

**Meeting Minutes of the 12<sup>th</sup>  
Judicial Information Systems Council (“JIFFY”)  
Public Access Subcommittee (“PAS”)  
Judicial Information Division (“JID”)  
Tuesday, April 14, 2009  
1:08-3:22 p.m.**

**Voting Members present:**

Judge Karen Mitchell, Chair  
Judge Steve Lee  
Dennis Jontz (*via phone*)  
Robert Mead  
Arthur Pepin  
Dana Cox (*via video*)  
Steve Prisoc  
Paula Chacon

**Visitors present:**

Terri L. Cole  
Kip Purcell  
Chuck Peifer

**Voting Members absent:**

Judge Stephen Bell  
Judge Mark Basham  
Kathy Gallegos

*Minutes taken by: LaurieAnn Trujillo*

**I. Approval of Agenda.** Judge Karen Mitchell called the meeting to order at 1:08 p.m. and established a quorum. She welcomed the guests present and asked that they sign-in and stand at the podium if they wished to make comments.

**Judge Steve Lee moved to approve today’s agenda. Paula Chacon seconded. No further discussion. No opposition noted. Motion carried.**

**II. Update on Subcommittee Activities since February.** Judge Mitchell reported the following:

- PAS did not meet in March to provide an opportunity for Robert Mead, Dana Cox and Steve Prisoc to work on the draft PAS document.
- She and Mr. Mead attended the Joint Sealing Rules Committee (“JSRC”) meeting last week. Joey Moya provided a second draft of a sealing rule for civil district court cases. She will arrange to provide the draft rule via email to the members for their review and comment. The rule will include certain case types that are sealed by statute (i.e. juvenile and abuse and neglect cases). JSRC would like the PAS to consider what case categories should/should not be included. There is anticipation for a rule for criminal cases and for courts of limited jurisdiction. JSRC may develop an informational cover sheet that would reflect personal

identifiers and would not be made available to the public. The JSRC asked the PAS to consider items that would be important to the cover sheet.

- The Bench/Bar Media Committee meeting.
- The governor signed the civil filing fee bill and the electronic filing bill.

There was discussion relative to the following points:

- JSRC draft sealing rule.
- The Bench/Bar Media Committee meeting.
- Senator Sanchez's expungement bill.
- PAS to incorporate the electronic filing bill into the draft PAS document.

**Action Item:** *Judge Mitchell offered to email the JSRC draft sealing rule to the PAS members for review and comment.*

**Action Item:** *Per Judge Mitchell, LaurieAnn Trujillo will include the review of the JSRC draft sealing rule to the PAS May agenda.*

**III. Public Access Subcommittee Discussion on Document in Progress.** Judge Mitchell thanked Mr. Mead, Ms. Cox and Mr. Prisoc for their work on the document entitled *Report and Recommendations of the Public Access Subcommittee to the Judicial Information Systems Council, an Information Technology Advisory Board to the New Mexico Supreme Court on Public Access to Court Case Records Via the Internet*, which was distributed.

Judge Mitchell read the first two paragraphs on page 3 of the draft PAS document, as follows:

**I. What is the Public Access Subcommittee?** *The Public Access Subcommittee ("PAS") was formed as a subcommittee of the Judicial Information Systems Council ("JIFFY"), the information technology advisory board of the New Mexico Supreme Court. The Subcommittee was formed on August 16, 2007, and completed its work on \_\_\_\_\_ 2009. Members of PAS included judges, court managers, court staff, and members of the State Bar of New Mexico.*

*JIFFY directed PAS to develop guidelines for public access to court case information via the Internet, with the ultimate purpose of making recommendations to the Supreme Court. This report addresses how court case information should be displayed via electronic media accessible to the public in a manner that is consistent with applicable law. Inherent within the analysis is the need to balance the privacy concerns of individuals and the public's need for access to court case information.*

**Subcommittee member discussion.** Members noted that the wording in this section was acceptable.

**Audience comments.** No comments were made.

Judge Mitchell read paragraph 3 on page 3, as follows:

**II. Summary of PAS's Recommendations.** *There is a strong legal presumption that the official paper copy of a court case file is public, subject to statutory exceptions. However, PAS*

*recognized that there is a fundamental difference between the public's access to court case files by way of the Internet as compared with physically entering a courthouse and reviewing a case file. Because of this fundamental difference, PAS agreed that a "go-slow" approach was advisable in creating guidelines on the public's Internet access to such records. As discussed more fully below, some courts that have simply begun posting all public records on the Internet have encountered numerous problems and have had to reconsider their policies in light of privacy concerns raised by persons identified in the records. Therefore, PAS agreed that the potential for damage necessitated a careful approach.*

**Subcommittee member discussion.** PAS members discussed the following points:

- PAS' initial presumption relative to the court paper file.
- Expanding the language to include electronic filing.
- State Records and Archives' requirements.
- Magistrate court files.
- The E-Filing Subcommittee will consult with the PAS once they select an electronic filing vendor.

