

Position Paper on Court Leadership in Justice Information Sharing

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The Conference of State Court Administrators (COSCA) was organized in 1953 and is composed of the principal court administrative officer in each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Territories of American Samoa, Guam, and the Virgin Islands.

White Paper on Court Leadership in Justice Information Sharing

I.

In recent years, elements within the justice community have placed tremendous focus on improving information sharing. While particular concern lately has concentrated on criminal justice information sharing, justice information sharing actually embraces a wide range of information types, constituents, and system participants. Recent developments in technology – such as XML technology – are removing many of the technical barriers that in years past inhibited true information.¹ At the same time technology is erasing barriers to information sharing, privacy concerns expressed in such legislation as the Health Insurance Portability and Accountability Act (HIPAA) and the Family Educational Rights and Privacy Act (FERPA), and the information sharing needs of non-traditional justice participants such as the educational community, the mental health community, the medical community, the media, and so on, are raising new and pressing policy concerns for courts and court managers.

With this new reality comes tremendous practical, accuracy and policy challenges for courts and court managers. Unfortunately, in many regards the court community has failed to appreciate the practical opportunities and breadth of policy implications that comes with information sharing. Like many other efforts, courts tend to approach information sharing in the same manner that they approach court cases: wait for someone to bring forth a narrow problem to be narrowly decided objectively and impartially. Consequently, courts have participated on the outskirts of information sharing efforts and have not generally exercised principal policy leadership at the national, state, and local levels.

As is the experience in other areas, courts are in a unique position to bring together disparate groups from both within and outside of government to achieve the common goal of effective information sharing. Information sharing not only benefits other justice system participants, but can positively impact court operations by promoting

efficiency and timeliness, eliminating duplicative efforts, coordinating case management with other entities, and improving overall government effectiveness. At issue is whether the court community will recognize a unique opportunity to lead the discussions that define the information sharing “enterprise” needs of the broader justice community and the tremendous policy implications brought by increasing technological sophistication.²

If courts are to accommodate their business needs and avoid being overwhelmed by rapidly changing policy considerations compelled by the constantly evolving technology, court managers must lead and control efforts at information sharing. Courts accumulate vast amounts of data, but there has been little consideration given to *managing* the sharing of that data with other entities. Thus, some of the most critical issues now confronting court managers are not technological but policy in nature. Some of the questions that courts must struggle with include the following:

- What court information should be shared and with whom should it be shared?
- Who has a legitimate right to court information and at what level?
- Does a court have a legitimate interest in how its information may be used by external entities and whether commercial use of information should be treated differently from public use of information, both in terms of access and the costs of providing access?³
- How does a court accommodate strategic information sharing as a critical element of systems development while also acknowledging the public’s growing concern with privacy and the legal issues surrounding that concern?
- How can court managers balance the business needs of courts with the political and policy considerations brought by fast-paced, dynamic technological change?

¹ See appendix for discussion of XML technology and the opportunities it presents for information sharing.

² The term “enterprise” is used to describe the multi-faceted business requirements of an agency or endeavor. Thus, there is a law enforcement enterprise, a mental health enterprise, a social services enterprise, etc. As discussed below, the justice “enterprise” is actually a compilation of a number of other enterprises.

³One issue that may be of particular interest concerns requests from “information entrepreneurs” who seek court information either to resell or to manipulate for other business purposes.

- What limitations – legal, political, technical, budgetary and practical – exist that affect the ability of courts to share information in a timely and effective manner with internal and external constituents of the justice process?
- How do court managers accommodate the information sharing needs of those in education, law enforcement, the civil bar, mental health, prosecutors, juvenile authorities, corrections and others while at the same time protecting the independence of the judiciary?
- How courts identify and reconcile the competing and contradictory business needs of individual members of the justice community when designing systems to meet overarching enterprise requirements?
- How courts empower and encourage elements of the justice community to change individual business processes to recognize the obligations and benefits created by the information age?
- How courts and others identify and agree upon information-sharing needs and the standards applicable to the entire justice enterprise?
- How do courts help historically adverse participants in the justice system agree upon information-sharing technologies and protocols?

II.

While many in the larger justice community recognize the need to share information within the community and beyond its borders, successful attempts to bring the vision to reality are relatively rare. Attempts made in the past to initiate information sharing have been, at best, only narrowly successful and do not extend beyond simple horizontal or vertical exchanges with another agency *within* the justice community. What information sharing does exist tends to concentrate on criminal justice information sharing, which is one of the easiest technical and policy problems to solve. Little has been done to consider information sharing outside this narrowly focused arena to include such areas as education, social services, or mental health services.

