

**THE POTENTIAL FOR E-FILING IN CRIMINAL CASES
FILED IN THE ANCHORAGE TRIAL COURT**

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ABSTRACT

The Alaska Court System is continually looking for ways to streamline court operations. Implementation of an e-filing system for criminal cases filed with the court has the promise to do just that.

The initial focus for this research paper was to determine the feasibility of implementing an e-filing system for criminal cases filed in the Anchorage Trial Court as a pilot project in the near future. The focus of this research project eventually expanded to contemplate the varying types and scopes of e-filing systems for all case types filed in the trial courts in light of numerous factors courts should consider when making decisions about e-filing.

An extensive literature review was conducted to learn more about the different e-filing models being implemented for courts. The literature revealed that e-filing models can vary greatly. Some e-filing models are very comprehensive and include features such as electronic service options, data integration with a case management system, electronic workflow routing capabilities, and an electronic document management system. A very basic model would simply involve the electronic transmission of a document.

Since the initial scope of this project focused on e-filing for criminal cases, time consuming research was conducted to identify courts that have implemented an e-filing system specifically for criminal cases. The goal was to acquire the “lessons learned” from courts that have already implemented an e-filing system for criminal cases. The survey consisted of 30 questions that covered areas such as the scope of e-filing systems implemented (various components), potential barriers to successful implementation of an e-filing program, staffing requirements for implementing and maintaining an e-filing program, and the medium for official court records (paper, electronic, etc.).

Three courts responded to the court survey. All three courts implemented a court-based e-filing program and recommended such a program over contracting with an e-filing service provider. Survey responses revealed that one court in particular had implemented a very comprehensive e-filing system and has transitioned from paper to a paperless court. The other two courts that responded implemented more limited e-filing systems. The court that implemented the most comprehensive e-filing program experienced the greatest reduction in workload.

The research conducted for this paper has shown that there are numerous proven net efficiencies to be gained by the implementation of an e-filing system. Research has also shown that courts must consider many factors when deciding the type of e-filing program that should be implemented. These factors include: available financial and human resources, staff expertise, business needs of the court, system infrastructure, court customers, court culture, court policy, and many others. Decisions made by the court as to these factors will impact the scope of the e-filing system to be implemented for any case type. Thus, it would be wise for the Alaska Court System leaders to consider e-filing generally with regard to scope before deciding to move forward with a pilot e-filing program for criminal cases in Anchorage.

INTRODUCTION

Like so many other courts across the nation, the Alaska Court System is continually looking for ways to streamline court operations in an ongoing effort to ensure efficient court operations and to provide timely access to the courts. In 2004 a Multi-Agency Justice Integration Consortium was formed in Alaska to help agencies more efficiently share complete, accurate, and timely information with each other in order to enhance the performance of the criminal justice system as a whole. Implementation of an e-filing system for criminal cases in the Anchorage Trial Court has the promise to facilitate a more efficient and accurate means for the initiation of criminal cases. Depending on the scope of implementation of such a project, the e-filing system also has the promise to provide a more efficient and less costly means for service between the court, the prosecutor's offices, private and public defense counsel, and other criminal justice agencies. The ultimate goal of this study is to determine the feasibility of implementing an e-filing system for criminal cases filed in the Anchorage Trial Court as a pilot project in the near future.

The Alaska Judiciary

On February 5, 1956, Convention delegates adopted Alaska's Judiciary Article which went into effect when Alaska became a state on January 3, 1959.¹ In drafting Alaska's Judiciary Article, the Framers wanted to establish a basic court structure and provide flexibility for the legislature to create additional lower or other courts in the future as may be necessary. Drawing on the fundamental and minimum standards of judicial administration approved and supported by the American Bar Association, the Framers created a unified court system that consisted of a supreme and superior court.² The Supreme Court was established as the highest court of the

¹ <http://ltgov.alaska.gov/services/constitution.php?section=4>, page 1.

² Alaska Constitutional Convention Minutes, Appendix V

state and the superior court as the court of general jurisdiction.³ In May of 1959, just four months after statehood, the Legislature established district magistrate courts of limited jurisdiction for each of the four judicial districts in Alaska.⁴ The Legislature made clear its intention for these courts to be the sole and exclusive subordinate court system of the state.⁵ In 1966, the Legislature designated the district magistrate court as the district court of the state of Alaska. At the same time, the Legislature designated district magistrates as district judges and deputy magistrates as magistrates.⁶ See Appendix B for a summary of the district court's jurisdiction and Appendix C for a summary of the limitations on proceedings which district magistrates may hear.

In 1980, the legislature established the court of appeals which consists of three judges.⁷ The court of appeals has appellate jurisdiction in criminal and quasi-criminal actions commenced in the district and superior court.

The following flowchart shows the structure of the Alaska Court System as it exists today:

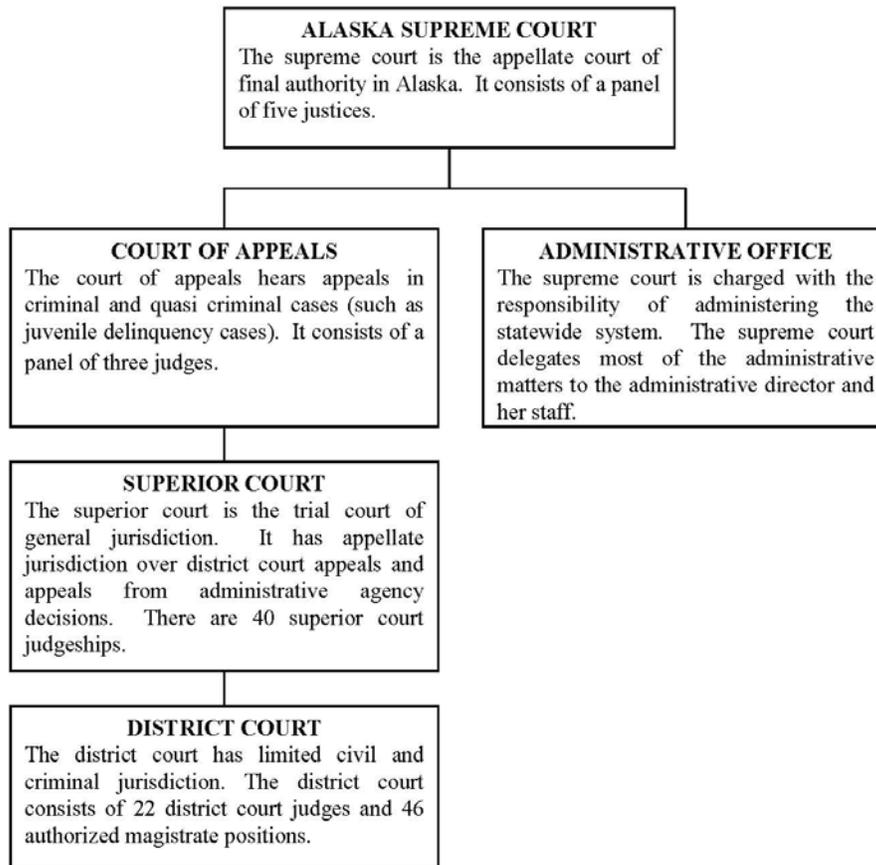
³ AK Const. art. IV, § 2, AK Const. art. IV, § 3

⁴ Chapter 184, § 1, 1959.

⁵ Specifically, the Legislature's Declaration of Intent states: "It is the intent of the Legislature by the passage of this Act to implement the organization of the state courts provided for in the Constitution of the State of Alaska by establishing subordinate courts as an integral part of a unified judicial system. To this end, the district magistrate courts as herein established shall constitute the sole and exclusive subordinate court system of the state. Their jurisdiction is hereby declared to be supplementary to the original jurisdiction of the superior court, and to the extent provided herein shall be concurrent therewith. The Legislature recognizes that, because of the size and scattered population of the state, with its remote and isolated settlements, complexities within a unified court system necessarily arise. Therefore, in order to avoid a duplication of subordinate court jurisdictions, and to provide prompt and efficient administration of justice, there is established in this Act a single subordinate court within each judicial district, but with each such district magistrate court having as court officers district magistrates with general trial power within the limits of the court's jurisdiction and deputy magistrates of limited trial power sufficient to meet the immediate requirements of justice in the less populated areas of the state." Chapter 184, § 25, SLA 1959.

⁶ Chapter 24, §§ 1-3, SLA 1966.

⁷ Chapter 12, § 1, SLA 1980.



From *Alaska Court System Annual Report, 2007*. Adapted to update the number of judicial officers.

Court Administration

The chief justice of the Alaska Supreme Court is the administrative head of the Alaska Court System. The chief justice appoints an administrative director with the approval of the supreme court.⁸ The director supervises the administrative operation of the judicial system. The

⁸ AK Const. art. IV, § 16

supreme court may also promulgate rules that govern the administration of all courts and rules of practice and procedure in civil and criminal cases.⁹

The justices, by majority vote, select one of their members to be the chief justice. The chief justice holds that office for three years and may not serve consecutively.¹⁰ The chief justice appoints one judge of the court of appeals to be the chief judge. The chief judge of the court of appeals serves a two-year term and may serve successive terms.¹¹

The superior court consists of four judicial districts.¹² (see Appendix A, Alaska Court System Organizational Chart). In January of each year, the chief justice designates a superior court judge from each judicial district to serve as presiding judge for a one-year term.¹³

Presiding judges may serve successive terms.

“The presiding judge, in addition to regular judicial duties, is responsible for the administration of the trial courts within the district, including assignment of cases, supervision of court personnel, efficient handling of court business and appointment of magistrates.”¹⁴

Each judicial district also has an area court administrator who supervises and controls administration of the judicial district and the non-judicial employees in that district. Area court administrators are appointed by the presiding judge pursuant to Rule PX 4.02 of the Alaska Court System’s Personnel Rules for Partially Exempt employees which states:

“An area court administrator is appointed by the presiding judge provided that the superior and district court judges of the judicial district collectively concur with the appointment by at least a two-thirds majority.”¹⁵

Clerks of court are appointed by the area court administrator of their district and are responsible for overseeing the clerical operations in their court.

