Tailoring Innovation for Today’s State Courts

By
Audrey Wall [1]
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State courts adopted unprecedented cost-saving strategies and innovations during the Great Recession. Today, courts continue to embrace this legacy of innovation to maintain, and even improve, the administration of justice. The projects featured in this article highlight the large gains and potential for future innovation in the state courts.

About the Authors

Kathryn Holt is a Senior Court Research Analyst at the National Center for State Courts in Williamsburg, Va. She works on multiple national data collection projects including the Court Statistics Project and State Court Organization.

Shelley Spacek Miller is a Senior Court Research Analyst at the National Center for State Courts in Williamsburg, Va. Her areas of interest include civil justice reform, access to justice and caseflow management.

The Court Innovation Context
A departure from the traditional approach to judicial system administration, the state courts increasingly require agility, stakeholder collaboration and creativity to meet the changing needs and expectations of their constituents. While budget cuts have subsided in recent years,1 demands on tight resources continue. Changing population dynamics (e.g., influx of unaccompanied minors and increases in geriatric populations) also bring new challenges to the courts2 along with increased expectations around technology and desire to use technology in the courts. In a 2014 international survey by Accenture, 82 percent of respondents said that they would interact with justice system using a digital interface either instead of or in addition to traditional means.3 Additionally, 56 percent of U.S. respondents believed digital technology can reduce the public cost of the justice system. Simply put, it is a new world for courts. This new environment presents opportunities for courts, often staid institutions, to rise to the occasion of incorporating and tailoring innovation into the delivery of justice while still safeguarding constitutional protections.

A 21st Century Response
While innovation is often synonymous with new technologies, and this chapter explores these types of innovations exclusively, it is important to note that innovation does not have to be technology-based. Taken alone, new strategies around triaging legal cases and unbundling legal services have
the potential to transform legal service delivery. Add technology, and that impact can increase exponentially. However, technology is not a panacea. Applying or overlaying technology to a bad underlying process still results in a bad process—and may even magnify it. Efforts to innovate should be well thought out, possess a good governance structure and meaningfully measure impacts to the extent possible.

Despite the gains in and changing attitudes toward innovation, courts still lag behind other industries and face systemic challenges when incorporating technology and other innovative solutions. Lack of funds often prohibits courts from hiring and retaining top technology staff and keeping up with the pace of technological advancements and improvements. As a result, courts often find themselves with out-of-date legacy systems, dependent on expensive outside contractors to update or improve the system. Traditionally siloed court systems and insufficient governance structures can also make adopting these changes in a systematic and meaningful way very difficult.

Even faced with this environment, courts still recognize the potential for technology to open access for constituents and gain efficiencies in administration. In 2015, technology was the most referenced topic in state of judiciary addresses, increasing 6 percent since addresses in 2010. Whether introducing an entirely new concept, or applying a past concept in a new context or situation, courts are tailoring modern technology to fit their needs and rethinking past processes to improve upon inefficiencies and antiquated methodology. The projects highlighted in this article provide a limited sample of these innovation efforts and demonstrate how innovative ideas, enabled by technology, can have a broad positive impact and improve the way courts do business without sacrificing traditional constitutional safeguards.

**Minnesota’s Conservatorship Account Auditing Program**

Conservatorship cases increasingly capture media attention. When high-profile individuals fall victim to financial exploitation, or cases of embezzlement from protected persons’ accounts are uncovered, the spotlight focuses on an often the overlooked work of the courts—conservatorship cases. However, it is not just the extreme cases that deserve attention. An estimated $1.5 billion in estates of vulnerable persons (e.g., those with dementia or traumatic brain injury) are under court oversight and require regular monitoring. This dollar value is a rough estimate based on limited data and will only grow as the population ages and relies on the state courts to ensure protection of their finances and assets. State courts are often statutorily required to regularly audit and hold hearings on accounts associated with these cases, yet the high volume of accounting information and lack of training and resources often keep judges and court staff from fulfilling their responsibility in a meaningful way.

