

INDIANA SUPREME COURT
RECORDS ACCESS AND MANAGEMENT COMMITTEE MINUTES

May 10, 2022, via Microsoft Teams

Members present:

Permanent Members: 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: Stephen Creason, Esquire; Office of the Indiana Attorney General; 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; Stephen Key, Esq.; Christine Hickey, Esq.; Emily Anderson, Court Administrator, Delaware County.

Justice Mark Massa, Indiana Supreme Court, Chair was unable to attend.

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

- I. Introduction-** Jeff Wiese, Deputy Director, Indiana Office of Court Services, welcomed members and guests and expressed thanks for the efforts of Debra Berry and Christine Hickey who are rotating off the committee having served two terms.
- II. Minutes** – Upon the motion of Mary DePrez, seconded by Stephen Key, the minutes of the meeting of November 9, 2021, were unanimously approved.
- III. Reports**

A. CCS Authority – Jeff Wiese reported that the Rules Committee is still working on the issue.

Committee Discussion:

In some counties, the courts have allowed members of the Sheriff's Department to make CCS entries concerning service of process. Concern was expressed regarding general access ability, the ability to make entries beyond a return of service, and the potential for alteration of entries. Some counties rely on training and the terms of access

agreements to guard against improper use. Once access is provided, Court Technology cannot limit the access to specified case types.

It was noted that probation officers are also officers of the court and court employees which might justify their ability to make entries.

Committee Action: Staff will create a summary of the committee's thoughts and concerns and send it to the Rules Committee.

Jeff will report on the progress of this issue at the next meeting.

B. Remote Access to Documents on MyCase – Janelle O'Malley reported that Court Technology is working to expand access to documents on MyCase so that:

- lawyers can access documents in cases in which they appear as counsel and
- parties can access public documents on their cases upon obtaining a security code and
- parties can access confidential documents on their cases upon going to the clerk's office and obtaining a special code upon verification of their identity.

Parties would also be able to print their documents.

Committee Discussion:

Access should be limited to the directives on access of the Public Access Taskforce which was concerned about public prurient interests.

The Supreme Court should adopt a rule making a formal declaration of confidential records.

Access to specific case and document types should be reviewed periodically.

Committee Consensus: Review of case and document availability should be a yearly agenda item.

IV. Old Business

A. E-Service & E-Filing of Exhibits Progress – Judges can receive pleading documents and exhibits if they are added to the public service list which is the only way for them to be served via E-Service. This process would solve an issue related to Special Judges not being served with documents which is required by TR 5 and can now only be accomplished by mail, e-mail, fax, or personal delivery. Many judges still use their personal e-mail as their principal address as opposed to an e-mail address created for their court only.

Committee Discussion:

Many judges do not want to be included in the public service list and/or fear being inundated with documents they do not need.

The E-Filing Business Committee favored inclusion of judicial e-mail addresses in the public service list but did not formally act upon the issue before being dissolved.

The Special Judge issue could be solved by bringing the process to current time. Moving judges to another county to preside over a case is outmoded. Moving the case to the court of the Special Judge would be more efficient.

Caseline is an application created by Thomson Reuters for temporary access and storage of exhibits in cases and is being used in a pilot project in Hamilton County. Currently, the use is restricted to non-complex cases. Court Technology is also seeking to create an application for more permanent storage and exchange of exhibits which would be made available to courts without cost.

Committee Consensus: The committee should suggest to the Supreme Court that it examine the Special Judge process.

Jeff Wiese will discuss the proposal with Justin Forker, Chief Administrative Officer.

B. 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 met three times and had robust discussions concerning the issues. They feel the need to conduct further meetings before being ready to report to the committee.

V. Next Meeting Date – November 1, 2022 - 10:00am to 3:00 p.m. with staff to estimate actual length of meeting when sending out meeting materials.

VI. Adjournment - The meeting was adjourned at 11:29 a.m.

INDIANA SUPREME COURT
RECORDS ACCESS AND MANAGEMENT COMMITTEE MINUTES

November 1, 2022, via Microsoft Teams

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, Executive Director of Indiana Legal Services; Judge Gretchen Lund, Elkhart Superior Court; 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, and Amelia McClure, Hoosier State Press Association.

Stephen Creason, Magistrate was 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.

