

Florida Courts Technology Commission Meeting

FCTC Action Items/ Summary of Motions

May 2, 2013

A meeting of the Florida Courts Technology Commission was held at the Orange County Courthouse in Orlando, Florida on May 2, 2013. The meeting convened at 9:00 A.M., Chair Judge Lisa T. Munyon presiding.

Members of the Commission in attendance

Judge Lisa T. Munyon, Chair, 9th Circuit
Judge Stevan Northcutt, 2nd DCA
Judge George S. Reynolds, 2nd Circuit
Barbara Dawicke, Trial Court Administrator, 15th Circuit
Ted McFetridge, Trial Court Administrator, 8th Circuit
Thomas Genung, Trial Court Administrator, 19th Circuit
Ken Nelson, CTO, 6th Circuit
Mary Cay Blanks, Clerk of Court, 3rd DCA
Kent Spuhler, Esq., Florida Legal Services
Charles C. Hinnant, Ph.D., Florida State University

Judge Sheree Cunningham, Palm Beach County
Judge Scott Stephens, 13th Circuit
Judge Robert Hilliard, Santa Rosa County
Judge Martin Bidwill, 17th Circuit
Jannet Lewis, CTO, 10th Circuit
Paul Regensdorf, Esq., Jacksonville
Dennis Menendez, CTO, 12th Circuit
Laird A. Lile, Esq., Naples
Murray Silverstein, Esq., Tampa
Sharon Bock, Clerk of Court, Palm Beach County

Members not in attendance

Judge Manuel Menendez, Jr., 13th Circuit
David Ellspermann, Clerk of Court, Marion County
Thomas Woods, Tallahassee

Judge C. Alan Lawson, 5th DCA
Karen Rushing, Clerk of Court, Sarasota County

OSCA and Supreme Court Staff in attendance

Alan Neubauer
Chris Blakeslee
Lakisha Hall

Tom Hall, Clerk of the Supreme Court
Jeannine Moore
Laura Rush

Other Attendees

Steve Shaw, CTO, 19th Circuit
Jon Lin, CTO, 5th Circuit
Isaac Shuler, CTO, 2nd Circuit
Allan Reed, CIO, 11th Circuit
Mark Van Bever, Trial Court Administrator, 18th Circuit
Melvin Cox, Director of Information Technology, Florida
Court Clerks and Comptrollers
Carolyn Weber, Florida Court Clerks and Comptrollers
Jennifer Fishback, Florida Court Clerks and Comptrollers
Chips Shore, Clerk of Court, Manatee County
Cindy Rabe, Brevard County Clerk of Court
Jessica Reyes, Orange County Clerk of Court
John Tomasino, Florida Public Defenders Association

Craig McLean, CIO, 20th Circuit
Mike Smith, CTO, 4th Circuit
Sunil Nemade, CIO, 17th Circuit
Craig Van Brussel, CTO 1st Circuit
Charlie Cramer, CTO, 13th Circuit
Ken Kent, Executive Director, Florida Court
Clerks and Comptrollers
Tim Smith, Clerk of Court, Putnam County
Dave Johnson, Mentis Technology
Carole Pettijohn, Manatee County Clerk
Deb Ivankow, Orange County Clerk of Court
Akilya Drake, Palm Beach County Clerk
Mark Ware, Hillsborough County Clerk of Court

Other Attendees cont'd.

Jim Harris, National Center for State Courts

Charlie Green, Tyler Technologies

Tom Morris, Florida Prosecuting Attorneys Association

Victor Lee, Computing System Innovations

The meeting began with Judge Munyon welcoming the commission members and other participants, calling the meeting to order and advising everyone the meeting was being recorded.

AGENDA ITEM II. Approval of January Minutes

Motion to approve the minutes from the January 30-31, 2013 meeting of the Florida Courts Technology Commission.

