

INDIANA SUPREME COURT
RECORDS ACCESS AND MANAGEMENT COMMITTEE

ATTACHMENT 1

INDIANA SUPREME COURT
RECORDS ACCESS AND MANAGEMENT COMMITTEE MINUTES

Date May 11, 2021 via Microsoft Teams

Members present:

Permanent Members: Justice Mark Massa, Indiana Supreme Court, Chair; Mary DePrez, Director, Court Technology; Chris Naylor, Esquire, Executive Director, Indiana Prosecuting Attorneys Council; Bernice Corley, Esquire, Executive Director, Indiana Public Defenders Council and Greg Pachmayr, Clerk, Indiana Supreme Court, Court of Appeals and Tax Court.

Judicial/Lawyer/Court Staff Members: Debra Berry, Clerk of Wayne Circuit Court; Stephen Creason, Esquire; Office of the Indiana Attorney General; Commissioner; Judge Christine Haseman, Monroe Circuit Court; John Laramore, Executive Director of Indiana Legal Services; Judge Gretchen Lund, Elkhart Superior Court; Judge Bruce Parent, Lake Superior Court; Kelly Scanlan, Marion Probate Court

Staff Present: Tom Jones, Records Manager, Legal Support Division, Indiana Office of Court Services; Richard Payne, Staff Attorney to the Committee, Indiana Office of Court Services Jeff Wiese, Deputy Director, Indiana Office of Court Services;

Guests: and Janelle O'Malley, Office of Court Technology and Gaye Lynn Strickland, Office of Court Technology.

- I. Introduction-** Justice Mark Massa, Committee Chair, Indiana Supreme Court, welcomed members and guests.
- II. Minutes** – Upon a seconded motion, the minutes of the meeting of November 16, 2020, were unanimously approved as corrected: Item III A, Secure Public Access, Court staff has statewide access to public cases but not confidential cases.
- III. Reports**

A. Court Staff Secure Case Access – Jeff Wiese reported that at the last meeting, the Committee approved the ability of the staff of a Special Judge to make entries in the Special Judge’s cases. Implementation has been hindered by the fact that authority to make entries in another county cannot be limited to certain cases. Authority must be given to all cases. A rule change could solve the issue but is probably not required.

The discussion of the Committee related to:

- How the identity of an entrant is shown
- Whether authority should only be given to a single staff member
- How Senior Judges should be handled since they are without staff and must either make their own entries or use the staff of the court in which they serve
- Authority can last beyond the point of leaving the office unless the change of staff is reported to Court Technology
- Sharing ID and PW is not allowed in Odyssey
- Whether an amendment to the Change of Judge rule could produce a solution by allowing transfer of the case to the court of the Special Judge. Currently agreement of the parties is required.
- Perhaps staff authority should be given for all counties in which their judge might serve as a Special Judge.

Committee Action: Mary DePrez will form a group to study the issue and propose one or more solutions from interested members and Court Technology staff.

B. Public Access to Court Calendars –Mar DePrez reported that following the Committee’s approval, public access to court calendars has been provided for courts in which the judge has approved the access.

C. Secured Public Access Transition –Janelle O’Malley reported that access to the Secure Public Access System is not being expanded and reductions are being made where possible. The curtailment has resulted from Tyler Technology’s termination of support for the system. Ad hoc local requests are being eliminated with access constrained to statutorily mandated access.

D. CCS Authority Rules Proposal – Jeff Wiese reported that non-court staff in some courts are allowed to make CCS entries; e.g., Sheriff Deputies and Probation Officers. IOCS believes that TR 77 limits entry making authority to the judge, court staff, and the clerk or clerk staff. The Committee’s concerns have been presented to the Supreme Court Rules Committee which has yet to place it on the agenda.

E. Notice Publication Website Proposal Status –Mary DePrez and Janelle O’Malley reported that Court Technology is working with the Rules Committee to create a draft rule. A demonstration was provided of the way the currently developed Notice System works. The issue was raised as to whether the Notice should also be shown on MyCase.

Committee Action: A motion was unanimously adopted by the Committee recommending to the Rules Committee that the Notice should also display on MyCase.

F. Criminal Rule 24 Rule Proposal to the Rules Committee – Jeff Wiese reported that Court Technology has created a monthly report for the Public Defender Office that provides them with information on LWOP filings.

G. Party and Public Access to Documents on MyCase – Janelle O’Malley reported that the Remote Access to Court Records Taskforce recommended party access to court documents. Phase I of the process is building on INcite and should be ready in six months. A party verifies their identity which enables them to login with a security code which allows access to non-confidential documents in public cases.

Phase II is underway related to access to confidential case documents. Documents will also be available by cell phone.

IV. New Business

A. Removal of Deceased Attorneys- Gaye Lynn Strickland reported on the question of when and if a court or Court Technology can remove the appearance of a deceased lawyer from a case. Many emails have been sent to the deceased attorney’s email but not to the party they represented.

Death is not the only event in which a lawyer ceases representation; e.g., inactive status. Should there be a procedure that would allow updating of records?

The discussion of the Committee related to:

- The need to provide notice to the party who is unlikely to know if a surrogate is functioning
- Whether the judge has a duty to act

Committee Consensus: Notice should be sent to both the party and the deceased lawyer.

B. Indiana Red Flag Law - Mary DePrez reported that since the FedEx incident, many bulk data requests have been received related to cases under this statute. While the cases are normally filed as MCs, law enforcement often files them as MIs. When

cases are created, clerks are not consistent in listing the gun owner as a party and frequently list them as a participant which means the case will not appear on MyCase. However, use of either case type is appropriate. In an MC case, the info can be entered into Odyssey and go to Incite which goes to NICS. In a MI case, the court must report the findings and weapon types. Nothing automatic but if courts do what they should, NICS will get the info.

Committee Discussion related to:

- Whether the cases should appear on MyCase
- Is a rule needed requiring parties to be listed as opposed to participants

Committee consensus: Issue tabled until November meeting.

V. Next Meeting Date - November 9, 2021 - 10:00am to 3:00 p.m. with staff to estimate actual length of meeting when sending out meeting materials.

VI. The meeting was adjourned at 11:15 a.m.