

INDIANA SUPREME COURT
RECORDS ACCESS AND MANAGEMENT COMMITTEE MINUTES

May 23, 2023 via Zoom

Members present:

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

Judicial/Lawyer Members: John Laramore, Esq., Executive Director of Indiana Legal Services; Judge Bruce Parent, Lake Superior Court; Kelly Scanlan, Marion Superior Court; Emily Anderson, Court Administrator, Delaware County, Douglas Church, Esq., Chris Nancarrow, Allen County Clerk, Christine Haseman, Monroe Circuit Court, Steven Creason, Marion Superior Court, and.

Gretchen Lund, Elkhart Superior Court and Amelia McClure were unable to attend.

Staff Present:

Richard Payne, Staff Attorney to the Committee, Indiana Office of Court Services; Jeff Wiese, Deputy Director, Indiana Office of Court Services and Tom Jones, Indiana Office of Court Services.

Guests:

Janelle O'Malley and Gaye Lynn Strickland, Office of Court Technology, and J.T. Parker, Indiana Prosecuting Attorneys Council.

- I. **Introduction-** Justice Massa, welcomed the attendees and expressed the thanks of the Supreme Court to Judges Parent and Lund for their service to the committee during their six years as members.
- II. **Minutes** – The minutes of the meeting of November 1, 2022, were unanimously approved.

III. Reports

A. Red Flag, Eviction, and Guardianship Miscellaneous Case Types

Jeff Wiese reported that:

- The Task Force Committee met for two years to discuss access to documents on "my case.
- Three case types have been implemented since the task force ended: guardianship miscellaneous red cases, flag cases, and eviction cases.
- The Records Access and Management committee is in charge now of making decisions and determining who should have access to documents in "my case."
- The chart that was sent to all committee members explains who has access to what and where.
- The main consideration is whether the public should have access to these documents. Attorneys using attorney access will be able to see the documents, but the decision needs to be made for public access.

Committee Discussion:

- Red Flag cases filed by the Prosecutor should be confidential
- Cases should be public but not case documents
- EV cases – the recommendation of the Records Access Task Force should be followed.

Committee Action:

- **On motion made and seconded, the current status quo should remain. Motion unanimously carried.**
- **On motion made and seconded, the Committee unanimously agreed that GU Miscellaneous documents should not be provided on MyCase.**
- **On motion made and seconded, the Committee unanimously determined that the status quo should be maintained and the public should only see non-confidential orders on EV cases.**

B. Party Access to Case Documents Implementation

Janelle O'Malley reported that:

- The "my case party access" feature was rolled out in February of this year
- This feature allows parties to either go into the clerk's office or request a code online. That code connects them to their cases, and all of the documents on those cases through mycase.in.gov once they activated their code.
- Access is only available on public cases.
- About 100 requests per day are received through the online platform on mycase.in.gov while a few requests are received each week from individuals who visit the clerk's office and ask for printed access codes for their cases.

C. **Allen Co. E-filing of Criminal Cases**

Janelle O'Malley reported that:

- Allen County uses a different software vendor for their prosecutor's case management system than the rest of the state, and their criminal cases are not being E-filed.
- An E filing Implementation Guide.
- The prosecutors in Allen County have expressed interest in E filing their cases and we are working with them to try to move them to E filing.
- The implementation schedule does say that criminal cases should be e-filed- Initial and subsequent- and Allen County is likely moving in that direction.
- Allen County is working with INPCMS to create compliance.

D. **Special Judge Process – TR 79**

Jeff Wiese reported that the task force has worked on a proposal for TR 79 changes but has not obtained a complete resolution yet. A proposal should be ready for the November meeting.

IV. **Old Business**

A. **Arrest Warrants & Records Confidentiality**

Bernice Corley reported that the working group consisting of herself, Mary DePrez, J. T. Parker, and a Public Defender from Monroe County have continued to meet but have not come to a resolution. The group feels the issue should be closed.

J. T. Parter indicated that the Indiana Prosecuting Attorneys Council wants all Prosecuting Attorneys to have access to domestic relations cases.

The group will continue working and send any proposal to committee members.

B. **Trial Rule 77 Revisions**

Jeff Wiese reported that the taskforce has created a written proposal.

Committee Action:

- **Upon motion made and seconded, the committee approved sending the proposal to the Court for approval.**

V. **New Business**

A. **Evidence Retention**

Jeff Wiese reported that:

- A statewide rule for retention does not exist
- The Records Management Committee previously discussed the issue in 2000 and 2010 and proposed a model statewide rule.

- The Supreme Court did not adopt the proposed rule out of concerns for placement of a financial burden on counties without a funding mechanism.
- Legislation introduced last year focused on evidence retention by the police, leading to the question of whether it is a suitable time to reconsider a statewide rule.
- Counties currently have the flexibility to establish their own local court rules on evidence retention, and many have already done so.

Committee Discussion

- The unimplemented model form 2010 was discussed
- Problems exist among counties about the treatment of evidence which can adversely impact PCR issues.

Committee Action

- **A Working Group consisting of Jeff Wiese and Bernice Corley was created to study the issue.**

B. Party Access Overview, Documents, and Reports

1. Protective Orders

Committee Discussion

- Currently only attorneys in the case have access in MyCase to POs
- Should all attorneys have access?
- Everyone has access to the cases from the Clerk Public Access terminals.

Committee Action

- **Upon motion made, seconded and unanimously approved, access to non-confidential documents should be granted to all attorneys.**

2. Public Access Calendar Additions

Committee Discussion

- People with PO and juvenile hearings that are not posted on court calendars are missing hearings
- If posted, only the PO or juvenile case number, name and judicial officers should be posted on court calendars.

Committee Action

- **On motion made, seconded and unanimously approved, only names, case number and judicial officer should be posted on court calendars for PO and juvenile cases where the judge has opted for posting.**

3. Party Access without an ID

Janelle O'Malley reported that:

- The issue involves party access in court technology and validating the identity of individuals at clerk's offices.
- Individuals need a code from the clerk's office to access their case, but some do not have an ID to prove their party status.
- It is unclear how to validate identity without an ID, leading to the question of whether the judge or the court should determine their party status.
- Currently, the clerk's office has been instructed not to provide access codes without an ID.

Committee Discussion

- The default position for clerks could be to instruct individuals requesting access codes to obtain them through the online process.
- If a party's address has changed from the record in Odyssey, they should be instructed to file an amended appearance with the court to update their party record. This is important because we have experienced situations where mail has been returned due to address changes, resulting in parties not receiving their access codes.
- The current process involves sending the access code to the address listed on Odyssey.
- If an individual does not have identification or is uncomfortable providing an access code in person, clerks should advise them to use the online process to obtain the code.

Committee Action

- **Upon motion made and seconded and approved, Court Technology will send a special code to their address listed in the party record in Odyssey.**

VI. Next Meeting - November 14th - 10:00am to 3:00 p.m. via Zoom with staff to estimate actual length of meeting when sending out meeting materials.

VII. Adjournment - The meeting was adjourned at 11:32 a.m. upon motion made, seconded, and unanimously approved.