



Technology Working Group

RECOMMENDATIONS

March 2021

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Executive Summary

The Technology Working Group was launched on November 4, 2019, along with the Innovation Initiative and the Family Law Task Force. The TWG presents in this report eight project recommendations to improve service to the customers of the Indiana judiciary. The team also presents its evaluation of the *18 Ways Courts Should Use Technology to Better Serve Their Customers*, a report authored by John Greacen and issued in October 2018 by the Institute for the Advancement of the American Legal System.

The TWG explored opportunities to enhance customer service through implementation of new technology, optimization of business processes, or both. The Indiana Office of Judicial Administration (OJA) launched projects to implement several of the TWG's proposals, including virtual hearings, online portal for digital exhibits, and online dispute resolution. Additionally, TWG members brainstormed improvements in high-volume court processes that will be piloted during the first half of 2021.

The Covid-19 public health emergency struck early in the TWG's charter. Indiana courts responded with a series of actions to ensure that the courts remain open and available to the public. Virtual hearings were key to this response. Many technology services outlined in this report seem more practical and applicable after the Covid-19 experience.

The TWG submits this report to the Innovation Initiative and the OJA for their consideration. We appreciate the opportunity to join the Family Law Task Force and Civil Litigation Task Force in contributing to the important programs of the Innovation Initiative.

The TWG recommends eight specific projects, six for which activity has begun already, and offers its evaluation of each of the *18 Ways* in Indiana.

Video Remote Appearance and Interpreting

The TWG proposed video remote appearance and interpreting during the kick-off meeting in November 2019. Indiana courts rapidly implemented virtual hearings in response to the Covid-19 pandemic.

This report describes various scenarios for virtual hearings, varying from all participants appearing by video to most, but not all, participants appearing in the physical courtroom. Although courts have made great progress in virtual hearings, there are some aspects that require further analysis, including enabling remote interpreters to join a courtroom hearing by video.

The Technology Working Group recommends that OJA implement, in a pilot site, the equipment and services necessary to accommodate video remote interpreting (VRI) for hearings in a video-equipped courtroom.

Online submission of proposed exhibits

The TWG proposed the implementation of an online portal for submission of proposed exhibits. Whether a hearing is virtual or in the courtroom, a portal would simplify the assembly of digital files compared to sharing physical media or sharing files via email. Audio and video files, particularly, can be problematic without a portal.

In March 2021, the Indiana Office of Judicial Administration launched a pilot of the Caselines digital evidence portal from Thomson Reuters in four courts in Hamilton County. After an initial focus on family law cases, the four judges are broadening the scope to additional case types. Based on positive results, the OJA may consider expanding to pilot to the commercial courts and additional counties.

Online Dispute Resolution

The TWG suggested implementing online dispute resolution (ODR) for small claims cases, in conjunction with a separate recommendation from the Family Law Task Force to implement ODR in domestic relations cases. These matters have a relatively high percentage of cases where participants are not represented by counsel for whom structured communications with the other party could facilitate settlement.

The Indiana Office of Court Technology is working with two vendors to launch pilot services for small claims cases in Allen, Hamilton, Lake, and Marion counties. Design of the interviews and forms for small claims is in progress. The services are expected to go live in the second quarter of 2021.

Small Claims Court pilot for scheduling and check-in

Prof. Roger Schmenner and Judge Kimberly Bacon led a process review of high-volume dockets in the Lawrence Township Small Claims Court. The TWG presented a series of recommendations that will be launched, as a pilot, in April 2021, including an automated sequencing program to optimize the session schedule and a program for parties to check-in via kiosk upon arrival. The service will also notify parties by text message when their case is soon to be called. These changes should reduce the time that people wait in the courtroom for their case to be called. Additional recommendations will be piloted in the future.

Pretrial diversion offer before initial hearing

The Indiana legislature authorized pretrial diversion programs as an alternative to conviction for certain criminal offenses. The TWG recommended a change to streamline the process for defendants accused of minor offenses and who will be offered pretrial diversion. A pilot program was approved allowing prosecutors in four counties to offer pretrial diversion before the initial hearing in some cases charging specific misdemeanors. Defendants who accept the offer will enter, and may conclude, the program sooner than if they had waited for the initial hearing. Prosecutors in the pilot program agree not to oppose early expungement of the case. In addition to encouraging prompt resolution of the case, this pilot reduces the load on the prosecutor's office and court staff. This pilot will run through June 30, 2021.

Online dashboard and process improvement for e-notices and e-service

The TWG recommended improvements in delivering court notices and orders to attorneys and parties on the case. Currently, courts send documents by email (e-notices) when they have an email address for the recipient; otherwise, the documents are sent by U.S. mail. This proposal has two components:

- An online dashboard to allow attorneys and parties to view, more easily, the documents in their cases; and
- An improved technical notification method based on web services for those who choose this instead of email.

The Indiana Office of Court Technology has begun design of a dashboard for attorneys to quickly view their e-notices in one location. An anticipated launch date has not yet been set. The second component, to offer e-notices by web services, is pending review.

Check-in by text message

The TWG recommends that the Indiana Office of Court Technology allow self-represented litigants to establish accounts for online services and that a service be developed to allow parties to check in to court by text message. Establishing an online account is essential to enabling check-in as well as future online services, such as accessing their case information and documents on MyCase.

The Technology Working Group recommends that registration for online services for non-attorneys be considered a high priority feature.

Document ID for case documents

Trial courts and attorneys create a separate copy of most or all documents in a case when a party files an appeal. The documents are assembled in an appellate appendix and then filed in the court on appeal.

This project recommends that each document filed in a lower court be given a unique identifier. Attorneys filing an appellate motion or brief would refer to the document using a citation format that allows for pinpoint citation to a specific page. Eventually, this could eliminate the need to assemble an appendix, reducing effort of the trial court staff and the attorney or party on appeal.

As a short-term improvement, a technical enhancement could reduce effort required to assemble an appendix by eliminating back-and-forth communications between trial court staff and attorneys.

The Technology Working Group recommends that attorneys on appeal be granted electronic access to lower court documents for their appeals in MyCase.

IAALS 18 Ways Courts Should Use Technology

The Institute for the Advancement of the American Legal System's (IAALS's) report *18 Ways Courts Should Use Technology* offers a compelling baseline that state courts can use to objectively evaluate their technology platforms.

The TWG reviewed each of the *18 Ways* for Indiana Courts below, starting on page 42, and recommends the following opportunities as its Top 5 for customer service:

- Enabling Customers to Obtain Information and Court Services Using Their Smartphones (#1)
- Enabling Customers to Appear in Court by Telephone or Video Conference (#3)
- Simplifying the Process of Forms Completion (#8)
- Enabling Customers to Obtain Information and Forms Remotely (#7)
- Enabling Automated Court Messaging to Customers (#13)

The Technology Working Group recommends that the Top Five services be given the level of attention commensurate with their high value to the customers of the judiciary.

TWG offers a recommendation regarding IAALS topic #7. Enabling Customers to Obtain Information and Forms Remotely. Today, customers can access legal information and

forms, for many case types, at <http://indianalegalhelp.org>. Indiana does not have a unified court system, and many counties offer forms and information on their respective websites. Issues can arise when the forms are not uniform across all websites, especially when a court rejects a form generated via indianalegalhelp.org, causing confusion for the customers and court staff, alike.

The Technology Working Group recommends that Indiana courts be required to accept forms generated via the indianalegalhelp.org (ILH) website.

Standardizing forms will reduce the cost and complexity of improving the user experience for every court's customers.

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Introduction

Overview

The Indiana Supreme Court launched a statewide innovation program in November 2019, empowering several teams to explore ways to improve Indiana’s system of justice.

The Innovation Initiative brings together people with a diverse range of skills and experiences to work towards these goals. The Initiative began with two subgroups, the Family Law Task Force and the Technology Working Group (TWG), to help in its efforts. A third subgroup, the Civil Litigation Task Force, was launched in January 2021 to extend the scope of the initiative more broadly in the realm of civil justice reform.

TWG team members bring a broad range of experience and skills: trial court judges; attorneys from private practice, government, and academia; distinguished professors in business law, ethics, and operations management; chief information officers from private industry, the executive branch, and from the state- and county-levels of the judicial branch.

The criteria for success were outlined in the Supreme Court order that launched the Innovation Initiative, and they merit repeating: to make Indiana’s system of justice more efficient, less expensive, and easier to navigate while continuing to ensure that justice is fairly administered, and the rights of all litigants are protected.

The TWG identified several potential improvements in technology and court processes, beginning with its first meeting in November 2019. The TWG considered its specific mandate from the Supreme Court in the order establishing the Innovation Initiative:

The Technology Working Group shall [. . .] evaluate business processes and innovative technologies in other jurisdictions, and in commercial enterprise, in preparing its recommendations.¹

The TWG has explored opportunities for improvement through enhancements in technology and optimization of court business processes.

¹ “Order Establishing the Indiana Innovation Initiative” in Appendix A p. 68.

Process flow

The TWG coordinated its efforts with the Innovation Initiative, Family Law Task Force, and Civil Litigation Task Force. Collaboration opportunities arose, since technology is a common thread across all these groups. Ideas can originate from anywhere, and these groups collaborate where the subject matter overlaps, as illustrated by the Venn Diagram in Figure 1.

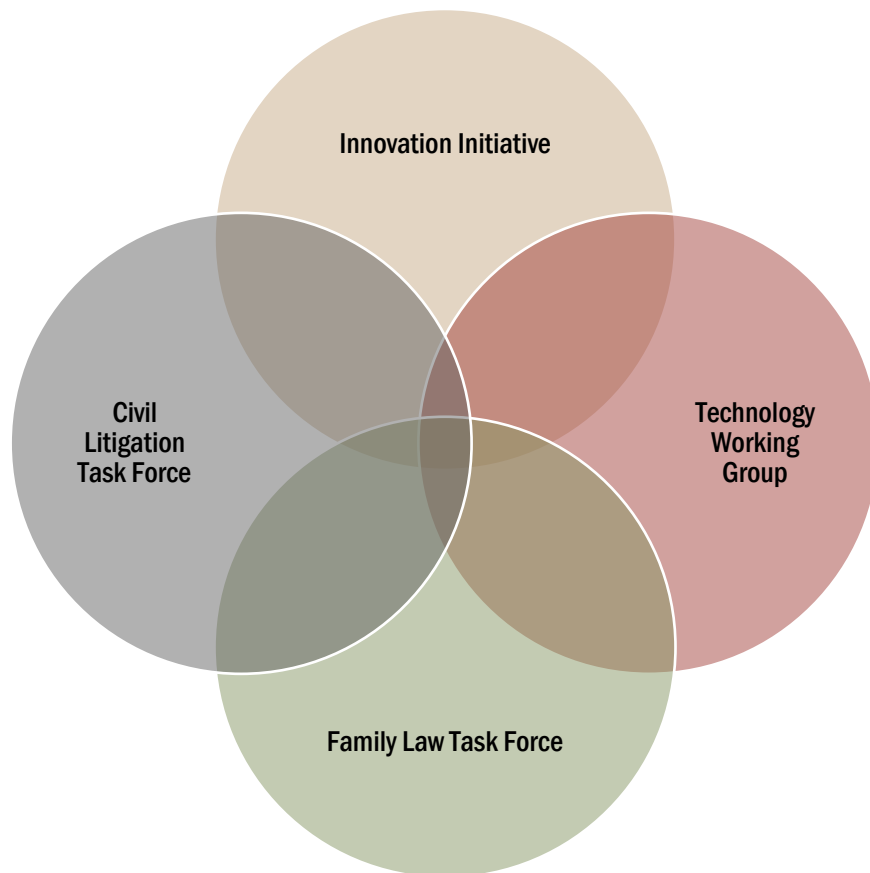
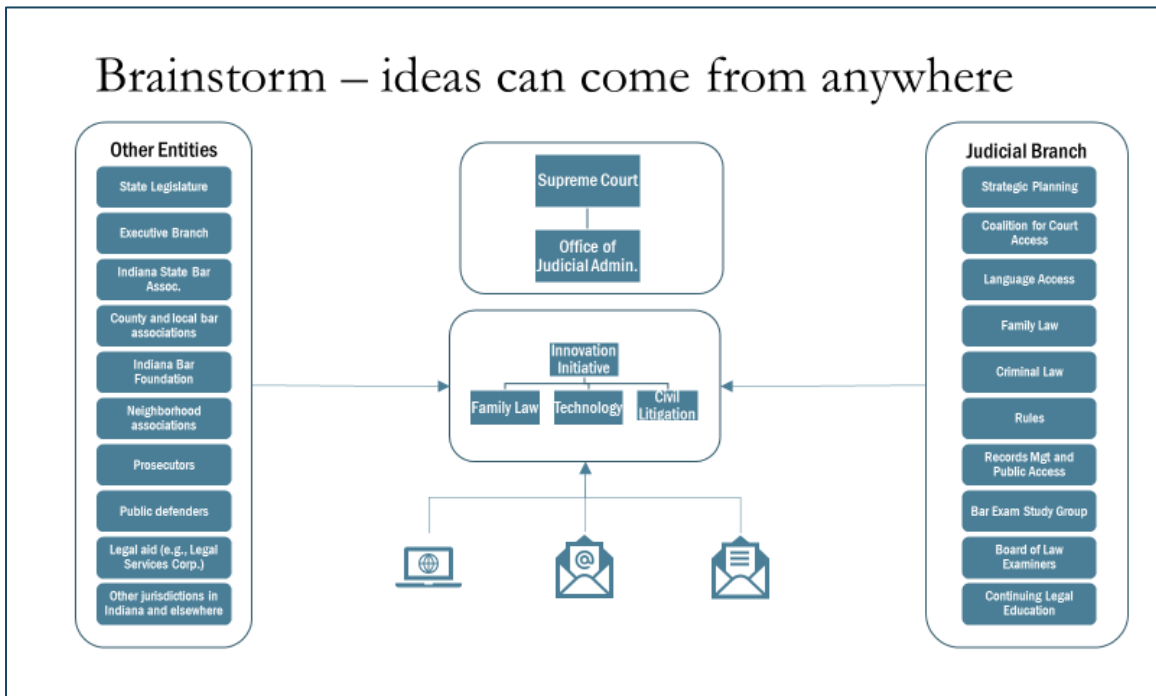


Figure 1 Collaboration opportunities

The Indiana Office of Judicial Administration (OJA) announced the Innovation Initiative and invited suggestions and feedback from the public through a cover page article in the Indiana Court Times² magazine and through an online survey at

² "Ready for Liftoff," Indiana Court Times, February 27, 2020, <http://indianacourts.us/times/2020/02/ready-for-liftoff> (archived at <https://perma.cc/F2XJ-CF96>).

<http://courts.in.gov/innovate>.³ Thirteen responses to the survey were sent to the TWG. Of course, individual TWG members offered their own suggestions to the group. The flow of some potential sources of ideas is illustrated in Figure 2.

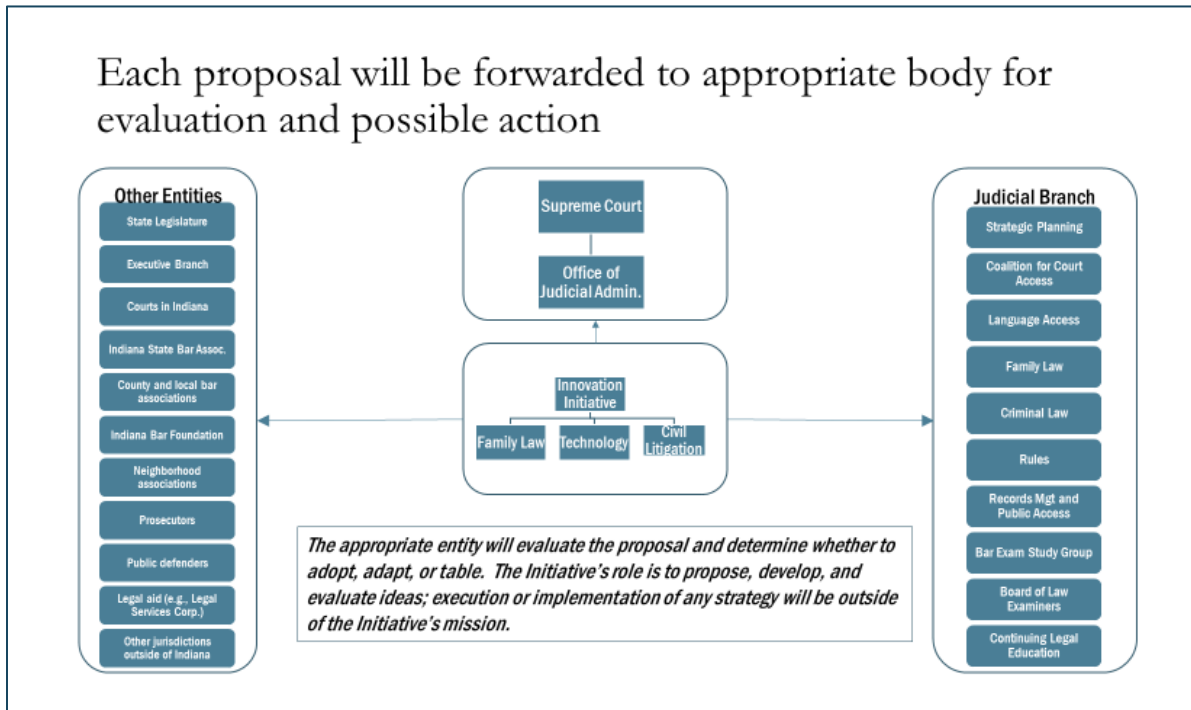


Each group brainstormed and evaluated the ideas presented from any source. The Family Law Task Force, Technology Working Group, and Civil Litigation Task Force send their proposals to the top-level Innovation Initiative for review and feedback. Some ideas may be reworked or refined and then resubmitted. From there, the ideas are sent to the body or organization that would “own” the subject matter.

