

Preface

This document is one of a pair of guide which exist to meet the needs of people who are required to uphold the Access to Justice Technology Principles. It is a reference and resource¹ which will provide support for any involvement in developing, acquiring, or deploying technology projects for the justice system in Washington State.

Who should read this guide?

This document is intended to assist in the evaluation of technology products of all types deployed for the justice system in Washington State. The intended audience includes project managers and enterprise architects employed by the courts. Developers and implementers are better served by this guide's twin.

Why read this guide?

Readers may use this guide to enhance their understanding of the Access to Justice Technology Principles and the value that the Principles offer to their projects. This guide may also be used to support evaluation of existing projects' compliance with the Principles. Finally, this guide can act as a point of reference when specifying, procuring, and evaluating new technology affecting the courts.

What does this guide contain?

Technology changes frequently. Each year brings new surprises and opportunities for leveraging technology to increase access to justice. Unfortunately one of the consequences of this is that best practices, standards, and implementation advice quickly grow obsolete. This guide, therefore, does not attempt to provide concrete answers to implementation, but directs the reader to ask the right questions and steers the reader to resources and practice groups where answers will updated with technology.

How should this guide be used?

The checklist within should be used to guide discussion within your organization's existing development process. The guide should be consulted multiple times over a project's lifecycle: during initial requirements gathering, implementation, and evaluation.

¹ The guide is available in two formats: (1) **HTML** (file suffix .html) on the web at atjweb.org or through other Washington-based online court technology sites. This version is used more effectively online; some features will not work with localized versions; and (2) **Adobe Acrobat Document** (file suffix .pdf) in downloadable format appropriate for offline use. The content is identical to the online version.

Access to Justice

- Does the project provide the most relevant content?
- Have the users been identified with sufficient specificity?
- Are there financial barriers for any users?
- How is project performance being measured?
- How are costs being evaluated?
- Can effort expended on another project be used on this project or vice-versa?

Justice in Process

- How will obsolescence be handled?
- Have you included information about the context surrounding your particular project to the user?
- Have you included references for additional legal information in your project?
- Does your project integrate with the bureaucratic necessities of the justice system?
- Does the project serve the public's right to view the inner workings of the justice system?

Openness and Privacy

- What are the legal requirements applicable to your project data?
- Does your project actively effectuate and preserve the privacy rights of users and other stakeholders?

Assuring a Neutral Forum

- Will requirements of your project incentivize use of one justice service (e.g. Alternative Dispute Resolution) over other?

Awareness and Use

- Have you developed a plan for informing your user base about the existence of your project?
- How much detail about your project is available to interested users?
- Has your target user base been identified with sufficient specificity?
- How is your message framed?
- Is your project part of an existing brand?
- Would a partnership be appropriate for marketing your project?
- Have objectives been set by which marketing success can be measured?

Best Practices

- Does the project have team members experienced in implementing best practices or integrating them into legacy systems?

Access to Justice: The first principle is a “first, do no harm” precept.

The intent is to promote the use of technology to advance access whenever possible. For many, technology can be the first obstacle in their search for justice. The first Principle acknowledges this and aspires for the opposite: technology must promote access to and participation in the justice system. As part of compliance with the first Principle, consider the following suggestions when designing or evaluating a technology project.

Does the project provide the most relevant content?

Studies show that content, the information provided by your product, is the most critical element of success. Other studies have reported that content is more important than navigation, visual design, functionality, and interactivity. Search for opportunities to provide the most relevant data to your users.

Have users been identified with sufficient specificity?

Consider the entire population to be served by your project, including special needs populations such as economic, age, cultural, language, geographic, persons with disabilities, persons without internet access, et al. Obtain and collect demographic data and then review to identify special needs in your jurisdiction, such as alternate language options. In 2011, 17.8% of Washington State’s population (age 5+) spoke a language other than English at home! Consider including some of the following groups in addition to actual users of your project: anyone who benefits from the system indirectly, anyone involved in regulation of the system, anyone responsible for systems which interface with your system, anyone directly opposed to the system.

