Technological Advancements
IN THE COURTS

Meeting the Needs of the Courts and Legal Community

By Jennifer Phillips and Steven D. Capps

A ttorneys are becoming accustomed to changes in technology. In just a few short years, the evolution of a law office has cycled through manual typewriters, electric typewriters, word processors, and personal computers with word processing programs. Copiers went from having wet paper on a roll to dry single sheets. And dictation equipment (for those who still dictate) went from belt-driven machines to hand-held electronic recorders to hands-free digital devices.

As technology changes, lawyers must decide when it makes sense for them to adapt. Sometimes, it's not a choice. With the advent of e-filing and other technological advances in the courts, practitioners are being pushed—not merely coaxed—into the electronic age. For example, lawyers need to know which apps to use and that the "cloud" has nothing to do with the weather. Integrating cost-effective technologies with the maximum lifespan is vital to a successful law practice.

The same is true of court technology, only on a much larger scale. Court administrators face challenges in meeting the technology needs of the courts and legal community with limited resources. Today's court administrators need to understand case management systems, document management systems, electronic filing, and a wealth of ever-changing technologies to move the courts forward.

It is not enough that a certain technology may perform better. Court administrators must be able to marry the technologies to court processes—no easy feat for a nearly 1,000-year-old system still showing its roots. Court administrators need to plan for the future while making sure the advances do not get so far ahead of users (particularly pro se litigants) that the court becomes inaccessible. Advances that may seem simple often require years of preparation and extensive project and vendor management. Integrating cost-effective technologies with the maximum lifespan is also vital to a successful court.

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Inside the Courtroom

Most attorneys are familiar with technology inside the courtroom. Gone are the days when a lawyer is limited to painting pictures with words alone. Many courtrooms are now capable of accommodating video presentations. Document cameras make it possible to transmit images of documents to monitors for the judge and jury to view instead of passing the images around the courtroom. Document presentation stations often have touch-screen capability allowing counsel and witnesses to highlight information on the display and call attention to particular details.

To maintain an edge at trial, savvy lawyers need to know what type of technology is available in the courts and when, or if, to use it. Is a poster board effective when your opponent is using in-camera digital photography? New strategies must be considered in light of the resources available in the courtroom.

From the court administrator's perspective, courtroom design is essential. Jury boxes, counsel tables, and wall-mounted video displays must be installed where they are useful but not obstructive when not in use. Administrators must also consider the equipments' obsolescence and anticipate a design that allows new equipment to be installed without tearing apart the courtroom. Sightlines, Americans with Disabilities Act requirements, and public access are critical to the design.

But changes in courtroom technology go beyond how a case is presented. One major change in the courtroom is the technology that helps capture court proceedings. At one time, shorthand reporters used handwritten notes and symbols to record courtroom proceedings. But because each shorthand reporter used slightly different symbols, the individual doing the reporting was the only one who could transcribe the entire record. Stenographers are common today but they, too, have some degree of personalization in how they record a trial.
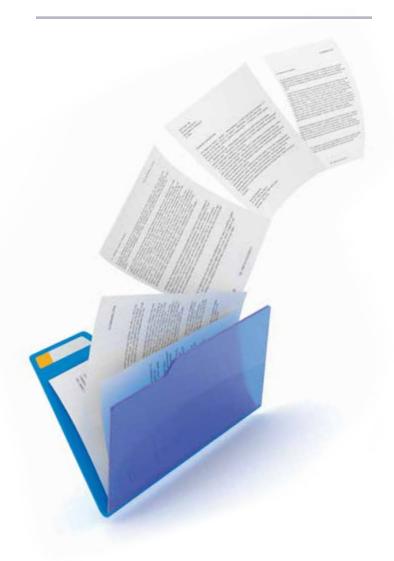
Meanwhile, most district courts still use tape recorders. But those recorders pick up only sound in the vicinity of a fixed microphone at the counsel table or the judge's bench.

The newest technology features digital multi-camera recording systems. Multiple microphones throughout the courtroom prompt a digital video camera to focus on a specific location from which a sound emanates. Because the audio for each microphone is recorded to a different channel, it is easier to review the proceedings when multiple speakers talk at the same time than with a single-track recording system or through stenographic reproduction.

FAST FACTS:

- Court administrators face challenges in meeting the technology needs of the court and legal community with limited resources. They must plan for the future while making sure the advances do not get so far ahead of users that the court becomes inaccessible.
- Inside the courtroom: The design of the actual courtroom is essential. However, changes in courtroom technology go beyond how a case is presented.
- Outside the courtroom: E-filing, document imaging, jurors, and communication with the courts are all things that court administrators must consider.

Some of these systems feature electronic log notes to make searching easier and many make simultaneous backup recordings.

Although video is common now, the first court administrators to use video equipment had to establish parameters to ensure its success, including backup systems, numbers of cameras and microphones, and placement.

Court recording is a good example of the difficulty of marrying new technology to an existing business process. By court

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rule, the official record of court proceedings is still the transcript, even though it is sometimes easier to obtain a copy of the recording. And with the availability of social media websites and the ability to place information on the Internet, many court administrators have concerns about the reproduction and distribution of video proceedings to litigants and the general public when they might be used for something other than the intended purpose of preserving information for appeal.

