

CASE INFORMATION ON THE INTERNET:  
CAN IT SOLVE A PUBLIC ACCESS PROBLEM  
IN THE FAIRFAX COUNTY GENERAL DISTRICT COURT?

Institute for Court Management  
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## EXECUTIVE SUMMARY

As with businesses in the private sector, courts are increasingly looking at advances in technology to help provide solutions to some of their most difficult problems. This study examines the feasibility of making certain court case information available on the Internet as a means of solving a public access problem in the Fairfax County General District Court.

The court's expanding workload and limited staff have made it more and more difficult for the public to access the Fairfax County General District Court either by telephone or in person. Past uses of technology, including kiosks, a court web site, and implementation of an automated voice response telephone system, have improved the situation somewhat, but not to the customers' or court's satisfaction. Keeping the customers happy and providing easy access are essential standards for all agencies, but are of particular importance to a court, which must instill trust and confidence in the public it serves. Allowing the public to link up via the Internet to specific case information from the court's computerized case management system, would improve access to the court and provide enhanced customer service in many instances. However, there are a number of issues that must be examined before undertaking a project to disseminate court information electronically over the Internet.

Of major concern are legal and privacy issues. It is the public's perception that all court matters are open to the public and should be easily accessible to anyone with an interest. Court records are generally considered a matter of public record that should be made available upon request. However, this does not mean that the average citizen is willing to sacrifice his privacy rights in order to improve others' access to the court. This paper looks at some of the legal and ethical issues of disseminating court data electronically, discusses the need to balance the public's right to know versus the individual's right to privacy, and offers recommendations for the court.

To begin this project, a review of relevant literature helped to define the issues and suggest a number of questions that would have to be answered before making the court's case information available on the Internet. Some of the questions include:

- Are there any federal or Virginia laws that limit access to court case information on the Internet?
- Does the Commonwealth of Virginia have a policy on disseminating case information via electronic means?
- Who will use the information and for what purpose?
- Should case information be accessible only by case summons or docket number, thus limiting access to the parties or their attorneys?
- Should a password or fee be required? Again, these would limit access.
- What data elements will be necessary to identify a specific case? Is the social security number or driver's license number necessary? How about the defendant's date of birth or address?
- Should a case be placed on the Internet at the time of filing with the court or only after conviction, adjudication, or final disposition?
- What is a reasonable length of time for the court to update disposition information following a court hearing? Can the court achieve this standard?
- What liability does the court incur for omissions, errors, or information not updated if reasonable efforts are made by the court to ensure accuracy and timeliness? Do any federal or state laws protect the court from liability?
- How have other courts dealt with the issues of privacy, and legal and ethical considerations?

From the review of literature, it became obvious that each court must determine its own public access policy before starting an electronic data dissemination project. Although the Fairfax County General District Court already has a data request policy in place to outline procedures for requesting copies of court data reports, the policy does not address the court's overall policy of public access to court records or of disseminating data electronically. This would need to be remedied by the formulation of a written policy before making case information available over the Internet.

Privacy issues and relevant legal considerations were also stressed in the literature reviewed for this paper. Even though none of the publications dealt specifically with courts in Virginia, they did suggest further areas of research. A review of Virginia law, including Virginia's Privacy Protection Act of 1976 (Code of Virginia, §2.1-377 to 2.1-386) and the Virginia Freedom of Information Act (Code of Virginia, §2.1-340 to 2.1-246.1), helped to clarify what is permissible in the Fairfax County General District Court.

Although the reviewed literature and laws researched for this paper indicate that the court can allow remote access to its computer-stored case information, nowhere does it say whether the court should allow dissemination of case information over the Internet. That is for each court to decide. The court's opinion in this regard was determined through the use of an oral survey administered to each of the general district court's ten judges. The judges were asked eight questions dealing with ownership of

court data, the benefit of a remote access system, privacy and court liability concerns, manner of access, and, finally, whether or not they would support electronic public access. Even though seventy percent of the judges were ultimately in favor of making available an electronic public access system from data contained in the court's case management system, a number of strong concerns were expressed that would have to be addressed before implementation of a system. Most of these issues deal with individual privacy, system security, and accuracy and misuse of case information.

After determining that a majority of the judges would support dissemination of case information over the Internet, a survey was conducted of local bar members to ascertain whether there is a need for electronic access and to determine if attorneys, as the primary court users, would actually use such a system. Of the 100 surveys distributed in the courthouse among the 400-500 attorneys practicing regularly in the district court, 41 were ultimately completed and returned. The attorney questionnaire requested background information, such as number of years and area of practice and Internet access capability, and asked the attorneys to rate current levels of accessibility to the court to determine if there was a need for remote access. The survey also asked which case data elements would be beneficial and how access should be granted. The results of the survey indicated that a need does exist for improved court access, and that a majority of the attorneys surveyed would use Internet access to case data if it were made available.

The responses to both the judges' survey and the attorney questionnaire expressed a concern for the accuracy and timeliness of the case information made available for remote access. For this project, six month's worth of statistical reports and a random sampling of case data on the court's case management system were examined for timeliness of initial case entry and updating of dispositions; omissions of case data; and clerical errors. Findings indicated that, although timeliness and accuracy are better than anticipated, there is still room for improvement. Prior to making case information available over the Internet, a system for ongoing monitoring of the data in the court's case management system would need to be established and procedures put in place to ensure timeliness and accuracy of case information.

The research conducted and data collected for this study determined that allowing electronic public access via the Internet to information stored on the court's case management system would improve public access to the Fairfax County General District Court. However, the design of such a program will require careful planning and should include input from the court's judges and supervisory staff, the Commonwealth's Attorney and Public Defender, the Virginia Attorney General's Office and the Office of the Executive Secretary, as well as members of the local bar. Balancing the public's right to access court information versus the individual's right to privacy must be addressed through a written public access policy. This could be simplified somewhat by examining policies already in place in other courts for applicability to the Fairfax County General District Court. The policy would need to determine which personal data elements, such as the defendant's social security number and addresses of witnesses, should not be made available through remote access for legal or ethical reasons in order to protect privacy rights.

Besides working on a written public access policy, the court needs to continue the work begun in this study with ongoing monitoring of data in the case management system for accuracy and timeliness. Another recommendation is to investigate the possibility of imaging of case records in the court, which will allow additional case information to be made available by remote access. Electronic filing is another means of improving public access that the court may want to consider.

Heavy caseloads, limited resources, and staff shortages all represent barriers to public access to the court, which may be partially alleviated through the prudent use of technology. Allowing remote access to case information via the Internet is a viable option for improving public access to the Fairfax

County General District Court.

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