

WEST VIRGINIA COURT TECHNOLOGY SUMMIT

FINAL REPORT
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WEST VIRGINIA COURT TECHNOLOGY SUMMIT



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THE WEST VIRGINIA COURT TECHNOLOGY SUMMIT

The Supreme Court of Appeals created the West Virginia Court Technology Summit in response to the many technology-related recommendations of the Commission on the Future of the West Virginia Judiciary. The Supreme Court appointed the Commission on the Future in August 1997 to conduct a comprehensive review of West Virginia's judicial system and to make recommendations that would ensure a just, effective, responsive, and efficient court system into the next century. Part of that review included a study of the integration and coordination of technology in the court system. In its December 1998 "Final Report," the Commission concluded that "it is imperative that there be a comprehensive plan for the integration and coordination of technology within the court system."

In response, in May 1999, Chief Justice Larry V. Starcher of the Supreme Court of Appeals of West Virginia appointed a large and diverse group of individuals to create a plan to implement the technology-related recommendations of the Commission on the Future. The Court charged that group, the "West Virginia Court Technology Summit," with reviewing the issues surrounding implementation of the West Virginia 2001 Courtroom of the Future Project including the ongoing installation of the Asynchronous Transfer Mode or "ATM" network.¹

The Summit was chaired by the Honorable Daniel P. O'Hanlon, Cabell County Chief Circuit Judge and a recognized pioneer in courtroom technology implementation. The members of the Summit included representatives from the Division of Corrections, the Regional Jail Authority, the Division of Juvenile Services, the West Virginia University College of Law, the West Virginia Legal Services Corporation, and the West Virginia Coalition Against Domestic Violence. Other members included judges, prosecutors, public defenders, attorneys, circuit and magistrate court clerks, and staff members from the Administrative Office of Courts and the State Law Library.

The members of the Court Technology Summit met for the first time on June 5, 1999 at the Bell-Atlantic Knowledge Center in Charleston. At the start of the day-long meeting, the members of the Summit dispersed to different ends of the building and attended the meeting via ATM video conferencing technology. After opening remarks by Chief Justice Larry V. Starcher, Judge O'Hanlon reviewed the Courtroom of the Future project. The members were then assigned to one of three subcommittees for the purpose of drafting comprehensive plans for the integration and coordination of technology in the judicial system. Each subcommittee was charged with reviewing a list of issues culled from the recommendations of the Commission on the Future.

The first Subcommittee, chaired by Judge O'Hanlon, focused on the development and management of the ATM video conferencing network. Peggy Rash, Associate Administrative Counsel, and Tara Harper,

¹The ATM network allows for interactive video conferencing so that judicial offices may conduct court proceedings remotely. ATM video conferencing allows participants many miles apart to see and hear each other as though they were in the same room.

Computer Support Associate Director, both of the Administrative Office of Courts, staffed Subcommittee One. Subcommittee One reviewed issues relating to:

- Formulating a plan for court use of the ATM network;
- Developing an ATM installation plan;
- Expanding court uses of the ATM network; and
- Planning for ATM network access by non-court entities.

Subcommittee Two, chaired by the Honorable Robert A. Burnside, Jr., Raleigh County Chief Circuit Judge, reviewed data access and distribution via the ATM network, the Internet, and the Supreme Court's intranet network. The staff for Subcommittee Two were Rory L. Perry, Deputy Clerk of the Supreme Court, and Melissa B. Crawford, Deputy Director for the Division of Court Services in the Administrative Office of Courts. Subcommittee Two studied:

- Managing remote servers and client computers from a central location;
- Hosting court Web pages;
- Hosting court employees' E-mail;
- Hosting court Internet access;
- Collecting and analyzing court data;
- Determining and managing access by outside entities to court data and docket information; and
- Implementing electronic filing.

The Honorable David H. Sanders, Berkeley County Chief Circuit Judge, chaired Subcommittee Three which was assigned the task of reviewing public access to the ATM network and court information. Subcommittee Three's staff counsel was Michelle T. Mensore, the Supreme Court's Public

Information Officer. Subcommittee Three focused on implementation of:

- Streaming audio and video of court proceedings;
- Student access from grade schools to the law school;
- Access by the general public to court documents and proceedings;
- Juror and subpoenaed witness access to scheduling information via the Internet and E-mail;
- Access by people affected by the criminal justice system; and
- Making *pro se* fill-in-the-blank forms readily available to the public.

The Summit's subcommittees met throughout the summer months of 1999 to review the issues assigned to them and to draft comprehensive implementation plans. At the conclusion of extensive deliberations, each issued a report with recommendations that was distributed to all Summit members in late September for their review.

The Court Technology Summit met for the last time on November 9, 1999 to review the subcommittees' work and to reach a consensus on a plan to integrate and coordinate technology in the judicial system.

This "Final Report" of the West Virginia Court Technology Summit was presented to the Supreme Court of Appeals on December 15, 1999.

I. VIDEO CONFERENCING: ATM NETWORK DEVELOPMENT AND MANAGEMENT

Asynchronous Transfer Mode (ATM) is a digital communication networking technology which enables voice, data and video transmission to occur at very high speeds (see Appendix A for a more detailed explanation of an ATM network). In cooperation with Bell Atlantic, the West Virginia Supreme Court of Appeals initiated pilot projects in Kanawha and Cabell County magistrate courts in 1998 to test the use of the video conferencing capabilities of the ATM system. The pilot projects tested the technology by conducting initial appearance proceedings between the selected courts and the jails servicing these courts. The purpose of this initiative as set forth in the Supreme Court's authorizing Administrative Order was to stem costs, reduce security concerns, and otherwise eliminate inconvenience related to certain in-court appearances. Based on the positive outcomes of the pilot projects, the

Court obtained money from the Court Security Fund to expand the use of ATM remote video technology to the courts in Berkeley, Greenbrier, Hancock, Jackson, Lincoln, Marshall, Morgan, Ohio and Putnam counties.

The demonstrated success of the Court's pilot projects and other Executive-branch initiatives resulted in the Legislature appropriating \$2.5 million in the fiscal year 2000 budget of the Department of Administration's Information Services and Communications Division for purchase of the equipment needed to expand the ATM network statewide by the year 2001. This cooperative effort of the three branches of government will result in West Virginia being the first state in the nation to have a statewide networking system utilizing the same technology backbone.

ISSUE ONE: FORMULATING A PLAN FOR THE COURTS USE OF THE ATM NETWORK

While the funding for placing ATM technology in all courthouses in the State is a major accomplishment, it is imperative that the Supreme Court develops a plan for the use, development, and maintenance of the technology in order to realize a uniform statewide communications network. The same emphasis placed on obtaining resources for the ATM equipment needs to be placed on establishing a method by which: 1) priorities are set for exploring the seemingly endless uses of the technology; 2) all personnel receive adequate and timely training; 3) the

priority uses are implemented in the courts; 4) the inevitable conflicts or problems that occur will be resolved in a timely and uniform fashion; and 5) a protocol for partnership use of the ATM network by other agencies is developed.

