



Study of State Trial Courts Use of Remote Technology

**Final Report
April 2016**

Mike L. Bridenback, Consultant



**National Association for Presiding
Judges and Court Executive Officers
300 Newport Avenue
Williamsburg, Virginia 23187-4147
tel 757.259.1841 | fax 757.259.1520**

This document was prepared under a State Justice Institute (SJI) grant to the National Association for Presiding Judges and Court Executive Officers (“NAPCO” or the “Association”). The NAPCO is a public benefit corporation chartered in California targeting the improvement of judicial and court leadership in state courts of all sizes and jurisdictions in the United States. The points of view and opinions expressed in this report are those of the author, Michael Bridenback, as an agent of NAPCO, and do not necessarily represent the official position or policies of SJI or any other organization. The NAPCO grants any state court, pursuant to any rules and regulations governing the aforementioned SJI grant, a royalty-free, non-exclusive license to produce, reproduce, publish, distribute, or otherwise use, and to authorize others to use, all or any part of this document for any governmental or public purpose.

Table of Contents

	<u>Page</u>
I. INTRODUCTION	1
II. SETTING THE STAGE	1
III. THE STATE OF THE LAW REGARDING REMOTE TECHNOLOGY USE BY COURTS	2
A. Remote Access to Electronic Records	2
B. Entering of Electronic Court Orders Remotely	3
C. Use of Video Conferencing to Conduct Court Proceedings	3
D. Use of Video Conferencing by Court Participants	7
E. Trial Preparation by Video Conferencing	8
F. Judge Access to Internet Sites to Facilitate Adjudication of Cases	8
G. Remote Execution of Search Warrants, Arrest Warrants, Service of Process	9
IV. REMOTE TECHNOLOGIES.....	9
A. Judicial Access and Use of Electronic Records	9
B. Use of Video Conferencing	12
C. Judge Access to Internet Sites to Facilitate Adjudication of Cases	19
D. Preserving the Court Record	20
E. Remote Execution of Electronic Search and Arrest Warrant	21
F. Remote Technologies Use for Administrative Purposes	22
V. SUMMARY	22

Appendices

- APPENDIX A** 2016 – Status of E-Filing by State/Territories
- APPENDIX B** Virtual Desktop Infrastructure – Advantages and Disadvantages
- APPENDIX C** Automated Case Management System Vendors
- APPENDIX D** Judicial Viewer Vendors
- APPENDIX E** Judicial Automated Workflow System (JAWS)
- APPENDIX F** 2016 Survey of Selected Courts in Florida, New Jersey and California – Use of Video Conferencing
- APPENDIX G** Self-Represented Litigant Software Vendors
- APPENDIX H** 12th Judicial Circuit (Sarasota, Florida) Administrative Order – Procedures for Electronic Search and Arrest Warrants
- APPENDIX I** 12TH Judicial Circuit E-Warrants System Concept and Workflow

I. INTRODUCTION

The National Association for Presiding Judges and Chief Executive Officers, with the assistance of the National Center for State Courts, received a grant from the State Justice Institute to conduct a study directed at assembling a compendium of remote technology used by rural and urban state courts. As a result of this study, state trial courts will have access to a reference guide to assist court leaders who are developing plans for the use or expansion of remote technologies to improve court operations.

Michael L. Bridenback, retired court administrator, 13th Judicial Circuit, Tampa, Florida, was contracted to conduct this study and prepare the compendium. Melissa Foss, Judicial Staff Attorney, 13th Judicial Circuit, Tampa, Florida, prepared the section on the state of the law regarding remote technologies use by the courts.

II. SETTING THE STAGE

State trial courts for decades now have embraced and expanded the use of a variety of technology innovations designed to improve court operations. Automated case management information systems have been implemented in rural and urban courts to enhance recordkeeping, case scheduling and management reporting. These systems have also provided more efficiency in the access of court records by users of the system. However, as Tom Clark indicated in the Future Trends in State Courts 2010 report by the National Center for State Courts, often times these systems “simply automated existing court business processes”.¹

The next generation of technologies including the use of video conferencing or use of electronic documents to enhanced judicial decision-making will be focused on, as Tom Clark suggests, “dramatically changing business processes”.² The focus of this report is to identify these developing technologies, how courts are introducing them into court processes and the benefits resulting from application of these technologies.

The first task of the study was to define what is meant by “remote technologies”. The traditional model of adjudication of cases centers around a judge physically in a courtroom with all of the parties associated with the case also being present. In this traditional model all decisions were made in the context of the courtroom. Paper was the primary media used to present the cases for adjudication by the judge. Of course, much of this model was based upon constitutional and case law.

The alternatives technological mechanisms that judges have use of to exercise their judicial authority have grown exponentially in the past decade. The scope of this review includes the following remote technologies:

- Judicial Access and Use of Electronic Records
- Use of Video Conferencing to Conduct Court Proceedings

¹ Thomas M. Clarke, Future Trends in State Courts 2010 – Technology Reengineering, National Center for State Courts.

² Ibid.

- Use of Video Conferencing by Court Participants
- Trial Preparation by Video Conferencing
- Judge Access to Internet Sites to Facilitate Adjudication of Cases
- Preserving the Court Record
- Remote Execution of Search and Arrest Warrants
- Remote Technologies for Administrative Purposes

In this report, each of these technology innovations will be explored. The report will document how courts are currently using these technologies and potential expansion of these technologies that may be implemented in the future.

III. THE STATE OF THE LAW REGARDING REMOTE TECHNOLOGY USE BY COURTS

Constitutional provisions, state and local laws, court rules and case law govern all judicial processes. It is important to examine how these existing legal requirements may impact the use of technologies that directly affect the judicial decision-making process.

A. Remote Access to Electronic Records

As e-filing and electronic processing and storage of court cases becomes more and more common, it is more important to have established guidelines and framework for access to the electronic court file by both the judiciary and court staff, and the public. For example, in Florida pursuant to Florida Supreme Court Standards for Electronic Access to the Courts, the Clerk of Court is responsible for ensuring access to the public, the judiciary, and court staff in compliance with statutes, rules, or administrative order. (2014) 3.31 & 3.3.2 available at <http://flcourts.org/core/fileparse.php/255/urlt/updated-e-access-standards-may-2014v14.pdf>.

As access to case files by the judiciary shifts to electronic case management systems and remote access, one of the most prevalent considerations is the security and efficiency of the system. See Florida Supreme Court Standards for Electronic Access to the Courts (2014) 4.0–4.1 (indicating that “[t]he integrity of and efficient delivery of information to the judiciary are primary goals” and requiring that the judiciary approve any system to be used); California Courts (2016) “Electronic Legal File” available at <http://www.courts.ca.gov/14123.htm> (discussing integrated and more efficient case management system with access to court officials and employees); The Florida Courts Technology Commission (2014) “Functional Requirements Document for Court Application Processing System” available at <http://flcourts.org/core/fileparse.php/537/urlt/capsfunctionalrequirementsv3may2014with-attachments.pdf> (providing specifications for coordination of system for access to electronic records by judges and staff).

In addition to considerations relative to the court’s access to electronic court files, the access of those records to the public is also of concern. Public access to electronic files should be made available to the same extent as traditional, paper files. See Md. R., rule 16-1008.1; Cal. R. Ct. 2.503(b)–(c) (providing for remote electronic access to records in civil cases generally and making exception to remote access for the records in some civil proceedings and criminal proceedings to be available only through electronic access at the courthouse); United States

Courts, PACER, available at www.pacer.gov (providing public access to federal court filings); *In the Matter of Bulk Distribution and Remote Access to Court Records in Electronic Form*, 954 N.E.2d 908 (Ind. 2011) (providing for access to Odyssey case records (electronic) by commercial users).

B. Entering of Electronic Court Orders Remotely

The use of electronic signatures by judges and magistrates has been approved on many types of court documents, including court orders, judgments, notices, and opinions in many jurisdictions. Typically this authority is provided by statute or court rule, subject to local implementation and limitations. The use of electronic signatures by the judiciary is often subject to requirements such as secured methods and oversight by trial court administrators. *See* Wis. Supreme Ct. R. 70.42 (providing that judges can use an electronic signature to sign all court documents); Multnomah Cty., Ore. Supp. Local R. 24.202 (Feb. 1, 2016) (providing for the use of electronic signatures by judges in rendering decisions provided that the method by which the signature is used is secure and is maintained and controlled by the trial court administrator); Jackson Cty., Ore. Supp. Local R. 24.202 (Feb. 1, 2016) (same); La. Code Civ. P., arts. 253 and 1911 (authorizing the use of electronic signatures by judges for all court documents, including final judgments; however, the various courts will establish rules regarding electronic signature use); La. Rev. Stat., Dist. Ct. Appendices, Appendix 3.4 (indicating that the 22nd & 23rd Judicial District Courts have established rules for the use electronic signature on orders, notices, and other court documents); Eighth Dist. (Cuyahoga Cty.) Local App. R. 13.3 (providing for the use of an electronic signature by judge or magistrate through secure process); Cuyahoga Cty. Common Pleas Juvenile R. 25.1 (authorizing electronic signatures by judges or magistrates on orders, notices, etc., including documents authorizing emergency taking of children into custody); S.C. R. Common Pleas E-Filing Guideline 6 (providing that “judges or court personnel authorized to sign orders shall utilize an electronic signature page for the electronic signing of all orders, including any form orders”); Fed. Way Municipal Ct. (Washington) Local R. 30(d)(2)(A) (allowing the use of a digital signature on orders and search warrants, subject to certain format and security measures); Edmonds Municipal Ct. (Washington) Local R. 30 (same); Utah Jud. Admin. R. 4-403 (establishing the use of judges’ electronic signature on certain documents/orders only); *Haywood Securities, Inc. v. Ehrlich*, 149 P. 3d 738 (Ariz. 2007) (finding that the use of judge’s electronic signature on a judgment complied with rule that judgment must be signed).

C. Use of Video Conferencing to Conduct Court Proceedings

The use of video conferencing and other electronic communication technology has been found to be permissible in certain circumstances and for certain proceedings in both criminal and civil cases. In general, the use of such technology is subject to constitutional considerations, such as the right of a defendant to confront witnesses against him, and proper security and reliability of the technology with guidelines for the use established by rules of court (generally applicable and local rules) and state court administration. Even in cases of general application of rules relative to video conferencing, the use would still be subject to constitutional and fairness considerations (for example due process, the right to counsel, the right to be present, and the right to confront witnesses).

Additionally, it is possible for defendants to consent to the use of video conferencing. For example, Ind. Code Title 11, Art. 8, Ch. 10, s. 1 provides a very general rule for court appearances by video conference and does not appear to limit the video conferencing to a particular hearing or appearance type as long as the certain requirements are met, including having proper video conferencing capabilities, a judge's order, and the individual's consent. Vermont, on the other hand, has implemented Administrative Order No. 38, which specifically indicates that video conferencing is not allowed in criminal trials, violation of probation, sentencing hearings, or motion hearings where defendant has right to cross-examination. Other rules specifically outline proceedings in which video technology is allowed in criminal proceedings. *See* Mich. Ct. R. 6.006(A) (permitting courts to use "two-way interactive video technology to conduct the following proceedings between a courtroom and a prison, jail, or other location: initial arraignments on the warrant or complaint, probable cause conferences, arraignments on the information, pretrial conferences, pleas, sentencings for misdemeanor offenses, show cause hearings, waivers and adjournments of extradition, referrals for forensic determination of competency, and waivers and adjournments of preliminary examinations").

