‘Offline’ Courts

The Necessary Effort to Bring All Illinois Court Records into the Electronic Age

A Study Conducted By:

Illinois Civil Justice League
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The development of the Internet, somewhat of a homegrown Illinois product with many important technologies developed at the University of Illinois, has fostered the growth of transparency in many different areas of Illinois government.

In 1997, Illinois Comptroller Loleta Didricksen announced the development of an online database of financial records for the State of Illinois, allowing the public to easily view when and where their tax dollars were flowing. Through the website of the Illinois State Board of Elections, nearly twelve years of campaign finance records are available, including records dating back to 1994. In fact, not only can online viewers follow every piece of legislation in the Illinois General Assembly online (and virtually realtime), but Internet users can now also view video of the regular sessions.

Today, digital technology has opened full access to governmental information in just about every facet and branch of Illinois government except one: Illinois’ courts.

Many will point to the redevelopment of the Illinois Supreme Court website, completed in November 2006, as progress that the courts are increasing their electronic access. In fact, the access to Supreme and Appellate court opinions in Illinois has finally caught up with technology. Electronic record keeping within the legal world has revolutionized the profession, with companies and websites like Westlaw and LexisNexis reducing the need for voluminous sets of law books in individual law offices.

Docket 2015 Goal: From 50 Percent to 64 Percent to 100 Percent In Eight Years

Despite the best efforts of the Supreme Court and the Administrative Office of the Illinois Courts (AOIC) to address electronic access to court records, some local Illinois courts have chosen to ignore the opportunity to open access to court records to the general public.

When the Illinois Civil Justice League began research on the access to electronic court records, in the summer of 2007, exactly half (51 of 102) of all Illinois counties provided subscriber access to court records online, mostly through the Jano or Judici systems.

In the almost two years since, fourteen more counties have added their dockets to the inexpensive Jano or Judici systems, putting the electronic compliance to 64 percent of all Illinois counties.

Still, many counties are resistant to the idea due to the need for slight increases in technology, the cost of compliance, or the lack of policy commitment from either the legislative or judicial arms of Illinois government. However, the many successes within the local courts in Illinois offer a blueprint for achieving a goal of 100 percent compliance by all 102 counties by 2015.
Supreme Court Recordkeeping of Case Filings Dates Back Into 1960s

The lack of electronic access to court records is certainly not a byproduct of the lack of recordkeeping by the Illinois courts. In fact, the “Annual Report” of the courts has kept the same format of reporting since 1965 and records exist even a few years further back. This fact shows that the Supreme Court’s interest in monitoring litigation is not new.

In the careful study of records by the Illinois Civil Justice League in its 2005 report “Litigation Imbalance,” researchers were amazed to find that such copious standards allowed for exact comparison over four decades of material. In the most litigious county of Madison, lawsuit records showed that the county housed litigation levels that were nearly double or triple the rate of major civil filings in downstate counties on average, with “vintage” years of 1966, 1981, 1986, 1989, 1991, 1995 and 2003.

Therefore, it came as no surprise when the St. Louis Post-Dispatch highlighted the year of 1986 as the turning point for asbestos litigation in Madison County. Between 1985 and 1986, major civil filings more than doubled from 1297 filings to 2803 filings.

According to Paul Hampel of the St. Louis Post-Dispatch, the special time period of the mid-1980s helped one asbestos attorney retire early:

In 1985, one asbestos claim was filed in Madison County. In 1986, spurred in part by [Randy] Bono’s new firm, about 1,500 were filed. The flood — in Madison County and nationally — had begun.

The increase in filings fail to illicit even a footnote in the Annual Report of the Illinois Courts in 1986, but the Post-Dispatch estimates this additional litigation eventually formed a litigation industry that produced more than $1 billion in annual revenue. The fact the Supreme Court kept a careful track of litigation helps to build a foundation for study more than two decades later.

Difference in Technology, Implementation Vast Between Even Like-Size Counties

Despite differences in population size and economics, many counties in Illinois are achieving greater electronic access to court records for the general public. In the very-litigious Madison County (population 260,259), for example, civil court filings are available electronically dating back to 1980. Four public terminals are provided (in addition to online access available through a third party) for electronic access.