Resources: Demographic data on the public is available by county or by city from the US Census on their website www.census.gov. A mobile app is also available. For projects internal to the justice system, consider the list of stakeholders including in the addendum.

Are there financial barriers for any users?

Consider whether your project will charge the target demographic for use of the project. If fees will be charged to the user, devise and incorporate a simple process for waiving the fee in appropriate circumstances. In 2006, 11.9% of Washington residents lived in poverty, with another 7.9% between 100% and 149% of the poverty line. Fees for court services represent a much larger portion of an impoverished family’s budget, and reduce access to justice. If

possible, create a fee waiver process to reduce barriers for low-income families.

Resources: Washington State's Department of Social and Health Services collects the latest reports at <http://www.dshs.wa.gov/rda/>.

How are costs being evaluated?

Costs must be considered in any project. Consider not only the costs to users, i.e. the final price the user must pay, but also costs which the justice system must incur. If the costs are unknown, or are untraceable to their source, or are simply too high, it is a problem.

Also worth considering are opportunity costs: if resources are spent on this project, they will not be available for other projects which may be worthy.

How is project performance being measured?

Performance can be difficult to measure. Possible measures of performance, or metrics, include time, cost, resources, scope, quality, and actions. Performance can be measured in terms of throughput (the average amount of work/cases completed over a period of time) or response times (the average delay between contact and response). Be cautious with using only numerical or measurable metrics, as the success or failure of a project in terms of its benefit to access to justice may only be loosely tied to pure numbers.

Can effort expended on another project be used for this project or vice-versa?

Quite often the time and effort invested into one project may be recycled and applied against a new project. There may be ways to use your current project in an unexpected way or in a new market. Likewise, once a user base has been established for your current project, their needs will be better known, enabling you to find or develop other projects targeting them.

Resources: Washington's Administrative Office of the Courts maintains a framework for communicating its proposed, ongoing, and completed projects at <http://www.courts.wa.gov/jis/?fa=jis.itGovernance>. The Legal Resources Corporation offers technology assistance to its grantees, the resources it offers should be helpful as well: <http://tig.lsc.gov/resources/grantee-resources>.

Justice in Process: Process is integral to a just result. A just process requires well-informed and impartial decision-makers; technology used in the justice system must serve this goal.

Have you included information about the context surrounding your particular project to the user?

Users may not enter the justice system's technology systems in a linear fashion; i.e. starting with a roadmap of what forms and services they need. Never miss an opportunity to show the user the context of where your project fits into the justice process.

Have you included references for additional legal information in your project?

Resources for free, substantive legal information are not centralized in our state; users may find it beneficial for additional resources to be pointed out for them. As a starting point, offer contact information for local legal services offices or other providers participating in the www.LawHelp.org. Alternatively or concurrently, coordinate with the state bar association's public legal education section or similar group that provides the public with information on law, including local law, and government resources. Our state has many innovative organizations dedicated to expanding access to justice; cross-advertising ensures individuals have the opportunity to use them.

Does your project comply with the administrative needs and requirements currently in place?

Consider, for example, an e-filing system for court documents. If copies are required to be forwarded to a judge upon a form being filed with the court, make sure the system enables this. Work with support staff and judicial decision-makers to develop procedures and protocols that identify what should go to the judicial decision-maker and in what format it needs to go; ask for feedback from judicial decision-maker on how well the process is working; provide a method that ensures appropriate and timely action by judicial decision-makers (e.g., reminders; designation of "court's action required" on appropriate documents); provide a method that ensures appropriate and timely action by support staff (e.g., reminders; a log of task accomplishment when there has been a designation of "clerk's action required" on appropriate documents, etc.).

Does the project serve the public's right to view the inner workings of the judicial system?

Identify relevant court rules, statutes, case law, orders and procedures. This may include evidentiary rules, rules of discovery, or freedom of information act requests. By a variety of methods and in a variety of places, provide understandable information, education and

instructions to the public demonstrating and explaining their legal rights, opportunities and responsibilities, and the procedures they must follow both to access court information.

Openness and Privacy: balancing transparency and privacy concerns.

Technology in the justice system must be designed and used to meet the dual responsibilities of being transparent to the public while protecting personal privacy and the safety of all justice system participants.