The use of video conferencing is widely accepted as permissible in initial, non-adversarial proceedings in criminal courts including first appearances and arraignments. The considerations involved in the use of remote technology in these types of proceedings include the ability to fully protect the rights of the defendant, save time and expense, and the reciprocal ability of the judge and the defendant to be able to see and hear each other. *See* Fla. R. Civ. P. 3.130(a) (providing for the use of electronic audiovisual device for first appearance proceedings); Fla. R. Civ. P. 3.160(a) (providing for the use of electronic audiovisual device for arraignments); Penn. R. Crim. P., rule 540 (providing discretion for the use of "two-way simultaneous audio-visual communication" at preliminary arraignment, provided that defendant has ability to "communicate fully and confidentially with defense counsel immediately prior to and during" the proceeding); Penn. R. Crim. P., rule 518 (provides for the use of advanced communication technology for preliminary arraignment of defendant who has been arrested outside of the judicial district that issued the arrest warrant); *People v. Lindsey*, 772 N.E.2d 1262 (Ill. 2002) (finding that appearance by closed circuit television for arraignment did not violate constitutional rights of defendant; defendant's participation in proceeding was not limited and the proceeding remained fair); *Commonwealth v. Ingram*, 46 S.W.3d 569 (Ky. 2001), *abrogated on other grounds in Commonwealth v. Carman*, 455 S.W.3d 916 (Ky. 2015) (finding that video arraignment was not a violation of due process even when conditions of communication were not perfect); *Larose v. Superintendent, Hillsborough County Correction Administration*, 702 A.2d 326 (N.H. 1997) (holding that video conferencing for arraignment and bail hearing does not violate due process considerations); Mo. Stat. §561.031 (allowing audio-visual communication for first appearance, preliminary hearings with consent of defendant, arraignment with not guilty plea, and arraignment with guilty plea when waiver of right to be present is made).

With regard to bail hearings, the use of video conferencing is subject to the same constitutional considerations noted above. Jurisdictions are split on the allowance of video conferencing at bail hearings. *See Larose v. Superintendent, Hillsborough County Correction Administration*, 702 A.2d 326 (N.H. 1997) (holding that video conferencing for arraignment and bail hearing does not violate due process considerations); Vt. Admin. Order No. 38 (providing that video conferencing is not allowed for contested bail hearings).

For plea hearings, courts, once again, take constitutional principles into consideration in making a determination on whether the use of remote technology is permissible. *See People v. Guttendorf*, 723 N.E.2d 838 (Ill. App. 3d Dist. 2000) (finding that the use of closed-circuit television at plea hearing violated constitutional right to be present where “crucial aspects of a defendant’s physical presence may be lost or misinterpreted”); *Seymour v. State*, 582 So. 2d 127 (Fla. 4th Dist. Ct. App. 1991) (finding that taking plea at sentencing hearing by closed circuit television was improper where defendant did not have ability to consult with counsel privately during proceeding); *compare with* Texas Code of Crim. P., art. 27.18 (providing that pleas may be accepted and waivers made by video teleconferencing if written consent to the procedure is filed, all involved entities are able to be simultaneously seen and heard, and defendant and his attorney are able to communicate privately during the proceeding).

There are no cases specific to the use of remote technology in child support enforcement proceedings specifically; however, these proceedings would involve the same considerations as the other proceedings mentioned, and likely more closely akin to the civil proceedings, unless there is a liberty interest at issue.

The use of video conferencing and other emerging technology in facilitating Dependency and Delinquency proceedings would again be subject to constitutional considerations, especially where liberty interests are at issue, and consideration of the stage at which the remote technology is being used. *See In re Adoption of Edmund*, 739 N.E.2d 274 (Mass. App. 2000) (finding a violation of inmate/father’s due process rights in termination of parental rights hearing where inmate was denied opportunity to be heard and indicating that video or telephone appearance could be a proper remedy); *R.R. v. Portesy*, 629 So. 2d 1059 (Fla. 1st Dist. App. 1994) (finding that video-telephone was not permitted for detention hearing where it was not authorized by statute or rule and it was not shown that the juvenile was able to confer with counsel during the hearing); *compare with In re: Brock*, 499 N.W.2d 752 (Mich. 1993) (finding no abuse of discretion for the use of video testimony of child victim in initial stage of child protective proceedings where court found it to be necessary and that procedure “did not significantly increase the risk of an erroneous deprivation of the [parents’] liberty interest”).

The use of remote technology related to mental or physical health hearings may in part be dependent on the nature of the case in which the hearing is taking place. For criminal competency hearings, constitutional rights of the defendant will be at issue and the defendant’s presence or waiver of presence may be necessary to allow remote testimony of witnesses; on the other hand, the same requirements may not be necessary in civil proceedings involving mental or physical health considerations. *See Mich. Ct. R. 6.006(C)(1)* (for competency hearings, allowing two-way interactive video for testimony of persons not in courtroom when defendant is present or has waived presence and showing of good cause); *compare with In re Guardianship and Protective Placement of Goldie H.*, 629 N.W.2d 189 (Wis. 2001) (indicating that telephone or video conference could be sufficient for a summary hearing in a protective placement case); *U.S. v. Baker*, 45 F.3d 837 (4th Cir. 1995) (finding that the use of video-conferencing in civil commitment hearings constitutionally permissible).

Perhaps the area in which the use of remote technology faces the highest scrutiny and when the constitutional concerns of due process, the right to confront witnesses, the right to counsel, and the right to be present are the highest, are when the proceeding involves the

presentation of evidence and witnesses to be cross-examined. See Mo. State. § 561.031 (providing that allowance for audio-visual communication in criminal proceedings does not apply when the proceeding involves the cross-examination of witnesses); Mich. Ct. R. 6.006(C)(1) (for evidentiary hearings, allowing two-way interactive video for testimony of persons not in courtroom when defendant is present or has waived presence and showing of good cause); Mich. Ct. R. 6.006(C)(2) (for trials with consent of the parties, allowing two-way interactive video for testimony of persons not in courtroom when defendant is present or has waived presence and showing of good cause); *People v. Buie*, 817 N.W.2d 33 (Mich. 2012) (upholding use of video testimony of witness upon compliance with rule 6.006(C)).

For sentencing and probation violation proceedings, constitutional considerations again take the forefront of the considerations and the presence of the defendant or a waiver of it appears to become a prominent consideration. See Mo. Stat. §561.031 (allowing audio-visual communication for sentencing on guilty plea or after conviction upon waiver of right to be present); Mich. Ct. R. 6.006(C) (1) (for sentencing and violation of probation proceeding, allowing two-way interactive video for testimony of persons not in courtroom when defendant is present or has waived presence and showing of good cause); Vt. Admin. Order No. 38 (prohibiting video, unless agreed to by parties); *State v. Peters*, 615 N.W.2d 655 (Wis. App. 2000) *rev'd on other grounds*, 628 N.W.2d 797 (Wis. 2001) (finding that although use of close-circuit television at sentencing violated state statute, it did not amount to a constitutional violation); *Schiffer v. State*, 617 So. 2d 357 (Fla. 4th Dist. Ct. App. 1993), *disapproved on other grounds* *Franquiz v. State*, 682 So. 2d 536 (Fla. 1996) and *abrogated on other grounds* *Brown v. State*, 687 So. 2d 1300 (Fla. 1997) (finding the use of audio-video equipment at probation revocation violated constitutional rights where the defendant did not waive right to be physically present and did not have the proper opportunity to confer with counsel privately during proceeding); *Jacobs v. State*, 567 So. 2d 16 (Fla. 4th Dist. Ct. App. 1990) (finding error in using closed-circuit television in sentencing where defense counsel was not present with defendant); *but see Williams v. State*, 578 So. 2d 846 (Fla. 4th Dist. Ct. App. 1990) (finding video sentencing permissible where defendant waived right to personal presence in court and had ability to speak with counsel).

In non-criminal proceedings, the use of video-conferencing and other electronic technology appears to be more widely approved even in hearings and trials. By way of example, Florida Rule of Civil Procedure 1.451(a) provides that a witness “must be physically present unless otherwise provided by law or rule of procedure” at a hearing or trial; however, the rule also provides that testimony “by contemporaneous audio or video communication equipment” when the parties agree or a showing of good cause. Fla. R. Civ. P. 1.451(b). For the use of communication equipment to be allowed, “a notary or other person authorized to administer oaths” must be present with the witness. Fla. R. Civ. P. 1.451(d); *see also* Md. Code, State Gov. §10-211 (providing for hearings by “telephone, video conferencing, or other electronic means” in contested cases under the Administrative Procedure Act, subject to objections for good cause); Mich. Ct. R. 2.407 (allowing use of videoconferencing in civil proceedings for participants after the court considers relevant factors including possible prejudice, reliability, and convenience); Mo. Stat. §561.031 (allowing audio-visual communication for civil proceedings except jury trial); *U.S. v. Baker*, 45 F.3d 837 (4th Cir. 1995) (finding that the use of video-conferencing in civil commitment hearings constitutionally permissible); *see also Guinan v. State*, 769 S.W.2d

427 (Mo. 1989) (finding that post-conviction hearing, which is quasi-criminal in nature, held by video did not violate defendant's constitutional rights); *Pappas v. Kentucky Parole Board*, 156 S.W.3d 303 (Ky. App. 2004) (finding use of video conference technology for parole hearings did not violate constitutional right of prisoner); *Wantuch v. Davis*, 39 Cal. Rptr. 2d 47 (Cal. App. 2d Dist. 1995) (indicating that prisoners have right to access to courts in civil actions and that may involve the use of telephone conferencing and other electronic means of proceeding); *Britt v. Mascara*, 830 So. 2d 221 (Fla. 4th Dist. App. 2002) (finding that denial of inmates request for telephonic hearing in replevin lawsuit constituted a denial of due process); *In re Simpkins*, 599 N.W.2d 170 (Minn. App. 1999) (indicating that the court must consider alternatives to requiring personal appearance in case of inmate).

D. Use of Video Conferencing by Court Participants

There are few additional examples of law relative to the use of remote technology with particular participants. The law governing the presence of judges, attorneys and most other participants through remote video technology is generally applicable as provided in the sections of this report regarding proceedings.

When dealing with child victim testimony, and potentially child witnesses in general, courts seemingly have more leeway in making accommodations for the child witness, as long as the accommodation does not prejudicially impact the constitutional rights of the defendant. *See* Mich. Comp. Laws § 600.2163(a) (providing for the use of videotape statements and depositions for testimony of child victim in specific circumstances); Vt. Admin. Order No. 38 (IV)(a) (permitting the use of video testimony—two-way closed circuit or one-way communication—for child testimony when authorized by judge subject to finding of necessity and proper safeguards); *see also* Texas Fam. Code § 264.0091 (providing for the expansion of the use of teleconferencing and videoconferencing for participants in proceedings involving children more generally).

The use of witness testimony by remote technology is subject to consideration of the type of proceeding—preliminary or final, criminal or civil—and the constitutional considerations that attach to the particular proceeding. *See* Mich. Ct. R. 6.006(B) (when defendant is present in courtroom or waives presence, telephonic, voice, or video conferencing can be used for expert witness testimony at preliminary examination). The considerations relative to the right to be present and the right to consult with counsel during proceedings again comes into play when considering if an inmate will be allowed to appear by remote technology. *See* Vt. Admin. Order No. 38(I)(b) (providing that in family divisions of court, telephone or video conferencing may be used for appearance of incarcerated parties or witnesses upon agreement or a determination “that no party’s right to full and fair adjudication will be denied by the process”); Vt. Admin. Order No. 38(II) (d) (indicating that inmate must have ability to consult with counsel during proceeding).

There are no cases specifically on the permissibility or impermissibility on using an interpreter through remote technology. However, interpreters are subject to taking an oath prior to taking part in the proceedings; therefore, any restrictions found in other cases regarding the propriety of taking an oath remotely or requiring an official authorized to

give oaths to be present with the witness would seemingly apply to interpreters. Also, any technology that does not provide sufficient audio-visual to enable proper interpreting would definitely appear to raise constitutional issues with regard to participation in the proceeding. *See* Fla. Stat. § 90.606(3) (providing that “[a]n interpreter shall take an oath that he or she will make a true interpretation”).

