



**ADVISORY TASK FORCE
ON REMOTE ACCESS TO
AND PRIVACY OF
ELECTRONIC COURT RECORDS**

Report of Findings and Recommendations

11/1/2016

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Executive Summary

On February 3, 2016, Loretta H. Rush, Chief Justice of Indiana, signed an order creating an Advisory Task Force on Remote Access to and Privacy of Electronic Records. This came in response to the Indiana judicial branch's continuing move toward electronic filing at both the trial court and appellate level, and the rising need for informed study of the best practices and policies concerning public access to those electronic court records.

Under the guidance of the Indiana Supreme Court's Records Management Committee and in conjunction with the Office of Judicial Administration's Office of Court Technology, and with staff support from the Indiana Office of Court Services, the Task Force was charged with examining the question of how best to balance the potential for near-complete transparency with the capacity for significant harm to the privacy of litigants. It was directed to provide an initial written report, with findings and recommendations, to the Indiana Supreme Court's Records Management Committee and to Justice Steven H. David of the Indiana Supreme Court and Judge Paul D. Mathias of the Indiana Court of Appeals.

The Task Force met six times in 2016: on February 26, April 8, May 6, June 3, July 29, and September 2. It reviewed the practices of other states, existing and potential technologies in Indiana, considered the merits and perils of providing public online access in the various case types in Indiana courts, and after much discussion and consideration now presents its findings and recommendations.

The Task Force will continue its work in 2017, assessing the outcomes of any recommendations implemented by the Indiana Supreme Court and determining whether modifications or further recommendations are necessary. The Task Force is tentatively scheduled to meet four times in 2017: on March 10, June 9, September 8, and December 8.

A COPY OF THIS REPORT IS AVAILABLE ONLINE ON THE TASK FORCE WEBSITE, ALONG WITH MINUTES, NOTICES, AND OTHER DOCUMENTS CONSIDERED AND PRESENTED BY THE TASK FORCE IN THE COURSE OF ITS DUTIES.

<http://www.in.gov/judiciary/admin/3389.htm>

Members

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Meeting Highlights

FEBRUARY 26

- Inaugural meeting
- Reviewed charge to the Task Force from February 3, 2016, Supreme Court Order
- Discussed concept of “practical obscurity” with respect to public court records, rules and policies governing the posting of court records in Indiana, and court records that are currently online through case management systems
- Discussed providing online public access to appellate briefs

APRIL 8

- Reviewed implementation of public posting of appellate briefs
- Compared public remote access systems and rules in other states, federal jurisdictions, and Indiana
- Discussed impact of Indiana Administrative Rule 9 and Senate Enrolled Act 357
- Discussed providing online public access to appellate motions

MAY 3

- Reviewed implementation of public posting of appellate motions and online appellate case access
- Discussed broad concerns about providing online public access to trial court orders, judgments, and filings
- Discussed implementation items that would specifically impact members of the bench and bar, and what those practitioners and judicial officers would do differently in light of expanded public access
- Reviewed the Protective Order Registry and federal access and reporting requirements

JUNE 3

- Reviewed notice statements to e-filing attorneys concerning public accessibility of documents
- Reviewed update of best practices from outside jurisdictions, focusing on public accessibility of criminal records
- Reviewed results of Online Access Survey completed by Task Force members
- Discussed providing online access to attorneys and parties
- Discussed providing online public access to orders in certain case types agreed upon by Task Force
- Discussed online posting of financial information, current practices, needs for improvement

JULY 29

- Viewed demonstrations of Commercial Court docket, appellate case posting, and e-filing systems
- Discussed providing online public access to final orders and judgments in criminal case types, expungement cases, and juvenile delinquency cases
- Discussed online posting of payments pursuant to judgments
- Discussed future steps for the Task Force in 2017

SEPTEMBER 2

- Viewed presentations of e-filing usage in trial courts and appellate cases and reviewed online user guides provided by technology staff
- Reviewed Task Force recommendations to-date concerning online public access to court records
- Discussed providing online public access to orders in remaining civil, criminal, and juvenile case types
- Discussed future of Task Force, after implementation of any recommendations adopted by the Court

Findings

AFTER REVIEWING PRESENTATIONS BY STAFF FROM THE INDIANA OFFICE OF COURT SERVICES, THE CO-DIRECTORS OF THE INDIANA SUPREME COURT'S OFFICE OF TECHNOLOGY, THE CLERK OF THE APPELLATE COURTS, AND TASK FORCE MEMBERS, THE TASK FORCE MADE THE FOLLOWING FINDINGS WITH RESPECT TO THE PUBLIC ONLINE POSTING OF COURT RECORDS:

CURRENT PRACTICE AND PRIVACY CONCERNS

- Bulk and compiled records have commercial value, and courts have discretion to release (and charge for) data if a request serves the public interest.
- Paper public records generally present a more limited risk of potential overexposure of private information by virtue of their “practical obscurity”—visiting the courthouse where the records were kept is generally inconvenient enough to limit unnecessary or maliciously intended intrusions.
- But those records still often reflect vulnerable or embarrassing times in litigants’ and participants’ lives—and often not by choice. And in the digital age, publication can be forever and world-wide.
- Indiana has a number of rules governing the posting of court records, including Indiana Trial Rule 77 (requiring courts to maintain a separate daily record of actions and permitting clerks to seek Supreme Court approval for remote access to the Chronological Case Summary, Record of Judgment and Orders, index, and case file) and Administrative Rule 9 (requiring non-confidential records to be available in the courthouse and mandating that confidential documents be contained in non-public access version of the case file, filed on green paper).
- But items filed before the “Green Paper” provision was adopted in 2005 may still contain confidential information.
- Not allowing a type of document to be posted online does not necessarily mean that document is not “public.”

OTHER JURISDICTIONAL PRIORITIES

- Approaches to public remote access in other states and federal courts vary widely. There is no “best practice” identified from other states, nor is there even a good consolidated accounting of all state practices.
- Several states are re-evaluating their current practices based on changes in technology and lessons learned as access is provided or limited.
- Some jurisdictions require registration or subscription to control levels of access, while others charge subscription or usage fees.

- Many other states control access based on user type—online users must subscribe and access is provided differently for the public, attorneys generally, attorneys of record, and parties—and charged fees to prevent the “nosy neighbor” from accessing records online.
- Out of fifteen states surveyed—Florida, Illinois, Iowa, Michigan, Minnesota, New Hampshire, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Washington, and Wisconsin—court documents of some kind were available online in twelve, pleadings in ten, orders/judgments in eleven, appellate briefs in five, and other documents in eight.
- Of the twelve states offering online access, all offered documents to attorneys—but only about half to parties or the public.
- Of the twelve states surveyed, only Florida treats criminal cases differently, in that individuals can only access pre-conviction criminal proceedings if the individual knows the case number.
- In criminal case types, some states do not provide any public access at all until the case reaches the conviction stage.
- The federal courts use the PACER (Public Access to Court Electronic Records) system. PACER requires a free account, but generally charges access fees. Every court document is online unless marked confidential, and cases are hyperlinked together.
- PACER is well-integrated and has been in implementation for some time, but is arguably outdated.

INDIANA’S E-FILING INITIATIVES AND CAPABILITIES

- Trial courts using the Odyssey or Courtview Case Management Systems provide free online public access to the Chronological Case Summary, and trial courts using the JTS CMS provide public online access through DoxPop.
- Indiana has initiated an e-filing pilot project in appellate courts and a growing number of Indiana counties. Pro se litigants can file through public terminals, following online instructions, or by handwriting pleadings for scanning by the clerk.
- Indiana now has several e-filing systems. The INCourts system is free (except for initial filings), but users must register for an account to authenticate their filings and track usage. The system currently reads information from the Odyssey Case Management System and will read CSI and Quest CMS data when those systems are certified for e-filing.
- The e-filing systems do not have the potential to electronically screen filings for accuracy with respect to confidentiality. The systems rely on the users to properly identify the type of filing.
- The technological capability to distinguish between user types online in the e-filing systems has not yet been developed. Doing so would be a substantial project for Trial Court Technology that might take a year or more to complete.
- Tyler Technology is piloting a portal that will permit user registration and create that sort of distinction between users.
- The current e-filing systems do not distinguish between types of orders—only between orders and filings—and the capability to distinguish only “final” orders would need to be built.

- Judges will have to distinguish in Odyssey between “final” orders/judgments and other sorts of orders in order to allow only public online access to those sorts of orders.
- In many cases, judges may also do two final documents: an order/judgment and then a separate document with the supporting findings and conclusions.
- In Odyssey, even if an event is identified as a “final” order when entered, the system still simply identifies the document as an “order.”
- As of August 31, 2016, there were 6,800 e-filing users in Indiana, 2,675 e-filing attorneys, 3,946 attorneys enrolled in e-service, and over 145,000 electronic filings.
- As of August 31, 2016, eight counties mandated e-filing in at least some case types, seven counties were now allowing e-filing for subsequent filings, and the Court’s e-filing implementation schedule projects counties mandating e-filing out through January of 2018.
- Moving to a unified statewide Case Management System will be beneficial for sharing information across branches of Indiana’s government.