The importance of this project to the work of the courts throughout the State requires that appropriate staffing resources be devoted to the planing and development of the ATM network. The competing demands on the current staff of the Administrative Office of the Court has resulted in the delay of training magistrates on the correct procedures

that need to be followed in conducting initial appearance proceedings via video conferencing. Given that adequate time cannot be devoted to implementing this task at this time, then the current staff cannot be expected to take on the larger job of expanding the uses of the system in a timely manner.

To ensure the uniform development, use, and maintenance of the ATM network in the courts statewide, the members of the Summit make the following recommendations.

1.1 The **SUPREME COURT** should hire a lawyer with a technology background whose prime responsibility is to coordinate the development of a plan identifying the priority uses of the ATM system and establishing methods for implementation. The duties of this position, minimally, would include: 1) working with the Steering Committee (*see* Recommendation 1.2 below) to develop an ATM network plan; 2) coordinating pilot projects for identified uses; 3) drafting necessary rules governing the identified uses of the system for the Court's

consideration; 4) keeping abreast of developing law involving remote video appearances and other issues relating to the ATM network plan; 5) developing a training plan for all court personnel involved with use of the technology; 6) developing a protocol for non-court users; 7) researching the progress of other states in network technology as well as uses and practices involving the technology; and 8) serving as the point person with respect to legal issues involved with the use of any type of technology in the courts.

1.2 The **SUPREME COURT** should create a Steering Committee consisting of a representative of circuit judges, magistrates, family law masters, circuit clerks, magistrate court clerks, probation officers, mental hygiene commissioners, non-court pilot project participants, as well as governmental agencies and private entities who have an interest in using the Court's ATM system.

ISSUE TWO: INSTALLATION PLAN

Video remote initial appearance proceedings are now conducted in three counties: Cabell, Kanawha, and Putnam. ATM equipment is installed in four other counties: Greenbrier, Jackson, Lincoln, and Summers, but staff in the magistrate courts have not received training on the procedures governing the video conferencing proceedings. The next six counties scheduled to receive ATM equipment are: Brooke, Hancock, Ohio

(1st Judicial Circuit), Berkeley, Jefferson, and Morgan (23rd Judicial Circuit). The equipment cost in these six counties will be paid from Court Security Funds. The State Purchasing Division sought bids on the purchase of the equipment, which has caused delays in the actual purchase and installation of the equipment in the six counties, not only because of the added time needed to accommodate the bidding process, but also

because of the questions raised regarding

compatibility of equipment purchased from vendors other than Bell Atlantic.

The Court has not yet developed a plan for the installation of ATM equipment in the remaining 42 counties.

To achieve the installation of the ATM system in the courts in a timely and reasoned way, the following initiatives should be considered.

2.1 The **SUPREME COURT ADMINISTRATIVE OFFICE** should develop a schedule for magistrate courts to receive training on how to conduct remote initial appearance proceedings using the ATM video technology.

Commentary: Personnel training is critical to the success of any court technology implementation program. The members of the Summit strongly encourage the Supreme Court to make ongoing training the key component in any technology implementation project.

2.2 To ensure a uniform and compatible network for the courts statewide, the **SUPREME COURT** should set the standards for equipment purchases.

2.3 The **SUPREME COURT ADMINISTRATIVE OFFICE** should develop a schedule for installation of ATM equipment in the remaining counties in the State. Counties serviced by regional jails should receive priority for installation to minimize costs of equipment purchase, to facilitate training, and to enhance the uniformity of procedures followed.

2.4 The SUPREME COURT ADMINISTRATIVE OFFICE should develop a checklist outlining what local decisions need to be made regarding installation and placement of the ATM equipment. This checklist would be supplied to chief circuit

judges, who will serve as the ultimate decision-maker in the circuit, so that site preparation may be accomplished in advance of and during the installation process.

ISSUE THREE: EXPANDED COURT USES OF THE ATM NETWORK

The Administrative Order that authorizes the use of ATM technology for initial proceedings between magistrate courts and jails also allows courts to conduct other criminal and civil proceedings via remote video conferencing. These proceedings include: pretrial hearings not involving suppression motions or other evidentiary matters; post conviction habeas proceedings in circuit court; petitions for initial domestic violence protective orders; and a pilot project in Cabell County for taking the testimony of out-of-county forensic or psychological experts in criminal circuit court cases.

Based on the priorities stated in the Administrative Order, steps have been taken to implement these other uses of the technology. For example, the domestic violence program in Greenbrier County is obtaining compatible video equipment to enable the *ex parte* hearings on domestic violence petitions to be conducted between the magistrate court and the safe location at which the petitioner for the protective order is staying. Additionally, the circuit court in Cabell County has been designated as the Courtroom of the Future and appropriate vendors are developing the pilot Courtroom of the Future.

The December 1998 “Final Report” of the Commission on the Future of the West Virginia Judiciary contained a recommendation regarding the availability of magistrates after

business hours which relates to the ATM project. Because there is an ATM connection between the magistrate courts and the regional jails that service those counties, the Commission recommended that steps be taken to grant authority to magistrates to conduct initial appearance proceedings for anyone detained at the regional jail. In essence, this would allow one magistrate from a county in a regional jail service area to be on call for the purpose of conducting all initial appearances regardless of where the offense for which the person is detained was committed.

A magistrate must still be on-call in each county for purposes of: 1) conducting initial appearances for anyone arrested who was not taken to the regional jail; 2) handing requests for emergency search warrants; 3) accepting the filing of domestic violence protective order petitions; and 4) contacting juvenile detention facilities.

Use of a “regional-magistrate” would eliminate the need for multiple court connections to the regional jail and the scheduling problems such multiple connections would create.

To effectively and efficiently expand court uses of the ATM network, the members of the Summit make the following recommendations:

- 3.1 The **SUPREME COURT** should identify and support the various initiatives resulting from the Court's Administrative Order and present them to the ATM Steering Committee for incorporation in the ATM network plan.
- 3.2 The **SUPREME COURT** should continue to investigate the concept of scheduling a single magistrate in the area serviced by a regional jail to act as a "regional" magistrate for purposes of all video initial appearance proceedings if the authority for doing so is granted by legislative enactment.

- 3.3 The **SUPREME COURT** should formally establish a pilot project in Greenbrier County to develop the procedures by which *ex parte* hearings on domestic violence petitions are conducted by video.
- 3.4 The **SUPREME COURT** should consider, list, and prioritize other uses of the ATM technology by court personnel for presentation to the Steering Committee. (*See* Recommendation 10.2).

ISSUE FOUR: ATM NETWORK ACCESS BY OUTSIDE ENTITIES

Many beneficial uses of the ATM video technology involve entities related to, but outside of, the courts. For example, ATM video conferencing could be used to facilitate many court-related activities such as allowing probation officers to "meet" with probationers housed at a jail, providing classes for juveniles in detention centers, or making medical diagnoses of inmates.

Lawyers also could save time and money through the use of ATM technology. Lawyers could depose experts from remote locations, interview clients from jail or prison, and conduct settlement conferences and other meetings without traveling.

Because the benefits of the ATM system are so many and so far reaching, it is not difficult to imagine that the system could quickly become overwhelmed. To assure, prioritize, and control usage of the

ATM network by entities outside of the courts, the members of the Summit make the following recommendations:

- 4.1 The **SUPREME COURT** should request an inventory of other uses of the ATM technology by outside entities for presentation to the Steering Committee. Further, the Supreme Court should require the Steering Committee to study and recommend a reasonable usage surcharge for non-court users.
- 4.2 The **SUPREME COURT** should charge the Steering Committee with recommending a method by which conflicts in scheduling court, court-related and non-court use requests be resolved.

