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GENERAL ORDER 04 -02

ELECTRONIC ACCESS TO COURT RECORDS

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CIRCUIT COURT OF DE KALB COUNTY  
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**WHEREAS**, the Administrative Office of Illinois Courts has adopted an Electronic Access Policy for Circuit Court Records of the Illinois Courts; and

**WHEREAS**, said policy provides a balance of interests in the context of the present electronic environment; and

**WHEREAS**, said policy distinguishes between the electronic record and the paper record, providing electronic access to court records in a way that mutually benefits the public and the judiciary by making certain court records convenient for the public while protecting the privacy of identifiable interests; and

**WHEREAS**, The Circuit Clerks of DeKalb, Kane, and Kendall Counties have reviewed said policy and are prepared for its implementation.

**IT IS THEREFORE ORDERED** that electronic access for circuit court records of the Sixteenth Judicial Circuit shall be governed by the policy set forth in Appendix A of this General Order.

ENTERED this 10<sup>th</sup> day of June, 2004.

*Philip L. DiMarzio*  
Philip L. DiMarzio, Chief Judge

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Appendix A  
**Electronic Access for Circuit Court Records of the 16<sup>th</sup> Judicial Circuit  
Kane, DeKalb, and Kendall Counties**

**SECTION 1**

**Section 1.00 – PURPOSE OF ELECTRONIC ACCESS POLICY**

(a) The purpose of this policy is to provide a comprehensive policy on electronic access to the court records held by the Clerks of the 16<sup>th</sup> Judicial Circuit. The policy provides for access in a manner that:

- (1) Maximizes accessibility to court records;
- (2) Supports the role of the judiciary;
- (3) Promotes governmental accountability;
- (4) Contributes to public safety;
- (5) Minimizes risk of injury to individuals;
- (6) Makes most effective use of court and clerk of court staff;
- (7) Provides excellent customer service;
- (8) Protects individual privacy rights and interests;
- (9) Protects proprietary business information;
- (10) Minimizes reluctance to use the court to resolve disputes;
- (11) Does not unduly burden the ongoing business of the judiciary; and
- (12) Complies with the Supreme Court Policy on Electronic Access to Records.

(b) The policy is intended to provide guidance to (1) those seeking electronic access to court records and (2) judges, and court and clerk of court personnel responding to requests for electronic access.

(c) The clerk shall employ appropriate security measures, procedures, devices and software to protect the court's records and to prevent unauthorized access.

(d) This policy does not limit or expand access to the official court record maintained by the clerks of the circuit courts. Access to those records is governed by the Supreme Court's *General Administrative Order on Recordkeeping in the Circuit Courts* and applicable laws. The official court records held by the clerk of court are available for free access and inspection during regular office hours of that office by all persons. 705 ILCS 105/16.6.

(e) The right to access and disseminate any court record may not be subject to any exclusive contract with another person or entity. 705 ILCS 105/13. A non exclusive contract with one vendor is not a guarantee that any and all electronic dissemination vendors have a right to electronic access to the court's record. Electronic access and dissemination is dependant upon the clerk's recordkeeping system, the clerk's ability to provide secure access to allow additional access. It is not intended to cause an undue burden upon the clerk or court to provide additional access.

**SECTION 2**

**Section 2.00 – WHO HAS ACCESS UNDER THIS ELECTRONIC ACCESS POLICY**

Every member of the public will have the same electronic access to court records as provided in this policy, except as provided in Sections 4.20 and 4.30 of this policy.

"Public" includes:

- (a) any person and any business or non-profit entity, organization or association;
- (b) any governmental agency for which there is no existing court rule, order, or law defining the agency's access to court records;
- (c) media organizations; and
- (d) entities that gather and disseminate information for whatever reason, and regardless of whether it is done with the intent of making a profit, without distinction as to nature or extent of access.

"Public" does not include:

- (e) court or clerk of court employees;
- (f) people or entities, private or governmental, who assist the court in providing court services;
- (g) public agencies whose access to court records is defined by another court rule, order or law; and
- (h) attorneys of record who will be allowed greater electronic access to their specific cases, as the capabilities of the case management system on which those records are stored evolves.

### **SECTION 3**

#### **Section 3.00 – DEFINITIONS**

For the purpose of this policy the definitions will apply.