**Audience comments.** Chuck Peifer introduced himself as a past president of the Foundation for Open Government ("FOG"). He currently serves as a board member of FOG and has twenty-five years of personal and professional interest in matters of open government and issues involving the First Amendment. He was chief assistant attorney general many years ago responsible for the Open Records Act and the Open Pleadings Act in New Mexico. He commented that all information should be equally available to all members of the public. Restrictions are typically tested in two ways: 1) is there a substantial harm at issue that requires a restriction on public access or First Amendment exercise; 2) has the government body that proposes to censor or exempt information explored all reasonable alternatives to the means proposed or are at issue under consideration. The current draft PAS document does not demonstrate that there is a substantial harm to be addressed by a rule that would censor electronic information to eliminate material that would be available to someone going to the courthouse; and the current draft PAS document does not provide any consideration of alternatives. He urged the PAS, before it indulged this presumption, to explore the validity of the premise upon which the PAS is proposing to edit information that would be otherwise available to someone who went into the courthouse.

Terri Cole, the President C.P.O. for the Greater Albuquerque Chamber of Commerce, which is a membership organization representing 5,700 members in the Albuquerque regional area, including Sandoval, Valencia, Bernalillo and Tarrant Counties. She has been involved in issues with government, transparency and protecting the First Amendment. The more transparency in the system, the better for business. She spoke of the expungement bill that was recently defeated. She believes that electronic delivery of information provides a greater opportunity for more people to be able to get what they need more quickly. She urged the PAS to consider the premise that PAS identified in its discussions and alter it to understand that it's an opportunity to provide more public information to everyone and not a potential problem from her point of view.

**Action Item:** *Mr. Mead offered to work with Mr. Prisoc to meet with the State Records and Archives' representatives to come up with an agreement relative to electronic records.*

Mr. Mead read the fourth paragraph on page 3, as follows:

*PAS further recognized that many litigants who come before the court are pro se and even those who have been represented by counsel may not have fully appreciated that personal, sensitive information becomes a public record when included in a pleading. While these same individuals may have assuaged any concerns with the knowledge that such paper court files remain in "practical obscurity" while resting on the shelves of a crowded file room, all anonymity is removed when that same pleading is scanned into an electronic file and made accessible to the public via the Internet. Because of the competing interests between an individual's interest in privacy and the public's interest in having unrestricted access to court cases, PAS decided that it would present opposing arguments on each of its recommendations, so that JIFFY, and ultimately the Supreme Court, could examine both viewpoints in determining the role of the courts with respect to the provision of such information via the Internet.*

**Subcommittee member discussion.** It was suggested that the PAS refrain from using the term *pro se* in the draft PAS document.

**Audience comments.** Kip Purcell, the current President of FOG, commented that this paragraph included another embedded assumption related to competing privacy interests involved in any court file material. He spoke of common law right of access to judicial records. Records that are sealed and cannot be viewed at the courthouse should also not be viewed electronically, but records that are viewable at the courthouse should be viewable in their entirety electronically, as well.

Mr. Mead read paragraph 5 on page 3, as follows:

*Due to limited resources of the courts and in view of the equitable apportionment of responsibilities for the content of pleadings, PAS determined that in both civil and criminal cases, the responsibility for the content of pleadings and for ensuring that any confidential, identifying or other such sensitive or private information is protected should lie with the litigants who come before the court. However, PAS agreed that the courts should serve as a secondary tier to remove or redact particularly sensitive information, especially if such records are to be made electronically available to the public via the Internet.*

**Subcommittee member discussion.** The following points were discussed:

- With regard to the language *...confidential, identifying or other such sensitive or private information is protected*, PAS does not have a formal list of what this information would involve. However, it would include social security numbers, credit card numbers, account numbers, and items that are sealed by statute or court order.
- The reasons that parties assume primary responsibility for redacting sensitive information from court records.
- Sensitive information on pleadings that is necessary for court staff, yet should be protected from public viewing.
- Personal identifiers.

