

Electronic Public Access User Group Conference Call

June 29, 2020

Electronic Public Access (EPA) Public User Group Members Present:

Christopher Allman	Assistant U.S. Attorney, Kansas, Department of Justice
Adam Angione	Midwest and Northeast Bureau Chief, Courthouse News Service
JoAnn DiSanti	Associate Director of Managing Clerks, White & Case LLP
Nicholas Goldrosen	Student, Williams College
Todd Higey	Representative, National Association of Professional Background Screeners
Seamus Hughes	Deputy Director, Program on Extremism, George Washington University
Margo Kirchner	General Counsel and Development Director, Wisconsin Justice Initiative
Tyler Mills	Team Lead, Bloomberg Law
Robert Patrick	Reporter, St. Louis Post-Dispatch
Theresa Reiss	Law Librarian, Congressional Research Service, Library of Congress
Gabriella Sarnoff	Assistant Managing Attorney, Debevoise & Plimpton LLP
Warren Thomas	Principal, Meunier Carlin & Curfman LLC

The twelve Group members work in various sectors that represent the majority of the Public Access to Court Electronic Records (PACER) user population (i.e., legal sector, non-profit, government, media, academia, data aggregators and other service providers to the legal sector, and the general public). The members are from seven states and the District of Columbia.

Administrative Office of the United States Courts

Joann Swanson	Chief, Enterprise Operations Center
Jane MacCracken	Group Chair and Division Chief, Programs Division, Court Services Office
Angela Jaffee	Branch Chief, National Programs Branch
James Cartwright	Branch Chief, PACER Development Branch
Jole Awtrey	Branch Chief, Case Management Branch, Court Services Office
Linda Melchor	Program Analyst, EPA Section, Court Services Office
Aicha Campbell	Program Analyst, EPA Section, Court Services Office
Beth Grabo	Manager, Web Communications & New Media, Office of Public Affairs
Emily Poland	Public Affairs Specialist, Office of Public Affairs, Office of Public Affairs
Julie Neville	Attorney Advisor, EPA Section, Court Services Office
Michelle Gardner	Attorney Advisor, EPA Section, Court Services Office

Conference Call Summary

Jane MacCracken, Public User Group chair and Division Chief within the Court Services Office, welcomed the Electronic Public Access (EPA) Public User Group members (Group) and thanked

them for their continued service during the COVID-19 pandemic. The Group was informed that the Administrative Office of the U.S. Courts (AO) began operating virtually on Monday, March 16, 2020, and has remained in that status. Resources for the judiciary's pandemic response and continuity of operations are on www.uscourts.gov, including press releases, reports, and links to each court's operational status.

Outreach

The AO reiterated the importance of each Group member's commitment to gather feedback from their respective PACER constituencies. The AO offered assistance to members in formulating their communication strategies. Group members shared their plans for outreach.

The AO will also reach out to PACER users through a comprehensive EPA user assessment that it will conduct in the coming year, and which Group members will have an opportunity to review.

New PACER Website Update

Following the Group's February 2020 meeting, more than half the members participated in testing the usability of the new PACER.uscourts.gov website, launched on June 28, 2020. The feedback received was valuable and will be used to inform future enhancements. The new site's design is more agile so that future enhancements can be made with greater frequency.

The Group recommended participating in future website testing and allowing members' constituents to provide feedback in this regard through survey-style testing opportunities.

Status of Recommendations

The Group was reminded that the AO will continue to pursue those recommendations from the Group that are feasible legally and technically. As discussed in the February 2020 meeting, recommendations are also subject to the availability of funding. The AO provided an update on the status of the Group's original recommendations¹ made during its February 2020 meeting.

1. *Making PACER More Accessible for Pro Se Litigant Users*: The AO will create a page on the new PACER.uscourts.gov site dedicated to individuals (such as unrepresented or *pro se* litigants) who do not have the assistance of an attorney. The page will provide information in plain language describing how to access and use PACER site features.

Estimated release: Fall 2020.

¹ The EPA Public User Group's recommendations can be found on pages 5 through 7 of the [February 27-28, 2020 Meeting Summary](#).

