

**ANNUAL REPORT
OF THE
AUTOMATION AND TECHNOLOGY COMMITTEE
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Robert E. Byrne, Chairperson

Hon. James K. Donovan
Hon. Charles H. Frank
Hon. John K. Greanias
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I. STATEMENT ON COMMITTEE CONTINUATION

The Automation and Technology Committee (“Committee”) of the Illinois Judicial Conference is charged with evaluating, monitoring, coordinating and making recommendations concerning automated systems for the Illinois judiciary. This is a formidable undertaking, given the variety of technological applications available to the courts. Technology affects, or has the potential to affect, nearly every operational and administrative judicial function. New and improved applications and devices are introduced regularly, each promising to bestow greater efficiency upon the judicial system and lower operating costs. Technology choices, moreover, must be made carefully and guided by thorough evaluation before resources are committed. The Committee occupies a unique position in this regard.

Since its inception, the Committee has reviewed automation-related work being done by other judicial branch committees and criminal justice agencies; surveyed Illinois judges’ use of computers and other automated systems; evaluated a number of software applications; assisted in the development of a computer education program for judges; developed a web page concept for the Illinois judiciary, which was approved by the Judicial Conference and Supreme Court for implementation; distributed a computer security brief at the Education Conference 2002; made a recommendation during 2003 to amend Supreme Court Rule 63A(7) regarding technology issues; and pursued a variety of other activities in fulfillment of its charge. Much remains to be accomplished. Accordingly, the Committee respectfully requests that it be continued.

II. SUMMARY OF COMMITTEE ACTIVITIES

Amendment to Supreme Court Rule 63A(7)

At the conclusion of the Committee’s work during the 2003 Conference Year, it submitted a recommendation to amend Supreme Court Rule 63A(7) by including new technology devices in the definitions of broadcasting and televising. The Committee is pleased to report that its recommendation was approved by the Court and became effective December 5, 2003.

Computer Security

During the 2004 Conference Year, the Committee continued to pursue security and technology issues on behalf of the judiciary. Specifically, the Committee addressed the issues of Spyware (Ad-Ware) and computer viruses and worms that may affect the judiciary. Spyware is a fairly new problem, different from a virus, that needs to be considered. It is a small computer program that is copied to a person’s computer, usually in the form of a Cookie. A Cookie is a data file written to your hard drive by a Web site when you view it in your browser. It tracks keystrokes and reports to the Spyware provider where a person may have been on the Internet. It is interactive with the Internet and very hard to prevent. In some cases, an Internet site may require

the person to install Spyware before he or she is allowed to use the site, such as a site to download music. These programs run in the computer's background so a person would not normally be aware of their activities. However, the programs make periodic reports to the program provider of Internet sites visited along with other activities performed by the person that could include the capture of passwords. It is possible for a person to have hundreds or even thousands of these small programs operating on his or her system. While most of these programs are not harmful and individually each program may not require a large amount of computer processing time to report its information, the aggregate of having a hundred or more operating at once may cause computer slowdowns and divulge confidential information about the computer user.

Viruses and worms continue to present problems for computers. Most recently, one particular worm, W32.Sasser.B.Worm, presented numerous complications for computer systems around the world. The judiciary was no exception. One of the newest threats presented by viruses and worms is that they can infect a system by merely clicking on an email that has it attached. Previously, the user had to open the file containing the virus before it could install itself.

Mr. Robertson provided the Committee with the directions on how to repair a computer that had been infected by the Sasser worm. The directions were four or five pages in length, complex, and fairly technical. He suggested to the Committee that judges should be informed to keep their virus protection software current, thereby preventing an infection and eliminating the time and effort spent to repair the damage caused.

In an effort to alert judges to these various security issues and resolutions, the Committee plans to prepare a short four or five page information sheet on the topic. Providing continued updates as new information becomes available needs to be considered, also. One possible option discussed for this purpose was using the Supreme Court's Website. In the meantime, Microsoft's website, www.microsoft.com, is a good place to obtain information. Providing notice to the Conference of Chief Circuit Judges was another option discussed by the Committee.

Illinois Judiciary Survey on Technology Usage

With the continued changes in technology, the Committee attempts to keep abreast of how the judiciary is positioned with technology, how the technology is used by the courts, and where judges would like to see the growth in technology use. To assist the Committee in this effort, it performs a periodic survey of the judges to gather information. To date, the Committee has performed three such surveys. The first survey was conducted in 1994, which was the second year of the new Judicial Conference format. Automation was still fairly new to the court systems. The survey was designed to be very comprehensive and serve as a starting point.

