

The Digital Divide and Digital Justice: Do Clients Need a Technology Bill of Rights?

by Jean Holcomb

- Allowing parties to pay filing fees using credit cards simultaneous with the filing of the initiating document. This reduces the need to prepare checks and the corresponding tasks of administering such accounts.
- Avoiding costly trips to the courthouse to access the legal case file. The ability to access the legal file directly from the law office allows the attorney and client immediate access in a private, comfortable setting.
- Eliminating the possibility of "lost" papers and files, whether in the law firm or at the clerk's office.
- Improving confidential record security. Confidential records in electronic form can have numerous technology "walls" built around them, which confidential records in hard copy form generally cannot.
- Simplifying appeals process/designations. Attorneys will be able to designate specific documents as part of an appeal and electronically transmit those documents to the appellate court.
- Speeding the process. As a result of the XML markup language capabilities, case data needed by the law firm or the court can be "lifted" from the electronic document and used to "populate" the database. Additionally, internal steps within the law firm pertaining to paper documents will be significantly reduced.
- Eliminating the wait to use the court files. Both digitized and digital documents allow for immediate and simultaneous access to the court file, either from a public terminal in the clerk's office or from an Internet-connected PC in a law office.

This is not to say that the transition process is easy. Numerous challenges exist to implement e-filing, including assuring that the XML markup language is useable by law offices, that issues of access are fully understood and debated, and that members of the Bar come to understand and embrace its advantages. Yet given the benefits of e-filing and working with electronic documents, we are well positioned to address the challenges and begin the dialogue. ☞

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Last April, members of the Access to Justice Board's Communications and Technology Committee discussed the diverse ways that advances in technology create or breach access barriers for clients. Concerned about the dual role technology plays in the lives of those for whom the access to justice network functions as a safety net, the Committee determined that efforts should be taken to explore the need for a technology bill of rights. The Committee created a project outline to provide a roadmap for engaging ATJ network members across the state in a discussion about the drafting of this document.

One opportunity for such a discussion will occur at Celebration 2000 in Spokane. On Saturday, September 16, the Committee and the conference planning committee will jointly sponsor a program whose goal is to help attendees identify barriers to the achievement of digital justice. Planners envision that the program, entitled "The Digital Divide and Digital Justice: Do Clients Need a Technology Bill of Rights?" will generate enthusiasm for the bill of rights project. This program will also set the stage for the creation of a document which will become a core statement expressing beliefs about the role technology plays in advancing the interests of clients served by the civil equal justice delivery system.

The program's featured speaker will be New York attorney and technology consultant Richard Zorza, who will talk about the role technology plays in delivering services to poor and middle-income communities. Among the topics Zorza and other panelists will discuss are how to identify and assess barriers to the achievement of digital justice.

Structuring the framework needed to create a technology bill of rights requires finding answers to the following questions outlined by the Committee:

- Who will play a role in steering the project?
- Who will be the drafters?
- How will technology access issues be spotted as they relate to justice system processes and information resources?
- How will rights be articulated and strategies designed to ensure that rights are protected?
- How will standards for the review of technology as applied to justice system processes and information resources be publicized?
- What sort of document will be created?
- What forums will review the document?
- Who will be signatories to the document?
- What timeline would be realistic for the creation of the document?



- What steps must be taken to ensure that the benchmarks established in the document become part of a living process?

While the term "digital divide" stands as a buzzword to describe the gulf between those who have access to computers and the Internet and those who do not, the underlying problems of access defy a simple explanation driven solely by financial means. A recent survey conducted by National Public Radio, the Kaiser Family Foundation and Harvard University's Kennedy School of Government defined the digital divide as one not limited to race, income or education. Rather, the survey found the persistent divide to be *access* to technology and the Internet, whether from home or from outside the home (e.g., workplace or courthouse). Often, because of time and privacy constraints, using computers and connecting to the Internet from outside the home makes the experience more difficult.

As corporations, government and the courts embrace technology and deliver products and services via the Internet, gateways to critical information close for those without technology skills and access points. Many government technology projects begin as duplications of existing practices. The next generation of projects built on the power of technology to assimilate and manage information might never be available to users in formats other than electronic, such as paper. Yet the potential exists for technology to provide the keys to break down existing access barriers. As technology plays a more dominant role in information delivery systems, the advocacy community's traditional role of speaking for the disenfranchised becomes even more critical.

While market forces continue to make technology more accessible, simply providing access to computers, networks and information will not address the demands of populations with special needs. Mentoring and training will continue to be critical factors tied to building a viable bridge over the digital divide for these populations. Significant research and study efforts have focused on such issues as training and support, access to equipment, privacy and cost factors. Attention also centers on critical issues involving

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Internet content-related barriers such as lack of cultural diversity, lack of access to local information, literacy and language barriers. For an online information environment based primarily on the corporate business model, the focus has not been to provide content targeted to the needs of people with limited literacy or English language skills, or with distinctive cultural practices and beliefs. Appropriate online content for these potential audiences for Internet services will develop only as these segments of the community and their advocates become directly involved in the development of government and corporate services.

While an examination of issues tied to digital divide barriers highlights challenges for the clients of the access to justice community, technology also holds the key for innovations of great promise. Technology has the potential to facilitate the creation of information and service delivery systems that are color, culture, ability and age blind. To encourage the development of innovative technology-based solutions to justice system barriers, a technology bill of rights could be shared with content providers in both private and public sectors. As an expression of core values of the access to justice community, a document such as this could be tied to principals expressed in the Hallmarks¹ document and to other fundamental expressions of belief such as the Constitution. A bill of rights might serve as a framework for encouraging government and private sector entities to create new resources to fill service gaps. The document could also function as a tool for reviewing existing technology applications, and assessing their functionality as enablers of justice. The technology bill of rights could be used to ensure that the developers of new products and services for access to justice clients consider and create design function-

ality to help bridge the digital divide.

Consider how such a document might be used in projects currently underway to develop electronic court filings and digitize existing court records. The first phase of many of these model projects limits both the subject matter jurisdictions may cover by electronic filings and the entities that may file actions. Before electronic filings become the only mechanism for initiating an action, however, the designers of court filing technology and members of the access to justice community could meet to discuss the implications of universal electronic filing and access to court records. The design team could be encouraged to address barriers to universal access, with consideration given to developing community access points. System training for special-needs audiences would be built into the implementation plan. The bill of rights document would provide the underpinning for ensuing discussions.

To learn more about the digital divide and digital justice issues, explore the following websites:

- The Center for Democracy & Technology (www.cdt.org)
- The Digital Divide network (www.digitaldividenetwork.org)
- The Electronic Frontier Foundation (www.eff.org)
- National Public Radio (www.npr.org/programs/specials/poll/technology/)

For information about participating in this important discussion and attending the Celebration 2000 Saturday program featuring Richard Zorza, contact Committee Chair Robin Lester at robinl@kcba.org or 206-340-2570. ☞

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NOTE

¹ *Hallmarks of an Effective Civil Legal Service Delivery System* is a set of guidelines adopted by the ATJ board in 1995 for reviewing, planning and implementing a viable legal service delivery system for low-income people.