MOTION OFFERED: Tom Genung

MOTION SECONDED: Paul Regensdorf

MOTION CARRIED UNANIMOUSLY

AGENDA ITEM III. e-Portal/e-Filing update (Authority Board, FCCC, etc)

- a. Tim Smith gave an update on e-filing via the Florida Courts e-Filing Portal. To date, e-filing is going smoothly. A committee has been formed to work on e-Service. A status report will be given at the upcoming E-Filing Authority Board (the Board) meeting on May 23. The Board is beginning to look at non-attorney filers (process servers, mental health providers, etc.) who send documents to a court file but do not have access to the e-portal. Judge Munyon asked about funding requested from the Legislature for helpdesk support. Tim said the funding request of approximately \$1 million for additional helpdesk support was not appropriated in the budget and the Board will have to go back and readdress the need and look at resources to find ways to address the issue. FCTC members thanked Tim and the FCCC for all of their hard work on getting the e-portal up and running.
- b. Judge Stephens gave an update on e-Service. There are two different versions of electronic service the portal should be able to accomplish. A plan on how to deal with emails that have been bounced back has been completed at the design level and is ready to start construction. The first version is attainable in the near term, but a specific date is not available. The service list is going to be maintained on the e-portal. The first attorney to e-file in the case will be responsible for putting in the list of email addresses for everyone that needs to be served on the case. The e-portal will send the filer to the service list to make sure the service list is current. An email with the document attached is sent to the recipient(s) with a list of the other recipient(s) of the document. This is not as secure as the workgroup would like because it involves sending the document via email. The hope of the workgroup is in the future a link would be sent to the recipient(s) and the document can be accessed on the clerk's server by clicking on the link. Murray Silverstein asked if there was a way to interface with the Florida Bar's website to capture email addresses. Melvin Cox said the e-portal does not access the Bar's website, but there is a copy of the Bar's database on the e-portal. Judge Munyon asked if a document is filed via paper is there a process by which the clerk pushes that document through the e-portal with the e-service addresses. Judge Stephens said no there is not anything built into the e-portal that does that. There is not a specific rule requiring judge's Orders to go through the e-portal. There is not a firm statement from any authoritative

source that says someone has to file through the e-portal and there is no resolution as whether the clerks have to run paper documents through the e-portal. Mike Smith said the Fourth Judicial Circuit is embedding a link in the foreclosure notice of hearings which gives direct access to the clerk's database. The Fourth Judicial Circuit is grabbing the Florida Bar's information for email addresses. However, there have been problems with attorney's providing the primary or secondary email notification document to the clerks. He is interested in getting something from the FCCC if they are storing email addresses. Mike wanted to know if the document for primary or secondary email notification that needs to be on file is mandatory. Murray Silverstein said there is no requirement to file a designation. You make your designation by your motion, notice or whatever you are filing. Melvin Cox said the email service list is stored on the e-portal. The FCCC is going to publish a web service that allows the email list to be accessed.

- c. Melvin Cox gave an overview on e-filing through the e-portal. The Supreme Court is live on the e-portal and receiving filings. Tom Hall said the only major problem the Supreme Court has encountered is PDF documents are being corrupted when converted to the e-portal.
- d. Melvin Cox went on to discuss the e-portal usage statistics. In the month of April, 733,191 filings were filed through the e-portal and there are a total of 39,868 registered users. Of cases that are e-filed, 93% are on existing cases and 7% are on new cases. Circuit civil still leads in the type of cases being filed, with county civil being second. The support desk received 17,468 calls in April. The FCCC has developed training videos which are available on the Board's website and have created FAQ documentation which is available on the Board's website as well as all of the local clerk's webpage.
- e. The FCCC developed a pilot program in partnership with the Clerk's offices, the State Attorney's Association and the Public Defender's Association to create a process to initiate subsequent criminal e-filings through a batch interface process. In order to circumvent the issue of standardization that occurred during preparation for civil e-filing, a standard list of criminal docket codes have been developed and vetted through the Best Practices committee. The FCCC is starting off with this standard list of docket codes. During the month of May, the FCCC will begin live e-filing verification with the state attorneys and public defenders in the selected pilot counties. The FCCC is tracking the activities of state attorneys and public defenders with the criminal batch interfaces. This allows batch transactions to be filed into the e-portal.
- f. Judge Reynolds said adding judges to the e-portal should be fairly easy. Judge Munyon said emphasis should be placed on security when adding judges to the e-portal. Judge Reynolds said the question is should the Order go directly to the CMS first or should it go to the e-portal first and then back to the CMS. Ken Nelson said when the document is filed through the CMS it will be in the system faster than a document filed through the e-portal first.
- g. Tom Hall discussed the issue of local administrative orders issued by chief judges. Some chief judges believe there are two issues with electronic filing: 1) delay in docketing and 2) not sure the e-portal really works so the judges want a copy of everything that is filed. Laird Lile said it is frustrating that the courts have worked on uniformity for so many years and then to allow judges to issue individual administrative orders that undermines uniformity. Laird would like the FCTC to consider issuing a policy statement stating when it comes to technology, local administrative orders should be very restrictive and discouraged. Murray Silverstein said the uniformity through which the system is intended to operate is handled through rules of court and the FCTC does not have jurisdiction to promulgate rules of court. The Rules of Judicial Administration (RJA) can promulgate rules of court and those rules also apply to pro se filers. Mary Cay said the

