

ATJ Technology Principles: Access to and Delivery of Justice

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On March 31, 1968, five days before he was assassinated, Reverend Martin Luther King Jr. spoke to the future. Now more than forty-eight years later, we must at last heed his words:

There can be no gainsaying of the fact that a great revolution is taking place in the world today . . . that is, a technological revolution, with the impact of automation and cybernation . . . Now, whenever anything new comes into history it brings with it new challenges and new opportunities. . . . [T]he geographical oneness of this age has come into being to a large extent through modern man's scientific ingenuity. Modern man through his scientific genius has been able to dwarf distance and place time in chains . . . Through our scientific and technological genius, we have made of this world a neighborhood and yet we have not had the ethical commitment to make of it a brotherhood. But somehow, and in some way, we have got to do this.¹

Article 1, Section 32 of the Washington State Constitution, adopted in 1889 states: "*Fundamental Principles*. A frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government."²

In this chapter, I will explore practical aspects of the meaning of Dr. King's words and Article 1 of the Constitution and summarize

what happened when we, in Washington State, made a major effort to live up to them. This necessarily brief exploration shall nevertheless cover not only the past and present; it will also include my thoughts and suggestions about the future.

Washington State's Access to Justice (ATJ) Board

In April 1994, the Washington State Supreme Court stated that "Washington State's justice system is founded on the fundamental principle that the justice system is accessible to all persons," and recognized that such access is an essential component of a keystone of our democratic system—equal justice for all.³ By Court Order of April 18, 1994 the Court created an ATJ Board, the first such entity in the United States.⁴ In the Order, the ATJ Board was given the mission to facilitate, enhance, and safeguard that access. The Board was initially a temporary body, subject to renewal. The Board thereafter did effective work, and in November 2000 the Supreme Court reauthorized the ATJ Board to continue indefinitely, charging it with responsibility to assure high quality access for all persons in Washington State who suffer disparate access barriers to the justice system. In this Order, the Court also gave the ATJ Board the specific task, among others, to "develop and implement new programs and innovative measures designed to expand access to justice in Washington State."⁵

In the late 1990s, the Access to Justice Board and those who worked with it began to recognize the rapid growth of new communication and information technologies, that these technologies would have broad and deep effects on our society generally, and that the justice system would not be exempt. What these effects might be, what it could mean to the justice system, and what, if anything, should be done was not even close to being understood. But the importance of these changes was clear, and as a result the ATJ Board created a Communications and Technology (Comtech) Committee to try to figure this out and to make recommendations. The process began in the spring of 2000.

The first thing that became clear was that technological innovations and changes and their application to and adoption into the various core systems in the broader society, and in the justice system particularly, were still in their early stages. In the justice system, to use words familiar in Seattle, this was still a "drizzle" and so far only

a few mild waves had been felt. At the same time, the Committee also recognized that a “monsoon” was on the way. Technological transformation was building in all areas and would inevitably and significantly impact and permeate the justice system and access to and use of the justice system by all. Major effects and consequences would be experienced by the public, by those who worked in or were related to the system, and by the decision-makers in the system. The committee concluded that in the absence of careful deliberation, planning, preparation, and action, the ongoing monsoon and the enormous changes it engendered could indeed lead to a tsunami. If, however, this great energy of change was prepared for, and constructively channeled and used, the public and the justice system would not only avoid significant damage but could use that energy to create and enable substantial benefits for all persons to a more accessible, equitable, efficient, and effective justice system.

Over a period of time the committee came to believe, and the ATJ Board agreed, that recent and ongoing developments in information, communication, and associated technologies including the internet, and the current and future use of such technologies posed both significant challenges and significant opportunities for full and equal access to the justice system. Two possible outcomes were contemplated. First, if we just let it happen, the technology would reflect, continue, perpetuate, and with its accompanying digital divide, increase and add to the historical obstacles and barriers to the poor, ethnic and racial minorities, persons with disabilities, the elderly, others easily taken advantage of or abused—indeed all who are disadvantaged or vulnerable, all who have not experienced equal and meaningful justice in accessibility, process, or outcome. Second, if the justice system was proactive, this great energy and potential transformation could be prepared for and used to ensure that the barriers—old and new—to accessing the justice system are eliminated, minimized, or avoided, and that pathways to the justice system and to justice itself are created or maximized.

The committee determined that, with respect to technology, if the justice system created, adopted, and lived by authoritative principles and standards that reflected its constitutional principles and stated values, and applied these principles to all who worked in or were involved with the justice system, to all who made decisions, to all who served the public—and to the public itself—then we could and would use technology to find and create various means to

deliver on our fundamental national and state promises of equal justice for all, and do so in practical ways with concrete effects in people's daily lives.

Based on the Comtech Committee's recommendation, the ATJ Board made the following statement:

The ATJ Board has come to believe that recent and ongoing developments in information, communication and associated technologies, including the internet, and the current and future use of such technologies pose significant challenges to full and equal access to the justice system. Technology can provide increased pathways for access to justice, but it can also create significant barriers. The ATJ Board is dedicated to ensuring that barriers to accessing the justice system are avoided, eliminated or minimized, and that pathways to the justice system are created or maximized.⁶

Development of Washington's ATJ Technology Principles

The ATJ Board created an Access to Justice Technology Bill of Rights ("ATJ-TBoR") Committee, to accomplish the following:

1. Develop and implement an Access to Justice Technology Bill of Rights ("ATJ-TBoR") premised on relevant principles contained in the United States and Washington State Constitutions, the mission and underlying principles and declarations generating the creation and operation of the Access to Justice Board, the principles contained in the Hallmarks of an Effective Statewide Civil Legal Services Delivery System adopted by the Access to Justice Board in 1995, and subsequent and effectuating documents and declarations.
2. Identify the strategies, means, and methods to ensure that the rights and principles contained in the Technology Bill of Rights are adopted, become publicly known and accepted, and have concrete, practical and effective consequences in the daily lives of all people in the State of Washington.⁷

During the three-year process which followed, the name of the product the committee had been assigned to develop and implement was

changed from ATJ-TBoR to “Access to Justice Technology Principles” (ATJ Tech Principles), often referred to as “the Tech Principles” or “the Principles.”⁸ The change was made because: (a) it’s a more accurate description; (b) it applied more broadly to all involved or potentially involved with the justice system, rather than a specific group or groups; and (c) the use of “Principles” carries far less pre-assumptions and potential legal baggage than “Bill of Rights.” I will hereafter use language reflecting the Principles version.