E. Trial Preparation by Video Conferencing

The ability of attorneys to conduct interviews of and communicate with their client, even when that involves an incarcerated client is critical; “[f]ree two-way communication between client and attorney is essential if the professional assistance guaranteed by the sixth amendment is to be meaningful.” *United States v. Levy*, 577 F.2d 200, 209 (3d Cir. 1978). Central to that constitutional guarantee, is the need for that communication to be confidential. *See United States v. Rosner* 485 F.2d 1213, 1224 (2d Cir. 1973).

The use of any means of communication with an incarcerated client would revolve around whether the means is secure and keeps the confidentiality of the communication intact. While information on the use of video conferencing for attorney-client jail interviews does not appear widely in the research conducted, the considerations outline in previous sections would be implicated in the use of technology. The possibility of breaking attorney-client privilege by having these communications take place in the presence of additional parties is a threat and exemplifies the need for confidentiality and privacy. These concerns do not mean that video-conferencing for an attorney-client interview is not used or capable of use. The City of New York Department of Correction allows for attorney/client interviews to take place electronically through video-teleconference by coordinating through the appropriate liaison. *See* City of N.Y. Dept. of Correction (2016) “Schedule Attorney/Video-Teleconference” available at <http://www.nyc.gov/html/doc/html/visit-an-inmate/schedule-video-conference.shtml>. Additionally, the Alaska Department of Correction, Goose Creek Correctional Center also provides for attorney-client video visitation; however, the policy of the department specifically indicates that while it does not monitor the video visitations, it “cannot guarantee the privacy of any system that uses the Internet for the transfer of video telecommunications.” State of Alaska, Dept. of Correction, “Goose Creek Correctional Center Scheduling Attorney/Client Video Visitation” available <http://www.correct.state.ak.us/institutions/gccc/docs/Video%20Teleconference.pdf>.

There are no specific case law, rules or statutes regarding doctors conducting competency evaluations of prison/jail inmates via video conferencing. Pursuant to Indiana Code Title 11, Article 8, Chapter 10, Section 2, mental health evaluations of prisoners are allowed to take place via video conferencing upon court order; however, the evaluations taken under these conditions are not allowed to be used to determine competency to stand trial or to establish a defense.

F. Judge Access to Internet Sites to Facilitate Adjudication of Cases

There was a lack of case law on this topic in terms of using remote technology. The use of Internet sites in adjudication of cases would be subject to consideration of rules of

evidence. The use of such sites could potentially be subject to judicial notice statutes upon proper procedure being undertaken and proper authentication in order to appropriately bring the material before the court. The court is confined to those matters that are properly before it and made part of the record, otherwise, the court does not generally properly consider materials.

G. Remote Execution of Search Warrants, Arrest Warrants, Service of Process

The use of emerging technology for the issuance of warrants and summonses is beginning to become more prevalent. As the technology for courts to become mostly paperless takes hold and court files become electronic, procedure in the issuance of warrants and other court process has also begun to transition.

In moving to electronic application and issuance of warrants and summonses, similar considerations come into play as with the move to electronic management systems generally—in particular the security and reliability of the system and formatting requirements. *See* La. Code of Crim. P., art. 162.2 (providing that electronic testimony is allowed to procure a search warrant; electronic testimony includes, but is not limited to, e-mail and text messaging); La. Rev. Stat., District Ct. Appendices Appendix 3.4 (indicating that the Sixteenth Judicial District Court has authorized the use Warrantnow to receive electronic warrant applications); Fla. Stat. § 901.02(3) (providing that the complaint and proof upon which the warrant is based may be submitted electronically, but such submission must be “by reliable electronic means” and that, when the proper requirements of an arrest warrant are met, a judge may electronically sign the warrant); Fed. Way Municipal Ct. (Washington) Local R. 30(d)(2)(A) (allowing for the use of a digital signature on orders and search warrants, subject to certain format and security measures); Edmonds Municipal Ct. (Washington) Local R. 30 (same); Penn. R. Crim. P., rule 513 (allowing for the submission of a complaint and affidavit for an arrest warrant, as well as the issuance of the warrant, to occur through use of advanced communication technology); Penn. R. Crim. P., rule 203 (same for search warrants); Co. Rev. Stat. § 16-1-106 (providing for the application and issuance of search and arrest warrants by electronic means and through electronic signatures); N.J. R. Ct. 7:2-1 (permitting the use of electronic signatures in the application for warrants and summonses); Clay Cty., Fla. Admin. Order No. 2010-05 (authorizing the issuance of “the Summons by way of electronic format with an electronic signature” and electronic return to the filer; however this is not applicable to witness of juror subpoenas and summonses).

IV. REMOTE TECHNOLOGIES

In this section, documentation of the major technological innovations that judges have available that permit the efficient conduct of court business by means other than a judge being physically present in the judge’s courtroom or chambers.

A. Judicial Access and Use of Electronic Records

Paper, the calendar, and the clock had always been major sources of stress on judges, court personnel, clerk’s office staff, and the public. The case file, composed of documents from

litigants, attorneys, judges, court staff, the clerk's office, other officials, and other interested parties, constitutes the "official record" around which everything revolves.

Since the 1990s, the concept of "electronic filing" swept through courts. Jim McMillan, principal court management consultant with the National Center for State Courts, has stated that "files can potentially be accessed remotely from anywhere in the world, 24 hours a day. Court staff can access files from their workstations, and judges can easily download literally thousands of pages of personal electronic copies to their laptops for instant use and reference".³

According to the National Center for State Courts 2016 report on the status of electronic filing initiatives, there are e-filing projects ongoing in all 50 states (see Appendix A for complete listing for all states). There are many benefits to judges with having instant access to electronic records. Also, a recent review of available data indicated that a number of trial courts including courts in Alabama, California, Florida, Illinois, Louisiana, Maryland, Massachusetts, New York, Ohio, Oregon, South Carolina, Texas, Washington and Wisconsin allow judges to electronically sign and file court orders.

In an article from 2010 *Future Trends in State Courts*, Tom Clark, Vice President of Research & Technology for the National Center for State Courts stated:

"As courts create an electronic case file and implement electronic filing, they will see dramatic increases in efficiency and reductions in cost. Money spent to pay clerical staff to process many of their important but routine activities can be substantially reduced. The electronic file also enables some court services to be centralized or regionalized for improved efficiency and service. Common examples include the payment of fines and fees, the collection of fines and penalties, the provision of case data and documents to the public, and the management of the juror qualification, summoning, and payment processes. In essence, technology enables a court system with multiple jurisdictions to act as one larger virtual-court back office and, in some public-facing services, like one virtual-court front office.

In a similar manner, capabilities like an electronic case file enable a court system to better distribute workloads across the system from busier courts to underworked courts. This capability is very important for two reasons. First, it enables the court system to achieve significant productivity improvements without additional staff or budgets. Second, it justifies the continued existence of small rural courts that might otherwise need to be closed."⁴

Now that all states are moving rapidly to convert paper to digital images, judges and court staff are presented with the opportunity to expand the scope of their work environment. The enhanced ability to access critical court documents from locations other than the courtroom or judges'

³ James E. McMillan, *Future Trends in State Courts 2010 – Electronic Documents: Benefits and Potential Pitfalls*, National Center for State Courts.

⁴ Thomas M. Clarke, *Future Trends in State Courts 2010 – Technology Reengineering*, National Center for State Courts.

chambers offer opportunities to enhance the quality of judicial decision-making and improving productivity.

This electronic revolution requires judges to adapt to a different process of performing the job of judge. Judges must become comfortable with using the technology. The learning curve timetable may be lengthy for some and require toleration of reduced productivity until the skill set is advanced to the point of a judge being able to equal or exceed current work performance in a paper environment. The reality is that judges will not have the convenience of making a choice between paper and electronic records. The system benefits of converting to electronic records to the litigants, attorneys, law enforcement, clerk and the public are immense and are dictating how and when this electronic revolution in the courts will proceed.

To obtain increased performance, judges must be able to balance the division of work on site during the traditional 8 to 5 workday with work that can be better performed at home or other non-traditional work sites at night, early morning, weekends or other locations. The good news is that thousands of judges are currently succeeding in creating the right balance and report the benefits far outweigh the adjustments in work schedules that are required.

In order for a judge to achieve the maximum benefits from the move from paper to electronic records, there are critical technical capabilities that must be put in place. Of course, first and foremost, the case files must be stored, preferably, in a PDF searchable digital format. However, the large majority of files are usually in a Tiff (a photo) format that is not searchable. Tiff images can still be accessed and reviewed. The second major technical function is that a judge can access the digital files via a secure Internet connection using a desktop, laptop, tablet or smart phone computer. The third major functionality necessary for efficient access to digital case files is to have software that permits a judge to manage the case files. This functionality includes ease of review of files, ability to view multiple pages on one screen or multiple documents, manage the calendar and create documents, e.g., orders, opinions, memoranda, letters, etc. Finally, the software must permit the judge to file final orders electronically in the official court file and serve the party instantaneously.

There are many technology tools available to facilitate this advanced access to digital files. In the 13th Judicial Circuit in Tampa, a Virtual Desktop Infrastructure (VDI) has been implemented at the courthouse. This tool replaced all of the user's old desktop PCs with new thin client computers. A spreadsheet of the Pros/Cons of this technology is included in Appendix B. Existing electronic case management systems offered by the various vendors provide for the storage of case files in a digital format. A complete listing of such vendors is provided in Appendix C. In addition, there are vendors that offer judicial viewer software that provide judges with a host of tools to access, manage and create documents remotely. Appendix D has a listing of such vendors. There are also a number of courts in Florida and California that have developed an in-house software system that provides the same level of service offered by the private vendors. In Appendix E, a detailed summary of the JAWS system developed by the 13th Judicial Circuit in Tampa, Florida is included. The functionality of this system is representative of what private and in-house systems normally provide. In Florida alone, there are in-house judicial viewers systems operating in seven Judicial Circuit courts.

Assuming that all technical requirements have been implemented, what are the benefits of electronic records access to judges and other court system stakeholders?

1. Improved Access to Critical Court Records Anytime and Anywhere

Instead of a judge waiting for a file or multiple files to be delivered by overworked clerks, updated files can be accessed instantly and from any location where an Internet or Wi-Fi connection is available with a tablet, laptop, smart phone or desktop computer.

2. Enhanced Preparation of Judge for Next Day Hearings

The ability to review the cases set for hearing to next day is greatly enhanced. This results in more efficient management of dockets, improved interactions with litigants and enhanced planning of future scheduled court events.

3. Expanded Ability of Judge to Balance Workday Requirements

A typical judge's day requires that a judge be in the courtroom most of the day. The result is that the in chambers work is delayed and often requires the judge to remain well past the closing of court or plan to have files delivered by the clerk at the end of the day so the judge can review at home. Having access to electronic court files allows the judge to redistribute this work to times when the judge can be more productive. While the judge may be still spending the same amount of time, the time is better organized resulting in better results. Judges also report that having the ability to have an unrestrictive work schedule lessens the physical and mental stress on them.

4. Ability to Prepare Orders that can be Instantly Filed and Served

The flexibility for a judge to prepare and file orders anytime and anywhere greatly improves the performance of the entire court process. In the 13th Judicial Circuit in Tampa, Florida, judges issued 11,421 electronic orders in 2015. The impact on the court process has been immense. The clerk benefits by having the order instantly filed in the court file, thereby, eliminating many ministerial tasks previously associated with filing orders. The litigants and the attorneys are instantly served which drastically shortens the time that litigants and attorneys wait for a final copy of the order. Court staff no longer has to copy and conform the orders and mail them out to the parties.

B. Use of Video Conferencing

Remote video conferencing as a tool to conduct court proceedings has been widely used by trial courts throughout the US beginning in the early 1990's.