4.3 The **SUPREME COURT** should adopt a

use protocol for those outside of the courts.

II. DATA ACCESS AND DISTRIBUTION

A central duty of the West Virginia court system is to maintain and provide access to court records and information regarding court procedures. This information relates both to specific cases as well as general court procedures. Court clerks' offices at the magistrate, circuit, and Supreme Court levels are each charged with the specific responsibility of maintaining court records,² while the administrative office is required to analyze court records and prepare statistical reports.³ Indeed, the courts are charged with preserving court records to ensure that "[t]he records and papers of every court shall be open to the inspection of any person, and the clerk shall, when required, furnish copies thereof . . ." *W. Va. Code* § 51-4-2.

The public's access to both case-specific and general information often takes different forms depending on the court location. Although the State has a unified court system, at present there is no centralized system for the collection, management and

distribution of court information. Fractured data access and distribution takes their toll on communication between the courts.

In recent years, the World Wide Web has created a platform to allow data to be centrally distributed and accessed by anyone with access to an Internet connection. Recent advances in data networks and so-called "smart terminals" are reshaping the way information can be managed, distributed, and accessed across different computing environments.

²See e.g. *W. Va. Code* § 50-1-8 ("[I]t is the duty of the magistrate court clerk to establish and maintain appropriate dockets and records in a centralized system for the magistrate court...").

³The administrative director is currently charged with "[e]xamining the state of the dockets of the various courts and securing information as to their need for assistance, if any, and the preparation of statistical data and reports of the business transacted by the courts..." *W. Va. Code* §51-1-17(b). The administrative director is further required to "submit annually to the court a report...of the state of business of the courts, together with the statistical data compiled by him, with his recommendations." *W. Va. Code* §51-1-17(f).

ISSUE FIVE: MANAGING REMOTE SERVERS AND CLIENT COMPUTERS FROM A CENTRAL LOCATION

The present computing structure of the West Virginia court system places great strain on IT (Information Technology) resources to maintain and update individual workstations. These maintenance costs continue to grow each year. In addition, the judiciary's present computing structure impedes uniform statewide data collection, analysis and distribution because of varying levels of hardware and software resources in different locations. Although the Administrative Office currently collects and compiles statistics from circuit and magistrate courts, no central location presently exists for an individual to access specific case information or request information related to court resources. The Commission on the Future of the West Virginia Judiciary recognized this deficiency and specifically recommended that the Supreme Court "should standardize and network computer systems in both circuit and magistrate courts, across other judicial offices, and to related agencies and organizations."

With the advent of the high-speed ATM network, court personnel throughout the state will be able to use a single network for data transfer and collection. Through the use of thin client/server-based computing,⁴ IT personnel will be able to manage remote servers and client computers from a central location. Thin client technology, deployed in tandem with the State's ATM network, would significantly expand the judiciary's ability to deliver applications centrally. The computing capabilities and data are kept at the central

⁴ Thin client/server-based computers rely less on full powered desk top machines and more on powerful central servers to deliver processing powers.

server and the desktop thin client terminal is a device for display, input, and output. This centralized control is an essential first step to the development of a unified structure for the management of court information.

To build the technological infrastructure necessary to manage and distribute both court information and the tools necessary to process that information, the members of the Summit make the following recommendations:

- 5.1** The **SUPREME COURT** should establish a Court Information Team (CIT) staffed by appropriate internal personnel to assess and recommend hardware and software needs, and to coordinate with the existing Court Internet Committee and any ATM Steering Committee.
- 5.2** The **SUPREME COURT** should authorize the purchase and installation of appropriate server hardware and software to utilize the ATM network, in conjunction with thin client terminals, to allow management of remote servers and client computers from a central location in Charleston. The central "server farm" necessary to manage data and serve client applications initially should be as flexible as possible to accommodate existing differences in computing environments, but should encourage migration toward a unified system of applications and computing systems. (See Recommendation 2.2).

5.3 The **SUPREME COURT** should provide appropriately trained support personnel to maintain and administer the server farm and ATM network connections.

Commentary: Personnel training is critical to the success of any court technology implementation program. The members of the Summit strongly encourage the Supreme Court

to make ongoing training the key component in any technology implementation project.

5.4 The **SUPREME COURT** should develop uniform circuit and magistrate court clerk docketing and optical imaging systems.

ISSUE SIX: HOSTING COURT WEB PAGES

A single “West Virginia Courts” Web site offering a vast array of information about various courts and court procedures would greatly increase the public’s access to the judicial system. Information such as location of court facilities, Americans with Disabilities Act (ADA) access information, employee directories, and jury information would provide the outline for a basic Web page. As circuit courts become more sophisticated and data integrity is improved, individual court pages may also provide access to court dockets and calendar information.

Some local courts currently have a Web site, but the information they contain varies from site to site. By hosting all local court Web pages within a single “West Virginia Courts” Web site, uniformity of information could be achieved and also allow flexibility for each court to add pertinent local information.

To ensure uniformity of the judicial system’s Web presence, the members of the Summit make the following recommendations:

6.1 The **SUPREME COURT** should provide appropriately trained personnel

including a full-time Web master at the earliest possible date to maintain and administer the “West Virginia Courts” Web site, and to coordinate with local courts regarding content of local court pages.

6.2 The **SUPREME COURT** should host their own Web site rather than outsourcing this task; including the purchase and maintenance of Web server hardware and software as part of the “server farm” referred to in Recommendation 5.2.

6.3 The **SUPREME COURT** should host all local court Web pages.

6.4 The **SUPREME COURT** should develop, maintain, and host an intranet with expanded information offered to judicial employees.

6.5 The **SUPREME COURT** should charge the existing **Court Internet Committee** with the responsibility of developing a policy manual on Internet use by judicial employees. The Court Internet Committee should use the

“Internet Acceptable Use” policies of other state agencies as a beginning point of reference (for an example of an “Internet Acceptable Use” policy please *see* Appendix C).

6.6 The **SUPREME COURT** should charge a subcommittee of the **Court Internet Committee** with developing policies concerning the information to be contained in local court Web pages. These policies should detail what information the Supreme Court would provide, what information would be localized, format style for submission by a local court, procedures for docket

information updates, and local access for certain changes.

6.7 The **CHIEF JUDGE IN EACH CIRCUIT** should designate a single person to serve as the local Webmaster. This person would serve as the single point of contact to update the information on a local court’s Web page.

6.8 The **SUPREME COURT’S PUBLIC INFORMATION SERVICES DIRECTOR** should control this information dissemination technology to ensure maximum efficiency and a “single” message to the press, bar and public.

ISSUE SEVEN: HOSTING COURT EMPLOYEES’ E-MAIL

Communication between court employees or with others outside of the court system improves timely information dissemination, allows for a wider range of input to be gathered on issues in a shorter amount of time, and enables increased interaction with individuals who have varied schedules, commitments and responsibilities.

