

**Judicial Information Systems Council  
Online Access Subcommittee  
Final Meeting Minutes  
James Noel, Chair**

Judicial Information Division  
2905 Rodeo Park Drive East, Building 5  
Santa Fe, New Mexico 87505

Monday, August 3, 2020 at 1:30pm – remote conference

1. Welcome and Introductions

In accordance with the Supreme Court orders regarding the pandemic and the imperative to make court access the top priority while operating under scaled back operations, for the foreseeable future the focus of the Online Access Subcommittee meetings will be on the following three items until further Order of the Court.

- SOPA Access Requests
- re:SearchNM completion
- Expanded e-Filing

*In Attendance: Judge Noel, Chair; Judge Mitchell, Barry Massey, Weldon Neff, Joey Moya, Jennifer Scott, Ian Bezpalko, Celina Jones, Patricia Galindo, Logan Fernandez, Suzanne Winsor, Laura Orchard, Christal Bradford, and Margarita Terrell*

2. Approval of Agenda

*A motion was made by Ian Bezpalko to approve the agenda, and Judge Mitchell seconded the motion. No discussion and no opposition to the motion.*

3. Approval of January 14, February 2, June 1, and July 6 Minutes

*A motion was made by Ian Bezpalko to accept all four sets of minutes, and Barry Massey seconded the motion. No discussion or updates were made. Judge Mitchell abstained approval of the February 2, 2020 minutes. No opposition.*

4. Follow up on action items  
a. CEOC – Weldon Neff

*Weldon Neff noted that three implementation plans for e-Filing at Metropolitan Court, Magistrate Courts, and for Self-Represented Litigants were provided to the CEOC. An update on the roll out schedule was provided to the CEOC by Margarita Terrell.*

*Suzanne Winsor indicated the Metropolitan Court roll out is in progress and the August 17 roll out is still anticipated.*

*Judge Noel asked if CEOC had any concern about possibly needing additional resources to manage the electronic filing. Weldon Neff reported that he did not receive any feedback from*

*CEOC regarding this concern, but his impression is that after the first up front impact to incorporate the new processes, in the long term it would be to the benefit of the judicial specialists.*

*Suzanne reported that 3 of the 19 Metropolitan Court work on civil cases, so the impact will be contained. It will give JID a better feel for how it will impact the Magistrate Courts.*

b. OAS July Action Items – Laura Orchard

*Laura Orchard reported that she had completed all of the July action items.*

*Judge Noel asked for an update on the request to JEC for Judge training on re:SearchNM. Laura reported that she requested re:SearchNM training for judges be included in the 2021 Conclave schedule, and submitted the necessary details for it to be reviewed when that schedule is being finalized. Additionally, judge training is a specific step in the migration plan, so it will happen at least once and possibly twice.*

*Judge Mitchell asked if anything is still going before the Supreme Court at their August 12 conference. Laura clarified that it would be the draft rule for Metropolitan Court e-filing. Joey Moya indicated it has been “green-sheeted”, which is a way for them to resolve items without meeting about them at their conference on the 12<sup>th</sup>.*

*Judge Noel provided an update on answers provided to three questions brought to the Supreme Court at their July conference. Additionally, the August 17 roll out date for Metropolitan Court was provided to them.*

5. Policy Discussions

- a. Determine if Policy 11 for Municipal Judges and their staff include Tribal Courts (685591)
  - i. “Municipal judges and their staff are Justice Partners and can be provided Tier 2 access.”

*Laura explained that Tribal Courts are not included in the “municipal” policy and wanted clarity on the definition of the word.*

*Judge Mitchell recalled discussions about municipal courts under the superintending control of the New Mexico Supreme Court and tribal courts were not necessarily discussed.*

*Joey Moya agreed that tribal courts have not been discussed and, in his opinion, would not include them in this specific municipal policy, but suggested we create something more along the Federal policy line. Laura said there is currently no Federal Court policy outlined, and the Justice Partner definition does not include federal courts.*

*Discussion ensued and it was determined that both a new policy and a modification to the current Justice Partner definition be crafted as a recommendation for OAS approval at the August 31 meeting, to then be taken to JIFFY’s September meeting, and then the Supreme Court at their October conference.*

***Action Item:*** Judge Noel, Judge Mitchell, Suzanne Winsor, and Laura Orchard to draft a specific policy recommendation for “Tribal Courts and their staff” to present to OAS, JIFFY, and the Supreme Court at their upcoming meetings.

