

MICHIGAN TRIAL COURT GUIDELINES AND STANDARDS FOR DIGITAL IMAGING

(rev. 07/14)

throughout the long-term retention period of the records, and 2) provide practical guidance to courts in capturing, storing, retrieving, and retaining digitized court records in such a manner that they are useful within a larger electronic information system.

For definitions, see Appendix A. For information about electronic information systems generally, see Appendix B.

B. Responsibility

Courts must comply with *Michigan Trial Court Case File Management Standards* established by the State Court Administrative Office (SCAO) pursuant to AO 1999-4, records standards prescribed by the Supreme Court and Michigan Court Rules 1.109 and 8.119, Michigan Compiled Law 600.1428, and various other statutory requirements for preserving, reproducing, and maintaining records. Any system that aids the courts in achieving this responsibility in an efficient and cost-effective manner should be considered.

Maintaining records exclusively in electronic format requires a serious and ongoing commitment of financial and human resources for the life of the record. This commitment includes routine and/or required software and hardware maintenance, replacement of media and system components to achieve cost effectiveness, and migration of data and images to future systems. The life of media supporting an imaging system is conservatively estimated at about three years, while records retention and access requirements often exceed this short lifecycle. Policies, management procedures, and technology must be applied from the point at which a system is designed to ensure that records are accessible for as long as they are needed.

Courts must implement reliable records management practices for the electronic environment that provide the court with procedures to: 1) ensure the legal acceptability of their electronic records, 2) reduce records access and retrieval costs through automated workflow, 3) reduce maintenance costs by migrating nonactive records to less expensive media or destroying records in accordance with the retention schedule, and 4) identify economies to manage the migration of records to successive generations of technology and systems.

C. Benefit

Sound records management practices can provide a number of benefits to the courts, such as reduced costs for storage of obsolete records, reduced resources for the retrieval of records required for business activity, and greater accountability in the expenditure of funds. An electronic information system can reduce tasks associated with manual workflow by streamlining procedures. The benefits of imaging reside primarily in the access and distribution of active information. High density storage, multiple user access, rapid retrieval, ease of distribution, ease of updating, and duplicating are among the many benefits of good imaging systems.

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SECTION 1: PROJECT PLANNING

A. Is Imaging the Right Solution

The decision to implement an imaging system must be based on clear business need. Therefore, the key to the successful design, integration, and implementation of a digital imaging system is proper analysis of that need.

The State Court Administrative Office, with the assistance of an Imaging Work Group, has created these guidelines and standards to assist the courts with this analysis. They are intended to offer practical advice as courts tackle the three major phases of system development: project planning; technology assessment and selection; and system implementation. Each phase is addressed in a separate section of the guidelines. By using the guidelines and standards, courts will gain a better understanding of the opportunities, challenges, scope, and scale of a digital imaging project.

B. Legal Issues

A court must develop strategies to meet legal requirements including compliance with the approved *General Records Retention and Disposal Schedule #16 – Michigan Trial Courts*.

MCR 8.119 and the *Michigan Trial Court Case File Management Standards* require courts to comply with specified retention periods for records. Courts should adopt procedures that protect restricted records from unauthorized access, ensure the integrity of all data that the system holds, and allow public access to records consistent with these requirements, whether or not that information is maintained electronically.

C. Records Management Issues

Many records management issues must be considered when planning an imaging system. For instance, every record series has a retention and disposal schedule stating how long records must be retained. A records management plan must be in place and followed scrupulously to ensure that information is kept and remains accessible for the time period required by the retention and disposal schedule.

Procedures manuals and other system documentation should become a part of a court's approved records and disposal schedule. Addressing these concerns at the design stage and putting in place the proper procedures from the beginning will ensure routinely managed retention and disposal of records within the system.

One of the greatest challenges facing courts today is the continued viability of their systems and preservation of their records. To meet this challenge, courts must employ strategies that transcend rapid technology changes. The success of such strategies depends upon several factors including open-systems architecture, component upgrades, stable storage environment, stable file format, and accurate data transfer. The goal of these guidelines

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and standards is to provide courts the tools they need to design digital imaging systems to ensure long-term functionality.

The Records Reproduction Act (MCL 24.401-24.406) regulates reproduction of public records by Michigan government agencies at all levels. This law requires the Michigan Department of History, Arts, and Libraries (now referred to as Records Management Services of the Department of Technology, Management and Budget) to promulgate technical standards to ensure the continued accessibility and usability of records that are digitized throughout their retention period. This document supplements the *Technical Standards for Capturing Digital Images from Paper or Microfilm*.

A court is responsible for managing its records and information and must implement appropriate policies, procedures, and business practices in order to ensure that the digital imaging system selected by the court will protect the authenticity, reliability, integrity, and usability of the records contained in the system and will address a migration path to a new system, which will provide complete protection for the full-retention period of the records stored in the system. In doing so, the court must follow those specific laws, rules, and standards that govern court records.

