

Access to Justice Technology Bill of Rights
An Initiative of the Washington State Access to Justice Board
First Annual Report - May 2002

The broad-based collaborative effort to create an Access to Justice Technology Bill of Rights (ATJ-TBoR) is just completing its first year. ATJ-TBoR will ensure that current and future technologies increase opportunities for access and avoid or eliminate barriers to access to and effective utilization of the justice system. The process was started in 2001 and is the first comprehensive effort to develop, adopt and implement a body of enforceable fundamental principles to guide the development and use of technology that affects the justice system so as to eliminate or minimize old barriers, preclude creation of new barriers and increase pathways to access. These principles will become the Access to Justice Technology Bill of Rights (For fuller background and history, see the attached Mission Statement and Strategy Plan).

In all of this, we must be and are reality-based. The principles must live not just on a library shelf, but in practical ways with concrete effects in people's daily lives.

Much progress has been made in the past year. Broad-based and diverse working committees have been formed and are operating: Steering Committee; Outreach and Information Gathering; Judiciary and Court Administration; Opportunities, Barriers and Technology; and Jurisprudence and History. (See the Diagram of and Charters of the working committees attached).

The project has secured the active participation and support of a wide-ranging and diverse group of participants. A short list includes but is not limited to the Governor's office, the Washington Assistive Technology Alliance and others concerned with persons with disabilities, Columbia Legal Services, the Northwest Justice Project and other legal services programs, national and state legislators, the King County Public Defender's office, a number of schools of the University of Washington (the Law School and its Center for Law, Commerce and Technology, the Information School, the Evans School of Public Affairs, the Department of Computer Science), Seattle University Law School and its Access to Justice Institute, Gonzaga Law School, the Washington and Oregon Library Associations and local library systems from around the state, Tribal Technologies, Northwest Tribal Judges Association, Associated Tribes of Northwest Indians and other Native American groups, the State Attorney General's Office, an array of consumer and end-user groups and representatives, various racial and ethnic groups, community networks both local and statewide, the Washington State Bar Association, the entire court system from the Supreme Court to courts of limited jurisdiction, many other in-state persons and groups, as well as contributions and participation from people and groups from other states (including NY, MD, CA, NM, AZ, IL, MA, CT, OR, TN, DC, NJ and others) interested in helping to develop a good and replicable product and model.

A new and developing website for the ATJ-TBoR project has been launched. See <http://www.atjtechbillofrights.org/>

The first ATJ-TBoR newsletter has recently been published. Please go to the website and click on the Newsletter link. The website and the newsletter will provide more information about the project, its mission, goals and tasks, its leadership and membership, and some of its activities.

Some of the activities and accomplishments of the ATJ-TBoR process to date are:

1. A third working draft of the potential principles of the bill of rights is currently being circulated internally for criticism and comment. An earlier draft was the subject of a mock trial at a meeting of over 50 working committee members and others, which generated very useful comments and suggestions. The mock trial is available for viewing on the project website, and, if requested, a cassette will be provided.
2. Material has been and continues to be gathered and organized (a) upon which to base annotations and commentary to the actual bill of rights, and (b) from which to begin preparation of an accompanying document in the nature of an environmental impact statement which will identify and document both the short term and long term consequences that adoption, implementation and enforcement of the bill of rights will likely have on the justice system, its consumers and potential consumers, legal, social and human services providers, others working in or with the justice system, as well as on the broader society, its systems, personnel and infrastructure.
3. In one of our most important undertakings, a multidisciplinary subcommittee has started work on an Access to Justice checklist/audit template for use to assure that all relevant access to justice considerations are taken into account and addressed whenever technology is being planned, designed, developed or implemented for the justice system. As an example, when planning, developing and before activating an e-filing system or a legal information website, court administrators, judges, legal aid attorneys and others will use the checklist template to assure that all access to justice considerations have been taken into account and either addressed or a plan provided that will within an appropriate time deal properly with those that have not. This will be a living document that will evolve and improve as conditions and technologies change, and as the justice community learns what is most effective. Further, it is planned that this will be institutionalized in the justice system, not simply an adjunctive device, but part of the system and invariably used whenever technology is considered.
4. The Judiciary and Court Administration Committee has developed and distributed surveys statewide to all Superior Court judges, Court Administrators, County Clerks and courts of limited jurisdiction to determine the present state of technology in the Washington state justice system, its plans for the next two years and its hopes for the future. A very high percentage of responses has already been received. A similar survey is being distributed to agencies throughout the state which provide or conduct alternative dispute resolution. The responses to these surveys will form a realistic basis to anticipate and plan for access to justice issues and problems, to avoid, eliminate or minimize barriers and suggest ways of increasing pathways and opportunities.
5. The Outreach and Information Gathering Committee has developed a survey and focus group protocol to identify what barriers and opportunities exist and how best to use technology to make it easier to access justice services. The committee has also developed a large database of justice system, social service and other agencies, which