- The current distinction about what is physically available and what is electronically available, and the limitations of the Judiciary's current electronic system.
- Personal identifiers are necessary to identify a party that has a common name.
- Confidentiality research.
- Identity theft issues.
- Bulk data resellers.
- At this point, it would be too costly to make old cases available on the Internet.
- Arthur Pepin will draft language for a notice that will be posted at the clerks' counters advising the public to redact information they are not comfortable having part of the public record.
- JSRC
- The federal court electronic filing system.

**Audience comments.** Mr. Purcell asked for specifics on what confidential, identifying or other sensitive information would involve. He recommended that the PAS review Federal Rule of Civil Procedure 5.2 for the four classes of information that the federal courts redact from public viewing. He disagreed with the part of the rule that says birth dates should be redacted because a birth date is necessary to differentiate among other persons of the same name. He urged the PAS to look at that rule and not to redact birth dates for electronically available information, but otherwise to use that rule as a model to accomplish what the PAS is trying to do and to recognize that rule would apply across the board to paper filing.

Mr. Peifer commented about practical obscurity, particularly self-represented parties who may be misled into believing that what they put in a court filing will not be publically available, and that seems to be part of the preamble for suggested restrictions on what is publically available in the record. He reiterated his earlier points on first addressing by alternative means before the PAS used this rationale to allow restriction on access to information. He spoke of a case that involved the University of New Mexico.

Mr. Mead read the second paragraph on page 4, as follows:

*In response to concerns that Internet records of certain criminal cases that did not result in a conviction perpetuate obstacles to employment and housing opportunities for those defendants, the American Bar Association ("ABA") has adopted a policy that records of closed criminal cases where charges were dismissed, nolle'd, acquitted or vacated would be removed from court Internet records to which the public has access. PAS recommends that the ABA's policy for adoption by the Supreme Court, but with the exception that records of dismissals subsequent to a deferred sentence not be removed from court Internet records. PAS also has recommended that all misdemeanor cases be removed from court Internet records to which the public has access on the third anniversary after the final adjudication date, excluding those cases with outstanding warrants and/or fines or fees due and excluding domestic violence cases, DWI cases, and crimes explicitly mentioned in the Adam Walsh Child Protection and Safety Act of 2006.*

**Subcommittee member discussion.** PAS members discussed the following points:

- Revise the language to note that the ABA did not adopt the policy, but rather recommended that it become policy.
- With regard to the term *nolle'd*, a suggestion was made to replace this term with *dismissed by nolle prosequi or otherwise*.
- PAS will write the majority and the minority points on this recommendation.
- There was a lengthy discussion relating to the language pertaining to PAS' recommendation of: *...all misdemeanor cases be removed from court Internet records to which the public has access on the third anniversary after the final adjudication date, excluding those cases with outstanding warrants and/or fines or fees due and excluding domestic violence cases, DWI cases, and crimes explicitly mentioned in the Adam Walsh Child Protection and Safety Act of 2006, this language references destroyed case files from courts of limited jurisdiction (this is not an issue for the courts of record).*
- In the 1950s, the legislature delegated to the Commission for Public Records to deal with the question of retention and destruction disposition under the general framework of the Legislature.
- PAS is not considering destruction of records. PAS is working to keep the electronic record in synchronization with the official paper record.
- Separating out the two issues noted in this paragraph.
- The creation of a position that would be housed at JID who would be responsive to inquiries about individuals.
- Concerns with someone downloading a record on an individual and then not refreshing the database to note the final disposition of the case.
- The Department of Public Safety ("DPS") is responsible for maintaining criminal history records.

**Audience comments.** Mr. Peifer urged the PAS to withdraw this recommendation in its entirety. This rule would encourage applicants for employment to lie about their qualifications and background, safe and comfortable with the knowledge that the lie will never be discovered because the only public record that would ever disclose it has been destroyed by the government. These are important policy concerns that are more justifiably left to the Legislature than to a committee of the Administrative Office of the Courts ("AOC"). He spoke of a case that was published in the Albuquerque Journal. He does not believe the draft PAS document takes into consideration the seriousness of the counter policy and importance of keeping public records public and available for employers. Court records should be kept indefinitely. He encouraged the PAS to make it clear in the language that the ABA did not adopt the recommendation. He noted that creating a position to verify information would be an additional service to the public and a way for them to get more information than they might be able to do untrained on their own. He mentioned that we never hear about the successes of having this information available. The Supreme Court of New Mexico adopted the Inspection of Public Records Act ("IPRA") as the policy for public records in New Mexico. IPRA is misunderstood to require a written IPRA request. In fact, IPRA requires a custodian to make records immediately available upon oral request, and the written requirement is simply a predicate to a lawsuit to use IPRA's legal enforcement.