Many ideas would pass through a judicial branch agency or committee for review or further action. E.g., if a proposal requires a rule change, the proposal would be sent to the Committee on Rules of Practice and Procedure. Other ideas would be submitted to the Indiana Office of Judicial Administration (OJA) for consideration. Depending on the scope, the implementation may be at the discretion of the OJA’s Chief Administration Officer or an agency manager. Some ideas may benefit from consideration by, or require the approval of, the Justices of the Supreme Court.

³ <http://courts.in.gov/innovate> (archived at <https://perma.cc/HDB6-GFE2>).

Finally, there may be proposals that would be directed outside of the judicial branch, perhaps to an executive branch agency or bar association. The flow of finished proposals is illustrated in Figure 3.



Identifying opportunities

From the kick-off onward, two themes prevailed in the Technology Working Group's (TWG's) brainstorm of ideas: improving access to justice and improving efficiencies for courts and customers. The floor was open to new ideas for a better way forward, whether through new technology, new business processes, or both.

The TWG proposed four ideas in the kick-off meeting, three to apply technology to expand access to justice and improve courtroom efficiencies, and a fourth to streamline offers of pretrial diversion for specific, low-level misdemeanors. Over the next four months, the TWG named nine more opportunities where technology enhancements and process optimization could help the customers of Indiana's justice system.

The potential benefits of these proposals increased significantly when the Covid-19 pandemic struck. For example, remote appearance by video (i.e., virtual hearings) was named in the kick-off meeting as an idea with potential. Then, Covid-19 struck, and

virtual hearings became an essential way for courts to remain open. The Supreme Court recommended on March 16, 2020, that trial courts consider “[u]sing telephonic or video technology in lieu of in-person appearances, unless a litigant’s due process rights would be violated.”⁴ On March 27, 2020, TWG member Amitav Thamba demonstrated to the group his implementation of virtual hearings for the Marion Superior Court. Time was of the essence.

Many of the proposals are aimed to improve the experience of customers with cases in high-volume dockets, which were problematic before the pandemic and even more so now.

The Civil Justice Improvements Committee of the Conference of Chief Justices issued twelve general recommendations to improve services in high-volume courts, and five more recommendations specific to debt collections in Appendix I of its report, *Call to Action: Achieving Civil Justice for All*.⁵ Many of the TWG’s proposals, including Check-in by text message (page 37) and Online Dispute Resolution (page 25), apply to a broad scope of cases, including those on high-volume dockets.

⁴ Order in “In the Matter of Administrative Rule 17 Emergency Relief for Indiana Trial Courts Relating to the 2019 Novel Coronavirus (COVID-19)”, issued March 16, 2020 (20S-CB-00123), p. 2, available at <https://www.in.gov/courts/files/order-other-2020-20S-CB-123.pdf> (archived at <https://perma.cc/7L7C-HD2L>).

⁵ Civil Justice Improvements Committee of the Conference of Chief Justices, *Call to Action: Achieving Civil Justice for All: Appendix I: Problems and Recommendations for High-Volume Dockets*, <https://iaals.du.edu/sites/default/files/documents/publications/ccj-cji-appendices-i.pdf> (2016) (archived at <https://perma.cc/T42G-6DA4>).

Timeline of ideas

2019
Nov

- Process improvement for high-volume docket (small claims)
- Remote appearance by video
- Online dispute resolution
- Pretrial diversion offer before initial hearing

2020
Jan

- Check-in via smartphone – text message or QR code
- Account registration to capture customer needs
- Overview of planned Marion County Justice Center
- Kiosks or websites to provide legal information for customers

2020
Feb

- Improve scheduling of hearings
- Text message reminders and court notices
- Wayfinding displays (“Now serving” style)
- Portal to submit exhibits with court
- E-filing through practice management systems"

2020
Mar

- Marion County virtual hearings
- Virtual pro bono clinic for small claims (w/CCA)
- Covid-19 pandemic

2020
Apr

- Brainstormed virtual jury trials
- Discussed potential student project

2020
May

- Guided interviews for indianalegalhelp.org (w/ CCA)
- Enable access to mycase.in.gov for non-attorney parties to a case

2020
Jun

- ODR or guided interviews for plea negotiations
- Standardize video conference platform for jails
- Online juror questionnaires
- Artificial intelligence to automate processes

2020
Jul

- Dashboard for e-notices and improved integration w/ practice management systems
- Reviewed proposals from Family Law Task Force and Innovation Initiative

2020
Aug

- Potential improvements for e-service and certificates of service

2020
Sep

- Court navigators for small claims (w/ CCA)
- Document ID for case documents
- Online payments in civil cases
- E-signatures
- Reserving time on court calendars
- Allow paralegals to sign-on to mycase.in.gov to view attorneys' cases

2020
Oct

- Information videos for self-represented litigants
- Student review of debt collection info on court websites

2020
Dec

- Augment information videos for SRLs to include quiz

2021
Jan

- Training for clerks and court reporters on sharing electronic record for appeal

2021
Feb

- Prepare final report

Pilot projects

Video Remote Appearance and Interpreting

The Technology Working Group recommends that the Office of Judicial Administration implement, in a pilot site, the equipment and services necessary to accommodate video remote interpreting (VRI) for hearings in a video-equipped courtroom.

Introduction

This proposal was drafted on March 17, 2020, when the scope of the Covid-19 pandemic was unclear, and it is reproduced largely in its original form. In 2020, Indiana courts launched virtual hearings in response to the Covid-19 public health emergency, streaming the proceedings live to ensure that courts remain open and public. While courts have gained much experience presenting hearings where all participants are remote, gaps remain to accommodate scenarios where some participants are present in the courtroom and others, including interpreters, appear by remote video. This section describes the various scenarios in more detail.

The Technology Working Group (TWG) has identified significant potential benefits of implementing videoconferencing technology to improve efficiencies of certain types of hearings. The TWG effort parallels with the video remote interpreting project evaluated by Indiana Office of Judicial Administration (OJA).

Although the primary focus of the Innovation Initiative is to improve civil justice in Indiana, it is noted that video appearance can also improve public safety when defendants appear by video from county jail or state prison.

The Civil Justice Improvements Committee of the Conference of Chief Justices identified the following benefits of remote appearances, in its report, *Call to Action: Achieving Civil Justice for All*:

1. Telephonic communication can reduce cost and delay in the civil justice system.
2. Videoconferencing can reduce cost and delay in more complex litigation events.
3. Videoconferencing can positively affect access to justice for litigants, particularly self-represented litigants.⁶

Current State

Video Remote Appearance

Prior to Covid-19, individual courts offered video remote appearance, under limited circumstances, on a court-by-court or county-by-county basis. Some judges asked that criminal defendants appear by remote video from state prisons or county jails for certain types of non-evidentiary hearings.

Indiana Department of Corrections

The Indiana Department of Corrections (DOC), with support from the Indiana Office of Technology (IOT), has deployed Cisco telepresence equipment in all DOC prisons. For each hearing where the defendant appears by remote video, the court schedules directly with the prison where the offender is detained. DOC supplies the connection instructions for the hearing.

Several judges reported to IOCT that technical issues have limited the use of this technology. In response, IOCT worked with DOC staff to improve the connections between courts and prisons and to facilitate scheduling of hearings.

County Jails

Some courts work with their county sheriff and technology staff to implement a point-to-point video connection with the jail. Technology and procedures can vary county-by-county. Ubiquitous tools, such as WebEx, Zoom, Hello, and FaceTime, can be used for point-to-point connections. Care must be taken that ensure that devices at each end are

⁶ Civil Justice Improvements Committee of the Conference of Chief Justices, *Call to Action: Achieving Civil Justice for All: Appendix G: Remote Conferencing - Findings and Recommendations*, <https://iaals.du.edu/sites/default/files/documents/publications/ccj-cji-appendices-g.pdf>, pp. 3-5 (2016) (archived at <https://perma.cc/NX2F-4524>).

secure, that data is encrypted during transmission, and that audio can be recorded in the hearing for possible transcription.

Video Remote Interpreting

Courts must provide interpreters in specific circumstances. Interpreters may appear in-person, by telephone, or by video, depending on the type of hearing.

Remote interpreting by video for hearings in the courtroom is not currently sponsored by OJA, though individual courts may have pilot programs under way.

For brief, routine matters, OJA offers telephonic interpretation via its subscription to Language Line. Information is available at <https://www.in.gov/courts/admin/language-access/interpreter-services.7>

Desired State

The Indiana Office of Judicial Administration, through its Office of Court Services, may consider the procurement of equipment and services for a pilot project for Video Remote Interpreting. The project will also consider video remote appearance in its requirements.

Launching separate projects for video remote appearance and interpreting would create the potential for duplication of effort and would impose the risk that equipment may be bought for video remote appearance (VRA) that is incompatible with video remote interpreting (VRI). There are multiple factors that affect the requirements for remote participation, including those listed in Figure 4.

⁷ Archived at <https://perma.cc/H5GS-NQ2B>.

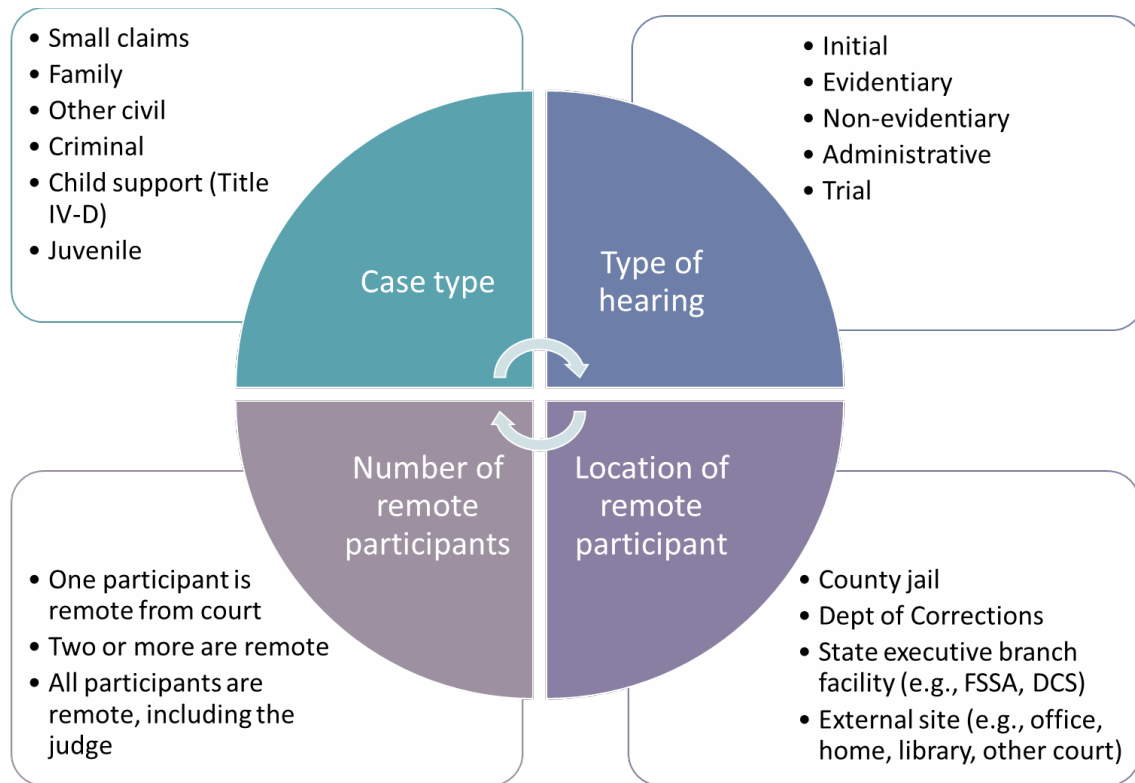


Figure 4- Factors to consider in remote participation

If a court supports VRI, the same equipment should support all requirements for VRA. The converse is not necessarily true; for example, technical requirements for the courtroom are lighter if a court supports only one remote, non-interpreter participant per hearing.

In all scenarios, procedures for connecting to the county jail will be determined county-by-county by the courts, sheriff department, and county technology staff. Equipment requirements may vary county-by-county.

There are many different combinations of remote participation to the hearing, where any one or more of the following can appear via remote video:

- Plaintiff
- Defendant
- Witness
- Interpreter
- Attorney
- Judge

Rather than naming all possible combinations, the following scenarios illustrate various levels of technology that can be applied to the remaining combinations not covered here.

One remote participant (non-interpreter)

Courts can support one remote participant with a relatively modest investment in equipment. Procedures for connecting to the county jail will be determined county-by-county by the courts, sheriffs, and county technology staff.

This may satisfy the requirements for many courts. Interpreters will continue to appear in person for all but the most basic types of hearings, which can be accommodated by Language Line.

One remote participant (interpreter)

Supporting a remote interpreter adds complexity to the solution, based on a variety of factors. Simultaneous interpretation, for example, is more complex than sequential interpretation, as it would require a second audio channel that is also part of the court record. A hearing coordinator would need to be able to mute the recording, or mute specific devices, when a lawyer needs to ask a question of their limited English proficient client.

All parties are remote, including the judge

All parties would appear by remote video, including the judge. To improve the technical quality of the presentation, the judge would preside over the hearing from an office or conference room with better acoustics and lighting than would be typically found in a courtroom. Depending on the court and county, equipping a “video courtroom” can range in complexity (and cost) from a basic video camera on a computer in the judge’s office to a conference room with higher end videoconferencing equipment. To ensure transparency, and to follow the concept of “open court,” the matter would be presented live on a video monitor in the courtroom or in another room in the courthouse.

In its most basic concept, this process can be carried out by connecting from the “video courtroom” via a system such as Microsoft Teams, WebEx, Zoom, etc. This is the scenario that many courts implemented in 2020, with support from the OJA and IOCT.

A more sophisticated solution would allow for (1) switching specific locations on or off (e.g., to turn off the courtroom presentation during consultations at the bench); (2)

separate, private conversations (e.g., attorney-client, attorney-client-interpreter); and (3) recording the separate audio channel for interpretation, when applicable.

The Conference of Chief Justices “Call to Action” report made the following recommendations with regards to videoconferencing:

- 2.1. Courts should use videoconferencing in civil litigation when appropriate and in proportion to the needs of the appearance.
- 2.2. Whenever videoconferencing is used for a hearing, all parties should participate in that manner unless the judge allows otherwise.⁸

This type of virtual court would offer benefits that can transform civil practice for relevant case types. Ironically, the technology requirements for this type of hearing are perhaps the least demanding of all scenarios. Nevertheless, the process must follow the necessary formalities of any hearing, including recording for possible transcription.

More uses for videoconferencing

Once the court has adopted videoconferencing, its use is likely to expand over time. For example, courts could activate a session where attorneys can offer legal advice (limited scope representation) *pro bono* to parties who appear in-person. Indiana attorneys could connect from anywhere in the world to a videoconference station in one of the court’s consultation rooms. Over time, the use of this technology will proliferate in many ways.

Hearing Coordinators

The hearing coordinator is the person who manages the video conference for each hearing. With Zoom or Microsoft Teams, for example, the hearing coordinator would, among other tasks, set up the meeting link; define the security settings, such as creating a PIN, deciding whether participants enter the meeting automatically or must be admitted by the hearing coordinator; and mute all or specific participants.

⁸ Civil Justice Improvements Committee of the Conference of Chief Justices, *Call to Action: Achieving Civil Justice for All: Appendix G: Remote Conferencing - Findings and Recommendations*, <https://iaals.du.edu/sites/default/files/documents/publications/ccj-cji-appendices-g.pdf>, p. 4 (2016) (archived at <https://perma.cc/NX2F-4524>).

Pilot Opportunities

The technologies and processes can be implemented as pilot programs well in advance of the formal procurement of a statewide solution. Many courts have already implemented videoconference technology in their courtrooms. Configuring and testing these courtrooms for video remote interpreting could allow OJA to establish procedures and best practices for VRI statewide.

Current Status

In April 2020, the Office of Judicial Administration (OJA) licensed Zoom accounts for courts statewide to ensure that courts could remain open via virtual hearings. In July 2020, OJA posted guidance for using Zoom's language interpretation feature, with special thanks to the Arizona Supreme Court Administrative Office of the Courts for sharing the resource.⁹

Many courts implemented virtual hearings within weeks of the declaration of the public health emergency. By June 2020, OJA developed a website for trial courts to live stream their hearings and trials.¹⁰

The existing solution delivers effective video remote interpreting and appearance for virtual hearings. OJA has put on hold the project for a full-featured VRI implementation for the time being. However, several courts have implemented video technologies in their courtrooms to accommodate remote appearance and presentation of exhibits.

The TWG recommends that OJA implement, in a pilot site, the equipment and services necessary to accommodate video remote interpreting (VRI) for hearings in a video-equipped courtroom.

The incremental expense and effort would be far less than originally outlined while delivering a broad range of VRI capabilities.

⁹ Indiana Office of Judicial Administration, "Using the Language Interpretation Feature in Zoom," <https://www.in.gov/courts/files/covid19-2020-0706-zoom-interpretation-guidance.pdf> (July 2020) (archived at <https://perma.cc/6E3V-UJGU>).

¹⁰ "Trial Court Remote Video Hearings," <https://public.courts.in.gov/incs> (archived at <https://perma.cc/Z27E-ADCT>).