In nearby St. Clair County (256,599) – a similarly-sized and neighboring county – court records are only available at one public terminal. The line backs up so often for access to the terminal that the Circuit Clerk’s office “ropes off” the terminal to encourage an orderly line of waiting customers. There is no online electronic access to court records in St. Clair County.

However, in little Edwards County (population 6,318) on the Indiana border in Southeastern Illinois, the public can gain access to electronic records through the Internet from virtually anywhere in the world. In fact, 59 counties smaller in population than St. Clair County currently
provide online electronic access to court records, making St. Clair County perhaps the least transparent circuit court in Illinois.

The vast differences in counties that currently provide electronic access shows that financial economics and population play no part in providing electronic access to court records for the public in Illinois. Smaller and lower budget clerk’s offices are excelling in providing electronic access while large counties, such as DuPage and Lake Counties, are underachieving in the pursuit.

In a rather ironic set of circumstances, the DuPage County (population 912,044) Circuit Clerk’s office is even providing electronic filing of lawsuits online through three different vendors, but currently does not allow the public online access to court records. Meanwhile, 23 counties each with populations under 20,000 provide access online, including nine counties that have joined the group since 2007. In fact, a strong majority of the counties whom have started online access in the past two years fit into this “small population” category, putting to rest the myth that annual cost is a detriment to implement online access.

**AOIC Revises Electronic Policy in 2003 & 2004**


> One of the most important undertakings in the past year was developing policy for electronic access and filing of Circuit Court records….The Court’s progressive actions are consistent with its ongoing interest in the use of emerging technologies to enhance the Illinois court system. These policies will provide for the orderly development of practices and procedures for electronic receipt and maintenance of case files, and also for the dissemination of case information in a way that mutually benefits the public and the judiciary.5

Indeed, the policy’s introduction balances the need to protect “certain sensitive information” from “indiscriminate disclosure” versus the ability of local courts to offer “broader public access to case files.”6 In fact, the closing sentence of the Introduction actually points to a broad goal: promoting “public confidence in the state court system.”

The Illinois effort to open up courthouse records to the public mirrored a national effort being propelled by the State Justice Institute (SJI) in 2001-2002. Working with the National Center for State Courts, the Conference of Chief Justices and the Conference of State Court Administrators, the SJI initiated the project to provide state officials with a framework and guide to implementing electronic access policies. A second project, “Public Access to Court Records: Implementing the CCJ/COSCA Guidelines,” was initiated in 2004-2005 and culminated in a second report on the issue.
The 2005 implementation report outlines eleven important purposes for the framework of a policy on public access to court records:

- Maximizes accessibility to court records
- Supports the role of the judiciary
- Promotes governmental accountability
- Contributes to public safety
- Minimizes risk of injury to individuals
- Protects individual privacy rights and interests
- Protects proprietary business information
- Minimizes reluctance to use the court to resolve disputes
- Makes most effective use of court and clerk of court staff
- Provides excellent customer service
- Does not unduly burden the ongoing business of the judiciary

While several of the above goals place important limitations upon the nature and content of available information within the electronic access (for example, deference should be given to privacy rights in situations involving proprietary business information or individuals’ social security numbers), the report also defines an important role of electronic access within the realm of the third branch of government:

The role of the judiciary is to resolve disputes, between private parties or between an individual or entity and the government, according to a set of rules. Although the dispute is between two people or entities, or with the government, having the process and result open to the public serves a societal interest in having a set of stable, predictable rules governing behavior and conduct. The open nature of court proceedings furthers the goal of providing public education about the results in cases and the evidence supporting them.7

In fact, the implementation report goes further in regards to the argument in favor of judicial accountability, stating: “Open court records allow the public to monitor the performance of the judiciary and, thereby, hold it accountable.”

**History of Remote Access to Illinois Court Records Dates Back to 1996**

While most of the institutional study of “electronic access” to court records centers on complex issues of what to transpose from the written court record into electronic database form, further increases in technology now allow for enhanced ability to allow access to the public. Similar to the way that radio technology took the application of Alexander Bell’s telephone to enhance the one-on-one broadcast to one-to-many, the use of the Internet to allow for public access to electronic court records enhances the nearly five-year-old debate on this issue into the new realm of “remote access.”