Much of this is because the “natural order” of the development of justice information systems over the past forty years has been localized and isolated from the

business, policy, and informational needs of others. Courts, like others, bought or built what they needed with each system generally developed to meet narrow, customized business and operational needs.⁴ Likewise, others built systems in isolation from the business and informational needs of courts. Thus, the development of justice information systems has been neither “strategic” nor “integrated.” The “stove-pipe” approach to systems development – as distinguished from an enterprise approach – has left the global information needs of the justice community and those it serves wildly fragmented, disconnected, and irreconcilable.

Additionally, often the role of the courts is overlooked in discussions regarding information system development and information sharing. Courts themselves are partly to blame because they have generally shied away from taking active leadership roles in broad ranging policy discussions, preferring to concentrate on finding technical solutions to narrow problems. The lack of court participation is curious for two reasons. First, courts are at the heart of the evolving national discussion on information sharing because they act as gatekeepers to much of the information “that counts.” It is the recorded actions of courts that settle with finality the rights, obligations and responsibilities of citizens. Arrest rates, conviction statistics, or court case processing times may generate grants and headlines. They may be highly relevant to the internal management of a particular agency. They do not, however, in and of themselves promote overall societal interests in quality justice.

Second, courts occupy a unique position in that they must account for interacting with multiple “enterprises” when discussing information sharing. Each enterprise comes with a set of business principles – spoken and unspoken – that define its information sharing needs and protocols. However, a court – unlike many others – must account for multiple interactions with multiple enterprises in defining its own business needs. Truly, the court “enterprise” is not a single business operation but a compilation of the business

⁴ This development process has also contributed to a practical problem. Court managers are now confronted with convincing their front-line staffs that the collection of information needed by other agencies of governments is important to the justice process by promoting efficiency across the justice system, improving the overall administration of justice and enhancing public safety.

needs of many other enterprises, including the unique business needs of the court itself. For example, a single criminal case may encompass certain enterprise needs of law enforcement, prosecution, the defense bar, social services, education services, mental health services, substance abuse services, corrections, and probation and parole services. Likewise, a family law case may encompass certain enterprise needs of the civil bar, social services, child support enforcement, mental health services, and so on. Increasingly, each of the individual enterprises interacts dynamically with other enterprises, frequently simultaneously. If information sharing is important, the unique information sharing needs and protocols of each enterprise must be identified and accounted for in policy discussions and system design. Given that courts interact constantly with multiple enterprises more than those enterprises may interact with each other, who better to lead discussions on information sharing.

However, in many cases, rather than lead the discussion courts have shied away preferring to have others who occupy less advantageous positions lead instead. Thus, the failure to share information in a timely and appropriate form is not the result of computer “system” failures. Rather, it is the result of leadership failures, of inadequate cooperation and planning, of inattention to the common enterprise needs and “systems” nature of the justice community, and of an unwillingness to undertake a serious discussion on the interaction of business needs, technology, and elemental policy issues.

III.

Current technologies permit a quantum leap forward from isolated, parochial, one-of-a-kind computer systems to strategic information sharing that is independent of the platform, data base structure or application, and computer hardware being used. These technologies also present new and pressing policy issues that must be resolved in an effective and timely manner. Absent court leadership and a strategic process for discussing the policy benefits and limitations of information sharing, technological advances – not court managers – will determine the policy agenda. Courts and other members of the justice community must look beyond local boundaries and consider the enterprise needs of other members of justice system. To do that, the courts must

participate not just as equal members of the justice community, but as leaders in defining business needs, obtaining funding, and developing interactive systems and protocols.

Actions that can be taken by courts, and are applicable to virtually all other members of the justice community include these:

- Courts must participate at all levels, local state and federal, by providing active leadership and representation in discussions on information sharing policy and technology. Organizations such as COSCA and NACM, as well as the National Center for State Courts and the U.S. Department of Justice Global Information Network, can provide rich opportunities for participation. Court manager must seize such opportunities to lead.
- Courts must contribute experience, expertise, and leadership to standards developed. These contributions must extend beyond parochial interests and embrace the systems nature of the justice process. Additionally, the court community through COSCA and NACM must develop a process for maintaining the relevancy of national standards in the dynamic and constantly changing world of technology.
- The courts, at all levels, must participate in the process of developing the universal translator data dictionary.⁵ No one knows the needs of courts better than the courts themselves.
- Courts must actively participate in and sponsor the development of coordinated activities that educate vendors on the requirements and capabilities available to satisfy the ever-increasing need to communicate. Based on a survey conducted in 2001, vendors do not generally support the development of court automation functional standards. In fact, they see less need to focus on the courts' interdependence than do court leaders. Vendors also appear not to view standards as a means to improve procurement. Including the vendor community in the growing needs for inter-communication among the courts and other departments will aid vendors in meeting court needs better.⁶

⁵ A simplistic description of how such a universal translator data dictionary that can facilitate data interchanges is included in the Appendix.

