AUDIT AND REVIEW OF THE PERFORMANCE AND MANAGEMENT PRACTICES OF THE OFFICE OF THE CLERK OF THE FULTON COUNTY SUPERIOR COURT

Draft Phase 1 Report
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1. INTRODUCTION

The Office of the Clerk of the Superior Court of Fulton County (Clerk's Office) is a large, complex operation that lies at the hub of County's justice and land recordation systems. It interacts daily with individual members of the public, the legal and business communities, the Superior Court and to a lesser extent the State Court, and an array of County and State agencies including the Fulton County District Attorney's Office, the Public Defender's Office, the Sheriff, the Office of the Tax Assessor, the Office of the Tax Commissioner, and the Georgia Department of Corrections (DOC), as well as courts and executive branch agencies of other states and counties. The Clerk's Office plays a vital role in enabling these governmental entities to perform their responsibilities and in facilitating the ability of litigants, property owners, and other members of the public to pursue their legal rights and economic endeavors.

On October 9, 2008, Fulton County awarded a contract to the National Center for State Courts (NCSC) to evaluate:

> . . . current practices, policies, procedures, and processes to determine if the [Clerk's] office is functioning in an effective and efficient manner and utilizing best practices; to identify areas where efficiencies can be obtained; to identify areas of possible improvements and efficiencies and to provide recommendations that will result in efficiencies with the department, increased productivity and improved services.[1]

The contract divided this assessment into two phases—Phase 1 is to examine the court-related functions of the Clerk's Office and Phase 2 is to examine the non-judicial processes including those related to the recordation of deeds and land transactions. This is the report describing the findings and recommendations for Phase 1.

NCSC assigned a highly experienced team to conduct this assessment including a former clerk of court, a former internal auditor of a state court system, a court

[1] Contract #08RFP61811A-FSW, Article 3/.

information technology specialist, a court workflow specialist, and an internationally known court management consultant. The NCSC team conducted:

- A review of the manuals and other documentation provided by the Clerk's Office.
- An extensive set of detailed interviews with the Clerk, the Chief Administrative Officer, the Managers of each Division of the Office, and selected members of the Clerk's staff.[2]
- Observations of the operations of each Division of the Office.
- A detailed workflow analysis.
- Stakeholder interviews with designated representatives of the Superior Court, each of the County and State agencies that regularly interact with the Clerk's Office, and the bar.[3]
- A survey of the clerk's offices in comparable jurisdictions inside and outside Georgia.[4]
- An examination of the trends affecting courts in Georgia and nationwide and of pending legislation that may affect the responsibilities of the Clerk's Office.
- A review of the reports and recommendations prepared by other organizations regarding the criminal justice system in Fulton County and by NCSC during assessments of clerk's offices in other jurisdictions.

2. RELEVANT TRENDS

Five trends are likely to impact the work and staff of the Clerk's Office over the next decade: the continued expansion of population and business activity in metropolitan Atlanta; the increase in demographic diversity in the Clerk's Office customer base and staff; the increase in the proportion of self-represented litigants; the growing assumption that services and information will be available on-line; and the demand for accountability and documentation of performance.

[2] The staff interview protocol is in Appendix A.
[3] The stakeholder interview protocol is in Appendix B.
[4] The list of survey questions is in Appendix C.

A. Continued Expansion of Population and Business Activity in Metro Atlanta

Fulton County's *2025 Comprehensive Plan* projects that the County's population will continue to grow rapidly, exceeding 1 million by 2015 and 1.5 million by 2040.[5] The plan forecasts that business activity, jobs, and income will also significantly increase over the coming decades.[6] While the current recession may slow the growth in population, jobs, and real estate transactions for a few years, the diverse base of the County's economy and its history of business generation suggest that the population and level of economic activity will continue to increase.

Implications for the Clerk's Office: "Typically, the relationship between population size and court case filings is so close that they are indeed surrogates for each other."[7] The same is true for the level of business activity. More people and more economic activity yield more crimes, more divorces, more traffic accidents, more contract disputes, more real estate transactions, all of which result in more business for the courts. While neither is sufficient in itself to forecast the exact number of judicial and non-judicial personnel that will be needed,[8] it is nearly certain that if the Fulton County population and economic activity projections hold, the Clerk's Office will experience an increase in the demand for its services.