The stated and adopted goals of the ATJ Technology Principles Committee were to:

1. Take optimal advantage of the unique opportunity provided by the confluence of time, place, resources, values and will at this moment in history so as to increase both access to the justice system and the quality and equality of justice delivered to all persons and groups within our scope of service and influence.
2. Develop, declare, adopt and implement a living body of just principles which in an ongoing way permeate and influence the justice system in the State of Washington and the lives and conduct of all persons or groups involved with or affected by the justice system. To the extent appropriate and acceptable to other states, jurisdictions and sectors throughout the United States and abroad, provide a model that may constructively be used or adapted.
3. Accomplish the foregoing in a manner that is thoughtful, balanced and connected to the realities of life, with implementation that is practical, guides consequences, and takes into account those who provide the services in the system and the end user. In the course of so doing, listen to, inform and build a broad-based constituency, develop a public and political will and a collaborative momentum deeply committed to creating and maintaining access to and quality equal justice in the daily lives of all persons.
4. For the quality, credibility and legitimacy of our process and the products we develop, it is essential that our process reaches out, receives, listens to and in fact uses information, viewpoints and suggestions from people and groups representing a broad array of backgrounds, experiences, perspectives and expertise, never neglecting to

include those the system is meant to serve—its consumers and end users. Inclusiveness is essential.⁹

I was asked to chair the Committee and the process. I was honored to be asked, but my acceptance was subject to certain conditions which I was authorized to seek. I understood how important this process and its outcome could be, but it had to be a quality outcome that was realistic and usable, and that would have credibility and legitimacy as to both the process and the product, not only with those in the justice system, but with a vast variety of stakeholders and affected people, groups, and communities throughout the state. The process had to include and involve a great many people from many disciplines and backgrounds—and had to take the time to do it right. It also had to have the assurance that our product would be seriously considered for adoption by those who could make it authoritative and effective, and, if adopted, that a serious effort would be made to implement the product in relevant, doable, and practical ways.

Securing Judicial Commitment

I arranged an appointment with Chief Justice Gerry Alexander of our State Supreme Court, a thoughtful person who himself believed in and lived the values of fairness for all people. I told him what the Committee was assigned to do by the ATJ Board, and why and how this had come about, and described the effort and process we were planning to undertake. I said I was meeting with him to request two guarantees—quickly adding that I would not be asking him for a guarantee that the Supreme Court would accept or adopt our product. However, I explained that I did want his assurance that when we submitted our product it would get serious consideration from the Supreme Court, which everyone knew had full authority to accept, reject, or modify all or part of the product. All I was asking for was serious consideration, no commitment as to what the Court's action would be. After some questions and conversation, he agreed. I then told him that in the event the court did accept or was willing to adopt the product—whether in its original form or in a modified form—we wanted his assurance that the Court would help us see to it that the document would not end up being pretty words on a library shelf and no more. If there was acceptance or adoption by the Court, we wanted assurance that the Court would support the development of an implementation

strategy plan—to find ways and means to transform the ideas and words of the Principles into reality, practically and concretely—both in the justice system and in the lives of people served, affected by and involved in the justice system. We wanted support in transforming words approved by the Supreme Court into a reality sought by the Court. We wanted support in transforming a special project to an integral part of the justice system. The Chief Justice agreed.

Developing an Inclusive Process

The new ATJ Technology Principles Committee of the Washington State ATJ Board held a major organizing meeting attended by well over a hundred people in May 2001 at Seattle University Law School. After attracting many volunteers from various backgrounds, experiences, and disciplines who were willing to commit time and energy, the Committee and the initiative began its formal work in September 2001. First, the group developed a vision of what the effort was about, and then developed a structure and a process to achieve practical and concrete goals and objectives.

The committee members learned very early that we had to avoid being lazy in our thinking. At first we used words about serving all “citizens.” Then we remembered that, of course, a person did not have to be a citizen to be subject to or to use the justice system. Perhaps you were vacationing, or visiting a friend, or doing business, or on an athletic team. We then thought about changing the word to Washington “resident,” but that was at least as bad, and would not only exclude visitors and the homeless, but also exclude all people from another state who did not reside in Washington State. What became clear was the obvious—that any person who was subject to the law and legal system of our state, no matter who or where from, was entitled to the same justice as anyone else. Thus our operative word became “person.” We learned an early lesson: “Justice for all” means “justice for *all*.” Our words to focus on then became “equal,” “accessible,” and “quality.”

The adopted Mission Statement of this new initiative was “to create a body of enforceable fundamental principles to ensure that current and future technology both increases opportunities and eliminates barriers to access to and effective utilization of the justice system, thereby improving the quality of justice for all persons in Washington State.”¹⁰

This was the first such public policy initiative in the country. It quickly became apparent that this initiative was not focused solely on solving problems that affected only the justice system, but at its core was addressing fundamental issues of social justice and equity in a full-life, broad sense. What we learned as we moved from thought to action, from idea to reality, is that this initiative was by no means only about the justice system, as essential as that is, and even though that happened to be where we began and were first focused. Nor is the justice system only about lawyers, judges, court clerks, and such. The justice system is, in fact, the fulcrum by which other rights and obligations are made operative and effective. Thus, this initiative was in fact about quality of life, because at its core it was about access to all the basic opportunities and services that every human being needs and should have: justice, health care, housing, basic subsistence, economic opportunity, and the like. It was about fair access, but also meaningful access, relevant access, usable access, affordable access, access in the community, and wherever else access needs to be. It was about the use of technology, but also about the use of any other tools that can help provide or enhance meaningful access to essential opportunities and services. Our effort would only be pretty words if we did not focus on providing practical and concrete results in the daily lives of the people we hoped to serve. And it was not just about Washington, although that was our primary responsibility and where we began. It was about the quality of life of every person. *It was ultimately about fundamental values and delivering on those values.*

The method was to be a proactive rather than reactive engagement in a multidisciplinary, deliberative, inclusive, consumer-respectful, and responsive process with a careful and balanced approach to the emerging issues, opportunities, and problems brought about by technologies, especially new technologies, including the subject of new or drastically changing concepts, issues, discoveries, speeds, conditions, opportunities, and problems.

Many people and groups assumed—as had very often happened in what appeared to be similar situations in the past—that our method of creating the ATJ Technology Principles would be that a selected group of lawyers and judges would get together over a period of weeks, or at most a few months, and come up with the written product. We did not do that, and I assure you that the product our very different process ultimately produced was quite different from what only lawyers and judges would have produced.

For the legitimacy, credibility, and quality of both the process itself and its products, from the very beginning we understood it was essential that the process enabled, received, listened to, considered, and used information, viewpoints, and suggestions from people and groups representing a broad array of backgrounds, experiences, perspectives, and expertise, never neglecting to include those the system is meant to serve—its broad range of consumers and end users. From the first day, the project engaged in outreach and inclusion, an intrinsic part of the process to the very last day. Beginning with this vision, ATJ Tech leadership set out to include in its committees, and work with, a range of people, organizations, and efforts that were dealing with technology's impact on vulnerable populations as well as society in general. From the beginning, the initiative closely partnered with members and representatives of low-income people and communities, persons with disabilities, racial and ethnic minorities, Native American organizations, libraries and librarians, representatives of community centers, seniors, organizations working to bring basic (telephone, cable, and other) communication capabilities to all, a range of social-service agencies, and members and representatives of other traditionally underserved and vulnerable populations and communities, as well as government agencies, courts, judges, court administrators and clerks, lawyers, law schools, technologists, information and technology schools, the private sector, academics, and more.