⁶ National Task force on Court Automation and Integration: Court Technology Survey Report. November 2001. SEARCH Group, Inc.

IV.

The need for court leadership in the area of information sharing will become more critical as technological advances push and define policy discussions. COSCA embraces the need for such leadership and calls upon the bench and court managers throughout the nation to become actively involved in information sharing efforts. Moreover, COSCA calls upon either the leadership of national judicial and court management organizations to join together to develop a strategic agenda on information sharing centered on the policy issues presented by rapid advances in technology, the enterprise needs of others, and the competing privacy and public access concerns that are becoming prominent in national debates.

Absent active leadership by court managers and COSCA in information sharing efforts, courts risk being overwhelmed by increasing demands for information without having the necessary guidance to make sound decisions. If courts do not provide leadership, the availability of technological solutions – not the business needs of the courts or the enterprise needs of the justice community – will drive both technology and policy decisions. In the process, courts risk not only losing control over the design and function of information sharing at a technical level, but may very well cede much of their independence to others who undertake to control the strategic policy agenda.

Appendix

Description of information exchange process using XML

Different information processing systems cluster data elements together differently from one another. This is dependant upon several factors, including the sequence of processing steps, the propose of the activity, and often the sequence in which the date is originally input (such as the layout of a now-defunct multi-part paper form).

Integrated justice using XML allows several departments or agencies to decide they need to exchange pieces of information that are common among them; for instance, a person's name. All the departments or agencies develop a common dictionary of terms or "data elements." For example, it might be that the piece of information entitled Name is comprised of individual elements that include FirstName, MiddleName, LastName, and Name Suffix. The departments and agencies also agree to exactly what information these elements describe. FirstName always and only describes the person's "given name" and never describes a family name or generation designator. Once the data dictionary is compiled for all the bits of information that the agencies and departments want to exchange or share, it becomes, using XML technology, a universal translator.

The existence of a universal translator is important for several reasons. First, no agency or department participating in information sharing necessarily has to change the data structure of existing databases or processing systems. They may have to change the way they think about how some of those pieces of information relate to one another. Thus, the largest barrier to strategic information sharing, the expense of reworking a system, is avoided. Agency A can keep using the vintage 1985 mainframe, Department B can still use the cutting edge Java-scripted case processor, and state government C can continue developing their statewide information repository. The combination of a universal translator data dictionary and XML technology places an interface between all participants. The translator takes Agency A's request for "First" translates it into "FirstName" and "NameFirst" respectively. Each system then performs the requested task and returns the results. In responding to Agency A, the process is reversed. The interfaces retranslate into the universal data dictionary, and the receiving system's

interface recognizes the translated reply and converts it into the semantic structure it uses internally.

Another benefit of using a universal translator data dictionary interface is that privacy issues can be addressed. When “buying into” the interchange technology, a local court determines how to apply its security policies to address issues of privacy. It is no longer a matter of “opening up” the entire database for wholesale access to exchange partners. Rather, a pre-agreed set of data elements can be controlled on either the sending end or the accepting end permitting the individual data sources to control the security and the amount and kind of information available to other agencies.

Efforts to develop such dictionaries are presently underway, the most prominent one being a project of the U.S. Department of Justice Global Information Network Advisory Council (GAC). Their charge is to:

“ . . . facilitate the interoperability of locally autonomous criminal justice information-sharing systems. “OJP envisions a nationwide information system capability for improved criminal justice information-sharing that provides state and local stakeholders responsible for law enforcement, courts, prosecution, public defense, corrections, probation and parole with immediate access to all the information they need to respond to and resolve the consequences of criminal activity.”⁷

“Beyond improving the internal operations of justice agencies, integration is more expansively viewed as enabling the sharing of critical information *between* agencies. Integration efforts are often referred to as horizontal (for example, among different divisions of the same court system, or between the local police department, prosecutor and court) or vertical (for example, from limited to general jurisdiction courts, from trial to appellate and state supreme courts, and from local agencies to state and national/federal systems).”⁸

⁷ Paul F. Kendall, General Counsel, Office of Justice Programs, US Department of Justice presentation at BJA 1999 Symposium on Integrated Justice Information Systems.

⁸ David J. Roberts, Deputy Executive Director, SEARCH, the National Consortium for Justice Information and Statistics, presentation at BJA 1999 Symposium on Integrated Justice Information Systems.