2. *Date Range of Case Information in Court's CM/ECF:* The AO will specify the date range of case information available in each federal court's CM/ECF system. This information will be placed on the PACER Case Locator's court information page. **Estimated release: Fall 2020.**
3. *Improve Existing Search Capabilities:* The Group made several recommendations that involve improving existing search capabilities, including the ability to search the case title and party name fields using one character accompanied by a wildcard character. This has been prioritized for the PACER Case Locator. **Estimated release: Fall 2020.** This functionality will be evaluated for inclusion in a future release of the next generation (NextGen) of Case Management/Electronic Case Files (CM/ECF) systems for all court types. The remaining recommendations related to improving existing search capabilities are being analyzed by the AO and are listed on page 5 of the [February 27-28, 2020 Meeting Summary](#).
4. *New Search Criteria:* The AO will analyze the Group's recommendations for creating new search criteria, described on page 5 of the [February 27-28, 2020 Meeting Summary](#). These recommendations require further analysis, clarification, and/or have Judicial Conference policy implications as described in the following section.
5. *Improving PACER User Experience in CM/ECF:* The AO will analyze these recommendations relating to improving the PACER user experience, as described on page 6 of the [February 27-28, 2020 Meeting Summary](#). These recommendations require further analysis or clarification and may have Judicial Conference policy implications.
6. *Fully and Consistently Implement RSS Feeds Across Courts:* The AO will conduct outreach this summer to encourage all federal courts to enable RSS (real simple syndication) feeds.
7. *Unsealing of Search Warrants – Best Practices:* The AO created an internal task force to suggest best practices for courts to consider when sealing case information.
8. *Ability to track/follow cases:* The AO will analyze this recommendation to determine the best approach for case-tracking in each NextGen CM/ECF system (appellate, district, bankruptcy).

9. Improve Timeliness of PACER Case Locator Data: The AO will analyze this recommendation to determine the best approach for updating PACER Case Locator data without impacting the performance of court systems during business hours.
10. Full Text Search: The AO will analyze this recommendation as it may have unintended privacy consequences and/or Judicial Conference-policy implications that must be resolved before further technical analysis can be conducted.
11. Ability of Attorney to Opt-out of NEF/NDA Upon Withdrawing from Case: The AO will analyze this recommendation to ensure that it does not result in unintended consequences. If appropriate, the AO will conduct a technical feasibility analysis.
12. Ability to Download Documents at the Public Terminals: This recommendation requires additional analysis by the AO to determine whether it is possible for documents to be downloaded without compromising the security of public terminals.
13. Make Additional Data Available in CM/ECF to Identify Individuals: The AO has determined that it is not feasible to make personal identifiers, such as date of birth, available to all users due to privacy statutes, rules, and Judicial Conference policy.
14. Making the EPA Public User Group a Standing Group: The AO will analyze this recommendation closer to the sunset date for the Group. The group's duration will be determined by multiple factors, including availability of resources and funding.
15. Viewing PDF on mobile devices: The AO determined that a software error causes PDF documents to not be viewable (users are unable to scroll past the first page) on mobile devices. AO development teams are now testing which CM/ECF applications are affected. To date, the error has been confirmed only in the District CM/ECF application and will be resolved in the next release cycle.

Policy Implications

The AO reviewed with the Group the Judiciary's policy-making process, and the steps that will need to be taken to for those recommendations, noted above, that have Judicial Conference policy implications. The AO will introduce the recommendations to relevant AO advisory groups and Judicial Conference committees so that they can begin to determine their feasibility (as posed, or potentially modified).

There are Judicial Conference policies implicated by recommendations under items 4, 5, 10, and 13, above.

The privacy of individual information in federal court records is protected by law, federal rules, and Judicial Conference policy. The Federal Rules of Procedure and related policies mandate the redaction of personally identifiable information (such as social security numbers and dates of birth) and limit the accessibility of certain case documents that contain sensitive information (such as Social Security disability matters). The Group's recommendations relating to full-text searching of case information, posting of exhibits, and the creation of an Application Programming Interface (API) that would allow non-parties to file pleadings are all limited by aspects of these laws, rules, and policies.

Current Judicial Conference policy also limits the disclosure of judge-identifying information from judiciary databases except to the extent required by law. This could constrain the Group's recommendations to add a dedicated search by judge functionality and free-text searching capability.

Other aspects of the Group's recommendations call for standardization across courts and court types in a way that could limit court's authority and discretion to manage cases according to the needs of the litigants and local community. As the Group has previously discussed with the AO, federal courts have the constitutional independence and statutory authority to prescribe local rules governing their own practice and procedure, so long as those rules are consistent with Public Law and the Federal Rules of Procedure (after the public has had notice of the local rules, and an opportunity to comment).

Open Discussion

The Group discussed the ways in which the COVID-19 pandemic has affected electronic public access. The Group suggested that the public maintain the same level of access to court records during the pandemic as would have otherwise been available, particularly for local court patrons who obtain information from court's public terminals. The Group also observed that public access has, in some ways, expanded during the pandemic because the public can connect remotely to public court proceedings (as some telephonic access to certain federal court proceedings is temporarily permitted during the pandemic) when previously one would have had to travel to the courthouse to attend in person.

This Summary has been reviewed and agreed to by all members of the Group and the AO who were present on the call on June 29, 2020.