If an independent contractor, a consultant, or some other party outside of government produces a reproduction of a record for a court, the court shall ensure that the party acts in compliance with these guidelines and standards. A court may ensure compliance through execution of a contract that contains adequate legal safeguards.

D. Budget Issues

The total cost of a digital imaging system includes not only the initial purchase of hardware, software, and technical support, but also ongoing costs such as: 1) storage media including optical disks, hard drives, network servers, etc., 2) maintenance contracts that include preventative maintenance, hardware repairs, software upgrades, and telephone technical support (typically this expense runs about 15 percent to 20 percent of the original purchase price per year), 3) onsite technical support, and 4) labor.

Courts must also consider periodic costs that are associated with ever-changing technology such as: 1) refreshing media every three to five years depending on the media, 2) technology upgrades when necessary, 3) replacement of obsolete hardware about every three to five years, 4) migration as necessary, 5) system documentation that reflects changes as a result of upgrades and migration, and 6) training staff on new systems.

Other costs to consider are the consequences of market change. Although these costs may be difficult to quantify, they are inevitable, and courts must budget for this change.

Before selecting a vendor, a court should research the vendor's stability and reputation to ensure that the company has provided others with excellent products and services. Courts

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SECTION 3: SYSTEM IMPLEMENTATION

Implementing an imaging system requires careful planning of resources and of the imaging system. The court should have in place a plan and budget to allow updating and operation of the imaging system. The court should identify legal issues regarding access to and integrity of the records in the imaging system. Additionally, the court should have a plan in place for records storage and migration.

A. Staffing

Successful implementation of an imaging system requires cooperation of many different internal and external resources. Internally, staff must be hired or trained to operate and maintain an imaging system. At a minimum, the court will need a system administrator and/or project leader and staff to operate the imaging system, which includes scanning and indexing, quality control, and other processing needs.

The system administrator or project leader must have a sound working knowledge of the organization and the records it creates and must also acquire the skills and knowledge necessary for the design, maintenance, and daily operation of the system.

Imaging system staff must have a respectable working relationship with the staff who provide support for the court's imaging application and who can provide advice regarding system compatibility, data integrity, and system upgrades.

The system vendor must be able to provide training, maintenance, and ongoing support in operating the court's imaging system. Both imaging staff and technical support staff must have an effective working relationship with the vendor's technical support staff to ensure the system's smooth operation.

B. Legal Issues Revisited

Statutes and court rules define how records are created and maintained and will affect a court's decisions with regard to its implementation of a digital imaging system. A court needs to develop strategies to meet these legal requirements including compliance with the approved *General Records Retention and Disposal Schedule #16 – Michigan Trial Courts*.

MCR 8.119 and the *Michigan Trial Court Case File Management Standards* require that data be maintained for specified periods of retention and, unless the information is specifically restricted, for public access. Courts should adopt procedures that protect restricted records from unauthorized access, ensure the integrity of all data that the system holds, and allow public access to records consistent with these requirements.

Whether imaged or not, the ability to rely on records as evidence for legal, audit, and other purposes depends on establishing their authenticity and reliability. The court must be able to prove that a recordkeeping system is used as part of the normal course of business. This

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can be accomplished by documenting the specifications of the imaging system, training staff in the operation of the system, ensuring the integrity of the records, and conducting random audits.

C. Imaging System Documentation

To maintain an effective operation and ensure retrieval of data from the electronic records system as the operating environment changes over time, there must be full documentation of system administration and standard operating procedures. See also **Documentation of the Imaging System** in the Introduction on page 3.

1. System Administration

Document all system equipment specifications (including hardware, software, brand names, version numbers and dates of installation, upgrades, replacements, and conversions). Document the contact information for manufacturers and vendors. Develop technical operations manuals (data structures and content, file layout and data dictionaries, enhancement algorithms, etc.).

2. Standard Operating Procedures

Develop standard operating procedures to define all aspects of the imaging system. Depending upon how the capture process and the organization is structured, procedural documentation may be contained in one or more formats. Procedures should include at least the following and describe how to: a) test and clean equipment, b) prepare documents, c) capture images, d) back up data and images, e) provide access and security, f) administer and maintain the system, and g) leave audit trails.

When developing the general standard operating procedures for document preparation and image capture, define the necessary tasks, scanner settings, and product deliverables for each record type being scanned. These include: a) a description of the current environment, b) a description of the desired result, c) document preparation requirements and instructions, d) documented results of the quality control sample, e) index attributes, f) scanner settings, g) file format and compression method, h) resolution, i) and quality control processes.

D. Training

Training manuals should be developed and maintained and uniform training procedures put in place to ensure that the court's imaging staff is properly trained in operating the system. Courts should maintain written documentation showing: 1) who has been trained in the system, 2) that those individuals follow the normal recordkeeping practices established by the court, and 3) that those individuals have the necessary skills to operate the imaging system. The court's human resources department may be able to help develop training

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I. Risk Management and Disaster Recovery

As part of the initial planning phase, a comprehensive disaster management plan should be developed. The plan should include standard backup and recovery procedures, as well as quality control and storage procedures such as those mentioned previously. In the case of a disaster, maintaining off-site copies of records may be the only answer for recovering data. A test of both the prevention and data recovery guidelines should be conducted on a regular basis.