will be invited to assist in recruiting a broad spectrum of people to complete the survey and some to engage in the focus groups. The committee is also cooperating on information-gathering efforts with the State Supreme Court sponsored Legal Needs Study which has recently begun its efforts. The Outreach Committee's efforts to learn from a variety of people, groups and communities and understand their experiences, ideas and aspirations relative to past, present and future access to the justice system, both traditional and technological, will enable us to meet our essential task of assuring the quality, legitimacy, credibility and results of our process and our efforts. By "our", we mean that a full range of communities, constituencies, users and potential consumers of the justice system is engaged, and that their voices are listened to and become intrinsic ingredients of all our products.

6. The Jurisprudence Committee will shortly have a draft of a review of other existing non-constitutional bills of rights, such as Library, Telecommunications, Nursing Home and Airline Passengers, to determine the effectiveness of the content, methods and legal or other formats others have employed. A paper on an aspect of the creation of the U.S. Bill of Rights has been completed and is in review. One other paper authored by the Committee chair is currently in early draft form.

The committee is currently in productive discussions with the University of Washington Law Review, the Law School and the Shidler Center for Law, Commerce & Technology with the goal of collaborating to host a major symposium at the Law School, and a full edition of the U.W. Law Review devoted to the Access to Justice Technology Bill of Rights and the various legal, jurisprudential, multidisciplinary and other issues raised or generated by the concept, the process and potential outcome. This would involve national and international as well as local authorities, all of the state's law schools and other schools and disciplines.

7. The Opportunities, Barriers and Technology Committee, with the involvement of faculty from the UW Information School and outside technology and industry experts, is near completion of an outline design of a justice system unlike anything that presently exists. At its core is a system that plays various roles - at times the system is a neutral information-delivery system, at times an advocate, at times an adversary, at times a neutral decision-maker. The system is not just machines and not just people - it is whatever would be most effective for that participant at that time. At every stage, the participants are informed and educated about where they are and the potential consequences of the next decision or action. The group will shortly meet again to test the system against accepted fundamental values and make necessary adjustments. After that, the committee will put together its product for the greater ATJ-TBoR Committee - our version of an "ideal" justice system that taps into the technology that creates or optimizes opportunities and avoids or breaks down barriers. Ultimately, it is hoped this will be used to modify current realities so as to effectuate and make real the values and principles of the Access to Justice Technology Bill of Rights and what it stands for.
8. The Washington State Council on Public Legal Education is developing a "gateway" legal information website. From the beginning, ATJ-TBoR has been an active partner in

this initiative with the PLE Council and the University of Washington, which is providing major technical assistance for the project. Still in its early stages, this website will enable the public, including schools, educators and students, to get information about the law and legal system, find answers to law-related and government-related questions and learn about law-related information, agencies, resources and helping persons and organizations. This website will be a real-life laboratory in which we will test and evaluate the Access to Justice Technology Bill of Rights principles, commentary and recommendations, and their implementation and effectuation. We will test and evaluate the practicalities of an accessible system so as to assure positive and realistic results from the ATJ-TBoR, and optimize accessibility and usability of the PLE website for the people, the educational system and the legal, social and human service providers of the state.