CONSIDERATIONS IN POSTING APPELLATE COURT RECORDS

- The volume of appellate motions filed with the Clerk of the Appellate Courts far exceeds the volume of appellate briefs. Appellate motions are rarely filed on green paper (i.e., are marked confidential), but some include confidential information and many are of limited interest to the public.
- Appellate Court opinions and orders are currently available through Odyssey.
- The privacy risks are substantially greater with online public posting of appendices in appellate cases, as opposed to briefs on the merits, and also greater in pro se filings than those filed by attorneys.
- Pre-screening of appellate e-filings is not viable.
- An appellate e-filer who selects a filing as confidential and later realizes it is not cannot go back into the system and change the designation; the system does not have that capability.
- Just as with paper filings, the potential exists for appellate attorneys to collude and agree to designate matters as confidential in order to keep the public from viewing the filings.
- Certain appellate motions, notably motions to continue or for extensions of time, might contain personal information related to the filing attorney such as home addresses along with vacation dates and in-depth medical detail related to the attorney or a family member. Appellate attorneys include that level of detail because the Indiana Court of Appeals has, traditionally, required it.

CONSIDERATIONS IN POSTING CIVIL TRIAL COURT RECORDS

- 15,982 Juvenile Paternity (JP) cases were filed in 2015, all of which can include a number of individual orders. These orders, like those in Domestic Relations (DR) cases, can contain sufficient information to identify individuals even when redacted.

- There were 455 Trust (TR) cases filed in Indiana in 2015. These cases include information about payments from the corpus of the trust, confidential information, and trustee fees.
- Orders posted in estate cases—Estate Unsupervised (EU), Estate Supervised (ES), and Estate Miscellaneous (EM)—can contain information about property distribution, property locations, beneficiary identification, financial information. It is more likely in ES cases, but some of that information might be controversial or potentially harmful if released.

CONSIDERATIONS IN POSTING CRIMINAL TRIAL COURT RECORDS

- Providing public online access to pre-charging filings in criminal cases—such as search and arrest warrants—presents particularly high potential risks to law enforcement in that a defendant might discard or destroy contraband, eliminate a potential witness or confidential source, flee, obtain weapons, or lie in weight for an officer. But there are also particularly high potential benefits from making such information public: a citizen might want to know his or her neighbor is suspected of a crime, and a lawyer might advise a suspect to turn himself or herself in.
- Prosecutors are required to file a motion to seal warrant information if they want to keep the target and source confidential.
- In smaller counties this can have the opposite effect because of the attention generated by a hearing on a motion to seal a warrant. In larger counties, it is practically impossible to follow this process because the case load is too high and the prosecutors' offices operate in layers and sections.
- Criminal defendants track their names on MyCase in order to identify new filings with their names.
- Odyssey can label the target of a warrant as either a participant or a party—if the target is a participant, no identifying information is posted.
- Providing public online access to pre-charging information, such as motions to suppress, can pose a threat to the sanctity of the criminal justice process and the presumption of innocence in that the integrity of a jury could be compromised if a juror is able to go online and learn about evidence that had been deemed inadmissible.
- The purpose of an ex parte filing is, in part, because there is insufficient time to provide notice to the other party; online filing might ameliorate that lack of notice.
- An ex parte proceeding is not, in and of itself, confidential and therefore not automatically precluded from public online access.

SPECIALTY ONLINE DATABASES AND RECORDS

- The Indiana Protective Order Registry was created in accordance with State and Federal law, and is uniform across counties. County policies on accessibility to the registry, however, might vary in certain gray areas.

- Protective Orders are not on MyCase or in the e-filing system because of Federal requirements; how the Protective Order Registry interacts with e-filing has not been resolved.
- Five of the six pilot Commercial Court programs utilize the Odyssey Case Management System.
- Trial Court Technology is developing Odyssey events to flag cases as belonging on the Commercial Court docket, and MyCase is being modified to allow searches specific to those flags.
- The Guardianship Registry is online and rolled out to over thirty counties state-wide, with approximately 4,700 active cases, and will continue to roll out as counties go live with Odyssey. These cases do not show confidential information, but will identify the name and date of birth of the ward and the guardian's name, along with the issuance date, active status, county of issuance, and case name.

POSTING FINANCIAL INFORMATION

- Odyssey does not post financial information such as judgments, fees, court costs, etc. CSI counties on DoxPop and CourtView do post such information. Practice varies from county clerk to county clerk, but there is a roughly fifty-fifty split between posting information or not.
- Odyssey has the capability to provide secure access for posting financial information.
- Tyler Technology's older case management system showed payments made, but the new version of MyCase does not include any financial information. The capability could be built into the new version, or the old system could be turned back on immediately.

Recommendations

BASED ON THE FINDINGS ABOVE, AND AFTER DELIBERATE AND WELL-CONSIDERED DISCUSSION BY THE MEMBERS OF THE TASK FORCE OVER THE COURSE OF ITS MEETINGS, THE TASK FORCE MAKES THE FOLLOWING RECOMMENDATIONS:

1. Post for public access through Odyssey, immediately upon filing, all appellate briefs (as contemplated by Appellate Rule 43(A), i.e., appellant, appellee, and amicus; petitions for rehearing, Tax Court review, and transfer; and any replies thereto) filed by attorneys in non-confidential case types after Friday, April 1, 2016.

- This recommendation was implemented on April 1, 2016.
- No significant concerns have been presented by practitioners through this implementation.

2. Post for public access through Odyssey, immediately upon filing, all appellate motions filed by attorneys in non-confidential case types; effective within sixty days of approval, with a notification from the e-filing system to notify appellate filers that the documents filed will be available publicly.

- This recommendation was implemented on July 1, 2016.
- A concern raised prior to implementation was that in motions to continue or motions for extension of time, appellate attorneys are required to include significant detail that might include personal information. No particular instances of this concern, however, have been presented since implementation.

3. Allow online access to attorneys and parties to all orders and filings in all case types—both confidential and non-confidential—except access to a party other than the State in a criminal matter would occur only after charges are filed.

- Implementation of this recommendation will require upgrading the e-filing systems in order to distinguish between user types, and a method to validate that a user is an attorney, an attorney of record, or a party.
- This technological upgrade might take a year or more for Trial Court Technology to accomplish, though Tyler Technology is piloting a portal that would allow for distinguishing between user types.

4. Allow online public access to orders in the Infraction (IF), Ordinance Violation (OV), Small Claims (SC), Civil Collection (CC), Civil Tort (CT), Civil Plenary (PL), Mortgage Foreclosure (MF), Estate Miscellaneous (EM), Estate Unsupervised (EU), Miscellaneous (MI), Reciprocal Support (RS), and Court Business Records (CB) case types.

- Implementation of this recommendation would serve largely as a pilot or initial phase of providing online public access, and allow the Task Force to assess the impact of that change and identify particular problems that might arise with respect to certain categories of orders in specific case types.
- Odyssey already distinguishes “orders” from other documents filed in cases, but in some cases the judge might file several documents; one might be the order or judgment, but the other might contain the supporting findings of fact and conclusions of law.

5. Allow online public access to “final orders and judgments” (i.e., orders and judgments disposing of the case such as judgments of conviction, sentencing orders, etc.) in Criminal Misdemeanor (CM), Class A Felony (FA), Class B Felony (FB), Class C Felony (FC), Class D Felony (FD), Level 1 Felony (F1), Level 2 Felony (F2), Level 3 Felony (F3), Level 4 Felony (F4), Level 5 Felony (F5), Level 6 Felony (F6), Murder (MR), and Post-Conviction Relief (PC) case types.

- Implementation of this recommendation would require upgrading the e-filing system to distinguish between these types of orders and other orders that might be issued in a criminal case, such as orders on motions to suppress. Allowing public online access to all those other types of orders, however, presents a much greater risk to the fairness and integrity of the criminal justice process and is not—at this point—recommended by the Task Force.
- Implementation of this recommendation would also require a clear definition—which does not currently exist—of a “final order or judgment” so that clerks and court staff know how to identify those orders that will be posted publicly online.

6. Allow online public access to pleadings, filings, and orders denying expungement petitions in Expungement (XP) cases.

- By statute, if an expungement petition is granted, the entire expungement case—and the underlying criminal conviction(s)—is made confidential and is, therefore, no longer available for online public access.
- Nevertheless, there is great public value in posting the petitions for expungement and proceedings while in progress, and those orders that ultimately deny a petition.

7. Deny online public access to orders in Juvenile Delinquency (JD) and Guardianship (GU) case types.

- Indiana Code Section 31-39-2-8 provides a tiered structure through which records of JD proceedings are available for public access.
- Online public access should parallel this tiered structure. To do so currently, however, would impose a significant burden on trial court clerks and staff to screen and identify e-filed orders to see if they satisfy the statute. A significant upgrade of the existing e-filing systems will be required before this could be implemented.
- With the development and growth of the Guardianship Registry, the essential information that would be of legitimate public value in Guardianship cases is already publicly available.

8. Post for public access payments made in cases, without identifying the specific payor, with an appropriate disclaimer statement as to the accuracy of the remaining balances owed.

- It is difficult for online systems to maintain a remaining balance due in matter, because reducing a judgment by payments made and accounting for interest is difficult to track.
- Payments made, however, are easier to reflect online; there would still be a need, however, for a disclaimer as to the accuracy of any underlying data so litigants do not rely on the posted amounts.

The Task Force deferred consideration of allowing online public access to orders and judgments in the Juvenile Paternity (JP), Domestic Relation (DR), Estate Supervised (ES), Trust (TR), and Miscellaneous Criminal (MC) case types, as well as pleadings and filings in all case types except Expungement cases, until subsequent Task Force meetings after online public access to other case types has been implemented and assessed.