Online submission of proposed exhibits

Introduction

The Technology Working Group (TWG) recommended in 2020 that attorneys and parties to a case have a method to submit proposed exhibits for a case prior to that case's court appointment. This would streamline the distribution of proposed exhibits to the judge and other parties, and it would allow participants to view all the proposed exhibits in one place. This would also reduce the need for court staff to scan exhibits that are submitted in hard copy in open court. This will be especially important as courts adopt "telecourt" or "video court" methods for conducting hearings.

Proposal

Courts have implemented virtual hearings, to improve customer service and in response to the Covid-19 pandemic. Under normal circumstances, exhibits are typically submitted in open court or in advance accompanying a motion in limine. Court staff then needs to scan the documents into Odyssey to complete the electronic case file. Currently, with virtual hearings, each court has devised its own method for attorneys to submit exhibits.

Attorneys would benefit from having a way to submit proposed exhibits electronically, in advance of a hearing, whether the hearing is virtual or in-person. Ideally, unrepresented parties would be able to propose exhibits using the same method. If the judge grants the motion to admit the document or media file into evidence, then court staff would copy the file into the case management system.

This project would benefit the court and case participants by providing a consistent and effective method of (1) submitting files to the court and other parties for consideration; (2) making the documents accessible during a telecourt hearing; and (3) allowing court staff to add the file to the case management system without having to scan paper documents.

Status Update

The Office of Judicial Administration launched a pilot project with Hamilton County courts to implement Caselines, a digital evidence portal from Thomson Reuters. Hamilton Circuit Court Judge Paul Felix is leading the effort for the county. The portal

launched in March 2021 in domestic relations cases in four Hamilton County courts. This project offers an opportunity to develop best practices for sharing multimedia files and for presenting evidence and exhibits in a virtual or hybrid hearing.

Many courts have a need for a portal for submission of exhibits. Some courts require the parties to submit exhibits by email, which is cumbersome when the quantity or size of the files is large. Multimedia files can be quite large.

Other courts have established procedures to share exhibits and evidence using the “Serve Only” feature in the Indiana E-Filing System (IEFS); however, the IEFS supports only the PDF format, and a solution is needed for non-documentary exhibits, including audio and video files.

Online Dispute Resolution

Introduction

From its first meeting, the Technology Working Group (TWG) considered online dispute resolution services to improve the experience of many customers who have litigation in Indiana courts. Other jurisdictions have seen cases be resolved in less time and with higher customer satisfaction using Online Dispute Resolution (ODR) than through traditional litigation, especially in the context of small claims and domestic relations. ODR offers a path to better results for customers and reduced caseloads for courts, which were facing an overloaded docket even under normal circumstances. The backlog of cases is growing due to the suspension of litigation in the current public health emergency. It will take some time to return to a normal caseload, which was already heavy.

The TWG recommended that the Indiana Office of Judicial Administration (OJA) implement pilot ODR programs in small claims courts, starting in Marion County. In 2019, there were 174,252 small claims cases filed in Indiana. The negative impact the current crisis has had on the economy, even in the short term, is likely to cause an increase in the number of small claims cases in Indiana, including landlord/tenant cases.

Prof. Anjanette H. Raymond (IU Kelley School of Business) is a member of the TWG who has written extensively on ODR. Prof. Raymond and research assistant Pranita Sarangabany prepared a summary of the benefits of ODR on behalf of the TWG, attached in Appendix D Online Dispute Resolution White Paper.

The TWG suggests that ODR can be beneficial in many types of cases, and the team supports the recommendation of the Family Law Task Force for utilizing ODR for domestic relations cases. We recommend that the OJA begin its pilot in small claims cases as soon as possible and, in parallel, in domestic relations cases, under the timing and scope recommended by the Family Law Task Force.

Current Status

OJA, through the Indiana Office of Court Technology (IOCT), is preparing to launch ODR pilot projects in domestic relations and small claims cases. Four counties have been invited to participate in each case type. The lessons learned from this effort will help guide OJA in expanding ODR to other case types (e.g., traffic) and hearing types. The experience will also help IOCT identify the ideal ODR platform for Indiana courts.

Small Claims Court pilot for scheduling and check-in

Process Review

Judge Kimberly Bacon, Lawrence Township Small Claims Court, is a member of the TWG and invited team members to observe proceedings and recommend improvements. Prof. Roger Schmenner led the review with participation of several TWG members, applying *Swift, Even Flow* methods he designed.¹¹

The observations were derived from visits to the court on November 20, 2019 (pre-COVID, in-person hearings), observations of multiple virtual hearings in 2020, and a review with Judge Bacon and the court staff on June 12, 2020. Most of the hearings were for possession of real estate, debt collection, and proceedings supplemental.

Observations on the process

1. Individuals who were the defendants may have to appear several times in court: initial hearing (judgment), contested hearing (judgment), damages, collection

¹¹ Schmenner, R. (2012). *Getting and Staying Productive: Applying Swift, Even Flow to Practice*, Cambridge University Press, Cambridge, UK.

2. People don't typically prepare themselves for court; they may not read the small claims litigant manual; they may not understand that they can speak to the judge. (Could a triage of some sort be helpful?)
3. At 9 am, the bailiff began reading off names. About 30+ people were there but many others (~2/3 or even more) were not in attendance. Names were read off in batches by lawyer representing the owners of the properties. (Does a reservation system make sense so that more defendants can get to court and not have to stay for as long as they do? What is the cost of having people not show up, to them and to the judicial system?)
4. The bailiff determines the order of the cases. (How do they do that? Are there more effective ways?)
5. Cases were generally batched. Possession cases were dealt with first, followed (typically) by damages cases, and then collection cases.
6. In possession cases, there were some standard ways of operating that proceeded down a decision tree:

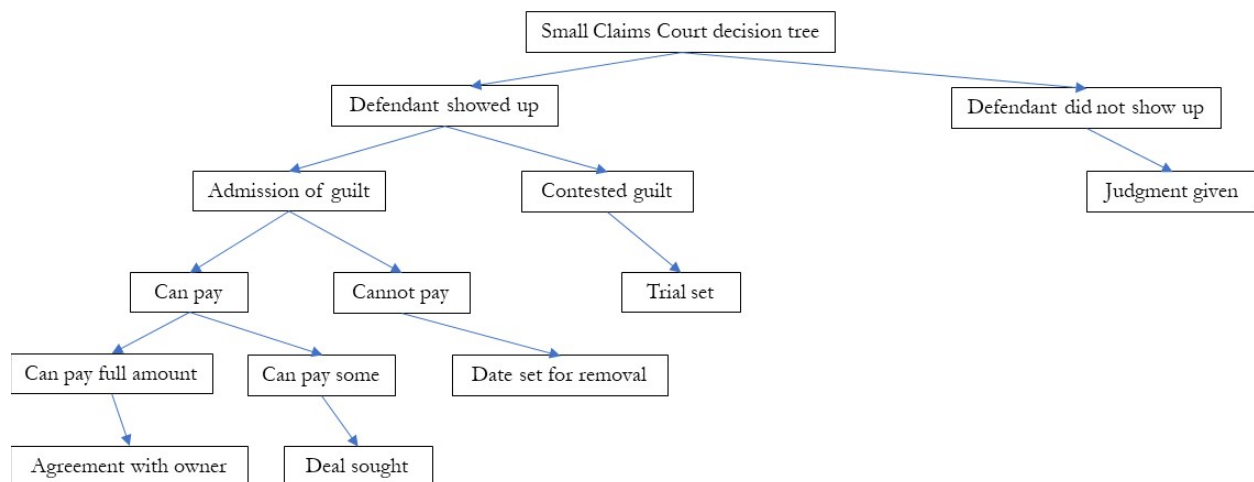


Figure 5 Small claims decision tree

That there are some standard choices that can be made suggests that some of this process can be switched to some technology to perform, rather than remaining as a process that involves the judge for all of it.

7. Every process has a bottleneck, by definition.¹² Here, the judge is the bottleneck in the process. The process can only run as fast as the judge can go.
8. The judge must stamp and sign papers for a judgment. (Is there a faster way to do this?)
9. Defendants are given various materials according to the disposition of the case. Other information is given from the bench. (Can that information from the bench be delivered in another way that is both faster and more easily followed by the defendant?)
10. Next dates are often set from the bench, and that can take time. (Can a scheduling program help the situation?)

Analysis of the Process

- A. Sources of variation
 1. Type of case: possession, damages, collection
 2. Defendants are often unprepared.
 3. Order is determined by the bailiff and not known in advance.
 4. Lots of defendants do not show. Who does show may not be known in advance.
 5. Some defendants are there early but are forced to leave before being called.
- B. Where throughput time bogs down
 1. People come at the same time and have to wait until called.
 2. Lawyers spend some time trying to speak with defendants, presumably to reach some agreements.
 3. Per decision tree, the process is often a standard one and that lends itself to some technological aids to improving throughput time.
 4. The process is often multi-stage which involves defendants showing up at different times.

This analysis and subsequent brainstorming contributed to several proposed improvements, largely under an Innovation Grant awarded by the Indiana Office of Court Services.

¹² Moshe Bar Niv (Burnovski), Zvi Lieber, and Boaz Ronen. *Focused Management in a court system: Doing more with the existing resources*, Human Systems Management 29 (2010) 265–277, p. 268. (“Every system has a constraint. [. . .] A resource constraint (or bottleneck) is the resource that is most heavily utilized, such that it cannot perform all its assigned tasks. This is the resource that constrains the performance of the entire system.”)

- Automatic sequencing of cases
- Check-in by mobile device or kiosk
- Text message notification when it's time to enter the courtroom
- Automatic creation of order to set a contested damages hearing at a later date

Separately, a process was designed to invite customers to participate in orientation in a room separate from the courtroom, to allow the process to flow more quickly. These processes are described more fully below.

Automatic sequencing of cases

The court holds several sessions per week with high-volume dockets which may include scores of cases scheduled to be heard at the same time. A process will be developed to scan the cases scheduled for the session and propose an optimized sequence according to predefined criteria. The sequencing logic can be complex.

- Attorneys will be called before non-attorneys
- Attorneys with fewer cases will be called first (ascending order by # of cases per attorney)
- Some cases may have attorneys on both sides – sequence based on the attorney with the lower number of cases

Court staff will be able to adjust the sequence in real time, e.g., to call first the cases that will be rescheduled for a contested damages hearing at a later date.

Check-in by mobile device or kiosk

A kiosk will be available for customers to check in with the court. They will be asked whether they would like to provide a mobile phone number for text message notifications and an email address to receive future orders and notices by e-mail (e-notices). Customers who provide a mobile phone number can receive text message (1) notifications when their case is near to be called and (2) reminders of future hearings. Customers who have provided a mobile phone number can bypass the kiosk and check in by sending a text message or scanning a QR code.

Automatic creation of order to set a contested damages hearing at a later date

Customers appearing for specific types of hearings can indicate on the kiosk that they intend to deny the claim alleged against them and return for a contested damages hearing. If so indicated, the system will automatically generate an order scheduling the next hearing.

Parallel process for orientation

Currently, high-volume hearings are a single threaded process, for the most part. The orientation does not start until all participants have checked in. Orientation is presented one time, by the judge. If the orientation could be provided in a separate room, and presented multiple times, then the court could begin hearing cases as soon as some participants are ready.

For example, the first orientation can be offered fifteen minutes before the scheduled start of a session - e.g., 8:45am for a 9:00am session. Those participants would be ready for court at the scheduled start time, so cases can be heard sooner. After each orientation session, the participants would proceed to the courtroom, and the next batch of participants would begin orientation. The cycle would continue until everybody has completed the orientation, including the late arrivals. This should result in the court session concluding much earlier than today, and it would enable the court to divide the session into smaller batches at more discrete time intervals.

Court staff directing the orientation could play a video describing the process and their rights and responsibilities, substantively the same information presented by the judge in court. A recorded video could include closed captions, and versions can be prepared with audio translations to languages most common to the court.

Judge David Riggins, Shelby Superior Court 2 and TWG member, demonstrated the orientation video he uses for many of his court sessions. Judge Riggins does not use a separate orientation session, but the video ensures that the message is consistent and complete.

The TWG appreciates the efforts of member Judge Kimberly Bacon and her staff in Lawrence Township Small Claims Court to develop some of these suggestions to improve high-volume dockets.

Lawrence Township Small Claims Court Process Review and Brainstorm

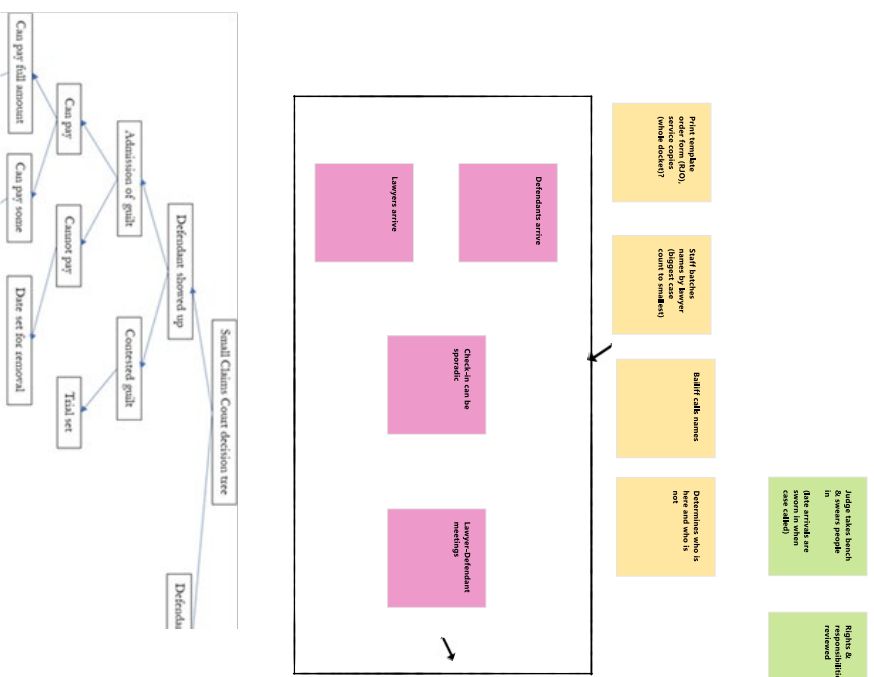
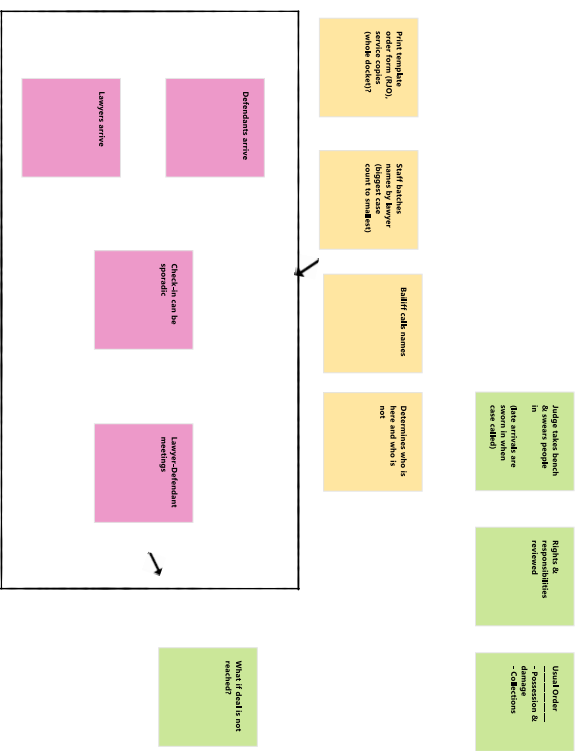


Figure 6 Lawrence Township Small Claims Process Review and Brainstorm

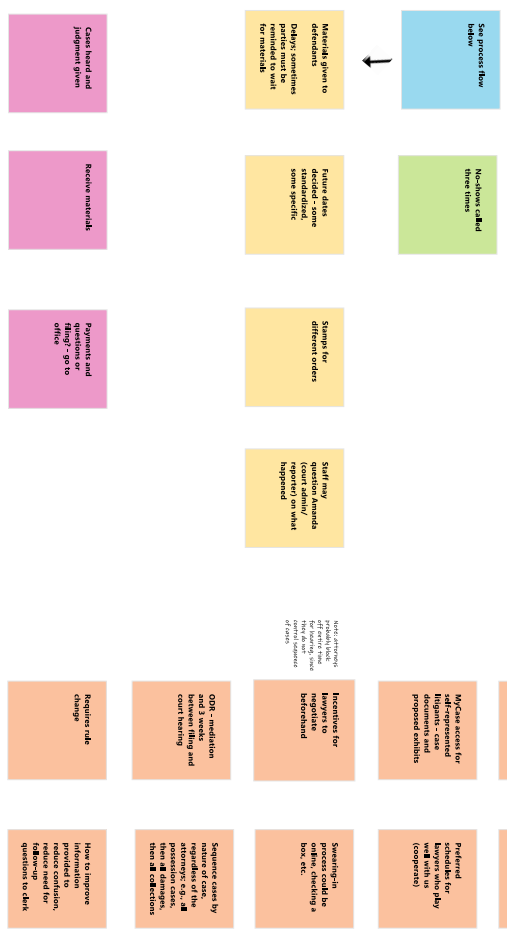


Where time logs down:

- Non-standard future dates sought
- No shows called (?) - lawyer convenience (e.g., first lawyer's no-shows are called before judge moves on to second lawyer's cases)
- Can there be groups for waiting
- Lawyer doesn't know/like process (e.g., lawyers may prefer one township court's processes over another court's)

Sources of variation:

- People don't always check-in
- People don't always get/keep orders
- Do people always get served?
- Defendant interest/involvement
- Defendant savvy/knowledge
- Lawyer familiarity/readiness
- Balance of info (more vs. less)
- Testimony
- Trips to office



Pretrial diversion offer before initial hearing

Members of the Indiana Innovation Initiative and the Technology Working Group proposed this change to allow defendants to start and finish their diversion program sooner than if they waited for the initial hearing, especially while courts are working through the backlog in cases that accumulated during the COVID-19 public health emergency.