⁹ AK Const. art. IV, § 15

¹⁰ AK Const. art IV, § 2(b)

¹¹ AK. Ct. Adm. R. 26.5

¹² AS 22.10.010

¹³ AS 22.10.130

¹⁴ Cole, Stephanie, *Alaska Court System Annual Report*, 2007, page 15.

¹⁵ *Alaska Court System Personnel Rules Partially Exempt Employees*, Revised 2009, page 4.2

The geographical area served by the Alaska Court System is 586,413 square miles. According to the U.S. Census Bureau, the estimated population for the State of Alaska in 2008 was 686,293¹⁶. The courts are quite varied and face different challenges associated with community location, size and accessibility, varying caseloads, network connectivity issues, among many other things. Although it is a unified system with a single administrative head, achieving consistent case management practices can be challenging because the courts are so diverse.

Alaska's Judicial Selection Process

The Framers of Alaska's constitution adopted a judicial selection system similar to a merit selection plan known as the Missouri Plan.

“Alaska has a merit selection system for judges and justices. The governor appoints a supreme court justice or a judge of the court of appeals, superior court, or district court from a list of qualified candidates submitted by the Alaska Judicial Council.”¹⁷

“All judges and justices in Alaska periodically must stand for retention (approval by voters).”¹⁸

The Alaska Judicial Council, an independent citizen's commission created by the Alaska Constitution, consists of seven members. Three members are appointed by the governing body of the organized state bar and three non-attorney members are appointed by the governor subject to confirmation by a majority of the members of the legislature in joint session. These council members serve six-year terms. The chief justice of the Supreme Court is ex-officio the seventh member and chairperson of the council.¹⁹

¹⁶ <http://quickfacts.census.gov/qfd/states/02000.html>, page 1.

¹⁷ See Note ¹⁴ supra, page 24.

¹⁸ See Note ¹⁴ supra, page 25.

¹⁹ AK Const. art IV, § 8

The Anchorage Trial Court

The Anchorage Trial Court consists of 15 superior court judges (general jurisdiction), ten district court judges (limited jurisdiction), five committing magistrates whose authority is more limited than that of a district court judge, and five standing masters who are appointed to perform limited duties for the superior court. Each superior court judge is staffed with a law clerk and an administrative assistant. District court judges in Anchorage share staff resources from a pool of four administrative assistants and two law clerks. The clerk of court serves both the superior and district courts, managing all clerical operations with the exception of the calendaring division. See Appendix D, Organizational Chart for the Anchorage Trial Court.

The geographical area served by the Anchorage Trial Court is 2000 square miles. Anchorage is Alaska's largest city with approximately 40 percent of the state's population. According to the U.S. Census Bureau, the estimated population for the Municipality of Anchorage in 2008 was 279,243²⁰.

Prosecutors

Prosecutions in the Anchorage Trial Court are handled by one of three entities. The criminal division of Alaska's Department of Law prosecutes all criminal cases involving violation of state law.²¹ The office of special prosecutions in the department of law focuses on environmental crime, child support enforcement, welfare fraud, Medicaid provider fraud, selected fish and game prosecutions, white collar crime and other prosecutions.²²

The criminal law division of the Municipality of Anchorage's Legal Department prosecutes misdemeanor charges for crimes occurring within the municipality of Anchorage.²³

²⁰ <http://quickfacts.census.gov/qfd/states/02/02020.html>, page 1.

²¹ AS 44.23.020(4)

²² www.law.state.ak.us/department/criminal/criminal_div.html, page 1.

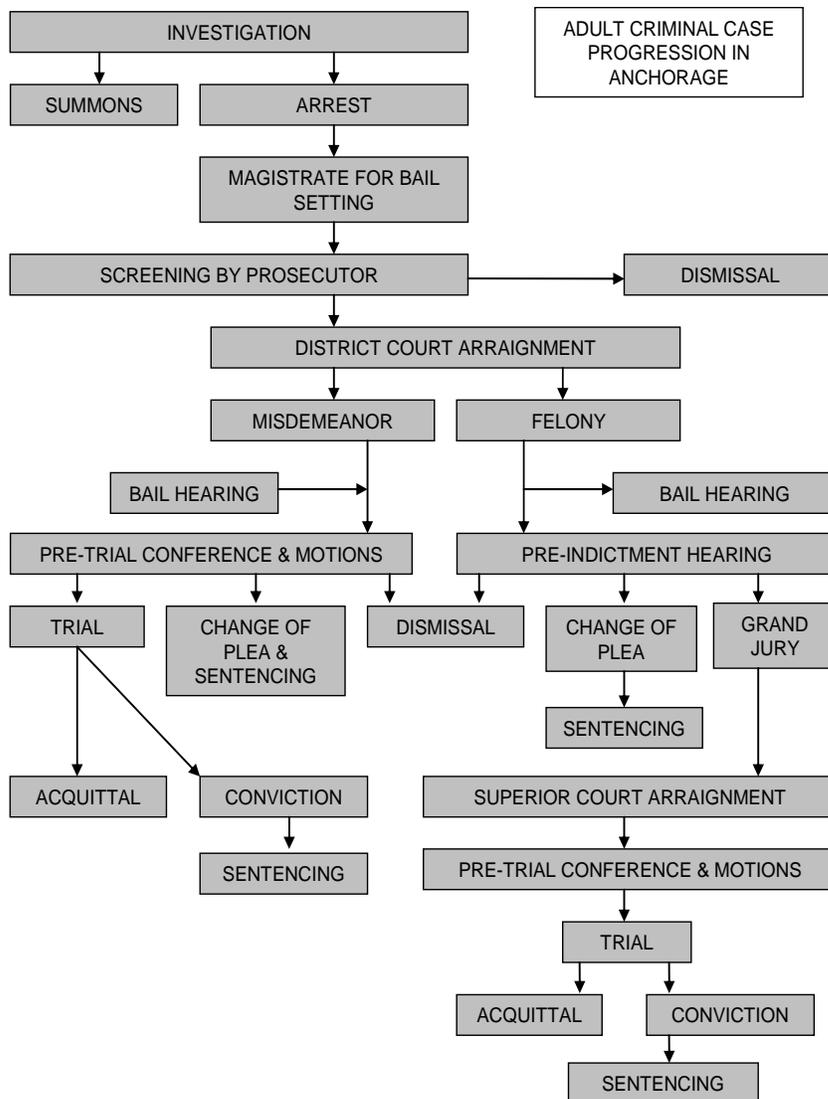
²³ <http://www.muni.org/departments/legal/criminal/pages/default.aspx>, page 1.

Law Enforcement

Criminal charges filed in the Anchorage Trial Court are initiated by one of the following police agencies: Alaska State Troopers, Anchorage Police Department, Anchorage International Airport Police and Fire Department, University of Alaska Anchorage Police Department, and the city of Whittier Police Department.

Criminal Case Progression in Anchorage and Current Filing Methods

Following is a flowchart that shows how criminal cases progress through the justice system in Anchorage.



Created with the assistance of Anchorage District Court Judge J. Patrick Hanley and Communications Council Barbara Hood for the Alaska Court System's Bench-Press Series, a series of law seminars for journalists. January 2007

Charging documents are filed with the Anchorage court primarily in one of four ways. Police officers file charging documents with a magistrate or judge for issuance of a summons or warrant for new charges. Prosecutors file the charging documents in open court for in-custody arraignments held at the Anchorage Jail Court. For out-of-custody arraignments, the prosecutor files charging documents directly with the criminal division at least ten days prior to out-of-custody arraignments. Lastly, prosecutors file charging documents for felony cases at the superior court stage, in open court if a grand jury returns an indictment.

With implementation of an e-filing system for criminal cases, law enforcement could electronically file charging documents directly with the court for issuance of a summons or arrest warrant and at the same time electronically submit a copy of the same to the prosecutor. Law enforcement could also submit written reports of crimes to the prosecutor's office for screening and preparation of a charging document. The prosecutor's office could then file the criminal complaint or information with the court electronically.

If a programming interface is established between Alaska justice agencies that enables the electronic exchange of data in an application-neutral standard format, data from the charging documents could automatically be inserted into the appropriate fields in the court's case management system thereby reducing the court's data entry workload. If the court implements a workflow process in conjunction with an e-filing program, filings could be electronically routed to court staff or judicial officers as appropriate depending on the type of filing and the filing stage. At the conclusion of a case, case disposition data could be disseminated to all justice agencies for insertion in each agency's case management system. It's also feasible that the department of corrections submit their predisposition reports to the court and other justice agencies electronically. All of these components have great potential to minimize the workload and decrease case processing time for justice agencies whether by means of a more efficient filing method, reduction in data entry, or an automated workflow routing system.

Anchorage Filing Statistics

Table 1 below shows the criminal filings for Anchorage in FY09. Anchorage's felony filings represent approximately 49% of the state's total felony filings and Anchorage's misdemeanor filings represent approximately 35% of the state's total misdemeanor filings. Statewide statistics for petitions to revoke probation are not available.

Table 1 FY 09 Criminal Case Filings for Anchorage Trial Court

Filing Type	Filings
Felonies	3,073
Misdemeanors	11,751
Felony petitions to revoke probation	4,985
Misdemeanor petitions to revoke probation	2,415

As the largest court in the state with the greatest percentage of criminal filings, in many ways the Anchorage Trial Court stands to benefit the most from an e-filing system. However, it should be noted that courts in rural Alaska also stand to benefit greatly even though the volume of cases is not as great. Many communities do not have a resident prosecutor or public defender. This means that most filings submitted to the court are done so either by mail or where permitted, by facsimile. Implementation of an e-filing system for criminal cases in rural Alaska will not only improve efficiency but also provide a means for more timely and less cumbersome filing methods.

Case Processing Time Standards for Criminal Cases

On February 17, 2000, the Alaska Supreme Court adopted time standards for all case types for the Alaska Court System. Table 2 on page 19 shows the time standards adopted for felony and misdemeanor cases.

Table 2 Time Standards for Alaska Felony and Misdemeanor Cases

CASE TYPE	75TH PERCENTILE	90TH PERCENTILE	98TH PERCENTILE
Felonies*	120 days	210 days	270 days
Misdemeanors	75 days	120 days	180 days

* Excludes time from judgment to sentencing.