Guests:

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

- I. Introduction-** Justice Massa, welcomed new members: Douglas D. Church with the law firm of Church Hittle & Antrim in Hamilton County, Christopher Nancarrow, Allen County Clerk and Amelia McClure, Executive Director of the Hoosier State Press Association.
- II. Minutes** – The minutes of the meeting of May 10, 2022, were unanimously approved after correction of Judge Scanlon’s position change to the Marion Superior Court (Family Division).
- III. Reports**
 - A. Rule Committee CCS Authority Status – Jeff Wiese reported on
 - variations from county to county concerning CCS entry making since implementation of Odyssey and its ability to identify the maker of an entry,

- concerns related to entries made by the Sheriff or Probation Officers, and
- the Rules Committee's willingness to consider any proposal amendment or recommendation submitted by the Records Access and Management Committee.

Committee Discussion: Discussion centered on the

- Lack of known, serious problems, and the
- Ability to identify who made a particular entry.

Justice Massa asked whether a specific rule is needed or should the issue just be let alone.

Members stated that:

- If a rule is enacted, it must be enforced,
- Various non-court staff make entries through adopted local practices and problems have not occurred and the risk seems low,
- Odyssey preserves the identity of persons making an entry on a case,

Committee Action: It was agreed that the issue will be removed from future agendas until a problem arises.

B. Special Judge Process – Jeff Wise reported that Trial Rule 5 requires that a Special Judge be served with all filed documents but often do not receive them. The Strategic Planning Committee has examined the issue without devising a solution. Possible solutions include:

- Putting all judges' emails into the Public Service List,
- Treat the Special Judge appointment as a change of venue or transfer so that the case is docketed in the Special Judge's court,
- Give all staff of the Special Judge access to the cases and ability to make entries for the judge but this access would mean access to all cases in the state.

Committee Discussion: Venuing or transfer would eliminate the service issue,

- Venue fees could be an issue or perhaps could be avoided, and
- Party costs and travel needs would be increased.

Committee Consensus: A sub-committee consisting of Judges Parent and Lund, Administrator Anderson, and Clerk Nancarrow will study the issue and provide a proposal to the committee.

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 are not ready to report to the committee.

V. New Business

A. Trial Rule 77 Revisions – Jeff Wiese reported that city and town courts and clerks believe that TR 77 does not apply to them because the rule address requirements of Circuit Court Clerks. The rule needs amendment so that all courts and clerks are bound by the same rule and speaks to current ways the courts do business and keep records.

Committee Discussion – Discussion was brief and in agreement of the need for an amendment.

Committee Consensus: A sub-committee consisting of Judge Scanlon, Chris Nancarrow and Emily Anderson will consider the rule and report back to the Committee with an amendment proposal.

B. Red Flag Law Case Type – Jeff Wiese reported that many requests for statistics regarding use of Indiana’s law are presented. The statute can be initiated by police or by a prosecutor which leads to filings in differing case types because prosecutors can file civil cases. Creation of a single case type for all Red Flay Law cases is needed.

Committee Discussion: The committee quickly came to a conclusion that a single case type would be a good idea and was advised that the Chair of the Rules Committee did not feel a proposal needed to be referred to them.

Committee Action: Upon a motion which was seconded the committee unanimously agreed that a sub-committee should draft a rule proposal for the whole committee to vote upon.

C. Allen County and E-filing of Criminal Cases – Mary DePrez reported that Allen County does not use INPCMS and its vendor cannot initiate criminal cases through e-filing even though they should be doing so. A new Prosecutor will take office in 2023 and has indicated a plan to implement INPCMS.

D. Party Access to Case Documents – Janelle O'Malley reported on Court Technology’s progress on its mandate to provide the public with access to court documents. The plan is to implement document access in phases with party access via registration and an access code that will allow them to view only the documents in their case. Access

then will later be expanded to confidential cases. Court Technology asks the Committee to recommend Phase I implementation to the Supreme Court.

Committee Discussion:

- The difference between access for an Odyssey party versus for a participant
- It is the court's responsibility to direct the clerk as to who is a party and who is a participant.

Committee Action: On motion made and seconded and unanimously approved, the Committee will recommend to the Supreme Court the implementation of Phase I.

- VI. Meeting Dates for 2023 – May 23rd and November 14th - 10:00am to 3:00 p.m. with staff to estimate actual length of meeting when sending out meeting materials.**
- VII. Adjournment -** The meeting was adjourned at 11:05 a.m. upon motion made and seconded.