To ensure that all those involved or interested in the project received authentic and practical information and perspectives, along with its many other efforts, our Outreach Committee conducted focus groups and interviews with a number of different underserved and diverse groups, including homeless, welfare recipients, persons formerly or currently held in the correctional system, immigrants, farm workers, victims of domestic violence, and judges. The knowledge gained from the focus groups, the then-recent 2003 Statewide Legal Needs Study, and other direct information sources, significantly informed other project committees in their work, and was central in informing the content of the ATJ Tech Principles themselves and their accompanying comments. That knowledge and information has and will continue to inform other documents, effectuating mechanisms and processes which enabled the ATJ Tech Principles project to meet its essential task of assuring the credibility, quality, relevance, and realistic effectiveness of the process and its products. We worked with agencies that serve people such as those who were in the focus

groups because we understood that as the project planned and then engaged in the process of converting the Access to Justice Technology Principles into real and daily practice, it needed collaborators, allies and supporters; indeed, all groups working on these issues need each other. These collaborations strengthen the likelihood that the combined insights and influence will actually change for the better the way technology is planned, designed, developed, and deployed, not only in the justice system but also in other core social institutions. The results for the vulnerable and disadvantaged in our communities—and thus for all of us—can only be positive.

Beginning in 2002, the Committee created a total of 12 successive drafts of the ATJ Tech Principles. Every draft was sent to all persons and groups involved or interested, every one of whom was invited to comment and make suggestions, as well as assured that every comment and suggestion would be read and considered. The number of drafts we created and sent out testifies to the seriousness with which we treated such comments and suggestions.

In October 2004, the Committee submitted the ATJ Tech Principles produced through this inclusive process. Ultimately, on December 3, 2004, the Washington State Supreme Court, by Court Order, adopted the Principles submitted in full.¹¹ There were no dissents.

The full Supreme Court Order is found in Document A in the appendix to this chapter (see page 183). Document B, also in the appendix, is the actual Principles as adopted. However, to give the reader necessary context for the body of this chapter between here and Document A, the first two paragraphs of the Supreme Court Order are also set forth here:

WHEREAS, the Washington judicial system is founded upon the fundamental principle that the judicial system is accessible to all persons; and

WHEREAS, responding to the unmet legal needs of low and moderate income people and others who suffer disparate access barriers or are otherwise vulnerable, and the need for leadership and effective coordination of civil equal justice efforts in Washington State, the Supreme Court established an Access to Justice Board as a permanent body charged with responsibility to assure high quality access for vulnerable and low and moderate income persons and others who suffer disparate access barriers to the civil justice system. The Supreme Court further

ordered that, among other responsibilities, the Access to Justice Board shall work to promote, develop and implement policy initiatives which enhance the availability of resources for essential civil equal justice activities, develop and implement new programs and innovative measures designed to expand access to justice in Washington State, and promote the responsiveness of the civil justice system to the needs of those who suffer disparate treatment or disproportionate access barriers...¹²

Shortly after the Supreme Court Order adopting the ATJ Technology Principles was entered, our committee ensured that both the Order and the Principles were translated and printed in the six most commonly used second languages in Washington State at that time: Spanish, Vietnamese, Chinese, Japanese, Russian, and Arabic. We then contacted persons and organizations in those communities, made the Order and Principles available in both English and the appropriate language, and advised how additional copies could be obtained.

Developing a Strategy for Implementation

Another year of work by a highly knowledgeable multi-disciplinary group culminated in the ATJ Technology Principles Implementation Strategy Plan. That Plan was accepted and a Report sent to the Supreme Court and distributed throughout the justice and associated systems. Chief Justice Gerry Alexander had fully kept his word of a few years earlier, as did the Supreme Court itself. The time had now come to end the project and institutionalize its product and its intent throughout the justice system, to make it an essential thread in the inherent fabric of the justice system.

In the interim between the beginning and end of this project, the ATJ Board created a major standing committee, the Access to Justice Technology Committee, to be its principal advisor, planner, initiator, working body, liaison, and, with ATJ Board permission, its acting body in dealing with technology and the justice system. A principal part of this Committee's job was to assure that the ATJ Technology Principles and the Committee were no longer thought of or treated simply as projects, but instead were institutionalized as ongoing integral and necessary parts of the Washington State justice system. Thus, the ATJ Technology Committee was to be consulted, or a Committee representative was to be made part of justice

system planning and action, when the development or use of technology was or might be relevant and considered, or when technology was not or had not been considered, but should have been. The Committee was also authorized, when and as appropriate, to present and participate with other relevant public and private persons and bodies.

In April 2010, the Supreme Court reconfirmed the ATJ Board's permanent place as an essential organ in the body of the Washington State justice system. In its 2010 Order, the Court stated:

The Access to Justice Board shall work to:

- Establish, coordinate and oversee a statewide, integrated, non-duplicative, civil legal services system that is responsive to the needs of the poor, vulnerable and moderate means individuals;
- Serve as an effective clearinghouse and mechanism for communication and information dissemination;
- Promote, develop, and implement policy initiatives and criteria which enhance the availability of resources for essential civil equal justice activities;
- Develop and implement new programs and innovative measures designed to expand access to justice in Washington State;
- Promote jurisprudential understanding of the law relating to the fundamental right of individuals to secure meaningful access to the civil justice system...¹³

Almost Twelve Years Later: Reflections on the Accomplishments of the Principles, and What Next

More than a decade has gone by since the Principles were adopted, and much has been accomplished as a result of the Principles and the state of mind, attitudes, and habits they engendered. Many accomplishments are apparent, while some of the most significant accomplishments are not highly visible but are nevertheless intrinsically important. Space does not allow a listing of all or even most of the accomplishments. Instead, I will focus on a few examples.

A very important consequence of the Principles is the ongoing and increasing involvement of the ATJ Board and its representatives and stakeholders in bar association and court processes, standards, consideration, and action relative to the extremely important area of

court rules at all levels, their content, initiation, modification, adoption, or deletion. This includes initiation of ATJ Board, ATJ Committee, and ATJ stakeholder involvement relative to such rules, which has resulted in presence, consideration, increased knowledge and awareness, common efforts, and, recently, an ATJ representative appointed to full membership on the Washington State Bar Association Rules Committee. In addition, the ATJ Board recently created its own ATJ Board Rules Committee, much of it engendered by needed changes in discovery rules as they may pertain to technology and electronically stored information, and including the fact that such rules (indeed all rules) must be understandable and usable not only by trained lawyers but by so-called “pro se” (the status variously referred to as either unrepresented or self-represented) litigants.