administrative orders are used for court administration. In regards to technology, in order to get a system functioning, the court cannot solely rely on the rules of court unless the chief judge issues administrative orders on how that is supposed to happen. At the DCA level, administrative orders are issued stating what is going to happen and how it is supposed to happen. Administrative orders should not be limited. Judge Munyon believes the local administrative order issues will die a natural death once everyone is comfortable using the e-portal. Paul Regensdorf said the administrative orders in the sixth circuit are contrary to the RJA. Judge Munyon asked if it was the recommendation of Paul and Laird that any local administrative orders that violate standards or the Supreme Court rule should not be permitted. Tom Hall said there is a rule that says trial courts cannot enter an order that conflicts with the rules of court and there is a system for challenging those rules. An attorney can file a challenge to any administrative order that is written. The Supreme Court refers to the Local Rules Advisory Committee who advises the Supreme Court on whether the administrative order violates the rules and recommends what the court should do. Judge Stephens suggested having a small subcommittee that looks at the administrative orders to decide if they are permissible and bring the findings to the commission. Ken Nelson said the sixth circuit administrative orders were written with the help of the clerks so as to have order as to how things were going to be accomplished. New case management systems were being implemented, e-filing was becoming mandatory, and judicial viewers were being installed. Paul said the circuit could have written letters of instructions to the clerks on how things were going to be done as opposed to issuing administrative orders. Sharon Bock wanted to know if a clerk could challenge an administrative order like an attorney can. Tom Hall said yes. Judge Munyon decided to refer the issue to the compliance subcommittee. Kent Spuhler said all administrative orders that deal with technology should be submitted to the compliance subcommittee.

AGENDA ITEM IV. Electronic records standards update

Judge Northcutt discussed the appellate record standards. At the last FCTC meeting, the commission approved a report to the Supreme Court providing a status on where the clerks and vendors were in regard to their response to the appellate records standards. Alan Neubauer said there is conflict in some of the characters that shows up in the naming of the documents. In order to avoid documents being consumed by the eFACTS system, naming standards were developed.

AGENDA ITEM V. e-Portal Subcommittee

- a. Judge Reynolds presented a document proposing where time stamps would be on a filing with one-inch margins all around the document. The rules require any paper filing to be on 8 ½ x 11 inch paper.

Motion to propose a rule be made that all filings reserve one-inch margins at the top, bottom, left, and right of any filing. The 3x3 upper right area is already reserved for official record stamps; the e-portal time stamp would be in the upper left; the circuit clerk and county clerk time stamps would be in the bottom; the Supreme Court and two DCA's time stamps would be in the left hand margin. No seals would be allowed; date would be in the DD/MM/YYYY format; time would be Eastern Standard Time with 12 hour timeframe of AM and PM; date and time stamp has to stay on a single line and has to include at least the county (which can be abbreviated as "Co." or spelled out) and 8-point font.

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Tom Genung

MOTION CARRIED UNANIMOUSLY

- b. Judge Reynolds discussed what happens to attorneys who chose not to electronically file after April 1, 2013. There was a lot of concern that attorneys would not file. Largely this is not a problem and lawyers have pretty much complied.
- c. Judge Bidwill is going to take the lead on the e-Portal User Group. The user group decided to create a forum to discuss the functionality issues of the e-portal. Manatee County Clerk has agreed to set up a website for the forum. The other issues are who is going to be next to get on the e-portal (judges, clerks, pro se litigants, mediators, Guardian ad Litem, mental health professionals, law enforcement officials, etc.). A work group will also be established to deal with providing paralegals and non-attorney assistants sub-accounts to access the e-portal. Judge Munyon suggested adding a communications link on the Board, the FCCC, and the FCTC's web pages where suggestions can be made on the e-portal to be funneled to the e-portal user group.