B. Increased Demographic Diversity

Unlike many other jurisdictions, the distribution of population by age groups in Fulton County is not expected to change significantly between now and 2020. While many counties around the country are graying, the over age-65 population of Fulton County will increase as a proportion of the overall population by less than 1 percent by 2020 even though the number of older persons is projected to grow by more than 52,000.[9]

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[5] Fulton County Department of Environment and Community Development, *Focus Fulton 2025 Comprehensive Plan,* 1-2 (2005).
[6] *Id.,* at Chapter 2.
[7] V.E. Flango & B. Ostrom, *Assessing the Need for Judges and Court Support Staff,* 12 (Williamsburg, VA: NCSC 1996).
[8] *Id.*
[9] *Focus Fulton 2025,* note 5, at 1-20 and 1-21.

Although European-Americans and African-Americans will remain the predominant ethnic groups in the County between now and 2020, the percentage of Asian-Americans and Hispanic-Americans will grow significantly over the coming decade.[10]

Implications for the Clerk's Office: The steady age array suggests that the rate of Superior Court cases and real estate transactions per person will remain the same. Persons age 18-64 generate most of the criminal, family, and civil litigation. Thus, if this segment of the population remains a steady percentage of the population growth, the forecast increase in workload for the Clerk's Office suggested above is reinforced. However, a higher percentage of the persons involved are likely to be non-native English speakers. Therefore, the current efforts by the Clerk's Office to enhance its capacity to serve non-English speaking members of the public, at the counter, on the telephone, and in informational materials will need to continue.

C. Increase in the Proportion of Self-Represented Litigants

Over the past 20 years, the proportion of cases in general jurisdiction courts in which one or more parties appears without a lawyer has steadily increased. This increase was first noted in divorce cases but is spreading to other types of civil litigation. Several factors have contributed to this trend including the cost of legal services and America's "self-help" culture and the frequency with which litigants choose to represent themselves can be expected to continue to increase.[11]

Implications for the Clerk's Office: The Clerk's Office has and the Superior Court have already instituted some processes and programs that differentiate between cases involving lawyers and those involving self-represented litigants, such as the greeter in the Civil Division of the Clerk's Office who helps lawyers avoid the lines of non-lawyer filers and accepts and stamps pleadings in already-filed cases and the Superior Court's

[10] *Id.* At 1-24 and 1-25.

[11] J. Greacen, "Framing the Issues for the Summit on the Future of Self-Represented Litigation," *The Future of Self-Represented Litigation: Report from the March 2005 Summit,* 20 (Williamsburg, VA: NCSC 2005).

Family Legal Information Center (the FLIC). More is likely to be needed in the future to better serve this increasing segment of the customer base, ensure fairness and transparency to all litigants, maintain the efficiency of operations, especially given the move toward electronic filing. This may include, simplifying the language used on forms and instructions, creating a civil case self-help center (perhaps in conjunction with the Clerk of the State Court), and providing clearer guidance to staff on the distinction between permissible "legal information" and impermissible "legal advice."[12]

D. The Assumption that Services and Information Will Be Available On-Line

> In North America alone, the Internet is used by 68 percent of the population, an increase of 104 percent since the year 2000. . . As more individuals routinely use the Internet from home and offices, and the expectation of convenient 24-hour service grows, the demand for sophisticated Internet services will continue to increase in most disciplines.[13]

The expectation of convenient 24-hour service applies to the courts as well as to other sectors of government (e.g., the rapid increase of on-line filing of federal income tax returns), banking, entertainment, and education. Both lawyers and litigants want not only to be able to see when their next appearance in a case is scheduled, but to be able to view the documents in case files, file their pleadings electronically, and received certified copies of court orders via e-mail.[14] In his 2008 State of the Judiciary Address, Chief Justice Michael G. Heavicam of the Nebraska Supreme Court observed that "through technology, we can enhance citizen access to the courts while simultaneously increasing the efficiency of the court system itself." [15]

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[12] R. Zorza, "Spreading and Adopting Best Practices for Court-Based Programs for the Self-Represented," C. Flango, C. Campbell, N. Kauder, *Future Trends in State Courts: 2007*, 81 (Williamsburg, VA: NCSC, 2007); Iowa Judicial Branch Customer Service Advisory Committee, *Guidelines and Instructions for Clerks Who Assist Pro Se Litigants in Iowa's Courts* (2000).

[13] "Impact of Technology on Society," in T. Peters, N. Kauder, C. Campbell, C. Flango, *Future Trends in State Courts: 2005*, 53 (Williamsburg, VA: NCSC, 2005).

