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NOEL K. DESSANT
CLERK SUPREME COURT
BY *[Signature]*

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In The Matter Of:)

POLICIES FOR ELECTRONIC)
COMMUNICATIONS FOR THE)
ARIZONA JUDICIAL DEPARTMENT)

Administrative Order
No. 99- 44

SUPREME COURT

On February 5, 1998 by Administrative Order 98-09 the purposes, membership and organization of the Commission on Technology were redefined from those originally established by Administrative Order 90-21 on June 6, 1990. In the 1998 order, among other things, the Commission was specifically charged to:

Oversee the statewide judicial department data communications network, including establishing security standards and procedures; and

Develop and submit for approval statewide technical standards which shall be used in all court automation projects, including security, disaster recovery and communication standards.

Pursuant to those provisions, the Commission on Technology has developed standards for the use of electronic communications on the Arizona Judicial Information Network, including electronic mail and the Internet.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the attached *Electronic Communications Policy for the Arizona Judicial Department* is approved.

IT IS FURTHER ORDERED that these policies apply to all courts using the Arizona Judicial Information Network (AJIN). Courts not using AJIN for their electronic mail or Internet access are required to have substantially similar written electronic communications policies.

Dated this 1st day of July, 1999.

CHARLES E. JONES
Vice Chief Justice

**ARIZONA JUDICIAL DEPARTMENT
ELECTRONIC COMMUNICATIONS POLICY**

I. INTRODUCTION

I.A. Description. This statement sets forth the Arizona Judicial Department's policy with regard to use of, access to, and management of electronic communications and Internet access. For purposes of this policy statement, "electronic communication" may include but is not limited to electronic mail (email), Internet services, voice mail, and facsimile messages that are sent or received by judicial officers, court employees, and other authorized users, and the network resources over which such communications are transmitted. "Internet" may include, but is not limited to, access to the World Wide Web.

I.B. Definitions.

(1) Appointing Authority

The "**Appointing Authority**" is the judge, clerk of court, administrator, or their designee who is designated to supervise authorized users.

(2) Users

"**Users**" refers to all court officials and employees who are users of the Arizona Judicial Information Network and also includes any non-court persons who are authorized users.

II. POLICY

II.A. Purpose: Electronic communications and Internet technology allow access to a broad range of ideas and information, and facilitates the exchange of ideas and information in a timely and efficient manner. The Arizona Judicial Department supports the use of electronic communications, networked information, and Internet resources to further its mission, and to foster communication and information exchange within the Court and the justice community. The purpose of this policy is to set forth the guidelines and mutual responsibilities for managing and using the Arizona Judicial Information Network's (AJIN) electronic communications resources and Internet access. The Administrative Office of the Courts is responsible for operating and managing the Arizona Judicial Information Network, electronic communications resources, and Internet access, and ensuring that AJIN's resources are used to support the business of the Court and the judicial branch through implementation of appropriate policies and procedures. AJIN users are expected to be cognizant of the rules and conventions that make these resources secure and efficient, and to use the resources in a responsible manner, consistent with the work-related, professional, and educational

purposes for which the Court provides these resources.

II.B. Persons Covered by This Policy. The policy applies to all users (including those who are not court employees) of the computer systems and networks of the Arizona Judicial Information Network, which is operated and managed by Administrative Office of the Courts.

II.C. Authorized Use. Authorized users shall use Court-provided electronic communications resources and Internet access responsibly, for purposes relating to the business of the Court and the judicial branch or enhancing the work environment of the Court, as set forth in this policy. Those authorized users who bring their own personal computers to work and access the Internet from those computers, as well as those who access email and the Internet from remote locations via any dial-up connection through AJIN, will be subject to these policies as well.

II.D. Relationship to Other Rules. Use of electronic communications and Internet resources is subject to all other rules governing the Arizona Judicial Department and court personnel, including the code of conduct, equal employment opportunity or sexual harassment policies and Supreme Court Rule 123 governing public access to court records. Each local court's policies and procedures may further clarify or provide for more restrictive access provisions of these policies for its staff. Statements in this policy regarding permissible and prohibited uses of electronic communications and the Internet are intended as additional guidelines and examples.