AGENDA ITEM VI. E-Signatures – Ethic Opinion on signing for Attorneys

Laird Lile said rule 2.515 indicates “/s”, “s/” and “/s/” are acceptable formats for electronic signatures by or at the direction of the person signing. In 1987 the Florida Bar issued ethics opinion 87-11 which says an attorney should not under any circumstance permit nonlawyer employees to sign notices of hearings. Laird is preparing to ask the Bar's ethics committee to clarify if rule 2.515 is in conflict with opinion 87-11. If so, he would like the Bar to withdraw or modify opinion 87-11. Judge Stephens said the focus should not be on the signature instead of the act of submitting the document through the channels that tell the e-portal who the filer is. Paul Regensdorf said the issues of who can submit and who can sign have already been answered.

AGENDA ITEM VII. Rules update 2.420

Paul Regensdorf said rule 2.420 came about because of action that was started in the Supreme Court in AOSC04-4 *In Re: Committee on Privacy and Court Records*. The privacy committee imposed a moratorium on the release of court records over the internet. They issued a number of recommendations which were approved by the Supreme Court. Recommendation eleven deals with providing general electronic access to court records. Electronic access should only be allowed where the precautionary measures identifying the conditions for electronic access described in recommendation twelve are met. Access to these records must be conditioned on the effective identification and protection of the confidential information. Recommendation seventeen deals with the responsibility of the filer. It is the duty of the filer to identify if confidential information is contained within the filing and submit a certification of confidentiality. The responsibility of protecting the information extends to the clerks as custodians of the court record, but the burden is on the filer to identify the confidential information. Supreme Court opinion SC11-2466 *In Re: Amendments to Florida Rule of Judicial Administration 2.420* was issued March 28, 2013. This opinion identifies some changes that were made to rule 2.420. Filers have the responsibility to protect information; the wording in the 20 categories of automatically confidential documents have been changed slightly as to coincide with the statutory wording; the Notice of Confidential Information Within Court Filing form has been changed which says there is confidential information in the document and identifies where the confidential information is located in the document; oral motions to determine confidentiality are now allowed; declined to adopt the rule of handling confidential evidence in court; adopted procedure

for obtaining access to confidential court records; judges, magistrates, or hearing officers who file an order or document containing confidential information are required to identify the confidential information as confidential and include in the title of the document the word confidential and provide the clerk with a copy of the redacted document.

Paul Regensdorf then went on to discuss how attorneys file documents through the e-portal. The concept of protecting confidential information is not being done. The e-portal has language that basically says I have done everything required in rule 2.420. Essentially, lawyers no longer have the obligation to sign documents because of /s and most lawyers do not look at filings through the e-portal because someone is filing the document for them. Paul urged the FCTC to get rid of the certification language and require the filer to check one of two boxes: 1) I hereby certify that there is no confidential information in this document or 2) I hereby certify that there is confidential information in this document and I have appropriately done what I need to do to protect it. This forces the lawyers to make an intellectual thought and comply with rule 2.420. An alternate solution is to place the certification language next to the submit button at the top of the screen. Murray Silverstein said the federal system has a single box and a filer cannot file a document without checking the box.

Motion to amend existing certification statement on the e-portal to add a check-box that forces filers to check it to comply with rule 2.420 before a filing can be made.

MOTION OFFERED: Murray Silverstein

MOTION SECONDED: Ted McFetridge

Judge Reynolds suggested removing the submit button at the top of the filing page. He went on to say when a document is attached there is additional certification language. Melvin Cox said on the document tab before you can add a document there is language that says, "If you are filing a document that contains confidential information you must attach a Notice of Confidential Information Within Court Filing as per rule 2.420. Click here to download the Notice of Confidential Information Within Court Filing form." Paul Regensdorf asked if the checking of the submit button requires any action of the filer saying I've done my job. Melvin said the current language and the set up was done per the commission. By clicking the submit button with the language on the page in essence the filer is affirming the filing just as if he/she was clicking the checkbox. The commission previously discussed having a checkbox on the page would become a nuisance and something the filer would check anyway and would ruin the concept of the checkbox. Judge Reynolds offered a friendly amendment.

Amended motion to remove the submit button at the top of the filing page and add the certification language in red that is currently on the document tab next to the attach document button on the bottom of the page and put the checkbox on the agenda for the next FCTC meeting.

