

# Supreme Court of Florida

No. AOSC06-21

IN RE: INTERIM POLICY ON ELECTRONIC RELEASE  
OF COURT RECORDS

## ADMINISTRATIVE ORDER

The Committee on Privacy and Court Records (the Committee) submitted a report in August 2005, making twenty-four recommendations regarding electronic access to court records in Florida.<sup>1</sup> In response to this report, Administrative Order AOSC06-20 has been issued directing certain action concerning most of the Committee's recommendations.<sup>2</sup>

In Recommendation Five of its report, the Committee recommended that an interim policy be established controlling the electronic release of court records until such time as a permanent policy is announced and implemented. After consultation with the Court, the interim policy recommended by the Committee is approved with modification.

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1. See Committee on Privacy and Court Records, Privacy, Access and Court Records: Report and Recommendations of the Committee on Privacy and Court Records (2005).

2. See In re: Implementation of Report and Recommendations of Comm. on Privacy and Court Records, Fla. Admin. Order No. AOSC06-20 (June 30, 2006) (on file with Clerk, Fla. Sup. Ct.).

This interim policy allows extensive docket information, as well as all final orders and judgments of the courts, to be made available electronically, such as on a website, as long as no confidential information is released. In addition, a chief judge of a jurisdiction can direct that all records in a case of significant public interest may be made available electronically. To facilitate orderly access to records affecting real property, the interim policy allows certain records affecting real property to be released. Finally, under this policy, any non-confidential Florida court record can be provided electronically in response to a request, provided the record has been manually inspected by the clerk of the court in order to ensure that no confidential information is released.

Therefore, it is ordered that effective July 1, 2006, no court record, as defined by Rule of Judicial Administration 2.051(b)(1)(a), shall be released in any electronic form<sup>3</sup> by any Florida clerk of court except as provided herein below:<sup>4</sup>

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3. For purposes of this Administrative Order, “electronic form” is defined by Section 3.40 of the Guidelines for Public Access to Court Records developed by the Conference of Chief Justices and the Conference of State Courts Administrators:

Section 3.40 – Definition Of In Electronic Form. Information in a court record ‘in electronic form’ includes information that exists as:

- (a) electronic representations of text or graphic documents;
- (b) an electronic image, including a video image, of a document, exhibit or other thing;
- (c) data in the fields or files of an electronic database; or

1. The following court records may be made available electronically by a Florida clerk of court provided that no information is released that is confidential pursuant to federal or state law, court rule, or court order:
  - a. progress dockets, limited to case numbers and case type; party name, race, gender and year of birth; names and addresses of counsel; lists or indices of any judgments, orders, pleadings, motions, notices or other documents in the court file; notations of court events, clerk actions and case dispositions; name and date of birth and death of deceased in probate cases, address of attorney of record or self-represented party in probate case;

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(d) an audio or video recording, analog or digital, of an event or notes in an electronic file from which a transcript of an event can be prepared.

A document transmitted via a facsimile machine and not captured as a digital file is not contemplated to be within the meaning of “electronic form.”

4. The confidentiality requirements of the interim policy stated in this administrative order govern any electronic release of court records, notwithstanding chapter 2006-285, Laws of Florida, amending section 119.071(7)(d), Florida Statutes (2005).

- b. court records that are Official Records as defined by section 28.001, Florida Statutes (2005);<sup>5</sup>
  - c. court schedules and calendars;
  - d. traffic court records; and
  - e. all appellate court filings, including motions, briefs, petitions, orders and opinions.
2. The following records may be made available electronically provided the clerk of court ensures that the described records are manually inspected and no confidential information is released:
- a. the chief judge of a jurisdiction may, sua sponte, direct the electronic release of a record or records in a case of significant public interest;
  - b. records may be transmitted to a party, an attorney of record in a case or an attorney expressly authorized by a party in a case to receive the record;

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5. Certain official records are confidential by statute. Further, section 28.2221, Florida Statutes (2005), prohibits a clerk of court from publishing on an Internet website records in cases governed by the Florida Rules of Family Law, the Florida Rules of Juvenile Procedure, or the Florida Probate Rules. Nothing in this order should be construed to negate these or any other statutory or rule restrictions.

- c. a record that has been individually and specifically requested;
- d. records may be transmitted to a governmental agency or agent;
- e. civil cases in which a state agency, as defined by section 119.011(2), Florida Statutes (2005), is a party, with the exception that court files that are sealed pursuant to statute, court rule or court order shall not be available absent a specific order from the court unsealing the file;
- f. pleadings, proof of service, motions and orders in actions affecting title to real property or tenancies to real property, including foreclosure of mortgages, ejectments, actions to clear title, specific performance, residential and non-residential evictions, forcible entry and detainers, lien contest actions, partition actions and actions in which a lis pendens has been filed;

- g. pleadings, proof of service, motions and orders in actions for declaratory judgments to establish foreign decrees as Florida judgments; and
- h. injunctions affecting real property, excluding domestic violence injunctions, and orders denying or dismissing an injunction affecting real property.

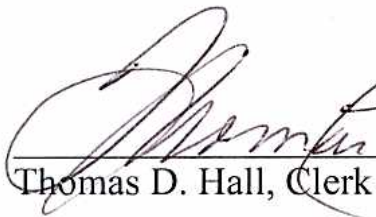
While the records identified above may be made available electronically, this administrative order does not require that they must be nor does this administrative order create an obligation on any clerk of court to provide remote electronic access to court records. Article V of the Constitution of the State of Florida charges the chief judges of the district and circuit courts with the administrative supervision of the courts within their jurisdiction. Therefore, any questions that may arise regarding implementation of this interim policy should be addressed to the chief judge of the jurisdiction.

This order supersedes the limited moratorium contained in In re: Committee on Privacy and Court Records, Fla. Admin. Order No. AOSC04-4 (Feb. 12, 2004) (on file with Clerk, Fla. Sup. Ct.), and shall remain in effect until further order.

DONE AND ORDERED at Tallahassee, Florida, on June 30, 2006.

  
Chief Justice Barbara J. Pariente

ATTEST:

  
Thomas D. Hall, Clerk