The second survey was conducted in the year 2000. It had been revised to gather a more limited amount of information. Generally, the survey was conducted to collect information on

whether judges used a computer in the performance of their judicial duties, if so, how would they use one more extensively if it were made available on the bench or in their chambers, and would they take advantage of computer education, if provided.

During the 2003 Conference Year, the Committee indicated that it would conduct another survey, again, looking at technology usage. The Committee distributed the survey at the two sessions of the 2004 Education Conference. In total, eight hundred and twenty-one surveys were distributed during the conferences. Of those, three hundred and fifty-three surveys were returned giving you a response rate of roughly 43 percent. Twenty-two (6.2%) of the responding judges indicated that they did not currently use a computer and six (1.7%) responded that they were not interested in using the computer. Judges responding to either of these two questions were not required to complete the balance of the survey. However, if additional questions were answered, their responses were included in the survey results.

The balance of the survey consisted of nine questions. A complete copy of the survey results has been attached to this report (See Appendix 1). Of the three hundred and fifty-three judges responding, three hundred and nine judges (87.5%) responded that they use a computer in the performance of their judicial duties; two hundred thirty-five used them to prepare orders, opinions, and decisions; two hundred and eighty-three (80.2%) use them to perform legal research; two hundred and fifty-three (71.7%) use them to accept or send electronic mail or otherwise communicate; while others use them to make record sheet entries, take notes, and for other purposes, such as PowerPoint presentations, accessing court records, schedules, custody statuses, etc.

Three hundred and ten judges (87.8%) responded that they had access to the Internet at the office. Of those judges, two hundred and two had high speed cable or DSL service connections. Only fifty-three responded that they were using a dial-up service, which is considerably slower and thirty-one were not sure. However, at home the service was more evenly divided: one hundred and forty-eight (41.9%) responded that they had dial-up service, while one hundred and thirty-six (38.5%) responded they had the faster (and more expensive) high speed access. Only six judges (1.7%) responded that they did not have any Internet access.

If judges responded that they had Internet access, they were also asked if they used the Supreme Court's Web Site (www.state.il.us/court), the Illinois Judges' Association Web Site (www.ija.org), or the Illinois State Bar Associations Web Site (www.isba.org) and, if so, how often. In all cases, more than two hundred judges indicated they accessed each of these web sites on an average frequency. The frequency of access was collected as a number between one and five, with one being infrequent and five being frequent. The average frequencies ranged from 2.3 to 2.8.

Judges were asked if they used any of the following three legal research softwares: Westlaw, Premise, and Lexis. If they did, they were asked to respond to what degree of frequency.

Again, frequency was captured as one being infrequent and five being frequent. Most judges responded they preferred Westlaw and Lexis; one hundred and sixty-four (46.5%) preferred Westlaw one hundred and ninety-three (54.5%) preferred Lexis. Each also showed an average frequency of about three out of five. Premise was the least used software receiving only twenty-four responses and averaged a frequency of 2.5.

Considering that email has grown considerably as a method to communicate, the Committee wanted to learn if the same trend had been established in the judiciary. More than three hundred judges (86.1%) responded that they used email, twenty-six (7.4%) responded they did not, and twenty-two (6.2%) did not provide a response. Of those responding, most indicated that they had home accounts (66.6%). Many had county accounts (47.3%) while 5.9% indicated they had a state account. Additionally, the judges were asked if their use of email had increased. The overwhelming response was that it had. Two hundred and thirteen judges (60.3%) responded that their use of email to communicate had increased, while only 19.3% indicated that it had not.

Judges also indicated that they would use a computer more extensively, if one was provided to them in their chambers or on the bench. One hundred and eighty-four judges (52.1%) responded that a computer would be more extensively used under those conditions. Considering that more than eighty-seven percent used a computer in the performance of their judicial duties, many of those computers appeared to be in other locations.

A question that has been asked in each of the surveys conducted by the Committee is whether or not judges would take advantage of computer skills training, if it were made available. As always, the responses were overwhelmingly, yes. Two hundred and eighty-four judges (84.4%) responded that they would take advantage of such training if it were made available. About 7 percent responded that they would not, while about 8 percent did not respond. In both of the 1994 and 2000 surveys the responses were similar with 74 percent in 1994 and 87.1 percent in 2000.