Melvin Cox cautioned on removing the submit button at the top of the page because there is a lot of information on this page. This is a speed issue and removing the submit button at the top of the page would force the filer to scroll down to the bottom of the page which would take extra time for filers to complete the filing. Paul Regensdorf said the motion on the floor does not require the filer to make an intellectual decision about the document. Most people filing are legal assistants untrained on rule 2.420. Paul said redaction software would not be needed if lawyers did their job of protecting confidential

information. Judge Stephens suggested before making a policy decision based on assumptions on how lawyers behave the FCTC should look at what the other thirty states that already have e-filing systems have done, what the federal system does, and look at the standard that prevails in electronic commerce in general and try to do something consistent with those instead of the FCTC making up things on its own. Sharon Bock said the Bar should offer some type of training to educate attorneys on rule 2.420. Paul said he and Judge Kreeger did a seminar for the Bar. Sharon said there should be sanctions for attorneys who violate rule 2.420. Tom Hall said rule 2.420 is the most breached rule of the Rules of Judicial Administration. He is in favor of sanctions on attorneys who violate rule 2.420. Paul said the previous committees did look at other states and there are no other states that have the combination of public access and the constitutional right of privacy. Murray Silverstein said the Bar ethics committee issued opinion 12-2 in response to the FCTC's certification language. Everything the Bar was addressing in that opinion talks in terms of a checkbox being clicked. He suggested circulating the opinion to the commission for review of the checkbox issue prior to the next FCTC meeting. Mary Cay wants a packet of the minutes where the checkbox issue was discussed from previous meetings. After much discussion, Judge Reynolds made a second amendment to his motion.

Second amended motion to keep the submit buttons at the top and bottom of the page and add the certification language in red next to each submit button, make the language that is currently on the documents tab next to the attach document button red and put the checkbox issue on the agenda for the next FCTC meeting.

Murray Silverstein and Ted McFetridge both accepted the second amended motion.
MOTION CARRIED

Kent Spuhler asked if there is any information directly or impressions from the clerks on how many attorneys are violating rule 2.420. Kent was concerned with whether or not the checkbox would change the behavior of the attorneys. Judge Reynolds said the moratorium is the only thing saving this now because it is not a question of the information leaking out into the judicial chambers or among the lawyers it is the issue of the information leaking out to the public. Judge Munyon asked if there needs to be a change in the RJA that allows the clerks to bring to the court's attention a document that violates the rule and allows the court to strike it *sua sponte*. Mary Cay Blanks said a rule would not be needed to allow the clerks to do that. Tom Hall said the rule seems to say that you cannot strike the information because there is a provision for someone filing for sanctions or filing to keep it confidential. That sort of precludes striking it automatically. Mary Cay said the clerks would not strike the document under the rule because the clerk recognizes there is confidential information in a document but the proper notice has not been filed or bring it to the judge's attention. Tom Hall said the rule needs to be clear that the court can *sua sponte* strike it. Sharon Bock said at the trial level there is no possible way the clerks would be able to pull the cases and bring it to the attention of the judges. The clerks could handle pro se filers, but not the private attorneys. The only way the trial clerks would have significant notice is if the parties themselves are watching the documents that are being filed or the attorneys are policing themselves. Judge Munyon asked if Paul Regensdorf would bring to the RJA's attention amending the rule to give judges *sua sponte* ability to strike unconflicting pleadings. Paul said a judge always has the ability to strike a document. Tom Hall said the rule on striking documents is very restrictive. Paul said handling confidential information in the court should not be written in the rule because it is inherent in the trial judge's power to handle the admission of documents in the judge's courtroom. Writing a rule of procedure on how a

judge handles documents in an evidentiary context is in the wrong place. Paul does not think the RJA is the correct place to address this issue. Murray Silverstein said the rule will always be violated because there is no victim assistance group that will be policing files. Judge Reynolds said the Supreme Court needs to know that with all of the procedural protections being imposed, in a practical matter nothing is really being held confidential and the only thing protecting the information is the moratorium.

AGENDA ITEM VIII. Certification subcommittee

Judge Reynolds discussed court viewers which allow judges to access and utilize electronic case files in the courtroom or in chambers. The Court Application Processing System (CAPS) functional requirements were adopted by the FCTC and are used to certify vendors. Each vendor has to come before the certification subcommittee to have their court viewer certified. Mentis Technologies and the Thirteenth Judicial Circuit's Judicial Automated Workflow System (JAWS) received full certification. New Dawn was provisionally certified in February 2013. Provisional certification allows a vendor six months to meet certain standards to become fully certified. Tyler Technologies and the Eighth Judicial Circuit will demonstrate their product in August. Pioneer applied but did not meet the standards for provisional or vendor certification. The certification subcommittee made a couple of amendments to the CAPS functional requirements.