Tom Clark in the 2010 Future Trends in State Courts report addressed Video Conferencing:

“[U]tilizing videoconferencing technology to conduct some court hearings is another area of potential savings. If there is one technology that has rapidly improved in both cost and quality over the last five years, it is videoconferencing. Prices for basic capabilities have

come down dramatically and quality has steadily improved as broadband networks increased capacity and the cost of high-definition large screens decreased. Vendors have also deepened their understanding of the behavioral issues involved in effectively communicating with remote video technologies. Much attention is now devoted to best practices for designing rooms that serve as videoconferencing facilities. The goal is to reproduce the experience of talking to a real person across the table, with all of the nuances and body language that in-person conversations would convey.

As is often the case, necessity tends to be the motivation for increased use. State court systems with the harshest geographical constraints are often the most advanced in their use of videoconferencing. A second group of leading users is those states that have successfully invested in ultra-high-bandwidth wide-area networks to all of their court locations. A third group of narrower adopters use the technology only for specific needs like remote arraignments to lower prisoner transportation costs, remote testimony by expert witnesses and juveniles, or access to interpreters who are not available locally. The next trend is probably toward wider use of virtual hearings for events like mediation and arbitration outside the formal courtroom.⁵

The video technology used by courts varies widely. A recent study of California trial courts revealed that the types of video technology employed ranged for internet-based system such as Skype, FaceTime, WebEx and Video CourtCall to closed circuit and network-based system developed in-house or through private vendors like Cisco and Polycom.⁶

There are three main court processes where video conferencing has been introduced:

- 1) Conduct court proceedings;
- 2) Allow for remote participation in court proceedings by attorneys, child victim witnesses, expert witnesses, court interpreters, prison and jail inmates, auxiliary court participants such as treatment providers and judges; and
- 3) Facilitate trial preparation by attorneys, litigants, doctors and prison and jail inmates.

1. Use of Video Conferencing to Conduct Court Proceedings

a. Initial Appearance Hearings - Criminal

The most widespread use of remote video conferencing by trial courts is to conduct the initial court appearance of an individual arrested. The purpose of this hearing is to notify the individual of the charges against him or her and set conditions of pretrial release including monetary bonds, ROR or other conditions of release. The use of video conferencing for this purpose coincided with the building of jails outside of the courthouse complex. Use of remote video conferencing was a cost effective tool to address transportation, safety and time management issues. Courts in rural areas where the distances between courthouses and the location of jails were often

⁵ Ibid.

⁶ Video Remote Technology in California Courts, December 2014, Judicial Council of California, Court Technology Advisory Committee.

significant also embraced the use of remote video conferencing for initial criminal court appearances.

In a 2007 survey by NCSC, 69 percent of the courts responding indicated that they were using remote video conferencing for initial appearances.⁷ A 2014 study of video remote technology in California Courts revealed that 62 percent of courts were using remote video conferencing in felony arraignments and 90 percent in misdemeanor arraignments.⁸ A recent survey of Florida trial courts revealed that 14 of the 20 judicial circuits have employed remote video conferencing (see Appendix F). A recent study in Arizona of 13 Courts revealed that the primary court proceeding where video conferencing is being used is for criminal initial appearances and arraignments.⁹

In the General Sessions Court in Davidson County/Nashville, TN, video conferencing is being used exclusively for individuals arrested 7 days a week, 24 hours a day by the Court Commissioners who conduct probable cause and bond hearings. When an individual is arrested, individuals are brought to the sheriff's main booking facility or to a mobile booking site located in selected communities in the county. Within a brief period of time, the individual appears via a video conferencing monitor that is linked to the Court Commissioner's bench. The Court Commissioner reviews the arrest documents that are provided by the arresting officers and makes a probable cause determination. If probable cause is found, the Court Commissioner reviews criminal history records through access to the county's CJIS system from the bench, questions the individual about their community ties, reviews a pretrial release report created by sheriff staff and makes a bond decision. This has proven to be an effective tool to improve performance of the court and local law enforcement agencies.

b. Bond Reduction Hearings

With monetary bail being the most often pretrial release option ordered by judges, a substantial number of individuals are not able to post the bond or acquire assistance of a bail bondsmen to post the bond. As a result, many individuals remain in custody during the pretrial process. Some trial courts have instituted a process of periodic review of the circumstances of individuals who remain in jail. This judicial review sometimes is conducted via a remote video conferencing connection between the courthouse and the jail. A recent survey of Florida trial courts revealed that 8 of the 20 circuits were conducted bond reduction hearings via remote video conferencing (Appendix F).

In the 13th Judicial Circuit Court in Tampa, Florida, a judge conducts a bond reduction docket via a closed circuit video conferencing system connected by a fiber network between the courtroom and the county jail that is located 10 miles from the courthouse. Individuals who remain in custody, after the initial court appearance, are placed on this docket automatically on a weekly basis for the purpose of reviewing the current conditions of pretrial release. The judge

⁷ National Center for State Courts Video Conferencing Survey, 2007.

⁸ *Video Remote Technology in California Courts*, December 2014, Judicial Council of California, Court Technology Advisory Committee.

⁹ Lawrence P. Webster and Daniel J. Hall, *Evaluation of Videoconferencing Technology – Mesa Arizona Municipal Court, Final Report, May 2009*, National Center for State Courts.

has the authority to modify monetary bonds or other non-monetary pretrial release conditions if new information is provided. This process has been very successful in reducing the pretrial jail population.

c. Misdemeanor/Traffic Arraignments

In most jurisdictions, judges are authorized to accept pleas and impose sentence at the initial court appearance by individuals charged with misdemeanors or traffic offenses. In the 2007 NCSC survey, 65% of the trial courts indicated that such hearings were being held by remote video conferencing.¹⁰ California, New Jersey and Florida courts allow use of remote video conferencing to accept pleas and impose sentences in selected misdemeanor and traffic cases. A public defender is made available to the defendant to advise as to whether it is in the defendant's interest to enter a plea of guilty. The attorney is always at the site of the defendant and is provided ability to confer with their client confidentially.

d. Child Support Enforcement Hearings

Often times, the obligor in a child support case is in jail or prison. In many jurisdictions, judges or magistrates are conducting child support enforcement hearings via a remote video conferencing connection. In the survey of Florida trial courts, 7 of the 20 Judicial Circuits conduct these Instanter hearings via remote video conferencing (Appendix F). Courts in Minnesota also employ video conferencing to conduct these types of hearings.¹¹

e. Child Dependency Hearings

Remote video conferencing is also being used for review, disposition, permanent placement and adoption hearings. Trial courts in Florida and New Jersey frequently used remote video conferencing in child dependency proceedings when one of the parents is in jail or prison. The Florida Courts survey revealed that 8 of the 20 Judicial Circuit conduct such hearings via remote video conferencing (Appendix F).

f. Juvenile Delinquency Hearings

On a very limited basis, there are trial courts around the country that are using remote video conferencing in juvenile delinquency hearings particularly for conducting detention hearings where a juvenile remains in custody. In addition to detention hearings, some trial courts in California are using remote video conferencing for disposition, restitution and review hearings.¹²

¹⁰ National Center for State Courts Video Conferencing Survey, 2007.

¹¹ Gordon Griller and Daniel Hall, Reengineering Rural Justice in Minnesota's Eighth Judicial District – Final Report, October 2010, National Center for State Courts.

¹² Video Remote Technology in California Courts, December 2014, Judicial Council of California, Court Technology Advisory Committee.

g. Physical and Mental Health Hearings

Another area that courts are exploring on a very limited basis is use of remote video conferencing hearings for the purpose of determining whether an individual who is in a medical facility should be forced to accept treatment (blood transfusion), remove life support or involuntarily committed into mental health treatment facility.

The Santa Clara, California Superior court has implemented video hearings in mental health calendars in probate for patients at a few state hospitals to reduce the cost and inconvenience of transporting the patients to court. The court has averaged 2 to 3 hearings per month by video appearance. Mental health litigants were previously transported to hearings at the courthouse, causing a disruption in their treatment. Conversely, the cost of having all parties travel to the state hospital was prohibitive. The court received support and assistance from two state hospitals to facilitate implementation of this program.¹³

2. Use of Video Conferencing by Court Participants

Another growing use of remote video conferencing in trial courts is permitting a participant in the process to appear via video conferencing.

a. Attorneys

It has been a common practice in many trial courts to permit attorneys to participate in some pretrial hearings (mostly in civil, family or probate cases) via a remote telephone connection. As more and more trial courts expand their video conferencing capabilities, telephone hearings are migrating more to video conferencing. In the Florida survey, 7 judicial circuits permit attorneys to participate in selected hearings, at the discretion of the judge via video conferencing (Appendix F). In California, attorneys routinely request and are granted the ability to appear remotely via video conferencing in Family law cases.¹⁴ Trial courts in New Jersey also permit this practice.

There are now vendors who are offering this service to courts in which the attorneys pay for access. This tool is growing because of the globalization of legal practice where attorneys from outside the geographic area of the court where the case is filed are requesting this technology to facilitate more efficient participation by attorney reducing the demand for continuances due to travel constraints. The courts benefit by having more flexibility in the scheduling of cases.

b. Judges

In very rare circumstances, courts have permitted judges to conduct hearings remotely. It is usually in a situation where a judge is unable, due to a medical condition, to appear physically in the courtroom and there are no other alternatives available to legally conduct the hearing. For

¹³California Court Information Knowledge Center, Efficient and Effective Programs Page, Judicial Council of California, 2016.

¹⁴Video Remote Technology in California Courts, December 2014, Judicial Council of California, Court Technology Advisory Committee.

example, a circuit judge in Tampa, upon agreement by the parties, conducted pretrial motions in a felony cases via video conferencing. The judge had been in an accident and broke his leg. The judge was located at his residence and the parties were in the courtroom along with court staff, court reporters and bailiff. Documents were shared electronically as well. Without this accommodation, the trial would have been substantially delayed. The parties would not agree to another judge hearing the motion. While this example is a rare occurrence, it was successful and all parties were satisfied with the process.

There may be applications of this type of process in other circumstances that may be appropriate particularly when it is determined to be the best alternative to achieving justice in a case. In Minnesota, court rules provide that Interactive Video Television (ITV) is permitted in criminal cases when no judge is available in the courthouse, when the defendant is in custody and is being held in a location other than the venue county, and when in the interests of justice. Upon the consent and location of the parties, ITV can be used in felony, gross misdemeanor and misdemeanor matters to conduct numerous types of hearings, including initial appearances, arraignments and changes of plea, sentencing hearings and probation revocation hearings. For all other hearings, the defendant, defense attorney, prosecutor and judge must consent to holding the hearing by ITV. It may not be used to conduct trials or contested omnibus or pretrial hearings or to conduct any other evidentiary matter. It can be used for all hearings, including trials, in Petty Misdemeanor matters. ITV has been successfully used in Minnesota for In-Custody appearances in particular, with the defendant, the prosecutor and the defense attorney gathered in one courtroom while the judge conducts the hearing via ITV from a courtroom elsewhere in the district.¹⁵

c. Prison/Jail Inmates

As the video conferencing capabilities of jails and prisons have been enhanced, many courts are permitting jail or prison inmates to participate in civil and family cases via remote video conferencing. On rare occasion, inmates involved in a post-conviction proceeding are permitted to participate via video conferencing for non-evidentiary proceedings. Six courts in Florida as well courts in New Jersey and California allow this use of video conferencing (see Appendix F).

d. Child Victim Testimony

In cases where a child is a victim, courts are permitting the child's testimony to be conducted via video conferencing in order to limit any additional trauma that the child may experience if required to physically face the defendant who is charged with the crime in the courtroom. In addition to trial testimony, depositions of children are also being conducted via remote video conferencing where all parties participate in the deposition at one time. This further limits the child be exposed to multiple interviews lessening the trauma as well. 12 of the 20 circuit courts in Florida and courts in New Jersey and California allow child victims to testify via video conferencing (see Appendix F).

