

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

NO. 10-8500

**IN THE MATTER OF POLICIES REGARDING
PUBLIC ACCESS TO COURT RECORDS VIA THE INTERNET**

ORDER

WHEREAS, this Court considered the recommendations made by the Judicial Information Systems Council (JIFFY) and its Public Access Subcommittee (PAS) regarding public access to court records via the internet;

WHEREAS, this Court considered the views and concerns of a wide range of public and private commentators throughout the development and consideration of these recommendations;

WHEREAS, this Court considered the various competing concerns inherent in issues regarding public access to court records, including openness and transparency in government, accuracy in reporting and record-keeping, and the avoidance of unjustifiable harm to reputation, and the Court being sufficiently advised, Chief Justice Charles W. Daniels, Justice Patricio M. Serna, Justice Petra Jimenez Maes, Justice Richard C. Bosson, and Justice Edward L. Chávez concurring;

NOW, THEREFORE, IT IS ORDERED that this Court adopts the following standards for public access to New Mexico court records via the internet, including use of the Judiciary's case lookup system:

A. In both civil and criminal cases, responsibility for the content of pleadings and for ensuring that any confidential, identifying, or other such sensitive or private information is protected is that of the litigants who come before the court. To carry out this policy, this Court, through its relevant committees, is considering revisions to Rule 1-079(D) NMRA, to address the appropriate procedures for removing or redacting personal identifying information that is available to the public, either in court files or through the internet;

B. Cases on the Judiciary's case lookup system should be those for which physical or imaged files are retained as official court records. The rationale for this rule is that the physical or imaged files can be reviewed to verify the accuracy of online information. All courts are encouraged to use reasonably available resources to accurately image court records. In addition, JIFFY is directed to study the question of the retention of records by courts of limited jurisdiction and the relationship, if any, of that question to the retention schedule adopted by the Executive Branch and report the results of its study to this Court.

C. This Court approves in concept a revision of the existing prohibition of bulk sales and resales of publicly available case data, which was previously expressed in this Court's Order No. 04-8500, to allow for the gathering and resale of such data consistent with the revisions described in Appendix VI of the JIFFY and PAS report. The JIFFY is directed to propose specific policies to this Court that address appropriate terms and conditions on which such sales may take place, including measures for keeping the data updated and accurate.

IT IS FURTHER ORDERED that this Court specifically REJECTS
the following JIFFY/PAS recommendation:

The Supreme Court should adopt the policy that records of closed criminal cases be removed from the court internet record where the charges were dismissed, nolle'd, acquitted, or vacated, but with the exception that records of dismissals subsequent to a deferred sentence not be removed from court internet records; and

IT IS FURTHER ORDERED that the JIFFY and other relevant committees of this Court are directed to review orders of dismissal and simplify the language in such orders for the benefit of the public, or, alternatively, create a glossary of terms to assist the public in understanding legal phrases within such orders.

Done at Santa Fe, New Mexico, this 15th day of September, 2010.

_____/s/_____
Chief Justice Charles W. Daniels

_____/s/_____
Justice Patricio M. Serna

_____/s/_____
Justice Petra Jimenez Maes

_____/s/_____
Justice Richard C. Bosson

_____/s/_____
Justice Edward L. Chávez