This proposal originated independently in the Innovation Initiative and the TWG, with slight variation, and were consolidated into one. The pilot program was launched in Daviess, Jasper, and Lake counties. Results of the pilot will be reported by the Innovation Initiative.

Eligible misdemeanor offenses

Prosecutors will identify candidates for diversion on a case-by-case basis from among those defendants who are not in custody; have no or limited criminal history; and are charged with low-level misdemeanors from the list below.

Offense Name	Statute
Disorderly Conduct	35-45-1-3(a)(1)
Driving While Suspended (w/ prior)	9-24-19-2
Illegal Possession of an Alcoholic Beverage	7.1-5-7-7(a)(1)
Operating a Motor Vehicle Without Ever Receiving a License	9-24-18-1
Possession of a Controlled Substance	35-48-4-7(a)
Possession of Marijuana	35-48-4-11(1)
Possession of Paraphernalia	35-48-4-8.3(b)(1)
Public Intoxication	7.1-5-1-3(a)(1)
Reckless Driving	9-21-8-52(a)(1)
Visiting a common nuisance	35-45-1-5

Diversion offer and agreement

Prosecutors will send to defendants, in advance of the initial hearing, (1) a letter offering pretrial diversion and (2) a copy of the diversion agreement for their review and, if accepted, their signature. The letter and agreement would be standardized, to the extent possible, across the counties taking part in this pilot. The letter is designed to clearly communicate the defendant's constitutional rights.

Prosecutors agree to waive the one-year limitation period for expungement or shielding the arrest from public access, removing a barrier to clearing the defendant's record.

Project benefits

This proposal is intended to help many stakeholders in criminal justice. Judges, court staff, public defenders, and prosecutors would spend less time on cases that are destined for pretrial diversion, allowing them to distribute their limited resources on other matters.

Given the current backlog of cases, it would be possible for defendants to be well into their diversion program before the scheduled date of the initial hearing. The clock would start much earlier for the time periods that they need to avoid being charged with another offense and when the matter can be shielded from public access. Access to the diversion program before the initial hearing is available today only to defendants who hire private counsel; this proposal would ensure that all the defendants similarly situated could choose the diversion program before the initial hearing.

Receiving the offer in advance would not prevent the defendant from appearing at the initial hearing. If defendants choose to appear in court for the initial hearing, there would be no impact on their access to pretrial diversion.

Defendants could ask that the case and arrest be excluded from public access upon successful completion of the diversion program.

This proposal does not affect diversion program fees or their application. No changes in the fees reflected in each county's pretrial diversion agreement should result from this pilot project.

Current Status

The Supreme Court approved a six-month pilot program in January 2021, and preliminary results will be evaluated in June 2021.¹³

Online dashboard and process improvement for e-notices and e-service

Introduction

The Indiana Supreme Court has implemented a statewide e-filing system that allows cases to be filed entirely online, reducing the need for costly paper copies, postage, and trips to the clerk's office. The project was announced in 2014, and the first courts were up-and-running with the new system in 2015. The project was completed with the implementation of Sullivan County in August 2019. One of the essential benefits of e-filing is electronic service ("e-service"). E-Service¹⁴ is a method of serving documents by electronic transmission on any user in a case via the Indiana E-Filing System¹⁵.

Separately, the Supreme Court is implementing the Odyssey Case Management System in courts across the state. Currently, Odyssey is being used in the three appellate courts and in trial courts that process over 80% of the filings statewide. The remaining trial courts will implement the Odyssey CMS during 2021-22. An important feature of Odyssey is the ability to transmit orders, opinions, and notices electronically ("electronic notices" or "e-notices") rather than sending paper.¹⁶

¹³ "Order Establishing Innovation Initiative Pilot Project Permitting Pretrial Diversion Offer Before the Initial Hearing" in Appendix C (archived at <https://perma.cc/DF2F-GECL>).

¹⁴ [Ind. Trial Rule 86\(A\)\(6\)](#) Electronic Service ("E-Service") (archived at <https://perma.cc/48NW-ECJ2>).

¹⁵ [Ind. Trial Rule 86\(A\)\(7\)](#) Indiana E-Filing System ("IEFS") (archived at <https://perma.cc/48NW-ECJ2>).

¹⁶ See Infographic, "[E-filing & Email: What to expect in your inbox.](#)" <https://secure.in.gov/courts/files/efiling-infographic-email.png> (archived at <https://perma.cc/KH86-3SP2>).

Current State

E-service messages are transmitted by the E-Filing Manager¹⁷, a service provided by a vendor under contract with, and on behalf of, the Indiana Supreme Court. E-notices are transmitted by the Indiana Office of Court Technology.

E-service and e-notices are significant improvements over paper-based processing, for many reasons. However, these are delivered via SMTP (“email”), a 1980’s technology¹⁸ that has its shortcomings. More modern methods offer improvements in reliability, security, and potential for improving automation versus e-mail.

Desired State

Overview

This project suggests that the Supreme Court offer optional, enhanced services for e-service and e-notices in lieu of email. The process would offer two paths:

- A dashboard on the Courts Portal or Odyssey Public Access (“MyCase”) to allow attorneys and parties to view the documents in their cases, without regard to any e-notice or e-service; and
- An improved notification method based on web services for those who choose this instead of email.

Dashboard

The Indiana Courts Portal offers online tools for attorneys, mediators, judges, and others who regularly interact with the Supreme Court and its agencies.¹⁹ MyCase is a platform provided by the Office of Judicial Administration for online access to court records, including enhanced access to specific confidential information for authorized users. A dashboard can be added to the Portal or to MyCase to allow attorneys and parties to view the documents in cases in which they participate. The dashboard would allow users

¹⁷ [Ind. Trial Rule 86\(A\)\(4\)](https://perma.cc/48NW-ECJ2) E-filing Manager (“EFM”) (archived at <https://perma.cc/48NW-ECJ2>).

¹⁸ See Simple Mail Transport Protocol, https://en.wikipedia.org/wiki/Simple_Mail_Transfer_Protocol (archived at <https://perma.cc/Ry8F-UGW5>).

¹⁹ See Indiana Courts Portal, <http://portal.courts.in.gov>. (archived at <https://perma.cc/LN3T-SQAP>).

to search for documents based on predefined criteria (e.g., by case, by date of service or issue). The queries would access the data and documents in Odyssey.

Improved notification method

Users who regularly access the proposed dashboard on the Courts Portal or MyCase could opt out of being notified by email and, instead, choose a different method of notification when a new document is e-served or when a court e-notices an order. Most attorneys and parties will continue to rely on notification by email as the legal technology industry evolves to incorporate newer technologies.

Alternatives to email are possible. Indiana's e-filing system implements industry standards known as OASIS LegalXML Electronic Court Filing specifications²⁰. Currently, the EFM supports e-service only by email; however, the system can be configured to transmit via web services. For example, e-filing service providers²¹ could expand their services to include accepting these messages and integrating the messages and documents into the customer's practice management system, document management system, or even their social media accounts.

As an example, in 2018, staff from the Indiana Office of Judicial Administration and the Office of the Indiana Secretary of State developed a similar proposal to enable commercial registered agents to accept e-service through web services. Registered agents representing over 60,000 Indiana businesses expressed a desire to implement this service. Their web services would integrate the e-service messages and documents directly into their practice management system. The possibilities will grow over time, as this twenty-first century technology continues to evolve.

Summary

This project proposes the development of (1) a case documents dashboard in the Indiana Courts Portal or MyCase and (2) enhancements to the EFM to support e-service by web services. Over time, an increasing number of attorneys and parties would see the

²⁰ See https://www.oasis-open.org/committees/tc_home.php?wg_abbrev=legalxml-courtfilling (archived at <https://perma.cc/WM7Y-RG7B>).

²¹ See "E-filing services providers," <https://www.in.gov/courts/efiling/providers> (archived at <https://perma.cc/B58C-K3QZ>).

benefits of several types of e-service that are improvements over e-mail. Courts could replicate the process for e-notices, or issue the e-notices through the EFM.

Current Status

The Indiana Office of Court Technology (IOCT) has begun developing the dashboard for attorneys and parties to access the documents in their cases. Court orders and notices will be available on the dashboard upon their issue by the court, which is earlier than today. Currently, e-notices are transmitted via email in the evening after orders and notices are released.

Some attorneys and law firms could benefit from a more direct integration of their practice management systems with the courts. Some e-filing service providers currently offer this type of integration between practice management systems and the Indiana E-filing System. Offering similar integration for court transactions such as e-notices and hearings may provide benefits that are worth the effort. Further study may be warranted in the future.

Check-in by text message

The Technology Working Group recommends that registration for online services for non-attorneys be considered a high priority feature.

Introduction

The Technology Working Group (TWG) is exploring ways to streamline the process flow in small claims hearings, especially in landlord/tenant matters. Allowing attorneys and parties to check-in with the court electronically could reduce delays in starting each day's proceedings. Engaging with the parties electronically opens more opportunities for improvement that would not otherwise be possible.

TWG member Judge Kimberly Bacon, Lawrence Township Small Claims Court, invited the team to pilot innovative ideas in her court, as described in Small Claims Court pilot for scheduling and check-in (page 26).

Current State

People arrive to court and check in with the bailiff or court staff in the courtroom. The line can stretch to the back of the courtroom during busy days, when many cases are scheduled for the same time. The order by which cases are called depends, in part, on the sequence of each person's arrival. On days when no attorneys are scheduled to appear, the cases are called in the order of a party's arrival, first in, first out. When attorneys are scheduled, their cases are called first, with each attorney's cases called in full before the next attorney's cases are called.

The Indiana Office of Court Technology (IOCT) offers a variety of online services to attorneys, including the ability to securely access their case information and documents via Odyssey Public access ["MyCase" (<https://mycase.in.gov>)]. Unrepresented parties do not have similar access nor a way to securely connect electronically with IOCT services. Unrepresented parties are often confused by the process and may end their time in the court without a full appreciation of what has transpired and what further actions are required of them. Lessening their confusion would help all involved.

Desired State

Registration with Indiana Office of Court Technology (IOCT)

An electronic check-in process would require a way for an unrepresented party to authenticate with IOCT services. One method would be to use a process like the 2020 U.S. Census. IOCT would send a code by U.S. Mail to the party name and address specified by the plaintiff for each defendant on the initial complaint. Upon receiving the code by mail, the defendant could register with IOCT via text message or online application. Text messages offer some benefits compared to online application:

- Many people use text messaging but do not have access to the internet, especially while physically present in the courthouse;
- Many people respond to, or read, text messages more quickly than emails;
- It is more difficult to create a fake mobile phone number than a fake email address; and
- Text messaging can be used for myriad applications, including reminders of hearings, invitations to negotiate with opposing counsel, etc.

Whether by text message or online application, the IOCT process can prompt the user for more information, such as address confirmation, change of address, referrals to indianalegalhelp.org, etc.

IOCT can send a link to the user to replay an online video of the judge introducing the court process and an explanation of each person's rights and responsibilities. The letter or the text message could include a link to the Small Claims user manual. The party could send a code to IOCT confirming that they have viewed the video and, separately, the manual. The system could ask the user if they plan to admit or deny the issues in the complaint. If admission, the party would be invited to discuss a settlement with the opposing party or counsel. If denial, then the matter can be rescheduled to a trial or hearing at a future date, skipping the "cattle call" appearance. The answers to the questions can be used in a scheduling algorithm to decide when the party is to appear next before the court. Upon the conclusion of the hearing, the system could send a text message with a link to download the order issued by the court.

Check in

The court could assign a code for each day's hearing, changing the code daily. The code could be displayed in the courthouse on a monitor or printed on paper, in human readable form and QR code. A person arriving could type the code, or scan the QR code, and send the code by text message to IOCT, which would match the mobile phone number to the party or attorney and check the person in.

Alternatively, or additionally, a kiosk at the court itself can be deployed to allow people to check in online.

IOCT could invite the defendant to speak with opposing counsel in one of the hearing rooms. The system could schedule these discussions on a first-in, first out (FIFO) basis based on arrival times. The parties could indicate whether they have reached an agreement, which could influence the order in which cases are called by the court.

If a person needs to leave for a short while, they can check out and be placed at the end of the line.

Current Status

The Indiana Office of Court Technology is exploring ways for unrepresented parties to establish an account for online services. The Supreme Court has authorized a pilot using a security code in a letter sent by mail, like the 2020 U.S. census. Ensuring that proper cybersecurity controls are in place presents significant challenges.

The TWG recommends that registration for online services for non-attorneys be considered a high priority feature.

Many other TWG proposals and IAALS (Institute for Advancement of the American Legal System) *18 Ways* require that non-attorney customers be able to register an account.

A separate project was launched through an Innovation Grant awarded by the Indiana Office of Court Services to the Lawrence Township Small Claims Court to provide wayfinding services and to allow parties to check-in via kiosk. This project is described in more detail in the section Small Claims Court pilot for scheduling and check-in (page 26). However, the pilot is less robust than would be possible if non-attorneys could check-in by text message with an online account with IOCT.

Document ID for case documents

The Technology Working Group recommends that attorneys on appeal be granted electronic access to lower court documents for their appeals in MyCase.

Introduction

The Indiana Supreme Court established a platform for electronic casefiles with the parallel implementations of the Odyssey case management system and the Indiana E-Filing System. Attorneys are required to file all documents electronically, and self-represented litigants and other filers are encouraged to do so. Courts using Odyssey ensure that the casefile is fully electronic by scanning conventionally filed documents into the system.

Electronic casefiles enable improvements that would not be possible in the world of paper. Sometimes, paper documents were filed multiple times, even though a copy already existed in the court's files. For example, if a lower court case is appealed, at least one party on appeal requests the case documents from the trial court clerk and copies them into an appendix to be filed with the appellate clerk.

Eliminating the duplicative documents may reduce the effort required across the board. Creating a unique identifier for each document could enable a citation format for use when referring to the document in appellate briefs and appendices.

Proposal

This project recommends that each document filed in a case be given a unique identifier, which would be displayed on Odyssey Public Access (MyCase) for reference. Attorneys filing an appellate motion or brief would refer to the document using a citation format that allows for pinpoint citation to a specific page.

MyCase would display an index of documents in a case, each with its corresponding identifier. When a case is appealed, clerks would attach a certified copy of this index with the Notice of Completion of Clerk's Record filed with the court on appeal.

Currently, [Ind. Appellate Rule 10\(C\)](#) requires that a certified copy of the chronological case summary (CCS) be included; the document index would supplement the CCS. The Rules of Appellate Procedure can be modified to allow an appellate practitioner to cite to the document id in the index rather than creating an appellate appendix. The rules currently require the clerk of the trial court to provide the documents in the casefile to the parties on appeal.²² The appendix is then created electronically by either scanning each document or downloading the documents and organizing them in a separate PDF document that serves as the appendix. Creating an appendix, which is simply pulling from an existing electronic location and reorganizing them in a new document, often takes 1 to 2 hours of time. This work can take longer when the documents are downloaded or scanned in an incorrect manner. A document ID would allow litigants to cite to the document ID, eliminating the need to compile the individual documents into an appendix. This would save time for everybody and improve the accuracy of determining which document a litigant is referencing in a brief. The current appellate rules require the inclusion of all trial court documents in the appendix, many of which are not relevant to the appeal resulting in unnecessarily large appendices. As a result, several appellate attorneys have begun routinely requesting permission from the Appellate Court to file a non-conforming appendix, an appendix that includes only necessary and relevant trial court documents.

As a short-term improvement, a technical enhancement could reduce effort required to assemble an appendix by eliminating back-and-forth communications between trial court staff and attorneys. They need to assemble and exchange documents which could be more easily accessed online.

²² Ind. Appellate Rule 12(C) permits this access: ("Unless limited by the trial court, any party may copy any document from the Clerk's Record and any portion of the Transcript.") (*archived at* <https://perma.cc/E94L-RE69>).

The TWG recommends that attorneys on appeal be granted electronic access to lower court documents for their appeals in MyCase.

This would remove the unnecessary burden on the trial court clerks who currently must assemble the documents for the parties. Appellants would still need to assemble the documents in an appendix, but access would be available sooner and more conveniently than today. This is a preliminary recommendation until the Appellate Rules can be addressed, and the corresponding software developed, to allow appellate attorneys to cite to a document by referencing its Document ID rather than pointing to the document in an appendix.

IAALS 18 Ways Courts Should Use Technology

Introduction

The Institute for the Advancement of the American Legal System's (IAALS's) report *18 Ways Courts Should Use Technology*²³ offers a compelling baseline that state courts can use to objectively evaluate their technology platforms. The Technology Working Group (TWG) references this report in its work and offers this summary of the *18 Ways* for Indiana Courts, including recommendations for enhancements.

The following table summarizes the status of each of the *18 Ways* in Indiana. Each is discussed in more detail later in this section.

²³ John Greacen, *18 Ways Courts Should Use Technology to Better Serve Their Customers*, Institute for the Advancement of the American Legal System (October 2018), found at https://iaals.du.edu/sites/default/files/documents/publications/eighteen_ways_courts_should_use_technology.pdf (archived at <https://perma.cc/UQR7-9T9S>).