III. RESPONSIBLE USE OF ELECTRONIC COMMUNICATIONS AND INTERNET RESOURCES.

III.A. RESPONSIBLE USE OF ELECTRONIC COMMUNICATIONS.

III.A.1. Professionalism. Electronic communications shall be professional and business-like. Electronic mail messages, whether sent within the Judicial Department or outside the Judicial Department via wide area networks or the Internet, should withstand public scrutiny without embarrassment to the local court, the Judicial Department, other users, and the public, both as received by the original recipient and if forwarded beyond the original intended recipient.

III.A.2. Professional Use. It is permissible to use the Arizona Judicial Department's email systems for limited professional purposes. Approved professional uses may include participation in professional associations, continuing education, scholarly publication, communications with colleagues, and subscription to listservs, news groups or topical updating services related to the Court, the judicial branch, or a user's professional duties. Users subscribing to such services shall keep up with the mail received, regularly delete messages once read, learn the rules associated with

the service and know how to unsubscribe (both for ending participation and for absences such as vacation), and maintain a professional demeanor when posting to a list. Such use is, in all respects, subject to approval of the user's Appointing Authority.

III.A.3. Routine Use.

- a. **Routine Business Use.** Routine business use is permissible and may include: scheduling meetings; requests for information; the assignment of work tasks or clarification of assignments; notification of users' whereabouts, such as sick days or vacation requests.
- b. **Routine Personal Use.** Routine personal use is permissible and may include notifying family members of schedule changes, personal messages to co-workers, and other uses typically permitted to be communicated in or from the workplace in person or by telephone. Such use does not include uses requiring substantial expenditure of workplace time, uses for personal charitable or partisan political solicitations or campaigns, or uses that would otherwise violate court policies with regard to a user's time commitments or court equipment. It is the responsibility of the user sending such messages to ensure that the message is identified, either specifically or clearly by its content, as personal in nature, and not on behalf of the court. Such use is in all respects subject to approval of the user's Appointing Authority.

III.A.4. Official Use. Official communication is a communication pertaining to public business, which must be preserved as a record of official action or policy. Official communications may be transmitted via email as long as they are created and preserved in compliance with applicable record retention and destruction schedules.

III.B. PROHIBITED USES.

III.B.1. Commercial Purposes. Users may not use electronic communications for commercial purposes. Users may not send "serial" or "chain" messages.

III.B.2. Copyright and Intellectual Property Rights. Users shall not use electronic communications to receive or send copies of documents in violation of copyright laws, or to send or receive software in violation of intellectual property laws or rights.

III.B.3. Harassment. Users shall not use electronic communications to intimidate or harass others, or to interfere with the ability of others to conduct court business. Users shall not use electronic communications in a manner that promotes or could be interpreted as discrimination on the basis of race, creed, color, gender, religion, disability, age or sexual preference.

III.B.4. Identification. Users shall clearly identify themselves in any electronic communication, and shall not construct an electronic message or communication so as to appear to be from anyone other than the user.

III.B.5. Unauthorized Access. Users may not capture and “open” electronic communications except as required in order for authorized staff to diagnose and correct delivery problems, and may not obtain access to the files or communications of others unless doing so serves a legitimate business purpose.

III.B.6. Confidentiality. AJIN users have no expectation of privacy. Even though users routinely use email as a form of communication to discuss ideas and pending cases, this form of communication can not be considered secure and no message should be considered absolutely confidential. Electronic mail, particularly when sent via the Internet, should be regarded as an unsecured medium. More information about electronic mail (including copies of the content of messages) is routinely recorded than may be recorded using other communications media. A broader, less controlled set of people may have or gain access to electronic mail, and messages may be misdelivered or forwarded in an instant.

