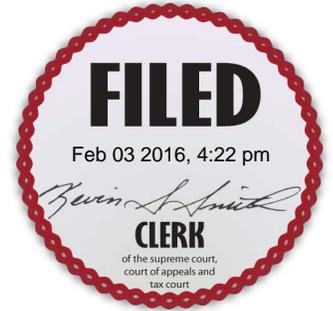


In the
Indiana Supreme Court



CASE NUMBER: 94S00-1602-MS-62

ORDER CREATING AN ADVISORY TASK FORCE

ON REMOTE ACCESS TO AND PRIVACY OF ELECTRONIC COURT RECORDS

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

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

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

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

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

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

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

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

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



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.

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

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