¹⁵ Gordon Griller and Lee Suskin, Reengineering Rural Justice in Minnesota's Eighth Judicial District – Final Report, October 2010, National Center for State Courts.

e. Expert Witness Testimony

Due to scheduling conflicts, some courts permit expert witnesses to provide testimony or depositions using remote video conferencing. As with the case with attorneys, allowing critical expert witnesses to testify remotely increases flexibility in scheduling and reduces cost by eliminating travel and wait times. Courts in New Jersey, California and Florida frequently permit expert witnesses to testify via video conferencing (Appendix F).

f. Court Interpreters

In a number of courts, availability of foreign or sign language interpreters is a real problem. As a result, courts are using remote video conferencing to expand access to qualified interpreters to offer their required services for mostly routine pretrial proceedings at a remote site.

The Stanislaus California Superior Court implemented a Video Remote Interpreting (VRI) Project for interpreting services for court users in American Sign Language (ASL). Using specialized video equipment, ASL interpreters are able to call in to the courtroom, appear on a screen set up before the court user, and interpret the proceedings. It is very difficult to obtain certified sign language interpreters. VRI allowed these interpreters to handle matters in several different courts in one day. The program showed the efficiency of using videoconferences for some languages and certain kinds of court appearances. Having the freedom to handle a five-minute continuance or other short appearance using VRI saves time and money for everyone.¹⁶

The Arizona State Judiciary has implemented the use of Video Remote Interpretation (VRI) services in various courtrooms, by appointment, across the state. An interpreter room, located in the Administrative Office of the Courts in downtown Phoenix, is equipped with video equipment which can connect an interpreter in the Phoenix area to a courtroom in a distant county via a video connection. The use of the VRI is intended for shorter hearings where having an interpreter onsite is cost prohibitive.

Virtual Remote Interpreting (VRI) is a state-of-the-art technological supported solution designed to provide quality interpreting services in the Florida judicial system. In June of 2014, the Supreme Court of Florida proposed to study VRI as a statewide solution and pursued funding for the initiation of a pilot program in the trial courts. The initial stage began with a pilot program that included five circuits: 7th, 9th, 14th, 15th. Each of the pilot circuits equipped a courtroom with the capability to connect remotely with a court interpreter. The initial results of the pilot were extremely positive and plans now call for expansion of remote interpreting services to other judicial circuits.

g. Treatment Service Providers

With the advent of problem-solving courts (drug, mental health, veterans, DV), judges are relying on a cadre of experts and counselors to provide essential information regarding the status of a defendant's treatment plan. A number of courts around the country allow the treatment

¹⁶ California Court Information Knowledge Center, Efficient and Effective Programs Page, Judicial Council of California, 2016.

service providers to participate via video conferencing including courts in Florida, New Jersey and California (see Appendix F).

3. Trial Preparation by Video Conferencing

Trial courts are often confronted with having to continue cases because the attorneys, expert witnesses or litigants are not prepared to go forward at the time the case is scheduled. Problems with the scheduling of depositions, interviews by doctors of defendants facing incompetency reviews and self-represented litigants who do not file the proper court documents are common reasons that court routinely continue cases. The introduction of video conferencing to more efficiently schedule depositions, doctor interviews or interviews with self-represented litigants has had a positive impact on the court's daily dockets.

a. Attorney Jail Interviews/Depositions

Many jurisdictions across the country are providing attorneys the opportunity to conduct jail interviews and depositions remotely through the use of video conferencing technology. Since most jails are now being located outside of the downtown courthouse complex, having this capability saves time and cost of the attorneys and the jail.

b. Doctors Conducting Competency Evaluations of Prison/Jail Inmates

To allow for more flexibility in the scheduling doctor competency examinations of jailed inmates, some courts in Florida and New Jersey permit remote video conferencing at the discretion of the doctor (Appendix F).

c. Self-Represented Litigant Assistance

Self-represented litigants often come to the courthouse to seek assistance in the filing of family, DV, small claims cases. While there are a number of courts that have established self-help centers in the courthouse, the large majority of courts or clerks are limited legally and by lack of resources to provide satisfactory assistance to these litigants. As a result, the litigants leave the court without receiving help.

To address this gap in service, private vendors have developed online self-help software that allows the litigant to prepare the proper legal documents (see Appendix G for list of vendors offering such services). The litigants are able to file the documents in a more efficient manner and clerks and courts benefit by limiting the number of errors contained in the documents saving time and cost to process the filings. Litigants are then able to reduce the time to disposition of their case.

C. Judge Access to Internet Sites to Facilitate Adjudication of Cases

In most trial courts today, a judge has access to a desktop, laptop or tablet computer on the bench and in chambers. These tools are connected to the Internet and most likely to a series of internal

networks that include databases that in the past were only available by requesting and reviewing paper files. As a result, a judge has access to a host of different databases and the universe of information contained on the Internet at the judge's fingertips. This capability greatly expands the scope of information that a judge may find useful in adjudicating cases. While a judge must be cautious in the use of the information contained in these remote technology databases (see Section III of this report), the potential for enhancing the adjudication of certain types of cases is worthy of exploration.

Cases involving self-represented litigants offer the best opportunity for maximizing this new capability. Often the judge is confronted with having to evaluate a small civil claim, a traffic violation, or landlord/tenant complaint without the advantage of having the complete record of facts and circumstances of the case before the judge. Rules of evidence are often relaxed and judges, by court rule, are given greater authority to intervene when attorneys do not represent litigants. The ability of a judge to search the Internet or one of the state or local data bases link by the court's network to gain knowledge about the location of the traffic accident or facts about the nature of the services or products offered by the business that is being contested have great potential for improving the ultimate judgment of the judge in a particular case.

For example, a judge in Marion County, Indiana is using the Internet to call up Google Earth on his Bench computer and display the images of intersections and streets on a screen in the courtroom. This judge's bench trial docket, involving traffic misdemeanors, usually permits only 10 to 15 minutes of court time per case. Many defendants are self-represented. Rules of evidence are relaxed. The defendant is allowed to explain in story fashion what happened and why he or she should not be found responsible for the violation. With the permission of the parties, the judge is able to clarify facts in the case by using the bench computer to display intersections or roadways where the violation occurred. In doing so, the judge is able to more effectively help a self-represented litigant explain their version of incident that lead to a traffic accident. This novel use of remote technology allowed the judge to resolve cases more efficiently with greater speed.¹⁷

D. Preserving the Court Record

Advanced digital technologies have revolutionized the manner in which the court record is created, stored and accessed. Real time court reporting has enhanced the manner by which traditional stenographic court reporters create and produce transcripts. While the court reporter is taking the record in the courtroom, another court reporter or scopist can be in a remote site accessing the digitized notes and creating a daily copy transcript almost instantaneously. Judges and attorneys have real time access to the documents electronically allowing for enhanced preparation for the trial. Judges are also able to access these digital files anytime and anywhere using a desktop, laptop, tablet or smart phone with an Internet connection. This ability to access these records remotely offers enhanced functionality of judges to expeditiously finalize their orders.

¹⁷ Gordon Griller and Daniel J. Hall, Traffic Division Operations Review, Marion Superior Court, Marion County, Indianapolis, Indiana – Final Report, January 2012, National Center for State Courts.

According to the National Center for State Courts, a number of states are employing centralized digital audio/video recording systems where multiple court proceedings can be serviced by one court electronic court reporter.¹⁸ This system is usually set up to cover pretrial proceedings involving dockets with large numbers of defendants or litigants, e.g., criminal arraignments or small civil claims pretrials. Similar to real time reporting, digital audio/video recording are also stored in a network that permit judges to remotely access the files providing similar benefits.

Florida trial courts increased their use of centralized digital recording in criminal, juvenile, and other state-paid recorded proceedings from 24.7 percent in 2004 to 55.8 percent in 2013. Florida's digital-court-recording system enables operators, commonly referred to as digital court reporters, to make log-note annotations and monitor the quality of the recording by distinctly listening to the recorded audio channel in real time while viewing sound-level indicators of each channel. Operators can and do centrally monitor up to four courtrooms simultaneously from a remote location over the court's local or wide area network.

Beginning in 2006, the Fourth District in Minnesota (Hennepin) successfully implemented a centralized monitor room. In 2006 an average of 10 courtrooms were being recorded. Today all courtrooms of record have the ability to remotely record, and an average of 45 courtrooms are being recorded. Court reporters, who are employees of the administrative office, monitor up to four courtrooms each and are assisted by nearby supervisors, who can respond to most adverse situations that arise. If a court reporter monitoring multiple hearings observes that one is becoming complex and needs more attention, supervisors can immediately transfer other hearing rooms to a different station. When necessary, an in-person reporter is assigned to work directly in a courtroom.¹⁹

An attorney preparing post-hearing motions or briefs can access a digital recording, confirm testimony, and insert the information into the pleading. Judges can utilize the technology in much the same manner in preparing orders and opinions following a hearing or trial. In addition, improved access could reduce litigation costs by eliminating some or all transcript costs, improve caseflow to enable faster disposition, reduce appellate backlogs and delays related to transcript production.

E. Remote Execution of Electronic Search and Arrest Warrant

A number of trial courts are introducing a new electronic process of executing search and arrest warrants. Technology now offers a variety of fast electronic ways for police officers and prosecutors to seek search and arrest warrants from judges.

Under the traditional paper-based process, a police officer, for example, must find a judge to present their facts to justify the entering of a search warrant. Often, the need for the search warrant arises in the middle of the night or other non-traditional work hours. Once a judge is identified, contact with the judge, usually by telephone, is made to arrange for a personal

¹⁸ James E. McMillan and Lee Suskin, Trends in State Courts: Leadership and Technology – Digital Court Recording Makes the Record Effectively, 2015, National Center for State Courts.

¹⁹ Gordon Griller and Lee Suskin, Reengineering Rural Justice in Minnesota's Eighth Judicial District – Final Report, October 2010, National Center for State Courts.

meeting where the judge hears the officer's facts supporting the warrant. The time required to set up this review is onerous and sometimes the delay jeopardizes the ability to obtain the information sought by the search warrant.

In the 12th Judicial Circuit in Sarasota, Florida, an e-Warrants system has been put in place via Administrator Order (see Appendix H). An e-Warrants website, administered by the court, is the primary administrative tool to execute the electronic warrants. The process begins with the officer uploading the proposed warrant into the e-Warrants website. When this is accomplished, the officer identifies the judge available to consider warrants. The judge is then contacted to indicate that a warrant is pending in the judge work que located on the website. The judge accesses the site and reviews the warrant. If the judge finds probable cause, the judge electronically signs the warrant and the officer is then notified by email that the signed warrant is available for pickup. If no probable cause is found, the judge rejects the warrant and the officer is notified by email. A detailed workflow process is provided in Appendix I.

Other states are in the process of implementing similar e-Warrants processes including Missouri, California, Texas, Louisiana, Kentucky and Maryland. As long as the procedures meet the oath requirement and provide a written record of the probable cause determination, a face-to-face meeting with a judge is not necessary.

F. Remote Technologies Use for Administrative Purposes

Evolving remote technologies are also enhancing non-adjudication functions of trial courts around the nation. Many courts are expanding Internet access to court services and marketing it heavily among specific customers and the public in general. Self-help consumer legal services and juror information systems are prime illustrations for special users. Text messaging to minors about juvenile court hearings has proven helpful in reducing failure to appear rates. Public access to on-line court records, docket information, and frequently asked questions are becoming commonplace saving clerical time and reducing congestion in courthouses.

Courts also providing remote locations for litigants schedule hearings or pay fees, fines and court costs. Using remote technologies to assist litigants with navigating the court facilities is another function that is focused on improving the litigant's court experience. Courts are greatly expanding the capability to monitor the security of the courthouse facilities through the use of remote digital video cameras strategically placed inside and on the perimeter of the courthouse. In some courts, this system is also used to monitor the availability of courtrooms when there is extraordinary demand.

V. SUMMARY

The speed at which technology is developing and emerging cannot be denied. Likewise, the possibilities technology holds to streamline court processes and increase efficiency is indisputable. Currently, remote technology is becoming more commonplace in court systems throughout the United States with prevalence in certain areas of law and proceedings more than others.