The confidential or privileged status of a communication is determined by Court rule or order, or by statute, and may include such matters as communications relating to employee performance or discipline, and judicial or attorney work product. It is the user’s responsibility to carefully consider the confidentiality requirements of an electronic communication before it is transmitted.

III.B.7. Software. Users may not use AJIN electronic messaging or communications systems to download software, unless they comply with established AJIN policies for approval of loading or operating software on court-provided computers, verification of proper licensing, and scanning for computer viruses.

III.B.8. Adherence to Security Restrictions on Systems and Data. Users shall not attempt to gain unauthorized access to data, to breach or evade any security measures on any electronic communication system, or to intercept any electronic communication transmissions without proper authorization.

III.C. RESPONSIBLE USE OF THE INTERNET.

III.C.1 . Professionalism. Use of the Internet shall be professional and business-like. Such use

should withstand public scrutiny without embarrassment to the court, the judicial branch, other users, and the public.

III.C.2. Professional use. It is permissible to use AJIN's Internet access for limited professional purposes with the approval of the Appointing Authority. Approved professional uses may include participation in professional associations, continuing education, scholarly publication, legal research related to the court, the judicial branch, or a user's professional duties. Such use is, in all respects, subject to approval of the user's Appointing Authority.

III.C.3. Routine use.

a. **Routine Business Use.** Routine business use is permissible and may include, but is not limited to: locating information on a particular topic for work-related use, accessing other courts' information and sites, accessing information by various professional organizations.

b. **Routine Personal Use.** Routine personal use is permissible and may include using the Internet for the location of information relating to personal interests. Such use does not include uses requiring substantial expenditure of workplace time, uses for personal charitable or partisan political solicitations or campaigns, or uses that would otherwise violate court policies with regard to user time commitments or court equipment. It is the responsibility of the user using the Internet to ensure that the use complies with all current policies. Such use is, in all respects, subject to approval of the user's Appointing Authority.

III.C.4. User's personal computer. Those users who bring their own personal computers to work and access the Internet from those computers, as well as those who access email and the Internet from remote locations via any dial-up connection through AJIN, will be subject to these policies as well.

III.D. PROHIBITED USES.

III.D.1. Commercial purposes. Users may not use the Internet for commercial purposes.

III.D.2. Copyright and intellectual property rights. Users shall not use the Internet resources provided by the court in violation of copyright laws, or to download or receive software in violation of intellectual property laws or rights.

III.D.3. Harassment. Users shall not use the Internet access provided by the AJIN to intimidate or harass others, or to interfere with the ability of others to conduct court business. Users shall not use the Internet access provided by AJIN in a manner that promotes discrimination on the basis of race, creed, color, gender, religion, disability, or sexual preference.

III.D.4. Other. Users shall not use the Internet access provided by AJIN for connecting to, posting, or downloading pornographic, offensive, or other material that is inappropriate for the workplace or violates the code of conduct, equal employment opportunity or sexual harassment policies.

III.D.5. Software. Users may not use the Internet access provided by AJIN to download software, unless they comply with established policies for approval of loading or operating software on Court-provided computers, verification of proper licensing, and scanning for computer viruses.

III.D.6. Unauthorized access. Users may not obtain access to the files or communications of others for any purpose unless doing so serves a legitimate business purpose.

III.D.7. Adherence to security restrictions on systems and data. Users shall not attempt to gain unauthorized access to data or to breach or evade any security measures.

IV. ELECTRONIC COMMUNICATIONS AND INTERNET TECHNOLOGY MANAGEMENT RESPONSIBILITIES.

IV.A. ELECTRONIC COMMUNICATIONS AND INTERNET MANAGEMENT.

IV.A.1. Management. The Administrative Office of the Courts manages the computers and the AJIN network on which the Court's electronic communications and Internet access are conducted, and has certain rights to software and data residing on, developed on, or licensed for the Court's computers and networks. AJIN management has the responsibility to administer, protect, and monitor the aggregation of computers, software, and networks operating within the AJIN network.