Appendix A: Orders Establishing Task Force

Order Creating an Advisory Task Force on Remote Access to and Privacy of Electronic Court Records (Feb. 3, 2016)	15
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In the Indiana Supreme Court

CASE NUMBER: 94S00-1602-MS-62

ORDER CREATING AN ADVISORY TASK FORCE

ON REMOTE ACCESS TO AND PRIVACY OF ELECTRONIC COURT RECORDS

In May 2014, this Court announced that Indiana courts will move to electronic filing. During 2015, the Indiana e-filing system was launched in the Hamilton circuit and superior courts, and it is now operational in the appellate courts and the circuit and superior courts of Clark County.

Currently, the public can access non-confidential records in a case file by going to the courthouse or contacting the clerk or court staff for assistance. The result is often referred to as "practical obscurity" because most public case documents remain obscure in the hard copy case file. In the near future, the electronically filed and digitized documents in a case file could be posted on the Internet and made available around the world. This capability raises new questions about balancing litigants' privacy against the public convenience (and expectation) of remote access over the Internet.

Indiana Code 33-24-6-3 directs the Supreme Court's Division of State Court Administration to examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and to make recommendations for necessary improvement. To further that legislative directive, this Court created its Records Management Committee (RMC) to "conduct a continuous study of the practices, procedures, and systems for the maintenance, management, and retention of court records employed by the courts and offices serving the courts of this state." Ind. Adm. R. 4(A).

In 2003, a 28-member *Privacy and Public Access Task Force*, chaired by Justice Brent Dickson, worked for a year and recommended to the RMC a comprehensive rule about confidentiality and public access to court records. Ultimately, the result was this Court's adoption of a new Administrative Rule 9, effective January 1, 2005.

We find that technological developments since the adoption of Administrative Rule 9 warrant a renewed study of best practices and policies on Internet access to electronic court records.

An *Advisory Task Force on Remote Access to and Privacy of Electronic Court Records* is hereby created to work under the auspices of the RMC and Court Technology. A list of the *Advisory Task Force* members is attached. In conducting its work, the task force should consider the purposes articulated in Indiana Administrative Rule 9(A)(2), which are:

- a. Promote accessibility to court records;
- b. Support the role of the judiciary;
- c. Promote government accountability;
- d. Contribute to public safety;
- e. Minimize risk of injury to individuals;
- f. Protect individual privacy rights and interests;
- g. Protect proprietary business information;
- h. Minimize reluctance to use the court system;
- i. Make the most effective use of court and clerk staff;
- j. Provide excellent customer service;
- k. Avoid unduly burdening the ongoing business of the judiciary.

The task force is directed to provide an initial written report, with findings and recommendations, to the RMC and to Justice Steve David and Judge Paul Mathias as the leaders of the Court's technology initiatives, not later than September 1, 2016. The Interim Chief Administrative Officer of this Court shall assign staff to assist the task force in its work.

DONE at Indianapolis, Indiana, on 2/3/2016.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.

ADVISORY TASK FORCE
ON REMOTE ACCESS TO AND PRIVACY OF ELECTRONIC COURT RECORDS

1. The Honorable Loretta H. Rush, Chief Justice of Indiana, Chair
2. Melissa Jane Avery, Attorney, Broyles Kight & Ricafort, P.C.
3. Professor Fred H. Cate, Indiana University Maurer School of Law
4. Christa Coffey, Clerk, Tippecanoe Circuit and Superior Courts
5. Kenneth J. Falk, Legal Director, ACLU of Indiana
6. Christine Hayes Hickey, Attorney, Rubin and Levin, P.C.
7. Lilia G. Judson Interim Chief Administrative Officer, Indiana Supreme Court
8. Stephen Key, Executive Director and General Counsel, Hoosier States Press Association
9. Larry A. Landis, Executive Director, Indiana Public Defender Council
10. Jon Laramore, Executive Director, Indiana Legal Services, Inc.
11. The Honorable Peggy Lohorn, Judge, Montgomery Superior Court 2
12. Kelly McBride Executive Director, Domestic Violence Network
13. The Honorable David Ober, Indiana House of Representatives
14. David N. Powell, Executive Director, Indiana Prosecuting Attorneys Council
15. Professor Joel Schumm, Indiana University Robert McKinney School of Law
16. Gary D. Secrest, Assistant Attorney General, Office of the Attorney General
17. Debra Walker, Clerk, Henry Circuit Court
18. The Honorable Mary G. Willis, Judge, Henry Circuit Court 1

In the
Indiana Supreme Court

CASE NUMBER: 94S00-1602-MS-62

ORDER NAMING MEMBER TO ADVISORY TASK FORCE
ON REMOTE ACCESS TO AND PRIVACY OF ELECTRONIC COURT RECORDS

On February 3, 2016, this Court issued an Order creating an Advisory Task Force on Remote Access to and Privacy of Electronic Court Records. As part of that Order a list of eighteen members of the Task Force was included. At this time, the Court has determined that it wishes to add a member to the Task Force, the Honorable Sharon Negele, Indiana House of Representatives.

IT IS, THEREFORE, ORDERED that the Honorable Sharon Negele, is named to serve on the Advisory Task Force on Remote Access to and Privacy of Electronic Court Records.

DONE at Indianapolis, Indiana, on 2/11/2016.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.

Appendix B: Meeting Minutes

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Advisory Task Force on Remote Access to and Privacy of Electronic Court Records

<http://www.in.gov/judiciary/admin/3389.htm>

Inaugural Meeting

Indiana Government Center South, Conference Room A

402 West Washington Street

Indianapolis, IN

February 26, 2016

12:00 – 2:00 PM

MINUTES

The meeting began at 12:00 p.m. as scheduled.

I. Welcome and Introductions

Chief Justice Loretta H. Rush, Task Force Chair, gave opening remarks and noted 100% attendance at the meeting. Task Force members briefly introduced themselves.

II. Charge to the Task Force

The Chief Justice reiterated the language of the February 3, 2016 Supreme Court Order creating the Task Force: To consider public access to electronic court records in light of the purposes articulated in Ind. Admin. Rule 9(A)(2), and to provide an initial written report with findings and recommendations no later than September 1, 2016.

III. Overview

A. Judge Paul D. Mathias

Judge Paul D. Mathias, Ex-Officio Member of the Task Force, provided background information on the “practical obscurity” of paper public records giving way to potential over-exposure of online public information. Court cases often reflect vulnerable or embarrassing times in litigants’ lives, not of their own choosing. But in the digital age, court records can not be recalled – publication is forever. Hoosier values therefore need to be reflected in the Task Force’s recommendations on its “macro questions” of (1) what to share and why, and (2) whom to share it with and why.

B. Indiana status quo

1. Rules and policies governing posting of court records – Lilia Judson

Lilia Judson, Interim Chief Administrative Officer of the Division of State Court Administration, highlighted Trial Rule 77 (requiring courts to maintain a separate daily record of actions and permitting clerks to seek Supreme Court approval for remote access to the CCS, RJO, index, and case file) and Administrative Rule 9 (requiring non-confidential records to be available in the courthouse, and “endeavoring” to make other materials similarly available). But documents filed before the 2005 “green paper” rule may contain confidential

information, so preserving sealed/expunged/etc. status where appropriate, will be a challenge. No model rules address these issues, and other states' practices vary widely.

2. *Court records currently online, current case-management systems and information sharing, and access for Indiana e-filing users – Mary DePrez*

Mary DePrez, Director and Counsel for Trial Court Technology, explained what Indiana court records are currently available to the public online. Appellate court opinions and orders are currently available through Odyssey; trial courts using Odyssey or Courtview case management system (CMS) software have free online public access to the CCS; and counties using JTS CMS software have public online access through DoxPop.

The e-filing pilot project is also underway in appellate courts and a growing number of counties. The pilot courts report positive interactions with pro se litigants, who can file through public terminals, by following online instructions (including referrals to free e-mail providers), or even by handwriting pleadings for the clerk to scan and file in person.

Branches of Indiana government currently share information through INcite applications, but moving to a unified statewide CMS will be beneficial for further sharing.

IV. Discussion

A. Posting appellate briefs

Chief Justice Rush proposed that the Task Force consider whether appellate briefs should be posted online. Lengthy discussion ensued, focusing primarily on how (or whether) to guard against improper disclosure of confidential information. The Task Force concluded that privacy risks were substantially greater with appendices than merits briefs, and greater in pro se filings than those filed by attorneys; that pre-screening was not viable; and that briefs should be posted only if filed with the knowledge that they would be available online.

Ultimately, the Chief Justice called the question on a motion that

all “**briefs**” (as contemplated by Appellate Rule 43(A), *i.e.*, appellant, appellee, and amicus; petitions for rehearing, Tax Court review, and transfer; and any replies thereto) filed:

- (1) by **attorneys**,
- (2) in **non-confidential** case types, and
- (3) **after Friday, April 1, 2016**,

be posted for public access through Odyssey immediately upon filing.

The amended motion **carried by unanimous voice vote**, and will be considered at the Supreme Court's March 2 conference.

B. Future issues for task force

The Chief Justice noted that the next Task Force meeting will address online posting of appellate motions/pleadings and trial-court orders/judgments.

V. Next Meeting Dates

The next Task Force meeting was scheduled for **April 8, 2016 from 12:00 p.m. to 2:00 p.m.**, location to be announced. It was also determined that all materials from this meeting would be posted on the Task Force website.

VI. Adjournment

The meeting adjourned at 2:17 pm.