Requirement 5.7 currently states:

Automatic Notation and Notification. The system shall, as directed by the judge, create immediate automatic e-mail alerts to parties, attorneys, clerks, case managers, court staff, whenever a calendared event is changed on a calendar by a judge, judicial assistant or case manager. It shall also place a brief entry in the case notes describing the action taken.

Proposed language:

Automatic Notation and Notification. The system shall, as directed by the judge, create immediate automatic e-mail alerts to parties, or paper copies and envelopes to parties without an email address, attorneys, clerks, case managers, court staff, whenever a calendared event is changed on a calendar by a judge, judicial assistant or case manager. It shall also place a brief entry in the case ~~notes~~ docket describing the action taken.

Motion to modify standard 5.7. Automatic Notation and Notification to accommodate those parties that do not have an email address and to clarify that the notification should be in the case docket and not the case notes.

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Ted McFetridge

MOTION CARRIED UNANIMOUSLY

Requirement 8.1 currently states:

Order Generation and Processing Required. The system shall have the capacity to generate court orders by merging information from the accessible databases and runtime user input into a bank of forms. It shall also have the ability to process proposed orders submitted as PDF documents by internal and external users.

Proposed language:

Order Generation and Processing Required. The system shall have the capacity to generate court orders by merging information from the accessible databases and runtime user input into a bank of forms. It shall also have the ability to process proposed orders submitted as PDF or word processor documents by internal and external users.

Motion to modify standard 8.1 Order Generation and Processing Required to include word processing documents.

MOTION OFFERED: Judge George Reynolds

MOTION SECONDED: Tom Genung

MOTION CARRIED UNANIMOUSLY

Melvin Cox questioned functional requirement 6.7 Global or Sub-global Word Search. He wanted to know how the JAWS would handle the requirement. Judge Stephens said JAWS is capable of searching those files if the files are capable of being searched. Melvin said he interpreted that requirement to be the responsibility of the judicial viewer and not how the clerks store the documents. Judge Munyon said before the clerks can go completely paperless one of the prerequisites is for the documents to be searchable. Melvin also wanted clarification on functional requirement 2.3 Exclusion for Clerk's Responsibilities. He understood this standard to mean the clerks would provide the document in the format they currently store the document and systems built and maintained by the clerks are limited to their historical functions are excluded from this definition. Judge Stephens said the CAPS functional requirements are not intended to govern what the clerks do or do not do. Judge Reynolds said this does not amend the technical requirement that the clerks have to provide a searchable document once the clerks are digital. Ken Nelson said the CAPS functional requirements require compliance with AOSC09-30 and the Standards for Electronic Access to the Courts. Section 3.1.2 Document Format, of the electronic access standards requires, "Any information that will become part of, or is related to, a court case file, and which is being transmitted electronically to the clerk of court must be described in a format that can be rendered with high fidelity to originals and is searchable, tagged and complies with accessibility requirements in Chapter 282.601-606." Melvin wanted to know if the clerks have been notified that upon approval of the judge viewers they have to store documents in a searchable PDF format. Paul Regensdorf said the records are the public's records. Sharon Bock said the issue is one of efficiencies. The clerks already have a case maintenance system and have a way of storing documents in TIFF. When the clerks go to a new case maintenance system they would focus on searchable PDFs. Jannet Lewis said the technical standards subcommittee has not recommended any changes to the standards regarding PDF documents. A survey has been developed to assess the readiness of the clerks to migrate towards searchable PDFs as a standard. Once the survey results are received a more intelligent conversation can be had on searchable PDFs.