#### **Section 3.10 – DEFINITION OF "ELECTRONIC COURT RECORD"**

The "Electronic Court Record" includes information in electronic form related to: indexes relating to cases; calendars, record sheets, and chronologies relating to cases; pleadings, orders, dispositions, and other documents relating to cases which are maintained by the clerk of the court and not excluded under Sections 4.20 and 4.30 of this policy, by court rule, order, or law.

#### **Section 3.20 – DEFINITION OF "PUBLIC ACCESS"**

"Public access" means that the public can inspect and copy the electronic court record using electronic access, except as provided for in Sections 4.20 and 4.30 of this policy.

#### **Section 3.30 – DEFINITION OF "ELECTRONIC ACCESS"**

"Electronic access" means that inspection of the electronic court record can be made through the use of technology, such as the Internet, direct dial, KIOSK, digitizing scanners etc.

#### **Section 3.40 – DEFINITION OF "IN ELECTRONIC FORM"**

Information in a court record "in electronic form" includes information that exists as:

- (a) electronic representations of text or graphic documents;
- (b) an image, including a video image, of a document, exhibit or other thing; or
- (c) data in an electronic database.

*Comments*

*Access to any electronic recording made of a court proceeding is governed by Administrative Order M.R. 15956, entered May 28, 1999 and is not addressed in this policy.*

**Section 3.50 – DEFINITION OF “OFFICIAL COURT RECORD”**

The “official court record” is the basic record as defined under Part 1, Section F of the *Manual of Recordkeeping* or law.

**Section 3.60 – DEFINITION OF “COURT RULE”**

“Court rule” means any Rule of the Supreme Court of Illinois and any local rule or administrative order established as provided by Supreme Court Rule 21.

**Section 3.70 – DEFINITION OF “LAW”**

“Law” means any federal or state constitutional provision or federal or state statute passed by the U.S. Congress or the Illinois General Assembly.

**Section 3.80 – DEFINITION OF “CASE”**

“Case” means a public judicial proceeding assigned a case number as provided for in the *Manual on Recordkeeping*.

**Section 3.90 – DEFINITION OF “FILED DOCUMENT”**

“Filed document” means a document, such as a pleading, filed or entered into the record of a case by someone other than the court and maintained by the clerk as part of the official court record.

**SECTION 4**

**Section 4.00 – APPLICABILITY OF ELECTRONIC ACCESS POLICY**

This policy applies to accessing electronic court records as defined herein and as provided for by local court rule.

**Section 4.10 – GENERAL ACCESS**

Information in the electronic court record is accessible to the public, except as provided in Section 4.20 and Section 4.30. Availability of any particular case, or any portion of a case, is dependant upon the storage capacity, capabilities of the clerk’s case management system, and the clerk’s progress in electronic recordkeeping.

**Section 4.20 – LIMITATIONS TO ELECTRONIC ACCESS**

(a) The *General Administrative Order on Recordkeeping in the Circuit Courts* provides for the destruction of court records. That order should be referred to for guidance on whether and when electronic access may or should be terminated.

(b) A clerk of court may elect to continue to provide access to all or part of the electronic court record where approval has been received to destroy the basic record of the case.

(c) A case management system may necessitate that portions of the electronic court record be removed from or not be made available by electronic access.

#### **Section 4.30 – ELECTRONIC COURT RECORDS EXCLUDED FROM PUBLIC ACCESS**

(a) Information that is impounded, sealed (including sealed notes of judges), or expunged pursuant to law or by court rule, order, or pursuant to the *Manual on Recordkeeping* shall be excluded from public access in electronic form. Access and inspection of this information is governed by the existing court rules and laws regulating public access to the official court record. Inspection must be made in person at the office of the clerk of court.

(b) Information that is not permitted to be accessible to the public in electronic form or that is not permitted to be accessible to the public remotely, pursuant to state or federal law, court rule, or applicable case law, shall be excluded from public access in electronic form. The following information is excluded from public access in electronic form, unless authorized by the Supreme Court.

