

B. Findings from Survey of State Court Administrators

Prior to discussing the findings of the survey of state court administrators, it first must be noted that the data from these surveys found in Tables 1, 2 and 3 was collected and analyzed in September 2004. The issues of public access and privacy interests in electronic access policies governing court records were being debated in most states while this research paper was being written and many of the states responding to the survey of state court administrators have policies that were in some stage of development by their administrative offices or review by their states' highest courts. States that had electronic access policies already in place were also undergoing additional review of their existing policies with privacy interests at issue. By publication date of this research paper, May 2005, it is expected that the work of these states on their electronic access policies will have continued and the reader is advised to contact the respective state court administrative offices for updated information on that state's policy development and adoption.

Most notably, the surveys demonstrated that of the 40 state court administrative offices that responded, 33 (83%) have statewide electronic access to court records policies in place or in some stage of development. Significantly, 85% of those policies have either been adopted since 2002, when the CCJ/COSCA guidelines were published, or are currently undergoing review. All but one are the creation of the state court administrator's office or a committee appointed by the state's highest court; Virginia's policy was developed by a legislative committee. Most (70%) provided a period of public comment in the policy development process.

With the exception of a very few, most courts responding to the survey do not publish pleadings or motions online. Rather the documents that receive the most public exposure via electronic access are those created by the court itself – its dockets, calendars, indexes, registers

of actions, and case dispositions. Only 12% of the responding states indicated that images of actual documents filed by parties with the court were made available by electronic access.

Access to these documents in the other 88% of responding states' court files are still publicly available, but require an in-person visit to the courthouse to view the paper file or a public access terminal. Kentucky described its rationale on the differences in its policy based upon the distinctions between accessing electronic and paper records:

The position of the Kentucky Court of Justice was simple – one requires you to go to a certain building to access the information and the Internet made the information available to the world. Restrictions are applied if you go to the courthouse by distance, hours of operation, operational needs of the court, etc. We simply applied reasonable restrictions based on the business interests of the court and public needs for access to the information.¹

Of those state court systems that have electronic access policies and completed the survey, there were few states that restricted access based on use of the information or provided different levels of access to information for different users. Some courts, however, did provide more information to members of the state bar in good standing and executive branch law enforcement officers, than they provided to the public. Also, some state statutes prohibited commercial use of information acquired through the courts' electronic access systems. Most state courts that responded do provide bulk data access to court record information (65%). Seventy-nine percent of state courts that provide electronic access and completed the survey, charge a fee for electronic access to the court's records.

A copy of the blank survey distributed to the members of the Conference of State Court Administrators is found at Appendix I. Tables 1, 2 and 3 follow this discussion and provide a

1. Survey response from Ed Crockett, General Manager, Pretrial Services, Kentucky Administrative Office of the Courts.

comparative view of the survey responses. A more detailed examination of four of these states' policies and the processes used to develop those policies is described in the next section.

TABLE 1 – State Court Administrator Survey – Electronic Access Policy Development