With the implementation of Issue Five (the Supreme Court assuming management of remote servers and client computers from a central location), the Court will have the ability to host court employees’ E-mail. By hosting E-mail accounts for each of its employees, the Court can save \$1, or more, per month per employee. Currently, there are more than one thousand court employees across the state so this savings is significant.

To ensure that all employees have and

use electronic mail (E-mail) in a consistent manner, the members of the Summit make the following recommendations:

7.1 The **SUPREME COURT** should host court employees’ E-mail accounts through purchase and maintenance of E-mail server software and hardware as part of the “server farm” referred to in Recommendation 5.2.

7.2 The **SUPREME COURT** should assign the responsibility of drafting policies on E-mail use, deployment and privacy to the **SUPREME COURT**.

7.3 The **SUPREME COURT** should assign the responsibility of researching Freedom of Information Act (FOIA) and E-mail issues to the Legal Division of the Administrative Office.

7.4 The **SUPREME COURT** should not come online with employees' E-mail until all privacy and legal issues are resolved.

7.5 The **SUPREME COURT** should disseminate the E-mail policy to all judicial employees as part of its personnel manual.

7.6 The **SUPREME COURT** should provide appropriately trained

support personnel to maintain and administer the E-mail accounts for court employees.

Commentary: Personnel training is critical to the success of any court technology implementation program. The members of the Summit strongly encourage the Supreme Court to make ongoing training the key component in any technology implementation project.

ISSUE EIGHT: HOSTING COURT INTERNET ACCESS

Internet access opens a window of opportunity for court employees. Internet access enables employees to perform multiple tasks that are not currently available such as viewing a Supreme Court proceeding; taking part in a "Web" conference; or viewing training information. With the Supreme Court's assumption of the management of remote servers and client computers from a central location, hosting court employees' Internet access becomes a reality.

The members of the Summit make the following recommendations concerning the hosting of Internet access:

8.1 The **SUPREME COURT** should host court employees' Internet accounts.

8.2 The **SUPREME COURT** should require the **COURT INTERNET COMMITTEE** to draft policies on

deployment and the proper use of the Internet.

8.3 The **SUPREME COURT** should assign the responsibility of drafting a policy for public use of the Internet on Court computers to the **COURT INTERNET COMMITTEE**. The final policy should be communicated to all Court personnel through publication in the Court's personnel manual.

8.4 The **SUPREME COURT** should publicize a disclaimer to inform employees and the public of its Internet policies, as well as the consequences for Internet misuse.

8.5 The **SUPREME COURT** should provide appropriately trained support personnel to maintain and administer Internet access for court employees.

ISSUE NINE: COLLECTING AND ANALYZING COURT DATA

The National Criminal History Improvement Program (NCHIP) is responsible for building an accurate and accessible system of criminal history records; strengthening states' capability of identifying felons who attempt to purchase firearms and to identify persons other than felons who are ineligible to purchase firearms; and advancing the efforts of protecting children, the elderly and the disabled from abuse.

The goals and objectives of the NCHIP program include:

- Meeting timetables for criminal history record completeness and participation in the FBI's Interstate Identification Index which the United States Attorney General establishes for each state;
- Improving the level of criminal history record automation, accuracy, and completeness;
- Expanding and enhancing participation in the National Instant Criminal Background Check System;
- Developing model procedures for accessing records of persons other than felons who are ineligible to purchase firearms; and
- Identifying records of crimes involving the use of a handgun and/or abuse of children, elderly or disabled persons.

The Criminal Justice Information System or CJIS Committee oversees the implementation of this program and its goals in

West Virginia. The Committee is made up of representatives of the Division of Corrections, the Regional Jail and Correctional Facility Authority, the Division of Juvenile Services, the Division of Criminal Justice Services, the West Virginia Prosecuting Attorneys' Institute, the Supreme Court Administrative Office, and the Department of Military Affairs and Public Safety.

The goal of improving the level of criminal history record automation, accuracy and completeness is intertwined with the goal of collecting and analyzing accurate and consistent court data. For a criminal history to be complete, the record must contain consistent dispositional information. That record also must be retrievable in a format that is compatible to those producing the information and those who use the information. Therefore, circuit and magistrate clerks' offices must be automated in a compatible format.

Automation in the judicial system's clerks' offices began in the 1980s. In more recent years, this automation has taken place with the help of federal grants from the NCHIP program. The purpose of the grant funding is to improve criminal history reporting for each arrest in West Virginia.

Magistrate Court

Under the Supreme Court's administrative authority, forty-nine magistrate clerk offices have been automated with standardized case and financial management software which utilizes the SCO Unix operating system. The remaining six counties will be automated in the near future. The

Supreme Court's Administrative staff has been integrally involved in the design and implementation of the system; Court staff consult with magistrate clerks on a regular basis for feature upgrades, conformity with statutory amendments, and the needs of the clerks' offices.

Although magistrate court data structures are consistent across the state, entry of various data elements is not. For example, description of offenses and dispositional information in criminal cases are keyed in by clerks, deputy clerks and magistrate assistants based on the information supplied by various law-enforcement officers (from the criminal complaint or citation) and by the presiding magistrate (dispositional information). Law enforcement officers may use varying terms to describe the same offense or fail to indicate whether or not the offense being charged is a second, third, or subsequent offense. Magistrates may dispose of a case without clarifying these issues or may accept a plea agreement (whereby the defendant pleads to a lesser-included offense) without noting the change in the charge.

Despite these problems, clerks, deputy clerks, and magistrate assistants should not interpret or otherwise change the information they key in as part of their ministerial duties. The suppliers of the information must use uniform offense descriptions and dispositional information, and faithfully indicate changes that occur between the time a case is filed and it is disposed. Consistency is the key to accurate and reliable criminal history information and disposition reporting.

Circuit Court

Because the circuit clerks' offices are under the administrative control of individual county commissions, a variety of court case management systems exist in the State's circuit courts. Currently, thirty-one counties are using standardized case and financial management software selected to fulfill the needs of the criminal history reporting requirements. An additional eighteen counties are automated with non-standardized software.

The goals of the automated counties are diverse and the level of automation varies. Primary features of these systems include financial and jury management with case management information, case indexing and provision for "logging" docket/action information. Equipment configurations range from stand-alone personal computers with no printers to large multi-user systems accommodating fifteen to seventy-five users.

Probation

Although West Virginia has a central repository for the reporting of juvenile delinquency and status offense cases, there is no computerized system in place for submission of the data. Currently, juvenile probation staff submit statistical information involving juvenile delinquency and status offense cases to the Criminal Justice Statistical Analysis Center (CJSAC).

The current reporting process consists of a handwritten form prepared by a probation officer with submission to the CJSAC for data entry. This process is cumbersome, time-consuming, and provides ample opportunity for data entry error. As a result, juvenile probation officers do not have ready electronic access to valuable information pertaining to acts of delinquency within their communities.

The Supreme Court is in the initial phases of implementing a grant awarded through the Juvenile Accountability Incentive Block Grant program, administered by the Division of Criminal Justice Services. This grant will automate the transmission of juvenile statistical information by juvenile probation officers directly to the Statistical Analysis Center. The new system also will permit each juvenile probation officer to have full access to statistical information involving juvenile delinquency within their communities.

Unlike juvenile probation officers, adult probation officers do not possess a uniform method of collecting and analyzing information on adult probationers on paper, let alone in an automated fashion. However, a statistical report form has been developed which will permit adult probation officers to report case specific information.