- Financial information that provides complete identifying account numbers of specific assets, liabilities, and accounts, such as credit cards, social security and FEIN numbers, and P.I.N. numbers of both individuals and business entities;
- Proprietary business information such as trade secrets, customer lists, financial information, and tax returns (including personal tax returns);
- Information constituting trade secrets, copyrighted or patented material or which is otherwise owned by the state or local government and whose release would infringe on the government's proprietary interests;
- Notes, drafts and work products prepared by a judge or for a judge by court staff or individuals working for the judge related to cases before the court;
- Names, addresses, or telephone numbers of potential or sworn jurors in a criminal case,
- Juror questionnaires and transcripts of voir dire of prospective jurors;
- Wills deposited with the court pursuant to the *Manual on Recordkeeping*;
- Arrest warrants prior to the arrest of the person named;
- Any documents filed or imaged. Attorneys of record may have access to documents filed or imaged.

#### **Section 4.40 – REQUESTS FOR BULK DISSEMINATION OF COURT RECORDS IN ELECTRONIC FORM**

A request for bulk dissemination is defined as a request for all, or a significant subset, of the information in court records that is maintained in electronic form, as is and without modification or compilation. Dissemination of bulk information in electronic form is not permitted for court records, except where explicitly provided by court rule, court order, or law.

#### **Section 4.50 – ACCESS TO COMPILED INFORMATION FROM COURT RECORDS**

Compiled information is defined as information derived from the selection, aggregation or manipulation of court information from more than one individual electronic court record, including statistical reports, and information that is not already available in an existing record or report. Dissemination of compiled information in electronic form is limited to standardized reports developed by the clerk to alleviate the manual labor associated with accessing the same

information in the physical case record, such as the new criminal case filings. The clerk shall seek court approval for each standardized report to be disseminated electronically.

**Section 4.60 – REQUESTS TO RESTRICT INFORMATION IN ELECTRONIC COURT RECORDS FROM PUBLIC ACCESS**

(a) Except as provided in Sections 4.20 and 4.30 and part (b) of this Section, the electronic court record is an exact representation of the official court record.

**Section 4.70 – COURT RECORDS IN ELECTRONIC FORM PRESUMPTIVELY SUBJECT TO ELECTRONIC ACCESS BY THE PUBLIC**

If possible, the following information in court records should be made electronically accessible to the public if it exists in electronic form, except as provided in Sections 4.20 and 4.30:

- (a) Indices to cases as provided in the *Manual on Recordkeeping*;
- (b) Calendars of court proceedings;
- (c) The record sheets for cases as provided for in the *Manual on Recordkeeping*.

**SECTION 5**

**Section 5.00 – WHEN ELECTRONIC COURT RECORDS MAY BE ACCESSED**

Electronic court records under this policy will be available for access on a 24 hour basis, subject to unexpected technical failures, normal system maintenance, or as may otherwise be technically feasible.

**SECTION 6**

**Section 6.00 – FEES FOR ACCESS**

(a) There shall be no additional fee for electronic access to the court record as provided for in this policy. However, this does not limit a clerk of court from charging fees for copies regardless of form, format, or media of exchange of documents filed with the clerk.

(b) This section does not apply to a contractual relationship between the public or vendor and the court or clerk of court to provide any service allowed by court rule or law.

*Comments*

*Subsection (a): The public is allowed free access to inspect the records maintained by the clerk of court as provided by Section 16(6) of the Clerks of Court Act, 705 ILCS 105/16(6). It is the intent of this subsection to provide the same free access to inspect the electronic court record.*

**SECTION 7**

**Section 7.00 – OBLIGATIONS OF VENDORS PROVIDING INFORMATION TECHNOLOGY SUPPORT TO A COURT TO MAINTAIN COURT RECORDS**

(a) It shall be the duty of the court and clerk of court to assure that any contract with a vendor to provide electronic access to court records is consistent with the requirements of this

policy. Any agreement with a vendor to provide electronic access to court records must be approved by the chief judge.

(b) For purposes of this section, "vendor" includes a private entity and state, county or local governmental agency that provides information technology services to a court.

## SECTION 8

### **Section 8.00 – NOTICE AND EDUCATION REGARDING ELECTRONIC ACCESS POLICY**

(a) The court or clerk of the court is not required to notify or educate the public regarding electronic access to court records as proved for herein.

(b) The clerk of court shall maintain for inspection at all times a current copy of this rule, along with the Supreme Court Policy associated with this rule.