Relative to this very important area of court rules, the ATJ Technology Principles enterprise is at last no longer thought of as a special and often annoying project but rather as an intrinsic and ongoing part of the justice and related systems, mostly a partner, not an antagonist. Some examples—and there are more—have included meaningful participation relative to rules on electronic filing and electronic service, the certification of persons who qualify to have court fees waived, the production for discovery purposes of electronically stored information, the protection of privacy in domestic cases and in abuse cases, the providing of accommodations to people with disabilities, and more.

While it is not the first time the ATJ Technology Principles have been referenced in court decisions and opinions, the case of *Gendler v Batiste*¹⁴ is particularly instructive. In this case the Washington Supreme Court discussed and clearly relied on the ATJ Principles in the context of a public disclosure request case. In its opinion, the Court stated:

This reasoning is consistent with our *Washington State Access to Justice Technology Principles* (hereinafter ATJ), [http:// www.courts.wa.gov/court_rules/](http://www.courts.wa.gov/court_rules/). These principles apply to all courts of law and serve as a guide for all other actors in our state justice system. ATJ, scope. The ATJ preamble declares, “The use of technologies in the Washington State justice system must protect and advance the fundamental right of equal access to justice. There is a particular need to avoid creating or increasing barriers to access.” ATJ, pmbl. “Technology” includes “all mechanisms and means used

for the production, storage, retrieval, aggregation, transmission, communication, dissemination, interpretation, presentation, or application of information.” ATJ, scope. “[A]ccess to justice” means the meaningful opportunity to acquire information necessary to assert a claim or defense. ATJ, pmbl. WSP [Washington State Patrol] cannot shield otherwise disclosable accident reports under the guise of § 409 by depositing them in a forbidden DOT electronic database. Permitting this would fly in the face of our well grounded principle that technology should enhance access to information that is necessary for justice, not create barriers.¹⁵ (Emphasis added)

This Supreme Court opinion and its specific language is an important message to all in or related to the justice system: That message—in my words—is: “Pay attention and act in accordance with the ATJ Principles.” The case and the message have had and will continue to have important consequences for thinking about how to handle future kinds of public disclosure cases in a principled and equitable manner, and in all other areas where the ATJ Technology Principles apply.

The ATJ Principles have also been infused into the very mechanisms by which Washington courts and related agencies do business with the private sector through contract language that binds all parties to adhere to the Principles. For example, standard contract language in dealings with the Office of Civil Legal Aid states:

ACCESS TO JUSTICE TECHNOLOGY PRINCIPLES – As a judicial branch agency, the Office of Civil Legal Aid is governed by Washington Supreme Court Order No. 25700-B- (December 3, 2004) (Adoption of Access to Justice Technology Principles). The Access to Justice Technology Principles were developed by the Access to Justice Board to assure that technology enhances rather than diminishes access to the justice system and justice system-related support services, and that it furthers the ability of people to achieve just results in their cases. Contractor agrees to adopt and biennially update a technology plan that incorporates the ATJ Technology Principles and to revise its Technology Principles Organizational Checklist biennially as may be necessary.¹⁶

A voluntary association named JusticeNet was initiated by the ATJ Tech Committee and community for the purpose of developing cooperation and support on a variety of matters involving technology.

JusticeNet allows for the harvesting of new approaches as well as opportunities for member organizations to do their jobs and meet their goals better and for more people. JusticeNet is comprised of more than 65 member organizations from courts, to policing and prosecutorial agencies, Native American tribes, universities, and library and information system organizations.¹⁷

In 2009 the first major work by JusticeNet enabled Washington State to receive a federal grant from the Department of Commerce, supported by the Department of Justice, in excess of \$4 million. The grant enabled research on and the provision of technology infrastructure in key but often hard to reach places, and the use of various types of community agencies (such as schools, community centers, libraries, parks, and more) to provide information and assistance in multiple essential subject areas—including law and justice, health, education, employment, and more. The work to fully implement this knowledge is continuing.

The ATJ Principles also enabled a variety of other important access to justice initiatives, including:

- Development of Best Practices in Providing Access to Court Information in Electronic Form—supported by the American Bar Association with funding from the Public Welfare Foundation.¹⁸
- Support and advocacy of the expansion of broadband so as to enable access to information from homes and other readily available places—this to provide and increase digital equity. The ATJ Technology Principles Committee was asked to and did participate in the City of Seattle’s Digital Equity Action Committee. The ATJ Technology Principles were used as an important resource. The same is true relative to Seattle’s development of privacy policies with respect to information provided to and by the city concerning private individuals and groups.¹⁹
- Implementation of technology used to effectively connect qualified interpreters who are physically unavailable, or who reside or are otherwise in one part of the state, with courts and administrative tribunals in other parts of the state.²⁰
- In partnership with the University of Washington Information School, enabling evaluation of justice system and other relevant websites as to accessibility, understandability, usability,

and more. On request thereafter the Information School participated in re-designing and otherwise improving accessibility, understandability, and usability in many such websites, including the Washington State Bar Association, the King County Bar Association, the Supreme Court's Minority and Justice Commission, and a number of legal aid organizations.²¹

- Launch of an interdisciplinary technological policy center, the Tech Policy Lab, by the University of Washington Law School, Information School, and Computer Science and Engineering School.²²
- Participating in creating, distributing, making available online, and subsequently updating brochures to all courts in the state on how best to provide services to persons with disabilities, including the use of technology, using when needed assistive technology as well. The same was thereafter done relative to all administrative tribunals in the state, which service far more people than do the courts.²³
- Providing comments relative to the consideration of various rules by relevant government agencies, including the Federal Communications Commission, the U.S. Department of Justice, the U.S. Department of Commerce, the U.S. Copyright agency, and many Washington State agencies of all three branches of our state government. The Committee and its members are now increasingly solicited for our comments. For example, an ATJ Tech Committee member (later its Chair) offered comments, along with other organizations, with respect to the potential negative effects of certain software on people with dyslexia. Ultimately, the proposed action was canceled.²⁴
- Acting as an advisor for a number of states, counties, cities or agencies that have adapted, adopted or are otherwise using some of the ATJ Technology Principles and/or their progeny. It appears more of this may be on the way. We have recently participated with Canada in 2014 and India in 2015.²⁵

The ATJ Technology Principles and Board have accomplished many more positive and helpful outcomes. Perhaps the most important accomplishment to date is that after initial avoidance and resistance, unwillingness to be "bothered," or to change old ways of doing things, our persistence and perseverance, along with the support of

many others, increasingly places the Principles and the values they embody closer to or in the mainstream every day. The ATJ Tech Principles can no longer be ignored or avoided, and if there is resistance to a suggestion or proposed action, that resistance had better have substance and merit. No longer a “special” or temporary project, the Principles are at last close to being institutionalized and are being recognized as an inclusion document, an equality document, and an effectiveness document, rather than only a technology document.