J. Migration

In addition to policies and procedures for physical storage of media, it is vital that strategies be in place for migration of records. Electronic media are less stable than paper. Because rapid changes in computer technology are constant, a conversion strategy for retaining and retrieving stored information should include migration strategies.

Migration is the process of transferring digital information from one generation of hardware and software to the next. Currently, migration is the best practical means for retaining and retrieving data over time. Migrations must be carefully planned, executed, and audited to ensure against data loss. Although migration is a time-consuming and expensive process, with proper strategies in place, the costs can be minimized.

An additional factor that must be considered for a migration strategy is arranging for the rights to copyrighted software. Courts must negotiate with vendors for the rights to the data and the ability to migrate necessary software components to access the data.

K. Retention and Preservation

The court is responsible for managing its records and information and shall implement appropriate policies, procedures, and business practices in order to ensure that a digital recordkeeping system selected by the court will: 1) protect the authenticity, reliability, integrity, and usability of the records contained in the system, and 2) will address a migration path to a new system that will provide complete protection for the full retention period of the records stored in the system. In addition to the images, courts must maintain records of the business transactions associated with the creation, receipt, movement, storage, and retrieval of these images.

Courts are required by law to retain and to make available certain types of records for a determined period of time. No records may be destroyed unless they are on the approved *General Records Retention and Disposal Schedule #16 – Michigan Trial Courts*. Each record series has a defined retention period, which periods are further defined as short-term (from creation up to ten years) and long-term (ten years and longer). After a record has met its retention period, the court should determine the disposition of the record in accordance with the approved *General Records Retention and Disposal Schedule #16 – Michigan Trial Courts*.

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If a policy decision is made that records will be disposed at the end of their retention period, it is important that a plan for disposal is in place before implementing the imaging system. Under this policy, standards must be developed to ensure records are completely destroyed when the retention periods have been met.

Preservation in the digital world means ensuring continuing access to high quality, eye-readable original source documents. Permanent records will require a well-developed migration strategy and the most diligent efforts to keep them accessible. As much contextual information as possible must be captured to ensure the historical meaning of the image is not distorted. When a court is required to transfer records to state archives pursuant to the approved *General Records Retention and Disposal Schedule #16 – Michigan Trial Courts*, issues such as the organization, indexing, format, resolution, compression algorithm, and storage media of digital images must be considered. Courts may contact the state archives for information and technical assistance to ask questions about the suitability of an electronic format or technique for archival storage.

Mandated Standard:

- **Section 3. Archival Records Standard:** Issues that affect the long-term and permanent preservation of the records include, but are not limited to, organization, indexing, format, resolution, compression algorithm, and storage media. An agency with a question about the suitability of an electronic format or technique for archival storage may contact the state archives for information and technical assistance. [Michigan Department of History, Arts, and Libraries, *Technical Standards for Capturing Digital Images from Paper or Microfilm.*]

L. Access

A clear recordkeeping system is necessary to 1) provide for clear identification of the record, 2) permit easy and timely retrieval of individual records and record series, and 3) retain the records in a useable format.

The technical ability to provide access must be balanced against the court's legal obligations concerning the digital images. Pursuant to MCR 8.119(H), a court may provide access to the public information in a register of actions through a publicly accessible website, however, all other public information in its case records may be provided through electronic means only upon request. Therefore, a court should carefully plan for public access to its digital records.

In addition, statutory and court rule requirements create obligations that each court must meet in providing public access to documents. See Administrative Order No. 2006-2, Privacy Policy and Access to Court Records (which references 2004 PA 454, the Social Security Number Privacy Act), SCAO Administrative Memorandum 2006-4, Privacy Policy and Access to Records, at

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<http://courts.mi.gov/Administration/SCAO/Resources/Documents/Administrative-Memoranda/2006-04.pdf>, and the chart concerning nonpublic and limited-access court records available at

http://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cf_chart.pdf.

Mandated Standard:

- Images of documents from case files shall not be posted to a publicly accessible website. A court may provide access to the public information in a register of actions through a publicly accessible website.

ISO 18911:2000 – Photography – Processed safety photographic films – Storage practices (formerly ANSI/NAPM IT9.11-1993)

3. **NCSC: Records/Document Management Resource Guide: Electronic Court Records**
<http://www.ncsc.org/Topics/Technology/Records-Document-Management/Resource-Guide.aspx>
4. **NCSC: Technology: Court Technology Vendor List**
<http://www.ncsc.org/services-and-experts/technology-tools/technology-vendors.aspx>
5. **Wikipedia - Electronic Court Filing**
http://en.wikipedia.org/wiki/Electronic_Court_Filing