

MEETING MINUTES
Commission on Technology
July 14, 2021

MEMBERS PRESENT

Justice Shea, Chair

Peg Allison, Flathead Clerk of District Court

Judge Audrey Barger, COLJ Automation Chair (Hill County Justice Court Judge)

Judge Stacey Nerison, Dawson County Justice Court Judge

Mars Scott, Public Member

John Mudd, Executive Director State Bar of Montana

Representative Ken Holmlund, Member of Legislature

Beth McLaughlin, Supreme Court Administrator

Bowen Greenwood, Clerk of the Supreme Court

Christine Mandiloff, State Law Librarian

Lisa Mader, IT Division Director

Tim Kosena, IT Security Officer

Judge Randal Spaulding – excused due to a trial

Justice Shea called the meeting to order and introduced Christine Mandiloff as the new State Law Librarian replacing Sarah McClain.

PROJECT UPDATES

Lisa provided updates for the FullCourt Enterprise and Courts Electronic Filing projects. Mars Scott asked if the OCA is receiving any pushback on e-filing implementations, knowing that courts must still agree to implement the system. Lisa explained that there have been a couple of courts that have pushed back and even cancelled installations. Mars asked if the courts can be identified. Lisa stated that in general the OCA has more requests to get e-filing implemented than resources to handle. She explained that we don't generally see much pushback from the courts but there have been a couple of occasions, although she would be unable to identify courts across the state who are not interested. She also explained that we have not reached out to every single court to inquire about interest as we would not have enough resources to meet the demand. Mars asked if there is a technology cost to the courts to move to e-filing? Lisa explained that generally technology costs related to implementing e-filing are costs covered by the OCA not necessarily costs expended by the individual courts.

COVID UPDATE

Beth provided a brief Covid IT update. Judge Barger asked if the ability to provide VPN access to more of the court users had been expanded. Lisa explained that through the fixed cost budgeting projection

process, she and Mike did anticipate continued and expanded VPN needs. Fixed costs were approved through the legislative process so in FY22/FY23 the OCA would have the ability to fulfill some additional VPN requests.

SECURITY UPDATE

Tim Kosena provided a security update to the Commission. Tim explained that one new FTE had been hired to assist him with the voluminous security work facing the Branch and provided a depiction of the number of security tickets that he had been managing himself. Tim talked about security awareness training and the challenges, current vulnerabilities the branch is facing, as well as security projects for 2021 and 2022. Tim also asked for ideas on how to encourage elected officials to complete the security awareness training. Justice Shea asked about the RSA transition to MFA (multi-factor authentication). Tim explained that it would be similar to RSA, either a token or app on your phone but there is an additional option of a robo call for verification codes. Tim explained his concern about the OCA's ability to manage phone numbers for all Judicial Branch users. Judge Barger asked if it would be helpful if she addressed the fall Clerks Conference and judges regarding the Security Awareness Training? Tim felt it would be most helpful. Judge Barger asked if users had been told they would be cut off from use of the computer if they didn't take the training. Beth explained that she did not feel that during the Covid chaos and all of the challenges the courts, clerks, judges, and staff were facing, it would be prudent to cut access. Certainly, it is something to consider in the future but during Covid she did not feel like it would be a good business decision.

PUBLIC ACCESS TO COURT RECORDS

Beth McLaughlin provided some historical background on the Public Access to Court Records discussions. She explained that retired Judge Jim Wheelis worked on the rules but ultimately came back and said there was too much content to try to tackle all components of the original rules at one time. His recommendation was to start by addressing areas where the technology was available and expand from there.

Beth explained that the rules being covered during this meeting are draft rules intended to govern the public search portal. She asked Justice Shea what the process would be for approval of the rules. Justice Shea responded that the Commission would review/modify the rules based on this demonstration and discussion, the modified rules would go to the Commission for approval, Justice Shea would bring the rules to the Supreme Court, and rules would be put out for public comment.

Lisa provided a demonstration of the public portal specifically focusing on the following decisions points:

1. Two Public Portals – District Courts and Courts of Limited Jurisdiction (separate portals)
2. Searches only allowed on a court-by-court basis – no statewide case or party searches
3. Search decisions in Section 4.00 – Judgment Index Order Search
4. Report/Print Capabilities – Section 4.20 (c)
5. Calendaring Options – Section 4.20 (d)
6. Cases in which a party is a minor – Section 4.30 (b)

Lisa demonstrated that a name search will not display a party that is under the age of majority. However, because Juvenile cases are a matter of public record in the District Courts and by default a public user has the ability to search for a Juvenile matter via the Juvenile case number, the party name would be displayed. Judge Barger noted that the rules surrounding juvenile records are different between the District Courts and Courts of Limited Jurisdiction. Discussion.