In conclusion, the survey asked the judges to rate their computer knowledge, provide other comments, and identify his/her judge type, i.e., Associate, Circuit, or Appellate, and the number of years having served on the bench. Each judge was asked to rate his or her computer knowledge on a scale of one to five. The average response was 2.6 with three hundred and thirty-three responding. As expected the responding judges were mostly from the trial courts with one hundred and forty-three (40.5%) being Associate judges, one hundred and seventy-five (49.6%) being Circuit judges. Eighteen (5.1%) were Appellate judges. The number of years on the bench was ascending from Associate to Appellate with Associate judges averaging eight years on the bench, Circuit averaging 10.2 years, and Appellate averaging 14.8 years on the bench. Combining all types of judges, the average was nine years of service on the bench as a judge.

Based upon the continuing high responses provided in the 2004 survey, the Committee inquired about reestablishing this concept in a letter to Cynthia Cobbs, the Administrative Director. The Director responded she would be happy to give future consideration to computer training and

how the same might be accomplished.

The Committee has previously drafted and implemented a computer education model which was presented as part of its report during the 1996 Judicial Conference. Some funding had been made available through the Judicial Education Division of the Administrative Office to carry out computer skills training for a short time, thereafter. The Committee will work toward a similar solution during the next Conference year.

In addition to suggesting computer skills training, the Committee considered the possibility of providing faster and more efficient access to the educational materials which are available to judges through seminars provided by the Education Committee each year. The Committee contemplated that if the materials that were provided by those speakers could be made available on a CD-Rom with appropriate indexing or a web site, judges could consult them quickly and as needed. Some of the Committee members who have been or continue to be speakers for seminars indicated that they currently, as well as in the past, provide their presentations and other materials to the Judicial Education Division in an electronic format. Therefore, the Committee thought that these documents and presentations might be available to be compiled and indexed on a CD and provided to judges for quick retrieval of topics of interest or need. Additionally, once collected in an electronic format and indexed, they could also be made available on a web site for downloading.

The Committee asked Judge Byrne to make a request to the Administrative Director to see if these materials might be made available on-line. The Administrative Director was unable to approve the request due to the consideration that the education materials prepared and developed by the Education Committee are for the exclusive use of Illinois judges. Therefore, making them available over the Internet, which might make them available to nonmembers of the judiciary, would not be appropriate.

Electronic Filing and Optical Imagery Projects

Each year the Committee includes in its report a brief update on any technology projects that are underway in the Illinois Judiciary or on which the Committee may have worked during the many years of its existence. One such project is the electronic filing pilot(s). The Supreme Court established its *Policy for Implementation of an Electronic Filing Pilot Project in Illinois' Courts* on January 1, 2003. The policy provides that the electronic filing of documents may begin in a pilot county or counties, as designated by the Court and on the recommendation of the Administrative Director. As of the date of this report, DuPage County had been approved by the Court to be a pilot county. The staff of the Administrative Office has informed the Committee that the design of the project is still being determined.

Additionally, the Committee was informed that other counties had submitted applications, questions had been received, and responses provided. Further, the Committee was informed that

there is no specific time limit before which a county is required to make application. An initial time limit was mentioned when the policy was first established, but only for the purpose to assure a review by the Administrative Office and Court, prior to that summer.

The Committee also inquired about the other applicants to see if any small counties had made applications. Mr. Robertson replied that other applications had been received. He identified Macon and Rock Island Counties had submitted applications.

The Committee asked if there had been any standards established for file formats. Mr. Robertson indicated that both PDF and some form of XML were being considered, but evaluating standards was a goal of the pilots.

Another project for which the Committee has provided input is optical imagery. Some years ago, the Committee had made recommendations for this project. Since that time the Supreme Court has assigned the project to the Administrative Office. Again, Mr. Robertson provided the Committee with a brief update. As of this report, the project is proceeding in St. Clair County. The project had been slightly delayed due to a request by St. Clair to expand the case types considered for the project. Upon receiving the Supreme Court's permission to expand the case types, the project has continued to progress.

Electronic Guilty Pleas

During the 2003 Conference, the Committee was asked by the Honorable John P. Shonkwiler if it had given any consideration to the filing of electronic guilty pleas. This request was generated due to a public act passed by the General Assembly that suggested the possibility. At that time, Chairman Byrne indicated that the Committee had not considered the concept, but would do so during the 2004 Judicial Conference Year.