Respectfully submitted,

Jason W. Bennett
Research Attorney, Indiana Judicial Center

Advisory Task Force on Remote Access to and Privacy of Electronic Court Records

<http://www.in.gov/judiciary/admin/3389.htm>

Indiana Government Center South, Conference Room A

402 West Washington Street

Indianapolis, IN

April 8, 2016

12:00 – 2:00 PM

MINUTES

Attendance: *Chair:* Hon. Loretta H. Rush. *Members:* Melissa Avery, Prof. Fred H. Cate, Christa Coffey, Kenneth J. Falk, Christine Hayes Hickey, Lilia Judson, Stephen Key, Larry Landis, Jon Laramore, Hon. Peggy Lohorn, Hon. Sharon Negele, Hon. David Ober, David Powell, Prof. Joel Schumm, Hon. Mary Willis. *Ex Officio:* Hon. Steven H. David, Hon. Paul D. Mathias. *Staff:* Jason W. Bennett. *Absent:* Kelly McBride, Gary Secrest, Debra Walker.

I. Welcome and Approval of February 26 minutes.

The meeting began at 12:01 p.m. Approval of the February 26 minutes was moved, seconded, and approved by consent. The Chief Justice gave brief opening remarks.

II. Implementation Report re: Posting of Briefs

Bob Rath reported that the first appellate briefs went online on April 1, with over 80 posted in the first week. CCS entries in “Appellate Case Search” at <http://www.in.gov/judiciary> have clickable brief icons (and, in Odyssey counties, links to related trial and appellate matters).

III. Comparing Remote Access Systems

A. National Overview

Jeff Wiese surveyed public remote-access systems in a sampling of other states and the federal PACER system. Approaches vary widely – some requiring registration or subscription to control levels of access, others charging fees, either for subscription or based on usage. Of the surveyed states, court documents are available in 12; pleadings in 10; orders/judgments in 11; appeals briefs in 5; other documents in 8. All 12 online states offer documents to attorneys, but only about half to parties or the public. Iowa replicates “practical obscurity” by offering electronic documents only at kiosks in each courthouse lobby. And Florida (which classifies more documents confidential and has a public-access constitutional amendment) requires a Clerk’s Office employee to screen all requests.

B. System Demonstrations

1. PACER (federal)

Bob Rath demonstrated the federal PACER *viewing* system (separate from the CM/ECF *filing* system). A free account is required, but access fees apply (generally \$0.10 per page,

though fees under \$15 per quarter are waived). Every document is online unless specifically marked confidential, and related cases are hyperlinked to each other, akin to MyCase functionality in Odyssey counties. Federal briefs use PACER hyperlinks, so judges read briefs on one screen and hyperlinked documents on the other. (Chief Justice Rush observed that Indiana aims to eventually do likewise.) Judge Mathias noted that PACER is well-integrated but arguably outdated; and that Indiana's annual case-filing volume is several times higher than the federal system. Still, the General Assembly's support for a unified statewide system should eventually make similar integration available in Indiana.

2. *Indiana E-File*

Donna Edgar demonstrated the e-filing information page at <http://www.in.gov/judiciary/4267.htm>. The page links to several supported e-filing systems (DoxPop, GreenFiling, and State-operated efile.INCourts.gov), and the Indiana Prosecuting Attorneys Council's system is also certified but not linked. The INCourts system is free (except initial filings) and is seeing increasing use, including the Marion County Public Defender and some probation departments. In Hamilton County, e-filing has been available for a year, and both attorneys and pro-se litigants use the system.

INCourts users must register for an account, to authenticate their filings and track usage. The system reads Odyssey CMS data, and will read CSI and Quest data when those systems are certified for e-filing in April or May. The system also prompts users for the correct confidentiality code and to file Notice of Exclusion. It provides e-mail proof of filing and of acceptance by the Clerk. Appellate briefs become available online when "accepted."

IV. Legal Considerations

Chief Justice Rush noted the significance of Indiana Administrative Rule 9 confidentiality considerations as the Task Force considers wider remote accessibility of court documents.

A. *Administrative Rule 9 – Lilia Judson*

Lilia Judson provided a high-level, non-legalistic overview of Rule 9. E-filing reflects the same concepts as the Rule's "green sheet" provisions, but uses document headers to let Clerks see easily what is excluded from public access. Inadvertent failure to mark information as confidential is not a waiver, but courts cannot control what happens before the correction is made; and the Rule has procedures to make information public that was improperly filed as confidential. Bulk and compiled records have commercial value, and courts have discretion to release (and charge for) data if a request serves the public interest.

B. *Impact of New Legislation – Mary DePrez*

Mary DePrez discussed SEA 357, implementing a registry of convicted child abusers with minimal fiscal impact because trial courts now use electronic Abstracts of Judgment in all felony cases. A public portal to Abstracts of Judgment could be implemented readily. (A hand-out also addressed HEA 1157 and SEA 216.)

V. Discussion

A. *Posting appellate motions and other pleadings*

The Chief Justice opened with discussion about posting *all* appellate motions. The Task Force noted the volume of such motions far exceeds the volume of briefs now posted; they are rarely filed on green paper but some include confidential information; and many are of limited interest. Professor Schumm suggested that Notices of Additional Authority, Stays Pending Appeal, and Motions for Remand are often noteworthy and rarely include confidential information.

The Chief Justice moved to post motions under the same restrictions as briefs. The motion was seconded. Extensive discussion focused mainly on (1) the extent to which confidential (or otherwise sensitive) material was likely to appear in such motions and (2) the extent to which the e-filing system should prompt the filer to acknowledge that the filing would be publicly available. The Task Force reached consensus that appellate motions should be posted under the same criteria as briefs within 60 days; and that the e-filing system should notify all appellate filers that the document will be available publicly.

The Chief Justice called the question of whether to move forward with posting motions under the above terms; and the motion carried by unanimous voice vote.

B. *Posting trial court orders and judgments*

With insufficient time to consider posting trial-level motions and judgments, the Chief Justice tabled the question for the May 6 meeting. But the Task Force preliminarily discussed that (1) trial-court records pose the additional challenge that counties are not yet on a unified system, (2) trial pleadings more often include information that should be confidential, and (3) public availability of pre-trial investigatory subpoenas and warrants may be detrimental to both an accused's privacy and officer safety. The Chief Justice observed that requiring user-account registration would provide some security by keeping a record of who is viewing the records—but that the Task Force's discussion should start from a presumption of public accessibility.

Finally, Judge Willis noted that the requiring duplicate paper copies of trial-court RJOs is anachronistic in the age of electronic records and may warrant Task Force consideration.

VI. Next Meeting Dates: The remaining Task Force meetings will be May 6, June 3, July 29, and potentially September 2, all from 12:00 to 2:00.

VII. Adjournment. The Task Force adjourned at 1:55 p.m.

Respectfully submitted,

Jason Bennett
Supervisor of Supreme Court Services

Advisory Task Force on Remote Access to and Privacy of Electronic Court Records

<http://www.in.gov/judiciary/admin/3389.htm>

Indiana Government Center South, Conference Room C

402 West Washington Street

Indianapolis, IN

May 6, 2016

12:00 – 2:00 PM

AGENDA

Attendance: *Chair:* Hon. Loretta H. Rush. *Members:* Melissa Avery, Christa Coffey, Kenneth J. Falk, Christine Hayes Hickey, Lilia G. Judson, Jon Laramore, David N. Powell, Prof. Joel Schumm, Gary D. Secrest, Debra Walker, Hon. Mary G. Willis. *Designee:* Ann Sutton (for Larry Landis). *Ex Officio:* Hon. Steven H. David, Hon. Paul D. Mathias. *Staff:* Jason W. Bennett, Justin P. Forkner. *Absent:* Prof. Fred H. Cate, Stephen Key, Larry A. Landis, Hon. Peggy Lohorn, Kelly McBride, Rep. Sharon Negele, Rep. David Ober.

I. Welcome

The meeting began at 12:11 p.m. The Chief Justice gave brief opening remarks concerning Hamilton County's upcoming transition to e-filing and the Indiana Supreme Court's first paperless conference. Justin Forkner gave a brief introduction as the new staff support for the Task Force. Approval of the April 8 minutes was later moved, seconded, and approved by consent.

II. Progress Reports and Demonstrations

A. Posting of Appellate Motions

Greg Pachmayr provided an update. Appellate motions – when filed by an attorney and in a non-confidential matter – are ready for online posting pending approval by the Task Force.

B. Search Function by Event Type

Greg Pachmayr presented a handout displaying the search function for appellate cases and the ability to conduct advanced searches on specific courts, case types, parties, attorneys, date ranges, and events. The feature is live, but the ability for a user to open a posted motion is not live at this time.

The Chief Justice asked about the need for the system to display a notice, alerting filers that the motion to be filed would be accessible to the public. The Task Force discussed where the notice should appear and the language used in the notice; the members agreed that the notice should be a statement and not require an affirmative 'click' from the filer to acknowledge it. The Chief Justice asked Mary DePrez and

Greg Pachmayr to present an example of that procedure at the June 3 meeting, and an MOU or letter to the e-filing provider requesting the change.

The Task Force also discussed whether a filer who selected a filing as confidential and later realized it was not could go into the system and change the designation. The system does not have that capacity. The Task Force also discussed the potential for attorneys to collude and agree to designate matters as confidential in order to keep the public from viewing the filings. Judge Mathias said this was already a concern with paper filings, and was an ethical issue for the attorneys.

III. Issues for Discussion and Recommendation

A. *Posting trial court orders and judgments from Odyssey trial courts*

1. *Should all non-confidential case types be included, with the exception of protection order cases – Divorce (DR); Reciprocal Support (RS); Juvenile Paternity (JP)?*

The Task Force discussed whether judgments should be treated separately from other orders or findings, because of the personal nature of the findings and conclusions that might be in those documents – especially in domestic and family law matters. The Task Force also discussed similar concerns with respect to certain criminal pre-charge and pre-conviction orders regarding suspects, victims, and investigations, including motions to suppress.