Family Law Masters

With the creation of a new family law master system, the number of family law circuits and family law masters has increased greatly. An already inadequate data collection system, known as OSCAR (On-line Support Collections and Reporting Database), must be reviewed for ease of use, timeliness and accuracy in the collection of family law master statistics.

In an effort to unify court data collection, the members of the Summit make the following recommendations:

9.1 The **SUPREME COURT** should mandate the migration to a common circuit and magistrate clerk computerization program, and study the applicability of data standards to the new family court

system. All appropriate court personnel, including judges, magistrates, probation, family law masters, etc., should have access to this data. Prior to this migration, focus groups should be created to gather input about desired features and abilities of such a program.

Commentary: Personnel training is critical to the success of any court technology implementation program. The members of the Summit strongly encourage the Supreme Court to make ongoing training the key component in any technology implementation project.

9.2 The **SUPREME COURT** should delegate to the **COURT INFORMATION TEAM (CIT)** (*see* Recommendation 5.1) the task of developing common data fields for collection and analysis. In addition, the CIT should examine data entry and collection practices in the various courts, and recommend any possible improvements in court procedures or practices that would foster data integrity. To facilitate this process, additional members should be added to the CIT, on an *ad hoc* basis (*i.e.*, representatives from circuit and magistrate clerks' offices, appropriate Administrative Office staff, judges, magistrates, family law masters, probation, the West Virginia State Police, as well as other appropriate state agencies).

- 9.3** The **SUPREME COURT** should require that the Juvenile Justice Database and the dispositional assessment form be automated, thereby providing policy makers on all levels and across disciplines with information that can be used for research and planning purposes, to identify patterns of delinquent acts, and to assist in developing programs to provide services to juveniles in light of public safety issues.
- 9.4** The **SUPREME COURT** should delegate the task of reviewing the needs of adult probation officers' data collection to the **COURT**

INFORMATION TEAM (*see* Recommendation 5.1)

- 9.5** The **SUPREME COURT** should charge the **COURT INFORMATION TEAM** (*see* Recommendation 5.1) with the task of reviewing the current family law master data collection system and making recommendations to the Administrative Office regarding future data collection.
- 9.6** The **SUPREME COURT** should continue their relationship with the Criminal Justice Statistical Analysis Center.

ISSUE TEN: DETERMINING AND MANAGING ACCESS BY OUTSIDE ENTITIES TO COURT DATA AND DOCKET INFORMATION

In this electronic age, when trillions of bytes of information are freely available over the Internet and through other electronic media, the statutory command that court records shall be open to all takes on a different resonance. Unlike simply handing over a docket sheet or paper court file, providing electronic access to similar information involves a host of technical (and legal) challenges, such as security, selecting the appropriate method of delivery, and transferring the information from a paper format to an electronic format.

Despite these challenges, the benefits of providing the public, the Bar, and state agencies with electronic access to court information from a remote location would likely improve the administration of justice.

To allow electronic access to court data and docket information and to provide the public, the Bar, and state agencies with the benefits of electronic documents, the members of the Summit make the following recommendations:

- 10.1** The **SUPREME COURT** should charge the **COURT INFORMATION TEAM** (*see* Recommendation 5.1) with the task of developing a set of policy guidelines to govern the types of court information to be made available to the public. In addition, the CIT should develop appropriate policies that would resolve whether certain government agencies who work with sensitive information not typically available to the public (*e.g.* abuse and neglect matters), should have the ability to access that information electronically.

10.2 The SUPREME COURT should charge the COURT INFORMATION TEAM (*see* Recommendation 5.1) with the responsibility of designing a uniform interface for delivery of court information over the Web, in

appropriate coordination with the Court's Webmaster and existing Internet Committee.

ISSUE ELEVEN: ELECTRONIC FILING

At present, most attorneys prepare court documents at their offices using word processing software, print the documents, then deliver those documents to the courthouse along with whatever docketing information by the court may require. Once delivered, court personnel review the paper pleadings, process whatever filing fees may apply, make the appropriate entries in the court's case management system, then store the paper pleadings in the case file. Case files are then routed to a judge or staff for review. Eventually the case file may be transmitted to an appellate court or placed in archival storage.

Electronic filing allows attorneys to prepare documents in the same manner, but the attorney can transmit documents to the court electronically. With an electronic filing system in place, the attorney would prepare the pleading using the same word processing software. When prepared, the pleading would be placed in an electronic "envelope" for electronic transmission to the court over the Internet or a dial-up modem. The attorney also would record basic docket information on the electronic envelope, such as the name of the case, the document title, name of the party filing, etc. Upon receipt, the court's case management system would be automatically updated with the docket information contained on the electronic envelope, and the document

itself would be indexed and stored in the court's document management system. Any filing fees would be electronically processed using a pre-arranged debit system, and the attorney would receive a verification that the document has been filed. Court personnel would then simply verify that the envelope information is accurate. Electronic filing would eliminate much of the time and cost of handling paper.

Though electronic filing promises ease and efficiency, many of the standards and models for implementation are still under development. Standards are currently being developed for uniform court use of Extensible Markup Language (XML), the computer language used to create the electronic envelope that will automatically update a court's case management system.

At least three different electronic filing implementation models exist: (1) outsourcing all functions to one or more electronic filing service providers; (2) a filing system using court personnel and infrastructure to build and support electronic filing; or (3) focusing on core court information systems while simultaneously encouraging service providers. Because electronic filing requires seamless compatibility with other court technology infrastructure, such as case management systems and document management systems,

design and implementation of those systems must be made part of the electronic filing design process. Given the diversity of court technology infrastructure throughout the State, an effort must be made to integrate and design technologies with the end goal of electronic filing firmly in mind.

To facilitate future development of electronic filing, the members of the Summit make the following recommendations:

11.1 The **SUPREME COURT** should delegate to the **COURT INFORMATION TEAM** (*see* Recommendation 5.1) the task of evaluating existing electronic filing (E-filing) models and technologies; developing technology acquisition policies; developing a pilot project plan; selecting a site for implementation of a pilot E-filing project, as well as studying and recommending any necessary court rules changes required for implementation.

11.2 The **LEGISLATURE** should amend existing state law governing digital signatures to provide for a professional

digital signature registry, thereby providing a distinct set of digital signatures for attorneys and/or law firms to use for electronic filing. (The use of a professional signature registry may also be useful in future E-filing applications that other government agencies may implement such as bid receipt and review or permit application and review.)

Commentary: According to the Secretary of State's Office, the Legislative Administrative Rule on digital signatures (Series 30 and Series 31) passed on April 1, 1999.

III. PUBLIC ACCESS

Public access to court information is a critical component of any reform plan. The public's access to the court system must be multifaceted. Members of the public should be able to view court proceedings and freely access court documents. Those involved in litigation, *i.e.*, parties, victims, witnesses, or jurors, must be able to quickly and conveniently obtain the information they need

to participate. *Pro se* or self-represented litigants need easy access to helpful fill-in-the-blank forms and instructions. Both the ATM technology and the Internet can be used to create a system of public information distribution that ensures efficient and effective public access to the courts.