Ms. Cole reiterated the business community's objection to the language because the business community wants to knowingly hire someone regardless of their record. The Judiciary's *Case Lookup* application is currently the primary access point for the business community to determine if a prospective employee has been arrested before. She felt the business community would not have a problem with using DPS as the repository for criminal histories as long as they had access to a place to check the background on an individual. She spoke of Senator Sanchez's expungement bill.

Mr. Mead read the third paragraph on page 4, as follows:

*PAS further recommends that, when a court case file has been sealed, the case name, case number, and docket number or any other number used by the court to identify the file or pleading not be sealed on the electronic record to which the public has access.*

**Subcommittee member discussion.** The PAS noted that this paragraph addressed the issue that records should not go away and there should be some index to show that the case exists.

**Audience comments.** Mr. Peifer commended the recommendation to avoid the secret court issue.

Mr. Mead read the fourth paragraph on page 4, as follows:

*PAS also recommends \_\_\_\_\_.*

**Subcommittee member discussion.** This paragraph serves as placeholder for future PAS recommendations.

**Audience comments.** No comments were made.

Mr. Mead read the fifth paragraph on page 4, as follows:

*Each of the above recommendations also was vetted by members of the public during various PAS meetings where members of the press, private attorneys, \_\_\_\_\_ were invited to participate and comment. Many of the comments made by the public both in support of and in opposition to the recommendations being considered by PAS have been included in this report.*

**Subcommittee member discussion.** The PAS members discussed the pros and cons for each PAS recommendation to be inserted into the body of the draft PAS document.

**Audience comments.** Ms. Cole advised that prior to the Judiciary's *Case Lookup* application, the business community hired private investigators to investigate someone's background. Smaller businesses conducted reference checks to the best of their ability.

Mr. Mead read the sixth paragraph on page 4, as follows:

**III. Background on the Public Availability of Electronic Court Records.** *"A citizen has a fundamental right to have access to public records. The citizen's right to know is the rule and secrecy is the exception. Where there is no contrary statute or countervailing public policy, the right to inspect public records must be freely allowed." Court records that have not been sealed, sequestered or otherwise limited by rule or law traditionally have been available in paper format to any person willing to make a trip to the courthouse. The benefits of open access to court records include promotion of the public trust, facilitation of business, and availability of the official record of court proceedings that ultimately govern the ways in which people live. In*

*short, no form of governance could function effectively without an open record of legal proceedings.*

**Subcommittee member discussion.** No discussion.

**Audience comments:** No comments were made.

Mr. Mead read the second paragraph on page 5, as follows:

*This longstanding precedent of availability of paper court files generally has worked well for courts, businesses, government agencies, and members of the general public. However, with the advent of the Internet, the public's expectations concerning the availability of records have changed dramatically. The ease with which information can be obtained online has many members of the public advocating in favor of electronic access to such records. These advocates view the limitations on the availability of court case files to those who physically enter a courthouse or who initiate a request in writing under the Inspection of Public Records Act as being archaic in an electronic age.*

**Subcommittee member discussion.** No discussion.

**Audience comments.** No comments were made.

Mr. Mead read the second paragraph on page 5, as follows:

*However, if courts were to allow complete and unrestricted electronic access to court case files, there is also the potential for harm to the parties involved in court cases by, for example, the disclosure of confidential, sensitive or personal identifying or financial information that may be contained in pleadings. Perhaps the most common example of injury due to the unsecured availability of personal information is identity theft, which during the computer age has become epidemic.*

**Subcommittee member discussion.** No discussion.

**Audience comments.** No comments were made.

Mr. Mead read the third paragraph on page 5, as follows:

*Another example where there is the potential for harm to individuals arises in the disclosure of criminal case information where the case did not result in a conviction or where the case did not result in a conviction, but was for a misdemeanor more than three years old. Opponents of the electronic disclosure of such information on the Internet argue that this type of information has the potential to unjustly tarnish reputations and thus reduce or limit access to jobs, housing and other lawful opportunities of defendants who were acquitted or whose cases were dismissed. Similarly, defendants who committed a misdemeanor are more likely to experience an unnecessarily harsh social sanction, such as the denial of employment or housing that is unlikely to encourage future law-abiding behavior.*

**Subcommittee member discussion.** No discussion.

**Audience comments:** Mr. Peifer asked the PAS to consider noting the studies that would support the epidemic risk of identity theft.