The SJI Report defines “remote access” as the “ability to electronically search, inspect, or copy information in a court record without the need to physically visit the court facility where the record is maintained.” While four points are delineated, the two most relevant points – that a
person is not required to visit the courthouse to access the record and that no assistance of the court or clerk of court staff is needed to gain access – are important distinctions to the process.

The first notable mention of remote access to electronic court records in Illinois appeared in the Illinois State Bar Association (ISBA) News in October 1996 when DuPage County became “the first county in Illinois to offer attorneys access to court information electronically from the convenience of their offices.” According to the article, DuPage County had undergone more than two years of research and negotiation with CivicLink, a software company affiliated with Ameritech, to permit access to the court dockets through modems. Just one month later, the ISBA would note that Winnebago County had implemented an electronic system a year earlier (in 1995).

The public policy successes of electronic access to court records almost immediately came to fruition in 1997, when the “reliability” of court records in Cook County were brought into question. According to the ISBA News, the error rate as a result of data entry, coding and programming problems was as high as 30 percent:

Errors seem always to have existed in records of the Cook County Circuit Court, no matter who was chief judge or circuit clerk. Perhaps the error rate is no more than might be expected in so massive an entity as the world's largest court system, where so many humans handle so much paperwork. Measuring it may depend on whose yardstick is used. For the practicing attorney, toiling between the proverbial rock and hard place, the impact is catastrophic when parties are misidentified, judgments misstated or misfiled, and clients' lives upset.

The accuracy issue came to head a month ago, when Illinois State Bar Association President Todd A. Smith of Chicago held a press conference to release a report on electronic dissemination of court records. Chief Judge Donald P. O'Connell appointed the committee late last year to explore issues related to a proposal by Circuit Clerk Aurelia Pucinski to enter into a contract with Ameritech for public access to the court database.

One can debate the various responses of whether the formula or the result of electronic access was achieving the purposes that would later be described by the State Justice Institute regarding performance and accountability of the courts and clerk staff, but one point was abundantly clear at that time, as was expressed by then-Cook County Chief Judge Donald O’Connell:

Information gathered by the court evidences the inability of the current electronic docket to satisfy the threshold element necessary for implementing remote electronic access: a substantially reliable electronic docket.

But, given the fears of many activists that electronic access to court records was opening a pandora’s box of potential privacy and litigation problems, the ten-year period of electronic enhancement to court recordkeeping can be described as an online revolution.
The ‘Next’ Step In Electronic Court Recordkeeping In Illinois: 100% Compliance

Now that a majority of wrinkles in the electronic systems and policies have been ironed out, the next step in remote electronic access to court records is 100 percent compliance in all of Illinois’ circuit courts – with a goal of complete compliance by 2015. 64 percent – 65 of 102 – of Illinois’ counties currently provide inexpensive online electronic access to court records. As stated before, counties are succeeding in their pursuit to provide greater access to court dockets, regardless of the size of their overall population, tax revenues, or staff.

Fifty of the 65 counties with online access currently use the Judici system, which is operated by a third party provider. Another eight counties use the E-Magnus system, which is administered by Jano Justice Systems. Five other counties use systems that appear internally-based.

Another two counties, LaSalle and McHenry, offer remote access to their records, though the subscriber-based systems are too costly to be considered compliant to this study’s standards. In fact, McHenry County requires users to pay a one-time $750 setup fee, and then a $50 monthly fee, for remote access to their records. LaSalle County charges an annual fee of $100. Alternatively, Jano users get access to eight counties for only an annual fee of $300.

Both private systems – Jano and Judici – have provided the vital information and technology necessary to make Illinois court records more open to the public. The E-Magnus system is free to the counties, but subscriber-based for users. The Judici online system is low-cost and tiered in its pricing structure for individual counties and has free and subscriber versions for its users.

While the two systems have very different platforms, histories and approaches to court software, the two companies are survivors of a small market of software suppliers for Illinois’ courts.