STATES	Responded to Survey	Provides Statewide Electronic Access	Has Statewide Electronic Access Policy	Policy Implemented (Revised)	Policy Development Process	Opportunity for Public Comment	Current Status of Policy
Alabama	Yes	Yes	Yes	1988	AOC	No	Implemented
Alaska	Yes	Yes	Yes	1994	AOC	No	Committee review (S.Ct. appt'd 2003)
Am. Samoa	No						
Arizona	Yes	Yes	Yes	1997 (1999) (draft 2002)	Ct. Comm.	Yes	Under review (approval in 2005)
Arkansas	Yes	No	No (developing)	N/A	N/A	N/A	In development
California	Yes	Yes	Yes	2002 (2004)	Jud. Council	Yes	Adopted
Colorado	Yes	Yes	Yes	1998	Ct. Comm.	Yes	Under revision
Connecticut	Yes	Yes	Yes	2004	AOC	Yes	Adopted
Delaware	No						
D.C.	No						
Florida	No						
Georgia	Yes	No	Yes (by statute)				Under review
Guam	Yes	Yes	No (developing)				In development
Hawaii	Yes	Yes	No (developing)	(draft 2004)	AOC	Yes	Under review
Idaho	Yes	No	Yes (by rule)				Under review
Illinois	No						
Indiana	No						
Iowa	No						
Kansas	Yes	No	No (developing)	N/A	AOC	Unknown	In development
Kentucky	Yes	Yes	Yes	2001	AOC	No	Adopted
Louisiana	No						
Maine	Yes	No	No (developing)	N/A	Ct. Comm.	Yes	In development
Maryland	Yes	Yes	Yes	2004	Ct. Comm.	Yes	Adopted
Massachusetts	No						
Michigan	Yes	No	No	N/A	N/A	N/A	N/A
Minnesota	Yes	Yes	Yes	1987 (draft 2004)	Ct. Comm.	Yes	Under review
Mississippi	No						
Missouri	Yes	Yes	Yes	1998 (2000)	Ct. Comm.	Unknown	Adopted

TABLE 1
State Court Administrator Survey
Electronic Access Policy Development

TABLE 1 (cont.) – State Court Administrator Survey – Electronic Access Policy Development

STATES	Responded to Survey	Provides Statewide Electronic Access	Has Statewide Electronic Access Policy	Policy Implemented (Revised)	Policy Development Process	Opportunity for Public Comment	Current Status of Policy
Montana	Yes	No	No	N/A	N/A	N/A	N/A
Nebraska	Yes	Yes	Yes	2003	Ct. Comm.	No	Adopted
Nevada	Yes	No	No	N/A	N/A	N/A	N/A
New Hampshire	Yes	No	No (developing)		Ct. Comm.	Yes	In development
New Jersey	Yes	Yes	Yes	1996	Ct. Comm.	Yes	Adopted
New Mexico	No						
New York	No						
North Carolina	Yes	Yes	Yes	Unknown	AOC	Unknown	
North Dakota	Yes	Yes	No (developing)		Ct. Comm.	Unknown	Under review
No. Mariana Isl.	Yes	No	No	N/A	N/A	N/A	N/A
Ohio	Yes	Yes	No (developing)		Ct. Comm.	Unknown	In development
Oklahoma	No						
Oregon	Yes	Yes	Yes	1991 (2003)	AOC	No	Implemented
Pennsylvania	Yes	Yes	Yes	1994 (1997)	AOC	No	Adopted; new policy in review
Puerto Rico	No						
Rhode Island	Yes	Yes	Yes	2002 (draft 2004)	AOC	Yes	Under review
South Carolina	Yes	No	No	N/A	N/A	N/A	N/A
South Dakota	Yes	No	Yes	2004	AOC	Yes	Adopted
Tennessee	Yes	No	No	N/A	N/A	N/A	N/A
Texas	Yes	No	No (developing)	(draft 2004)	Ct. Comm.	Yes	Under review
Utah	Yes	Yes	Yes	1996 (draft 2004)	Ct. Comm.	Yes	Under review
Vermont	Yes	Yes	Yes	2002	Ct. Comm.	Yes	Promulgated
Virginia	Yes	Yes	No (developing)		Leg. Comm.	Unknown	In development
Virgin Islands	No						
Washington	Yes	Yes	Yes	1995 (1999)	Ct. Comm.	Yes	Under review
West Virginia	No						
Wisconsin	Yes	Yes	Yes	2003	AOC	No	Implemented
Wyoming	Yes	No	No	N/A	N/A	N/A	N/A

**TABLE 1 (cont.)
State Court Administrator Survey
Electronic Access Policy Development**

TABLE 2 – State Court Administrator Survey – Information Available by Electronic Access and Method of Access

TABLE 2
State Court Administrator Survey
Information Available by Electronic Access and Method of Access