Use of Court Technology	Status
1. Enabling Customers to Obtain Information and Court Services Using Their Smartphones	Partial solution statewide
2. Enabling Customers to Present Photos, Videos, and Other Information from Their Smartphones in the Courtroom	Local court option
3. Enabling Customers to Appear in Court by Telephone or Video Conference	Statewide Zoom license for virtual hearings; hybrid in-person/virtual requires investment at local court option
4. Enabling Parties to Schedule Hearings at Their Convenience	Manual today; proposal under development
5. Enabling Parties to Pay Fees, Fines, and Other Financial Obligations Online	Partial solution statewide; attractive options exist to enable payments in civil cases
6. Enabling Wayfinding	Local court option
7. Enabling Customers to Obtain Information and Forms Remotely	Partial solution statewide
8. Simplifying the Process of Forms Completion	Partial solution statewide
9. Enabling Self-Represented Litigants to File Documents Electronically	Statewide solution
10. Enabling the Creation of an Order or Judgment at the Close of a Hearing or Trial	Partial solution statewide
11. Creating an Online Triaging Portal for Every Jurisdiction	Future item on Coalition for Court Access roadmap
12. Enabling Online Dispute Resolution	Pilot project preparing for go-live
13. Enabling Automated Court Messaging to Customers	Partial solution statewide; proposals for civil cases; secure access required
14. Using Messaging to Guide Customers through Their Court Case	No current solution. Several proposals offered

Use of Court Technology	Status
15. Using Technology to Simplify the Service of Process	Service by publication site under construction. Civil Litigation Task Force to address further
16. Eliminating Notarization Requirements for Court Filings	Statewide solution
17. Maintaining a List of Each Customer's Personal Needs	Partial solution statewide
18. Implementation of a Component Model Case Management System	Partial solution statewide

Table 1 Status of 18 Ways in Indiana

1. Enabling Customers to Obtain Information and Court Services Using Their Smartphones

Many court applications, including the MyCase.IN.gov online case search, are designed to be accessible via mobile devices. Indiana attorneys and litigants can e-file from their mobile devices via the Supreme Court's e-filing service provider, <http://efile.incourts.gov>. And, the judicial branch website, <http://courts.IN.gov>, is optimized for mobile users.

Separately, the Coalition for Court Access, through the Indiana Bar Foundation, offers legal information, and referrals to civil legal aid providers, at <http://indianalegalhelp.org> (ILH). The site targets primarily self-represented litigants(SRLs) but can be used by attorneys, also. ILH is a responsive site that is fully-functional via smartphones.

The Innovation Initiative proposed allowing SRLs to access documents in their own cases via MyCase. The Supreme Court approved a pilot project based on a solution designed by the Indiana Office of Court Technology. SRLs would request access to the case, the system would send a security code by US Mail to the address for the party in the case management system, and the SRL would validate their access by entering the security code on a website. Some questions remain unresolved on the proposed process.

Additional online services accessible from a mobile device (e.g., virtual hearings) are described more fully in the relevant topics below.

2. Enabling Customers to Present Photos, Videos, and Other Information from Their Smartphones in the Courtroom

Some courts provide the ability for customers to display photos, videos, text messages, email messages, and other information from their smartphones. For hearings in the courtroom, courts can install presentation monitors that support connections from a mobile device, whether through a direct connection (i.e., wire, cable), Wi-Fi, or Bluetooth. Customers can connect to the monitor and duplicate the display on their device, allowing them to show photos, videos, email messages, text messages, social media posts, and any other information which can be accessed from the mobile device.

The Indiana Office of Judicial Administration (OJA) provides this presentation capability in its offices through Clickshare wireless presentation solutions from Barco Inc. Judges can contact the Indiana Office of Court Technology for more information about the capabilities and features of this equipment.

Trial courts manage the procurement and support of the equipment deployed in their courts. Court reform grants may be requested for technology innovation projects to improve customer service, manage cases, or improve other aspects of court operation.²⁴ Courts can contact the vendor from a previous grant-related project or select their preferred vendor. Note: technology is evolving rapidly, and any configuration of hardware and software is subject to obsolescence.

3. Enabling Customers to Appear in Court by Telephone or Video Conference

Enabling remote appearance by video was one of the first ideas envisioned during the kickoff meeting of the Technology Working Group on November 4, 2019. What was

²⁴ Indiana Office of Court Services, "Court Reform Grants," <https://www.in.gov/courts/iocs/court-reform-grants> (archived at <https://perma.cc/F2XJ-CF96>)

then considered a novel idea became the standard operating procedure for courts in 2020, in response to the Covid-19 public health emergency.

The Indiana Office of Court Technology offers free Zoom accounts to Indiana trial courts for audio and videoconferencing services. Over 800 accounts have been provided to Indiana judges and court staff since mid-2020. Attorneys, litigants, interpreters, witnesses, and other participants can connect from a computer, mobile device, or telephone, depending on their capabilities and the requirements that the judge specifies for each hearing.

Some courts choose to host virtual hearings on a different platform, such as Cisco WebEx or Microsoft Teams. These platforms offer common features off-the-shelf, such as the ability to access hearings from computers, tablets, and smart phones.

The TWG launched a pilot program with Judge Kimberly Bacon, Lawrence Township Small Claims Court, to provide facilities for customers to consult with attorneys, and to join court hearings, by videoconference. Customers can take part in remote hearings or consult with a mediator or civil legal aid attorney by videoconference from any of three meeting rooms next to Judge Bacon's courtroom, as shown in Figure 7. Other courts may consider installing equipment for videoconferencing in their respective courthouses or other locations (e.g., a public library) in their community.



Figure 7 - Lawrence Township Small Claims Court in Marion County - Zoom room adjacent to the courtroom

4. Enabling Parties to Schedule Hearings at Their Convenience

Many courts allow parties to propose dates and times for hearings by contacting the court by phone or email; however, the Technology Working Group is unaware of any court that offers online scheduling.

Alternatives to a custom application are available, such as eCourtDate, Acuity Scheduling, X.ai, and Calendly; some services can be piloted at low cost or no cost.

The Indiana Office of Court Technology recently deployed a service that courts may use to present their hearing calendars online. Viewing the caseload already on a court's schedule may help parties decide when to request a hearing. The service is available at <https://public.courts.in.gov/CourtCal>.

5. Enabling Parties to Pay Fees, Fines, and Other Financial Obligations Online

Currently cash and checks are accepted in person at clerk's offices around the state. Checks are accepted via mail in most clerk's offices. Many clerk's offices also offer in person credit card payments through a credit card vendor that they work with.

Traffic Ticket Payment Available Online

Currently, litigants can pay traffic tickets in full online through public.courts.in.gov for courts taking part in Indiana Office of Court Technology's (IOCT's) traffic "e-payment" program. Customers with a pending traffic citation can search for their traffic ticket and pay the fine, plus a processing fee, and either admit or plead nolo contendere.

Customers can also pay for a copy of their traffic tickets on this site. After payment is made, the case is automatically updated with payment in Odyssey and notification is sent to the county's clerk's office that the case can be disposed of appropriately.

In two counties, the e-payment application also offers a deferral to the customer if the algorithm in place decides that they are eligible for deferral. The customer can then pay the deferral fee online through the system, and Odyssey will update the case with payment information and will register on the chronological case summary that the customer chose deferral rather than admitting to the citation.

Several counties have their own traffic e-payment system outside of what the IOCT offers. Many counties use GovPay or PayGov as their vendor and supply a link on their local website to these payment systems.

Criminal Case Payment Available Online

Criminal case defendants can also pay fees online through MyCase.IN.gov in several counties. These payments work similarly to traffic e-payment. The defendant can pay fees assessed in Odyssey by clicking “Make a Payment” on the CCS displayed on MyCase. Making the payment will automatically update the case with the payment in Odyssey Financials.

Proposal: Civil Payments Online

The TWG proposes using the same functionality available in criminal case payments to apply to civil case payments. The proposal includes adding a “Make a Payment” button to civil cases for participating courts on the CCS displayed on MyCase. If a customer made a payment toward their judgment here, it would automatically update the case with the payment in Odyssey financials.

Most courts have been hesitant to accept online payments in civil cases, because of the risk of a payment being contested by the account holder and “charged back” to the court. Two payment processing vendors that have quantity purchase agreements with the State of Indiana, including the vendor currently used by IOCT, have proposed services which include a guarantee of the payments in civil cases. Any chargebacks would be covered by the vendor, which would handle pursuing any remedy on its own.

One vendor, NIC Indiana, offers a way for customers to pay government obligations in cash at over 30,000 commercial locations, in-person and at hours more convenient than a county clerk’s office. Many customers may already be paying other bills at these locations.

6. Enabling Wayfinding

The *18 Ways* report describes “wayfinding” in terms of finding the courthouse and finding the courtroom within the courthouse. The TWG adds to that description the display of the cases on the court’s schedule for the day.

Each county in Indiana has its own web site and may choose to offer wayfinding services. Many counties include a link to an internet maps service so that customers can retrieve directions to the courthouse.²⁵ Some counties have implemented wayfinding within the courthouse. Allen County, for example, installed displays to list the cases on the schedule for the day and to allow parties to check-in on a kiosk upon arrival.²⁶ Judge Kimberly Bacon is implementing a similar system that will allow users to check in from a mobile device or from a kiosk in the hallway outside of the Lawrence Township Small Claims Court in Marion County.

7. Enabling Customers to Obtain Information and Forms Remotely

The Technology Working Group recommends that Indiana courts be required to accept forms generated via the indianalegalhelp.org (ILH) website.

Customers can access legal information and forms, for many case types, at <http://indianalegalhelp.org> (ILH). The site is managed by the Indiana Bar Foundation on behalf of the Coalition for Court Access (CCA).

ILH offers a range of services that are essential to non-attorneys, including referrals to free and low-cost civil legal aid, legal information about going to court with a lawyer, and a catalog of forms and guided interviews for the case types where customers are more likely to represent themselves.

²⁵ See, e.g., the website for Hamilton County, which includes a Google maps link to the Hamilton County Government and Judicial Center. (<https://www.hamiltoncounty.in.gov/189/Courts>) (archived at <https://perma.cc/F2P3-A6UC>). Elkhart County offers links to five court locations, including three city courts (<https://elkhartcounty.com/en/government/courts/court-locations-contact-info>) (archived at <https://perma.cc/D4GT-RL9V>).

²⁶ See "Allen Superior Court's Innovative Wayfinding Project," Indiana Court Times, February 24, 2015, <http://indianacourts.us/times/2015/02/allen-superior-courts-innovative-wayfinding-project> (archived at <https://perma.cc/PD9Z-U2LN>).

Indiana does not have a unified court system, and many counties offer forms and information on their respective websites. Issues can arise when the forms are not uniform across all websites, causing confusion for the customers and court staff, alike.

The TWG recommends that Indiana courts be required to accept forms generated via the ILH website.

Standardizing forms will reduce the cost and complexity of improving the user experience for every court's customers.

8. Simplifying the Process of Forms Completion

Through an Innovation Initiative pilot project, the Indiana Bar Foundation (IBF) implemented several guided interviews to simplify the process of completing forms relating to parenting time and child custody,²⁷ the most commonly-accessed forms on the Coalition for Court Access's (CCA's) legal information website, <http://indianalegalhelp.org>. Guided interviews provide customers with step-by-step instructions and are easier to navigate than a fillable PDF or a printed form.

The CCA will continue to expand its library of online forms and guided interviews, with the benefit of an eighteen-month grant from Legal Services Corp to Indiana Legal Services²⁸. The CCA hopes that the guided interviews can be extended to e-file the document with the court, a feature currently available only through a separate e-filing service provider, as described in the next section.

Separately, the Indiana Office of Court Technology (IOCT) is developing a guided interview tool to automate forms in its custom applications. This feature will offer an improved experience for users of IOCT's growing library of custom software applications.

²⁷ See, e.g., the "Forms Helper" examples at <https://indianalegalhelp.org/court-forms/forms-parenting-time-and-custody> (archived at <https://perma.cc/6AHU-PMK9>).

²⁸ See "Indiana Legal Services Receives Technology Grant from the Legal Services Corporation", Legal Services Corporation (October 19, 2020), <https://www.lsc.gov/media-center/press-releases/2020/2020-technology-initiative-grant-recipients> (archived at <https://perma.cc/W5PE-FF39>) (two-year grant valued at \$125,384).

Some forms require signatures of more than one party. An electronic signature (e-signature) platform can cut the need for paper forms and wet ink signatures.

9. Enabling Self-Represented Litigants to File Documents Electronically

The Indiana Supreme Court provides e-filing services to courts in all 92 counties and the state’s three appellate courts. Attorneys must e-file in all cases; conventional filing is not allowed.²⁹ Since the service was launched in 2015, self-represented litigants (SRLs) have had the choice to e-file using the same public service providers available to attorneys.

Indiana’s e-filing architecture uses a single e-filing manager (EFM) that connects three different case management systems with a variety of e-filing service providers (EFSPs). Each EFSP can tailor its base services and value-added features to fit its target market; however, all EFSPs must meet the Supreme Court’s requirements for technical and administrative certification. The Supreme Court provides one general-purpose EFSP, available at no charge to filers at <http://efile.incourts.gov>, as well as a specialized EFSP for protection order cases. As of February 2021, eleven additional commercial EFSPs were available for use by attorneys and SRLs under terms specified by each provider.³⁰

SRLs would benefit from the integration of the EFM with the guided interviews being developed for <http://indianalegalhelp.org> (ILH). To illustrate the potential benefits, consider the steps needed today for a form must be notarized, as shown in Figure 8:

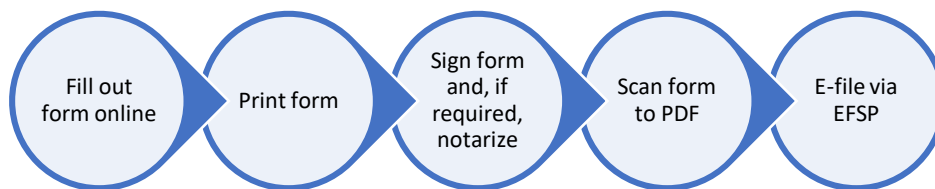


Figure 8 - Complete and e-file form: wet ink signature w/ notary

²⁹ [Ind. Trial Rule 87\(B\)](https://perma.cc/48NW-ECJ2) Electronic Filing of Documents (archived at <https://perma.cc/48NW-ECJ2>).

³⁰ See E-filing service providers, <https://www.in.gov/courts/efiling/providers> (archived at <https://perma.cc/VT7T-9QKK>).

Fewer steps are needed to file a form that does not require notarization if the form can be signed electronically. This would eliminate the need to print and scan the form. Scanning may be the most complicated step in the process. The simplified process is shown in Figure 9.



Figure 9 - Complete and e-file form: e-signature and EFSP

Next, if the guided interview platform were integrated with e-filing, then the entire process could be completed within <http://indianalegalhelp.org> (ILH). Some commercial services are available that follow this model. Guided interview platform vendors used by ILH are considering whether to develop this service and make it available to use in Indiana.



Figure 10 - Complete and e-file form: full service ILH

E-filing is currently available to all customers, including SRLs. Eliminating paper filings delivers significant benefits to the courts, clerks, and customers. Integrating the guided interview platform with the e-filing system could simplify the process even further for the customer. The caveat, though, is that this evolution would require that notarization be eliminated. There may be important policy considerations that favor the notarization requirement. See below, 16. Eliminating Notarization Requirements for Court Filings (page 59).

10. Enabling the Creation of an Order or Judgment at the Close of a Hearing or Trial

The Indiana Office of Court Technology (IOCT) provides a single statewide instance of the Odyssey case management system (CMS) to nearly all courts in Indiana. By the end of 2021, all Indiana circuit and superior courts will be using the statewide CMS.

Order form templates can be integrated into Odyssey, allowing courts to generate orders like running a mail merge. IOCT maintains a library of standard order templates available to all court users.

IOCT offers each court a Judge Edition touch-screen workstation that allows judges to view case information and sign orders from the bench. Not all judges have opted to use the Judge Workbench. Some judges may create fill-in-the-blank or checkbox orders ahead of time, completing them from the bench, or they may generate the orders after the hearing and deliver them by e-notice or US Mail.

11. Creating an Online Triaging Portal for Every Jurisdiction

An “online triaging portal” is more than a website of static legal information and forms. In this context, “triage” uses technology to achieve more efficient balancing of scarce attorney resources with the fair administration of justice when litigants are self-represented.³¹

Litigant portals use natural language processing, artificial intelligence, and wizards to guide the customer to the help or information needed. In 2015, Tom Clarke, then VP Research and Technology for the National Center for State Courts, published *Building A Litigant Portal Business and Technical Requirements*, the reference point on the *18 Ways*

³¹ Tom Clarke, Richard Zorza, and Katherine Alteneider, *Triage Protocols for Litigant Portals: A Coordinated Strategy Between Courts and Service Providers* State Justice Institute, Nat'l Center for State Courts (Dec 2013), <http://ncsc.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/2045>, p. 1 (archived at <https://perma.cc/2LNL-J6A2>).

report for triaging portals.³² The portal would consider the perspective of the court and the civil legal aid services provider, in addition to that of the litigant.

As mentioned previously, the Coalition for Court Access (CCA) offers legal information and self-help resources through the Indiana Legal Help website, <http://indianalegalhelp.org>. The Indiana Bar Foundation manages ILH on behalf of the CCA. Since its inception in late 2018, ILH has grown to offer a range of services, including:

- Referrals to civil legal aid programs, free and low-cost legal services, find-a-lawyer services, and a free legal answers website hosted by the American Bar Association; and
- A variety of self-help forms and guided interviews to address the issues most handled by unrepresented litigants.

The CCA plans to expand the scope of ILH to include many of the technologies described in Dr. Clarke's report, with the support of the technology grant from Indiana Legal Services mentioned above.

12. Enabling Online Dispute Resolution

The Technology Working Group and Family Law Task Force proposed offering online dispute resolution (ODR) services to improve the experience of many of customers who have litigation in Indiana courts. Courts in other jurisdictions have seen cases be resolved in less time and with higher customer satisfaction using ODR than through traditional litigation, especially in the context of small claims and domestic relations. ODR offers a path to better results for customers and reduced caseloads for courts.

