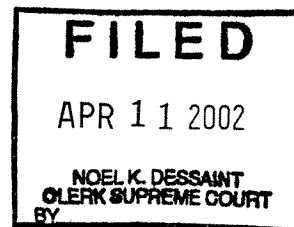


IN THE SUPREME COURT OF THE STATE OF ARIZONA



In the Matter of:)
)
ARIZONA CODE OF JUDICIAL)
ADMINISTRATION § 1-503:)
ELECTRONIC COMMUNICATIONS)
_____)

Administrative Order
No. 2002 - 30
(Replacing Administrative
Order No. 99-44)

The above captioned provision having come before the Arizona Judicial Council on March 14, 2002, and having been approved and recommended for adoption,

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

IT IS ORDERED that the above captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration replacing Administrative Order No. 99-44.

Dated this 11th day of April, 2002.

CHARLES E. JONES
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 1: Judicial Branch Administration
Chapter 5: Automation
Section 1-503: Electronic Communications

A. Definitions. In this section, unless otherwise specified, the following definitions apply.

“Appointing Authority” means the judge, clerk of court, administrator, or their designee who is designated to supervise authorized users.

“Court” means all Arizona judicial department courts and offices subject to this policy.

“Electronic communication” means, but is not limited to, electronic mail (email), Internet services, voice mail, and facsimile messages that are sent or received by judicial officers and employees, and other authorized users, and the network resources over which such communications are transmitted.

“Internet” means the global network connecting millions of computers and includes, but is not limited to, access to the World Wide Web.

“Official communication” means a communication pertaining to public business, which must be preserved as a record of official action or policy.

“Users” means all court officials and employees who have access to the Arizona Judicial Information Network (AJIN) and also any non-court persons who are authorized users.

B. Purpose.

1. Purpose. Electronic communications and Internet technology allow access to a broad range of ideas and information, and facilitate the exchange of ideas and information in a timely and efficient manner. The 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 section is to set forth the guidelines and mutual responsibilities for managing and using AJIN electronic communications resources and Internet access. The Administrative Office of the Courts (AOC) is responsible for operating and managing AJIN, electronic communications resources and Internet access, and for ensuring that AJIN’s resources are used to support the business of the local court and the judicial department 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 these resources are provided.

2. **Persons Covered.** The section applies to all courts using AJIN. Courts not using AJIN for their electronic mail or Internet access are required to have substantially similar written electronic communications policies.
3. **Authorized Use.** Users shall use electronic communications resources and Internet access responsibly for purposes relating to the business of the court or enhancing the work environment of the court, as set forth in this section. 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, are also subject to this section.
4. **Relationship to Other Rules.** Use of electronic communications and Internet resources is subject to all other rules governing the judicial department and court personnel, including the code of conduct, equal employment opportunity or sexual harassment policies and Rule 123, Rules of the Supreme Court of Arizona, 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 section regarding permissible and prohibited uses of electronic communications and the Internet are intended as additional guidelines and examples.

C. Responsible Use of Electronic Communication and Internet Resources.

1. **Responsible Use of Electronic Communications.**
 - a. **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, must 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.
 - b. **Professional Use.** It is permissible to use the judicial department's email systems for limited professional purposes. Approved professional uses include:
 - (1) Participation in professional associations;
 - (2) Continuing education;
 - (3) Scholarly publication;

- (4) Communications with colleagues, and
- (5) Subscription to listservers, news groups, or topical updating services related to the local court, the judicial department, or a user's professional duties. Users subscribing to these services shall:
 - (a) Keep up with the mail received, regularly deleting messages once read;
 - (b) Learn the rules associated with the service;
 - (c) Know how to unsubscribe (both for ending participation and during absences or vacations), and
 - (d) Maintain a professional demeanor when posting to a list.

This use is subject to approval of the user's appointing authority.

c. Routine Use.