What are the legal requirements applicable to your project data?

Consult with legal staff and records specialists as necessary to ensure that legal rules, statutes, case law and other provisions regarding confidential or open records are understood and complied with. If rules or policies are not in place, initiate and bring to a decision a process for determining the policies that will apply to the system.

Does your project actively effectuate and preserve the privacy rights of users and other stakeholders?

Ensure that no one surrenders personal privacy rights because of a justice system technology project. Determine what information should not be accessible to the public and what information is accessible to the public only by specific court order or action. Collect and list the areas in the project containing personally identifiable information. Provide easily accessible and understandable information, education and instructions to the public and all other potential users demonstrating and explaining their legal rights, opportunities and responsibilities, and the procedures they must follow both to effectuate and preserve their privacy rights.

Resources: For a model privacy policy, consult the appendix of this document.

Assuring a Neutral Forum: Technology should not determine forum.

The justice system must ensure access to neutral and transparent forums regardless of changes in technology.

Will requirements of your project incentivize use of one justice service (e.g. Alternative Dispute Resolution) over other?

Ensure that technology requirements don't make your project cost or time prohibitive to the user. Establish operational rules and processes that ensure equitability of filing time frames for both paper and electronic filing. Establish operational rules and processes to provide case documents and files in a consistent format.

Awareness and Use: For justice to be accessible, the public must know of the tools to access it. The justice system must promote public knowledge and understanding of technology tools produced to enhance access to justice.

Have you developed a plan for informing your user base about the existence of your project?

Meet your users where they are, not where you want them to be. If your user base is small (e.g. a project that serves county-wide judges and staff only) consider meeting with them personally to introduce your project and to hear their concerns and suggestions. For new or ground-breaking projects, consider a pilot or phased approach that will allow incremental exposure and gradually develop users' comfort level. If circumstances do not warrant the personal approach, use a variety of marketing to get the word out about your project. Marketing tools might include court publications, community newsletters, multimedia public service announcements, and social media. For smaller projects, consider posting notices to areas where users congregate.

Resources: A common way of increasing visibility of web-based projects is search engine optimization. For an introduction to the topic, read Google's Webmaster tutorial on search engine optimization here:

<http://support.google.com/webmasters/bin/answer.py?hl=en&answer=35291>. For a model Social Media Policy, consult the appendix of this document.

How much detail about your project is available to interested users?

Ensure that the information available in marketing material or public addresses explains the services available, how to obtain and use them, and addresses potential concerns, including security, privacy, fee waivers and timing.

Has your target user base been identified with sufficient specificity?

Demographic and socio-economic groupings are not granular enough targets to be effective for marketing. When identifying the user base, ask who the message is for: the user, or the users' clients, or the users' support staff? What is the profile of the user? Relevant identifying factors include age, gender, income, location, language, network, job-type, education level, wealth, access to communication channels, and comfort level with technology. Consider making some

“ideal” customer profiles that describe your target users and target relevant parts of their behavior.

Resources: For an introduction on how to target your users, start with Wikipedia at http://en.wikipedia.org/wiki/Audience_segmentation.

The Strategic Content Alliance has published useful guides and tools for audience research and engagement, available online here:

<http://sca.jiscinvolve.org/wp/allpublications/audience-publications/>.

How is your message framed?

Studies into the effectiveness of message framing have shown that the effectiveness of the messaging can significantly depend on which of these frames are used and when they are used. Gain-framed appeals work better with those who tend to be promotion-oriented, while loss-framed appeals work better with those who tend to be prevention-oriented.

Resources: For more information about message framing, and its potential applicability to your project, consider reading The Strategic Use of Gain- and Loss-Framed Messages to Promote Healthy Behavior: How Theory Can Inform Practice.²

Is your project part of an existing brand?

Branding is not often thought of in the justice system, but people trust brands with an established reputation for service. Brands have graphics associated with them that allow users to recognize the service or product that they had a good experience with in the past. Not only does this provide an advantage for the user by allowing her to spot a previously used service easily, it also allows for the more efficient use of government resources by re-use of artwork and messaging resources from previous communications.