Minnesota is taking affirmative steps to remedy this problem. Through a unique combination of statewide online accounting submission software and a central auditing program, Minnesota is the first state to electronically collect data on conservatorship cases and establish a systematic statewide, web-based approach to this process.

Prior to 2011, conservators in Minnesota submitted annual paper accountings of the protected person’s assets to the court. The content and detail in these reports, as well as the level of scrutiny with which they were reviewed, varied widely. Judges and court staff with little to no training on accounting practices were required to sort through boxes of documentation and attempt to make sense of the accounts. This process was time consuming and ineffective, resulting in accounts that were rarely audited in the truest sense.

Between 2010 and 2012 the Minnesota Judicial Council mandated that conservators submit standard accountings online and established the Conservatorship Account Auditing Program, or CAAP. The CAAP is a central office of trained auditors in the Minnesota Judicial Branch. The CAAP reviews annual
accountings of both private and public conservators submitted through MyMNConservator, or MMC, software. Within the software, auditors can view specific transactions and a list of the protected person’s assets, to ensure balances are as expected and document any suspicious activity (e.g., car payments when the protected person doesn’t own a vehicle).

To assist in this review process, the MMC software is automatically programmed to generate red flags to alert auditors of potentially suspicious or odd transactions. The auditors are then able to review the case and follow up on flagged items by asking for supporting documentation or explanations from the conservator. Ultimately, after the review, auditors categorize account audit reports into four levels based on issues or problems. Level 1 audits are cases with no concerns. Levels 2 and 3 have varying degrees of accounting errors that need to be corrected (e.g., transactions were not listed or balances were not correct). Level 4 audits are those where there is a concern of loss or misuse of funds. These finding levels and supporting information are electronically submitted to the court via the MMC software. With the information from the audits, the judge has discretion to call hearings, inquire further about the loss, order repayment of lost funds, or petition criminal charges in extreme cases.

In 2015 the CAAP received four awards for their innovation. Having now amassed close to two years of data in MMC, Minnesota is currently in the process of refining and calibrating the red flags using predictive analytics to better assist in identifying cases that require court review or intervention. The goal is that data on past loss and misuse of funds will predict future issues. With early intervention from the courts, financial exploitation of vulnerable persons will be stopped before it happens.

**Alamance County, N.C., Electronic Protective Order System**

Obtaining a protective order can be a complicated and lengthy process, one that must be navigated at a time when every minute counts. Considerations around child care, lost work time/wages and threats to safety can all prevent victims in danger and in need of a protective order from seeking assistance. Prior to 2013, domestic violence victims in Alamance County, N.C., had to interact with four entities—the Family Justice Center, or FJC; Clerk’s Office; District Court; and Sheriff’s Department—at four different locations to secure a protective order. The process usually took 12 hours and as a result about 12 percent of orders were not being completed by victims. Victims also were not getting needed service referrals from the Family Justice Center, as they were spending too much time trying to navigate the system to serve the protective order.

Alamance County’s Electronic Protective Order System, or EPOS, streamlined this process, cutting down the time to six hours and the lack of follow through to six percent. Victims now only need to visit the Family Justice Center, where all the steps can be completed. From the center, victims fill out a complaint and submit this to a FJC advocate who enters this information into the EPOS that is then electronically submitted to the Clerk of Court. The clerk processes the complaint, and electronic documents are sent to the judge to alert of the pending protective order. The hearing between the judge and victim is held via video-conference, with the victim still at the center. This hearing is now a private conversation between the judge and the victim, rather than taking place in a public courtroom. If granted, the order is sent to the center for the advocate to print a copy for the victim. The Sheriff’s Department also immediately gets an electronic version for the deputies to print and serve as well as to have an electronic version on file. Via text message or email the victim is alerted when the order has been served to the defendant and informed of the next steps to take. Not only is the process now faster, victims spend this time at the Family Justice Center where they can get referrals to counseling and legal aid. Since implementation, referrals have more than doubled.