Tables 3 and 4 below show the time-to-disposition performance statistics for felony and misdemeanor cases filed in the Anchorage Trial Courts in FY09.

Table 3. Time to Disposition (Final Judgment) for Felony Cases Closed 7/1/2008 to 6/30/2009

Number of Cases	Within 120 Days		Within 210 Days		Within 270 Days		Mean
	Current	Goal	Current	Goal	Current	Goal	
2771	57%	75%	73.3%	90%	79.4%	98%	196

Table 4. Time to Disposition (Final Judgment) for Misdemeanor Cases Closed 7/1/2008 to 6/30/2009

Number of Cases	Within 75 Days		Within 120 Days		Within 180 Days		Mean
	Current	Goal	Current	Goal	Current	Goal	
12101	60.4%	75%	75.4%	90%	83.8%	98%	124

With respect to the time to disposition performance statistics shown for felony cases, it is important to note that time to disposition statistics for felony cases in which a conviction has been entered include the period of time that the court waited for the presentencing report that is prepared by the Department of Corrections. Stephanie Cole, notes in her introduction to the FY 2008 Time-To-Disposition Reports:

“After judgment of conviction, the court may wait two months or longer for the receipt of the presentence report, and then defendants are entitled to 30 days in which to review the report and file any objections.”²⁴

It should also be noted that in October 2008, Stephanie Cole, Administrative Director of the Alaska Court System, requested technical assistance from the National Center for State

²⁴ Cole, Stephanie, **Alaska Court System 2008 Time-to-Disposition Reports**, Vol. 3B, 2008, page iv.

Courts²⁵ (NCSC) for the superior court’s criminal caseflow management in Anchorage. Mr. David C. Steelman was assigned by the NCSC to provide this assistance. Mr. Steelman first began working with a team from Anchorage during a workshop held in Phoenix, Arizona, in November 2008. He later met with both state and local criminal justice officials in Anchorage in February of 2009 to develop a criminal caseflow management improvement plan for felony cases filed in the Anchorage Superior Court. In his final technical assistance report, Mr. Steelman included a number of qualitative observations that he made about the criminal caseflow problems in Anchorage.

Mr. Steelman also identified discovery delays as a contributing factor for pre-trial conference continuances and in some cases trial continuances. He also reported that unavailability of public defenders and prosecutors was a common factor contributing to continuances of pre-trial conferences and trials.

Table 5 below and Table 6 on page 21 show the clearance rates for both felony and misdemeanor cases filed in Anchorage. “In Anchorage, felony filings increased by 18.5 percent between FY06 and FY07 and by 33.4 percent between FY05 and FY07.”²⁶ This increase in filings was likely a significant factor in the lower clearance rates experienced in FY07 and FY08. The gradual increase in clearance rates from FY07 to FY09 are likely in part a result of two new Anchorage judgeships created by the 2006 legislature and filled in FY07.

Table 5 Anchorage Trial Court Felony Clearance Rates - 3 Years^{*27, 28, and 29}

FY07	FY08	FY09	3-Year Average
88%	92%	98%	92%

²⁵ The National Center for State Courts is an independent, non-profit court improvement organization located in Williamsburg, VA.

²⁶ Cole, Stephanie, *Alaska Court System Annual Report, 2007*, page 55.

²⁷ *Alaska Court System, FY07 – Fourth Quarter Filings and Dispositions (Preliminary)*. August 2007.

²⁸ *Alaska Court System, FY08 – Fourth Quarter Filings and Dispositions (Preliminary)*. August 2008.

²⁹ <http://www.courts.alaska.gov/judges/fy09-qtr4dispo.pdf> , page 21.

*Excludes reopened and reactivated cases.

Table 6 Anchorage Trial Court Misdemeanor Clearance Rates - 3 Years*^{30, 31 and 32}

FY07	FY08	FY09	3-Year Average
97%	101%	98%	98%

*Excludes reopened and reactivated cases.

The Anchorage Criminal Division of the Clerk's Office

The Criminal Division of the Anchorage Trial Court is staffed with 21 employees. The criminal division supervisor reports directly to the clerk of court. The criminal division is responsible for all case processing of criminal cases. This includes acceptance and case initiation of new cases, docketing and routing of filings to judicial officers for decision, warrant processing, scheduling of criminal cases for arraignments, distribution of judgments, processing exonerated and forfeited bail/bonds, and monitoring cases with overdue fines and restitution.

Case Management System

The Anchorage Trial Court converted to a new case management system, CourtView³³, in October of 2003. Anchorage was the second court in the state to convert to CourtView. Although CourtView includes a web-based e-filing component, the Alaska Court System has not yet implemented web-based e-filing for any cases. The court plans to begin work towards this goal after the statewide implementation of CourtView is complete. The court is on track to complete this installation by the end of October 2010.

In October of 2004, the Anchorage Trial Court, working in collaboration with the administrative office, Department of Public Safety, and the Anchorage Police Department, implemented an e-filing system for minor offense cases proceeding to default judgment filed by

³⁰ See Note ²⁷ supra

³¹ See Note ²⁸ supra

³² See Note ²⁹ supra

³³ CourtView is a case management software program offered by Justice Solutions, Canton, OH.

the Anchorage Police Department. Anchorage police officers issue electronically generated paper citations in the field. After the requisite time period for default judgments of minor offense cases lapses, citation data is transmitted to the court through an established web-based data interface. Any law enforcement agency may use the court's interface for minor offenses as long as they pass to the court the required data fields in the application-neutral standard format required per the court's specifications, eXtensible Markup Language (XML). Efforts are currently underway to expand this program to other agencies and locations in the state.

Problem Statement and Significance

By today's standards, the Alaska Court System's filing system can accurately be described as antiquated. Problems that are evident in such an out-dated system include:

- redundant data entry
- increased potential for data entry errors
- accessibility issues to paper files
- potential for lost or misplaced paper files
- lack of file storage space
- inefficient and costly methods for distributing court orders and judgments to other justice agencies
- inefficient manual workflow processes

Information contained in charging documents such as identity information for defendants and information about the alleged crime(s) is first entered by law enforcement or prosecution staff. When the court receives charging documents the court then re-enters much of the same information into the court's case management system. This method of filing is inefficient, requires additional staff resources for data entry and case processing, and results in an increased potential for data entry errors.

Accessibility to paper files is limited to one individual at any given time whereas electronic files are accessible to multiple individuals simultaneously. With paper files the potential exists for files to be lost, misplaced, or removed from the courthouse by a litigant who has requested to view the file. Additionally, the integrity of a paper file is at risk anytime a customer requests to view the file. The court does not have sufficient resources to closely monitor every customer who comes to the court to view a file to ensure the customer does not remove any of the file's contents. These problems would not exist with an electronic file and document management system.

Lack of storage space has been an increasing problem for the Anchorage Trial Court despite the fact that the court routinely prepares and sends older case files to the court's records management division for scanning and permanent archiving. This task alone is labor intensive, costly, and inefficient.

Court orders and judgments are currently sent out by the Anchorage court in paper form. Copies must be made for all agencies and parties to whom the court is required to distribute orders and judgments. The copies are then made available for pick up by agency staff or are mailed to the agencies. If the court implements an electronic service component in conjunction with an e-filing system, the court would likely experience a significant savings in both staff resources, copying and mailing costs.

With the current workflow process in place in Anchorage criminal files are routinely routed between the criminal division, the in-court clerk's division, and judges' chambers. Significant staff resources are in place just to manage movement of case files between court divisions. When a motion is filed, criminal division staff docket the motion in the court's case management system and when the motion is ripe for consideration the staff routes the motion

(file) to the assigned judge for a decision. An electronic workflow process implemented in conjunction with an e-filing system would reduce processing costs and automate and make more efficient the workflow process for Anchorage.

Research Questions

The questions guiding the research for this study were as follows:

1. What are the proven net efficiencies gained by the implementation of electronic filing systems?
2. What are the pros and cons of implementing an electronic filing system for criminal cases (generally and specific to Alaska)?
3. What steps should be taken to ensure successful implementation of an electronic filing system for criminal cases in Alaska?

Report Outline

The remainder of this report includes a literature review discussing the history of e-filing, the different electronic filing methods, the common benefits associated with the various e-filing models, and the challenges associated with the implementation of an electronic filing system.

The methods section describes how the information acquired through the literature review and court technology staff interviews was used to develop a survey tool for courts that have implemented an e-filing system for criminal cases. It also identifies the information sought in the survey and the problems that were experienced with some of the survey questions and suggestions for improving the survey tool.

The findings section includes an analysis of the survey results received from the three courts who responded to the survey. The findings show that all the courts that implemented an e-filing system for criminal cases experienced a reduction in workload. It's important to note that the findings showed that the court that implemented the most sophisticated e-filing system experienced the greatest reduction in staff workload. The findings section also identifies the areas in which courts experienced a reduction in workload.

The final section of this report includes conclusions and recommendations offered in support of implementing an e-filing system for criminal cases filed in the Anchorage Trial Courts. It is recommended that the leaders of the Alaska Court System assess the court's technology priorities, available resources, and business needs in order to determine the scope of the e-filing system to be implemented for any cases filed with the court. The findings show that the more sophisticated e-filing systems have the greatest potential to reduce staff workloads and to increase efficiency of operations. However, the court must determine if adequate resources are available to support such an implementation and perhaps more importantly, if the court climate and timing is such that transition to a sophisticated system can be achieved successfully and with as minimal conflict as possible.

LITERATURE REVIEW

This literature review is divided into the following sections: 1) History of Electronic Filing, 2) Different Models of E-filing Most Widely Discussed, 3) Electronic Interfaces, 4) Document Management Systems, 5) Paper on Demand, 6) Court Culture, and 7) Potential Barriers to E-filing.

History of Electronic Filing

Perhaps the form of e-filing that most U.S. citizens first became familiar with is the electronic filing of federal tax returns. The Internal Revenue Service first introduced electronic filing during the 1986 tax year. "E-filing was tested in three cities and proved so successful it was expanded to four more cities the following year."³⁴ "In 1998, 500,000 individuals filed federal tax returns from home."³⁵

"In 2001 the paper signature form was eliminated for those electronic filers and replaced by a five-digit number that the IRS issued to each e-filer. Together with specific

³⁴ <http://ecommerce.hostip.info/pages/390/Electronic-Income-Tax-Filing-HISTORY.html> at page 1.