Resources: A complete branding campaign is difficult, particularly for public sector entities, which face different challenges from those in the private sector. No definitive guide exists at this time.

Would a partnership be appropriate for marketing your project?

If your target users are associated with a particular place or group, consider a partnership for marketing purposes. A partnership can make your project more available and accessible to a larger audience by leveraging the partner’s assets, for example by showcasing your

² Rothman, Alexander J., Roger D. Bartels, Jhon Wlaschin, and Peter Salovey. "The Strategic Use of Gain- and Loss-Framed Messages to Promote Healthy Behavior: How Theory Can Inform Practice." *Journal of Communication* 56 (2006): 202-20. International Communication Association. Web. 27 Oct. 2012.

project online, placing your project's forms at their location, or using their mailing list. Consider libraries, community centers, city halls, ethnic centers, and continuing legal education classes as potential partners.

Have objectives been set by which marketing success can be measured?

Consider launching your marketing efforts in phases. This way, the success of the marketing plan can be evaluated as it progresses and revised if necessary. Seek input from target audience members or representatives on relevant messaging material, timing, and delivery.

Best Practices: Best practices make the best policy. Best practices are the methods and processes which technology practitioners have found to be most effective over time. They grant both practical knowledge and further inspiration for technological tools. Best practices can be a data point in the evaluation of our use of technology in light of the values and objectives of the ATJ principles.

Does the project have team members experienced in implementing best practices or integrating them into legacy systems?

High level concerns like choice of vendor, hiring, and budgeting arguably have a bigger influence on results than individual decisions over implementation. Ensure that these high-level decisions are guided by the Principals.

Resources: A general guide to a broad array of justice-related best practices can be found at <http://lsntap.org/tech-library>.

Have you made the practices used in your project publically available for other technology users in the court system?

Some projects, particularly cutting edge ones, can advance the field simply by posting their practices to an accessible place. This gives others innovators a foundation to work from. Standing on the shoulders of giants, one may see far.

Resources: Visit <http://www.ncsc.org/atj>, the website of the National Council of State Courts, to see ongoing projects in Access to Justice across the nation. There, one may find useful information on topics ranging from user-friendly e-filing to using technology to support self-represented litigants.

Appendix: Model Privacy Policy

Model Privacy Policy - [ORGANIZATION NAME] (Include effective date)

ORGANIZATION ("Abbreviation if necessary") provides legal services. To provide these services to you, we need some information about you. We use your information to assist you, and to improve the services we offer.

This Policy will explain:

- (I) What information we gather;
- (II) How we use that information, and who we may share it with; and
- (III) How you can change the information we already have about you, and how we will tell you about any changes to this policy.

I. Information We Gather

- (1) Information we ask you for:

When you use our website to contact us, we ask for your name, address, and contact information. We may also ask if we have helped you with any legal problems before.

We do not use our website to collect or keep information about children under 13 years of age. The services we offer through our website are not intended for minor children.

- (2) Information our website collects about your computer:

Our website uses a service called Google Analytics to help us understand more about our website visitors. Google Analytics collects some information from the computer you use to visit our website, such as:

- Your computer's operating system;
- Your web browser (such as Mozilla Firefox);
- Your computer's IP address;
- Information about the last time you visited our website, which may be stored on your computer in files called "cookies." You can delete these cookies whenever you'd like, or set your web browser not to allow them at all.

The information gathered by Google Analytics does not personally identify our website visitors, but it can tell us about where they are located, what parts of our website they visit, and if they visit more than once.

More information on Google Analytics and Google's Privacy Policy can be found at <http://www.google.com/analytics/learn/privacy.html>.

II. How We Use Your Information

(1) We use information that you share with us:

- To help provide legal services to you;
- To communicate with you, and to share news and information about ORGANIZATION with you;
- For our records. We will keep your information in our files for a maximum of [X] months after you finish using our services.

We **will never** sell your information. We may share your information as part of a legal service (for example, including your name and address on a court form we submit for you), or if we are required to by law (for example, if we receive a subpoena or a request from a government agency).