ISSUE TWELVE: STREAMING AUDIO AND VIDEO OF COURT PROCEEDINGS

One component of West Virginia's "Courtroom of the Future" is the ability to stream audio and video of court proceedings. At least three state supreme courts currently broadcast their arguments over the Internet.

In the State of Washington, supreme court arguments are broadcast on cable by TVW, Washington's statewide equivalent to C-SPAN. TVW simultaneously netcasts the proceedings, then archives the arguments with links to decisions as they are filed. The site also offers videotapes of the arguments for sale.

In Wisconsin, audio-only versions of oral arguments are made available two or three days after the argument. A private consortium has raised "millions of dollars" to create a statewide equivalent to C-SPAN. The consortium hopes to receive matching funds from its legislature this year.

The Florida Supreme Court netcasts oral arguments and other court proceedings live in both audio and video. The broadcasts are also archived for later review. The

program began in cooperation with the broadcasting school of Florida State University in Tallahassee. The Court received an initial \$300,000 grant from the Florida Legislature to begin the project, and has a continuing annual budget of about \$180,000 per year. Florida's site makes a variety of materials available, including the synopsis of the case, the briefs filed, and the opinion when filed, and gives users a choice between audio-only or audio and video reception.

The West Virginia Supreme Court plans to broadcast its public proceedings over the Internet. However, as the programs in Washington, Wisconsin, and Florida indicate, the West Virginia Supreme Court will have financial and personnel needs associated with this service. The Supreme Court also will need established policies to determine which arguments should be broadcast, the availability of supporting materials, and standards for archiving.

To ensure timely audio and video streaming of court proceedings, the members

of the Summit make the following recommendations:

- 12.1** The **SUPREME COURT** should use existing camera hardware for the “Courtroom of the Future” to broadcast live Supreme Court arguments. The Supreme Court should use two cameras. One camera should be focused on the justices; a second camera should be focused on the attorneys making oral presentations.
- 12.2** The **SUPREME COURT** should designate appropriate technical personnel to consult with WVNet, or other providers of video streaming services, regarding the hardware and software required to implement audio and video streaming of Supreme Court proceedings.
- 12.3** The **SUPREME COURT** should purchase appropriate compatible hardware to process the video content and deliver it to the public over the Court’s Web site.
- 12.4** The **SUPREME COURT** will have personnel and funding needs as the “Courtroom of the Future” expands. To ease this burden, the Court should explore the possibility of collaborating with other public and local organizations, such as West Virginia Public Television and local colleges and universities. The Supreme Court also should pursue grant funding.

- 12.5** The **SUPREME COURT** should employ at least one person on an as-needed basis to manage camera operations and delivery of the video and audio to the Court’s Web site.

Commentary: Personnel training is critical to the success of any court technology implementation program. The members of the Summit strongly encourage the Supreme Court to make ongoing training the key component in any technology implementation project.

- 12.6** When broadcasting Supreme Court arguments over the Internet, the **Supreme Court** should give users a choice between audio-only or audio and video reception.
- 12.7** The **SUPREME COURT** should broadcast public courtroom proceedings. The Supreme Court Web site also should contain supporting information, such as the case synopses, briefs, and opinions when filed. The Supreme Court’s Internet Committee should evaluate such issues as the types of arguments to be broadcast, broadcast length, supporting materials, and standards for archiving.
- 12.8** In the future, the **SUPREME COURT** should explore broadcasting certain archived and edited circuit or magistrate court proceedings.

ISSUE THIRTEEN: STUDENT ACCESS

The West Virginia Supreme Court has available two technologies for use in education: the Bell Atlantic ATM network and the World Wide Web.

The ATM network is capable of transmitting video, voice, and data applications at high rates of speed. Users can access the Web through the ATM network, a conventional telephone, ISDN, or cable modems. However, each of these methods is constrained by its carrying capacity (bandwidth). For example, conventional telephone lines carry only highly degraded video. It is important in planning educational uses of technology to distinguish between what can be stored on Web servers (any digitized material for which there is storage space) and what can be usefully accessed using various communications technologies. Material accessed through the ATM network can be much more complex than material accessed with lesser communications methods.

Educational efforts can be divided into two sections; those which require people to gather at one time, and those which permit people to study on their own schedules. The best conventional illustration of this distinction is the difference between the lecture (real-time or live) and the book (asynchronous or self-paced). Traditionally, the virtue of real-time education has been its heightened activity.

Both the ATM network and the Web present real-time and asynchronous educational opportunities. Because of its high speed video and audio capacity, the ATM network permits real-time communication of rich educational materials. Students could view court proceedings at any one of many ATM-equipped points located throughout the

State. The network also allows for legal instruction such as continuing legal education presentations or collaborative work on educational projects.

Asynchronous applications also benefit from the high ATM carrying capacity. Presentations which make extensive use of video and graphs will benefit from ATM bandwidth even if they are delivered at the time chosen by the recipient. In addition, technology (computer-aided instruction) now exists that makes asynchronous materials far more interactive than books or video tapes.

There are many other possible real-time and asynchronous educational projects which use the Web and communication technologies other than ATM. The advantage of these projects would be that they could be delivered to a wider array of sites unconstrained by the need for ATM equipment. The downside at present is the sacrifice of bandwidth.

An example of real-time Web education over slower communication methods are Web conferencing and shared presentations. It is possible, for example, to combine a conventional telephone conference call with the projection of Web materials so that all participants are hearing and looking at the same material, albeit somewhat disjointedly. To work satisfactorily, the Web-based materials must be compact so that transmission is not slowed.

Asynchronous Web applications over slower communication methods present a much more fruitful range of possibilities. As long as one is careful in selecting media (*e.g.*, still shot and voice-over rather than video) a

wide range of pre-prepared learning programs, such as the virtual courtroom, can be stored on the Web for “just in time” use by interested recipients. More structured learning is possible through the use of computer-based instruction methods.

Asynchronous Web communications are the best way for the Supreme Court to reach students at the present time. According to the West Virginia Department of Education, over 99% of West Virginia’s public K-12 schools are connected to the Internet via direct frame relay technology. The West Virginia Supreme Court’s homepage already contains information on the Supreme Court and the entire West Virginia court system which students can access.

Additionally, the West Virginia Supreme Court offers links from its homepage to many other useful sites, including several excellent sites that other states and organizations have created for students.⁵

Currently, the West Virginia Supreme Court does not have the staff and resources to create and maintain a comparable site devoted solely to students. The job might be more readily accomplished by a collaborative effort between the Supreme Court and the West Virginia State Bar. These institutions have a strong history and a good working relationship. The State Bar also has an active “Citizenship and Law Related Education Committee,” which includes teachers, lawyers, and Supreme Court representatives.

Combining resources has been successful in the case of Arizona’s new “Law for Kids” site. The Arizona Bar Foundation,

the charitable arm of the State Bar of Arizona, constructed the site with help and guidance from the Arizona Supreme Court an Advisory Committee, which included several students. Funding comes from the Arizona Supreme Court’s Juvenile Crime Reduction Fund, funded by surcharges on fines paid by those convicted of breaking the law.

In addition to providing students with access to legal Web sites, the Supreme Court can use the Internet to expand the benefits of its educational outreach program known as LAWS. LAWS, an acronym for “Legal Advancement for West Virginia Students,” is a Supreme Court initiative designed to educate high school students about the judicial branch of government. LAWS requires the development of a partnership between the Supreme Court, a local circuit court, the local bar association, the schools, and the community.