That having been said, we cannot allow ourselves to fall into the trap of ignoring, avoiding, or resisting the truth—in this case a truth that is present and there to see but apparently difficult to visualize and internalize—and to undertake changing. Notwithstanding all the efforts of a great many people, organizations, and governments, despite the new and terrific tools and technologies we now have and will have, including the ATJ Principles, access to equal and quality justice is no closer for low-income and other vulnerable persons, families, and groups. Clearly, what we have been doing so far is not the whole answer, nor do we have the whole answer, but the road to get us there does exist and is increasingly visible.

The Continuing Challenge of the Inaccessibility of Justice

Unfortunately, in many instances, vulnerable persons are either not better off or are even worse off in terms of meaningful access to justice today than they were ten years ago. For example, in 2003, the Supreme Court of Washington’s Task Force on Civil Equal Justice Funding published the first-ever report on the civil-legal needs of low-income and vulnerable Washingtonians. That report presented striking findings about the percentage of low-income households that experienced important civil-legal problems, the types of problems they experienced, differences in the prevalence and subject matter of legal problems experienced by different demographic subgroups, the percentage of households that sought legal help, where people went for legal help, and the impact of legal assistance in resolving their legal problems.²⁶

In 2014, the Washington State Supreme Court established a committee to oversee a comprehensive and rigorous update of the 2003 Civil Legal Needs Study. The committee was to oversee a comprehensive research effort grounded in the core areas of the 2003 study’s focus, augmented to understand new and emerging legal problems.

The Civil Legal Needs Study Update Report was concluded in June 2015 and published a few months later. The findings were that there was no change from the 2003 findings that more than 70% of low-income households had a civil-legal-need problem within the prior 12-month period, and that more than three-quarters of those either did not seek or were unable to obtain legal help with respect to those problems.²⁷ Also consistent with the findings of the 2003 study, large percentages of low-income people did not get help either because they did not understand that the problems they faced had a legal dimension or because legal help was not available. There was no change from 2003 to 2014 in the percentage of those people who were able to get legal help and who obtained some resolution of their problem—61% in both studies. There was also no change in the confidence or lack thereof exhibited by low-income people who had a legal problem—58% had a negative view of the justice system.²⁸ What was different in the 2014 study from the 2003 results was not better; it was worse. The per capita incidence of civil-legal problems grew from 3.3 per household per year in 2003 to 9.3 per household per year in 2014.²⁹

Given these sobering results, I would hate to think of what the situation would be without all the commitment, work, and money, both state and federal, that have gone into trying to address these problems in the eleven years between 2003 and 2014. And this state of affairs is not unique to Washington.³⁰ For that reason, a number of organizations, including the American Bar Association, have been working hard to identify the road forward, a road that will actually get us to a better place.³¹

While I recognize that both the past and current initiatives are well intentioned and may in fact assist some people in the short term, I believe that meaningfully addressing the widespread inaccessibility of justice requires broader, more open, more systemic knowledge and action. The process for change requires recognition that the American justice system is well over 200 years old and was designed even earlier at a very different time with very different service goals, very different resources and tools, and a very different infrastructure than is needed now. For example, our system of 200-plus years ago was intended and designed to serve white male property owners, and the infrastructure which was designed and built accordingly reflected that—and fundamentally still does. We know that our present mission, intentions, and goals are very different from what they were in that time. Today, the justice system in the United States is

intended to serve *all people*; it states this intention and is presumably committed to it. However, despite this expressed intention, the design of our justice system and its centuries-old infrastructure and operations have not changed, certainly not meaningfully changed. Rather, they have become essentially unworkable, indeed irrelevant, as to being accessible, usable, and actually delivering justice, especially equal justice, to and for all people, not just white male property owners. We have never yet thoroughly and carefully thought through and addressed the obsolete infrastructure of our justice/legal system, and the systemic redesign and changes that are required and must be made real in order to provide meaningful access to and delivery of quality justice to all, especially equal justice—including both process and outcome. This is what must be done, what has not been done or even begun, and what we must begin to do right now. To my knowledge this entire matter remains unaddressed and certainly will not be addressed by any recent or current well-intentioned efforts (although some current recommendations might perhaps become a part of systemic change).

For these reasons, while short-term modifications may be necessary, meaningful long-term accessibility and delivery of equal justice will require systemic changes in the American justice/legal system and its infrastructure and, I strongly suggest, those of other countries and governments. Whatever the outcome, it is necessary to do this, and certainly better than not making a serious effort. And this is the right time! We now have tools available that we have never had before, technological, information, communication and mobility tools that can serve, empower and enable the justice system, those who work in it, those who are subject to the system and are or potentially will be served by the justice system. We now have the ability to develop, find, share, communicate, present, enable, and empower information, knowledge, and services no matter the location and the people who should receive, understand, use, and benefit from it. And those capabilities are increasing.

I don't know what the ultimate answers will be, nor could I. Rather than my presumptuously and unwisely trying to prescribe what form the ultimate changes should take, I suggest here a process for moving with the spirit and toward the goals set forth in Dr. King's 1968 speech. Approximately fifty people from various parts of the United States and from different backgrounds and disciplines should be convened to participate in a several-day brainstorming session in

the relatively near future. The participants should include not only judges, lawyers, legal academics, and workers at various levels in the justice system, but also appropriate information and communication technologists and experts, behavioral and political scientists, sociologists, stakeholders, and just plain thinkers.

Rather than my trying to ordain ultimate conclusions and recommendations, I suggest that this first stage strive to reach the following limited but highly important objectives: (1) agree on core values and considerations that will drive a longer-term substantive effort to fully address and propose solutions of the systemic and associated problems; (2) recommend how to structure, conduct, and strategize a longer-term and full substantive process and effort to gather or otherwise obtain information in whatever form and by whatever means, consider the same, report on what was done, what methods were used, the consideration and thinking, the findings, conclusions, and recommendations; (3) recommend how many people, and from what disciplines and backgrounds, should be in the second group involved in this longer-term, fully substantive effort, and to the desired extent, recommend specific persons of multidisciplinary backgrounds; and (4) recommend an approximate time frame for the total effort and report. In order to succeed, this effort must be convened by a highly respected, credible, bridging entity capable of engaging highly skilled and thoughtful persons from a broad array of disciplines with the personal backgrounds and experience to carefully, impartially, and fairly address a most significant and fundamental problem of values and daily life that has affected, and one way or another continues to affect, every person in the United States, and who will do their best to develop a fair and workable solution for all. I truly believe we can build a new infrastructure that is in fact efficient, economical, and effective, that will enable the justice system, and all of us, to live its values and keep its promises.

In this respect, we, in the State of Washington, know that we are not immune. As a parallel important beginning effort, we have recently begun the process of objectively evaluating the now eleven-year-old Access to Justice Technology Principles, and determining what changes, if any, should be made to improve both the Principles and their application—the Idea and the Reality.

Most of us have long been aware of the truism “Eternal Vigilance is the Price of Liberty.”³² I have learned and had confirmed many times the additional truism that “Eternal Vigilance is the Price of Justice.”