Motion

Judge Barger made a motion to block the Juvenile Case Number search capability and allow the age of majority rules to work but that a disclaimer should be posted noting that juvenile information available through the public portal but can be obtained by contacting the court(s) directly. Mars seconded the motion. The motion passed unanimously.

Lisa asked whether the public portal should allow the ability to do a Judgment Index Order Search, as it is a part of the FCE public user functionality but is not addressed in the rules. Peg Allison indicated that there should be no reason to conceal the judgment record from public searches. It is one of the primary reasons that the District Courts have public persons in the office looking for cases, they want to see judgment records for debt collection and other purposes. Peg's opinion is the Judgment Order Index Search should remain. Lisa noted that the rule would be different in the Courts of Limited Jurisdiction as they do not have a Judgment Order Index.

Lisa discussed the question of printing a daily report of newly filed cases (section 4.20 (c)). She explained that by default JSI development, the public portal was never intended to allow printing of calendars or reports, therefore the ability to print a daily report of newly filed cases would be a Montana specific customization and would have an associated cost. Beth noted that if printing the report and the calendar is something that is important, the OCA would ask JSI to cost it out. If it isn't something the Commission feels is critical at this point, the OCA would park the subject. Peg Allison offered that there is a "workaround" for the public user. For instance, if they pull up a case from 2020, they could see the date the case is filed, they could then guess what number to pull up to move to December 2020, for example. They can also navigate backward and forward through cases while viewing the date filed for an individual business day, without seeing it on a report. Beth stated that her personal choice from a workload perspective, is to not pursue this with JSI because we'd like to keep them focused on the FCE deployment and other project deliverables. John Mudd made a statement that he does think there are title companies and other folks that would be interested in some of the printable reports but agrees that keeping the focus on current deliverables makes sense.

Motion

Beth made a motion to remove the reports option from the public role, as well as removing 4.20 (c) language from the rules, recognizing it is just being put on the back burner, not eliminated altogether. Judge Barger seconded the motion. Motion passed unanimously.

Lisa demonstrated 4.20 (d), calendar access and suggested removing the Court Calendar and Monthly Court Calendar options because these options both produce security/navigation errors. The errors are

due to the public role's default inability to print. Committee members agreed with removing the two options. Lisa demonstrated the Weekly Court Calendar and showed that confidential cases are removed from this view, including Juvenile cases with a hearing when the party is under the age of majority. The Commission agreed that there is no need for the public to print from the calendaring option.

Lisa discussed the Section 4.30 (b) question regarding a public case, i.e. DG (Guardianship) that includes a party that is a minor. She demonstrated that the party record can be seen in the case. Because the party is under the age of majority, the party name cannot be searched but if a public user knows the case number, they can pull up the case and the minor can be seen. Lisa also demonstrated that a clerk "could" mark the party as confidential in FCE and in the public portal, the name simply shows CONFIDENTIAL in red. Beth noted that we do not advocate in any way a rule that requires the clerks to mark the party record confidential, it's not reasonable to impose that work on the clerks. Judge Barger and Peg have additional questions surrounding the confidential functionality in FCE. Lisa will pose those questions to JSI and report back responses. Judge Barger suggested a best practice guide be developed for the confidential functionality in the party records.

Additional discussion.

Motion

Justice Shea made a motion that two public portals be developed, one for the District Courts and a separate portal for the Courts of Limited Jurisdiction. Judge Barger seconded the motion. The motion passed unanimously.

Justice Shea made a motion that the public portal only allow for a search on a court-by-court basis, no statewide searches be allowed. Judge Barger seconded the motion and stipulated that the juvenile information disclaimer be posted on the public portal landing page. The motion passed unanimously.

Lisa discussed the refresh frequency of the data in the public portal and asked the Commission if they would support a 24-hour refresh rather than real-time updates. Justice Shea felt this was more of a procedural decision and a motion would not be required. Judge Barger suggested that the refresh information be included in the landing page disclaimers.

Beth and Lisa will modify the rules according to the committee decisions, as well as develop the disclaimer language by the end of August. The language and modified rules will be circulated via email to the Commission members for an online vote with the goal of getting the rules to the Court during September 2021.

NEXT MEETING

Lisa will send out a meeting poll for the next COT meeting to be in late January/early February 2022. The meeting topics will be strategic planning for the 2023 biennium and legislative session, as well as

to address any public comments related to the Public Portal Access Rules, and to provide an update on JSI's Public Portal development work for Montana.

Motion

Representative Holmlund made a motion to adjourn the meeting. Judge Barger seconded the motion and the motion passed unanimously.

The meeting adjourned at 1:15 on July 14, 2021.