Jeff Wiese stated that some states do not provide any public access at all until a criminal case reaches the conviction stage. The Chief Justice asked for research on state practices on this matter, and for recommended best practices for the June 3 meeting. Judge Mathias suggested the Task Force members reach out to their peers on categories of particular filing types to discuss as a group.

2. *What do judges need to know/do differently?*

Judge Willis discussed her view on how to analyze whether matters should be posted online or not, and she distinguished between people who would be willing to be seen searching in person and those who would not; i.e., those who would have a legitimate business purpose in reviewing filings versus those who are simply being nosy and can now do so anonymously online. She suggested that judges may need to consider posting separate orders for public access, whereas more delicate findings and conclusions might be in an order that is publicly available at the courthouse but not online.

3. *What do practitioners need to know/do differently?*

Christine Hickey noted that many of Judge Willis's concerns parallel practitioner concerns, and highlighted the need to educate members of the Bar. The Chief Justice asked the best way to do so, and the Task Force discussed utilizing the State and local Bar associations as the primary access point. Judge

Mathias asked if the Supreme Court should provide an email to every attorney about online access and practices. The Chief Justice said that the Supreme Court had the capability to do so, but tried not to do so frequently – Kathryn Dolan said that the open rate on such emails was roughly forty percent in the first twenty-four hours.

Melissa Avery expressed concern about limiting online access to case files as an access to justice issue because online access allows parties to pull materials from the internet as opposed to taking time off work to travel to the courthouse. Chief Justice Rush said that a party (or attorney of record) should always be able to access their cases. Judge Mathias noted that this was a topic of discussion for the June 3 meeting.

The Task Force continued its discussion on particular case types that should or should not be posted online, or posted online only in a limited fashion. Justice David suggested that State Court Administration create a matrix of case types, including specific filings in particular case types identified by the Task Force, and provide that matrix to the Task Force members to review so it could approach them sequentially. The Chief Justice asked for that matrix to be provided to the Task Force members electronically before the June 3 meeting. Ruth Reichard agreed to put the matrix together.

Lilia Judson asked if there was a way to electronically screen filings for accuracy as to whether they are confidential or not. Judge Mathias said there was not; the system relies on users to properly identify the type of filing. The Task Force discussed the potential error rate in this process, given the multitude of filing type options available in the system.

Mary DePrez noted that by statute, warrants are public unless a prosecutor files a motion to make it confidential and a hearing is held. Justice David said that not posting them online does not mean they are not “public.” Dave Powell stated that there is confusion amongst the prosecutors on this process, but the onus is definitely on them to file the motion for confidentiality.

B. Protective Order Cases – Federal Law and Protective Order Registry

Ruth Reichard presented a report and presentation on protective order requirements under Federal and State law, and what is permitted or required to be online on the Protective Order Registry and what may not be posted. She noted that the Registry is uniform across counties because it is a state-wide program, but that county policies on accessibility might vary in gray areas. Judge Willis said those gray areas concern judges with respect to the scope and availability of information.

C. *Appellate Motions Revisited*

Professor Schumm listed examples of personal matters in appellate motions, specifically in motions to continue, that attorneys might not want posted online: use of home addresses combined with stating that the attorney would be on vacation, and private details on medical issues. He said that lawyers include that level of detail because it is expected by the courts. The Chief Justice emphasized the need to train judges and lawyers on the changing nature of public information, and the need to trust each other without requiring excessive personal detail in writing. Professor Schumm noted that the Supreme Court does not permit these types of filings anyway.

IV. Issues for Discussion and Recommendation at June 3, 2016 Meeting

The Chief Justice noted the matters listed below would be discussed at the June 3 meeting and reiterated the request that Task Force members consider each case type its particular functions, and whether those case types and functions should be available online to the public, not online at all, or online in a limited fashion.

- A. *Case financial records information*
- B. *What case financial information is available in Odyssey courts – Report by Clerk Debbie Walker*
- C. *Making case file documents available to e-filing parties and lawyers*

V. Next Meeting Dates: *June 3, July 29, September 2*

VI. Adjournment: The meeting adjourned at 1:57 p.m.

Respectfully Submitted,

Justin P. Forkner
Deputy Director
Indiana Judicial Center / State Court Administration

Advisory Task Force on Remote Access to and Privacy of Electronic Court Records

<http://www.in.gov/judiciary/admin/3389.htm>

Indiana Government Center South, Conference Room A

402 West Washington Street

Indianapolis, IN

June 3, 2016

12:00 – 2:00 PM

MINUTES

ATTENDANCE: *Chair:* Hon. Loretta H. Rush. *Members:* Melissa Avery, Prof. Fred H. Cate, Kenneth J. Falk, Christine Hayes Hickey, Lilia G. Judson, Stephen Key, Jon Laramore, Hon. Peggy Lohorn, Kelly McBride, Rep. David Ober, David N. Powell, Prof. Joel Schumm, Debra Walker, Hon. Mary G. Willis. *Staff:* Justin P. Forkner. *Absent:* Larry A. Landis, Rep. Sharon Negele.

MEETING SUMMARY: The Task Force received a demonstration on prospective ‘notices of public accessibility’ for e-filers, and a survey of state practices regarding public online access to court records. The Task Force reviewed the results of the online survey submitted to the Task Force members after the May 3, 2016, meeting, and discussed whether public online access to pleadings and orders should be made available for non-confidential case types. The Task Force also discussed whether public online access should be provided with respect to financial information such as fees, costs, and judgments.

The following votes and/or action items were taken:

- the Task Force voted to recommend allowing online access to attorneys/parties to all orders and filings in all case types – both confidential and non-confidential – except access to a party other than the State in a criminal matter would occur only after charges are filed;
- the Task Force voted to recommend allowing online public access to orders in the Infraction (IF), Ordinance Violation (OV), Small Claims (SC), Civil Collection (CC), Civil Tort (CT), Civil Plenary (PL), and Mortgage Foreclosure (MF) case types;
- the Chief Justice asked all Task Force members to take the survey results back to their constituent groups and be prepared to discuss the remaining case types at the next meeting; and
- the Chief Justice asked for a discussion at the next meeting as to what financial information the county clerks would prefer to see, or not see, available to the public online, based on feedback given at the clerks’ annual meeting.

I. Welcome

The meeting began at 12:06 p.m. The Chief Justice noted that there were two meetings remaining and that she might not be able to make the July 29 meeting but Justice David would be able to chair it. A motion was requested to approve the minutes from the May 3, 2016, meeting. Such a motion was made, seconded, and approved.

II. Progress Reports and Demonstrations

The Chief Justice discussed messaging efforts to attorneys and judges regarding e-filing and Court technology endeavors, and asked for Task Force members to submit ideas to Kathryn Dolan and the Court on further messaging needs.

A. *Notice statement to e-filing attorneys about public accessibility: Report by Mary DePrez and Greg Pachmayr*

Mary DePrez presented options for providing notice to e-filers that filed documents could be made available to the public online. She presented screenshots from the landing page of the State's free e-filing system with proposed language, an information pop-up bubble that filers can check to assess the type of document being filed with additional language, and a final e-filing page where the filer must affirmatively acknowledge certain Court concerns; an additional box had been added to provide notice of public availability of e-filed documents.

The Task Force discussed the proposed language, including the use of the word(s) "posted/posting" when the Court is not "posting" documents – the documents are simply being made accessible. Proposed alternatives included that the documents "might be made available by any means approved by the Indiana Supreme Court," "made accessible to the public," "available electronically," or "will be publicly available." The final language proposal was "may be made publicly available online."

Bob Rath presented the Federal notice language from PACER. It was an excessively long notice paragraph.

B. *Other State practices on public access to criminal filings: Report by Jeff Wiese*

Jeff Wiese provided an update to the survey presented at the Task Force's April 8 meeting on information posted by additional jurisdictions and the federal system. The update was to specifically address criminal records. He noted that only Florida treated criminal cases differently, in that individuals could only access pre-conviction criminal proceedings if the individual knew the case number. Many of the other states, though, controlled access based on user type – online users must subscribe and access is provided differently for the public, attorneys generally, attorneys of record, and parties – and charged

fees to prevent the “nosy neighbor” from accessing records online. He provided a chart identifying these distinctions by jurisdiction.

He also noted that several states are re-evaluating their current practices based on changes in technology and lessons learned as access is provided or limited. The Chief Justice pointed out that despite the activities of the National Center for State Courts, there is no “best practice” identified or even a good accounting of state practices.

III. Issues for Discussion and Recommendation

A. Review questions and responses from survey: Report by Justin Forkner

Justin Forkner presented the results of the Online Access Survey submitted to the Task Force members after the May meeting. With respect to the survey results, he noted that seventeen members of the Task Force provided responses but for a variety of reasons they did not vote on each of the forty-two case/document types. The numbers in the results therefore reflect the raw vote totals on each decision point and not a percentage of the total Task Force members or percentage of survey respondents.

The results of the survey showed that there was a general consensus (roughly 65% agreement) in favor of allowing online public access to orders in thirty-one of the case/document types, general consensus in prohibiting online public access to orders in eight of the case/document types, and no consensus as to three of the case/document types. There was also general consensus in favor of allowing online public access to pleadings in eleven of the case/document types, general consensus in prohibiting online public access to pleadings in fourteen of the case/document types, and no consensus as to seventeen of the case/document types. There was also general support for restricting online access to parties and attorneys in twenty-one of the case/document types.