Appendix

DOCUMENT A

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE ACCESS TO JUSTICE) **ORDER**

TECHNOLOGY PRINCIPLES) NO. 25700-B-449

_____)

WHEREAS, the Washington judicial system is founded upon the fundamental principle that the judicial system is accessible to all persons; and

WHEREAS, responding to the unmet legal needs of low and moderate income people and others who suffer disparate access barriers or are otherwise vulnerable, and the need for leadership and effective coordination of civil equal justice efforts in Washington State, the Supreme Court established an Access to Justice Board as a permanent body charged with responsibility to assure high quality access for vulnerable and low and moderate income persons and others who suffer disparate access barriers to the civil justice system. The Supreme Court further ordered that, among other responsibilities, the Access to Justice Board shall work to promote, develop and implement policy initiatives which enhance the availability of resources for essential civil equal justice activities, develop and implement new programs and innovative measures designed to expand access to justice in Washington State, and promote the responsiveness of the civil justice system to the needs of those who suffer disparate treatment or disproportionate access barriers; and

WHEREAS, in working to fulfill those responsibilities, the Access to Justice Board recognized that developments in information and communication technologies, including the internet, pose significant challenges to full and equal access to the justice system, that technology can provide increased pathways for quality access, but it can also perpetuate and exacerbate existing barriers and create significant new barriers. The Board determined it must plan and act proactively to take maximum advantage of the opportunity to

destroy or minimize such barriers and to create more effective and efficient means of access to the justice system and increase the quantity and quality of justice provided to all persons in Washington State; and

WHEREAS, in 2001 the Access to Justice Board empowered and charged a Board committee to engage in a broad-based and inclusive initiative to create a body of authoritative fundamental principles and proposed action based thereon to ensure that current and future technology both increases opportunities and eliminates barriers to access to and effective utilization of the justice system, thereby improving the quality of justice for all persons in Washington State; and

WHEREAS, over a three-year period the Board and committee fulfilled the responsibility of broad and inclusive involvement and the development of "The Access to Justice Technology Principles", with accompanying comments and proposed action based thereon; and The Access to Justice Technology Principles have been endorsed by the Board for Judicial Administration, the Judicial Information System Committee, the Board of Trustees of the Superior Court Judges' Association, the Board of Trustees of the District and Municipal Court Judges' Association, the Board of Governors of the Washington State Bar Association, the Minority and Justice Commission, the Gender and Justice Commission, the Attorney General, and the Council on Public Legal Education; and

WHEREAS, a statewide Judicial Information System to serve the courts of the State of Washington was created by the Supreme Court in 1976 to be operated by the Administrative Office of the Courts pursuant to court rule, and charged with addressing issues of dissemination of data, equipment, communication with other systems, security, and operational priorities; and

WHEREAS, consistent with the intent of this Order, pursuant to RCW 2.68.050 the courts of this state, through the Judicial Information System, shall, in pertinent part, promote and facilitate electronic access of judicial information and services to the public at little or no cost and by use of technologies capable of being used by persons without extensive technological ability and wherever possible by persons with disabilities, and;

WHEREAS, the application of the Access to Justice Technology Principles to guide the use of technology in the Washington State justice system is desirable and appropriate; and

WHEREAS, the wide dissemination of the Access to Justice Technology Principles will promote their use and consequent access to justice for all persons;

Now, therefore, it is hereby

ORDERED:

(a) The Access to Justice Technology Principles appended to this Order state the values, standards and intent to guide the use of technology in the Washington State court system and by all other persons, agencies, and bodies under the authority of this Court. These Principles should be considered with other governing law and court rules in deciding the appropriate use of technology in the administration of the courts and the cases that come before such courts, and should be so considered in deciding the appropriate use of technology by all other persons, agencies and bodies under the authority of this Court.

(b) The Access to Justice Technology Principles and this Order shall be published expeditiously with the Washington Court Rules and on the Washington State Bar Association website, and on the courts website as maintained by the Administrative Office of the Courts.

The following introductory language should immediately precede the Access to Justice Technology Principles in all such publications and sites:

These Access to Justice Technology Principles were developed by the Access to Justice Board to assure that technology enhances rather than diminishes access to and the quality of justice for all persons in Washington State. Comments of the Access to Justice Board committee drafters accompanying the Principles make clear the intent that the Principles are to be used so as to be practical and effective for both the workers in and users of the justice system, that the Principles do not create or constitute the basis for new causes of action or create unfunded mandates. These Principles have been endorsed by the Board for Judicial Administration, the Judicial Information System Committee, the Board of Trustees of the Superior Court Judges' Association, the Board of Trustees of the District and Municipal Court Judges' Association, the Board of Governors of the Washington State Bar Association, the Minority and Justice Commission, the Gender and Justice Commission, the Attorney General, and the Council on Public Legal Education.

(c) The Administrative Office of the Courts in conjunction with the Access to Justice Board and the Judicial Information System Committee shall report annually to the Supreme Court on the use of the Access to Justice Technology Principles in the Washington State court system and by all other persons, agencies, and bodies under the authority of this Court.

DATED at Olympia, Washington this 3rd day of December 2004.

	<u>Alexander, C.J</u>
<u>Johnson, J</u>	<u>Bridge, J</u>
<u>Madsen, J</u>	<u>Chambers, J</u>
<u></u>	<u>Owens, J</u>
<u>Ireland, J</u>	<u>Fairhurst, J</u>

DOCUMENT B

The following are the Access to Justice Technology Principles as adopted by the Supreme Court, and the Comments to those Principles included by the Supreme Court.

Washington State Access to Justice Technology Principles

**Adopted by the Washington State Supreme Court
December 3, 2004**

An Initiative of the Washington State Access to Justice Board

Preamble

The use of technologies in the Washington State justice system must protect and advance the fundamental right of equal access to justice. There is a particular need to avoid creating or increasing barriers to access and to reduce or remove existing barriers for those who are or may be excluded or underserved, including those not represented by counsel.

This statement presumes a broad definition of access to justice, which includes the meaningful opportunity, directly or through

other persons: (1) to assert a claim or defense and to create, enforce, modify, or discharge a legal obligation in any forum; (2) to acquire the procedural or other information necessary (a) to assert a claim or defense, or (b) to create, enforce, modify, or discharge an obligation in any forum, or (c) to otherwise improve the likelihood of a just result; (3) to participate in the conduct of proceedings as witness or juror; and (4) to acquire information about the activities of courts or other dispute resolution bodies. Further, access to justice requires a just process, which includes, among other things, timeliness and affordability. A just process also has “transparency,” which means that the system allows the public to see not just the outside but through to the inside of the justice system, its rules and standards, procedures and processes, and its other operational characteristics and patterns so as to evaluate all aspects of its operations, particularly its fairness, effectiveness, and efficiency.

Therefore, these Access to Justice Technology Principles state the governing values and principles which shall guide the use of technology in the Washington State justice system.