Small claims and domestic relations were prioritized for ODR due to the ubiquity of cases where one or more parties are unrepresented by counsel, according to the seminal report, *Indiana Civil Legal Needs Study and Legal Aid System Scan (2019)*.³³ Prof. Victor Quintanilla and Rachel Thelin of Indiana University conducted extensive research in

³² Ibid.

³³ Quintanilla, Victor David and Thelin, Rachel, *Indiana Civil Legal Needs Study and Legal Aid System Scan* (April 12, 2019). Indiana University Public Policy Institute, March 2019 • ISSUE 19-C01, Indiana Legal Studies Research Paper, Available at SSRN: <https://ssrn.com/abstract=3376257> (archived at <https://perma.cc/KL2A-KPLW>).

partnership with the Coalition for Court Access, finding that parties were unrepresented in over half of the domestic relations cases and nearly one-third of small claims cases, statewide.³⁴

ODR offers potential benefits to all parties, including those who are represented. The National Center for State Courts recently evaluated the impact of ODR on Utah's small claims pilot. The study found that time-to-disposition decreased by more than one month for default judgments and judgments on the merits, and by nearly three months for settlements. This material improvement in time to disposition stems largely from a reduction in the number of hearings in each case. If the parties are engaged, exchange information, and attempt to reach a settlement, then the case information compiled during ODR is available for the judge at the initial hearing. This allows for faster resolution of the case.

OJA staff spoke with teams in other jurisdictions implementing ODR, including Utah, which is implementing a custom, in-house solution developed by the Utah Administrative Office of the Courts. Selecting a commercial service allowed Indiana to launch a pilot more quickly than developing a system in-house.

The Technology Working Group recommended that the Office of Judicial Administration implement pilot ODR programs for small claims and domestic relations cases, respectively. OJA chose to pilot two different online services in each case type, small claims, and domestic relations.

The Family Law Task Force is preparing a detailed recommendation for ODR in domestic relations cases. IOCT is preparing the small claims pilots in Allen, Hamilton, Lake, and Marion counties. The results of a post-pilot evaluation will help illustrate whether the relative benefits of ODR are worth expanding the service more broadly.

13. Enabling Automated Court Messaging to Customers

Text message reminders have been a valuable tool for IOCT customers since 2011, when the statewide Protection Order Registry was enhanced to notify victims of domestic

³⁴ Ibid at 19 (The study found that 51.1% of domestic relations cases, and 32.8% of small claims cases, had one or more parties who were unrepresented).

violence when a protection or no-contact order has been granted or served on the respondent by law enforcement, and when a protection order is approaching its expiration.

Text messaging was extended to criminal cases in 2018 to send reminders five days, and one day, in advance of a scheduled hearing. Defendants can opt-in to the service to receive the text message reminders.³⁵

The TWG and, separately, the Family Law Task Force have recommended expanding text messaging to civil cases. For example, sending reminders to self-represented litigants in small claims cases, including evictions, could reduce the need to reschedule hearings due to one or more parties failing to appear.

In contrast to criminal and protection order cases, clerks do not generally enter contact information for parties in civil cases. If parties do not file an appearance, the clerks might not have the information available. Responding parties may not be aware that court rules require that they file an appearance in civil cases.³⁶ Judges may request that respondents file an appearance in small claims.³⁷ Text message reminders are only possible when a mobile phone number is provided by the customer. A sample of records in family law cases found a mobile phone number in fewer than 5% of the parties. Increasing the number of parties for whom a mobile phone number is captured is essential to finding value in expanding text messages to civil case types.

The TWG suggested that OJA provide a method for customers to register for online services as described in Check-in by text message (page 37), including text message reminders and receiving court orders and notices by email (e-notices). IOCT is designing a solution to this end. Allowing customers to register for online services is an essential enabler for more features and services to evolve over time.

³⁵ "Court Text Messaging Alerts and Reminders," Indiana Court Times, April 1, 2019, <https://indianacourts.us/times/2019/04/text-messaging> (archived at <https://perma.cc/EV2N-HFCN>) and Courts: Judicial Administration: Odyssey Text Messaging Reminder System, <https://www.in.gov/courts/admin/tech/odyssey-text-messaging> (archived at <https://perma.cc/5TW9-53F6>).

³⁶ [Ind. Trial Rule 3.1\(B\)](#) Appearance – Responding parties (archived at <https://perma.cc/48NW-ECJ2>).

³⁷ [Ind. Small Claims Rule 4\(B\)](#) Responsive pleadings - Entry of Appearance (archived at <https://perma.cc/A2GG-266Y>).

14. Using Messaging to Guide Customers through Their Court Case

Once customers can register for online services, many opportunities will arise for guiding customers through their case. Two ideas have presented themselves: notifying parties when a document has not been effectively served on another party and allowing customers to check in for their hearing by text message.

These features may be evaluated in more detail by the Innovation Initiative Civil Litigation Task Force, established in January 2021 to explore ways to improve efficiencies in all civil case types. Text and email messaging offer many possibilities for helping customers navigate their cases until disposition.

Notifications prior to the hearing when service has not been perfected

The Innovation Initiative team proposed a new feature that would notify parties when a document has not been effectively served on another party. Hearings are scheduled based on the assumption that all parties have been properly notified of the hearing; however, when service of process has not been properly perfected, a party may not appear as scheduled. This disrupts the court's docket and the calendars of all involved. It also creates unnecessary delays in the resolution of the matter.

If participants were notified in advance that service of process has not been perfected, then the hearing could be rescheduled, or service perfected, before the hearing.

The case file should indicate whether parties have been properly served. The proposal is to create an automatic process that could review the data for scheduled hearings and issue warnings by text message to the participants when a notice of service is not perfected. A litigant would receive an alert via text/email if service was not perfected as of a certain date before the hearing so that the litigant could either take additional action to effect proper service before the hearing or reset the hearing so as not to waste the trip to the courthouse. The notice should include either a brief explanation or a link to a website explaining possible ways to obtain service and/or reset the hearing date.

To effectuate this idea, the Indiana Office of Court Technology (IOCT) would have to enhance the existing INcite application that notifies defendants in criminal cases of an upcoming hearing.

- This would search for cases (in the defined case type or category, e.g., all civil, just small claims) that have a hearing scheduled several (parameter) days in the future. For example, text messaging in criminal cases happens 5 days before the hearing and 1 day before the hearing currently.
- In that subset of cases, it would search for cases that do not have an “SRS – Service Returned Served” event
- The app would look at the plaintiff party information in Odyssey and see if there is a cell phone number.
- If there is a cell phone number, the app would text the plaintiff that service had not been perfected but there is an upcoming hearing.

IOCT is already planning on developing MyCase into a platform for each litigant to enter their cell phone number or email addresses to set notification preferences.

Before the MyCase expansion is built, entering the cell phone number for the plaintiff would be a manual process and the phone number must be put on the appearance form. The customer would include his or her contact information on the appearance form and would likely need to opt in/out on the appearance to receive these notifications.

Customer check-in by text message

The TWG proposed a project that would allow customers to check-in with the court for a hearing by sending a text message. The message could be triggered by scanning a QR code in the courthouse or by texting a code to the court’s designated number. Once checked in, on days with high-volume dockets, the court can notify the customer when it is nearly time for their case to be called. This will allow customers to wait outside of the courtroom or the building, even in their cars, until it is time to enter the courtroom.

15. Using Technology to Simplify the Service of Process

Service in civil case types can take myriad forms. Case-initiating documents must be served conventionally (in hard copy), and summonses must be served conventionally or, under circumstances governed by statute and court rules, by newspaper publication.

Once a case is open, later filings may be served conventionally or by e-filing, depending on the context. Attorneys must consent to receive e-service in all cases unless leave is

granted by a court on a case-by-case basis. Non-attorneys may choose to receive e-service on a case-by-case basis.

The Supreme Court has approved a proposal for the Indiana Office of Judicial Administration to host a legal notice website to effect service by publication. The TWG concurs with this recommendation, given that service on a dedicated, statewide website would be faster, less expensive, and more likely to be perfected than would publication in a local newspaper. The Indiana Office of Court Technology (IOCT) is currently developing a legal notice website that will display information directly from the Odyssey case management system, eliminating the need for a separate publication step.

Some courts in other jurisdictions have allowed the use of service by publication in social media on a case-by-case basis. The idea is being explored more broadly, but no state has approved rules for the routine use of social media for e-service. The issues are less technical in nature and are more related to practical and legal aspects, including due process. The Civil Litigation Task Force established a Service of Process subcommittee which may study this opportunity. The TWG supports the evaluation of allowing e-service via social media platforms and can offer technical advice to the study.

16. Eliminating Notarization Requirements for Court Filings

Indiana's Rules of Court do not require notarization of documents filed in court. Some pleadings are required by Indiana's rules of trial procedure to be verified by affirmation or representation, subject to the same penalties as are prescribed by law for making of a false affidavit.³⁸ Examples include motions for a change of venue,³⁹ complaint in a derivative action by shareholders,⁴⁰ and motions for proceedings supplemental to execution.⁴¹

Many of the forms that are available on the Indiana Legal Help website require notarization, including modifications of child custody, child support, and parenting time.

³⁸ [Ind. Trial Rule 11\(B\)](https://perma.cc/48NW-ECJ2) Verification by affirmation or representation (archived at <https://perma.cc/48NW-ECJ2>).

³⁹ [Ind. Trial Rule 76\(A\)](https://perma.cc/48NW-ECJ2) Change of Venue (archived at <https://perma.cc/48NW-ECJ2>).

⁴⁰ [Ind. Trial Rules 23.1](https://perma.cc/48NW-ECJ2) Derivative actions by shareholders (archived at <https://perma.cc/48NW-ECJ2>).

⁴¹ [Ind. Trial Rule 69\(E\)](https://perma.cc/48NW-ECJ2) Proceedings supplemental to execution (archived at <https://perma.cc/48NW-ECJ2>).

The identification of the signatories must be confirmed by a notary public. Although notarization is not required by the Rules of Court, the Coalition for Court Access added this layer of protection because many of the forms are used when both parties are unrepresented. Notarization helps to ensure that one party does not sign for, or coerce the signature of, the other party.

17. Maintaining a List of Each Customer's Personal Needs

The Odyssey case management system supports the capture of information about a party's personal needs, including email address, mobile phone number, interpreter requirements, and physical disabilities. The fields are not mandatory, so court staff must be notified when information needs to be entered.

Courts can use Odyssey to help with scheduling interpreters for court hearings. A report is available to list the languages needed for hearings on a particular date. This improves case management efficiency by reducing the risk that a hearing will need to be rescheduled due to the lack of an interpreter.

Customers can include an email address when filing an appearance to ask that the court send orders and notices by email rather than US Mail. To update their contact information later, non-attorney customers will need to file an appearance in each case that is open, as customers may have a separate party record in each of their cases. Attorneys who wish to update their contact information must file an appearance in any case that is pending; attorneys have a single party record shared in all cases.

The system lacks some preference settings that would make updates more intuitive for customers. For example, some attorneys have failed to notify the trial court when their contact information has changed. Court rules require that attorneys update their contact information with the Clerk of the Supreme Court on the Roll of Attorneys within thirty days of a change.⁴² The email address is synchronized from the Roll of Attorneys to the Indiana E-Filing System public service list for e-service. Some attorneys mistakenly assume that the contact information will be updated from the Roll of Attorneys to Odyssey; their failure to file an updated appearance can cause the attorneys to miss

⁴² [Ind. Admission and Discipline Rule 2\(a\)](#) Registration and Fees - Name and Address.

court orders and notices sent to the old address. The scenario is complicated further for attorneys who must use different email addresses for different cases, such as when a part-time public defender also has a private law practice and is effectively working in two offices. Orders should be sent to the email address for the office handling the case.

18. Implementation of a Component Model Case Management System

The Court Component Model is the foundation of the Joint Technology Committee's (JTC's) new strategy of developing, buying, and implementing technology in state courts. The JTC is a collaboration of the Conference of State Court Administrators, the National Association for Court Management, and the National Center for State Courts (NCSC).

The JTC adopted its application component model in November 2017 as part of its Next Generation Court Technology Standards, supplementing the Court Business Capability Model and the Court Business Process Model previously adopted. The standards are available at the JTC Court Technology Standards website, hosted by the NCSC.⁴³

A component model allows software developers to break down an overall process into smaller, discrete feature sets and focus development on a smaller scope. The JTC categorizes application components as either "case management" or "additional application components" and lists the systemwide capabilities necessary for the various components to work together. Examples are illustrated in Figure 11.

⁴³ *Next Generation Court Technology Standards* at <https://www.ncsc.org/about-us/committees/joint-technology-committee/jtc-court-technology-standards> (archived at <https://perma.cc/5TGT-XFQN>), which contains a link to the Court Component Model, https://www.ncsc.org/data/assets/pdf_file/0034/18979/nextgen-court-component-model-2017-12-08-final.pdf (archived at <https://perma.cc/2779-2TWH>).

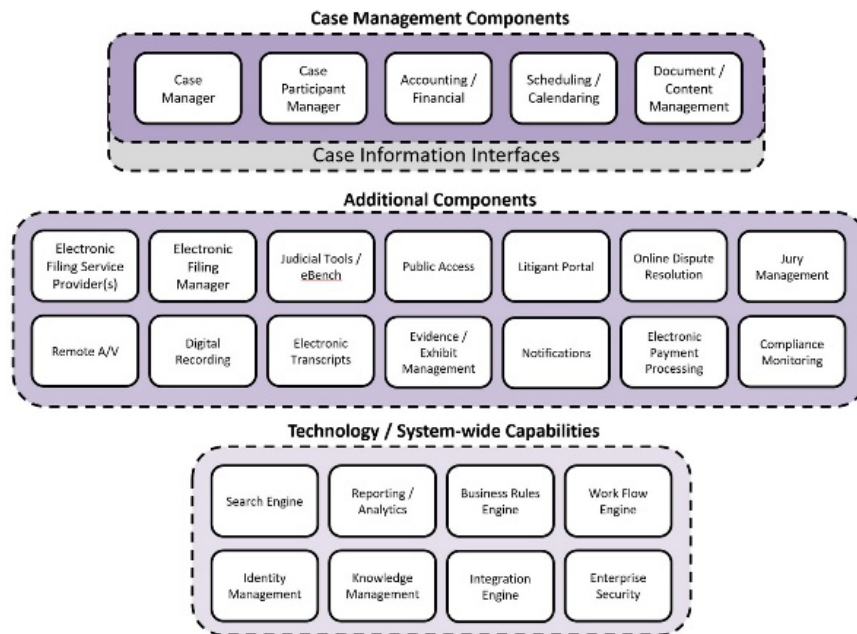


Figure 11 - JTC Application Component Model⁴⁴

The case management components are the nucleus of a court’s business process. The “case information interfaces” layer, highlighted in gray in Figure 11, is the application programming interface that allows one application to interact with another.

The Indiana Office of Court Technology (IOCT) offers several standard interfaces to connect with several OJA applications, including the Electronic Citation and Warning System, the Protection Order Registry, and the Odyssey case management system. Providing these interfaces enabled other entities to integrate the applications into their systems.⁴⁵

The Indiana E-filing System is another example of the component model in action. As described earlier, the IEFS includes an e-filing manager, which is the bridge between a variety of e-filing service providers and three different case management systems. The EFM and EFSPs exchange data using the OASIS LegalXML Electronic Court Filing

⁴⁴ Court Component Model, https://www.ncsc.org/data/assets/pdf_file/0034/18979/nextgen-court-component-model-2017-12-08-final.pdf at p. 11 (archived at <https://perma.cc/2779-2TWH>).

⁴⁵ See “Interface Specifications,” Indiana Office of Court Technology (IOCT), <https://www.in.gov/courts/admin/tech/traffic-citation-specs> (archived at <https://perma.cc/9KYX-SQNX>). Provides interface specifications for the Electronic Citation and Warning System, the Protection Order Registry, and the Odyssey case management system.

standard v. 4.01. When EFMs and EFSPs speak the same language, each component can more easily operate across multiple jurisdictions. Indiana's EFM vendor was certified as compliant with ECF 4.01 by the non-profit Integrated Justice Information Systems Institute.

IOCT has integrated or developed dozens of applications that are connected to the Odyssey CMS. IOCT extends the services beyond the capabilities of the CMS.

The value of this model significantly increases when the components can be integrated with CMSs in multiple jurisdictions, like the EFM/EFSP ecosystem.

TWG Evaluation of the 18 Ways and Proposed Projects

The Technology Working Group recommends that their Top Five services be given the level of attention commensurate with their high value to the customers of the judiciary.

The TWG presents, graphically, in Figure 12 - Customer service matrix (*18 Ways* and Proposed Projects) its evaluation of each of the *18 Ways* and the TWG-proposed projects across the following four dimensions:

- Customer service – illustrates the relative value of the service to the public, litigants, attorneys, and court staff; reflected in the horizontal axis, or *X-axis*
- Affordability – a function of the cost, effort, and time needed to implement the service; services already in use would be highly affordable, regardless of the original cost to implement; reflected in the vertical axis, or *Y-axis*
- Scope of the audience – service may benefit the public, litigants, attorneys, court staff, or any combination of these, across all cases or within specific case type(s); reflected in the size of the circle
- Location – whether the service is implemented on a county-by-county basis or statewide; a darker color reflects a service that it is already available.