Justin Forkner pointed out some challenges in interpreting the survey responses. First, with respect to orders, some of the case/document types do not result in an “order” at all – and it was not otherwise clear whether that term would refer only to final orders, to include judgments of conviction, or would also encompass orders on intermediate matters. With respect to pleadings, under the trial rules that specific term incorporates only five types of documents but the survey was intended to be broader and encompass all non-order/judgment filings, and also the survey did not distinguish between whether access would be granted as the pleadings were filed or if it was intended to provide access only once a final order/judgment is entered. He also noted that where the respondents showed consensus on prohibiting online public access – or were split on the matter – those results correlated to a higher number of votes in favor of allowing restricted access to parties and attorneys.

The Task Force discussed the particular challenges of ex parte matters and Miscellaneous Criminal (MC) cases. The Chief Justice pointed out that the purpose of ex parte was because there was insufficient time to provide notice to the other party; online access might actually ameliorate that lack of notice issue. Lilia Judson noted that an ex parte proceeding is not, in and of itself, confidential, so an ex parte filing should not automatically be kept from online access. David Powell said that in practice ex parte proceedings still occur even when notice is not an issue – particularly in the criminal arena with things like psychiatric evaluations of defendants anticipating an insanity defense. Melissa Avery also mentioned that in civil matters, there is sometimes concern that an ex parte motion is filed in order to prevent a harm from occurring and a party might commit those harms once it sees the motion is filed. The Chief Justice said that the perception the Task Force should be striving to reach is one of online access promoting transparency and openness, not the other way around, and the general rule should be that for parties and attorneys everything is accessible.

The Task Force voted and agreed to recommend that attorneys and parties should always have full access to all pleadings and filings – but in the criminal arena, access to a party other than the State would be allowed only once charges are filed (i.e., Miscellaneous Criminal (MC) cases would not be available pre-charge). This was later clarified to include both confidential and non-confidential cases.

An issue is providing the technological capability to distinguish between categories of users online; Mary DePrez said the capability has not yet been developed and doing so would be a substantial project once Court Technology gets that direction from the Court – it might take more than a year to complete. She stated that Tyler Technology was piloting a portal that would permit user registration and create that sort of distinction between users. She also said that it was possible, on Odyssey, to simply turn off the CCS for MC cases from going straight online and that might alleviate prosecutor concerns from that information becoming publicly accessible pre-charge.

The Task Force then discussed whether to recommend, in criminal cases, that the switch be turned off completely for search warrants and pre-charging information. The members discussed the potential consequences of those items being public – to the citizen who might need to know that his neighbor is suspected of a crime; the lawyer who might be able to advise a client to turn himself or herself in; the defendants who might dump contraband, eliminate a potential law enforcement source, flee, or obtain weapons; the officer then sent to execute the warrant.

Judge Willis discussed that the requirement was for a prosecutor to file a motion to seal the warrant information, but that in smaller counties this could

have the opposite effect because nothing created more attention than holding a hearing on a motion to seal a warrant. She also said that savvy defendants do, in fact, track their names on MyCase. She noted that several practical work-arounds currently exist to keep these documents practically obscure, including by filing late in the day on a Friday and executing the warrant over the weekend knowing that the warrant wouldn't actually be entered until Monday morning. Dave Powell also talked about the challenges of larger counties, where such motions to seal are impossible because the case-load is too great and the operation of the prosecutor offices is too layered.

Steve Key asked why this motion couldn't be a form, just like the warrants are forms. Dave Powell said the motion to seal created an entire proceeding separate from the warrant; it wasn't something that could just be filed and granted with a form.

Mary DePrez mentioned that prosecutors have complained about this information being posted already, particularly from Floyd County, where media would track these filings and sometimes be present when the officers arrived to execute the warrants. In Marion County, she said, the prosecutors were concerned that the defendants were fleeing ahead of the warrants because they had identified it as being posted. She also said that Odyssey can label the target of the warrant as either a "participant" or a "party" – if a participant, no information identifying the individual would be posted (just the MC case identifier), but different counties do things different.

Professor Cate suggested that the issue might be the need to presumptively seal all search warrants, and the primary privacy concern is for people who are subject to search warrants and are never eventually charged. He posited that this was a stronger approach than trying to identify work-arounds or limits on online access vs. practical obscurity. Ken Falk said this might need to be a legislative fix, or a rule fix, rather than the Task Force trying to create artificial barriers to access to ameliorate concerns. Dave Powell believed that Administrative Rule 5 and Administrative Rule 9 are not necessarily congruent; the Records Management Committee or Rules Committee was taking up this question at its next meeting – this and the question of what is a case, and what isn't a case, needed to be addressed. Steve Key mentioned the press issue isn't normally driven by tips from reading online CCS entries that are automatically posted – normally it's when a neighbor contacts the press to ask what's going on when the police arrive – so perhaps instead the online posting could be time-delayed. Mary DePrez wasn't sure if that was possible by case type, but could find out for the next meeting.

The Chief Justice said if the Rules Committee was examining the broader question, then she would prefer to let them do that first and focus the Task Force on any particular outlier issues. She asked for a report on the outcome

of that body and/or the Records Management Committee at the next Task Force.

The Task Force then discussed how protective orders would be addressed with access for attorneys and parties. Mary DePrez said that right now, protective orders are not on MyCase or in the e-filing system because of federal requirements; they are only in the Protective Order Registry and how that system meshes with e-filing has not been resolved.

The Task Force then reviewed the presentation again. Professor Schumm spoke about the value – him seeing none – in providing public online access to any pre-conviction criminal pleadings, filings, or orders. There was, he believed, too much of a threat to the sanctity of the criminal justice process and the presumption of innocence, the fairness of the trial, and the integrity of the jury.

Steve Key questioned whether limiting online access would really fix any of those issues if the documents were still publicly accessible in the courthouse – and how many people exactly would be online trolling for pre-conviction criminal documents. Professor Cate agreed, believing it counter-intuitive to provide transparency through online access only after “justice was done.”

Dave Powell brought up the challenges of, for example, motions to suppress where evidence is excluded and how jurors could then go online and see that evidence being suppressed; they then could see inadmissible evidence and base conviction questions on that. Professor Cate said the U.S. Supreme Court has shot down that argument before with respect to the publication of criminal matters, and this was a great chance for Indiana to be open.

Kelly McBride asked how much victim information is available in these documents if they were posted online, and how victims might get access if the party is the State. The concern was that information being made inadvertently public even though identifying information might be redacted.

The Chief Justice said that she didn’t want to go forward too fast, then later have to draw back; her preference would be to move deliberately and build on that. She also mentioned that funding would be an issue for future years in that it isn’t set, and proceeding too fast and causing problems might impact that future funding. She asked the Task Force members to take the survey results back to their constituents and get additional feedback for making decisions at the next meeting.

The Chief Justice suggested that all orders in Infraction (IF), Local Ordinance Violation (OV), Small Claims (SC), Civil Collection (CC), Civil Tort (CT), Civil Plenary (PL), and Mortgage Foreclosure (MF) cases could be made fully accessible now, based on unanimous approval in the survey. This would allow a pilot of the process, and might help identify problems or issues that arise

from allowing access. A motion was made to do this, seconded, and voted upon. It carried unanimously. The remainder of the matters would be addressed at the July meeting.

Kathryn Dolan then discussed the messaging of e-filing and the email that went out to all attorneys. Roughly six or seven thousand attorneys and judges had opened the email. An additional message would go out soon regarding the posting of appellate motions effective July 1. The Chief Justice asked that if anyone had additional suggestions for messaging, that Task Force members please reach out to Kathryn. Steve Key said that the media members had similar all-contact lists if Kathryn wanted to utilize them.

B. Case financial records information

1. What case financial information is available in Odyssey courts: Report by Clerk Debbie Walker

Clerk Walker said that Odyssey does not post financial information—judgments, fees, court costs, etc.—but CSI counties on DoxPop and Court View do. Clerks vary on their actual practices, though.

2. Discussion: What case financial information should be available

The Task Force discussed the value in posting such information online, and the actual information posted was very broad a non-specific; e.g., it would not usually show the interest or the current total amounts. Mary DePrez talked about how Monroe County ran into issues when it went live with Odyssey, and it got sued because its financial data was not accurate. The financials were then immediately taken offline. There is currently about a fifty-fifty split on counties; some clerks want financial information posted online, because parties could find out, for example, how much they owed on a parking ticket. Others did not because, like in Monroe County, it might cause issues. The Chief Justice asked if that information could only be shown to attorneys and parties. Mary DePrez said it could be, as they built that distinct user capability.

Dave Powell said that if the issue was accuracy, then financial information should not be posted until the underlying data is correct. Clerk Walker said that if the data were posted, it would need a disclaimer telling viewers not to rely on the posted data because it will almost never be current and therefore never accurate. The Chief Justice asked Clerk Walker to ask her fellow clerks about how they would like to proceed as far as detail and distinction on types and amounts of financial data that would be posted.

IV. Issues for Discussion and Recommendation at July 29, 2016, meeting

The Chief Justice said that Justice David would lead the meeting on the July 29, and that there definitely would be a meeting on September 2. She asked that everyone come prepared – with input from their constituent organizations/individuals – to discuss the remaining case/document types.

V. Next Meeting Dates: *July 29, September 2*

VI. Adjournment: The meeting adjourned at 2:01 p.m.

Respectfully Submitted,

Justin P. Forkner
Deputy Director
Indiana Judicial Center / State Court Administration

Advisory Task Force on Remote Access to and Privacy of Electronic Court Records

<http://www.in.gov/judiciary/admin/3389.htm>

Indiana Government Center South, Conference Room A

402 West Washington Street

Indianapolis, Indiana

July 29, 2016

12:00 – 2:00 P.M.