³⁵ See Note³⁴ supra

information from the previous year's tax return, that number was used to identify each taxpayer."³⁶

In 1991, not long after the Internal Revenue Service implemented electronic filing for tax returns, the supreme court in the state of Delaware implemented an electronic docketing and filing system for civil cases. That system was called the *Complex Litigation Automated Docket* or CLAD.³⁷ Below is an excerpt from an article written by Judge Susan C. Del Pesco and Richard K. Herrmann in support of a presentation given at the National Center for State Court's Court Technology Conference in 1994:

"CLAD is the brainchild of Delaware Superior Court Judge Susan C. Del Pesco and Richard K. Herrmann, a Wilmington lawyer. CLAD was introduced on an experimental basis in one case in December 1991. Since then, 12 other Delaware insurance coverage cases have gone on-line, with more to come. From the standpoint of the court, and of many lawyers, the system has been a great success, but acclaim is not universal. Any change creates winners and losers; and CLAD is no exception. As caseloads grow, however, more systems like CLAD will surely be put in place. For advocates and opponents of such ideas, forewarned is forearmed.

"Why was CLAD adopted, or even considered? The reason is that by 1990 the Delaware Superior Court for New Castle County--located in Wilmington--found itself facing a paper crisis. A relative handful of cases threatened to drown the court in an ocean--a torrent, a flood--of paper. The court's lifesaver has been CLAD, and it may be the first step on the road to a paperless court."³⁸

Since 1991, Delaware has migrated to a new e-filing system and has progressively expanded the extent of its e-filing program. In 2008, Delaware expanded its e-filing program to require that all new civil actions filed with the prothonotary be filed and/or served electronically using the LexisNexis® File & Serve system.³⁹

In 1995, the Administrative Office of the United States Courts helped the U.S. District Court in Northern Ohio launch an e-filing program known as the Case Management and

³⁶ See Note³⁴ supra

³⁷ http://courts.delaware.gov/Courts/Superior%20Court/eLitigation/?tech_efile.htm

³⁸ https://www.ncsconline.org/D_Tech/ctc/showarticle.asp?id=113 at page 1.

³⁹ See Note³⁷ supra

Electronic Case Files (CM/ECF) system to help the court cope with more than 5,000 document-intensive asbestos cases.

“The court faced up to 10,000 new pleadings a week, and a workload that quickly became unmanageable. Together the team developed a system that allowed attorneys to file and retrieve documents and receive official notices electronically.”⁴⁰

Six years later, other bankruptcy courts began transitioning to the CM/ECF system. “The national roll-out of the CM/ECF system for bankruptcy courts started in early 2001.”⁴¹ The implementation of CM/ECF has had a significant impact on bankruptcy courts. In April of 2005, President George W. Bush signed the Bankruptcy Abuse Prevention and Consumer Protection Act. Shortly thereafter and prior to the effective date of the act, bankruptcy filings increased significantly. Below is an excerpt from a November 2005 News Release from U.S. Courts:

“In October 2005, more than 600,000 bankruptcy petitions were filed nationwide, compared to 130,679 in October 2004. Some bankruptcy courts worked around-the-clock and throughout the weekend to process the cases but without CM/ECF, the courts would not have been able to cope with the unprecedented workload.”⁴²

The U.S. District Court began implementing CM/ECF nationally in 2002 and federal appellate courts began their implementation in late 2004. In a January 2010 announcement on its website, the U.S. Courts reported that “Over 35 million cases are on CM/ECF systems, and more than 450,000 attorneys and others have filed documents over the internet.”⁴³

Advancing forward to today, numerous courts across the nation have implemented varying degrees of an electronic filing system.

Electronic Filing and Electronic Service Models

Alan Carlson in his report entitled *Electronic Filing and Service: An Evolution of Practice* identifies and discusses three basic electronic filing and electronic service models:

⁴⁰ http://www.uscourts.gov/Press_Releases/cmecfat10.html

⁴¹ http://www.uscourts.gov/cmecf/cmecf_about.html

⁴² See Note ⁴⁰ supra

⁴³ See Note ⁴¹ supra

“The first model is the simplest, using e-mail as the medium for exchange. With this approach the authoring party files and serves a document by e-mailing it to the court and to other parties. Another model is for a court to develop an e-filing system for use in cases pending before that court. The third model involves a third party vendor developing a system for filing and serving documents between the court and participating law firms and self-represented litigants in a jurisdiction”⁴⁴

Regarding the e-mail model Carlson states,

“While this approach appears simple and straightforward, it involves multiple, separate systems which are not integrated (e-mail, case management, document management and fee payment) and disburses technical responsibilities and training among all involved parties. It also does not achieve any of the potential benefits of e-filing and e-service beyond elimination of the handling of paper documents and may actually add work for the clerk regarding fee collection.⁴⁵”

Although Carlson identifies fee collection as possibly adding more work for the clerk, this would not be an issue for criminal case initiation or filings in the Anchorage Trial Court as there are no fees associated with these items.

The second model Carlson discusses is the court based e-filing model. This is a more sophisticated e-filing model that is administered by the court. The filing party accesses the court’s e-filing system to file a pleading or document. This type of system can be implemented in varying degrees. For example, the e-filing system could include case initiation, filing of documents post-case initiation and electronic service of filings to all parties registered with the court, or any portion thereof. Carlson’s analysis of the benefits and drawbacks of the court based e-filing model:

“The extent of additional benefits realized from this approach depends upon how much functionality the court builds into its system. If the court decides to provide services beyond just e-filing to participating law firms and litigants, the most significant would be e-service and allowing access to e-filed documents to all parties. These benefits provide little, if any, benefit to the court, so there is no particular incentive for the court to add these features. Moreover, this would involve the court in service of parties that is, in the paper-based world, left to the exclusive control of law firms or litigants. The court would

⁴⁴ Carlson, Alan, **Electronic Filing and Service: An Evolution of Practice**, The Justice Management Institute, November 2004, page 17.

⁴⁵ See Note ⁴⁴ supra, page 18.

need to decide whether to take on the responsibility of providing training and technical support to those using the system, in particular the users in law firms and self-represented litigants. The court would also need to take on the responsibilities for communication protocols, system reliability and protection from abuse, fraud and hackers.^{46,}

The third model that Carlson discusses is the Third Party E-file Vendor. With this model, the vendor is often referred to as an Electronic Filing Service Provider (EFSP). Carlson described this model as follows:

“...Using this approach, a party ready to file or serve a document would connect to the EFSP’s Web site and submit a document for filing and service. The party would also provide necessary information about the document and pay any filing fee. In a typical model, the EFSP would take care of filing the document with the court, if required, and serving the document on all parties. The EFSP’s system would comply with all court protocols and rules regarding form and format, filing fees, etc.”⁴⁷

Carlson goes on to identify a long list of benefits associated with the Third Party E-file Vendor model.

Carlson’s report on e-filing is much like other similar reports in that the primary focus appears to be on civil litigation that involves private law firms and pro-se litigants in some cases. Comprehensive literature that focuses specifically on e-filing in criminal cases is scarce. Although many of the same issues and practices can be applied across multiple case types, there are a number of issues related to criminal e-filing that appear to go unanswered in literature on the subject of e-filing. For example, it is important for the court to consider incentives for all stakeholders when considering whether to implement an e-filing system. The benefits to the court are fairly evident. If the court implements an e-filing system that enables prosecutors to file charges with the court electronically and in an application neutral format, key data elements from the charging document can be inserted directly into the court’s case management system. The court would experience a decrease in the workload associated with criminal case initiations.

⁴⁶ See Note ⁴⁴ *supra*, page 19.

⁴⁷ See Note ⁴⁴ *supra*, page 21.

The risk of data entry errors is greatly diminished if not eliminated at the court's end, and the court would receive charging documents more timely.

What "carrot" does the court dangle in front of prosecuting agencies when proposing a collaborative effort towards the development of an e-filing system for criminal cases? After all, most if not all authors who have written on the subject of e-filing agree that development of a court based e-filing system requires extensive use of staff resources, skilled staff, on-going hardware and software maintenance as well as a high degree of collaboration among all stakeholders.

Of the benefits that Carlson identifies in his report to be realized by attorneys with a basic e-filing and e-service system, it would seem that the obvious benefits for prosecutors include the following:

"less staff time and resources are spent e-filing and e-serving documents than is spent for conventional paper filing and serviceAttorneys have greater control over the timing of filings and there is more certainty about when filing and service of documents occurs. It is also easier to document when service occurred and there is less opportunity to manipulate service to a party's advantage....Electronic documents, including proof of filing and service, are available 24 hours a day, seven days a week. There is no need to wait for the clerk's office to open to obtain a copy of a document or check the status of a filing or service....There may be more time to prepare a document if the service time is reduced because of the immediacy of e-filing and e-service or if the e-filing and e-service system is available 24 hours a day, seven days a week, not just during normal court business hours.⁴⁸"

In addition to these benefits, criminal justice agencies could benefit further by receiving case disposition information from the court electronically in data and image formats.

Electronic Interfaces

The initial focus of this project conceptually was on a complete e-filing system that would include an electronic interface between state agencies. However, as the research has

⁴⁸ See Note ⁴⁴ *supra*, page 55.

progressed, consideration has been given to the idea of establishing a means for data exchanges with justice agencies as a first step or precursor to implementation of a complete e-filing system. Through an electronic interface, the court system could achieve many of the goals sought from a complete e-filing system while benefiting other justice agencies. Electronic interfaces are discussed further in the Paper on Demand section below.

Document Management Systems

E-filing systems often include a document management system component. Document management systems can vary greatly. Most systems are designed to provide an organized means for document identification, storage, retrieval, and retention. Sophisticated document management systems provide the ability to manage workflow processes for different types of documents. For example, a court using workflow functionality could establish a workflow rule that when applied would route all standard motions to a case manager for review and acceptance or rejection of the filing. If the filing is compliant with applicable court rules, the case manager accepts the filing and the motion is then put into another pending work queue. When time for opposition and reply, as applicable, has lapsed and the motion is ripe for consideration, the motion is then electronically routed to the assigned judicial officer for consideration.