The acceptance of the use of electronic signatures by the judiciary is growing with the main consideration in authorizing electronic signing being the security of the system and proper oversight and control by administrators. Generally, the acceptance of remote technology in the courtroom is dependent on the type of case—criminal or civil—and the particular proceeding—hearings, evidentiary hearings, or trials—with potentially different considerations for each. The gamut of civil proceedings has a higher likelihood of allowing remote technology throughout the entirety of the case, including during non-jury trials. In these cases, the use is subject to considerations including, but not limited to, the parties’ due process rights, the parties’ opportunity to present their case, potential prejudice, and the reliability of the technology. In criminal cases, there is greater scrutiny of the use of remote technology, in particular, at stages that raise constitutional concerns such as due process, the right to confront witnesses, the right to counsel, and the right to be present. Certain proceedings in a criminal case have a wider acceptance of remote technology, including first appearance and arraignment. While the constitutional considerations in criminal evidentiary hearings, trials, and sentencings make the use of remote technology without consent of the defendant less likely.

As technology advances and changes, and even more courts move toward predominantly electronic records and seek a means to increase the speed and efficiency of processing cases, the same considerations will remain at play. It will be necessary to continue to establish guidelines and the framework for implementation of technology in the courts. The judiciary will need to be mindful that any use of technology in their courtrooms complies with evidentiary standards and maintains the integrity of the process. Further, no matter the technological abilities of the time, those in charge of implementing changes and setting standards for use, as well as the judiciary, will need to remain cognizant of the constitutional rights of parties involved and the possible effect remote technology has on those rights.

It is clear that many state trial courts are taking advantage of “state of the art” remote technologies to improve performance of the court and, at the same time, enhance the ability of users of the system to have meaningful access to exercise their constitutional rights. Given the growing number of individuals (Millennials) that grew up in the age of electronic and video revolution²⁰, court leaders will be challenged to respond to greater demands for using such technology to provide meaningful access to court services. The good news is that there are many trial courts that have experienced great success in integrating remote technologies that have proven to enhance court performance without varying from established legal principles that have guided the courts for centuries.

²⁰ Lydia Abbot, “8 Millennials’ Traits You Should Know About Before You Hire Them,” in Talent Blog, December 2013.

APPENDIX A**2016 – Status of E-Filing by State/Territories**

The following is a compilation that was made in January 2016.

<u>State</u>	<u>E-Filing Information</u>
Alabama	AlaFile is implemented statewide (http://efile.alacourt.gov) Quick links for Appellate and Trial Courts E-Filing plus rules is available at: http://judicial.alabama.gov/
Alaska	The project website: http://courts.alaska.gov/lynx/ and with milestones, schedule and FAQ listed at: http://courts.alaska.gov/lynx/lynx.htm#schedule
Arizona	The E-filing project is called AZTurboCourt and the project information page is available at: http://www.azcourts.gov/azturbocourtinformation/
Arkansas	The eFile project web page is: https://courts.arkansas.gov/administration/acap/efile
California	Individual courts have E-filing installed in California. We have identified the following courts: Orange, LA (small claims), SF, Sacramento, Contra Costa, Santa Clara, San Bernardino, San Luis Obispo, 1st, 2nd, and 4th District Court of Appeals. Tyler Odyssey e-FileCA (http://www.odysseyefileca.com/) lists Superior Courts in Fresno, Kern, Kings, Merced, San Luis Obispo, and Santa Barbara as operational as of January, 2016. They list Alameda, Calaveras, Monterey, Orange, San Diego, Santa Clara, and Santa Cruz as joining in the near future.
Colorado	A statewide AOC built system called ICCES was implemented in 2012. They are rolling out Criminal case E-filing starting in late 2015. The project web site is: https://www.courts.state.co.us/Administration/Unit.cfm?Unit=efile
Connecticut	AOC built E-filing for civil cases. Their E-Services website is: http://www.jud.ct.gov/external/super/E-Services/efile/ Effective January 1, 2016 they have made E-Filing mandatory for all non-exempt attorneys in their Appellate Courts.
Delaware	Delaware eFLEX system is used for the Court of Common Pleas and Justice of the Peace Court. CaseFileXpress is used in the Supreme Court, Court of Chancery, and Superior Court. The E-filing project web page is: http://courts.delaware.gov/efiling/
District of Columbia	E-filing is available in Probate, Civil, Tax, and Family-Juvenile Division. They use CaseFileXpress The program web page is: http://www.dccourts.gov/internet/legal/efiling.jsf
Florida	Florida Court Clerks Statewide E-filing system portal is located at: https://www.myflcourtaccess.com/ The project status page at: http://www.flcourts.org/gen_public/technology/e-filinginfostatus.shtml

State	E-Filing Information
Georgia	<p>The Georgia Superior Court Clerk's Cooperative Authority has implemented a statewide portal project at: https://efile.gsccca.org/Home.aspx A list of participating counties is located there.</p> <p>Additional E-filing services are provided at the Odyssey eFileGA service. Information is available at: http://www.odysseyefilega.com/</p> <p>There is also PEACHCOURT that provides eFiling and document access services. Their website is: https://www.peachcourt.com/</p> <p>And they have I-CAN self-help available at: http://www.legalican.com/georgia</p>
Guam	<p>The Supreme Court of Guam has E-Filing. Their web site is: http://www.guamsupremecourt.com/Efiling/efile.html</p>
Hawaii	<p>Judiciary Electronic Filing and Service System (JEFS) statewide system web page is: http://www.courts.state.hi.us/legal_references/efiling.html</p> <p>The Hawaii Supreme Court and the Hawaii Intermediate Court of Appeals take electronic filings as of September 27, 2010. The Hawaii State District Courts take electronic filings on criminal cases as of August 13, 2012.</p>
Idaho	<p>As part of their iCourt project, they have implemented mandatory E-Filing in Twin Falls County starting on January 11, 2016. The overview web page is: http://icourt.idaho.gov/efileoverview According to the project timeline they are planning for full implementation by the end of 2017.</p>
Illinois	<p>Illinois Supreme Court approved E-filing standards in October, 2012.</p> <p>The http://www.illinoiscourts.gov/ website currently lists availability in the following courts as of January, 2016. They are: Supreme Court, Circuit Courts in Cook, DeKalb, DuPage, Lake, Madison, McHenry, Montgomery, Moultrie, Sangamon, St. Clair, Will, and Winnebago counties.</p> <p>The E-Business Electronic Filing project web page with more detailed information is available at: http://www.illinoiscourts.gov/EBusiness/Electronic_Filing.asp</p> <p>Additional information including their current RFI for an Electronic Filing Manager (EFM) are as follows:</p> <p>Supreme Court Order: www.illinoiscourts.gov/SupremeCourt/Announce/2016/012216.pdf</p> <p>Press Release: www.illinoiscourts.gov/Media/PressRel/2016/012216_2.pdf</p> <p>RFI for EFM: www.illinoiscourts.gov/Procurement/2016/statewide_efiling/Statewide_efiling.asp</p>

State	E-Filing Information
Indiana	<p>According to the Statewide E-Filing web page (http://www.in.gov/judiciary/4267.htm) “The Indiana Supreme Court is implementing a statewide e-filing system that will allow cases to be filed entirely online, reducing the need for costly paper copies, postage and trips to the clerk's office. The project was announced in 2014, and the first courts will be up-and-running with the new system in 2015. It is anticipated that e-filing will be implemented statewide by the end of 2018.”</p> <p>A project timeline page is available at: http://www.in.gov/judiciary/4273.htm</p>
Iowa	<p>According to their eFiling web page: http://www.iowacourts.gov/eFiling/Overview/, as of June 30, 2015 every county district court is accepting electronic filing for all matters. In addition, eFiling is beginning in the Appellate Court on January 21, 2016 (http://www.iowacourts.gov/wfdata/frame7472-1235/File199.pdf)</p>
Kansas	<p>Kansas tracks e-filing implementation on this web page: http://www.kscourts.org/Cases-and-Opinions/E-filing/default.asp A significant number of courts have implemented e-Filing and the Supreme and Court of Appeals made it mandatory as of 11/2/2015.</p>
Kentucky	<p>As of November 18, 2015, eFiling is available in all 120 counties in the state. The project was initiated in December, 2013. The project web page including implementation timeline and training is at: http://courts.ky.gov/efiling/Pages/default.aspx</p>
Louisiana	<p>E-Filing systems are implemented in the following courts:</p> <ul style="list-style-type: none"> • Louisiana Supreme Court (https://cdx.lasc.org/) • Court of Appeal – First Circuit (https://eclerk2.la-fcca.org/) • Court of Appeal – Fourth Circuit – pilot – (https://ecourt.la4th.org/login.aspx) • Court of Appeal – Fifth Circuit (https://ecourt.fifthcircuit.org/eFilingInfo.aspx) • Jefferson Parish Clerk of Court (http://www.jpclerkofcourt.us/courts/24th-judicial-district-court/e-filing/)
Maine	<p>Maine Probate Court (http://www.maineprobate.net/index.html) has implemented EZ-File at: https://www.maineprobate.net/EFiling/default.aspx?ReturnUrl=%2fefiling CJ Saufley called for a \$15 million dollar bond to support E-filing in 2/14: http://goo.gl/AwRJ3A</p>
Maryland	<p>E-filing is being implemented as part of the Tyler Odyssey / Maryland Electronic Courts (MDEC) program. The E-filing website is located at: http://www.courts.state.md.us/mdec/efiling.html</p> <p>E-Filing in District Court in Prince George’s County has been implemented for Landlord & Tenant matters. See: http://www.courts.state.md.us/district/efile/efilemain.html</p>

State	E-Filing Information
Massachusetts	<p>A contract has been awarded for a joint e-filing initiative for both appellate courts and the trial court. The contract calls for six initial pilots, three in the appellate courts and three in the trial court. Presently Appellate pilots are operational in the Supreme Judicial Court, and the SJC Suffolk County Court, and in the Trial Court in the Worcester Division of the District Court and the Brighton Division of the Boston Municipal Court. The final pilots will soon be launched in the Appeals Court and the Essex Division of the Probate and Family Court.</p> <p>Also, the Supreme Judicial Court has issued Electronic Filing Pilot Project rules that will take effect on February 25, 2015. http://www.mass.gov/courts/case-legal-res/rules-of-court/sjc/efiling-order.html)</p>
Michigan	<p>Legislation passed in the Michigan legislature in 12/15 E-Filing is currently available in the following courts:</p> <ul style="list-style-type: none"> • Michigan Supreme Court (TrueFiling - https://goo.gl/4PrttX) • Michigan Court of Appeals (also TrueFiling - http://courts.mi.gov/courts/coa/efiling/pages/e-filing.aspx) • Third Judicial Circuit (https://www.3rdcc.org/eFiling.aspx) • Sixth Judicial Circuit (https://www.oakgov.com/clerkrod/Pages/efiling/default.aspx) • Thirteenth Judicial Circuit (http://www.13thcircuitcourt.org/175/E-Filing) • Sixteenth Judicial Circuit (http://circuitcourt.macombgov.org/circuitcourt-efiling) • Twentieth Judicial Circuit (https://www.miottawa.org/Departments/CountyClerk/CourtRecords/efiling.htm)
Minnesota	<p>Started statewide E-filing roll-out in 2012. The system is hosted by Tyler Technologies and is located at: https://minnesota.tylerhost.net/</p> <p>The project status page is located at: http://www.mncourts.gov/File-a-Case/File-in-A-District-Trial-Court/eFSRollout.aspx</p>
Mississippi	<p>E-filing is being implemented as part of the Mississippi Electronic Courts (MEC) project. The project web page is located at: https://courts.ms.gov/mec/mec.html</p>
Missouri	<p>Statewide E-filing implementation has been completed. Their project web page is: http://www.courts.mo.gov/page.jsp?id=46542</p> <p>The schedule web page showing court by court implementation is: http://www.courts.mo.gov/page.jsp?id=46524.</p>
Montana	<p>State E-Filing web page is: http://courts.mt.gov/efile Implementation has been completed for the Supreme Court and is continuing in the District Courts.</p>