(1) Routine Business Use. Routine business use is permissible and includes:

- (a) Scheduling meetings;
- (b) Requesting information;
- (c) Assigning of work tasks;
- (d) Clarifying of assignments;
- (e) Notifying others of a user's whereabouts, and
- (f) Making sick days or vacation requests.

(2) Routine Personal Use. Routine personal use is permissible and includes:

- (a) Notifying family members of schedule changes;
- (b) Sending personal messages to co-workers, and
- (c) Communicating information that is typically permitted in or from the workplace in person or by telephone.

Routine personal use does not include expending substantial workplace time, using email for personal charitable or partisan political solicitations or campaigns, or using email for purposes 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 these personal 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. Routine personal use is subject to approval of the user's appointing authority.

- d. Official Use. A user may transmit official communications via email as long as they are created and preserved in compliance with applicable record retention and destruction schedules.

2. Prohibited Uses.

- a. Commercial Purposes. Users shall not use electronic communications for commercial purposes. Users may not send or forward "serial" or "chain" messages.
- b. 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.
- c. Harassment. Users shall not use electronic communication 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.
- d. Identification. Users shall clearly identify themselves in any electronic communication, and shall not construct an electronic message or communication which appears to be from anyone other than the user.
- e. Unauthorized Access. Users shall not capture and "open" electronic communications addressed to others except as required for authorized staff to diagnose and correct delivery problems, and shall not obtain access to the files or communications of others unless doing so serves a legitimate business purpose.
- f. Privacy. AJIN users have no expectation of privacy. Even though users routinely use email as a form of communication to discuss ideas and pending cases, they should not consider this form of communication as secure nor any message absolutely confidential. Electronic mail, particularly when sent via the Internet, is 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 are too easily delivered or forwarded in error.

- g. Confidential Communications. The confidential or privileged status of a communication is determined by court rule, order statute, and may include 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.
- h. Software. Users may not use AJIN to download software, unless they comply with established AJIN policies for obtaining approval for loading or operating software on court provided computers, verifying proper licensing, and scanning for computer viruses.
- i. 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.

3. Responsible Use of the Internet.

- a. Professionalism. Use of the Internet shall be professional and business-like. Any use shall withstand public scrutiny without embarrassment to the local court, the judicial department, other users, and the public.
- b. Professional Use. Users may use AJIN's Internet access for limited professional purposes with the approval of the appointing authority. Approved professional uses include:
 - (1) Participating in professional associations;
 - (2) Obtaining continuing education;
 - (3) Accessing or publishing scholarly publications, and
 - (4) Performing legal research related to the local court, the judicial department or a user's professional duties.

This use is subject to approval of the user's appointing authority.

- c. Routine Use.

- (1) Routine Business Use. Routine business use is permissible and includes, but is not limited to:
 - (a) Locating information on a particular topic for work related use;
 - (b) Accessing other courts' information and sites, and
 - (c) Accessing information by various professional organizations.
- (2) Routine Personal Use. Routine personal use is permissible and includes using the Internet for locating information relating to personal interests. Routine personal use does not include:
 - (a) Expending substantial workplace time;
 - (b) Using access for personal charitable or partisan political solicitations or campaigns, or
 - (c) Using access for purposes that would otherwise violate court policies with regard to a user's 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. This use is, in all respects, subject to approval of the user's appointing authority.

- d. 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, shall also be subject to the requirements in this section.

4. Prohibited Uses.

- a. Commercial Purposes. Users shall not use the Internet for commercial purposes.
- b. Copyright and Intellectual Property Rights Violations. Users shall not use the Internet resources provided by AJIN in violation of copyright laws, or to download or receive software in violation of intellectual property laws or rights.
- c. Harassment. Users shall not use the Internet access provided by 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.

- d. Other Prohibited Uses. 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.
- e. Software Downloading. Users shall 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.
- f. Unauthorized Access. Users shall not obtain access to the files or communications of others for any purpose unless doing so serves a legitimate business purpose.
- g. Violations of Security Restrictions on Systems and Data. Users shall not attempt to gain unauthorized access to data or to breach or evade any security measures.