Between the two private systems and Cook County’s in-house system, a subscriber can now pay approximately $450 annually and gain searchable access to the civil docket records of 63 counties and 27,342 of the 32,326, or nearly 85 percent, of the civil caseload in Illinois from 2007.

**Online Technology: “E-Magnus” and Jano Justice Systems**

Jano Justice Systems, which began working with Winnebago County in 1993, services nine total counties in Illinois of which eight currently offer online access. Vasco Bridges, the firm’s senior partner, says his company only offers Internet access for counties that run their “back-end application” software. The firm started out providing Intranet service to the 16th Circuit counties of Kane, Kendall and Dekalb, and then developed a multicourt system for the three counties to input searchable data for the entire circuit. Eventually, Jano was able to provide that access through the Internet and currently has approximately 700-800 subscribers outside the courts’ Intranet users.

“The great thing about the Jano system is that it doesn’t cost the counties anything to go online,” said Bridges. He estimates about half of the approximately 800 subscribers are paid subscribers that include mostly law firms. The subscription fee is $240 per year for one county or $300 per
year for all eight counties. Most of the counties include the large dockets outside of Cook County that may have as small as five hundred Law Division cases per year or as large as 1,500 cases. The system also provides information on all the other dockets including criminal felony and misdemeanor, divorces, traffic violations, etc. Jano recently added Champaign County and LaSalle counties in 2007. Both courts are transitioning from a previous homegrown or in-house online system.

Bridges also touts a program, called E-Pay, that’s being used in Madison County to allow citizens to pay their traffic ticket fines through an online service. According to Bridges, he recently helped a trucker who lives in New York, who was pulled over and ticketed in Madison County but was now traveling in California, to pay the traffic ticket online.

One other benefit of the system is that it is real-time with the local clerk’s office’s data entry. Because the Jano online system is an independent system that looks at the individual counties computer system and picks up information from the local county database, circuit clerk’s can easily remove sensitive information if the court so chooses to remove sensitive information in the case of censured cases or defendants who are minors. Jano Justice Systems maintains a technology center in Springfield, IL.

**Online Technology: “Judici” and Goodin Associates**

The Carbondale-based firm of Goodin Associates provides a multitude of technology to more than eighty counties in Illinois. Most of those counties utilize the Judicial Information Management System (JIMS) case management module, which was developed in 1986.

According to Patrick Lundgren of Goodin Associates, the online Judici system was introduced three to four years ago and now has fifty participating counties. Goodin Associates uses a tiered pricing system that is based upon population and docket caseloads, allowing smaller counties to afford their software and services.

There are three different premium subscriber levels of Judici, as well as a free case search page available to the public. The free case search page allows users to search individual counties by plaintiff or defendant name or by case number. Judici offers a premium multicourt search that allows users to search all fifty counties from one page. Additional premium services include an aggregating page that groups cases by docket date or month and a Courtlook service that provides case lists by attorney, firm or judge.

An important need for the systems, the ability for local circuit courts or circuit clerks to instantly screen sensitive cases due to expungements, impounds, active warrants or cases with minors, is handled smoothly by both systems.
Benefit to Local Circuit Clerks and Circuit Courts

“The number one thing about the system is the reduction of phone calls to circuit clerk offices,” said Randy Basler of Goodin Associates. That sentiment was echoed loudly in 2007 by then-Washington County Circuit Clerk Carol Heggemeier, who had implemented the Judici system and had noted a significant drop in phone call requests for information and a significant drop in staff time devoted to those phone calls. Madison County Deputy Circuit Clerk Judy Nelson credited their online service by Jano’s E-Magnus system in the reduction in clerk staff time answering questions, “especially in the civil docket.”

In phone conversations with Circuit Clerks Offices all over the state of Illinois, ICJL researchers have noted *money and motivation* as the two biggest factors fueling the conversion to online systems.

In Washington County, Heggemeier credited the implementation of the system for drastically reducing phone call inquiries about criminal felony cases and for helping attorneys find information about docket schedules without directly contacting clerk staff. The monthly maintenance fee cost of $115 is covered through the county’s automation filing fee.