STATES	Responded to Survey	Information Available Electronically	Information Restricted from Electronic Access	Method of Access	Bulk Data Electronic Access	Bulk Data Restricted	Distribution Method of Bulk Data
Alabama	Yes	Case info.	No	Internet	No	N/A	N/A
Alaska	Yes	Not decided	Not decided	Unknown	Yes	Unknown	Unknown
Am. Samoa	No						
Arizona	Yes	Case docs, hist.	Yes	Not online	Yes	Non-confid.	Download
Arkansas	Yes	N/A	N/A	N/A	N/A	N/A	N/A
California	Yes	Civil case docs Other-docket	Yes	Internet	No	N/A	N/A
Colorado	Yes	ROA's	Yes	Internet	No	N/A	N/A
Connecticut	Yes	Docket info.	Yes	Internet	Yes	Yes	CD
Delaware	No						
D.C.	No						
Florida	No						
Georgia	Yes	Not decided	Not decided	Not decided	Not decided	Not decided	Not decided
Guam	Yes	Docket info.	Yes	Internet	Yes	Yes	Unknown
Hawaii	Yes	Docket info.	No	Internet	Yes	Yes	Tape, FTP
Idaho	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Illinois	No						
Indiana	No						
Iowa	No						
Kansas	Yes	Docket info.	Yes	Internet	No	N/A	N/A
Kentucky	Yes	Docket info.	Yes	Internet	No	N/A	N/A
Louisiana	No						
Maine	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Maryland	Yes	Docket info.	No	Internet	Yes	Unknown	Unknown
Massachusetts	No						
Michigan	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Minnesota	Yes	Ct-created docs	Yes	Internet	Yes	Yes	Unknown
Mississippi	No						
Missouri	Yes	Docket info.	Yes	Internet	No	N/A	N/A

TABLE 2 (cont.) – State Court Administrator Survey – Information Available by Electronic Access and Method of Access

STATES	Responded to Survey	Information Available Electronically	Information Restricted from Electronic Access	Method of Access	Bulk Data Electronic Access	Bulk Data Restricted	Distribution Method of Bulk Data
Montana	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Nebraska	Yes	Docket info.	Yes	Internet	No	N/A	N/A
Nevada	Yes	N/A	N/A	N/A	N/A	N/A	N/A
New Hampshire	Yes	N/A	N/A	N/A	N/A	N/A	N/A
New Jersey	Yes	Docket info.	No	Publ.term/ dial-up	Yes	No	Tape or CD
New Mexico	No						
New York	No						
North Carolina	Yes	Chg/dispo.	Yes	Publ.term.	Yes	Yes	Unknown
North Dakota	Yes	Docket info.	Yes	Internet	Yes	No	Download
No. Mariana Isl.	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Ohio	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Oklahoma	No						
Oregon	Yes	Docket info.	Yes	Internet	Yes	No	Monthly CD
Pennsylvania	Yes	Docket info.	Yes	Internet	Yes	Unknown	Unknown
Puerto Rico	No						
Rhode Island	Yes	Case info.	Yes	Internet	Yes	No	Monthly CD
South Carolina	Yes	N/A	N/A	N/A	N/A	N/A	N/A
South Dakota	Yes	Case info.	Yes	N/A	No	N/A	N/A
Tennessee	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Texas	Yes	Not decided	Not decided	Internet	Not decided	Not decided	Not decided
Utah	Yes	Case histories	Yes	Internet	Yes	Yes	Varies
Vermont	Yes	Docket info.	Yes	Internet	No	N/A	N/A
Virginia	Yes	Case abstracts	Yes	Internet	Yes	Unknown	File transfer
Virgin Islands	No						
Washington	Yes	Docket info.	No	Internet	Yes	Yes	Qtrly. FTP
West Virginia	No						
Wisconsin	Yes	Docket info.	Yes	Internet	Yes	No	Download
Wyoming	Yes	N/A	N/A	N/A	N/A	N/A	N/A

TABLE 2 (cont.)
State Court Administrator Survey
Information Available by Electronic Access and Method of Access