AGENDA ITEM IX. Electronic Access to Court Records

Judge Hilliard discussed the access security model and the Standards for Access to Electronic Court Records. The access model identified rules and statutes that apply to certain situations. The standards incorporate recommendation 20, Automated Search Technology and recommendation 21, Replacement of Commercial Court Records Databases from the Committee on Privacy and Court Records report. The

governance board will work on recommendation 23, User Identification. Paul Regensdorf said Marynelle Hardee from the Alachua County clerk's office thinks some of the categories on the access model have limited access that is inconsistent with the list of 20 identified confidential category of documents. Paul had questions about the difference in the subscriber and public access. These two levels of access should mirror one another. The only difference should be juvenile and probate because those types of documents cannot be viewed over the internet and subscribers usually do not view documents over the internet. Paul questioned how clerks who do not have VOR (viewable on request) software will protect the documents before releasing them over the internet. Judge Hilliard said it was not the intent of the access governance board to create a policy. The intent was to reconcile and express statutory and rule requirements in a format that would be usable. The Supreme Court mandated coming up with something that would be precedent in lifting the moratorium on electronic access to court records. Jannet Lewis said the access model is a living document and will always be tweaked.

Motion for the FCTC to adopt the access security model and the Standards for Access to Electronic Court Records recognizing that they are living documents and will change over time and submit both documents to the Supreme Court for approval

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Mary Cay Blanks

Paul Regensdorf offered a friendly amendment. Approve the standards and model for today but hold back on submitting to the Supreme Court.

Amended motion for the FCTC to adopt the access security model and the Standards for Access to Electronic Court Records recognizing that they are living documents and will change over time.

Judge Hilliard and Mary Cay Blanks both accepted the amended motion.

MOTION CARRIED

Motion to lift the moratorium contingent upon development of a method for maintaining the access security model and standards associated with the access security model as well as having a process in place for review and certification that the information released is in compliance with the access security model.

MOTION OFFERED: Judge Robert Hilliard

MOTION SECONDED: Mary Cay Blanks

Kent Spuhler said there is not a lot of compliance with rule 2.420 so why make the recommendation to the court to accept the standards and remove the moratorium. Tom Hall said even if attorneys are not in compliance with rule 2.420, the clerks would have a system in place to redact the appropriate information based on the access security model. Paul Regensdorf said there needs to be a process in place similar to the process for approving e-filing systems. Chris Blakeslee said the Supreme Court would be made aware that a process has not been established but one will be implemented similar to e-filing where clerks would have to complete an application and receive approval before clerks can provide court records electronically. Jannet Lewis said the approval needs to be done first before a process is developed

because the Court may want to make changes. Judge Hilliard said AOSC06-20 says, "... shall submit a report to the Court documenting the results of the project and identifying recommendations regarding electronic access policies. Until the pilot program is studied and uniform technical and substantive standards governing clerk of court websites offering electronic access to court records are adopted by the Court, in cooperation with the clerks of court, it is necessary to continue a modified moratorium." Jannet said there is some experience in reviewing and certifying systems as Manatee County went through a process for five years and the moratorium has been lifted to allow Manatee County to provide electronic access to court records. The access security model and standards are based largely on the Manatee model and the certification process will be based on that model that already exists. Sharon Bock said the clerks are already aware that there are certain standards that they will have to deal with. Paul Regensdorf offered a friendly amendment.

Amended motion to lift the moratorium clerk by clerk when the clerks satisfy the requirement contingent upon development of a method for maintaining the access security model and standards associated with the access security model as well as having a process in place for review and certification that the information released is in compliance with the access security model.

Judge Hilliard and Mary Cay Blanks both accepted the amended motion.
MOTION CARRIED

Seconded amended motion to include mandatory viewable on request system identical to Manatee County

MOTION DIED for lack of a second

Discussion continued on viewable on request. Judge Hilliard read to the Commission the definition of viewable on request: "To ensure that information is properly removed prior to public access, some case types and document types have a special electronic security called viewable on request. Selecting an image of a court document in cases or documents coded viewable on request will not allow the user to view the record at that point. Instead, a request is generated to a clerk, who performs a second examination of the document to remove personal identification information and information about the victims of sexual or child abuse crimes. After the clerk has completed, the requestor then receives a notice that the document is available for viewing. Once a document has been requested and reviewed, it is available for all future access without requiring a request/review."

Motion to adopt the VOR policy currently in place in Manatee County and require that theirs be the VOR policy for any clerk attempting to provide court records electronically.