Comment to “Preamble”

Access to justice is a fundamental right in Washington State, and the State Supreme Court has recognized and endeavored to protect that right in its establishment of the Access to Justice Board. From an understanding that technology can affect access to justice, these Access to Justice Technology Principles are intended to provide general statements of broad applicability and a foundation for resolving specific issues as they arise. The various parts of this document should be read as a whole.

A broad definition of the terms used herein is necessary to ensure that our underlying constitutional and common law values are fully protected. The terms used in this document should be understood and interpreted in that light.

These Principles do not mandate new expenditures, create new causes of action, or repeal or modify any rule. Rather, they require that justice system decision makers consider access to justice, take certain steps whenever technology that may affect access to justice is planned or implemented, avoid reducing access, and, whenever possible, use technology to enhance access to justice.

Scope

The Access to Justice Technology Principles apply to all courts of law, all clerks of court and court administrators, and to all other persons or parts of the Washington justice system under the rule-making authority of the Court. They should also serve as a guide for all other actors in the Washington justice system.

“Other actors in the Washington justice system” means all governmental and non-governmental bodies engaged in formal dispute resolution or rulemaking and all persons and entities who may represent, assist, or provide information to persons who come before such bodies.

“Technology” includes all electronic means of communication and transmission and all mechanisms and means used for the production, storage, retrieval, aggregation, transmission, communication, dissemination, interpretation, presentation, or application of information.

Comment to “Scope”

This language is intended to make clear that the Access to Justice Technology Principles are mandatory only for those persons or bodies within the scope of the State Supreme Court’s rulemaking authority. It is, however, hoped and urged that these Principles and their values will be applied and used widely throughout the entire justice system.

It is also intended that the Access to Justice Technology Principles shall continue to apply fully in the event all or any portion of the performance, implementation, or accomplishment of a duty, obligation, responsibility, enterprise, or task is delegated, contracted, assigned, or transferred to another entity or person, public or private, to whom the Principles may not otherwise apply.

The definition of the word “technology” is meant to be inclusive rather than exclusive.

Requirement of Access to Justice

Access to a just result requires access to the justice system. Use of technology in the justice system should serve to promote equal access to justice and to promote the opportunity for equal participation in

the justice system for all. Introduction of technology or changes in the use of technology must not reduce access or participation and, whenever possible, shall advance such access and participation.

Comment to “Requirement of Access to Justice”

This Principle combines promotion of access to justice through technology with a recognition of the “first, do no harm” precept. The intent is to promote the use of technology to advance access whenever possible, to maintain a focus on the feasible while protecting against derogation of access, and to encourage progress, innovation, and experimentation.

Technology and Just Results

The overriding objective of the justice system is a just result achieved through a just process by impartial and well-informed decision makers. The justice system shall use and advance technology to achieve that objective and shall reject, minimize, or modify any use that reduces the likelihood of achieving that objective.

Comment to “Technology and Just Results”

The reference to a “just process” reaffirms that a just process is integral to a just result. The reference to “well-informed decision makers” is to emphasize the potential role of technology in gathering, organizing, and presenting information in order that the decision maker receives the optimal amount and quality of information so that the possibility of a just result is maximized.

Openness and Privacy

The justice system has the dual responsibility of being open to the public and protecting personal privacy. Its technology should be designed and used to meet both responsibilities.

Technology use may create or magnify conflict between values of openness and personal privacy. In such circumstances, decision makers must engage in a careful balancing process, considering both values and their underlying purposes, and should maximize beneficial effects while minimizing detrimental effects.

Comment to "Openness and Privacy"

This Principle underlines that the values of openness and privacy are not necessarily in conflict, particularly when technology is designed and used in a way that is crafted to best protect and, whenever possible, enhance each value. However, when a conflict is unavoidable, it is essential to consider the technology's effects on both privacy and openness. The Principle requires that decision makers engage in a balancing process which carefully considers both values and their underlying rationales and objectives, weighs the technology's potential effects, and proceed with use when they determine that the beneficial effects outweigh the detrimental effects.

The Principle applies both to the content of the justice system and its operations, as well as the requirements for accountability and transparency. These requirements may mean different things depending on whether technology use involves internal court operations or involves access to and use of the justice system by members of the public.

Assuring a Neutral Forum

The existence of a neutral, accessible, and transparent forum for dispute resolution is fundamental to the Washington State justice system. Developments in technology may generate alternative dispute resolution systems that do not have these characteristics, but which, nevertheless, attract users who seek the advantages of available technology. Participants and actors in the Washington State justice system shall use all appropriate means to ensure the existence of neutral, accessible, and transparent forums which are compatible with new technologies and to discourage and reduce the demand for the use of forums which do not meet the basic requirements of neutrality, accessibility, and transparency.

Comment to "Assuring a Neutral Forum"

Technologically generated alternative dispute resolution (including online dispute resolution) is a rapidly growing field that raises many issues for the justice system. This Principle underlines the importance of applying the basic values and requirements of the justice system and all the Access to Justice Technology Principles to that area, while clarifying that there is no change to governing law.

This Principle is not intended in any way to discourage the accessibility and use of mediation, in which the confidentiality of the proceeding and statements and discussions may assist the parties in reaching a settlement; provided that the parties maintain access to a neutral and transparent forum in the event a settlement is not reached.

Maximizing Public Awareness and Use

Access to justice requires that the public have available understandable information about the justice system, its resources, and means of access. The justice system should promote ongoing public knowledge and understanding of the tools afforded by technology to access justice by developing and disseminating information and materials as broadly as possible in forms and by means that can reach the largest possible number and variety of people.

Comment to “Maximizing Public Awareness and Use”

While assuring public awareness and understanding of relevant access to justice technologies is an affirmative general duty of all governmental branches, this Principle expressly recognizes that the primary responsibility lies with the justice system itself. As stated in the Comment to the Preamble, none of these Access to Justice Technology Principles, including this one, mandates new expenditures or creates new causes of action. At the same time, however, planners and decision makers must demonstrate sensitivity to the needs, capacities, and where appropriate, limitations of prospective users of the justice system.

Communicating the tools of access to the public should be done by whatever means is effective. For example, information about kiosks where domestic violence protection forms can be filled out and filed electronically could be described on radio or television public service announcements. Another example might be providing information on handouts or posters at libraries or community centers. Information could also be posted on a website of the Council for Public Legal Education or of a local or statewide legal aid program, using an audible web reader for persons with visual or literacy limitations. The means may be as many and varied as people’s imaginations and the characteristics of the broad population to be reached.

Best Practices

To ensure implementation of the Access to Justice Technology Principles, those governed by these principles shall utilize “best practices” procedures or standards. Other actors in the justice system are encouraged to utilize or be guided by such best practices procedures or standards.

The best practices shall guide the use of technology so as to protect and enhance access to justice and promote equality of access and fairness. Best practices shall also provide for an effective, regular means of evaluation of the use of technology in light of all the values and objectives of these Principles.