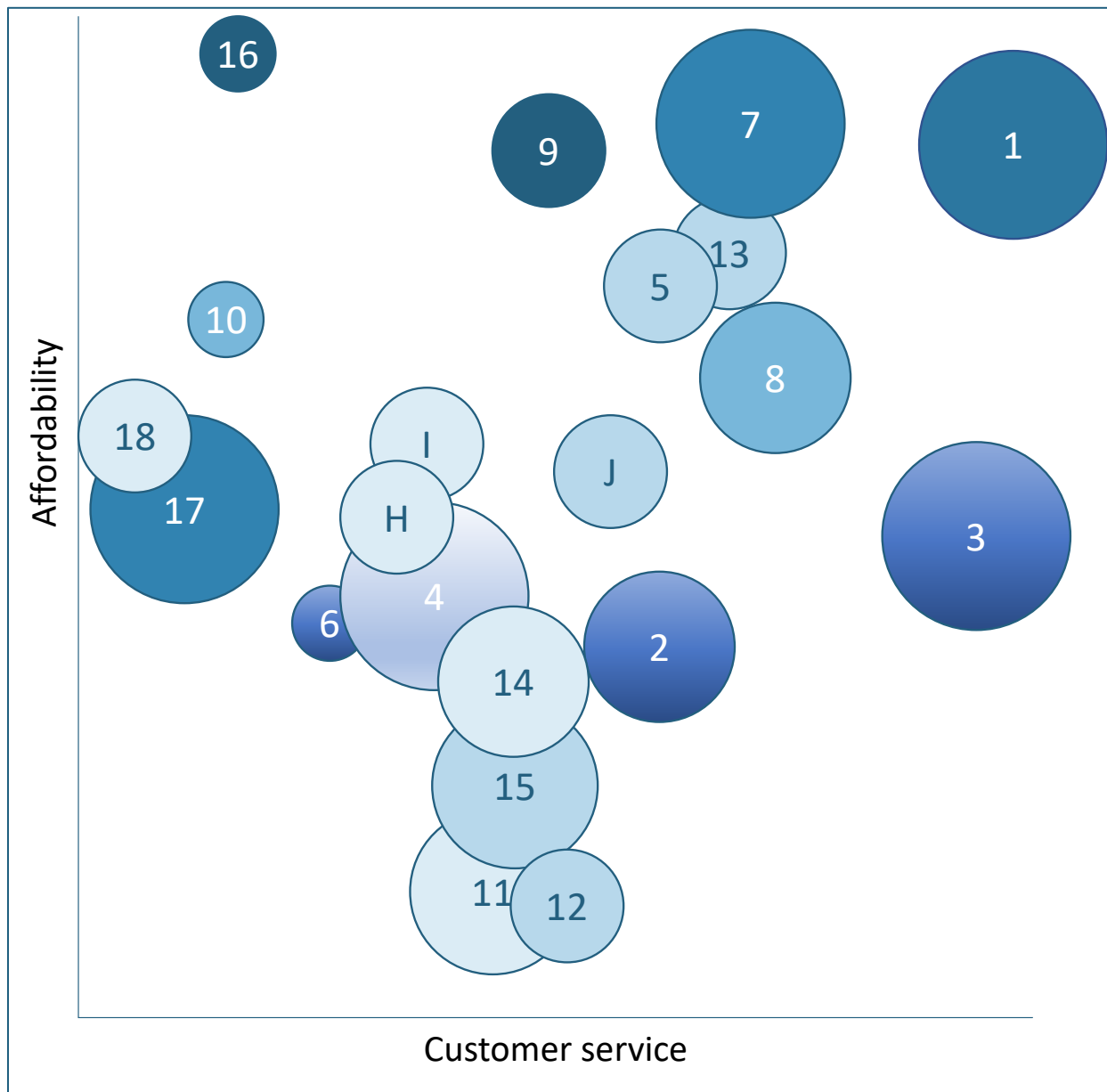


Figure 12 - Customer service matrix (18 Ways and Proposed Projects)

For example, the TWG recommends the following opportunities as its Top 5 for customer service:

- Enabling Customers to Obtain Information and Court Services Using Their Smartphones (#1)
- Enabling Customers to Appear in Court by Telephone or Video Conference (#3)
- Simplifying the Process of Forms Completion (#8)
- Enabling Customers to Obtain Information and Forms Remotely (#7)

- Enabling Automated Court Messaging to Customers (#13)

The TWG recommends that these five services be given the level of attention commensurate with their high value to the customers of the judiciary.

Improving customer service will directly improve the satisfaction of those who appear in Indiana courts and who need legal information and use other court services.

Use of Court Technology	Customer Service Rank	Audience	Scope
1. Enabling Customers to Obtain Information and Court Services Using Their Smartphones	1	Public statewide	Partial solution statewide
2. Enabling Customers to Present Photos, Videos, and Other Information from Their Smartphones in the Courtroom	7	SRLs in specific case types	Local court option
3. Enabling Customers to Appear in Court by Telephone or Video Conference	2	SRLs, attorneys, court staff	Statewide Zoom license for virtual hearings; hybrid in-person/virtual requires investment at local court option
4. Enabling Parties to Schedule Hearings at Their Convenience	16	SRLs, attorneys, court staff	Manual today; proposal under development
5. Enabling Parties to Pay Fees, Fines, and Other Financial Obligations Online	6	SRLs and court staff	Partial solution statewide; attractive options exist to enable payments in civil cases
6. Enabling Wayfinding	17	SRLs	Local court option
7. Enabling Customers to Obtain Information and Forms Remotely	4	SRLs, attorneys, court staff	Partial solution statewide

Use of Court Technology	Customer Service Rank	Audience	Scope
8. Simplifying the Process of Forms Completion	3	SRLs, attorneys, court staff	Partial solution statewide
9. Enabling Self-Represented Litigants to File Documents Electronically	10	SRLs and court staff	Statewide solution
10. Enabling the Creation of an Order or Judgment at the Close of a Hearing or Trial	19	SRLs	Partial solution statewide
11. Creating an Online Triaging Portal for Every Jurisdiction	13	Public statewide	Future item on Coalition for Court Access roadmap
12. Enabling Online Dispute Resolution	9	SRLs, attorneys, court staff	Pilot project preparing for go-live
13. Enabling Automated Court Messaging to Customers	5	SRLs, attorneys, court staff	Partial solution statewide; proposals for civil cases; secure access required
14. Using Messaging to Guide Customers through Their Court Case	11	SRLs, attorneys, court staff	No current solution. Several proposals offered
15. Using Technology to Simplify the Service of Process	12	SRLs and attorneys	Service by publication site under construction. Civil Litigation Task Force to address further
16. Eliminating Notarization Requirements for Court Filings	18	SRLs	Statewide solution

Use of Court Technology	Customer Service Rank	Audience	Scope
17. Maintaining a List of Each Customer's Personal Needs	20	SRLs, attorneys, court staff	Partial solution statewide
18. Implementation of a Component Model Case Management System	21	SRLs, attorneys, court staff	Partial solution statewide
H. Document ID for case documents (Proposal H, p. 37)	15	Attorneys in appeals	Statewide proposal
I. Online dashboard for e-notices (court-issued orders and notices) (Proposal I, p. 34)	14	SRLs and attorneys	Statewide proposal
J. Pretrial diversion before the initial hearing (Proposal J, p. 32)	8	Attorneys, court staff, defendants charged with specific low-level misdemeanors	Statewide proposal; pilot under way in three counties

Table 2 TWG evaluation of 18 Ways and proposed projects

Conclusion

The Technology Working Group (TWG) considered a broad range of topics since its inception in November 2019, brainstorming opportunities for improvements through technology and business process optimization.

This report reflects the TWG's recommendations for eight ideas documented by the team and the TWG's evaluation of the *18 Ways Courts Should Use Technology to Better Serve Their Customers*.

The *18 Ways* report provided a customer service baseline for Indiana courts. Indiana had already launched projects addressing many of the *18 Ways*. Being able to measure

progress against this objective yardstick was helpful in establishing the team's recommendations.

The TWG focused on recommendations that would improve service to the judicial branch customers, especially self-represented litigants and attorneys. Even recommendations with an internal focus were designed to help the parties – e.g., pretrial diversion (enabling an earlier start and finish to the diversion program) and small claims process improvement (reducing the wait time for customers appearing in court).

In addition to the activities listed in this report, TWG members evaluated other topics as potential projects and contributed to the related efforts of other groups.

Judge David Riggins chaired a team that evaluated options for remote jury selection, as part of the Supreme Court's Resuming Operations Task Force.⁴⁶ Judge Riggins was joined by three TWG members, in addition to other attorneys and judges.

TWG members contributed to projects that are still being developed by the Innovation Initiative and the Coalition for Court Access (CCA). The remote appearance proposal recommended using the video conference platform to connect volunteer and civil legal aid attorneys with people in need of legal information and services. Lawrence Township Small Claims Court and the Heartland Pro Bono Council, of Pro Bono Indiana, are preparing virtual legal clinics for people who qualify for civil legal aid and who have a case pending in Lawrence Township Small Claims Court. A limited number of appointments will be available for this pilot. A goal is to develop a virtual clinic model that can be replicated to other courts and clinics, in coordination with Pro Bono Indiana. Attorneys may be more available to volunteer their services if they can connect from their office with clients by remote video, eliminating travel time between their office and the court or clinic location.

TWG members helped the CCA with the planning for the first batch of guided interviews for several packets of domestic relations forms.

These efforts were completed at a critical time for the State of Indiana. The Covid-19 pandemic altered the group's plans in many ways and imposed a greater sense of urgency. The potential benefits of some projects, like virtual appearances, exploded

⁴⁶ See *Resuming Operations of the Trial Courts: COVID-19 Guidelines for Indiana's Judiciary, Appendix E*, pp. 27-36, available at <https://www.in.gov/courts/files/covid19-resuming-trial-court-operations.pdf> (archived at <https://perma.cc/M6SL-5M3W>).

overnight. Others, like a portal for digital evidence/exhibits, became much easier for customers and court staff to imagine after months of virtual hearings.

This analysis provides a foundation for current and future projects of the Innovation Initiative, Office of Judicial Administration, CCA, and trial courts across the state.

Technology evolves rapidly, and the opportunities described here will evolve as well.

This report can serve as a guide for judges and attorneys considering ways to improve their services, no longer needing to start the analysis of each project from scratch. Even projects being implemented county-by-county or court-by-court can learn from courts that have blazed the trail already.

The Innovation Initiative and TWG invite feedback about this report and questions on future projects at innovation@courts.in.gov.

The members of the Technology Working Group are grateful to the Indiana Supreme Court for the invitation to participate in this effort.

Appendix

Appendix A: Order Establishing the Innovation Initiative

In the Indiana Supreme Court

Case No. 19S-MS-512



Order Establishing the Indiana Innovation Initiative

Indiana has been a national leader in justice reform in areas such as evidence-based decision-making, pretrial release, problem-solving courts, and commercial courts. Additional innovation opportunities now present themselves in Indiana, designed to make Indiana's system of justice more efficient, less expensive, and easier to navigate while continuing to ensure that justice is fairly administered and the rights of all litigants protected.

Accordingly, there is hereby CREATED the Indiana Innovation Initiative to analyze research on justice reform, assess the impact of reform efforts in other states, identify innovative strategies to manage different case types, and make recommendations to the Indiana Supreme Court for best practices surrounding Indiana's justice system structures and procedures. A list of the Initiative members is attached, and the group's membership may change as its work continues.

IT IS THEREFORE ORDERED that the Indiana Innovation Initiative shall:

1. Analyze the research on justice reform;
2. Assess the impact of reform efforts in other states;
3. Identify, map, and analyze commonalities and differences in subject matter and process in criminal, civil, family, and child welfare justice systems;
4. Identify innovative strategies, such as technology, to manage different case types;
5. Develop specialized procedures for different types of cases involving differing levels of complexity;
6. Evaluate the potential and actual impacts of specialized procedures;
7. Launch pilot projects to test procedures and determine the scalable value of those procedures;
8. Collaborate with and support the Coalition for Court Access (CCA) in areas where the Initiative's work overlaps with the CCA's objectives; and
9. Make recommendations to the Indiana Supreme Court for best practices surrounding Indiana's judicial system structures and procedures.

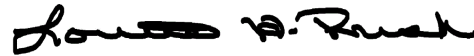
The Initiative is additionally authorized to create subgroups needed to carry out its work. The Court now ORDERS that the first two subgroups of the Initiative shall be the Family Law Taskforce and the Technology Working Group.

The Family Law Taskforce shall consider recommendations on more efficient handling of domestic relations matters created by the National Center for State Courts, the Institute for the

Advancement of the American Legal System, the National Council of Juvenile and Family Court Judges, the Conference of Chief Justices, and the Conference of State Court Administrators. The Technology Working Group shall likewise evaluate business processes and innovative technologies in other jurisdictions, and in commercial enterprise, in preparing its recommendations.

Both the Family Law Taskforce and the Technology Working Group shall analyze the research on court reform, assess the impact of innovations in other states, identify innovative strategies for significantly improving court processes, and provide a written report with findings and recommendations to the Indiana Innovation Initiative not later than March 1, 2021. The Initiative is directed to provide a written report, with findings and recommendations, to the Court not later than July 1, 2021. The Indiana Office of Court Services is directed to assign staff to assist the Initiative in its work.

Done at Indianapolis, Indiana, on 9/24/2019.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.

INDIANA INNOVATION INITIATIVE

1. Mag. Molly Briles, Vanderburgh Superior Court;
2. Russell Brown, Clark, Quinn, Moses, Scott & Grahn, LLP;
3. Hon. Steven David, Indiana Supreme Court;
4. Mary DePrez, Indiana Office of Judicial Administration;
5. Justin Forkner, Indiana Office of Judicial Administration;
6. John Franklin Hay, Near East Area Renewal;
7. Angka Hinshaw, Marion County Public Defender Agency;
8. Hon. Matthew Kincaid, Boone Superior Court;
9. Eric Koch, Indiana State Senate;
10. Jamie Oss, Huelat & Mack;
11. Joseph Skeel, Indiana State Bar Association;
12. Chasity Thompson, Indiana University Robert H. McKinney School of Law; and
13. Michael Tolbert, Tolbert & Tolbert LLC.

FAMILY LAW TASKFORCE

1. Amy Applegate, Indiana University Maurer School of Law;
2. Debra Lynch Dubovich, Levy & Dubovich;
3. Lindsay Faulkenberg, Kids Voice of Indiana;
4. Hon. William Fee, Steuben Superior Court;
5. Leslie Craig Henderzahn, Church, Church, Hittle & Antrim
6. Michael Jenuwine, Notre Dame Law School;
7. Heather Kestian, Department of Child Services;
8. Kelly Lonnberg, Stoll Keenon Ogden PLLC;
9. Dr. Jill Miller, Northwest Psychological Services, P.C.;
10. Hon. Lakshmi Reddy, Vigo Superior Court;
11. Marilyn Smith, Indiana Bar Foundation;
12. Hon. Catherine Stafford, Monroe Circuit Court;
13. Tara Tauber, Tauber Law Offices; and
14. Hon. Elizabeth Tavitas, Indiana Court of Appeals, Chair.

TECHNOLOGY WORKING GROUP

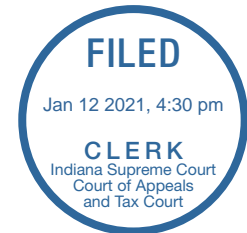
1. Hon. Kimberly Bacon, Lawrence Township Small Claims Court;
2. Josh Brown, Cohen, Garelick, & Glazier PC;
3. Scott J. Shackelford, Indiana University Kelley School of Business and Maurer School of Law;
4. Jared Linder, Indiana Family and Social Services Administration;
5. Robert Rath, Indiana Office of Judicial Administration, Chair;
6. Hon. David Riggins, Shelby Superior Court;
7. Hon. Jeffrey Sanford, St. Joseph Superior Court;
8. Roger Schmenner, Indiana University Kelley School of Business;
9. Emily Storm-Smith, Strada Education Network, Inc.;
10. Amitav Thamba, Marion Superior Court;
11. Jeffrey S. Ton, Ton Enterprises LLC; and
12. Seth R. Wilson, Adler Attorneys.

Appendix B: Order Establishing the Civil Litigation Task Force

In the Indiana Supreme Court

In the Matter of the Indiana Innovation
Initiative

Supreme Court Case No.
21S-MS-2



Order Creating the Indiana Innovation Initiative on Civil Litigation Taskforce

On September 24, 2019, this Court issued an Order establishing the Indiana Innovation Initiative and two subsidiary groups, the Family Law Taskforce and the Technology Working Group, with instructions to:

1. Analyze the research on justice reform;
2. Assess the impact of reform efforts in other states;
3. Identify, map, and analyze commonalities and differences in subject matter and process in criminal, civil, family, and child welfare justice systems;
4. Identify innovative strategies, such as technology, to manage different case types;
5. Develop specialized procedures for different types of cases involving differing levels of complexity;
6. Evaluate the potential and actual impacts of specialized procedures;
7. Launch pilot projects to test procedures and determine the scalable value of those procedures;
8. Collaborate with and support the Coalition for Court Access (CCA) in areas where the Initiative's work overlaps with the CCA's objectives; and
9. Make recommendations to the Indiana Supreme Court for best practices surrounding Indiana's judicial system structures and procedures.

At this time, the Court has determined that it wishes to create another subsidiary group, the Civil Litigation Taskforce, focusing on improvements related to civil litigation including procedure and case management.

The Civil Litigation Taskforce shall consider recommendations on more efficient handling of civil litigation created by the National Center for State Courts, the Institute for the Advancement of the American Legal System, and the Conference of Chief Justices, including the recommendations described in "A Call to Action: Achieving Civil Justice for All" by the CCJ Civil Justice Improvements Committee.