MINUTES

ATTENDANCE: *Chair (designee):* Hon. Steven H. David. *Members:* Joel Schumm, Stephen Key, Gary Secrest, Kenneth Falk, Christine Hayes Hickey, Clerk Debra Walker, Clerk Christa Coffey, Mary Willis, Jon Laramore. *Staff:* Justin Forkner. *Absent:* Hon. Loretta H. Rush, Melissa Avery, Prof. Fred Cate, Lilia Judson, Larry Landis, Hon. Peggy Lohorn, Kelly McBride, Rep. Sharon Negele, Rep. David Ober, David Powell.

MEETING SUMMARY: The Task Force received demonstrations of the online access functionality for the pilot Commercial Courts programs, the appellate filing system, and an update on statewide e-filing progress. The Task Force then discussed whether public online access to orders and/or filings should be made available for non-confidential case types, whether public online access should be provided to financial information in cases, and what the next steps for the Task Force would likely be.

The following votes and/or action items were taken:

- the Task Force voted to recommend allowing online public access to “final orders/judgments” (i.e., orders/judgments disposing of the case such as judgments of conviction, sentencing orders, dismissal orders, etc.) in Criminal Misdemeanor (CM), Class A Felony (FA), Class B Felony (FB), Class C Felony (FC), Class D Felony (FD), Level 1 Felony (F1), Level 2 Felony (F2), Level 3 Felony (F3), Level 4 Felony (F4), Level 5 Felony (F5), Level 6 Felony (F6), Murder (MR), and Post-Conviction Relief (PC) case types;
- the Task Force voted to recommend allowing online public access to pleadings, filings, and orders denying expungement petitions in XP cases;
- the Task Force voted, with one dissent, to recommend not allowing online public access to “final orders/judgments” in Juvenile Delinquency (JD) cases;
- the Task Force voted to recommend posting certain financial information – payments made in cases – online, subject to a disclaimer statement;
- the Task Force deferred until at least September the question of allowing public online access to final orders/judgments and pleadings/filings in Miscellaneous Criminal (MC) cases, as well as the remaining Civil, Civil Violation, Juvenile, and Other case types.

I. Welcome

The meeting began at 12:01 p.m., with Justice David as chair. Justice David welcomed the Task Force members and a motion to approve the minutes from the June 3 meeting was made, seconded, and approved. Justice David then reviewed the past actions of the Task Force and votes made with respect to particular case types.

II. Progress Reports and Demonstrations

A. Commercial Court online functionality demonstration – Mary DePrez

Mary DePrez gave a demonstration of the online functionality for the pilot Commercial Court docket. Five of the six pilot programs are on Odyssey, and Trial Court Technology has been developing Odyssey events to flag cases as belonging on the Commercial Court dockets. MyCase is also being modified to allow searches specific to those flags. Stephen Key asked about which case types or matters would fall under those Odyssey flags, and Justice David gave a brief explanation of the nature of the Commercial Court project and cases.

B. Appellate Motions online functionality demonstration – Mary DePrez/Bob Rath/Greg Pachmayer

Bob Rath and Greg Pachmayer presented examples of motions posted online in appellate cases. Stephen Key asked if the PDF documents are word-searchable. Bob Rath said the system OCRs the documents when they are uploaded.

C. E-Filing update – Mary DePrez

Mary DePrez presented on the status of e-filing and demonstrated the e-file website. Currently eleven counties are live with e-filing, and letters went out to Odyssey courts showing the 2017 go-live schedule. All prosecutors can also file through a free service provided by the Indiana Prosecuting Attorney's Council. Christine Hayes Hickey complimented the notices being sent out to attorneys concerning e-filing, and asked who should receive any questions or comments about e-filing or the notices. Mary DePrez said that she or Bob Rath would be appropriate contacts. Kathryn Dolan also noted that the Supreme Court's Office of Communication, Education, and Outreach is making posts for court clerks to hang with information on e-filing and go-live dates.

III. Issues for Discussion and Recommendation

A. Online access by case type – Justin Forkner

The Task Force began by discussing final orders/judgments in criminal cases. Stephen Key asked that the members start with the presumption that things should be open, and argue against that presumption. The Task Force discussed the nature of expungement cases. Kenneth Falk noted that on the online access

survey, the majority of members voted in favor of providing online access to those case types. Joel Schumm expressed concern that if a criminal conviction is posted online and then expunged, the underlying case might still be available online and Administrative Rule 9 does not provide that the online information should be confidential. Mary DePrez said that by statute, once a conviction is expunged then everything is taken offline entirely.

Justice David asked the Task Force to take the XP and MC case types out of consideration for the moment, and focus on the remaining criminal case types; also that “final orders/judgments” in those case types to mean a judgment of conviction, sentencing order, dismissal, or other order that disposes of the case. Mary DePrez said that currently, the system does not distinguish between types of orders – only between orders and filings – and that capability would need to be built. The Task Force then voted, 9-0, to recommend allowing online public access to “final orders/judgments” in Criminal Misdemeanor (CM), Class A Felony (FA), Class B Felony (FB), Class C Felony (FC), Class D Felony (FD), Level 1 Felony (F1), Level 2 Felony (F2), Level 3 Felony (F3), Level 4 Felony (F4), Level 5 Felony (F5), Level 6 Felony (F6), Murder (MR), and Post-Conviction Relief (PC) case types.

Stephen Key then recommended to defer discussion of the MC case type because the Supreme Court’s Records Management Committee was looking at whether online access should be provided in those cases as a policy question. Justice David agreed that this case type would be deferred until at least the September 2 meeting.

Justice David then asked for the Task Force to discuss XP cases; though revisiting Administrative Rule 9 might be a good idea, it was worth it for the Task Force to explore the case type. Jon Laramore was satisfied with the process for removing expungement matters as previously described by Mary DePrez. Joel Schumm’s only concern was that not everything might be caught in the expungement, but Stephen Key said that there was never a guarantee to catch everything. Justice David asked if the discussion was the same for pleading/filings in XP cases, and Judge Willis stated that she believed there was still great public value in posting petitions, while in-process, and orders denying petitions.

Jon Laramore moved to recommend providing public online access to orders denying petitions for expungement in XP cases. The Task Force voted, 9-0, in favor of that recommendation. Stephen Key made a similar motion with respect to pleadings and filings in XP cases (up until the point of an expungement being granted). The Task Force voted, 9-0, in favor of that recommendation.

The Task Force then discussed juvenile case types. Mary DePrez noted that juvenile delinquency (JD) cases are not online in MyCase at all, but juvenile paternity (JP) cases are. Joel Schumm pointed out that appellate records make all JD cases confidential at the appellate level – online or otherwise – and suggested the same approach for trial records here. Stephen Key pointed out that a statutory provision provides tiered public access to JD cases, depending on the number and

level of felonies alleged, and believed there was no reason to treat online differently than that paper structure. Judge Willis said the challenge presented by that approach was a burden imposed on courts and clerks, and would like to see the electronic system programmed to track the statute automatically. Justice David said the recommendation could be to pursue that system down the road.

Ken Falk recommended providing no online access at all in JD cases; Stephen Key suggested only final orders for felony JD cases, but Judge Willis noted that “all felonies” was a very broad category. Joel Schumm seconded Ken Falk’s suggestion.

Justice David asked for a vote on Ken Falk’s position. The Task Force voted, 8-1, to not provide public online access to final orders/judgments in JD cases. Stephen Key cast the dissenting vote, preferring to provide online access in a tiered manner (e.g., possibly only to MR and Levels 1 to 4, or 3, felonies).

Judge Willis made an initial recommendation to provide public online access to JP cases, in a manner similar to domestic relations (DR) cases that involve children. The Task Force did not reach this discussion.

B. Financial data to post – Clerk Debra Walker/Clerk Christa Coffey

Clerk Coffey discussed the posting of financial information online and said there was support for re-posting financial information. Mary DePrez and Bob Rath demonstrated what was presented by Tyler Technologies and on MyCase, and said that Odyssey has the capability to provide secure access for financial information. Christine Hayes Hickey said information related to payments made and balances, if accurate, would be very helpful – and that payments made should be easy to post accurately. Mary DePrez reiterated the difficulties Monroe County experienced when it posted financial information in Odyssey, and showed how Tyler Technology’s older system showed payments made, but the new version of MyCase has no financial information – but that they could start looking at adding that and turning on the old system immediately.

Ken Falk asked if a disclaimer could be added as to accuracy of information, but saw no reason not to post what currently exists. Stephen Key agreed. Clerk Walker asked if the specific payor information could be removed; it adds confusion and isn’t really necessary.

The Task Force voted, 9-0, to recommend posting payments made, with an appropriate disclaimer.

C. “Next steps” for the Task Force

Justice David discussed the next steps for the Task Force. At the September 2 meeting, the Task Force should be prepared to discuss final orders/judgments in remaining civil cases, then move on to pleadings/filings in civil cases before addressing pleadings/filings in criminal case types. He also noted that September 2 is the last meeting in the Task Force’s initial order, but that the recommendations it makes may be long-term projects requiring eventual reports back to the Task Force. He said that what may be necessary is to reconvene the Task Force in 2017 along the same time schedule in order to assess the success or issues with the implementation of the recommendations.

Justice David asked the Task Force members to think about the value of the Task Force, their interest in continuing to participate, and any others that might be worth bringing to the table.

Stephen Key asked if implementation would be easier if the Task Force worked through the final orders/judgments first, before implementing pleadings/filings. Mary DePrez said it likely would not necessarily matter, but the challenge she and Bob were working through was making sure trial court judges understood that orders might be going online. Stephen Key said starting with the final orders/judgments this year would be a good sort of pilot/test batch before digging into the pleadings/filings next year; and that might inform the Task Force membership next year.