IV.A.2. Use for Court Purposes. The Appointing Authority has the responsibility of ensuring, through appropriate policies and procedures, that electronic communications, information technology resources and Internet access used by courts under his/her administrative jurisdiction are used to support activities connected with the business of the Court and the judicial branch.

IV.A.3. Use of Software and Data Files. It is the responsibility of each user to learn to use electronic communications software, data files, and Internet resources correctly and efficiently.

IV.A.4. Equitable Use of Resources. AJIN management has the responsibility to manage electronic communications information technology resources and Internet access to ensure that court users have equitable access to these resources. AJIN management may occasionally need to restrict use of shared communications systems, including requiring users to refrain from using any software program, communications practice, or database that is unduly resource-intensive.

IV.A.5. Efficient Use of Resources. It is the responsibility of users to use electronic communications media and the Internet efficiently, to avoid wasting or overburdening the Arizona Judicial Department's network computing resources. Users should accept limitations or restrictions on file storage space, usage time, or amount of resources consumed, when asked to do so by systems administrators. In particular, users should carefully consider and appropriately limit the use of groups to send messages to multiple recipients, sending of announcements, and appending large text or graphics files.

IV.A.6. Policies and Procedures. Appointing Authorities have the responsibility to communicate the Arizona Judicial Department's electronic communications, Internet access, information technology policies, and user responsibilities, systematically and regularly to all of their users.

IV.A.7. Monitoring Effectiveness of Policies and Procedures. AJIN management shall monitor the application and effectiveness of electronic communications and information technology policies, and use of the Internet and propose changes in policy as events or technology warrant.

IV.B. SECURITY AND PRIVACY.

IV.B.1. Security Procedures. AJIN management shall establish and support reasonable standards and procedures for security of electronic data and information produced, used, or distributed in the Arizona Judicial Department, and to ensure the integrity and accuracy of data the Court maintains.

IV.B.2. Protection Against Unauthorized Use. All users have the responsibility to protect AJIN's computers, networks and data from destruction, tampering, and unauthorized inspection and use. It is the responsibility of each user to establish appropriate passwords for the user's account in the first instance, to change passwords periodically as may be required by network system administrators, to avoid sharing or disclosing passwords to others, and to prevent unauthorized or inadvertent access by others to their computers and files.

IV.B.3. Protection Against Data Loss. AJIN management has the responsibility to ensure that the AJIN's computer systems do not lose important data due to hardware, software, or administrative failures or breakdowns. Authorized systems administrators or technical personnel may occasionally need to examine the contents of particular data files to diagnose or correct problems.

IV.B.4. Encryption. Only specified forms of encryption are permitted. AJIN email users may encrypt their electronic mail and files only with the use of software approved by AJIN management. Encryption may only be used for specialized transactions and only with express approval of the

court's Appointing Authority. The encryption key to the software must be retained by AJIN management to access encrypted messages, which may limit the degree of privacy protection provided by such encryption.

IV.C. COURT ACCESS AND DISCLOSURE.

IV.C.1. Monitoring of Electronic Communications. AJIN management will not engage in the systematic monitoring of electronic mail messages, the electronic records created by use of e-mail systems, or other electronic files created by users.

IV.C.2. Monitoring of Internet access. AJIN management will engage in the systematic monitoring of Internet access and amount of time spent on the Internet by users. Monitoring will primarily be for the purpose of supporting the management responsibilities related to the equitable and efficient use of resources, but may also include monitoring of unlawful activity, conduct that would adversely reflect on the court, or other violation of this policy if detected or suspected.

IV.C.3. Access. AJIN management reserves the right to permit authorized staff to access and disclose the contents of electronic messages, provided that it follows appropriate procedures, in the course of an investigation triggered by indications of user misconduct, as needed to protect health and safety, as needed to prevent interference with the mission of the courts, to protect system security, comply with legal process or fulfill court obligations to third parties, protect the rights or property of the courts, or as needed to locate substantive information required for court business that is not more readily available by some other means.

