



JTC Priority Topics for 2017

Fines and Fees

There's been a lot of discussion at recent JTC meetings on efforts of the National Task Force on Fines, Fees, and Bail Practices. From a recent letter to members of COSCA . . .

Important questions have arisen over the last several years concerning the imposition and enforcement of legal financial obligations and the ways courts, in coordination with their justice system partners, manage the pretrial release of individuals awaiting trial. There are due process and equal protection requirements that courts must adhere to that relate to the use of ability to pay determinations, the limited conditions under which incarceration can be used for individuals unable to satisfy their court ordered legal financial obligations (LFO), and the need for the use of alternatives to incarceration for those individuals unable to pay. The U.S. Supreme Court has held that converting an individual's fine to a jail term solely because the individual is indigent violates the Equal Protection Clause of the United States Constitution.

The National Task Force has developed a series of key products providing recommendations and guidance on policies relating to the handling of court ordered legal financial obligations that promote access, fairness, and transparency.

This continues to be a topic of interest to the JTC, particularly opportunities to leverage technology to address some of the challenges and task force recommendations.

Civil Justice Reform

The JTC has been monitoring three key areas relating to technology opportunities arising from the CCJ Civil Justice Initiative. These have been discussed at length in recent JTC Meetings:

- Case Triage and Automated Case Management
- Online Dispute Resolution
- Litigant Portals

The JTC intends to appoint a Focus Group to assess progress in each of these areas and identify ways the JTC can support further work. The result will likely be one or more Working Groups to develop specific deliverables. JTC Leadership is tentatively planning to convene a meeting of the Focus Group on February 3-4, 2017 (immediately preceding the NACM Mid-Year Conference in Portland).

Case Information Exchange

With so much interest in court performance, the demand for court case data has increased exponentially in recent years. The JTC has discussed this issue at length and asked CITOC representatives to take the lead on identifying data elements that should be included in a standardized case information exchange. JTC Leadership hopes to establish a Working Group to focus on information to support metrics and consistent definitions for affected elements. The group should also leverage related work published by Global and lessons learned from case information sharing projects in Arizona and Florida. Potential deliverables could be a white paper (addressing value, policies, specific data requirements and challenges) and a NIEM-conformant IEPD exchange or SSP as a proposed standard for sharing case information.

Courts Disrupted

The JTC convened a Focus Group meeting on this topic in November. A preliminary introduction from a draft of the white paper the group is developing . . .

The concept of disruptive innovation made its debut more than 20 years ago in a Harvard Business Review article. Researchers Clayton M. Christensen and Joseph L. Bower observed that established organizations may invest in retaining current customers but often fail to make the technological investments that future customers will expect. That opens the way for low-cost competitive alternatives to enter the marketplace, addressing the needs of unserved and under-served populations.

Lower-cost alternatives over time can be enhanced, gain acceptance in well-served populations, and sometimes ultimately displace traditional products or services. This should be a cautionary tale for court managers. What would happen if the people took their business elsewhere? Is that even possible? What would be the implications to both the public and the courts?

While disruptive innovation theory is both revered and reviled, it provides a way for court managers to view and respond to significant change. Like large businesses with proprietary offerings, courts have a unique customer base. Until recently, those customers had no other option than to accept whatever level of service the courts would provide and at whatever cost. Innovations such as non-JD legal service providers, online dispute resolution (ODR), and unbundled legal services are circumventing some traditional court processes, providing more timely and cost effective outcomes.

While there is no consensus in the court community on the potential impact to courts (they are not in danger of “going out of business”), there are compelling reasons for court managers to leverage the concept of disruptive innovation. As technology significantly alters the way routine transactions are handled in other industries, courts can embrace innovation as a way to enhance the public’s experience. Doing so may actually help courts “disrupt” themselves, making procedural fairness available to a wider audience at a lower cost while preserving fairness, neutrality, and transparency in the judicial process.

Access and Privacy

The JTC convened a Focus Group meeting on this topic in November. From the Focus Group . . .

The rise of machine learning – evidenced most recently by the law firm Baker & Hostetler “hiring” Ross – presents courts with new opportunities. Once upon a time, we discussed technologies that could assist human court staff with their effort to redact confidential or sensitive information from electronic court filings. Now courts should be discussing ways that machine identification of data in unstructured documents, coupled with matching algorithms, can support a host of judicial processes: automated redaction to enable greater public access to electronic case files, to be sure, but also auto-population from unstructured documents of e-filing envelopes, case management systems, self-represented litigants’ document assembly programs, risk/need and triage assessments, court performance metrics, and the like.

NextGen Standards

The first phase of JTC's NextGen Court Technology Standards initiative was funded through a SJI grant. Deliverables produced in Phase 1 – the Court Business Capability Model and the Court Business Process Model – were approved by the JTC and can be accessed at <http://www.ncsc.org/About-us/Committees/Joint-Technology-Committee/JTC-Court-Technology-Standards.aspx>. A plan for subsequent phases was developed to include more detailed analysis of business processes by case type with corresponding updates to the models. The plan also envisioned projects to address Component Design and Application Capability models with a goal of standardizing court application components and interactions between components.

At the Industry Summit hosted by NCSC and the IJIS Institute in November of 2015, court technology vendors and court representatives attending the Summit proposed fast-tracking development of the Component Design Model. A JTC Quick Response Team has since developed a draft component model for vetting and consideration. JTC Leadership is hoping to continue work on the component model and explore funding opportunities for subsequent phases of the NextGen Standards project.