[14] As evidenced by Georgia House Bills 55 and 127, the demand for these services is as strong or even stronger regarding the availability of property records.

[15] See also, Chief Justice Randall T. Shepard, "Indiana Court Technology is About Service, Not Bytes and Bandwidth" C. Flango, A. McDowell, C. Campbell, N. Kauder, *Future Trends in State Courts: 2008*, 26 (Williamsburg, VA: NCSC 2008).

Implications for the Clerk's Office: To enhance both customer service and the efficiency of the operations of the Fulton County justice system, the Clerk's Office, in conjunction with its justice partners, will need to increase the information and documents available through its website, through on-line subscription services, as well as through shared justice information systems. In addition, it will need to develop policies and systems to protect against misuse of data and disclosure of personal identifiers such as social security and account numbers as well as other confidential information.[16] Both the types of enhancements needed and the required governing policies are detailed in the Findings and Recommendations section of this Report.

E. The Demand for Accountability and Documentation of Performance

There is growing emphasis on the fact that judicial independence can exist only where the judiciary is responsible and accountable for its operations . . ."[17] The public and their elected representatives are demanding that governmental institutions, including courts, demonstrate that they are consistently providing quality and timely services, and operate efficiently and cost effectively. As a result:

> Over the last 20 years, courts across the United States have been moving toward measuring their performance, beginning with the inception of the Trial Court Performance Commission in 1987 and the introduction of *CourTools* measures in 2005.[18]

Indeed, the demand for accountability in court operations is now being heard internationally, as evidenced by the recent introduction of the *International Framework for Court Excellence.*[19]

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[16] M. W. Steketee & A. Carlson, *Public Access to Court Records: Guidelines for Policy Development by State Courts* (Williamsburg, VA: NCSC, 2002).

[17] H. Gramckow, "International Trends—Strengthening Judicial Independence and Accountability," T. Peters, N. Kauder, C. Campbell, C. Flango, *Future Trends in State Courts: 2005*, 112 (Williamsburg, VA: NCSC, 2005).

[18] D. Slayton, "Using Performance Measures to Enhance Fair and Impartial Courts: A Practitioner's View," C. Flango, A. McDowell, C. Campbell, N. Kauder, *Future Trends in State Courts: 2008*, 26 (Williamsburg, VA: NCSC 2008).

[19] International Consortium for Court Excellence, *An International Framework for Court Excellence* (www.courtexcellence.com, 2008).

Implications for the Clerk's Office: As discussed in the Findings and Recommendations section of this Report, the Clerk's Office currently uses an array of quantitative and qualitative measures to internally assess its performance and that of its staff. These measures vary by Division. The Office annually reports a set of measures that are more related to workload than performance. In order to meet the demand for accountability more fully, it will need to define, apply, and report the measures of its performance more comprehensively and consistently.

3. RESULTS OF THE SURVEY OF COMPARABLE JURISDICTIONS

By e-mail and by telephone the NCSC team contacted the clerk of court offices for the general jurisdiction court in 12 counties around the country.

- Cobb County, Georgia
- Gwinnett County, Georgia
- Jefferson County (Birmingham), Alabama
- Maricopa County (Phoenix), Arizona
- Denver County (Denver), Colorado
- Miami-Dade County (Miami), Florida
- Orange County (Orlando), Florida
- Mecklenburg County (Charlotte), North Carolina
- Prince George's County, (Suburban Washington, DC), Maryland
- Hamilton County (Cincinnati), Ohio
- Fairfax County (Suburban Washington, DC), Virginia
- King County (Seattle), Washington

The counties were drawn from the list of those to which the leadership of the Clerk's Office looks to as examples and those in comparably sized jurisdictions that are known for the quality of their operations. The selected clerk's offices were asked a series of questions regarding court-related and non-court related responsibilities; organization; workload and staffing; the budget and sources of revenue; and the use of technology for receiving, storing, retrieving, and exchanging documents and data and for sharing information with the public. Five counties have responded to the request for information. These included Maricopa County, Arizona Superior Court; King County, Washington Superior Court, Fairfax County, Virginia Circuit Court; Gwinnett County,

Georgia Superior Court; Cobb County, Georgia Superior Court. Additional responses are anticipated and will be included in the final report.

