

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ESTABLISHMENT OF THE TASK) Administrative Order
FORCE ON COURT MANAGEMENT) No. 2016 - 129
OF DIGITAL EVIDENCE AND)
APPOINTMENT OF MEMBERS)

Litigation increasingly involves digital evidence, particularly from audio and video recording devices. Technology used to create, store, and display information has changed dramatically over the years and will continue to do so in the future. More recently, the creation of digital video evidence through the use of smart-device cameras, body-worn cameras, and other public and private surveillance equipment has grown exponentially. Courts responsible for managing digital evidence face unique challenges related to receiving, retrieving, accessing, formatting, converting, and retaining digital evidence as well as protection and disposition issues.

Earlier this year, the Joint Technology Committee (JTC) of the Conference of State Court Administrators, the National Center for State Courts, and the National Association for Court Management published the “JTC Resource Bulletin: Managing Digital Evidence in the Courts.” The JTC Resource Bulletin recommends that state court leadership develop policies for court management of digital evidence. This Bulletin provides a good framework for discussion and relevant policy development.

Policy questions described in and suggested by the Bulletin include:

1. Should court digital evidence be stored locally, offsite, or using cloud services and how long and in what manner should such evidence be retained?
2. Should management of court digital evidence be centralized or decentralized considering technology costs, expertise, and infrastructure necessary to manage it?
3. Should court rules governing public records be revised to address access and privacy concerns, including for victims, non-victim witnesses, and other identifying information often included in video evidence?
4. Should new or amended rules on chain of custody evidence be developed for handling court digital evidence?
5. Should standardized acceptable formats, viewing, storage, preservation, and conversion formats or technical protocols for digital evidence be adopted for all courts?

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that:

ESTABLISHMENT: The Task Force on Court Management of Digital Evidence is established.

1. PURPOSE: The Task Force shall review the questions presented above and make recommendations on each. The Task Force shall review the JTC Resource Bulletin for additional information on these and other policy issues, as well as any other relevant journals, publications, or other research related to this topic and make recommendations as it deems appropriate.

The Task Force shall submit its report and recommendations to the Arizona Judicial Council not later than October 1, 2017, and file a rule change petition not later than January 10, 2018, with respect to any proposed rule changes.

2. MEMBERSHIP: The individuals listed in Appendix A are appointed as members of the Task Force effective immediately, and ending July 31, 2018. The Chief Justice may appoint additional members as may be necessary.

3. MEETINGS: Task Force meetings shall be scheduled at the discretion of the Chair. All meetings shall comply with the Arizona Code of Judicial Administration § 1-202: Public Meetings.

4. STAFF: The Administrative Office of the Courts shall provide staff for the Task Force and shall assist the Task Force in developing recommendations and preparing any necessary reports and petitions.

Dated this 6th-day of December, 2016.

SCOTT BALES
Chief Justice

Attachment: Appendix A

Appendix A

Membership List

Task Force on Court Management of Digital Evidence

Chair

Vice Chief Judge Samuel A. Thumma
Arizona Court of Appeals, Division One

Members

Mike Baumstark
Deputy Administrative Director
Arizona Supreme Court
Administrative Office of the Courts

David Bodney, Partner
Ballard Spahr

Judge Kyle Bryson
Presiding Judge
Superior Court in Pima County

Colleen Clase
Senior Counsel
Arizona Voice for Crime Victims

Jessica Cortes
Court Administrator
City of Flagstaff Municipal Court

Judge David Cunanan
Superior Court in Maricopa County

Karen Emmerson
Deputy Public Defender
Maricopa County

Judge Maria Felix
Justice of the Peace
Pima County Consolidated Court

Jeff Fine
Justice Court Administrator
Maricopa County Justice Courts

Jennifer Garcia
Assistant Federal Defender
Federal Public Defender
District of Arizona

Judge Charles Gurtler
Presiding Judge
Mohave County Superior Court

Aaron Harder
Bureau Chief - Vehicular Crimes
Maricopa County Attorney's Office

Hon. Michael Jeanes
Clerk of Court
Superior Court in Maricopa County

Michael Kurtenbach
Executive Assistant Chief
Community Services Division
City of Phoenix Police Department

Zora Manjencich
Assistant Attorney General
Office of the Attorney General

James Melendres, Partner
Snell & Wilmer

Michael Mitchell
Special Assistant to the Chief Deputy
Maricopa County Attorney's Office

Jamie Sheppard
Senior Project Manager
E-Discovery Services & Strategy
Perkins Coie

Lt. Col. Heston Silbert
Deputy Director
Department of Public Safety

Judge Don Taylor
Chief Presiding Judge
City of Phoenix Municipal Court