IV. Issues for Discussion and Recommendation at September 2, 2016, meeting

V. Adjournment

The Task Force adjourned at 2:02 p.m.

Advisory Task Force on Remote Access to and Privacy of Electronic Court Records

<http://www.in.gov/judiciary/admin/3389.htm>

Indiana State Library, History Reference Room

315 W. Ohio Street

Indianapolis, Indiana

September 2, 2016

12:00 – 2:00 P.M.

MINUTES

Attendance: *Chair:* Hon. Loretta H. Rush. *Members:* Clerk Debra Walker, Clerk Christa Coffey, Jon Laramore, Melissa Avery, Rep. David Ober, Hon. Peggy Lohorn, Prof. Fred Cate, Mary Willis, Christine Hayes Hickey, David Powell, Lilia Judson. *Designee:* Ann Sutton (for Larry Landis). *Ex Officio:* Hon. Steven H. David, Hon. Paul Mathias. *Staff:* Justin Forkner. *Absent:* Kenneth Falk, Stephen Key, Larry Landis, Kelly McBride, Rep. Sharon Negele, Prof. Joel Schumm, Gary Secrest.

Meeting Summary: The Task Force received an update on statewide e-filing efforts and a demonstration of online e-filing user and training guides. The Task Force then discussed whether public online access to orders and/or filings should be made available for non-confidential case types, and future steps for the Task Force.

The following votes and/or action items were taken:

- the Task Force voted to recommend allowing online public access to orders/judgments in the Estate Miscellaneous (EM), Estate Unsupervised (EU), Miscellaneous (MI), Reciprocal Support (RS), and Court Business Record (CB) case types;
- the Task Force voted to defer consideration of allowing online public access to orders/judgments in the Juvenile Paternity (JP), Domestic Relation (DR), Estate Supervised (ES), Trust (TR), and Miscellaneous Criminal (MC) case types until subsequent Task Force meetings, after online public access to other case types has been implemented and assessed; and
- the Task Force voted to recommend denying public online access in the Guardianship (GU) case type.

I. Welcome

The meeting began at 12:04 p.m. Chief Justice Rush thanked the members for attending and for all their hard work through the course of the Task Force's existence. A motion to approve the minutes from the July 29 meeting was made, seconded, and approved.

II. Progress Reports and Demonstrations

A. *E-Filing update – Mary DePrez and Bob Rath*

Mary DePrez provided an update of e-filing statistics across Indiana. As of August 31, there were 6,800 e-filing users, 2,675 e-filing attorneys, 3,946 attorneys enrolled in e-service, and over 145,000 electronic filings. She noted a spike in e-filing statistics from July and August, likely due to appellate e-filing. Eight counties had mandatory e-filing in at least some case types, seven counties were now allowing e-filing for subsequent filings, and the Court's e-filing implementation schedule now projects counties mandating e-filing out through January of 2018.

Bob Rath then demonstrated several user and training guides available through the Court's webpage, providing instruction on critical e-filing functions such as adding attorneys to the public service list and adding service contacts.

Chief Justice Rush spoke about how ambitious the e-filing process had been, and she noted there had been no major complaints from the public, practitioners, or the bench. Christine Hayes Hickey asked if the Court could send notices when the e-filing webpage was updated; not just that the page had been updated, but identifying specifically when things were added and what was added.

III. Issues for Discussion and Recommendation

A. *Review of Task Force Recommendations for Online Access – Justin Forkner*

Justin Forkner reviewed the prior votes of the Task Force. The Chief Justice said that the Task Force would continue with voting on providing online public access to orders/judgments in the remaining case types. Lilia Judson said that orders would have to be "designated" as final somehow, in those case types where the Task Force voted only to allow access to final orders/judgments, and Mary Willis noted that in many cases judges do two final documents – an order/judgment and then a separate document with the supporting findings and conclusions. Clerk Coffey said that even with using the "final" designation in Odyssey, the system still displays them all as just "orders."

B. *Online access (cont.) –final orders/judgments in remaining case types*

The Task Force discussed Juvenile Paternity (JP) and Domestic Relations (DR) cases. Mary DePrez said that there were 15,982 JP cases filed in 2015, all of which can include a number of individual orders. The Task Force discussed the potential for unintended consequences in posting all of these orders, including significant privacy issues; even redacting the information, the individuals involved might be identifiable.

Judge Mathias said this would be an opportunity for training by the bench and bar to alleviate some of these concerns. Justice Rush suggested deferring consideration of JP and DR cases until the second phase of public online access implementation. Justice David

said that in the interim, Task Force members should consider in the next series of meetings what a public CCS/docket entry might look like in these sorts of cases.

The Task Force then voted to defer consideration of allowing online public access to orders/judgments in Juvenile Paternity (JP) and Domestic Relation (DR) case types until subsequent Task Force meetings, after online public access to other case types has been implemented and assessed. Ten members voted to defer, two voted to outright deny public online access to orders/judgments in these case types, and no-one voted to allow public online access.

The Task Force then discussed the estate case types: Estate Supervised (ES), Estate Unsupervised (EU), and Estate Miscellaneous (EM). Mary Willis explained that ES cases are those where court supervision is required for the administration of the estate. EU cases do not require court intervention, and EM cases tend to be small estates. Justice David explained that orders in all of these case types would generally include property distribution information, financial information, and can be controversial particularly in ES cases. The Task Force decided to address the case types individually.

The Task Force first voted, 12-0, to recommend allowing online public access to orders/judgments in the Estate Miscellaneous (EM) case type.

The Task Force then voted, 11-1, to recommend allowing online public access to orders/judgments in the Estate Unsupervised (EU) case type. Jon Laramore voted to deny online access.

The Task Force then voted to defer consideration of allowing online public access to orders/judgments in the Estate Supervised (ES) case type. Seven members voted to defer, five members voted to recommend allowing online public access.

The Task Force then discussed the Guardianship (GU) case type. The Chief Justice pointed out that the Guardianship Registry is already online and rolled out to over thirty counties, showing approximately 4,700 active cases—but without confidential information. It shows name, date of birth, guardian name, issue date, active status, county, and case name.

The Task Force then voted to recommend denying online public access to orders/judgments in the Guardianship (GU) case type. Eight members voted to recommend denying access and four voted to defer consideration until after implementation of the first phase of online public access.

The Task Force then discussed the Miscellaneous (MI) case type. These typically include name changes, hardship driver's licenses requests, and other smaller items. The Task Force voted, 12-0, to recommend allowing online public access to orders/judgments in the Miscellaneous (MI) case type.

The Task Force then discussed the Reciprocal Support (RS) case type. Mary Willis said that these were typically ERISA claims, but without parenting/custody issues. They were strictly related to the amount of money owed under those cases,

and uncontroversial. The Task Force voted, 12-0, to recommend allowing online public access to orders/judgments in the Reciprocal Support (RS) case type.

The Task Force next discussed the Trust (TR) case type. The Task Force noted there were many types of different trusts, and might include a lot of information about what is or is not being paid out of the corpus of the trust and can be long-term cases, including confidential information and trustee fees. Judge Mathias said the cases were similar to ES cases, on steroids. Mary DePrez said there were 455 filed in Indiana last year. The Task Force discussed whether the inclusion of financial information in a case type should be the dividing line between online public access or not, or if the line should be information that puts a person at risk.

The Task Force voted, unanimously, to defer consideration of allowing online public access to orders/judgments in the Trust (TR) case type until subsequent Task Force meetings, after online public access to other case types has been implemented and assessed.

The Task Force then considered the Miscellaneous Criminal (MC) case type. Dave Powell said that the Supreme Court's Records Management Committee was looking into a recommendation made by the Indiana Prosecuting Attorney's Council about pre-charge criminal filings and whether they should be considered confidential – a determination that would take this case type out of consideration for public online access. The Task Force voted, unanimously, to defer consideration of allowing online access to orders/judgments in the Miscellaneous Criminal (MC) case type until subsequent Task Force meetings, after online public access to other case types has been implemented and assessed or the matter has been more fully considered by the Supreme Court's Records Management Committee.

The Task Force finally discussed the Court Business Record (CB) case type. Mary Willis said these were mostly internal court operations information, like senior judge appointments, pro temp judge appointments, local rules, and general court matters. The Task Force voted, unanimously, to recommend allowing online public access to orders/judgments in the Court Business Record (CB) case type.

C. Report to Records Management Committee, Justice David, and Judge Mathias

The Chief Justice noted that the report to the Records Management Committee, Justice David, and Judge Mathias, would be drafted shortly and then submitted to the Task Force members for their review.

D. Recommendations on future meetings; interest in participating

The Chief Justice and Justice David again thanked the Task Force members for their participation. The Chief Justice said that the second phase of the Task Force would likely focus on whether to allow public online access to any or all of the pleadings in non-

confidential case types, and asked the Task Force members for additional items to be considered.

The Chief Justice also asked the Task Force members to consider additional constituencies that should be invited to attend. Jon Laramore suggested a member of the probate bar. The Chief Justice said she would be contacting the members individually by email to gauge interest in participating for another year, but asked members to continue talking to their own groups. She noted a \$3.8M shortfall in filing fees, but that the Court was seeking additional funding in the next budget cycle to fund the Task Force's recommendations along with further expansion of the integrated case management system and other INCITE applications such as the Protective Order Registry, Guardianship Registry, and E-Ticketing.

V. Adjournment

The meeting adjourned at 1:26 p.m.