This project was developed in collaboration between the North Carolina Administrative Office of the Courts, the Alamance County Management Information Systems and an outside IT vendor, as well as
representatives from the four agencies involved in processing protective orders and the District Court Chief Judge. By converting the paper/physical process into an electronic one, all stakeholders realized benefits. Victims do not have to leave the safety of the FJC to file the petition and, while there, can be referred for additional services. Court clerks have less data entry with the electronic transfer of information into the court’s case management system. Judges benefit from timely hearings when the petitioner is ready and more able to candidly address their issues. Sheriffs and deputies have immediate and easy access to protective orders, giving them confidence when serving and enforcing orders knowing supporting documentation is easily available.

**Michigan Online Dispute Resolution**

Low-level criminal offenses such as traffic cases make up a majority of state court caseloads. In 2013, traffic and infraction related cases alone comprised approximately 54 percent of the total incoming state courts’ caseload. Often faced with judicial staffing shortages, this leads to overcrowded and time-pressed dockets for courts, legal professionals and litigants. In addition, citizens face costs (e.g., time off work, childcare) just to come to court. A new online platform for resolution of traffic and other low-level criminal cases addresses these and other real barriers to effective and efficient justice.

Several Michigan judicial districts are coordinating with an outside vendor, Court Innovations, to pilot an online dispute resolution platform for warrants and low-level traffic offenses. Through the platform, defendants are able to look up their case, determine if it is eligible for online resolution and register their position in the case. Prosecutors then review the defendant’s offer, provide their own input and pass it along to the district’s judicial officer to determine if the resolution is acceptable. If a resolution is unacceptable or if the defendant ever chooses, they may always revert to the traditional court processes at the courthouse.

With these jurisdictions’ online case resolution platforms, a defendant can resolve their case without ever needing to take off work, arrange childcare and transportation, and sit through an extended docket to resolve their case. This effort also highlights the gains courts can achieve through a private-public technology partnership. This program required buy-in from multiple stakeholders to be successful. Court leaders collaborated with law enforcement, court technology staff, citizens, the private partner (Court Innovations) and others to ensure program buy-in from the outset, with both the courts and stakeholders seeing benefits.

Police officers are no longer required to spend as much time in court waiting for their cases to be called while prosecutors can easily review outcomes for consistency and fairness, which is often challenging with numerous dockets. Finally, the judge still has control over the resolution of the case and can review cases whenever they are free to do so. Perhaps the most concrete benefits of this platform are the time and savings gains. Preliminary data show that, depending on the court, cases can be resolved in an average of seven to nine days instead of months. Additionally, nearly 40 percent of system users resolve their case with a mobile device. Efforts to evaluate and expand the program are ongoing.

**On the Horizon**

The innovations described above provide only a glimpse into innovative efforts underway in state courts today. It should be noted that innovation also is occurring jurisdiction by jurisdiction, with many making a dedicated effort to document and share these efforts within and outside their state to spur further development. Court leaders are paying more attention to innovation and recognizing the potential lessons learned from other industries. Entire conferences and summits are dedicated to rethinking the work of the courts. Efforts including the continued revolution of “e-everything,” judicial dashboards, remote interpreting and litigant self-help portals are evidence that courts continue to strive to deliver more with fewer resources to achieve increased court responsiveness and access to justice. Recently such efforts culminated in the first ever 2016
CourtHack where technology and content experts gathered for two days to work to find creative solutions to everyday problems facing the courts. While there is still much work to be done, the innovative mindset is here to stay as courts, and court users, look to the future of the legal system.

Notes
2 These might result in increased case filings for certain case types or increased demands on coordination between multiple stakeholders. See Slayton, David, “How the Unaccompanied Minor Crisis is Affecting the State Courts” *Trends in State Courts*, 2014.

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