According to Hamilton County Circuit Clerk Bobbi Oxford, former Second Judicial Circuit Chief Judge George Timberlake made the electronic automation of court records a priority. Using a grant program, the Second Circuit counties initiated online access through the Judici system provided by Goodin Associates. In fact, Goodin Associates gives a ten percent discount to counties with full-circuit participation.

The first year of the program was paid for through the initial administration costs provided by the program grant, but future maintenance costs might need to be bourn through the court’s automation fund or through the county’s general fund. The estimated cost for Hamilton County for annual maintenance will be approximately $1,750.

But money is a major factor for Edwards County – the smallest participating county in Illinois. Edwards County Circuit Clerk Patsy Taylor told an ICJL researcher that she would not have the funds to sustain the yearly maintenance fee if it was not provided through the Circuit.

Carroll County Circuit Clerk Sherri Miller provides scanned documents as well as an online docket, making it easy for genealogy researchers to look at old probate records. She thinks providing records online is just part of her job duties as Circuit Clerk.

Some clerks noted a general resistance in a few counties in the state to anything technological. One neighboring circuit clerk noted that another county would probably never go online because of general reluctance of even having e-mail addresses, much less an online docket.

However, as with any technological conversion, the full electronic and open access to the public of general court docket records is – in itself – the proper course for the future of court docket records in Illinois. This effort would be bolstered by a legislative and/or judicial commitment to the policy of providing such records online.
Detailed Map of Online Electronic Access to Court Records in Illinois

Map Key:
- Blue = Jano Systems
- Green = Judici Systems
- Purple = In-House Systems
Altogether seven circuits, and Cook County, provide full online access from every county:

- Cook County
- 3rd Circuit (Madison & Bond)
- 5th Circuit (Clark, Coles, Cumberland, Edgar & Vermilion)
- 12th Circuit (Will)
- 14th Circuit (Henry, Mercer, Rock Island & Whiteside)
- 15th Circuit (Carroll, JoDaviess, Lee, Ogle & Stephenson)
- 16th Circuit (Kane, Kendall & DeKalb)
- 17th Circuit (Winnebago & Boone)

The Second Circuit has ten counties participating in their program (Jefferson, Franklin, Hamilton, White, Wayne, Edwards, Wabash, Richland, Lawrence, & Crawford) and two counties not yet online (Gallatin & Hardin). The Twenty-First Circuit needs participation from only Kankakee County. Seven of nine counties in the Fourth Circuit currently provide access.

Fourteen counties have joined the Judici network since mid-2007. Champaign County also shed their In-House system and joined the network of Jano’s E-Magnus systems.

By far, the worst counties in Illinois for lack of electronic access to civil court records are DuPage, Lake and St. Clair counties. While DuPage was, and continues to be, an innovator in online court technology, including online filing of civil court cases, electronic access appears to not be a priority. DuPage and Lake represent two of only four counties that regularly have civil filing totals over one thousand cases per year.

Illinois’ courts, which currently stand at 64 percent compliance, need only a push from the Supreme Court or General Assembly to achieve the goal of providing 100 percent of court records online by 2015.

According to representatives at Goodin Associates, another twenty-four counties utilize the JIMS system and could easily upgrade and use the Judici system and go online, providing an opportunity for 90 of 102 counties to reach compliance with the 2015 goal. The twelve counties left “in the dark” would only constitute 3,574 of the state’s average of 32,326 annual civil filings, or approximately 11 percent.

If the ten of those counties in the Fifth Judicial District chose to implement this technology, only two counties – St. Clair and Christian – would have no publicly-accessible online court resource. This would bring 78 percent of the Fifth District’s Law Division cases (approximation based on the statistics of the 2007 caseloads) online. Currently, only 70 percent of the cases are online.

