

INDIANA SUPREME COURT
RECORDS ACCESS AND MANAGEMENT COMMITTEE MINUTES

Date November 16, 2020

Members present: Justice Mark Massa, Indiana Supreme Court, Chair; Christine Hickey, Attorney, Rubin-Levin; Kelly Scanlan, Marion Probate Court Commissioner; Debra Berry, Clerk of Wayne Circuit Court; John Laramore, Executive Director of Indiana Legal Services; Mary DePrez, Director, Court Technology; Stephen Key, Esquire, Attorney; J. T. Parker for Chris Naylor, Esquire, Executive Director, Indiana Prosecuting Attorneys Council; Stephen Creason, Esquire; Office of the Indiana Attorney General; Michael Moore for Bernice Corley, Esquire, Executive Director, Indiana Public Defenders Council and Greg Pachmayr, Clerk, Indiana Supreme Court, Court of Appeals and Tax Court.

Staff Present: Jeff Wiese, Deputy Director, Indiana Office of Court Services; Richard Payne, Staff Attorney to the Committee, Indiana Office of Court Services; Tom Jones, Records Manager, Legal Support Division, Indiana Office of Court Services, and Pam Christenberry, Administrative Assistant, Indiana Office of Court Services and Janell O'Malley, Office of Court Technology.

- I. Introduction-** Justice Mark Massa, Committee Chair, Indiana Supreme Court, welcomed members and guests and all members introduced themselves.
- II. Minutes** – Upon a seconded motion, the minutes of the meeting of November 12, 2019 were unanimously approved.
- III. Reports**
 - A. Secure Public Access – Jeff Wiese reported on this issue which was discussed at the last meeting. While judges have access to all cases in Indiana courts, court staff Court staff has statewide access to public cases but not confidential cases.. The issue is whether efficiency will be served by allowing court staff to have equivalent case access to that of their judges so that staff may make case entries in all cases in for their judge.

Some judges have implemented a policy concerning special judge appointments in which they decline the appointment but accept jurisdiction of the issues and transfer the matter to their court. This practice does not square with the Trial Rules which require acceptance of the appointment and do not allow automatic transfer to the Special Judge's court'

The committee discussion related to these topics:

 - absent a change, either the judge must make the entry or staff must contact the court staff of the other court to make the entry desired by the judge

- staff are accountable for actions because the case management system tracks the identity of the person making an entry
- INPCMS only allows a Special Prosecutor to see their own cases
- in some cases, entries are mistakenly made in the wrong court
- limit staff ability to make entries to certain staff
- is a rule change needed or can the change occur as an internal case management change?
- should access be expanded to Senior Judges or left with the regular judges?

Committee Actions - Christine Hickey's seconded motion to start with provision of access to the staff of the regular judges was unanimously adopted.

- B. Public Access to Court Calendars – Mary DePrez reported that the Administrative Rules recommend access to court calendars and the Supreme Court has approved calendar posting on public access but currently posting is optional. The public is asking for calendar access more and more over time and Court Technology is working to accomplish public posting.
- C. Venue and Case Transfer Process Expansion – Janelle O'Malley reported that the most common use of the process involves Small Claims transfers to Civil Plenary cases and the cases upon which a change of venue from the county has been granted. The process is handled through the Court Technology Help Desk and is working smoothly.
- D. Transition from Use of Secured Public Access System – Mary DePrez reported that SPA was Tyler Technologies app created which is no longer being supported. The app was used to provide access to court records by judges, court staff, clerk staff and other court related agencies. At the outset of moving into Odyssey, each county was given access as desired by the judges consistent with their prior practices and, as a result, access was not universal among counties. The app, in its unsupported condition, cannot handle the current number of users or additional users. Court Technology is in the process of moving off SPA and, at the same time, modifying access to a more uniform format for all counties which will likely reduce some user access and irritate those with less access than before. The point of the reduction is to provide access only to those who should have it as opposed to those who simply want but do not need access.

- E. CCS Authority Rules Proposal – Jeff Wise reported that in some courts non-court staff such as probation officers or Sheriff deputies are allowed to make CCS entries. Trial Rule 77(B) the Clerk is directed to maintain the CCS along with certain listed duties and the judge is broadly given the responsibility to “cause” the entry of the judicial events. How the judge carries out their duty is not defined.

The issue has arisen as to whether third parties outside the office of the Clerk or the Court may create a CCS entry.

Committee Discussion – Discussion related to

- the Sheriff has a duty to make a return on the execution of process but to do so does not need to make a CCS entry
- Supreme Court Rules Committee would welcome a proposal;
- possible solutions are to continue to allow judges to determine who may make a CCS entry or specify by rule that specific third parties may make an entry
- security of court records is involved
- more probation officers make entries than Sheriffs
- recommend the rule remain as written and
- explain to the Rules Committee the RMAC concerns with the rule.

Committee Action – Provide Rules Committee with the RMAC concerns.

- F. Search Warrant Proposal for Rule Committee – The subcommittee studying the issue feels many issues exist regarding how search warrants should be handled in varying situations.

Committee discussions related to

- The existence of more than 72,000 MC cases
- Some cases should remain confidential and completion of service of the warrant is not always the best point in time to end confidentiality
- Perhaps the committee should just monitor the situation and bring the matter back if issues arise.

- G. Notice Publication Website Proposal to Rules Committee – Mary DePrez reported that the Supreme Court has approved development of a website to be used either in lieu of newspaper publication or as an alternative. The concept is to only do a rule change as opposed to statute modification or repeal. Odyssey is nine counties away from complete conversion of the courts which should be accomplished by the third quarter of 2021.

- H. Public Access to MyCase Documents – Mary DePrez reported that the Public Access Taskforce gave notice to the public of the considerations of document access. The taskforce determined what documents could be shown on MyCase.
- I. Criminal Rule 24 Rule Proposal to the Rules Committee – Jeff Wiese reported that the proposal is grounded in the need for the Public Defender Commission to learn of the existence of LWOP issues as soon as possible in order to offer services. Currently, cases with LWOP events are found through a monthly report that goes to the Commission which seems satisfied with the arrangement. Perhaps a rule proposal is not needed at the moment.

IV. New Business – None

- V. 2021 Meeting Dates - May 11, 2021 and November 9, 2021 - 10:00am to 3:00 p.m. with staff to estimate actual length of meeting when sending out meeting materials.**