LAWS allows high school students to attend a Supreme Court session in their home judicial circuit. The Supreme Court selects one judicial circuit each year to host LAWS. In March 1999, almost 450 Raleigh County high school students, and paralegal students from the College of West Virginia, participated in the first LAWS program. Harrison County will host the LAWS program in March 2000.

Several months in advance of the LAWS-dedicated arguments, teachers attend a three-hour professional development session in their area. The Court provides teachers with materials to use in their classrooms, which includes suggested activities on the state and federal court systems, and a LAWS handbooks for each student. Volunteer judges and attorneys visit the classrooms to help

⁵ See www.co.la.ca.us/courts;www.kidscourt.org/kids.html;www.kidscourtprogram.org

prepare the students for the Supreme Court's visit.

On the day of the Court's visit, students are divided into three or four groups, with each group hearing their assigned case argued before the Supreme Court. After the oral arguments, students meet for a question and answer session with the attorneys who argued the case assigned to the students. Students and teachers are invited to a community-sponsored luncheon with the members of the Court, local judges, and others involved in LAWS.

Utilizing technology would allow schools outside of the chosen LAWS circuit to benefit from LAWS.

It is important to note that none of the proposed educational projects are self-executing. All will require skilled personnel and time to produce. Particularly, material aimed at the general public needs attention to production values and strong infrastructure support so as not to discredit its sponsors. The Supreme Court and other participants should give careful attention to producing only high quality materials.

To improve student access to the court system through technology, the members of the Summit make the following recommendations:

13.1 The **SUPREME COURT** should immediately offer links from its home page to the excellent sites that other states have created for students.

13.2 The **SUPREME COURT** and the **West Virginia State Bar** should consult with the **West Virginia Department**

of Education on the creation of a student site or a student section on the Supreme Court's and/or State Bar's Web sites. The State Bar's Citizenship and Law Related Education Committee would be a good venue in which to begin this inquiry.

13.3 In conjunction with the LAWS schedule, the **SUPREME COURT** should publish LAWS materials using Web asynchronous technology in PDF⁶ format in a special section devoted to LAWS. The Supreme Court also should broadcast the LAWS arguments, the student debriefing sessions, and the teachers' professional development session over the Internet. The Young Lawyers Section of the State Bar should organize and train volunteers to visit classrooms in counties participating in LAWS through the Internet.

13.4 The **SUPREME COURT** should broadcast its argument docket to educational sites through ATM real-time technology. The Supreme Court may want to explore broadcasting certain archived and edited circuit or magistrate court proceedings in the future.

Commentary: Although not aimed toward students, the Supreme Court also could use ATM real-time technology for live continuing education programs for lawyers, judges, and

⁶"Portable Document Format" -- a form of document storage that is easy downloadable by a "Adobe Acrobat Reader," is a free and freely distributable software that allows viewing and printing PDF documents. PDF storage allows for universal document exchange.

court personnel. The West Virginia University College of Law also could use ATM real-time technology for live seminars for law student interns around West Virginia.

- 13.5** The **SUPREME COURT** should use ATM technology for educational purposes, in addition to the broadcasting of Supreme Court arguments. For example, the Supreme Court could broadcast lectures offered at various educational institutions, such as the October 1999 lecture of U.S. Supreme Court Chief Justice William H. Rehnquist at the West Virginia University College of Law.
- 13.6** The **SUPREME COURT** should use ATM technology or the Internet for educational purposes. Potential uses include: archiving video material, such as important Supreme Court arguments or lectures with supporting materials such as briefs or historical information; providing tours of the judicial system that use video to illustrate various court processes; and broadcasting presentations on Supreme Court projects of interest to students and the general public.

13.7 The **SUPREME COURT** should use Web real-time technology for educational purposes. This technology allows small groups of dedicated learners to benefit from live video and graphics presentations. For example, judicial conferences and bar committees working on joint educational projects could combine “white board” Web applications (which permit multiple sites to view and mark-up a document simultaneously) with Web or conventional telephone conferencing.

13.8 The **SUPREME COURT** should use Web asynchronous technology for educational purposes, in addition to the publication of LAWS materials. This technology allows for the use of still graphics, text-only, streaming audio, or any combination of these three. For example, the Supreme Court could work with teachers in creating computer-based instruction programs aimed at students at all levels which would teach court and legally related material.

ISSUE FOURTEEN: ACCESS BY THE GENERAL PUBLIC TO COURT DOCUMENTS AND PROCEEDINGS

The West Virginia Supreme Court’s homepage contains information on the structure of the entire West Virginia court system, as well as Supreme Court docketing information and opinions. The Supreme Court plans to expand its homepage to include localized information for the thirty-one judicial

circuits housed in fifty-five county courthouses.

For example, users would first access a “West Virginia Courts” homepage and then access localized information by checking on a particular county shown on a West Virginia map. Local employees in the magistrates’ and

circuit clerks' offices would input the information following a uniform format which the Supreme Court would provide.

It is not feasible at this time to provide access to court documents through the Internet on a statewide basis.

To improve access by the general public to court documents and proceedings through technology, the members of the Summit make the following recommendations:

14.1 The position of **SUPREME COURT** Webmaster should move from a part-time to a full-time position, as soon as possible. The Supreme Court should also employ an intern year-round to help implement expansions of the Supreme Court's Web page, whose duties would include editing the submissions of the local court Web sites.

14.2 The **SUPREME COURT** should create a template for counties to use to input information such as:

- (a) information on courthouse location, parking, hours, and court terms;
- (b) office contact information for circuit judges and staff, family law masters and staff, magistrates, circuit and magistrate clerks' offices, local court libraries, and any other court divisions;
- (c) circuit judge biographical information;
- (d) photos of each county courthouse;
- (e) links to other sites that contain information relevant to a particular county courthouse, such as historical information;
- (f) weekly docketing information for circuit and magistrate court, including case styles and numbers, dates, times, judges' names or divisions;
- (g) court contact information for members of the public who have questions about the docket; and
- (h) procedures for contacting on-call magistrates.

ISSUE FIFTEEN: JUROR AND SUBPOENAED WITNESS ACCESS TO SCHEDULING INFORMATION VIA THE INTERNET AND E-MAIL

Jurors and subpoenaed witnesses should be able to access scheduling and general court information through the general public access section of a circuit court's Web site. Additionally, jurors should be able to access information about jury duty. Jurors should be identified by number and not by name to protect privacy. Subpoenaed

witnesses should also be assigned numbers and should not be identified by name.

Jurors should be able to access juror educational materials through the Internet.

To improve juror and subpoenaed witness access to information through

technology, the members of the Summit make the following recommendations:

- 15.1** The **SUPREME COURT** should be able to access updated court system and docketing information through the local court Web sites as described in Recommendation 14.2 concerning general public access.
- 15.2** The **SUPREME COURT** should prepare a template for circuit and magistrate clerks to input juror information onto their circuit's homepage. For example, the template could include: "The following jurors are to report to the --- County Courthouse on --- --, 1999 at ---a.m. for trial in the case of State v. John Doe, Case No. 99-M-123, Judge

---- presiding: Juror No. 3, Juror No. 5,

- 15.3** The **SUPREME COURT** should be able to access local court Web sites and uniform educational materials, through the West Virginia Courts Web page. Examples include: information on juror qualifications; statutory reasons for excuse; the Supreme Court's "Juror Handbook"; common questions and answers about service; and a video of model jury orientation such as Cabell County Chief Circuit Judge Daniel O'Hanlon's jury orientation video. The Supreme Court should prepare and post this uniform information.