State	E-Filing Information
Nebraska	<p>Statewide implementation. The Court's E-Services web page is located at: http://supremecourt.ne.gov/e-services</p> <p>An informational video is posted at: https://supremecourt.nebraska.gov/13606/efiling-eservice-enotice-informational-video</p>
Nevada	<p>E-Filing is available at:</p> <ul style="list-style-type: none"> • Nevada Supreme Court (https://efile.nvsupremecourt.us/) FAQ (https://efile.nvsupremecourt.us/faqs.jsp) • Clark County – Las Vegas Township Justice and Eighth Judicial District Court (http://www.clarkcountycourts.us/clerk/electronic-filing.html) • Washoe County – Second Judicial District (https://www.washoecourts.com/index.cfm?page=eflex&td=information)
New Hampshire	<p>Project website: http://www.courts.state.nh.us/nh-e-court-project/index.htm</p> <p>Implementation status web page: http://www.courts.state.nh.us/circuitcourt/efilingcourts.htm</p>
New Jersey	<p>The New Jersey eCourts website is: http://www.judiciary.state.nj.us/ecourts/</p> <p>Statewide JEFIS for special civil cases and foreclosures is implemented. See: http://www.judiciary.state.nj.us/jefis/index.htm</p> <p>Appellate Division eFiling system information (NJ eDATA) is available at: http://www.judiciary.state.nj.us/appdiv/eDATA/index.html</p> <p>The Supreme Court eFiling came online in December, 2015.</p> <p>Tax Court of New Jersey - http://www.judiciary.state.nj.us/taxcourt/, help page is located at: http://www.judiciary.state.nj.us/WebHelpTaxCourt/eCourtsTax_Court-eFiling.htm</p>
New Mexico	<p>E-filing services page for their statewide implementation is located at: http://www.nmcourts.com/efiling/</p>
New York	<p>New York Courts E-filing (NYSCEF) implemented in a number of courts. See: https://iapps.courts.state.ny.us/nyscef/HomePage</p> <p>An implementation list is provided at: https://iappscontent.courts.state.ny.us/NYSCEF/live/authorizedForEfiling.htm</p>

State	E-Filing Information
North Carolina	<p>Supreme Court and Court of Appeals Electronic Filing website is located at: https://www.ncappellatecourts.org/</p> <p>Trial Courts E-filing pilot system website is located at: https://www.efiling.nccourts.org/ and is limited to Alamance, Chowan, Davidson and Wake counties.</p> <p>North Carolina Business Court: http://www.ncbusinesscourt.net/New/app2efile/</p>
North Dakota	E-filing project website: http://www.ndcourts.gov/cle/ Tyler hosting link: https://northdakota.tylerhost.net/ (JMc 2/13)
Ohio	<p>Supreme Court e-Filing website is: https://www.supremecourt.ohio.gov/Clerk/eFiling/</p> <p>Trial courts with E-filing include Franklin, Montgomery, Cuyahoga, Summit, Hamilton, and Wayne counties as well as Cleveland Municipal Court.</p>
Oklahoma	<p>Oklahoma has completed the initial requirements and design and the documents are under review pending revisions and approval. They are targeting one or two pilot counties on line by the 3rd or 4th quarter of 2016.</p> <p>E-filing court rules: http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=466069</p>
Oregon	<p>E-filing web page is at: http://courts.oregon.gov/OJD/OnlineServices/OJDeFiling/Pages/index.aspx</p> <p>The following counties have implemented: Benton, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Sherman, Tillamook, Wasco, Wheeler and Yamhill.</p>
Pennsylvania	PACfile's web page is: https://ujportal.pacourts.us/AttorneyServices.aspx
Rhode Island	<p>The statewide E-filing page is: https://www.courts.ri.gov/efiling//Pages/default.aspx</p>
South Carolina	The statewide E-filing page is: http://www.judicial.state.sc.us/efiling/
South Dakota	E-filing is part of the Tyler Technologies Odyssey system. The project web page is: http://uj.s.sd.gov/Odyssey_System/
Tennessee	<p>On November 6, 2015, the Tennessee Supreme Court adopted a revised Rule 46, which will help pave the way for electronic filing of cases in the state appellate courts.</p> <p>The report from the Task Force on Electronic Filing in the Appellate Courts to the Supreme Court is available at: http://www.tsc.state.tn.us/sites/default/files/e-filingreportandrecommendations2-14-06.pdf</p> <p>Shelby County - https://efile.shelbycountyttn.gov/</p>

State	E-Filing Information
Texas	<p>In December 2012, the Texas Supreme Court mandated e-filing in civil matters. Today, all 254 Texas counties, the Supreme Court, the Court of Criminal Appeals and the 14 Courts of Appeal use e-filing. Out of 254 counties, 62 are mandatory meaning attorneys are no longer able to file paper documents at the clerk's counter. E-filing in all other counties will become mandatory on a graduated schedule through July 1, 2016.</p> <p>http://www.efiletexas.gov/</p> <p>The list of service providers is located at: http://www.efiletexas.gov/service-providers.htm</p>
Utah	The statewide E-filing web page is: http://www.utcourts.gov/efiling/
Vermont	The statewide E-filing web page is: https://www.vermontjudiciary.org/MasterPages/eservices-efiling.aspx
Virginia	<p>VJEFS - In April of 2013, OES successfully launched the Virginia Judiciary Electronic Filing System (VJEFS) as a pilot in Norfolk Circuit Court (http://icourt.info/efiling.html).</p> <p>VJEFS is now installed in the following Circuit Courts: Bedford, Bristol, Caroline, Chesapeake, Danville, Dickenson, Dinwiddie, Fredericksburg, Hanover, Isle of Wight, Lee, Montgomery, Newport News, Norfolk, Portsmouth, Prince William, Pulaski, Richmond City, Roanoke City, Roanoke County, Rockingham/Harrisonburg, Smyth, Staunton, Tazewell, Washington, Williamsburg/James City County</p> <p>In addition, Arlington County has “Project Paperless”. The website is: http://courts.arlingtonva.us/circuit-court/project-paperless/</p>
Washington	<p>E-Filing is implemented in the following courts:</p> <ul style="list-style-type: none"> • Supreme Court fax and e-mail filing (since 1997) - http://goo.gl/UwwRKf • Court of Appeals - https://goo.gl/84x1v8 • Chelan County http://www.co.chelan.wa.us/scc/scc_electronic_filing.htm • King County - http://www.kingcounty.gov/courts/Clerk/E-Filing.aspx • Pierce County - https://linxonline.co.pierce.wa.us/linxweb/Main.cfm <p>Statewide Tyler Odyssey CMS project web page is: http://www.courts.wa.gov/?fa=home.sub&org=sccms&layout=2</p>
West Virginia	The state's E-filing web pages is at: http://www.courtswv.gov/lower-courts/mlp/e-filing.html
Wisconsin	The statewide E-filing implementation web page is at: http://www.wicourts.gos7v/ecourts/efilecircuit.html
Wyoming	The state's E-filing web page is at: http://www.courts.state.wy.us/Home/EFiling
Puerto Rico	None found
U.S. Virgin Islands	The territories E-filing website is at: http://www.visupremecourt.org/Electronic_Filing/

<u>State</u>	<u>E-Filing Information</u>
American Samoa	None found (however they signed a contract with New Dawn/Journal Technologies for court automation)
Northern Mariana Islands	None found

APPENDIX B

Virtual Desktop Infrastructure – Advantages and Disadvantages

Advantages

Desktop/Data are secured in Data Center. If client devices fail, are stolen or lost, all client data and desktop configuration will be preserved.

Desktops run on enterprise class hardware rather than desktop hardware faster memory, drives, CPU's).

Desktops can be reached through the Internet access without the need for a VPN.

User can move between client devices without changing the current state of the desktop.

The desktop is only accessible at the device where the user is currently logged in, which reduces unauthorized access to an unattended device, if the user forgets to log out.

Takes up less space, uses less electricity and generates less heat.

Judge office moves are streamlined. No need to move computer hardware.

VDI hardware lasts longer than traditional systems due to less moving parts.

Funds saved from not having to refresh every 3 years can be used toward other technology needs.

Disadvantages

Intense/video/graphic editing applications may not perform as well in a virtual desktop environment

Virtual environment, if used frequently, will require additional components for listening to or playing DVD's or CD's.

APPENDIX C

Automated Case Management System Vendors

Tyler - <http://www.tylertech.com/solutions-products/courts-justice-solutions>

Journal Technologies - <http://www.journaltech.com>

Thomson-Reuters - <http://thomsonreuters.com/en.html>

Courtview - <http://www.courtview.com>

Justice Systems - <http://www.justicesystems.com>

Pioneer - <http://www.ptghome.com>

CSDC - <http://www.csdcsystems.com/en/solutions/courts-justice/>

Xerox - <https://www.xerox.com/en-us/services/local-government/justice-solutions>

AMICUS - <http://www.amicusijs.com/>

RSI - <http://www.rsi.com/>

APPENDIX D

Judicial Viewer Vendors

Pioneer/Benchmark - <http://www.ptghome.com/benchmark.html>

Mentis/AISmartbench - <http://www.mentistechnology.com>

Odyssey/Sessionworks - <http://www.tylertech.com/solutions-products/odyssey-product-suite/sessionworks>

APPENDIX E

Judicial Automated Workflow System (JAWS)



Judicial Automated Workflow System

JAWS, Judicial Automated Workflow System, is the primary application interface that allows for electronic access between the court, the bar, the public and agencies that have business before it. On April 30, 2013, JAWS was awarded full certification for meeting all of the requirements for the Functional Requirements Document for Court Application Processing System and AOSC09-30 version 7.0.

JAWS provides a variety of services and functionality to our users. The JAWS application contains the following modules:

- Docket Planner
- Case Management
- Pro Se Case Management
- Case Orders
- JudgeView

The **Docket Planner** module supports calendaring and time management for judicial staff. The scheduling engine is designed to accommodate various scheduling models. JAWS allows the Court to: (1) set matters on its own calendar, with or without consulting the parties or counsel; (2) display available court times to attorneys, allowing attorneys, or their office, to coordinate the scheduling of a hearing and places the matter on the court's calendar; (3) allows the public access to view available court times, followed by a call to the Judicial Assistant (JA) to request and reserve a mutually agreeable time, and (4) the final confirmation is communicated by email.

Pursuant to the judge's directives, the JA is able to allocate available court times for hearings or create a specific set of rules as to the type of hearings that can be set on certain dates and times. The application also allows a judge to require that pleadings, motions or other documents be uploaded for their review prior to the parties setting a hearing date. If the attorney does not adhere to this requirement, the program will not allow the case to be set until the document has been uploaded.

Each division of the court has the ability to allocate calendar times for the purposes of scheduling in the immediate or future, with as much specificity as desired. The JA selects the preferences associated with each court event. The application supports a range of choices for the JA to select in order to set the schedule, (e.g. the number of hearings allowed in the time allocated, length of

each hearing during a block of time, designate the type of hearing during that block of time , etc.). If the JA selects the setting: "Allow Public Viewing" then the event and allocation of time is made available for viewing and setting a hearing time via the internet. Once the attorneys mutually agree to a hearing time and the matter is scheduled, the attorneys receive a confirmation email that the hearing time has been scheduled. The Docket Planner module also supports associated parties, case search features, case notes, case history, view/upload of files, emailing of the docket to the clerk, and docket printing.

JAWS includes a tickler system that allows the judge or JA to set a task. The task can be associated with a case and can be added to the court's work queue.

Case Management is another module within the JAWS application. This module affords a judge the ability to check court filings, record case notes, set future hearing dates, generate Orders, and distribute Orders while the parties are still in the courtroom.

The **Family Law/Pro Se Case Management** module is used by the Family Law Case Managers to track the progress of pro se cases.

