
- The committee reviewed language in section 3.11 stating, *“Notwithstanding Section 2.00, anyone seeking compiled data is treated as the public.”*
- The committee reviewed language in Section 4.00(b)(1), stating, *“Except as provided in Section 4.40(g).”*
- The committee reviewed the changing of the word *“quarterly”* to *“monthly”* in section 4.40(c).
- The committee reviewed language in section 4.40(e), permitting SCAO to create a report to be utilized by the districts to allow counties, Sherriff’s Departments or outside vendors to contact individuals with reminders of upcoming court appearances in certain case types.
- Terri Morrison will form a discussion group with ITS and Probation for data match request parameters under section 4.50(a) and report back to the committee.
- Judge Jones will send out an email soliciting volunteers for a subcommittee to address section 4.60(d), audio and video recordings of all types.
- The committee reviewed sections 4.60(d) and 4.60(e), which concern sealed and suppressed documents commonly filed with the court not accessible to the public. There will be a subcommittee assigned to decide details regarding sealed, suppressed, and public documents in the trial courts and the Court of Appeals. This subcommittee should email any examples regarding these issues to Terri Morrison.
- Probate Case Information Sheet (JDF 705) under section 4.60(e)(8) has not yet been approved by the Probate Rules Committee but will remain as a revision and will be readdressed at the next meeting.
- The committee reviewed section 4.60(f), which concerns commonly filed Probation items.
- The committee reviewed language added in section 6.00(b) which would require payment before the custodian begins research, retrieval, redaction, copying, and transmission of records.
- Section 10.00 Resolution of Disputes will not be included in the revisions as it more appropriately should be a court rule.

Report by the subcommittee on attorney redaction — Terri Morrison

The subcommittee has met and decided that the concept of redaction should be pursued. The subcommittee will review the federal redaction rules and procedures. The subcommittee sees a need to include representation from the civil practitioners bar and criminal prosecution since recommendations

will affect many groups. The subcommittee will also discuss requirements for filing just one redacted document, or filing one redacted document along with an unredacted copy. The next subcommittee meeting will be November 16, 2017.

Break 3:26 p.m.

Meeting Resumed 3:35 p.m.

New Business

Proposal by LexisNexis to modify CJD 05-01, section 4.20(a)(2)(iii) to allow remote access to parties' addresses, phone numbers, and other contact information in criminal traffic and infraction traffic cases. See Attachment E. — David Foy and Melissa Autin of RELX/LexisNexis

Representatives from LexisNexis provided an overview of requested amendments to section 4.20 (a)(2)(iii). Traffic records are used by automobile insurance companies to evaluate risk. LexisNexis requests remote access to criminal traffic and infraction traffic cases including addresses and phone numbers. The identifying information could be used to notify insurance companies of drivers residing in a household address who are not included as a driver in a policy. The committee had the following concerns:

- CJD 05-01 was designed to protect personal information from being released for marketing purposes.
- Information security.
- Name, address, and phone numbers are considered PII (Personal Identifiable Information) and the state courts must comply with standards through the Office of Information Security regarding release of that information.
- The suggested amendment would allow the release of information to anybody remotely.
- Information from citations may not be accurate or up to date.

LexisNexis will come back with a specific proposal, and include additional information regarding laws and examples of language in contracts from other states. The proposal will be shared with members of the committee and the topic will be on the agenda for the next meeting.

Set second meeting for 2018

The second meeting for 2018 was set for May 11, 2018, at 1:30 p.m.

Next Meeting Date

The next committee meeting dates are,

- January 19, 2018, at 1:30 p.m. in the Supreme Court Conference Room
- May 11, 2018, at 1:30 p.m. in the Supreme Court Conference Room

The meeting adjourned at 4:06 p.m.