- b. Develop Recommendation for JIFFY and Supreme Court on Domestic Violence Civil Orders of Protection (DVL) Policy – Celina Jones (see “Exceptions” in Security folder)
  - i. **The Issue:** OAS regularly receives requests for SOPA access to Domestic Violence Civil Orders of Protection. Currently, “the policy” limits access to law enforcement (definition of “law enforcement” is very restrictive), New Mexico Legal Aid, Judicial Standards, and NM State Auditor. OAS has fielded requests from a wide range of other entities seeking access to these orders. OAS has selectively granted exceptions to this narrow policy.
  - ii. **Objective:** Craft a recommendation for JIFFY and the Supreme Court for a revised “policy” expanding access to these orders to the extent permissible under law.
    1. Relevant Statutes are 40-13-12 and 40-13-A6
    2. Orders of Protection not allowed publicly on the Internet to protect the victim
    3. If application is pw protected, is it covered as “not public on the Internet”?

***Discussion ensued regarding the following:***

- ***Password protection was taken into consideration in the original determination, and a protective approach was taken (sharing of passwords is always a possibility);***
- ***There was public input by interested parties were present to voice their opinions, so if we pull back on that, they should be given notice and provide comment;***
- ***Anyone can physically visit a court to gain access to the DV Order of Protection;***
- ***Family Violence Protection Act only addresses a “publicly accessible website” to prevent surfing the Internet to locate the victim;***
- ***It was taken to mean it cannot be online whatsoever, which has made access burdensome for agencies involved in the criminal justice process with a valid need to see these cases;***
- ***The pandemic has increased the need for electronic access;***
- ***There is a conflict between the statutory intent and the policies currently in place for Civil DV Order of Protection, and that it would not contravene 40-13-12 or 40-13A-6 to grant wider access;***
- ***Is there a concern with the Press having broad access to the Civil DV Order of Protection case information? They have access physically, but by providing it online, with Press the stand-in for the “public”, are we violating the statutes?***
- ***If the policy is that any password protected access does not violate the statute, then there are many restrictions in the tiers that will need to be re-evaluated, but a recommendation should be presented to the Supreme Court;***
- ***Possibly coming up with a class of requesters who should have access, or by possibly expanding the definition of “law enforcement”;***

- *In certain respects, these case types fall into Tier 1, and neither SOPA or re:SearchNM meet the definition of a “publicly accessible website” as long as there is no redaction in place;*
- *Another issue is an individual involved in a Civil DV Order of Protection case as the respondent, who then applies for Press access as a blogger/citizen-journalist, will have access to these cases due to the SOPA policy definition of Press. Although they can get this information in person at court;*
- *One violation that is known of was not a journalist, but an attorney staffer using the licensed attorney’s credentials to acquire the individual’s information to distribute;*

*Judge Noel suggested that a recommendation be made for Civil DV Orders of Protection cases be make Tier 1. Barry Massey agreed and added that the other Domestic Violence case types (criminal, misdemeanor, felony) are also restricted at a higher tier too, and should be included in Tier 1 group as well.*

*A motion was made by Barry Massey to make a recommendation to the Supreme Court that domestic violence cases, (expanded to include civil, criminal, misdemeanor and felony), be considered Tier 1. Weldon Neff seconded the motion.*

*Additionally, Patricia Galindo suggested the Supreme Court revisit and revise the Order of Protection Petition forms to include a clear bold statement where the petitioner can check a box requesting the case sealed. This might balance the access to information with protecting the victim’s information.*

*Barry Massey made a motion to amend the original motion to include an update to the Order of Protection forms as per Patricia Galindo’s suggestion. Weldon Neff seconded the amendment to the motion. This recommendation will be brought to OAS on August 31, to the September JIFFY meeting and the October Supreme Court conference. There was no opposition, and Joey Moya abstained.*

*Suzanne Winsor explained how the pleading to request an address be sealed will cause the clerk to check the box to restrict the party’s address, which prevents it from being displaying in SOPA or re:SearchNM, however, if the address information is in any of the pleading documents, there is the possibility that it can be found.*

**Action Item:** *Laura Orchard will coordinate a meeting to craft the recommendation to be included on the August 31 OAS for presentation to JIFFY, and the Supreme Court at their upcoming meetings.*