Case Order Generation module allows a judge to create date aware orders so when the Order is generated, the case is scheduled automatically and the attorneys are notified by email. Judges, JAs and case managers have the ability to use standardized orders in the system or the ability to create their own orders. These Orders can then be saved in each judge's own case management area within JAWS.

The JAWS work queue allows Judges, JAs and case managers to create an Order and place it in the judge's work queue. The judge is then able to access his/her work queue, view the selected Order, and either electronically sign or reject the Order.

The **Judge View** module is an enhanced interface specifically designed for handling the needs of the judge from the bench, hearing room, or his/her office. This module includes a calendar/hearing scheduler, the progress docket, docket, case notes, case/party search, order generation, work queue, and electronic signature capability.

Attorneys have the ability to upload proposed orders using the external attorney JAWS site. The proposed orders are submitted in either Word or PDF format and can be submitted directly to the Judge's work queue.

Currently, JAWS has over 25,000 registered users. This number represents internal users, attorneys and their assistants acting on behalf of the attorney. An attorney must agree and verify that his/her assistant is acting on their behalf. An attorney may have several users tied to his/her Florida Bar number.

APPENDIX F**2016 Survey of Selected Courts in Florida, New Jersey and California – Use of Video Conferencing**

<u>Video Technology Options</u>	<u>Deployed or Planning to Deploy</u>
Video Conferencing of 1st Appearance Hearings	1,6,7,8,9,10,11,12,13,15,16,18,19,20,NJ
Video Conferencing of Bond Reduction Hearings	6,7,8,9,11,12,13,20,NJ
Video Conferencing of Misdemeanor/ Criminal Traffic Arraignments	1,6,7,8,11,12,13,19,NJ
Video Conferencing of Civil Traffic Hearings	15,NJ
Video Conferencing of Child Support Enforcement Hearings When Obligor is in Jail Custody	1,7,8,11,12,13,15,18,20,NJ
Video Conferencing of Dependency Hearings When Parent is in Jail Custody	6,8,9,12,13,15,16,20,NJ
Video Conferencing of Child Victim Testimony in Criminal, Delinquency or Dependency Hearings	1,6,7,8,9,10,11,12,13,15,16,19,20,NJ,OC
Video Conferencing of Expert Witness Pretrial or Trial Testimony in Criminal, Civil, Domestic Relations, Probate, Guardianship, Mental Health, Delinquency or Dependency Proceedings	1,6,7,8,9,12,13,15,16,18,19,20,NJ,OC
Video Conferencing of State Prison or Jail Inmates participation in Civil, Domestic Relations, or Post Conviction Motion Proceedings	1,6,8,9,12,15,18,20,NJ
Video Conferencing of Jail Interview/ Depositions by Attorneys	1,6,7,11,13,15,19,20
Video Conferencing of Jail Inmates by Doctors Conducting Competency Evaluations	6,20,NJ

<u>Video Technology Options</u>	<u>Deployed or Planning to Deploy</u>
Use of Video Evidence Display in Court Proceedings	1,6,8,9,11,12,13,15,16,18,19,20,NJ,OC
Remote Video Appearances by Court Interpreters	1,6,7,8,9,10,11,13,15,16,18,19,20,NJ,OC
Video Conferencing to Conduct Interviews of Self-Represented Litigants	6,11,13,18,NJ
Use of Video Technology to Capture the Court Record Exclusively	8
Use of Video Technology to Capture the Court Record in Partnership with Digital Audio Technology	1,7,8,12,13,15,18,19,20,NJ
Video Conferencing for Judge/Staff /Court Stakeholder Meetings	1,6,7,8,9,10,11,12,13,15,16,18,19,20,NJ,OC
Remote Video Participation by a Judge in a Court Proceeding	1,6,7,8,9,10,12,13,15,19,NJ
Remote Video Participation by Attorneys in a Court Proceeding	1,6,7,8,9,10,13,19,NJ,OC
Remote Video Participation by Treatment Providers in Problem-Solving Court Proceedings	8,9,11,12,15,20,NJ
Video Technology to Provide Assistance to Users Looking for the Location of a Courtroom/Office	19,OC,NJ
Video Technology to Monitor Courthouse/Courtroom Security	1,6,7,8,9,10,12,13,15,16,19,20,NJ
Video Technology to Monitor Courtroom Usage	6,8,9,12,13,15,16,20
Video Conferencing of Other Court Proceedings or Other Usage not listed above (Please Specify)	
Bonding Evaluations	NJ

<u>Video Technology Options</u>	<u>Deployed or Planning to Deploy</u>
Presentence Interviews for Prison Inmates	NJ
Statewide Court Committee Meetings	NJ

Courts participating in survey:

<u>Florida</u>	<u>New Jersey</u>	<u>California</u>
First Judicial Circuit	Burlington Vicinage of New	Orange County Superior
Second Judicial Circuit	Jersey Superior Court	Court
Third Judicial Circuit		
Fourth Judicial Circuit		
Fifth Judicial Circuit		
Sixth Judicial Circuit		
Seventh Judicial Circuit		
Eighth Judicial Circuit		
Ninth Judicial Circuit		
Tenth Judicial Circuit		
Eleventh Judicial Circuit		
Twelfth Judicial Circuit		
Thirteenth Judicial Circuit		
Fourteenth Judicial Circuit		
Fifteenth Judicial Circuit		
Sixteenth Judicial Circuit		
Seventeenth Judicial Circuit		
Eighteenth Judicial Circuit		
Nineteenth Judicial Circuit		
Twentieth Judicial Circuit		

APPENDIX G

Self-Represented Litigant Software Vendors

Turbo Court by Intersys - <https://www.turbocourt.com>

Tyler Technologies - <http://www.tylertech.com/solutions-products/odyssey-product-suite/guide-file>

A2J - <http://www.a2jauthor.org/content/chapter-1-a2j-author-overview>

APPENDIX H

12th Judicial Circuit (Sarasota, Florida) Administrative Order – Procedures for Electronic Search and Arrest Warrants

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE AND SARASOTA COUNTIES, FLORIDA**

**ADMINISTRATIVE ORDER NO. 2015-10A.3
(Supplements Administrative Order 2013-3.3)
(Amends Administrative Order 2015-10.3 to
correct scrivener’s error re: signing date)**

**IN RE: PROCEDURES FOR ELECTRONIC SEARCH AND ARREST
WARRANTS IN MANATEE AND SARASOTA COUNTIES
(ADULTS ONLY – NOT FOR JUVENILE CASES)
(Supplements Administrative Order 2013-3.3)
(Amends Administrative Order 2015-10.3 to correct scrivener’s error re: signing date)**

_____ /

Administrative Order 2013-3.3 established procedures for using paper search and arrest warrants for adult criminal activity only. Those procedures shall remain in effect only when paper search and arrest warrants must be used. However, in the interest of speedy, efficient and proper administration of justice, the court is transitioning to electronic search and arrest warrants and the following procedures shall govern applications for electronic search and arrest warrants.

1. The Twelfth Judicial Circuit Court has developed an E-warrant System (hereinafter E-warrant System). It is anticipated all the Twelfth Judicial Circuit law enforcement agencies and Judges will eventually be approved and trained on the E-warrant System. Law enforcement officers seeking to obtain search and arrest warrants who have received training and approval on the E-warrant System, **shall** use the E-warrant System. The goal is for all search and arrest warrants, with very few exceptions, to be processed via the E-warrant System and that paper submissions will end.
2. The E-warrant System shall not be used if: (a) the search and arrest warrant requires mandated reviews; (b) the law enforcement officer has a good faith belief that the search or arrest warrant is exceptionally sensitive; (c) the law enforcement agency has not been trained and approved to use the E-warrant System; or (d) when the E-Warrant System is not operating. In these instances the procedures set forth in Administrative Order 2013-3.3 for paper search and arrest warrants shall be followed.
3. Felony warrants are not required to be approved by the State Attorney’s Office prior to submission, but it is recommended that law enforcement officers have the State review warrants prior to submission if possible.

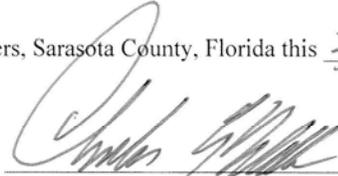
4. All information about the case, the subjects of arrest or search and their criminal history, shall be provided in the affidavits presented for review. No other information is permitted or authorized and will not be considered by the receiving judge.
5. The law enforcement officer shall direct the affidavit and e-warrant to the appropriate judge in the division to which the suspect or defendant would be assigned. Administrative Order 2007-16.3 establishes six felony divisions in Manatee and Sarasota Counties. Suspects and defendants are assigned to the appropriate division corresponding to the first letter of the suspect's or defendants' last name. In Sarasota County, only misdemeanor warrants emanating in south Sarasota County should be sent to the South County judge. Felony warrants should be sent to assigned felony judge. In the event Administrative Order 2007-16.3 is ever amended, the procedures set forth in this Administrative Order shall remain in full force in effect.
 - a. WARRANTS DURING BUSINESS HOURS:
The officer shall upload the electronically signed sworn affidavit and e-warrant. If an emergency exists, the law enforcement officer must contact the JA who will immediately bring it to the attention of the judge or locate an available judge to review the warrant. *An emergency is when the law enforcement officer has a good faith belief that unless a warrant is signed and executed immediately, it will frustrate an arrest, endanger lives, or permit the destruction of evidence.* The judge will determine if the law and the totality of circumstances require immediate attention.
 - b. EMERGENCY WARRANTS AFTER HOURS- For emergency search and arrest warrants after hours, weekends, holidays or any time the courthouse is closed, the law enforcement officer should contact the appropriate assigned judge in the criminal division at his/her after hours contact number. *An emergency is when the law enforcement officer has a good faith belief that unless a warrant is signed and executed immediately, it will frustrate an arrest, endanger lives, or permit the destruction of evidence.* If the law enforcement officer is unable to make contact with the assigned judge within a reasonable amount of time, the officer should first contact one of the other felony division judges but must advise that judge of all attempts to reach the assigned judge. If law enforcement is unable to reach any of the felony division judges, other judges can be contacted. Law enforcement should not resend the e-warrant to the "substitute" judge as he/she will be able to access the originally sent e-warrant and resending the e-warrant could result in conflicting or duplicative results. The law enforcement officer should not contact the judge until the electronically signed sworn affidavit and warrant have been uploaded and are ready for review and signature.
6. If a judge declines to execute a warrant based upon a finding of no probable cause, the warrant shall be presented to the *same* judge if resubmitted after changes are made to the affidavit.
7. Whenever a new judge is assigned to a felony division, the Trial Court Administrator will provide updated after-hour contact information for each felony judge to leaders of law

enforcement agencies as well as update that information in the E-warrant System. All law enforcement leaders who receive this confidential information from the Trial Court Administrator shall immediately distribute it to the appropriate officers. Law enforcement is reminded that this information is confidential and is to be disclosed only to law enforcement personnel for emergency after hours contact.

NOW, THEREFORE , IT IS ORDERED that all the Twelfth Judicial Circuit Law Enforcement agencies eventually be trained and approved on the E-warrant System, and when they are, law enforcement officers seeking to obtain search and arrest warrants **shall** use the E-warrant System and only the scenarios described in paragraph 2 may use paper search and arrest warrants.

IT IS FURTHER ORDERED that this Administrative Order supplements Administrative Order 2013-3.3, amends Administrative Order 2015-10.3, and is effective immediately.

DONE AND ORDERED in chambers, Sarasota County, Florida this 30th day of July, 2015.



CHARLES E. WILLIAMS, CHIEF JUDGE

Distribution list:

- Original to: Clerk of Court Sarasota County
- Copies to: All Judges, Twelfth Judicial Circuit
- Court Administration, Twelfth Judicial Circuit
- Clerks of Court Manatee and DeSoto Counties
- IT Dept, Twelfth Judicial Circuit
- All Law Enforcement Agencies serving the Twelfth Judicial Circuit

APPENDIX I

12th Judicial Circuit E-Warrants System Concept and Workflow