On December 5, 2003, the Supreme Court amended Rule 529 which provides for pleas of guilty in minor traffic cases without a court appearance. Specifically, the Court provided in its amendment to the rule that electronic guilty pleas could not be accepted unless authorized by the Court. The amendment to the Rule became effective on January 1, 2004.

Judge Wegner was asked to collect information regarding this topic. He drafted a brief request for information and sent that to clerks of the court and trial court administrators, mainly in the Second Judicial Circuit. The responses were compiled and presented to the Committee for its review. The Trial Court Administrator in the Nineteenth Judicial Circuit provided numerous judicial Internet sites where similar programs were in operation. A list of web sites was compiled from his submission and provided to the members of the Committee reviewing the concept.

After some consideration during the conference year and at the request of the Administrative Office, the Committee deferred any further action on this concept as it would be encompassed by the electronic filing pilot projects. However, the Administrative Office will continue to collect information on this issue and provide updates to the Committee.

Secure Discussion “Chat” Rooms for Judges

Also, during the 2003 Conference, Chairman Byrne received a request from the Honorable Stuart A. Nudelman to consider the concept of secure discussion areas for judges. The chairman accepted that assignment on behalf of the Committee and said the Committee would review the concept during the 2004 Conference. The Committee discussed the issue and, specifically, the issues of security surrounding the concept along with several options to discussion areas, such as secure email. Security would be a major consideration for this type of communication exchange.

Discussion areas, “chat rooms,” would require each judge to be available at the same time to discuss an issue. Judge Youck suggested that the use of secure email might be a better option. Through the use of secure email, a judge could submit an issue to a specific judge or, generally, to a private discussion board available to judges, only. A responding judge(s) could respond at his (their) convenience. One consideration the Committee discussed was time. Would a judge have the time to formulate a question in writing that contained enough detail to obtain an appropriate response?

Email exchanged through the open Internet would not be confidential. Using computer digital certificates is an option if the open Internet is considered. A digital certificate is a computer-based file or structure used to convey information about a user for identification purposes. The AOIC is currently using this method for confidential data exchanged over the Internet.

The Committee discussed the difference between both methods of exchange for some time weighing the positives and negatives of each. It was decided that there could be benefits to both depending on the situation. The Committee thought promotion of both methods would be best, along with providing the advantages and disadvantages of each method.

Judge Byrne asked Judge Youck to prepare a brief report for the Committee on the topic. A copy of his report was provided to the Committee. The committee is reviewing his report and will continue to work on this issue during the next Conference year.

Analysis of Case Management Systems and Funding

While Illinois was the first state to implement a unified court system, the case management systems responsible for maintaining the records of the court are not unified. Each county creates or selects its own case management system and determines how to fund that system. Considering the tight budgets of today, the need to integrate government, and numerous automation projects, such as electronic filing, public access, and optical imagery, the challenge presented to chief and presiding judges to maintain and fund these systems and achieve those goals was becoming considerable.

The Committee believed that it would be helpful to collect and disseminate information to the chief and presiding judges about the systems currently used in Illinois, along with some information about how those systems have been funded. Once collected and analyzed, the

information could then be made available to the chief and presiding judges to assist them in their responsibilities to manage their judicial circuits. Further, the Committee learned that the Administrative Office was considering a related project which would include additional information about these systems.

Since the Administrative Office was considering such a project, it will take the lead role in the collection of this information. However, the AOIC would welcome input from the Committee regarding the survey and include any informational items the Committee believed to be important to the study. Additionally, the Committee will be provided with information received from responses and any compilations conducted by the AOIC.

Retirements

The Honorable Charles “Chad” H. Frank has announced his retirement from the bench effective January 4, 2005. He has been a member of the Illinois Judicial Conference since 1997 and a member of the Automation and Technology Committee since his appointment. He has brought a welcomed position to the Committee as a “non-techy” which on many occasions gave the Committee valuable insight and balance. His participation on the Committee will be greatly missed. The Committee wishes him well in his retirement.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2005 Conference Year, the Committee, with the approval of the Conference and Court, will continue its efforts to review the results of the survey of computer usage by judges, continue to evaluate existing and emerging technology issues, security issues which have been presented by Spyware, viruses and worms, continue to review the findings associated with the electronic filing and imaging pilots in Illinois, and analyze information about trial court information systems and funding.