- c. CSED SOPA request for access to parentage cases – discuss the possibility of creating a new profile to separate Domestic Violence Civil Orders of Protection (DVL) and parentage from the Mental Health, etc. from the Tier 2.5 category – Celina Jones, Joey Moya, Christal Bradford (see “Tier 2.5 CC CRDV CVDVL” in Security folder)

*Christal Bradford explained that while rolling out e-Filing for the regional HSD/Child Support Enforcement Divisions, she learned that when CSED intervenes in a Parentage case, they become an “Intervenor”, which is a Participant in Odyssey, and means the case is not*

*available to the Intervenor participant. Currently, the only Parentage cases they have access to are on cases where they are the Attorney of Record, and only for that specific attorney.*

*A technical solution is not currently possible, because changing the configuration so Participants could be visible would impact other protections and restrictions provided to Participants. By creating a new SOPA and re:SearchNM profile just for CSED, they could have the Tier 2.3 cases with the addition of the Parentage case types. This would mean providing access to all Parentage cases, regardless of whether they are a Participant or not. [In the meeting, Laura erroneously spoke of Tier 2.5 for CSED, but it is Tier 2.3, as indicated here.]*

*Sealed documents within the case, or sealing of the case, would override visibility to CSED unless they are the attorney of record.*

*Parentage cases are available to anyone over the counter at the court.*

*When Parentage cases were restricted in Tier 2.5, it was because of the statute providing the court with the option to not allow inspection of the court file without consent of the court first. Lack of access to Parentage case types has been problematic for attorneys in general. If this case type were to be moved to Tier 1 and only Attorneys of Record can see the sealed documents, then it is protected already and the need to restrict it into a higher tier doesn't exist. So as an alternative to the new profile, a recommendation could be made to move the Parentage cases to Tier 1.*

*A motion was made by Judge Mitchell to allow CSED to have access to Parentage cases, effectively creating a new SOPA/re:SearchNM profile. Weldon Neff seconded the motion. There was no opposition.*

*Judge Noel recommended further review of the statutes (40-11A-633 and 40-11a-642) at a future meeting to consider moving Parentage cases to Tier 1.*

**Action Items:**

- *JID to provide a count on the number of Parentage cases that are sealed (for Aug 31);*
  - *JID to provide a count on the number of sealed documents within that count of Parentage cases (for Aug 31); and,*
  - *JID to create a new CSED profile in SOPA and re:SearchNM and provide this access to CSED staff.*
- d. Restricting SRL Access to re:SearchNM for JQ cases (Abuse & Neglect and Juvenile Termination of Parental Rights Cases)
- i. Verify: there are no SRLs on Abuse & Neglect and Termination of Parental Rights cases.

*Celina Jones verified that there are no self-represented litigants on Abuse & Neglect or Termination of Parental Rights cases. Sometimes the Termination of Parental Rights case is an extension of the Abuse & Neglect case.*

***Action Item:*** Laura will note this in the procedures for SRL access and deny access if a self-represented litigant applied to gain access through re:SearchNM to these types of cases.

- e. What should SRL access be on PQ cases? (Protected Probate Conservatorship/ Guardianship of an Adult, Protected Probate Conservatorship of an Adult, and Protected Probate Guardianship of an Adult)

*Suzanne Winsor indicated there can be self-represented litigants on PQ cases.*

*Patricia Galindo clarified that it's more complex and explained some of the details surrounding the parties and participants and who is entitled to see the case record during various stages of the case.*

*Judge Noel noted that the actual question is, who is the self-represented litigant who can request and gain access to the software application?*

*Patricia Galindo suggested that because it is so rare for a petitioner to be Pro Se, and due to the complexity of the case, no single self-represented litigant should be given access to the case. Almost always, the petitioner will be represented by counsel.*

*Judge Noel distilled the conversation by saying the recommendation is to not provide SRL access to an applicant who requests to see a PQ case.*

*No motion was made.*

***Action Item:*** Laura will note in the procedures that if an application is submitted by an SRL for access to a PQ case, it needs to come before OAS.

- 6. Case Security in SOPA and re:SearchNM
  - a. Develop a Sealed Case Policy and Exception Recommendation for the Supreme Court (see "Sealed Case Policy" in Security folder)
    - i. **The Issue:** re:SearchNM can be configured in a more granular way than SOPA in regards to case security groups and which profiles can see sealed cases.
    - ii. **The Objective:** to craft a recommendation for the Supreme Court defining which profiles can see sealed cases within the tier they belong to.