(2) How we use information our website collects about your computer: Google Analytics uses "first-party" cookies that can only be seen by ORGANIZATION's website. The information in these cookies helps us understand how people use our website. We want to know things, like what topics are most popular on the ORGANIZATION website, and what neighborhoods our visitors live in, that help us improve our services.

If you don't want to share this information, you can disable cookies in your web browser. For more information on how to disable cookies in your browser, please see your browser's "Help" menu. You can also visit <http://www.allaboutcookies.org/manage-cookies/> for more information.

ORGANIZATION is not responsible for any information available at www.allaboutcookies.org.

III. Changing Your Information, and Keeping Up With Changes to this Policy

It is important that we have accurate information in order to provide you with effective assistance. If you would like to update any information you've given us previously, or change any preferences related to what information we may send you, please contact [CONTACT INFO].

We have the right to change this policy in the future. The current policy can be found at [webpage address]. Old versions of this policy can be found at [webpage address].

[ORGANIZATION NAME] Social Media Policy

General Rules

Social media communication is held to the same standards as any other communication:

1. Be responsible.

You are personally responsible for the material you post and that material reflects on [ORGANIZATION]. Carefully consider the content of your posts; they will be widely accessible forever.

2. Identify yourself.

Use your real name, and indicate your role or interest in the topic discussed, when appropriate.

3. Be civil and respectful.

It's alright to disagree with others, but do not post defamatory, libelous, or damaging material; abusive, threatening, offensive, obscene, explicit, or racist language; or post illegal material.

4. Correct errors promptly.

If you make a mistake, admit it. Quickly provide the correct information. If possible, modify any earlier posts in a manner that makes it clear that you have corrected an error, i.e., strikethrough text instead of deletions.

5. Posts should be relevant and add value to the community.

Write about what you know. Information can add value if it contributes to the legal community's knowledge or skills, improves the legal system or public understanding of the legal system, or builds a sense of community.

6. Follow copyright laws and best practices.

Always attribute works you reference or use! Make sure you have the right to use material, either by the author's permission, or under fair use. Information on fair use is available at the Stanford Copyright and Fair Use website: fairuse.stanford.edu. Ask for help if you're not sure if the use is proper.

7. Protect privacy and client information.

Do not post private information about yourself or others. Follow all statutory requirements and any Rules of Professional Conduct that address the privacy of individuals and the use of confidential client information. Do not discuss or misuse proprietary or confidential information, and follow all professional and ethical rules governing the disclosure of information shared with you by clients. When in doubt, leave it out.

8. Comply with Washington rules governing lawyer conduct.

Comply with all legal restrictions and obligations governing professional conduct, particularly those regulating communication and advertising (RPC Title 7), when posting content to any social network, including postings by [ORGANIZATION] as an entity.

9. Abide by the social network's rules.

By joining a particular social networking community, you agree to abide by that community's terms of use. Review and comply with those terms and any other user agreements carefully.

Specific Considerations

Before posting, you must determine if the content of your post is permissible - be familiar with the following categories:

1. Prohibited Content

Content in this category may not be posted to a social media site under any circumstances. Some prohibited content is identified in NJP's internal policies. In addition, **legal services organizations that accept grants from the Legal Services Corporation, such as [ORGANIZATION], are prohibited by federal regulations from participating in certain activities.** The relevant regulations may be found at the LSC website at <http://www.lsc.gov/about/laws-regulations/lsc-regulations-cfr-45-part-1600-et-seq>

Examples: Personal political views, legislative advocacy or lobbying activities, including grassroots activities.

2. Administrative Approval Required

Content in this category may only be posted by the organization, or an individual acting as a representative of the organization, where prior approval has been granted by an administrative officer of the organization with the actual authority to grant such approval.

Examples: Any material concerning the state budget, advocacy positions on court rules under consideration for change, criticism of any kind.

3. No Prior Approval Required

Some content is deemed “automatically approved,” and may be posted by the organization or its representatives without any prior administrative approval.

Examples: Public outreach event notices, notices of awards won by [ORGANIZATION] staff for service, positive news articles about our work in the community, [ORGANIZATION] press releases, [ORGANIZATION] job opening announcements, notices of fellowships or volunteer opportunities at [ORGANIZATION].