The members of the Committee look forward to the coming Conference year and appreciate the opportunity to be of service to the Supreme Court and the judicial branch.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.

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APPENDIX 1

Illinois Judicial Conference Committee on Automation and Technology

Survey Summary

Illinois Judiciary Survey on Technology Usage

Data is based on results of 353 survey responses. A total of about 821 surveys were distributed giving a response rate of roughly 43.0% of those distributed and 38.2% of all judges.

I DO NOT NOW USE OR I HAVE NO INTEREST IN USING OR LEARNING TO USE A COMPUTER. (Check below):

() DO NOT USE NOW
N = 22/6.2%

() NO INTEREST
6/1.7%

Illinois Judicial Conference Committee on Automation and Technology**Survey Summary**

1. Do you personally use a computer in your judicial duties?

N = 309/87.5% Yes **N = 27/7.6%** No **N = 16/4.5%** No Response

2. What is the nature of your use of a computer? (Check all that apply)

N = 235/66.6% Prepare orders, opinions, decisions using word processing software. [Brand of software?_____]

N = 71/20.1% Record sheet/minute entries are made by the judge or clerk that are available to the court on the bench or in chambers.

N = 89/25.2% Note taking, benchbook forms and admonitions available on a computer at the bench or in chambers.

N = 283/80.2% Use computer for research/legal education?

N = 253/71.7% Use electronic mail for judicial/administrative communications.

N = 59/16.7% Other uses.

3. Do you have Internet access? (Check all that apply)

N = 310/87.8% At the office
Dialup **N = 53/15.0%** Cable/DSL **N = 202/57.2%** Don't Know **N = 31/8.8%**

N = 306/86.7% At home
Dialup **N = 148/41.9%** Cable/DSL **N = 136/38.5%** Don't Know **N = 4/1.1%**

N = 6/1.7% Do not have Internet access

Illinois Judicial Conference Committee on Automation and Technology**Survey Summary**

If a. or b. is checked, please identify if you access any of the following web sites and the frequency.

Average Frequency

<u>N = 269/76.2%</u>	1. Supreme Court Web Site (www.state.il.us/court)	<u>N = 2.4</u>
<u>N = 280/79.3%</u>	2. Illinois Judges Association Web Site (www.ija.org)	<u>N = 2.8</u>
<u>N = 241/68.3%</u>	3. Illinois State Bar Association Web Site (www.isba.org)	<u>N = 2.3</u>

4. Please identify any of the following computer research tools to which you have access and frequency of use.

<u>N = 164/46.5%</u>	Westlaw	Average Frequency
<u>N = 24/6.8%</u>	Premise	<u>N = 3.2</u>
<u>N = 193/54.7%</u>	Lexis	<u>N = 2.5</u>
		<u>N = 3.3</u>

5. Do you use email?

N = 304/86.1% Yes **N = 26/7.4%** No **N = 22/6.2%** No Response

If yes, (Check all that apply)

<u>N = 21/5.9%</u>	State Account
<u>N = 167/47.3%</u>	County Account
<u>N = 235/66.6%</u>	Private Account

Has your usage increased?

N = 213/60.3% Yes **N = 68/19.3%** No **N = 71/20.1%** No Response

6. I would make more extensive use of a computer if one was available in chambers or on the bench?

N = 184/52.1% Yes **N = 35/9.9%** No **N = 134/38.0%** No Response

Illinois Judicial Conference Committee on Automation and Technology

Survey Summary

7. I would take advantage of additional computer skills training, if it were made available.

N = 298/84.4% Yes **N = 26/7.4%** No **N = 29/8.2%** No Response

If yes, identify the type of training you are interested in

<u>N = 239/67.7%</u>	Legal research on the Internet
<u>N = 107/30.3%</u>	Legal Research on CD-ROM
<u>N = 152/43.1%</u>	Wordprocessing
<u>N = 107/30.3%</u>	Basic Computer Use
<u>N = 44/12.5%</u>	Other

8. Please rate your computer knowledge.

N = 333/2.6 Average Experience

9. Other Comments:

Responding Judges by Type

Associate Judges	<u>N = 143/40.5%</u>
Circuit Judges	<u>N = 175/49.6%</u>
Appellate Judges	<u>N = 18/5.1%</u>

Average Years on Bench

	<u>8.0</u>	Years
	<u>10.2</u>	Years
	<u>14.8</u>	Years

Average Years on the Bench (All Judges)

9.0 Years

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