Paper on Demand

When Alan Carlson wrote a white paper on e-filing in November 2004, he focused primarily on three e-filing models that involved the electronic transmission of documents. In a white paper published by LexisNexis in 2008 titled *The Digital Bridge*, the unnamed author discusses the next generation of information exchange. Rather than focusing on the transmission of documents, this solution focuses on the transmission of data similar in some ways to how modern tax filing applications work. The author noted the following:

“A digital bridge that makes it easier to move electronic documents is only the first step in a transformation that truly frees up judicial information. The next phase of this evolution is the full transition from documents to data. The new system supports intelligent forms-based filing. Intelligent forms-based filing is the next step in judicial workflow automation, extracting data field elements from smart forms and importing those data into a court’s case management system. This new generation of information exchange between litigants and the court not only improves the IT infrastructure, but also accelerates and facilitates the sharing of case and party information.”⁴⁹

The author suggests that in this new environment, an infrastructure can be created with one single application or it can incorporate the e-filing and document management capabilities with an existing legacy case management system. The author goes on to explain why courts should not build their own digital bridge.

“Returning to the banking analogy, would a bank on one side of a river employ hundreds of steel workers to construct a bridge to their customers on the other side? Or would they hire a company that builds bridges instead? Courts are not in the software development business anymore than they are in the bridge building business. However well intentioned, many courts simply don’t have the financial resources, technical skills, or business experience to develop, upgrade and maintain the infrastructure that is needed without partnering.”⁵⁰

Regarding the costs associated with hiring a third-party vendor to provide any type of e-filing solution, be it paper on demand or otherwise, the author goes on to say that a common model is for e-filing to be provided at no charge to the court. E-filing service providers are often able to do this by passing their fee onto the litigants via a per-filing surcharge.

Court Culture

On September 14, 2005, the National Judicial College announced that a national survey of state judicial officials revealed strong judicial support for electronic filing and high expectations for receptivity among the legal community.⁵¹ Of the 1,506 judges who responded to the survey, over 80 percent of judges saw e-filing as superior to paper and almost 90 percent

⁴⁹ <http://www.lexisnexis.com/efiling/DigitalBridgeVision.pdf>, page 3.

⁵⁰ See Note ⁴⁹ supra, page 4.

⁵¹ http://findarticles.com/p/articles/mi_m0EIN/is_2005_Sept_14/ai_n15389491/?tag=content:coll

expressed interest in learning more about e-filing. “Further, more than two-thirds of judges see reduced paper volumes, better access to information, and improved clerk efficiency as benefits of e-filing.”⁵²

When asked if clerks and the legal community are supportive of e-filing initiatives, over 75 percent of judges believed that clerks are receptive and 90 percent of judges believed that attorneys are receptive.⁵³

Potential Barriers to E-filing

In the National Judicial College’s Judicial Survey: Electronic Filing in U.S. State Trial Courts, 53 percent of judges asked to identify the top potential barriers to the implementation of an e-filing system cited “Court budgetary constraints” as the top potential barrier. The second top potential barrier cited by 50 percent of participants was “Technology limitations at the court”, and the third top potential barrier cited by 66 percent of participants was “Don’t have enough staff to implement e-filing services”.⁵⁴

METHODS

Research methodology used in this project included an extensive literature review, one-on-one interviews with the court’s technology staff members, internet research, and a questionnaire for pre-selected courts that met established criteria.

The focus of the literature review was to learn more about e-filing and e-filing systems generally. The information learned during the literature review was key to developing a survey tool that would elicit relevant information pertaining to e-filing for criminal cases. Two resources found at the National Center for State Courts, provided a solid foundation from which to begin further research. Although these resources are dated by technology industry standards,

⁵² **Judicial Survey:** Electronic Filing in U.S. State Trial Courts, The National Judicial College

⁵³ See Note ⁵² supra, page 10.

⁵⁴ See Note ⁵² supra, page 12.

much of the information is still relevant and applicable. The first resource consisted of conference presentation materials used for a presentation put on by the National Center for State Courts staff on the subject of Electronic Filing in April 2000. These presentation materials provided a thorough explanation of e-filing systems in a way that non-technical people can understand. The second resource, entitled *A Guide to Model Rules for Electronic Filing and Service*, published by Lexis Nexis File & Serve, will serve as a very useful resource for any court needing to adopt e-filing standards.

Court technology staff members were interviewed in order to learn more about the court's existing technology capabilities. Of great importance was to learn if the court's case management system has the capacity to accept electronically filed data via web access.

Internet research was conducted to identify courts that have implemented an e-filing system for criminal cases. Identifying courts that met these criteria was challenging. Seven courts were initially identified as possibly meeting the established criteria. Six courts were identified through a variety of key word and phrase searches on the web, e.g. e-filing, e-filing in criminal cases, etc. These web searches produced links to other sources ranging from the National Center for State Court's website which has extensive information on the subject of e-filing, public announcements posted on court websites, local newspapers, e-filing vendors, etc. These additional sources were explored further and courts were identified. Of these six courts initially identified, only five courts actually met the established criteria. The remaining court was acquired through a fellow Court Executive Development Program member.

A survey was distributed to the six courts that actually met the established criteria. The following courts completed the survey: Leon County Circuit and County Court, Florida, the Colorado State Court system, and the Superior Court of California, County of Orange.

Information learned through the literature review and from court technology staff members was used to develop the survey for the courts identified above. See Appendix E. The survey questions were focused to elicit information about the following: the types of criminal cases electronically filed, the components implemented, the staff resources required for implementing an e-filing system, implementation team members, the benefits and challenges associated with implementing and maintaining an e-filing system, and from the perspectives of law enforcement, prosecutors, private defense counsel, public defense counsel, and corrections agencies, the most compelling incentives for implementing an e-filing system. Technical staff members conducted a pretest review of the questionnaire for content, accuracy and clarity. Non-technical staff members conducted a secondary review before the questionnaire was distributed. The questionnaire was administered using an online survey tool called SurveyMonkey. A link to the questionnaire was sent to representatives from the pre-selected courts. Three courts completed the survey within one week of receipt of it.

Question 14 of the survey was a problem in that it required a follow up question. Courts were asked to identify which of the following approaches they took to implement their e-filing system: contracted with an e-filing service provider, worked with the court's case management system vendor, or developed an in-house e-filing system. All courts reported that they developed an in-house e-filing system. The survey could be improved by adding a follow-up question that asks "What were the driving factors for your decision?"

Question 26 of the survey also required a follow up question. Courts were asked "Are documents that are e-filed available online for the public to view?" All three courts answered "no" to this question. The survey could be improved by adding a follow-up question that asks "What are the reasons for not making these documents available online?"

Perhaps question 16 of the survey could have been written more clearly. One court provided conflicting responses for questions 16 and 23. Question 16 asked “How many staff members were assigned to implement your e-filing program?” and question 23 asked “Please identify the project members that served on your implementation team:” In response to question 16, the court reported that two employees were assigned to implement the e-filing program. However, in response to question 23, the same court reported that seven court staff members and a prosecutor served on the implementation team.

FINDINGS

The survey data submitted by the three courts that have implemented an e-filing system reflect that the scope of the e-filing systems implemented for criminal cases in these courts is varied. The e-filing system implemented by the state of Colorado courts appears to be the most sophisticated model. Colorado’s e-filing system includes the acceptance of original and amended charging documents, electronic filing of motions, proposed orders, and other typical filings, a data interface with a case management system, an electronic workflow process, and integration with a document management system. Leon County Circuit and County Court’s e-filing system includes the acceptance of amended charging documents, integration with a document management system and an electronic filing system for the plea process. The Superior Court of California, County of Orange’s e-filing system is limited to a data interface with a case management system.

Colorado did not provide an estimated number of filings for criminal cases. Leon County estimated annual filings at 60,000 for felonies and 75,000 for misdemeanors. County of Orange estimated annual filings at 14,500 for felonies and 50,000 for misdemeanors.

Both courts that accept the electronic filing of charging documents indicated that their e-filing systems provide prosecutors the ability to pre-screen cases before charges are filed with the court.

All three courts reported a savings in staff resources (hours) after implementation of an e-filing system. Leon County reported an estimated savings of 32 staff hours per day, Colorado 30 hours per day, and County of Orange estimated a savings of 2-3 hours each per staff member.

The chart below identifies the areas in which each court experienced a significant reduction in workload after implementing an e-filing system for criminal cases:

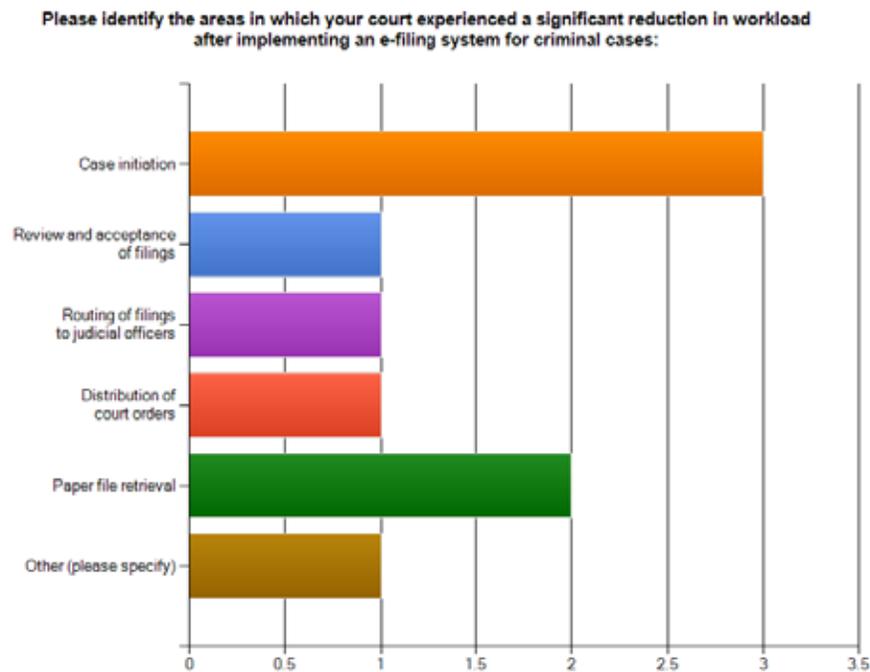


Figure 1. Areas in Which Courts Experienced a Significant Reduction in Workload, Appendix E - Survey Question 10

Colorado, the court with the most sophisticated e-filing system, is the court that experienced a significant reduction in workload in all five areas. Colorado also indicated a reduction in the data entry workload through the integration with their case management system. All three courts reported a significant reduction in workload in the area of case initiation.