There was discussion on the following:

- Data consolidators

- Making a distinction between journalistic use of bulk data and commercial use of bulk data.
- Restrictions to data consolidators.

Mr. Mead read the last paragraph on page 5, as follows:

*Conversely, proponents who advocate in favor of the disclosure of this information assert that the public is much more sophisticated and can readily discern between a case that resulted, for example, in an acquittal versus a conviction without any resulting prejudice to the defendant in the former instance. These same proponents assert that a public record of a misdemeanor should be preserved and not removed from a court electronic public record as many defendants are repeat offenders or were originally charged with a felony, but pled down to a misdemeanor. For those offenders who are not repeat offenders, these proponents argue that the public is perfectly capable of distinguishing between the consequences of a misguided youthful indiscretion versus the habits of the career criminal. Likewise, the public can distinguish between a case that was originally a felony but pled to a misdemeanor from a case that was always a misdemeanor.*

**Subcommittee member discussion.** No discussion.

**Audience comments:** No comments were made.

Mr. Mead read the remainder of the draft document, as follows:

*When court case information is readily disseminated electronically, there is also a greater chance for a corresponding increase in the potential for harm to litigants who find themselves besieged by marketers or become victims of bulk data sellers. Courts frequently receive requests from businesses for electronically compiled information that will allow them to identify and approach business targets, particularly information on people involved in divorces, bankruptcies, and debt litigation, which, of course, has value to those who sell services such as debt consolidation loans. To the extent that such businesses are predatory, there is a clear potential for harm. Even when there is no predatory behavior, incomplete court records obtained from bulk data sellers can cast litigants in an unfair light. Conversely, litigants also could benefit from contact with non-predatory businesses that sell goods or services, which they may require.*

*It is these risks of harm that must be weighted against the public's interest in easy access to such information. It is also important to examine the role of the courts with respect to such information. In New Mexico, it is not the courts that are the official criminal repository for criminal case information; instead, that responsibility lies with the New Mexico Department of Public Safety ("DPS"). The role of a court is the adjudication of the cases that come before it and not as a purveyor of court case information.*

*However, with the advent of the Internet, some courts across the country have begun posting court records online, and some have even offered electronic court records for sale. The Florida courts were among the first to post records to the Internet. Then, in 2002, the Florida Supreme Court issued an order placing a moratorium on posting court records online. Since then, the Florida Supreme Court has allowed only Manatee County (in which the greater Bradenton*

*metropolitan area is located) to run a pilot project where court records are posted to the Internet on the condition that the county processes all court records through automated redaction software before they are posted. All indications are that the pilot is running successfully and that sensitive, personal information is being automatically redacted by software that scans records before they are posted. The success of the Manatee County pilot program will likely lead the Florida Supreme Court's reversal of its moratorium, which will allow Florida courts to give away or sell court records via the Internet.*

*Although automated redaction software can virtually eliminate exposure of confidential, personal identifiers such as social security numbers and dates of birth in electronic documents, such software cannot eliminate from disclosure all sensitive, personal information such as the details surrounding an involuntary conservatorship, a domestic violence claim, a contentious divorce, or child custody dispute. If that information is to be protected, it will be incumbent on the litigants to request that all or portions of a pleading or a proceeding be sealed or take steps to ensure that such information is otherwise protected or not disclosed in a pleading.*

*Whether or not automated redaction software is utilized or the litigants themselves take steps to seal or otherwise protect personal identifying or other confidential or sensitive information, any information, which is posted to the Internet, will be expose online data to data harvesters. Through the use of sophisticated software and repeated database queries, online data harvesters seek to capture large quantities of public data intended to be accessed only one record at a time until all of the data, which they are seeking, has been captured.*

*The Federal courts have also had to contend with online bulk data harvesters. To use the Federal court's Pacer online court information system, attorneys must be trained by the court on its use, registered as users, provided a password by the court and required to provide a credit card so the Court could assess charges for their viewing or printing of pleadings. Through the use of Pacer, attorneys can electronically review and file pleadings in cases pending before the Federal courts. As the primary users of Pacer were attorneys, the courts had a great deal of leverage in preventing and addressing any abuses of Pacer; for, it was unlikely that any attorney would knowingly violate the Court's terms of use of Pacer and risk termination of his or her admission to practice before the Federal Court.*