TABLE 3 – State Court Administrator Survey – Access by User, Use of Information, and Fee Information

STATES	Responded to Survey	Electronic Access Available by the Public	Access by Selected Users Only	Different Level of Access by Different Users	Restriction on Access Based on Use	Method of Restriction	Fees for Access
Alabama	Yes	Yes	No	No	No	N/A	Yes, varies
Alaska	Yes	Not yet	Not decided	Not decided	Not decided	Not decided	Not decided
Am. Samoa	No						
Arizona	Yes	Yes	No	No	No	N/A	For bulk data (programming)
Arkansas	Yes	N/A	N/A	N/A	N/A	N/A	N/A
California	Yes	Yes	No	No	No	No	No
Colorado	Yes	Yes	No	Yes	On compiled data requests	Written agreement	Yes
Connecticut	Yes	Yes	Yes	Yes	No	N/A	For bulk data
Delaware	No						
D.C.	No						
Florida	No						
Georgia	Yes	Not decided	Not decided	Not decided	Not decided	Not decided	Not decided
Guam	Yes	Yes	Yes	Yes	No	N/A	Not decided
Hawaii	Yes	Yes	No	No	No	N/A	For bulk data
Idaho	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Illinois	No						
Indiana	No						
Iowa	No						
Kansas	Yes	Yes	No	No	By statute	Unknown	Not decided
Kentucky	Yes	Yes	No	Yes	Yes	Agreement & tracking	No
Louisiana	No						
Maine	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Maryland	Yes	Yes	No	No	No	N/A	For bulk data
Massachusetts	No						
Michigan	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Minnesota	Yes	Yes	No	Yes	Yes	Written agreement	For bulk data
Mississippi	No						
Missouri	Yes	Yes	No	No	No	N/A	No

TABLE 3
State Court Administrator Survey
Access by User, Use of Information, and Fee Information

TABLE 3 (cont.)
State Court Administrator Survey
Access by User, Use of Information, and Fee Information

STATES	Responded to Survey	Electronic Access Available by the Public	Access by Selected Users Only	Different Level of Access by Different Users	Restriction on Access Based on Use	Method of Restriction	Fees for Access
Montana	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Nebraska	Yes	Yes	No	No	Yes	Subscription	Yes
Nevada	Yes	N/A	N/A	N/A	N/A	N/A	N/A
New Hampshire	Yes	N/A	N/A	N/A	N/A	N/A	N/A
New Jersey	Yes	Yes	No	Yes (Attnys)	No	N/A	Bulk data
New Mexico	No						
New York	No						
North Carolina	Yes	Yes	No	No	No	N/A	No
North Dakota	Yes	Yes	No	Yes (Attnys)	Yes	Directive	Bulk data
No. Mariana Isl.	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Ohio	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Oklahoma	No						
Oregon	Yes	Yes	No	No	No	N/A	Yes
Pennsylvania	Yes	Yes	No	Yes (Gov't)	No	N/A	Yes
Puerto Rico	No						
Rhode Island	Yes	Yes	No	No	No	N/A	Yes
South Carolina	Yes	N/A	N/A	N/A	N/A	N/A	N/A
South Dakota	Yes	Yes	No	No	No	N/A	Yes
Tennessee	Yes	N/A	N/A	N/A	N/A	N/A	N/A
Texas	Yes	Yes	No	No	No	N/A	Yes
Utah	Yes	Yes	No	No	No	N/A	Yes
Vermont	Yes	Yes	Yes	Yes (Crim.Just)	Yes	SCA Review	Yes
Virginia	Yes	Yes	No	No	No	N/A	No
Virgin Islands	No						
Washington	Yes	Yes	No	Yes (Crim.Just)	Yes	Directive	Yes
West Virginia	No						
Wisconsin	Yes	Yes	No	Yes (DistAttny)	No	N/A	Bulk data subscription
Wyoming	Yes	N/A	N/A	N/A	N/A	N/A	N/A