IV.C.4. Limitations on Disclosure and Use of Information Obtained by Means of Access or Monitoring. The contents of electronic communications, properly obtained for legitimate business purposes, may be disclosed without permission of the user. The Arizona Judicial Department will attempt to refrain from disclosure of particular messages if disclosure could create personal embarrassment, unless such disclosure is required to serve a specific business purpose, satisfy a legal obligation, or to appropriately respond to requests for records disclosure under state or federal laws governing public access to records.

IV.D. PUBLIC ACCESS AND DISCLOSURE.

IV.D.1. Public Records. Electronic mail messages and files should be stored, preserved, and made retrievable according to law and policies and procedures defining the public record status of the data. The designations in section III(A) of this policy should be kept in mind when creating mail messages, but materials in all categories could be released to the public if it is determined that the information is not exempt from disclosure.

IV.D.2. Public Access to Court Records. The public record status of court records and communications is determined by Rule 123 of the Arizona Rules of the Supreme Court, *In the Matter of Public Access to Court Records* (as modified or superseded by future rules). This rule governs access to the records of all courts and administrative offices of the judicial department of the State of Arizona.

IV.D.3. Public Access Address. The Arizona Judicial Department, or AJIN management on its behalf, shall provide, publish and maintain an electronic mail address for public access to courts, preserving the confidentiality of judicial officers and court management addresses, as needed, and providing a single point of access for electronic public inquiries.

IV.E. E-MAIL RECORDS RETENTION AND DISPOSITION.

IV.E.1. Records Retention and Disposition. Email communications will be retained and disposed of pursuant to an approved retention schedule and consistent with Rule 123 of the Arizona Rules of the Supreme Court

IV.E.2. Procedures. AJIN management has the responsibility to establish or modify, as needed, in light of the retention schedule, reasonable standards and procedures for maintaining and purging backups of electronic data and information prepared in or transmitted by electronic mail.

V. POLICY ENFORCEMENT.

V.A. When necessary to enforce the Arizona Judicial Department's rules or policies, an authorized administrator may disable network connections by certain computers, require adequate identification of computers and users on the network, undertake audits of software or information on shared systems, or take steps to secure compromised computers that are connected to the network.

V.B. Appropriate disciplinary action will be taken against individuals found to have engaged in prohibited use of the AJIN's electronic communications resources. Such action may include, but is not limited to, loss of access to the electronic communications, computer, or network resources, as well as any other appropriate disciplinary action.

V.C. For authorized non-court users using AJIN's electronic communications resources, prohibited or inappropriate use may result in possible legal sanctions or cancellation or nullification of the contract.

V.D. Users are expected to cooperate with authorized investigation of technical problems, and of possible violations of this policy. Failure to do so may be grounds for disciplinary measures.

ACKNOWLEDGMENT OF ELECTRONIC COMMUNICATIONS AND INTERNET ACCESS POLICY

I understand that the confidentiality and protection of the Arizona Judicial Department's information is of the utmost importance. I have read and understand the Arizona Judicial Department's policy on use of electronic communications, information technology resources and Internet access, and agree to abide by the terms of that policy.

I understand that all information stored in, transmitted or received through the Arizona Judicial Information Network's (AJIN) information systems is the property of the Arizona Judicial Department, and is to be used only for authorized purposes. I further understand that authorized representatives of AJIN may monitor the use of AJIN's systems from time to time to ensure such use is consistent with the Arizona Judicial Department's policies and interests and that I can have no expectation of privacy. Further, I am aware that use of a password or code does not in any way restrict the Arizona Judicial Department's right or ability to access electronic communications.

I am aware that any violation of the email and Internet access policy may result in loss of system privileges, possible legal sanctions, and, for employees, disciplinary action up to and including termination.

Name (please print)

Signature

Date

Court/Department/Company