IT IS, THEREFORE, ORDERED that the Civil Litigation Taskforce is created with the following members:

1. Mr. Steve Badger, Barnes & Thornburg, Chair;
2. Sen. Eric Koch, Indiana Senate;
3. Hon. Kimberly Dowling, Delaware Circuit Court;
4. Hon. Heather Welch, Marion Superior Court;
5. Hon. Jaime Oss, LaPorte Superior Court;
6. Norris Cunningham, Katz Korin Cunningham;
7. Emily Guenin-Hodson, Guenin Law;
8. Christine Hickey, Rubin Levin;
9. Cynthia Lasher, Norris Choplin & Schroeder;
10. Jeffry Lind, Lind Law Firm;
11. Jennifer Tudor-Wright, Barnes & Thornburg;
12. Candace Williams, Tolbert & Tolbert; and
13. Pamela Williams, Anthem.

The Civil Litigation Task Force shall analyze the research on court reform, assess the impact of innovations in other states, identify innovative strategies for significantly improving court processes, and provide a written report, with findings and recommendations, to the Court not later than December 31, 2021. The Indiana Office of Court Services is directed to assign staff to assist the Initiative in its work.

Done at Indianapolis, Indiana, on 1/12/2021.



Loretta H. Rush
Chief Justice of Indiana

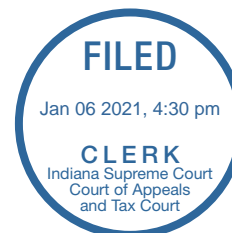
All Justices concur.

Appendix C: Order Establishing Innovation Initiative Pilot Project Permitting Pretrial Diversion Offer Before the Initial Hearing

In the Indiana Supreme Court

In the Matter of the
Indiana Innovation Initiative

Supreme Court Case No.
21S-MS-2



Order Establishing Innovation Initiative Pilot Project Permitting Pretrial Diversion Offer Before the Initial Hearing

On September 24, 2019, this Court issued an Order establishing the Indiana Innovation Initiative and two subsidiary groups, the Family Law Taskforce and the Technology Working Group to analyze research on justice reform, assess the impact of reform efforts in other states, identify innovative strategies to manage different case types, and make recommendations to the Indiana Supreme Court for best practices surrounding Indiana's justice system structures and procedures.

Members of the Innovation Initiative and its Technology Working Group recommended a pilot project in which prosecutors be permitted to offer pretrial diversion before the initial hearing, with the following goals: (1) defendants would not be required to attend the initial hearing if they elect to participate in the pretrial diversion program; (2) defendants would be able to start and finish the diversion program sooner than if the diversion were offered at or after the initial hearing; and (3) criminal justice resources would be conserved and redirected to more serious crimes.

To ensure fairness and protect the rights of all involved, the terms of pilot program, the text of the pretrial diversion offer letter, and the text of the agreement to participate have been agreed to by the Executive Directors of the Indiana Public Defender Council and the Indiana Prosecuting Attorneys Council and approved by the Judge of each trial court participating in this pilot program.

This pilot applies only to defendants charged with the following offenses:

Offense Name	Statute
Disorderly Conduct	35-45-1-3(a)(1)
Driving While Suspended (w/ prior)	9-24-19-2
Illegal Possession of an Alcoholic Beverage	7.1-5-7-7(a)(1)
Operating a Motor Vehicle Without Ever Receiving a License	9-24-18-1
Possession of a Controlled Substance	35-48-4-7(a)

Offense Name	Statute
Possession of Marijuana	35-48-4-11(1)
Possession of Paraphernalia	35-48-4-8.3(b)(1)
Public Intoxication	7.1-5-1-3(a)(1)
Reckless Driving	9-21-8-52(a)(1)
Visiting a common nuisance	35-45-1-5

This pilot shall run from the date of this order through June 30, 2021 in the following courts:

- 14D01 Daviess Superior Court
- 37C01 Jasper Circuit Court
- 37D01 Jasper Superior Court
- 39D01 Jefferson Superior Court
- 45D07 Lake Superior Court, County Division 1
- 45D08 Lake Superior Court, County Division 2
- 45D09 Lake Superior Court, County Division 3
- 45D12 Lake Superior Court, County Division 4

Notwithstanding the prohibitions against a prosecutor seeking waiver of pretrial rights from an unrepresented accused in Rule 3.8(c) of the Indiana Rules of Professional Conduct, the Court ORDERS that a prosecutor participating in this pilot may offer pretrial diversion to an accused person charged with the offenses listed below before an initial hearing provided the offer informs the accused (1) of the right to an initial hearing, (2) of the right to retain counsel or have one appointed, and (3) that acceptance of the offer is not, and cannot be construed as, an admission of guilt. A prosecutor who offers pretrial diversion to an accused before an initial hearing does not violate Rule 3.8(c) as long as the procedure for obtaining counsel is included in the offer of pretrial diversion to that individual.

Done at Indianapolis, Indiana, on 1/6/2021.



Loretta H. Rush
Chief Justice of Indiana

Appendix D: Online Dispute Resolution White Paper

by Prof. Anjanette H. Raymond and Pranita Sarangabany

Introduction

At its most basic, Online Dispute Resolution (ODR) refers to the use of a digital platform- or other technology- to file, process, and resolve a dispute.⁴⁷ Across the world, ODR is being used to resolve a wide range of dispute types, with various technology driven deployments - all designed to foster the *use of technology as an aid* to the dispute resolution process.

In general, the global community views ODR as containing three phases: negotiation (party driven online 'conversations' to resolve without external assistance, but using secure technology), mediation (where a third party assists the parties in coming to a resolution within a secure environment) and sometimes, arbitration (where a decision maker decides the outcome of the dispute, similar to a judge, partially or completely within a secure technology driven environment). In fact, you may be familiar with some of the early ODR deployments in the US, for example- Amazon, eBay and many or most online merchants use online systems to assist parties when there are difficulties in their shopping experience.

More recently, technology arising out of the ODR world has been adopted locally in 15 states to handle a variety of cases including housing, small claims, and even basic debt collection.⁴⁸ And globally, similar technology deployments are being used to resolve small claims and/or e-commerce- type environments. And progress is being made by some communities into wider deployments, in areas such as traffic accidents and family law. With each deployment, more is learned, more is improved, and more dispute types are falling within ODR solutions.

⁴⁷ "Online Dispute Resolution Offers a New Way to Access Local Courts." Pew Charitable Trusts, Washington, D.C. (January 4, 2019) <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2019/01/online-dispute-resolution-offers-a-new-way-to-access-local-courts> (archived at <https://perma.cc/GYH6-VJ55>).

⁴⁸ See The National Center for Technology and Dispute Resolution, *Courts Using ODR*, <http://odr.info/courts-using-odr> (archived at <https://perma.cc/X3WE-J34K>).

In general, these deployments have one thing in common- the main driver of the development of the technology is the fact that individuals are waiting for in person court processes that could be handled more quickly, simply, and without friction in human centered, technology assisted, dispute resolution systems. Some technology deployments focus on the basics of the court services, such as document creation, document signing, and payment features. While the more advanced integrated technology deployments offer 'full service' options, including removing barriers to access to justice by giving parties control over timelines, opening up schedules to 'after hour' discussions, simplifying document submission, reducing the time commitment of attorneys (or providing access to attorneys when necessary), reducing the need to take time off work or finding daycare, and other almost obvious benefits.

Of course, that is not to write that the entire system is without difficulties, for example, some individuals have poor or limited to no Wi-Fi /data connection, some will struggle with the technology itself, no matter how simple or 'easy' to use, and some simply want their 'day in court.' As such, technology within the justice system must be designed for those in the system, with an eye toward their needs. And, of course, no system should ever fail to consider the importance of trust in a justice environment.

A Brief Summary of Some of the Benefits

The following section breaks down in more details some of the benefits- citations are added so further reading can be done.

Technology Can Greatly Improve Engagement in The Legal Process

Disputing parties avoid no shows and defaults when court can be accessed virtually at any time. By removing participation barriers, ODR increases engagement in the legal process and access to justice.

Technology Can Increase Individuals' Ability to Understand and Exercise Legal Rights

ODR platforms can be used as an educational tool in preparation for a dispute. Relevant resources are easier to access through technology, allowing ordinary people to better understand their legal rights and options. With the ability to virtually learn about laws at their own pace, ODR users can confidently protect their rights.

Technology Deployments Can Save EVERYONE Time

ODR has proved to be a faster alternative to traditional court. 90% of ODR cases close within 30 days compared with 25% in traditional court. ODR participants are also more

likely to pay fines quicker with over 90% of payments made within 30 days using ODR compared to 50% in courts.⁴⁹

Online Dispute Resolution saves time in the preliminary phase by limiting the issue of jurisdiction. By agreeing to use ODR, both parties can be bound to the resolution they agree upon, avoiding jurisdiction issues that might otherwise alter the agreement.⁵⁰

ODR also saves time by eliminating scheduling conflicts. Messages can be sent at any time, avoiding the need for both parties to find a mutual meeting time and place. Scheduling difficulties are eliminated with 24-hour access to the platform and the asynchronous nature of the negotiations.⁵¹

Mediators reported using a more direct and problem-solving approach online compared to traditional meetings to make up for the long-distance nature of ODR.⁵² This direct approach contributes to shorter negotiation periods. In addition, online communication provides a barrier to immediate emotional response. Instead, parties have more time to deliberate on their response, which decreases tension and leads to a quicker resolution.⁵³

Mediators in traditional court often must stop discussion to caucus with a party individually. With ODR, mediators have the ability to quickly communicate with parties together and confidentially without disrupting processes. Mediators are no longer

⁴⁹ National Center for State Courts, *2019 ODR International Forum: 'Online Dispute Resolution is here to stay'* (archived at <https://web.archive.org/web/20200511201838/https://www.ncsc.org/Newsroom/At-the-Center/November-2019/ODR-Forum.aspx>).

⁵⁰ Joseph W. Goodman, *The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites*, 2 *Duke Law & Technology Review* 1-16 (2003), <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1073&context=dltr> (archived at <https://perma.cc/W92J-V9EV>).

⁵¹ *Ibid.*

⁵² Program on Negotiation, Harvard Law School, *Using E-Mediation and Online Mediation Techniques for Conflict Resolution*, <https://www.pon.harvard.edu/daily/mediation/dispute-resolution-using-online-mediation> (archived at <https://perma.cc/3SA7-NJCD>).

⁵³ AndraLeigh Nenstiel, *Online Dispute Resolution: A Canada-United States Initiative*, 32 *Can.-U.S. L.J.* 313 (2006), <https://scholarlycommons.law.case.edu/cuslj/vol32/iss1/51> (archived at <https://perma.cc/H4VP-V5FU>).

forced to ask one party to leave the room when addressing the other party individually, moving toward a resolution faster.⁵⁴

Technology Deployments Can be less Costly to the Parties

Many time-saving elements of ODR also reduce costs. The largest expense in many lawsuits is the attorney fee, which is often unnecessary with Online Dispute Resolution.⁵⁵

In addition, ODR participants eliminate travel costs. This is especially helpful for disputes between parties in different states or time zones. Relevant documents are readily accessible and do not need to be shipped to an agreed upon, neutral location, reducing case preparation costs as well.⁵⁶ By using ODR, clerks are able to cut their average prep time per case which increases court efficiency.⁵⁷

Technology Deployments Can Increase Access to the Legal System and Justice

The convenience of ODR helps a larger number of people negotiate resolutions asynchronously than could appear in traditional court. Traditional court cases are 10 times more likely to default compared to online cases.⁵⁸ By eliminating barriers to communication, parties are more able and likely to access the justice system.

The Province of British Columbia was one of the first courts to implement ODR. Of the 385 people surveyed, 69% of users believed the Canadian ODR was easy to use. 77% of people reported the platform provided information that prepared them for dispute resolution.⁵⁹ ODR increased access to these resources that might have only been available through an attorney or during working hours in traditional court.

The public recognizes the increased access of ODR. The National Center for State Courts reports 59% of registered voters agree that "state courts are not doing enough to

⁵⁴ Zhang, Wusheng; Zeleznikow, John; and Vries, Berend, *Online Dispute Resolution: The Benefits Of Enhancing Alternative Dispute Resolution Through The Use Of Internet Technology* (2004). ACIS 2004 Proceedings. 79. <https://aisel.aisnet.org/acis2004/79> (archived at <https://perma.cc/JKU3-HHDD>).

⁵⁵ Goodman, *The Pros and Cons of Online Dispute Resolution*.

⁵⁶ *Ibid.*

⁵⁷ National Center for State Courts, *2019 ODR International Forum*.

⁵⁸ *Ibid.*

⁵⁹ British Columbia Civil Justice Tribunal, *Annual Report 2018-19*, <https://civilresolutionbc.ca/wp-content/uploads/2020/03/CRT-Annual-Report-2018-2019.pdf> (archived at <https://perma.cc/P9PD-GENG>).

empower regular people to navigate the court system without an attorney.”⁶⁰ The court system can be complex and demanding with strict deadlines procedures. ODR streamlines the civil lawsuit process, increases flexibility, and allows more people to participate.

Finally, Technology Deployments are already Occurring with Success

Many local and state governments recognize the benefits of Online Dispute Resolution and have implemented programs in their courts. For example, the City of San Francisco partnered with the Bar Association of San Francisco to provide the Conflict Intervention Service in Affordable Housing (CIS) program. CIS uses online forms and in some cases video conferencing to provide quick resolutions in housing disputes.⁶¹

Courts are using ODR to address more than just residential cases. States are developing and purchasing ODR services for small claims, tax, traffic, and family disputes among others.⁶² The response to these services has been positive. In Franklin County, Ohio, ODR participant feedback showed 97% of those surveyed preferred ODR over going to court. 90% of participants surveyed felt that they were treated with respect and had an opportunity to be heard.⁶³ Legal experts predict ODR will continue to expand and improve in the future.⁶⁴

Specifically, to Landlord/Tenant Disputes

Examining landlord- tenant disputes, in specific, can better explore and explain the benefits of technology deployments in justice environments.

⁶⁰ National Center for State Courts, *The State of State Courts: A 2018 NCSC Public Opinion Survey (Summary)*, p.5, https://www.ncsc.org/_data/assets/pdf_file/0020/16157/sosc_2018_survey_analysis.pdf (archived at <https://perma.cc/C2FK-653G>).

⁶¹ Simon Boehme, The Bar Association of San Francisco Justice and Diversity Center, October 15, 2018, <https://www.sfbar.org/blog/housing-dispute-handle-it-quickly-online> (archived at <https://perma.cc/XB92-779S>) and <https://www.sfbar.org/adr-services/about-cis> (archived at <https://perma.cc/HQC2-SYA4>).

⁶² The National Center for Technology and Dispute Resolution, *Courts Using ODR*, <http://odr.info/courts-using-odr> (archived at <https://perma.cc/X3WE-J34K>).

⁶³ Franklin County (OH) Municipal Court ODR and Mediation Data Project, September 2019, <https://sites.google.com/view/fcmcdataproject/about> (archived at <https://perma.cc/HF47-BFYX>).

⁶⁴ Joint Technology Committee, *ODR for Courts, Version 2.0*, November 29, 2017, https://www.ncsc.org/_data/assets/pdf_file/0031/18499/2017-12-18-odr-for-courts-v2-final.pdf (archived at <https://perma.cc/PRL7-VLNX>).

First, according to rent.com and others, there are several types of disputes that arise frequently in landlord-tenant relationships: late/non-payment; damage or neglect of property; noise complaints; poor/inadequate maintenance; pest (or similar type) problems; pets; and breaches of the lease via subletting, additional guests, and similar events.

In San Francisco, as mentioned above, the city attempted to reduce evictions by improving communication between landlords and tenants, and the results were very positive. However, some would argue the technology deployment was well beyond the traditional ODR design many might envision. The City, with the assistance of many, created an application that presented legal information, assisted in communication, and improved individuals (both landlord and tenants) knowledge of their legal rights, yet the community needed more as many individuals lacked key skills and access to allow successful use of the system. In this instance, local Bar assisted by providing volunteers within the community, with iPads in hand. They worked with individuals to use the technology, yet, the volunteers needed no legal knowledge themselves as the iPad delivered via the platform technology all of the legal information necessary and assisted everyone in using the system to receive information and navigate the process. While the deployment of volunteers into the community may seem 'extra-ordinary' it, in fact, should not be considered as such. Well-designed technology should be designed with an eye toward both design, deployment and long-term monitoring/adjustment with the community of needs as a primary element of consideration. In the San Francisco [Conflict Intervention Service in Affordable Housing](#) case, the technology contained all the information and communications tools needed; however, the community lacked on-the-ground technology knowledge.⁶⁵ Consequently, design was not enough, as such, the deployment sought to - and did- overcome the technology skill and access levels by using iPads and volunteers to access and navigate the system.

The 'platform' itself was designed to assist individuals facing eviction by providing knowledge of their legal rights; assisting in improving communication between the parties; providing a secure platform for communication; providing a space to negotiate of resolution of issues that are creating the potential for eviction; and recording the resolution to be followed up on. This type of system, therefore, is a great example as it highlights all of the potential of technology deployments.

⁶⁵ Archived at <https://perma.cc/HQC2-SYA4>.

This specific type of technology was designed to allow asynchronous communication; legal information; triage (where the system presents users with different paths and provides them with the necessary information to make informed decisions); electronic document management, including document creation and capture; secure negotiation space; and even potential payment methods.

While the specific deployment reduces the impact of individuals' lack of technology knowledge and skill, lack of connectivity, accommodation and disability issues and lack of knowledge of the existence of the system.

Summary

ODR has made significant improvements to court efficiency and accessibility. By allowing flexibility in legal procedures, courts are able to save time and money while increasing successful outcomes. Online Dispute Resolution is a strong example of how technology can increase efficiency and justice when implemented thoughtfully.