The twenty online counties of Fourth Judicial District include many of the most populous counties, and represent 93 percent of the docket. The efforts of Circuit Clerk Offices in the counties of Sangamon, Champaign, McLean, Macon, and Vermilion have helped make this judicial district very transparent. With the addition of the nine JIMS counties not currently online in the Fourth District, a staggering 99.94 percent of all the 2007 Law Division cases would be online, leaving only one case in Scott County in the dark.
Enhanced Map of Future Growth of Online Electronic Access to Court Records in Illinois

Map Key: (Blue = Jano / Green = Judici / Purple = In-House)
Grey = Counties Using JIMS, Could Easily Add Judici
In the Third Judicial District, clerks in the Ninth Circuit utilize neither system and, in fact, only two of the Circuit Clerk’s offices even had websites. However, the Ninth Circuit accounts for only five percent of the overall Law Division caseload for the Third District. Currently, more than 59 percent of the Law Division caseload is available online and another 16 percent could be easily added by upgrading six counties that currently use the JIMS system.

The Second Judicial District – home of the innovators in electronic access technology – has the most dismal record of online transparency. While DuPage County was once one of only two counties in the entire state to have online access, it has since dropped public access to an online database of its dockets, even though the Circuit Clerk utilizes technology to allow lawyers to file cases online and for case participants to look up their cases. Sadly, only 36 percent of the Second Judicial District caseload is easily available online, with the large dockets in DuPage, Lake and McHenry inaccessible. McHenry County allows potential users to sign up for access, but at an initial cost of $750 for software licensing, $53.50 for a secure password, and a $50 per month maintenance fee, the cost hardly seems worth the trouble.

The First Judicial District of Cook County offers all of its caseload online through Circuit Clerk Dorothy Brown’s website. Although, with 20,897 Law Division cases filed in 2007, Cook County’s docket is an unimaginably large system to study. Out of the more than 380 judges in Cook County, approximately forty of them handle the Law Division cases and class action cases can be heard by the approximately seventeen judges in the Chancery Division.

“Docket 2015” Compliance Goals

In the hope of helping circuit courts and clerks to bring the level of compliance to 100 percent in the next five years, the Illinois Civil Justice League has created the Docket 2015 program to help raise the level of awareness among the state and local county officials, to help facilitate informational exchange between counties and circuits, and to guarantee compliance in a cost effective manner for both counties and potential users.

In an effort to promote and cultivate new electronic access opportunities within the local county courthouses in Illinois, ICJL is undertaking a five-year program to help increase access to online court records.

Docket 2015 Goals

- Provide the greatest access to civil docket records for the lowest price to potential online subscribers or users, as well as the lowest cost to new and existing counties

- Help to facilitate communication between counties and circuits of similar size and demographics in order to foster successful technological transitions

- Educate the Governor, General Assembly and Supreme Court on the benefits of full electronic access to civil court docket records in Illinois
- Generate a modest, but sustainable, funding source to provide grant funding for startup programs for smaller counties and circuits

- Improve the civil docket record-keeping and statistical data collection to encourage greater study of and to build greater confidence in the Illinois civil justice system

- Endow recognition to successful programs that help foster the achievement of 100 percent compliance by all 102 counties by 2015

Additionally, the Illinois Civil Justice League advocates the creation of three important new case designations to help the AOIC, the General Assembly, and the public to have greater access to statistical case record-keeping.

- Creation of an “MM” designation for Medical Malpractice cases was proposed by both legislative chambers in 2004 by State Senator John Cullerton (SJR 86) and State Representative John Bradley (HJR 91). This designation would allow separate record-keeping in the annual caseload statistics compiled for the Supreme Court each year by the AOIC.

- Additionally, the creation of a “CL” designation for Class Action cases would further aid study of the phenomenon in Illinois and would direct legislators and the public’s attention to imbalance within certain counties, as evidenced rise in class actions in Madison County from one in 1999, to 106 in 2003, to one in 2006.

- Finally, the creation of an “ASB” designation for Asbestos case filings in Illinois, again to see the total caseload by county on an annual basis.

Thanks to forty-plus years of statistical recordkeeping by the Supreme Court and AOIC, the civil litigation changes of the present can be compared to the historical records of the past. However, as technology changes and improves, so does the ability to track, document and supplement the records of our diverse court system. The next five years could provide an important opportunity to move the goals forward.
Footnotes


2 Recent “Annual Reports” are available at www.state.il.us/court/SupremeCourt/AnnReport.asp, archived copies are stored at the Library of the Supreme Court, Springfield, IL.