Colorado and Leon County both reported a reduction in the workload associated with paper file retrieval.

Courts were asked if their e-filing projects involved other performance measures, such as changes in the completeness, accuracy or timeliness of court records, costs/benefits to filing parties, changes in access to data, etc. Two courts did not respond to this question. County of Orange reported that although no formal performance measures were taken on completeness, accuracy, or timeliness, staff mentioned that there seemed to be fewer errors.

Colorado’s medium for the official court record for criminal cases is completely electronic. Regarding significant problems faced after implementing an e-filing system, Colorado responded “Reluctance to give up the paper – but we are over that.” Leon County’s medium for the official court record is electronic but paper files are maintained to accommodate judges’ preferences. County of Orange’s medium for the official court record is paper.

Colorado reported that all filings are routed to the judge electronically; paper filings are scanned before being delivered to the judge. Leon County delivers all filings to the judge in paper form; electronic filings are printed before being delivered to the judge. The County of Orange reported that the original plan was to print the document but that is being revisited.

All three courts developed an in-house e-filing system.

The table below shows the number of staff members each court assigned to implement an e-filing program:

Table 7 Number of Staff Assigned to Implement E-filing Program, Appendix E - Survey Question 16

Court	Staff
Colorado	2
Leon County	4
County of Orange	14

It's interesting to note that the number of staff members assigned to implement an e-filing program varied greatly among the three courts that responded to the survey. Colorado, with the most sophisticated e-filing system, reported that only two staff members were assigned to implement the e-filing system. Leon County assigned four staff members and the County of Orange assigned 14 staff members. All three courts indicated that the number of staff members assigned to implement the e-filing system for their respective court was sufficient. Courts were also asked to estimate the number of staff hours required per week to maintain their e-filing program and provide support for system users. Colorado estimated ten information technology staff hours per week and zero administrative staff hours were required to maintain their e-filing program; Leon County estimated four information technology staff hours and eight administrative staff hours to maintain their e-filing program. The County of Orange did not respond to this question.

The chart on page 40 shows the methods the courts use to provide ongoing training and support to system users:

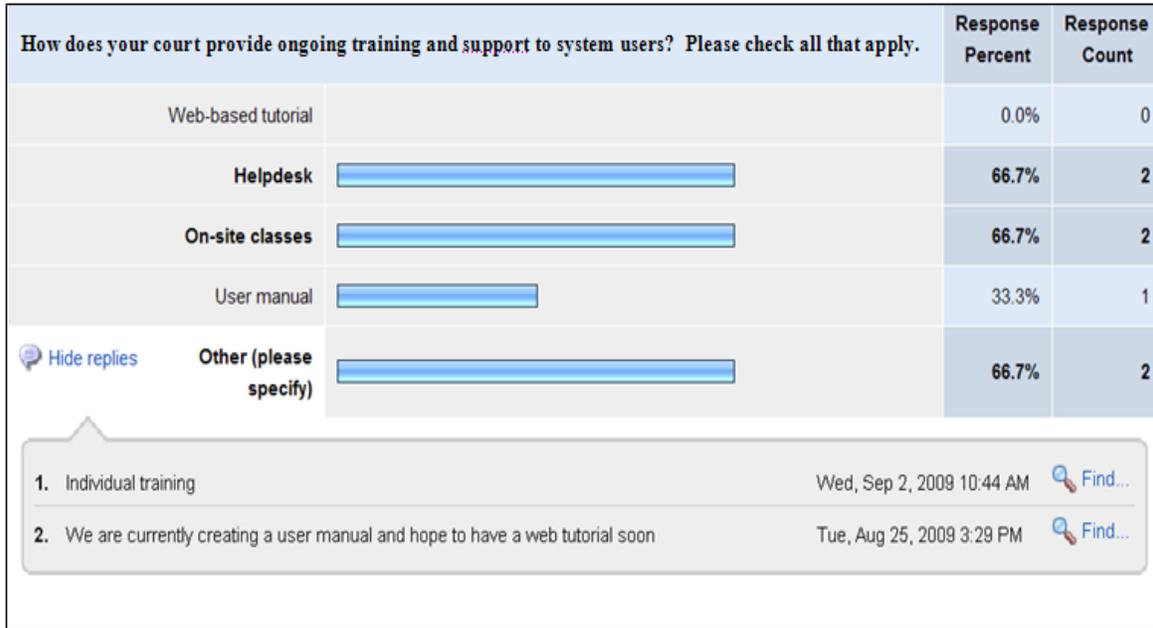


Figure 2. Methods Courts Use to Provide Ongoing Training and Support to System Users, Appendix E - Survey Question 18

All three courts recommended implementation of a court-based e-filing program over contracting with an electronic filing service provider. The respondent from the County of Orange commented that the benefit to a court-based program is the flexibility and ability to make changes and updates. The respondent further commented:

“We have tailored it to our needs which can be good and bad. Good because we need to initiate a case completely, bad because problems can be difficult to pinpoint due to it’s complexity.”

Courts were asked to identify the most compelling incentives for implementing e-filing for criminal cases from the perspectives of various justice agencies. The most common compelling incentive identified for all justice agencies was a reduction in paper. Real time data, improved data sharing and data integrity, were also common responses. Colorado identified “reduced trips to the courthouse” as one of the most compelling incentives for implementing an e-filing system from the perspective of both public and private defense counsel. Leon County

identified “a reduction in staff” as one of the most compelling incentives from the perspective of corrections agencies.

Survey responses indicated that “lack of buy-in from judges” was the factor that had the greatest impact with regard to hindering or delaying successful implementation of an e-filing system for criminal cases. The chart below shows the ratings for other factors.

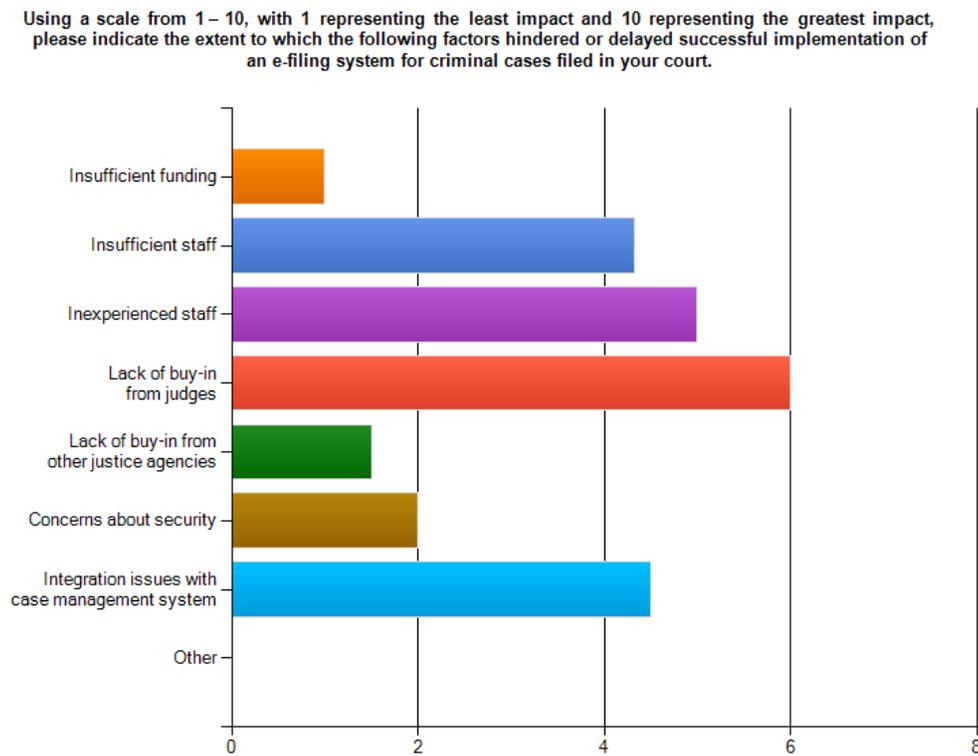


Figure 3. Factors Impacting Successful Implementation of an E-filing System for Criminal Cases, Appendix E
- Question 24

CONCLUSIONS AND RECOMMENDATIONS

The research conducted for this paper has shown that implementation of electronic filing systems in courts across the nation has resulted in significant time savings for courts, litigants, and justice agencies. For this reason, it is likely safe to conclude that at this point in time most courts across the nation are not contemplating whether they will implement an e-filing system for all cases, but rather how soon can it be done, what is the best approach, and do we have the

required resources to make it happen. The following conclusions and recommendations are offered in support of the implementation of an e-filing system for criminal cases filed in the Anchorage Trial Courts.

CONCLUSION 1: THERE ARE NUMEROUS PROVEN NET EFFICIENCIES TO BE GAINED BY THE IMPLEMENTATION OF AN ELECTRONIC FILING SYSTEM.

Implementation of an e-filing system for criminal cases filed in the Anchorage Trial Courts will result in a reduction in workload in the areas of case initiation, distribution of judgments, and file routing. All three courts that were surveyed reported a reduction in workload in the area of case initiation. Two of the three courts reported a workload reduction in the area of paper file retrieval. The court system with the most sophisticated e-filing system, Colorado, reported a reduction in workload in the following areas: routing of files to judicial officers, distribution of court orders, paper file retrieval, and data entry through the integration with the case management system.

Although this research paper focused primarily on criminal cases filed in the Anchorage Trial Courts, the benefits to be gained by implementation of a court-developed e-filing system apply to all case types filed in the trial courts.

