



Supreme Court of Florida

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PRESS RELEASE

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Supreme Court Adopts Policy to Protect Privacy in Court Records

TALLAHASSEE— Responding to growing concerns about private and confidential information being widely distributed through new electronic media, Florida Chief Justice Harry Lee Anstead today issued an order adopting recommendations of a court and a legislative study group designed to protect the people of Florida when such information is contained in court records.

The order establishes a Committee on Privacy and Court Records to begin work on a uniform statewide policy to ensure that this information is filtered out of court records before they are placed in media like the Internet and bulk electronic access systems.

"Current regulation of confidential information is minimal at best," said Anstead. "Because it will take time to develop a uniform policy, I am directing that bulk electronic distribution of court records cease temporarily. However, I have provided for several exceptions, such as allowing the chief judges of the courts to authorize distribution of documents that have been properly screened and are of significant public interest."

The order tracks recommendations of two separate advisory bodies. An earlier report by the Florida Judicial Management Council had urged that the Court act to protect the public. Earlier this year a legislative study group reached essentially the same conclusion.

At the heart of these recommendations is the growing concern that information like Social Security numbers, medical records, and financial disclosures contained in court records can be used to commit crimes such as fraud or identity theft. Some of this information also may be confidential under state or federal law, but no uniform mechanism is now in place to see that it is removed before electronic distribution.

In its earlier report, the Council also noted widely varying practices followed by court clerks throughout Florida. Most do not yet post trial court documents on the World-Wide Web, while others do. Among those that do, some post certain categories of cases but not others, while others post different categories. This inconsistency is itself a potential problem, because legal rights of privacy and access normally must be treated the same statewide.

One of the more common complaints from Florida residents involves the placement of divorce documents on electronic distribution networks. The Council noted that these records commonly contain detailed and deeply personal information about the private lives of the two parties and their children, unfounded or speculative claims of wrongdoing, and detailed information about financial assets. Frequently, confidential information is placed in documents with information that is otherwise not confidential.

The problem is not unique to Florida. State and federal courts throughout the United States now are grappling with the issue. The Chief Justice of Texas recently appointed a Committee on Public Access to Court Records with the Texas Judicial Council, and last year the Chief Justice of New York appointed the Commission on Access to Court Records, both charged with the development of statewide policy regarding electronic access to court records.

The Judicial Conference of the United States, the policy-making body of the federal court system, has been experimenting with its access policies for several years.

A list of the members Anstead is appointing to the new committee is attached. A copy of the Council's report is available on the Supreme Court Press Page of the Court's duplicate websites (below).

www.flcourts.org

www.firn.edu/supct

COMMITTEE ON PRIVACY AND COURT RECORDS

CHAIR:

Jon Mills, Dean Emeritus of the University of Florida Levin School of Law, former Speaker of the Florida House of Representatives, and Director of the Institute for Governmental Responsibility.

MEMBERS OF THE COMMITTEE:

Ms. Kristin Adamson, attorney, Novey, Mendelson, and Adamson, Tallahassee. Ms. Adamson is a family law attorney and member of the Executive Council of the Family Law Section of The Florida Bar. She served on the Study Committee on Public Records and the Tallahassee City Commission Task Force on Domestic Violence.

Mr. Andrew Z. Adkins III, Director, Legal Technology Institute. University of Florida Levin College of Law. Mr. Adkins is a nationally recognized expert on legal technology.

Judge Edward H. Fine, Chief Judge, Fifteenth Judicial Circuit. Judge Fine is chief judge of a large circuit in South Florida.

Professor A. Michael Froomkin, Professor of Law, University of Miami School of Law. Professor Froomkin writes and teaches on legal issues related to technology, privacy and Internet governance.

Ms. Lydia Gardner, Clerk of Court, Orange County. Ms. Gardner serves as clerk of court in a large county.

Judge Jacqueline R. Griffin, Judge, Fifth District Court of Appeal, Daytona. Judge Griffin chaired the Judicial Management Council workgroup that drafted the Council report, served on the legislative Study Committee on Public Records, and chaired the Ad Hoc Workgroup on Electronic Access to Court Records.

Mr. Thomas D. Hall, Clerk of Court, Florida Supreme Court. Mr. Hall served on the Judicial Management Council workgroup that drafted the Council report, the legislative Study Committee on Public Records, and the Ad Hoc Workgroup on Electronic Access to Court Records.

Mr. Jonathan D. Kaney, Jr., attorney, Cobb and Cole, Daytona Beach. Mr. Kaney, is a media attorney and a member of the Media Law Committee of the Florida Bar. He served on the legislative Study Committee on Public Records and the Ad Hoc Workgroup on Electronic Access to Court Records.

Judge Judith L. Kreeger, Judge, Eleventh Judicial Circuit. Judge Kreeger served on the Judicial Management Council workgroup that drafted the Council report, the legislative Study Committee on Public Records, and the Ad Hoc Workgroup on Electronic Access to Court Records. She also serves on the Florida Courts Technology Commission.

Ms. Barbara T. Scott, Clerk of Court, Charlotte County. Ms. Scott is the current president of the Florida Association of Court Clerks and serves on the Florida Courts Technology Commission.

Judge Kim A. Skievaski, Chief Judge, First Judicial Circuit. Judge Skievaski is chief judge of a medium-sized circuit.

Judge Eugene Smiley, Bay County. Judge Smiley served on the Judicial Management Council workgroup that drafted the Council report and the Ad Hoc Workgroup on Electronic Access to Court Records. He also serves on the Florida Courts Technology Commission.

Mr. Walt Smith, Court Administrator, Twelfth Judicial Circuit. Mr. Smith served on the Judicial Management Council workgroup that drafted the Council report and the Ad Hoc Workgroup on Electronic Access to Court Records.

Judge Larry G. Turner, Eighth Judicial Circuit. Judge Turner serves as administrative judge in the criminal division.

Justice R. Fred Lewis will serve as Supreme Court liaison. Justice Lewis was appointed to the Court in December 1998 and assumed office the following January.

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