Outside the Courtroom

Court administrators also use technology outside the courtroom to improve the way cases are processed.

E-Filing

After Oakland County took the lead in 2007, the Michigan Supreme Court approved e-filing pilot projects in other counties across the state.[1] With e-filing, litigants can file and exchange pleadings electronically. Court administrators faced a significant obstacle in implementing this option: most e-mail systems are too limited to allow large documents to be filed in one piece. In early e-filing tests, documents had to be broken into smaller units to be e-mailed to the court. Administrators overcame this obstacle by entering into contracts with outside vendors who housed servers capable of receiving large files in one piece. Typically, the vendor's e-filing system notifies the court when something is filed and the court then imports the document through an interface. These systems also permit service on other parties to the case. While e-filing systems are typically very effective and cost efficient, they create a heavy dependence on outside vendors for vital court functions.

Although using a vendor generally requires that attorneys pay for the filing service, the fee is usually minor when compared to the cost of preparing, copying, and sending paper documents to the court and other parties. Moreover, e-filing gives attorneys the power to check the filing status of documents and enables searching capability when paired with PDF functionality. Some systems even alert attorneys when someone has viewed documents at the court. Future functionality may actually permit changes in service requirements from sending a document to sending an e-mail notification alerting attorneys to log in to a secure website to retrieve case information.

Document Imaging

For many courts, imaging has become the new standard in retrieving and storing documents. When a document is filed, it is scanned into a database and basic information concerning the document is entered into the court's case management system. Some advanced systems are able to read the electronic data and update the appropriate fields in the case management system. From there,

multiple users can view the file simultaneously and perform work related to the case. The result is faster case processing.

In courts with multiple locations, imaging makes it possible to process a case without being in the same location as a physical file. But imaging brings new challenges too. Court administrators must find companies with stable software platforms or risk not being able to access documents long term. They also need to be sure that documents can be migrated forward as software is upgraded. Finally, administrators need to verify that documents requiring signatures or seals actually incorporate the signature or seal rather than have it exist as a separate data file that might detach as files are migrated forward. These and many other considerations have resulted in court administrators working with the State Court Administrative Office to create imaging standards[2] to facilitate future use of imaging systems in the courts.

Communication with the Courts

Technology is also being used outside the courtroom to improve communication.

For many courts, it is now routine to hold scheduling or settlement conferences using telecommunications equipment or to conduct certain criminal proceedings with the defendant appearing remotely from jail or prison. When attorneys don't have to appear in court personally, they can be more productive. When the court does not have to bring criminal defendants to the courthouse or have all parties appear for every hearing, security is improved and transportation costs are reduced.

Macomb County is one county taking the lead in using communication technology. Macomb County Circuit Court Judge John Foster's courtroom is equipped with state-of-the-art video conferencing equipment, which is used to communicate with law enforcement facilities and civil practitioners. The judge anticipates that attorneys with cases on his specialized business docket will gain the most from the equipment. "Why would an attorney want to drive for 30 minutes, park, and then wait in the courtroom, only to spend 15 minutes with me?" he asked.

In addition, attorneys with iPads and tablets can download a mobile app called Polycom Real Presence for conferencing purposes.

Using Google cloud technology, the Macomb County Circuit Court and the clerk's office have developed a procedure for attorneys to receive text messages on their cell phones when cases are ready for hearing. Attorneys can check in at more than one courtroom and conduct business without having to wait in a single courtroom for their cases to be called before moving to the next one, allowing attorneys and the court to be more productive and efficient.

Jurors

Technology also improves relations with jurors. For instance, Macomb County Clerk Carmella Sabaugh has teamed with the lo-

cal business community to provide pagers to jurors who can then shop or walk around while waiting for jury duty. And the Kent County Circuit Court has a website with a question-and-answer section for jurors to let them know what to expect and a site to help them know when they need to serve.

Conclusion

Court administrators are using technology to communicate with the public and attorneys to make the courts more user-friendly and efficient.

Many courts already have websites with information ranging from directions to the courthouse and phone numbers to matters as complex as accessing case information. Some websites allow individuals to complete a transaction online to order copies of documents filed in a case. Kent County even has a virtual "wrong-door" section on its website with a menu of most-requested services to provide information to individuals who need assistance from other county offices but mistakenly entered the court's website. In the past, such individuals would have searched for these services in the courthouse and competed with others for information and assistance from court staff.

The legal community has a common interest in the effective and efficient use of technology in the courts. Although there are different needs and available resources around the state, lawyers, court administrators, judges, and court users can benefit from lessons learned and knowledge gained moving forward.

Now, maybe we should schedule that next web conference in the cloud. ∎

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FOOTNOTES

1. See, e.g., Administrative Order No. 2010-3, No. 2010-4, and No. 2011-1.
2. Michigan Supreme Court State Court Administrative Office, *Michigan Trial Court Guidelines and Standards for Digital Imaging* <http://courts.michigan.gov/scao/resources/standards/index.htm#di> (accessed October 10, 2012).