CONCLUSION 2: E-FILING SYSTEMS CAN VARY GREATLY

Both the literature review and the survey results reveal that e-filing systems can vary greatly. The “Cadillac” of e-filing systems for criminal cases, whether court or vendor managed, might be comprised of or include the following:

- a web-based electronic filing system that is fully integrated with the court’s case management system (CMS);
- an e-service component that enables litigants to electronically serve other parties registered with the court and likewise for the court to distribute orders and notices to registered parties;

- the ability for law enforcement to prepare and file criminal complaints that can be routed to the prosecutor for screening before being filed with the court;
- an integrated document management system that would enable users of the court to view case documents online and the court, interested parties willing, to transition from paper files to paperless;
- a routing system that enables electronic movement of filings and orders within the court.

Contrast this “Cadillac” system with the most basic and very limited e-filing system that simply enables the electronic passing of documents (filings) from one point to another.

CONCLUSION 3: THERE ARE A NUMBER OF POTENTIAL BARRIERS THAT SHOULD BE FACTORED INTO THE COURT’S DECISION ABOUT IMPLEMENTING AN E-FILING SYSTEM AND THE SCOPE OF THAT E-FILING SYSTEM.

Court budgetary constraints, technology limitations at the court, and insufficient staffing were identified as some of the top potential barriers to the implementation of an e-filing system in a survey of judges conducted by the National Judicial College. Although budgetary constraints were identified in the survey of judges as a top potential barrier, the courts that responded to the survey conducted for this paper indicated that insufficient funding either had no impact or very little impact. Two of the three courts identified insufficient staff and inexperienced staff as factors having a great impact as far as hindering or delaying the successful implementation of an e-filing system in their courts. One of the three courts identified lack of buy-in from judges as being a significant factor. Other factors that should be considered as potential barriers to the successful implementation of an e-filing system are lack of buy-in from other justice agencies, concerns about security, and integration issues with the case management system. The survey responses from the courts revealed that each court faced different challenges and differing degrees of challenges.

CONCLUSION 4: A VENDOR-PROVIDED E-FILING SYSTEM THAT IS PAID FOR BY THE LITIGANTS IS LIKELY NOT AN OPTION FOR THE ALASKA COURT SYSTEM.

As indicated in the literature review, many courts across the nation have been able to implement sophisticated vendor-provided e-filing systems at no cost to the court. Vendors are able to offer this service to the courts by passing their fees onto the litigants via a per-filing surcharge. However, the volume of filings received by a court must be sufficient enough for the vendor to profit from such an arrangement. In the course of this project, an e-filing vendor, eager to secure the Alaska Court System as a customer, suggested that the Alaska Court System could implement an e-filing system at no cost to the court. After much prodding and after the vendor reviewed the filings statistics for all cases filed in the Anchorage Trial Court, the vendor acknowledged that e-filing at no cost was not an option for the court. The vendor suggested that a hosted e-file and service model where the vendor would charge a license fee and service and maintenance plan model would be best for the court.

RECOMMENDATION 1: KEY LEADERS OF THE COURT SHOULD MEET TO ASSESS TECHNOLOGY PRIORITIES RELATED TO IMPLEMENTATION OF AN E-FILING PROGRAM

Key leaders of the Alaska Court System should meet to consider the various components that can be implemented with an e-filing system in light of the court's staff resources, the technical expertise of the court's technology staff, business needs of the trial courts and future technology and court trends. The goal of this meeting should be to determine a timeline for implementing an e-filing system and the scope of said e-filing system. It's very likely that a phased approach to implementing an e-filing system will be best. If this proves to be the case, it would be prudent to get input from key leaders as to which components will provide the greatest benefit to the court and the justice community.

Although many of the court's leaders have seen demonstrations of comprehensive e-filing systems at conferences, the court's technology staff leaders should conduct an educational session to highlight e-filing possibilities and associated challenges specific to the Alaska Court System and the Anchorage Trial Courts. Leaders need to hear from technology staff any concerns related to staff resources, staff experience, resource needs for implementing and maintaining an e-filing system, the court's existing case management system, and any security concerns.

The court's leaders will also need to consider communication protocols, system reliability issues, and the potential risk and protection from abuse, fraud, and hackers.

After court leaders are satisfied that they have the information necessary to make an informed decision as to how to proceed with technology advancements, an action plan should be created and adopted. The action plan should identify the approach the court will take in implementing an e-filing system, if e-filing will be implemented in phases, the plan should indicate which case types are to be addressed first and which components of an e-filing system will be implemented and the priority for the same.

RECOMMENDATION 2: THE COURT SHOULD APPOINT KEY STAFF MEMBERS TO SERVE ON AN E-FILING PROJECT IMPLEMENTATION TEAM.

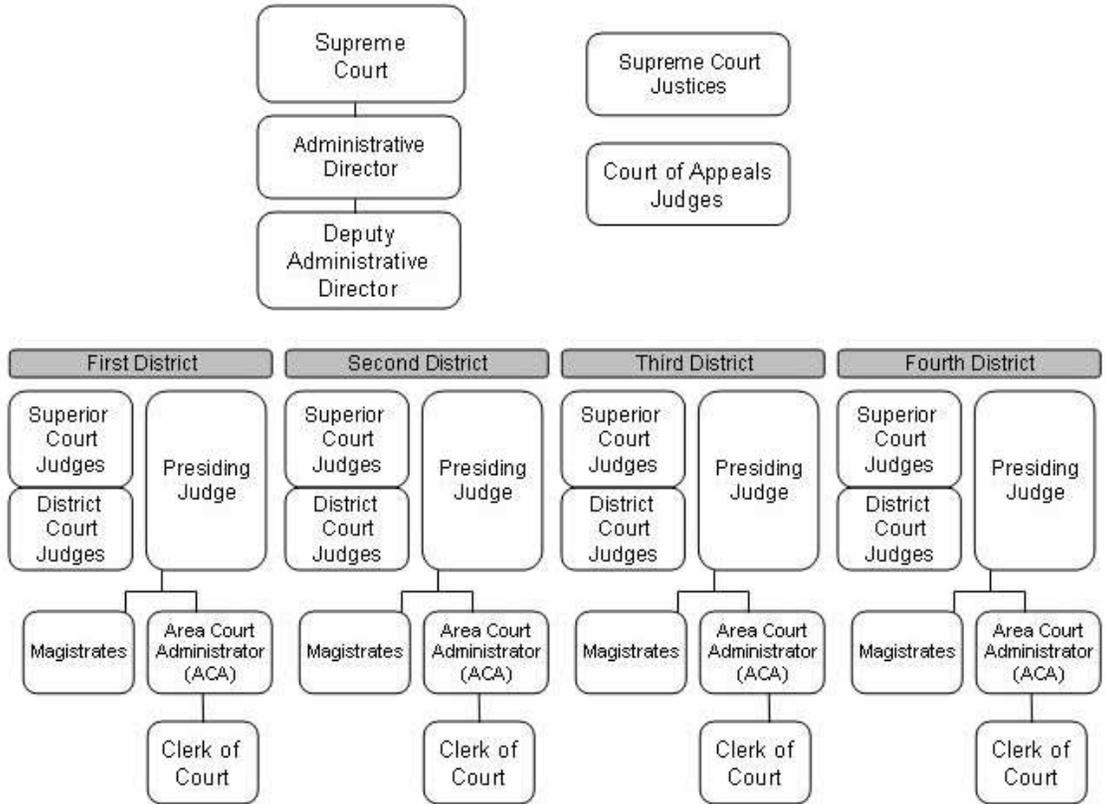
The court should establish a project implementation team and appoint key staff members in accordance with the action plan. For example, if the action plan directs that e-filing will be phased in and that implementation will occur first for criminal cases, the project implementation team should include trial court staff members that are knowledgeable with criminal matters (judge, court administrator, clerk of court, case management clerk, etc.). The team must also include a project manager, technology advisors, technology support staff, a representative from the court's case management system team, and administrative support staff. Roles and

responsibilities must be clearly identified and communicated to all team members to ensure accountability at every stage of the implementation.

When appropriate, but early on in the process, the court should seek representation and participation from other justice agencies and stakeholders.

APPENDIX A: ALASKA COURT SYSTEM ORGANIZATIONAL CHART

**Alaska Court System
Organizational Chart**



APPENDIX B: DISTRICT COURT JURISDICTION

District Court Judges

DISTRICT COURT JURISDICTION	
The district court is a trial court of limited jurisdiction. A district court judge may:	
▶	hear STATE MISDEMEANORS and MINOR OFFENSES and violations of CITY AND BOROUGH ORDINANCES
▶	issue SUMMONSES, ARREST WARRANTS and SEARCH WARRANTS
▶	hear first appearances and PRELIMINARY HEARINGS in felony cases
▶	hear CIVIL CASES not to exceed a value of \$100,000 per defendant
▶	hear SMALL CLAIMS cases (\$10,000 maximum for most cases; \$20,000 for wage claims brought by the Department of Labor)
▶	handle cases involving CHILDREN on an emergency basis
▶	hear DOMESTIC VIOLENCE cases
▶	hear INQUESTS and PRESUMPTIVE DEATH hearings