MOTION OFFERED: Judge Reynolds
MOTION SECOND: Paul Regensdorf
MOTION CARRIED

AGENDA ITEM X. Technical Standards Subcommittee

The issue of searchable PDF was discussed earlier in the meeting. Jannet Lewis reported to the Commission that the technical standards subcommittee is in the process of developing data exchange

standards. Currently there are a number of integration and custom connections to various systems. The goal is to create a solid set of judicial interface exchange standards. The subcommittee is looking at the National Interface Exchange Model (NIEM) and the Global Reference Architecture (GRA). NIEM deals with content and the GRA deals with how the communication and exchanges happen. These two standards will be used to develop some common data exchanges. The technical standards subcommittee will look at a set of data elements developed by the TIMS subcommittee as a starting point. In addition, the technical standards subcommittee is in the process of updating the Integration & Interoperability document which is a very technical document used by the court technology officers that deals with basic pc hardware/software standards, courtroom audio equipment, etc. The technical standards subcommittee plans on adding sections for new technology and start referencing FBI security standards.

AGENDA ITEM XI. Funding Subcommittee

Judge Northcutt discussed funding for the judicial viewers. The commission reviewed the statewide estimate that showed how much it would cost to provide judicial viewers to all of the judges in the state. There are 921 trial judges. Of those, 421 judges are using in-house solutions; therefore, licenses will not need to be purchased for those judges. A total of 358 judicial viewer licenses have been purchased or are slated to be purchased with the mortgage foreclosure funding. A total of 142 licenses at \$6,000 per license will need to be purchased for the remaining judges. Isaac Shuler suggested adding funding for backup servers. The consensus was to add three servers for production and three for redundancy. Kent Spuhler wanted notation that the estimate does not take into account additional judges. Craig McLean said increased bandwidth has not been addressed for a circuit-wide approach. Alan Neubauer said bandwidth would be taken care of through county funding and the MyFlorida Network. There is not a metric to forecast bandwidth so it cannot be forecast on the front-end. Murray Silverstein asked if the FCTC's funding subcommittee would work with the FCCC's funding committee on funding for the e-portal. Judge Northcutt said the FCCC's funding committee decided to go directly to the legislature. Judge Munyon said funding in the court system is handled by Trial Court Budget Commission. Chris Blakeslee said OSCA staff will work on revising the judicial viewer document and send to FCTC for final approval before submitting to the court for approval. We would like to recommend to the court that this statewide estimate be submitted to the Trial Court Budget Commission to seek funding revenue streams to fund this initiative.

Motion to approve the Statewide Estimate document in concept.

MOTION OFFERED: Judge Scott Stephens

MOTION SECOND: Tom Genung

MOTION CARRIED UNANIMOUSLY

AGENDA ITEM XII. Status on Foreclosure Initiative (Technology)

This agenda item was not spoken to directly as it had been discussed throughout the meeting.

AGENDA ITEM XIII. Legislative Updates

Alan Neubauer gave an update on legislative issues and discussed how those issues affect the judicial branch. Priorities have been ethics reform, campaign finance reform, elections review, education reform and pension reform. It is a positive budget for the courts with an increase of 4.3% above the current year

budget. Most significantly was a request for 3.5% competitive salary adjustment for court employees was not adopted. The Supreme Court was able to get \$52,000 to support eFACTS; OSCA was able to get \$606,000 to transition to eFACTS; Judicial Inquiry System rewrite was approved for \$375,000; death penalty tracking system was approved for \$30,000 in the Supreme Court budget and \$20,000 in the OSCA budget; the judicial branch expects to receive approximately \$5.3 million from the national mortgage settlement fund for technology solutions and to help the trial courts with disposition of the backlog on mortgage foreclosure cases; the court expects to receive about \$16 million for senior judges, case managers and magistrates and this will compliment funds the court received during the current fiscal year directly related to mortgage foreclosure cases. In January, the Legislature provided \$5 million to the court from the national mortgage settlement fund for the current fiscal year to enhance technology.

AGENDA ITEM XIV. Other Items/Wrap up

Tom Hall gave a demonstration of the Board's website. Currently, there is a website to electronically file documents through the e-portal and another website to access the information about the e-portal. The Board is in the process of merging these two websites. The website was approved in concept at the Board's last meeting and hopefully will be rolled out by July 1, 2013.

Motion to adjourn the FCTC meeting

MOTION OFFERED: Judge Robert Hilliard

MOTION SECOND: Judge Martin Bidwill

MOTION CARRIED UNANIMIOUSLY

Meeting was adjourned at 4:30 pm. The next Commission meeting is scheduled for August 1-2, 2013 in Tampa.