ISSUE SIXTEEN: ACCESS BY PEOPLE AFFECTED BY THE CRIMINAL JUSTICE SYSTEM

People who have been affected by the criminal justice system, such as complainants, defendants, victims, and witnesses often do not understand what is occurring in court cases in which they are involved. Many have no concept of procedure and rely on television for information. Therefore, they are often confused, frustrated, and angry with the court system for not performing as it does on television. Additionally, the courts are overwhelmed with large caseloads. The result is that the court system often treats those affected by very serious crimes in the same manner as it treats those affected by petty crimes.

Technology can help address these problems by providing information through the Supreme Court and local court Web sites. The

court system, however, must be careful to maintain a neutral position in offering information. It cannot appear to be pro-prosecution or pro-defense, but must offer resources to everyone affected by the criminal justice system.

To improve access to the court system through technology by people affected by the criminal justice system, the members of the Summit make the following recommendations:

- 16.1** **PEOPLE AFFECTED BY THE CRIMINAL JUSTICE SYSTEM** should be able to access updated court system and docketing information as described in the recommendations concerning general public access through the

Supreme Court and local court Web sites.

16.2 PEOPLE AFFECTED BY THE CRIMINAL JUSTICE SYSTEM should be able to access uniform materials directed toward them through the Supreme Court and local court Web sites. The Supreme Court should create a criminal justice resources section that contains neutral information about how the criminal justice system works. For example, this section should include answers to the most frequently asked questions of those involved in criminal proceedings.

16.3 The CRIMINAL JUSTICES RESOURCES SECTION also should contain links to helpful Web sites for complainants, defendants, witnesses, victims, and others involved in the criminal justice system.⁷

⁷ Some Web sites with helpful information include: www.legis.state.wv.us/coc/main.html; www.state.wv.us/pcprosecuteDomesticViolence.html; www.childhelpusa.org/hotline.htm; maddwv@citynet.net; www.saddonline.com; www.pomc.com/index.html; www.kiddosfirst.org/links.html; www.westga.edu/~jfuller/peace.html; www.usdoj.gov/vawo/; <http://publicdefender.com/FJCPDCLinkstoOtherPublicDefenderHomePages.html>.

ISSUE SEVENTEEN: *PRO SE* FORMS AND OTHER FORMS

Pro se or self-represented litigants and the public at large need general information on the court system, as well as model fill-in-the-blank forms. The Supreme Court's Web site already contains general information on the structure of the West Virginia court system, but does not include specific procedural information. The forms currently on the Supreme Court's Web page include a civil case subpoena; forms for complaints against judges and judicial officers; a workers' compensation docketing statement; and forms for the workers' compensation mediation program.

There is a great need for more uniform fill-in-the-blank forms to be available. The court system must be careful to offer only the forms and general procedural information, but not legal advice.

Because many *pro se* litigants may not have Internet access, there is a need for courthouses to have at least one public access computer terminal with Internet access to the Supreme Court and local court Web sites.

To improve *pro se* litigants' access to the court system through technology, the members of the Summit make the following recommendations:

17.1 The **SUPREME COURT** should form a "Task Force on Self-Represented Litigation" to consider what specific fill-in-the-blank forms, instructions, and procedural information should be available over the Internet. The Committee should include a circuit judge, circuit clerk, family law master, magistrate, magistrate clerk, private and legal services attorneys, and staff

from the Supreme Court's Legal Division and Clerk's Office and others as appropriate.

17.2 The **SUPREME COURT** should ensure that all fill-in-the-blank forms and instructions are as simple as possible and uniform statewide. Ideally, the task force should select a computer program that automatically places answers to basic questions in the proper place on the form. The form should explain the steps in the process after filing and include a local clerk's office contact to provide assistance in person or through E-mail or the telephone. The forms should be downloadable in PDF format.

Commentary: We recognize a particular need for fill-in-the-blank forms in the family law area, such as divorce, paternity, and modification forms, and recommend the inclusion of a form for calculation of the child support formula. We also recommend that the Task Force include all uniform magistrate court forms, mental hygiene petition forms, guardianship forms, and *pro se* criminal defense forms on the Internet.

17.3 The **SUPREME COURT** should make at least one computer with Internet access available for public use at each courthouse in the State.

THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

ADMINISTRATIVE ORDER:
REMOTE VIDEO COURT APPEARANCE PROJECT

WHEREAS, the costs, security concerns and inconvenience related to certain in-court appearances continue to increase; and

WHEREAS, technology advancements provide reasonable and suitable means for addressing these problems while safeguarding the constitutional guarantee of access to the courts; and

WHEREAS, the Supreme Court, in its rule-making and supervisory capacity pursuant to Article 8, Section 3 of the West Virginia Constitution, has authority to establish alternative procedures involving court appearances; and

WHEREAS, the remote video appearance pilot projects conducted in Cabell and Kanawha Counties have proved successful;

NOW, THEREFORE, it is hereby ORDERED that the conduct of certain court proceedings is authorized to occur by video, until further order of this Court, in counties heretofore and hereafter designated by this Court's Administrative Director or his designee; and

IT IS FURTHER ORDERED that the following criminal and civil proceedings be conducted according to existing statutes and court rules and the express provisions of this ORDER using remote video conferencing equipment located at the court, the regional or county jail serving each designated county or other suitably equipped locations.

Initial appearances, *provided* that when there is a warrantless arrest which results in a person being detained in a regional jail, the initial appearance shall be conducted in the county where the offense occurred and *provided* further that the initial appearance of persons arrested in a county other than that from which an arrest warrant issues and who are detained in a regional jail not servicing the county from which the arrest warrant issued shall not be conducted by using remote video conferencing equipment, but instead, that such initial appearances shall be conducted in the presence of a magistrate located in a county in which the regional jail operates and only if the magistrate has a copy of the warrant and criminal complaint;

Pretrial hearings not involving suppression motions or other evidentiary matters;

Post-conviction habeas proceedings in circuit court;

Petitions for initial domestic violence protective orders; and

IT IS FURTHER ORDERED that magistrate courts not initiate use of video for any proceedings as authorized above until the Administrative Director or his designee has expressly granted approval; and

IT IS FURTHER ORDERED that in Cabell County the testimony of out- of-county forensic or psychological experts in circuit court criminal cases may be taken by means of remote video conferencing equipment; and

IT IS FURTHER ORDERED that the supervising circuit judge or designee may, by administrative order, establish supplemental procedures consistent with this ORDER for submission to this Court's Administrative Director or his designee for approval prior to implementation; and

IT IS FURTHER ORDERED that the Administrative Director or his designee may issue directives regarding the processes which are to be followed to effectuate the purposes of this ORDER.

ENTER this _____ day of May 1999.

LARRY V. STARCHER
Chief Justice