Comment to “Best Practices”

This Principle is intended to provide guidance to ensure that the broad values and approaches articulated elsewhere in these Access to Justice Technology Principles are implemented to the fullest extent possible in the daily reality of the justice system and the people served by the justice system. The intent is that high quality practical tools and resources be available for consideration, use, evaluation, and improvement of technologies in all parts of the justice system. This Principle and these Access to Justice Technology Principles as a whole are intended to encourage progress, innovation, and experimentation with the objective of increasing meaningful access to quality justice for all. With these goals in mind, the development and adoption of statewide models for best practices is strongly encouraged.

Notes

- 1 Martin Luther King Jr, “Remaining Awake Through a Great Revolution” (Address delivered at the National Cathedral, Washington, DC, 31 March 1968), online: <mlk-kpp01.stanford.edu/index.php/encyclopedia/documentsentry/doc_remaining_aware_through_a_great_revolution/>.
- 2 Wash Constitution Article I, § 32.
- 3 Order establishing Access to Justice Board for an Initial Evaluation Period of Two Years, No 25700-B- at 1, online: <www.wsba.org/~media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/Order%20Establishing%20Access%20to%20Justice%20Board%201994.ashx>.
- 4 Ibid.; many states have since followed this example. They may be called Boards or Commissions or such, but they have essentially similar duties.
- 5 Ibid.

- 6 Donald J Horowitz, "Technology, Values, and the Justice System: The Evolution of the Access to Justice Technology Bill of Rights," 79 *Wash L Rev* 79 (2004):77.
- 7 Ibid. at 78.
- 8 See Document B.
- 9 Ibid. at 81.
- 10 Washington State Minority and Justice Commission, Minutes of Commission Meeting (3 October 2003), online: <www.courts.wa.gov/programs_orgs/index.cfm?fa=programs_orgs.showMjcMinutes&theMinutesFolder=01_Commission%20Meeting%20Minutes&minutesName=20031003.htm>.
- 11 See Document A.
- 12 Ibid.; In the Matter of the Reauthorizing of the Access to Justice Board, No 25700-B-449 at 1, online: <http://www.wsba.org/~media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/Washington%20State%20Access%20to%20Justice%20Technology%20Principles%20-%20Supreme%20Court%20Order%202004.ashx>.
- 13 In the Matter of the Reauthorizing of the Access to Justice Board, No 25700-B-524 at 1, online: <www.wsba.org/~media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/ATJ%20Board%20Order%202012%2003%2008.ashx> (reauthorizing the Board again in 2012).
- 14 *Gendler v Batiste*, 174 Wn (2d) 244 (2012) [Gendler].
- 15 Ibid. at 22–23.
- 16 ATJ Web, "Implementation," online: <old.atjweb.org/implementation/>.
- 17 Included among these are: Washington State Office of Public Defense; Washington State Office of Civil Legal Aid; Washington State Office of the Attorney General; Washington State Bar Association; Washington Defender Association; University of Washington Information School; Kalispel Tribe of Indians; Tulalip Tribe; Chehalis Tribe; numerous Dispute Resolution Centers and statewide, regional, and local civil legal-aid programs: Washington Courts, "State of the Judiciary Address," press release, January 13, 2011, online: <<https://www.courts.wa.gov/newsinfo/?fa=newsinfo.pressdetail&newsid=1791>>.
- 18 Washington Access to Justice Board, "Best Practices: Providing Access to Court Information in Electronic Form," online: <www.wsba.org/~media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/Providing%20Access%20to%20Court%20Information%20in%20Electronic%20Form%20Best%20Practices%20-%20Best%20Practices%20Final.ashx>.
- 19 City of Seattle, "Digital Equity Action Committee Members," *seattle.gov*, online: <www.seattle.gov/community-technology/for-everyone/digital-equity-initiative/digital-equity-action-committee>.

- 20 Washington Courts, *2013-2015 Access to Justice Technology Principles Report to the Supreme Court* (30 November 2015) at 6, online: <www.wsba.org/~media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/Committee%20Files/Technology/ATJ-TechnologyPrinciplesReport2013-2015.ashx>.
- 21 *Access to Justice Board Annual Report* (February 2010) at 15, online: <www.wsba.org/~media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/Access%20to%20Justice%20Board%20Annual%20Report%202010.ashx>.
- 22 University of Washington, *Tech Policy Lab*, online: <techpolicylab.org/>.
- 23 Washington Courts, "Court Program Accessibility (ADA and Washington State Information)," online: <https://www.courts.wa.gov/committee/?fa=committee.display&item_id=1157&committee_id=143>.
- 24 US Copyright Office, "Facilitating Access for the Blind or Other Persons with Disabilities: Notice of Inquiry and Request for Comments," online: <www.copyright.gov/docs/sccr/>; Brian Rowe, "Comments," online: <<http://www.copyright.gov/docs/sccr/comments/2009/rowe.pdf>>.
- 25 Both Canada and India are involved in projects to integrate technology into their justice systems. Jane Bailey, "Digitization Of Court Processes In Canada" (working paper no. 2, Laboratory of Cyberjustice, Montreal, QC, 2012). Justice R.C. Lahoti, "Key Note Address," (address, International Conference on ADR, Conciliation, Mediation and Case Management, New Delhi, India, May 3-4, 2003).
- 26 Task Force on Civil Equal Justice Funding, *The Washington State Civil Legal Needs Study*, (September 2003), online: <<https://www.courts.wa.gov/newsinfo/content/taskforce/CivilLegalNeeds.pdf>>.
- 27 Civil Legal Needs Study Update Committee, *Civil Legal Needs Study Update* (October 2015) at 3, online: <http://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf> [*Civil Legal Needs Study Update*].
- 28 Ibid. at 17.
- 29 Ibid. at 5.
- 30 See Alan W Houseman, *Civil Legal Aid in the United States: An Update for 2013* (Center for Law and Social Policy, November 2013), online: <www.clasp.org/resources-and-publications/publication-1/CIVIL-LEGAL-AID-IN-THE-UNITED-STATES-3.pdf>; Task Force to Expand Access to Civil Legal Services in New York, *Report to the Chief Judge of the State of New York* (November 2010), online: <<https://www.nycourts.gov/access-to-justice-commission/PDF/CLS-TaskForceREPORT.pdf>>.
- 31 Rebecca L Sandefur, *Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study* (Urbana, IL: American Bar Foundation, 2014), online: <www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporary_usa._aug._2014.pdf>.

- 32 This truism developed over time and is not directly attributable to anyone. It is often mistakenly attributed to either Irish lawyer/politician John Philpot Curran or to Thomas Jefferson. It is most likely derived from Curran's speech in 1790, in which he said that "The condition upon which God hath given liberty to man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime and the punishment of his guilt." See Suzy Platt, ed., *Respectfully Quoted* (Washington, D.C.: Library of Congress, 1993), 200.

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