Excerpt from the Alaska Court System's 2007 Annual Report

APPENDIX C: MAGISTRATE JURISDICTION

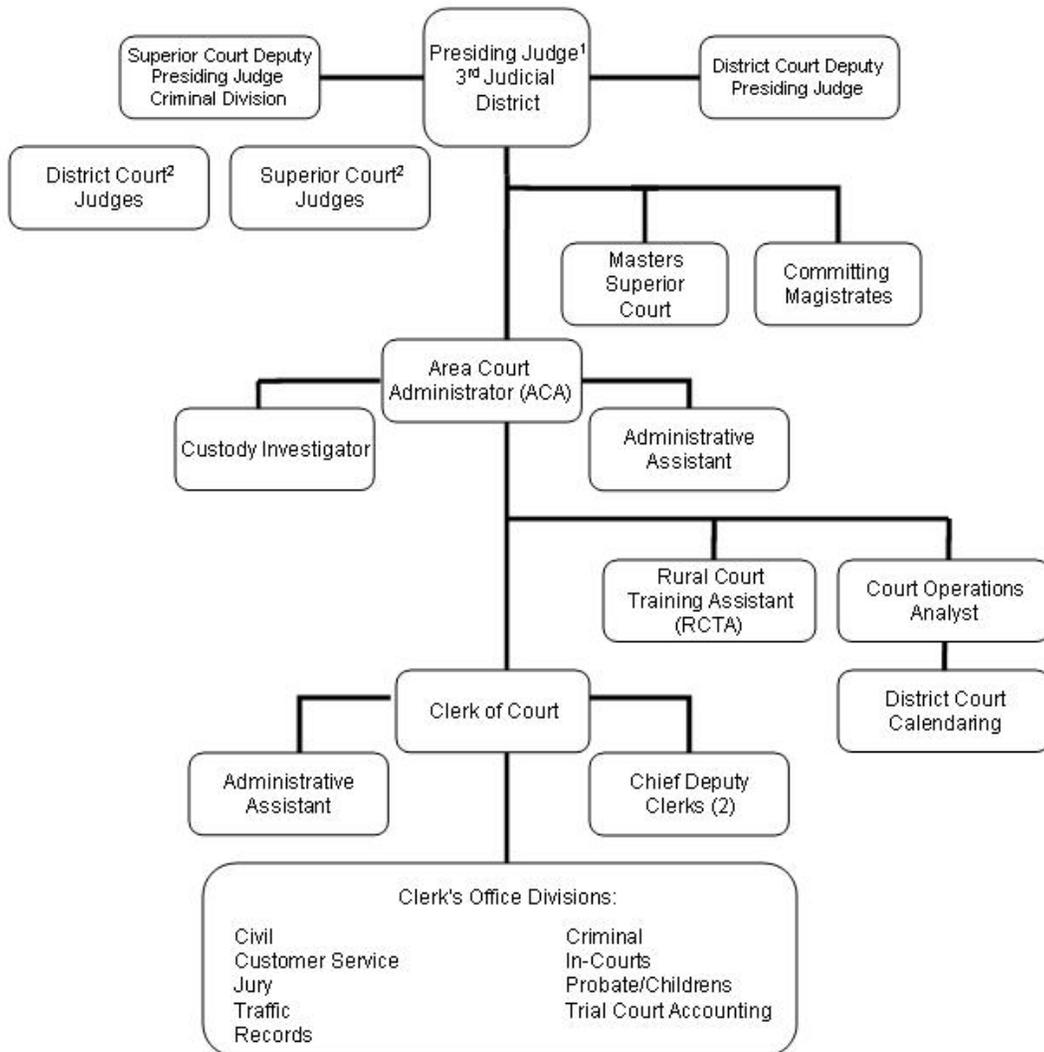
District Court Magistrates

MAGISTRATE JURISDICTION	
A magistrate may:	
▶	hear SMALL CLAIMS cases (\$10,000 maximum for most cases; \$20,000 for wage claims brought by the Department of Labor)
▶	hear FORMAL CIVIL cases (\$10,000 maximum)
▶	issue writs of HABEAS CORPUS (challenges to the legality of a person's confinement)
▶	solemnize MARRIAGES and perform NOTARY PUBLIC duties
▶	handle cases involving CHILDREN on an emergency basis
▶	hear DOMESTIC VIOLENCE CASES
▶	act as a hearing officer to review an ADMINISTRATIVE REVOCATION of a driver's license
▶	enter a judgment of conviction if a defendant pleads guilty or no contest to any STATE MISDEMEANOR
▶	hold TRIALS and enter judgments in STATE MISDEMEANORS if a defendant agrees in writing to be tried by a magistrate
▶	hear trials of MUNICIPAL ORDINANCE violations, STATE TRAFFIC INFRACTIONS and other minor offenses
▶	preside over PRELIMINARY HEARINGS in felony cases
▶	issue SEARCH AND ARREST WARRANTS, and SUMMONSES
▶	conduct EXTRADITION (fugitive from justice) proceedings

Excerpt from the Alaska Court System's 2007 Annual Report

APPENDIX D: ANCHORAGE TRIAL COURTS ORGANIZATIONAL CHART

**Alaska Court System
Anchorage Trial Courts
Organizational Chart**



¹In addition to regular judicial duties a presiding judge shall, within his or her judicial district: (1) Supervise the assignment of cases pending to the judges; (2) Supervise the administrative actions of judges and court personnel; (3) Expedite and keep current the business of the courts; (4) Review and recommend budgets; and (5) Review the operations of all trial courts to assure adherence to statewide court objectives and policies. Administrative Rule 27(b), Alaska Rules of Court. Deputy presiding judges assist the presiding judge with these duties.

²Superior and district court judges are autonomous. They are appointed by the governor and must periodically stand for retention.

APPENDIX E: SURVEY FOR COURTS THAT HAVE IMPLEMENTED AN E-FILING SYSTEM FOR CRIMINAL CASES

*** 1. Please provide your name and the name of your court.**

2. Please identify the types of criminal cases heard by your court.

- Felonies
- Misdemeanors
- Other (please specify)

3. Please provide an estimate for the number of annual filings that your court typically receives for the case types that you identified in the preceding question. [Exclude punctuation.]

Felonies:

Misdemeanors:

Other:

4. Have you implemented an e-filing system for criminal cases?

- Yes
- No

5. If you have considered and taken steps to implement an e-filing system for criminal cases but have not completed this effort, please share your experience, identifying challenges you faced along the way and any roadblocks or impediments to successful completion of this project. Please check all that apply.

- Lack of funding
- Lack of governance/leadership
- Lack of participation from filing agencies/parties
- Lack of acceptable vendor products/services
- Other (please specify)

6. Please identify which of the following components of an e-filing system that you have implemented for criminal cases:

- Acceptance of amended charging documents
- Acceptance of original charging documents
- Electronic filing of motions, proposed orders, and other typical filings
- Data interface with case management system
- Electronic workflow processes in the court
- Integration with a document management system
- Other (please specify)

7. Did your court experience any significant problems when it began accepting electronic filings of amended charging documents?

Yes

No

If yes, please describe the challenges you experienced and steps you took to overcome those challenges.

8. Does your e-filing system allow a prosecutor to pre-screen a criminal complaint (initiated by law enforcement) before the complaint is electronically filed with the court?

Yes

No

If yes, please describe how this works.

9. Please estimate the number of staff hours saved per day after implementing an e-filing system for criminal cases:

10. Please identify the areas in which your court experienced a significant reduction in workload after implementing an e-filing system for criminal cases:

Case initiation

Review and acceptance of filings

Routing of filings to judicial officers

Distribution of court orders

Paper file retrieval

Other (please specify)

11. Did your project involve any other performance measures, such as changes in the completeness, accuracy or timeliness of court records, costs/benefits to filing parties, changes in access to data, etc. If so, please describe.

12. What is the medium for the official court record for criminal cases in your court?

Paper

Electronic

Electronic, but paper files are maintained to accommodate judges' preferences

Other (please specify)

13. When filings are received electronically, how are they delivered to the judge?

- Filings are delivered to the judge in the same medium that they are received; if the filings come in paper form the judge receives them in paper form, and the same for electronic filings
- All filings are delivered to the judge electronically; paper filings are scanned before being delivered to the judge
- All filings are delivered to the judge in paper; electronic filings are printed before being delivered to the judge
- Filings are delivered in the form, electronic or paper, requested by each judicial officer
- Other (please specify)

14. Please select which of the following applies:

- Contracted with an electronic filing service provider to implement our e-filing system for criminal cases
- Worked with our case management system vendor to implement court-based, court-managed e-filing system for criminal cases
- Developed an in-house e-filing system for criminal cases

Comments:

15. How are the electronic filing service provider fees paid?

- Court funded
- Costs are shared by participating justice agencies
- Other (please specify)

16. How many staff members were assigned to implement your e-filing program?

Number of staff:

17. Was the number of staff members assigned to implement e-filing in your court sufficient?

- Yes
- No

18. How does your court provide ongoing training and support to system users? Please check all that apply:

- Web-based tutorial
- Helpdesk
- On-site classes
- User manual
- Other (please specify)

19. Please estimate the number of staff hours required per week to maintain your e-filing system and provide support for end users:

Information Technology staff:

Administrative staff:

20. Do you recommend implementation of a court-based e-filing program over contracting with an electronic filing service provider?

- Yes
- No

Please explain why or why not:

21. Please select which of the following applies:

- Made the decision to implement and implemented an e-filing system for criminal cases by working collaboratively with justice agencies
- Mandated electronic filing in criminal cases by court rule or state statute

Comments:

22. What were the most compelling incentives for the implementation of e-filing in criminal cases from the perspectives of the following:

Law enforcement:

Prosecutor:

Private defense counsel:

Public defense counsel:

Corrections agencies:

Other agencies:

23. Please identify the project members that served on your implementation team:

- Judicial officer
- Clerk of court
- Court administrator
- Business analyst
- Project manager
- Technology advisor
- Records manager
- Prosecutor/staff
- Law enforcement officer/staff
- Other (please specify)

24. Using a scale from 1 - 10, with 1 representing the least impact and 10 representing the greatest impact, please indicate the extent to which the following factors hindered or delayed successful implementation of an e-filing system for criminal cases filed in your court.

	1	2	3	4	5	6	7	8	9	10	N/A
Insufficient funding	<input type="radio"/>										
Insufficient staff	<input type="radio"/>										
Inexperienced staff	<input type="radio"/>										
Lack of buy-in from judges	<input type="radio"/>										
Lack of buy-in from other justice agencies	<input type="radio"/>										
Concerns about security	<input type="radio"/>										
Integration issues with case management system	<input type="radio"/>										
Other	<input type="radio"/>										

For Other (please specify)

25. Please cite the authority for any statutes or court rules that your state or court has adopted pertaining to e-filing in criminal cases:

26. Are documents that are e-filed available online for the public to view?

Yes

No

Comments:

27. What type(s) of electronic signature does your court accept or require?

Digitized image of a handwritten signature that is attached to an electronic document

Secret code or personal identification number that identifies the sender to the recipient

A unique biometrics-based identifier such as a fingerprint or a retinal scan

A digital signature created through the use of public key cryptography

Unique user ID and password with requirement for user agreement

Other (please specify)

28. Please cite any statute or court rule that addresses acceptance of electronic signatures:

29. Any other 'lessons learned' that might be helpful:

30. If your court has project or program information available to the public online, please provide a link:

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