

Supreme Court of Florida

No. AOSC07-49

IN RE: REVISED INTERIM POLICY ON ELECTRONIC RELEASE
OF COURT RECORDS

ADMINISTRATIVE ORDER

In June 2006, the interim policy on the electronic release of court records recommended by the Committee on Privacy and Court Records¹ was approved with modifications in In re: Interim Policy on Electronic Release of Court Records, Fla. Admin. Order No. AOSC06-21 (June 30, 2006) (on file with Clerk, Fla. Sup. Ct.). In August 2006, the Committee on Access to Court Records (Access Committee) was established and charged with, among other things, advising the Chief Justice “of the advisability of alterations to the interim policy.”² The Access Committee submitted its recommended changes to the interim policy in June

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: Committee on Access to Court Records, Fla. Admin. Order No. AOSC06-27 (Aug. 21, 2006) (on file with Clerk, Fla. Sup. Ct.)

2007.³

This administrative order revises and supersedes the interim policy contained in Administrative Order AOSC06-21. After consultation with the Court, the revisions to the interim policy recommended by the Access Committee are approved. The revised interim policy continues to allow extensive docket information, as well as all final orders and judgments of the courts, to be made available electronically, such as on a publicly accessible internet website, as long as no confidential information is released. In addition, as originally provided, a chief judge of a jurisdiction can direct that all non-confidential records in a case of significant public interest may be made available electronically. To facilitate orderly access to records affecting real property, the revised interim policy continues to allow certain records affecting real property to be released. Further, 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.

The revised policy clarifies that it does not apply to records under the control of court administration. It also limits the application of the provision that

3. See Committee on Access to Court Records, Interim Progress Report and Recommendations on Modification to Interim Policy on Electronic Access to Court Records (2007).

addressed “traffic court records” to civil traffic infraction case records and disallows the electronic release of images of traffic citations, which can contain personal identifying information. The revised interim policy allows for the electronic release of the full date of birth of defendants in criminal cases. It permits clerks of court to provide attorneys remote electronic access to records in cases in which the entire court file is not confidential.

Therefore, it is ordered that no court record, as defined by Rule of Judicial Administration 2.420(b)(1)(a), shall be released in any electronic form⁴ by any Florida clerk of court except as provided herein below:⁵

4. 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
- (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.”

5. The requirements of the interim policy stated in this administrative order

1. This policy does not apply to digital recordings of judicial proceedings or other records in the custody or control of court administrators.
2. 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; full date of birth of defendant in criminal cases; name and date of birth and death of deceased in probate cases, addresses of attorney of record or self-represented parties in probate cases;

govern any electronic release of court records, notwithstanding chapter 2007-251, Laws of Florida, amending section 119.071(5)(a)7.d., Florida Statutes (2006), and creating section 119.0714, Florida Statutes.

- b. court records that are Official Records as defined by section 28.001, Florida Statutes (2006);⁶
 - c. court schedules and calendars;
 - d. civil traffic infraction case records, but not images of traffic infraction citations; and
 - e. all appellate court filings, including motions, briefs, petitions, orders and opinions.
3. 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

6. Certain official records are confidential by statute. Further, section 28.2221, Florida Statutes (2006), prohibits a clerk of court from publishing on an Internet website records in cases governed by the Florida Family Law Rules of Procedure, 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.

record;

- 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 (2006), 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;
- h. injunctions affecting real property, excluding domestic violence injunctions, and orders denying or dismissing an injunction affecting real property; and
- i. attorneys may be provided general remote electronic access to non-confidential records in cases in which the entire court file is not confidential.

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.

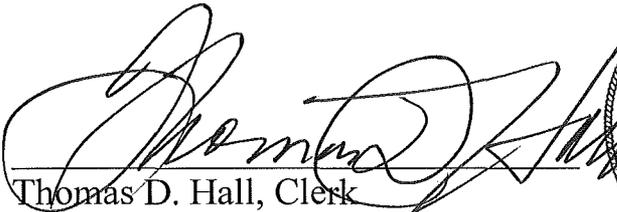
This order shall remain in effect until further order.

DONE AND ORDERED at Tallahassee, Florida, on September 7, 2007.



Chief Justice R. Fred Lewis

ATTEST:



Thomas D. Hall, Clerk