9. Collaborations have been developed with many persons and organizations from other states. Mutual support, information and idea exchange has occurred very productively with organizations such as the Legal Aid Society of Orange County, California and its I-Can Project, the DNA-Peoples Legal Services Program in the four corners area of the Southwest, and the Judicial Council and Administrative Office of the California Courts.
10. A combination of educational, informational and motivational workshops and presentations have been held, the most recent and very successful occurring on April 26, 2002 entitled "*ATJ-TBoR Seminar on Access for All: Accessibility of Electronic, Information and Telecommunications Technologies for People with Disabilities*". This featured presentations and demonstrations by the director of the Washington Assistive Technology Alliance, who is herself blind; the Senior Trial Attorney in the Disability Rights Section of the Civil Rights Division of the U.S. Department of Justice; and the Program Manager for Regulatory & Industry Affairs with the Accessible Technology Group at Microsoft Corporation.

Periodic events will continue to be held to learn about, test and demonstrate how the principles may work in practice, and to continue to build collaborations and supportive constituencies.

11. With the cooperation of law schools and other academic and research centers and institutions, we will soon begin conducting a survey of the rules, codes and laws by which the justice system operates so as to determine those places where the confluence of new technologies with existing rules of procedure, codes of evidence, confidentiality laws and codes of ethics turns out not to be confluence at all but collision. This effort will seek to identify those places where courts, legislatures, bar associations, industry, citizen groups, technologists and others should consider making careful and balanced adjustments in advance either of the rule, code or law or the technologies and how they are used, so as to avoid potential problems that would discourage user access and damage the quality of accessible justice.

Perhaps one of the most important accomplishments of the past year has been to raise the consciousness of almost every justice system agency and group to the consideration of access to justice and technology issues. Thus, almost every new project or initiative has begun to ask the

ATJ-TBoR Committee to participate or provide a continuing liaison or consultation. Even more telling is that many previously constituted and ongoing committees and projects have asked for such participation, liaison or consultation, including the central and very important State Judicial Information Systems Committee. We have begun to accomplish the essential task of seeing to it that what we stand for permeates the system.

The Access to Justice Technology Bill of Rights will be a national, and perhaps an international model. This is true not only for other geographical and jurisdictional areas, but for other essential human service sectors, such as access to health care, basic subsistence and others. It will be an institutionalized and living document available for use, evaluation, adaptation and evolution by government systems, public and private agencies, enterprises and others. We intend that the ATJ-TBoR will be responsive to significant societal and technological change, but carefully, and that its modification will require a balanced and deliberative process within a structure that requires such a process. Its plan, strategy and progress have already been and will be reported on in national, regional and local conferences, including the National Legal Aid and Defender Association, the American Bar Association, Computer Professionals for Social Responsibility, the Legal Services Corporation, the Conference of Chief Justices, the Oregon and Washington Library Associations, the Association of Washington Tribes and others.

The momentum will continue. The above work and more will continue, increase and a great deal will come to fruition in the next year. The external circulation of a draft of the potential access to justice technology bill of rights principles will occur later this year, seeking broad-based significant comment, criticism and suggestions for further revision and preparation for finalization and proposed adoption. We intend that by this time next year, the Access to Justice Bill of Rights will be ready and presented for adoption. Commentary and annotations to the Bill of Rights will be drafted. The impact statement will be prepared. The Access to Justice checklist/audit template will be completed, tested, adopted and hopefully in regular use. The various Phase One committee initiatives and projects described above (and any others) will be completed. The Phase Two Committees (Drafting Team, Impact Statement Committee, Adoption and Implementation Committee) will be in operation, and all but the Adoption and Implementation Committee close to completion. The adoption process will be proceeding, as will implementation planning. We will have developed and will be going forward with an information and education action plan.

Funding: Various private foundations, non-profit organizations and the Legal Services Corporation are partners with the Access to Justice Board, the court system and the state bar association in this effort. In the interest of building broad-based constituencies, we continue to request no more than \$25,000 per year of the project from any financial partner (other than the in-kind provided by the Washington State Bar Association). Any person or organization, profit or non-profit, private or public, may contribute at any level within that limit. For information, please e-mail: djh@atjtechbillofrights.org

We anticipate that the project will conclude its work by the end of 2003. By that time, we expect that the Access to Justice Technology Bill of Rights and its effectuating products will be institutionalized and an intrinsic part of the ongoing justice and related systems.