*Presumably, because the implementation of Pacer had been so successful, in 2008, the Federal courts, in conjunction with the Government Printing Office, made Pacer available for free to a number of libraries. This experiment lasted only a few weeks. On September 29, 2008, the free access was terminated after Aaron Schwartz, a free information activist, downloaded 19,856,160 pages of text from Pacer. As a consequence, the Federal Court promptly discontinued unlimited public access to Pacer.*

*The New Mexico Judicial Information Division ("JID") also has detected several attempts by data harvesters to access large quantities of data, in direct contravention of the terms of usage to which all users agree before gaining access to the courts' online records. Several years ago,*

*JID created an Internet application called Case Lookup, which provides docket and disposition information on all non-juvenile and non-domestic violence cases that are not sealed by a judge. Unlike Pacer, Case Lookup does not contain scanned copies of actual pleadings, and instead merely lists the titles of the pleadings and when they were filed in a particular case. This application is now on its third rewrite and serves more than 140,000 users each month.*

*Based on comments received from Case Lookup users, the application has served commercial and business interests, and members of the press, as well as curious citizens and others members of the public. Occasionally, JID receives complaints from citizens who feel that they have been denied employment and/or housing due to information available to employers and landlords through Case Lookup. Others complain that their records should not appear on Case Lookup when all criminal charges against them were dismissed. Thus, even with the cursory information provided by Case Lookup, there is the potential for harm to litigants from online data harvesters and complaints from litigants or members of the public seeking to access court case information through Case Lookup.*

*It will be for the Supreme Court to decide whether to expand Case Lookup as technology and resources permit to include actual pleadings and other documents filed of record similar to Pacer or to preserve the status quo with regard to the case information currently available online. PAS recommends \_\_\_\_\_ . In making this recommendation, PAS recognizes the fundamental difference between paper court case files and online records of the same and the necessary balancing between the privacy interests of the litigants and related parties (i.e. victims or minor children in custody disputes) against the public's interest in the convenient access to full court case files online.*

**Subcommittee member discussion.** There was discussion on the following points:

- Judge Mitchell asked that the last paragraph incorporate Senate Bill 277.
- The public comments received today make it clear that the premise that there is a difference between paper records and electronic records is challenged. That will need to be noted in the draft PAS document.
- Judge Mitchell and Mr. Mead encouraged members of the public to assist in composing the draft PAS document.
- The PAS' agendas and minutes are posted to the Judiciary's web site.
- The PAS will make a recommendation to JIFFY and then JIFFY will determine if that recommendation should be sent to the Supreme Court.

**Audience comments.** Mr. Purcell noted that DPS may be the repository for private investigators, however, the courts are the official repository for conviction information according to the rules of evidence.

The members of the public that attended today voiced gratitude to the PAS for allowing them the opportunity to comment.

**IV. Discussion on Subcommittee Recommendation Number One:**

**“With respect to civil cases only, the litigants and/or those filing documents with the courts, are responsible for ensuring that sensitive information is kept out of the court record. Court personnel will serve as a second tier to remove sensitive information.”**

**(recommendation adopted by the PAS on June 17, 2008.)**

**Subcommittee member discussion.** Judge Mitchell advised that the JSRC referenced the Federal Rule of Civil Procedure 5.2 for the four classes of information that should be redacted for public viewing.

**Audience comments.** Mr. Purcell noted that litigants need to be advised of the types of information they should exclude from court files.

**V. Discussion on Subcommittee Recommendation Number Two:**

**“With respect to criminal cases, the agency and/or party generating the documents is responsible for ensuring that sensitive information is kept out of the court record. Court personnel will serve as a second tier to remove sensitive information, especially with respect to electronic access.” (recommendation adopted by PAS on October 14, 2008.)**

**Subcommittee member discussion.** Judge Mitchell advised that this recommendation was addressed in earlier discussions.

**Audience comments.** No comments made.

**VI. Future Meetings.** The next meeting will be held at the Judicial Information Division on Tuesday, May 19, 2009 at 1:00 p.m.

**VII. Adjourn.** Judge Mitchell adjourned today’s meeting at 3:22 p.m.

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**Final Minutes Approved by Judge Mitchell on May 6, 2009.**