D. Electronic Communication and Internet Technology Management Responsibilities

- 1. Electronic Communications and Internet Management.
 - a. Management. The AOC 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 shall administer, protect, and monitor the aggregation of computers, software, and networks operating within the AJIN network.
 - b. Use for Court Purposes. The appointing authority shall ensure, through appropriate policies and procedures, that electronic communications, information technology resources and Internet access used by courts under the appointing authority's administrative supervision are used to support activities connected with the business of the court.
 - c. Use of Software and Data Files. Each user shall learn to use electronic communication software, data files, and Internet resources correctly and efficiently.
 - d. Equitable Use of Resources. AJIN management shall manage electronic communications information technology resources and Internet access to ensure that 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.

- e. **Efficient Use of Resources.** Users shall use electronic communications media and the Internet efficiently, to avoid wasting or overburdening the judicial department's network computing resources. Users shall 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 shall 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.
- f. **Policies and Procedures.** Appointing authorities shall communicate the judicial department's electronic communications, Internet access, information technology policies, and user responsibilities, systematically and regularly to all their users.
- g. **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 as events or technology warrant.

2. Security and Privacy.

- a. **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 judicial department, and to ensure the integrity and accuracy of data the court maintains.
- b. **Protection Against Unauthorized Use.** All users shall protect AJIN's computers, networks, and data from destruction, tampering, and unauthorized inspection and use. Each user shall establish appropriate passwords for the user's account in the first instance, change passwords periodically as may be required by network system administrators, avoid sharing or disclosing passwords to others except to AJIN management in connection with system administration or troubleshooting tasks, and prevent unauthorized or inadvertent access by others to their computers and files.
- c. **Protection Against Data Loss.** AJIN management shall 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.
- d. **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. Users shall use encryption only for specialized transactions and only with express approval of the appointing authority. The encryption key to the software

shall be retained by AJIN management to access encrypted messages, which may limit the degree of privacy protection provided by such encryption.

3. Access and Disclosure.

- a. Monitoring of Electronic Communications. AJIN management shall not engage in the systematic monitoring of electronic mail messages, the electronic records created by use of email systems or other electronic files created by users.
- b. Monitoring of Internet Access. AJIN management shall systematically monitor Internet access and amount of time spent on the Internet by users. Monitoring shall be primarily for the purpose of supporting the management responsibilities related to the equitable and efficient use of resources, but could also include monitoring of unlawful activity, conduct that would adversely reflect on the court, or other violation of this section if detected or suspected.
- c. 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.
- d. 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 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.

4. Public Access and Disclosure.

- a. Public Records. Users shall store, preserve, and make retrievable electronic mail messages and files according to law and policies and procedures defining the public record status of the data. Users shall consider the designations in paragraph C.1 of this section when creating mail messages, and understand that materials in all categories could be released to the public if it is determined that the information is not exempt from disclosure.

- b. Public Access to Court Records. Rule 123, Rules of the Supreme Court of Arizona, (as modified or superseded by future rules) determines the public record status of court records and communications. This rule governs access to the records of all courts.
- c. Public Access Address. The 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 inquires.

5. Email Records Retention and Disposition.

- a. Records Retention and Disposition. Users shall retain and dispose of email communications pursuant to an approved retention schedule and consistent with Rule 123, Rules of the Supreme Court of Arizona.
- b. Procedures. AJIN management shall 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.

E. Enforcement.

- 1. Audit Authorization. When necessary to enforce the 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.
- 2. Disciplinary Action. Appropriate disciplinary action will be taken against individuals found engaging in prohibited use of the AJIN's electronic communications resources. Disciplinary 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.
- 3. Non-court Users. Prohibited or inappropriate use of AJIN's electronic communications resources by authorized non-court users may result in possible legal sanctions or cancellation of any court contract.
- 4. Cooperation. Users shall cooperate with authorized investigation of technical problems and of possible violations of this section. Failure to do so is grounds for disciplinary measures.