*Laura described the issue and a draft of the OAS recommendation.*

*The group reviewed and edited the draft recommendation based on the discussion.*

*Suzanne Winsor clarified that the new sealed expungement records were not to be seen by Law Enforcement, and Judge Mitchell read from the July minutes that no one would have access. Law enforcement will have access through their own records, but would not be provided by AOC.*

*Celina Jones confirmed that no one, including attorney of record and law enforcement, would have access to the 2020EXP sealed cases. Judge Mitchell added a statement about the expunged cases to the drafted recommendation.*

*A motion was made by Judge Mitchell to recommend to JIFFY and the Supreme Court to adopt the policy as written today. The motion was seconded by Ian Bezpalko. There was no opposition.*

**Action Item:** *Laura to provide the edited version of the policy to JIFFY at their September meeting for recommendation to the Supreme Court at their October conference.*

- b. Approval to utilize 2020EXP case security group (instead of Sealed Case security group) on Criminal Record Expungement case once the judge has granted expungement of original case. This is the mechanism that will hide the two cases from all profiles, including Attorney of Record and was not explicitly decided at the July meeting.

*A motion was made by Judge Mitchell for the utilization of the 2020EXP case security group as presented. The motion was seconded by Ian Bezpalko. There was no opposition.*

**Action Item:** *Suzanne Winsor to confirm this is written into the SOP for the Criminal Record Expungement case type.*

- c. Approval for Public Health Emergency Order to be treated like the other Mental Health cases as Tier 2.5 and available to the Attorney of Record, per Celina Jones' approval.

*A short discussion ensued regarding the Department of Public Health being the petitioner and the cases being sealed upon initiation, and that the cases have HIPPA information in them. This refers only to order to quarantine, not to violations of mask rules or restaurants opening when they shouldn't.*

*A motion was made by Judge Mitchell for the Public Health Emergency Order case types to be classified as Tier 2.5. Weldon Neff seconded the motion. There was no opposition.*

**Action Item:** *Laura to make this case Tier 2.5 on the Exclusion/Inclusion spreadsheet and distribute.*

7. Re:SearchNM

- a. Displaying Personally Identifying Information (see "SID and PII" and "SSN Display" in re:SearchNM folder)
  - i. Same as SOPA?
  - ii. When a party record in Odyssey includes an SID (the State ID Number generated by Department of Public Safety), it does display in SOPA. Are there any DPS issues with this data being displayed?
- b. Party History Policy (development request from DAs and PDs) is this also a development request from OAS or to be moved to future development?

*Due to time constraints, item 7 was moved to the August 31 agenda.*

8. Metro e-Filing Project Update – Margarita Terrell

*Due to time constraints, item 8 was moved to the August 31 agenda.*

9. SOPA Requests (see "SOPA Request" folder)

- a. Alexander Uballez 2.5 request (681026) – Assistant United States Attorney at the USAO in the District of New Mexico – “inactive” attorney submitting a Tier 2.5 Justice Partner application, but does not meet the criteria (USAO is Tier 2)

***Because this applicant is seeking Civil DV Order of Protection cases, they may gain access to this group if the Supreme Court approves the policy recommendation from OAS in October.***

***The word “active” is not on the website, but “in good standing” refers to the Supreme Court’s Roll of Attorney database. Joey Moya recommended when this type of request comes in, JID request the SC provide further understanding as to the “inactive” status. This person should apply for Tier 1 as Justice Partner as a Federal Agency once the DVL cases become Tier 1.***

**Action Item: Laura will respond to Mr. Uballez with “pending before OAS”.**

- b. Elva Burillo of CASAkids.org – 2.5 request for Domestic Violence Civil Orders of Protection – DVL

***Because this applicant is seeking Civil DV Order of Protection cases, they may gain access to this group if the Supreme Court approves the policy recommendation from OAS in October.***

**Action Item: Laura will respond to Ms. Burillo with “pending before OAS”.**

***Judge Noel mentioned that Dick Wilkinson had made the request for Logan Fernandez to become a voting member of the committee. Judge Mitchell noted that she needed to look at the JIFFY directive for the Online Access Subcommittee charter.***

**Action Item: Laura to add this discussion as an agenda item for August 31.**

10. Meeting Adjourned

Next Meeting

Monday, August 31, 2020 at 1:30pm