In reviewing the organization, staffing, budgets, and use of technology between these offices and the Office of the Clerk of the Fulton County Superior Court, two factors should be kept in mind: population and the scope of their statutory duties, particularly whether they are responsible for land records as well as court records.

Table 1 Population Comparison

County	Population as of 2007
Fulton County	**992,137**
Maricopa County	3,880,181
King County	1,859,284
Fairfax County	1,010,241
Gwinnett County	776,380
Cobb County	691,905

Table 2 What Types of Records Are Maintained

Case type	Fulton County	Maricopa County	Cobb County	Fairfax County	Gwinnett County	King County
Criminal - Felony	X	X	X	X	X	X
Criminal - Misdemeanor		X[20]		X[21]	X	X[22]
Civil – over $25K	X	X	X	X	X	X
Family	X	X	X	X	X	X
Divorce	X	X	X	X	X	X
Child Support	X	X	X	X	X	X
Custody	X	X	X	X	X	X
Juvenile		X		X[23]		X
Dependency		X				X
Status Offense		X				X
Abuse and Neglect		X				X
Delinquency		X				X
Probate		X		X		X
Land Records	X		X	X	X	

In addition, one or more of these offices issue and/or maintain: marriage licenses, court physical evidence, trade names, concealed weapon permits, jury, domestic partnerships dissolutions, records of appeals from courts of limited jurisdiction, and tax warrants.

A. Organization

The number of staff and the number of offices reported varied. The range was from nine being highest number of office for a county to two offices in a county.

Table 3 Number of Staff

	Fulton County	Maricopa County	Cobb County	Fairfax County	Gwinnett County	King County
Total FTE	198	748	101	161	99	227.5

[20] Maricopa County (AZ) Justice Courts maintains criminal misdemeanors unless it is packaged within a Superior Court case.
[21] Fairfax (VA) Circuit Court only handles misdemeanor cases if they are appealed from the general district court.
[22] King County (WA) Superior Court Clerk's Office only handles misdemeanors if it is combined with a felony charge or as a result of a plea bargain.
[23] Fairfax Circuit Court only handles Juvenile Appeals.

Table 4 Functions Performed At Each Location

	Fulton County	Maricopa County	Cobb County	Fairfax County	Gwinnett County	King County
Location 1	All functions	Records, Marriage Licenses, and Passports	All functions	All functions	Clerk of courts office	All functions[24]
Location 2	Criminal filings Passports Notary services	Civil Probate Family Court File Counters Marriage Licenses Passports	Real Estate	Off-site records center[25]	Magistrate Criminal division Family violence	All functions[26]
Location 3	Criminal filings Passports Notary services	Civil, Probate Family Court File Counters, Marriage Licenses Passports				Juvenile cases
Location 4	Prepare calendars Staff first criminal Appearances Enter data	Probate File Counter (including Tax, Small Tax and Mental Health)				Involuntary commitment hearings
Location 5	Closed record storage	Adult Criminal Civil Family Court File Counters				
Location 6		Adult Criminal Civil Probate Family Court File Counters				
Location 7		Administration				
Location 8		Juvenile Court File Counters				
Location 9		Juvenile Court File Counters				

[24] Except juvenile cases.
[25] All inactive court cases are stored here.
[26] Juvenile offender, involuntary commitment and appeals cases; all functions of the clerk's office except accounting and disbursements are centralized at the King County courthouse.

Table 5 Are Courtroom Staff Assigned to a Particular Judge or is Staff Pooled?

	Is courtroom-related staff assigned to a particular judge?	**Number of Staff per Judge**
Fulton County	Yes	3
Maricopa County	Yes	1
Cobb County	Yes	1
Fairfax County	Yes	1
Gwinnett County	Yes	2
King County	Yes	1

In each of these offices other than Fulton County, a deputy clerk is assigned to perform such courtroom duties as handling the files, make minute entries, receive evidentiary items, prepare orders, and/or sometimes call the calendar in the courtroom. In some courts with high volume calendars two clerks will be assigned per judicial officer. File retrieval, maintenance, and refiling responsibilities are handled by other staff assigned to a pool.

Table 6 If a Judgeship is Added, Does the Clerk's Office Also Receive Additional Staff to Accommodate the New Judicial Position?

	Clerk's Office Normally Receives Additional Staff	**How many staff?**
Fulton	No	
Maricopa County	Yes[27]	Varies
Cobb County	Yes	1
Fairfax County	No	
Gwinnett County	Yes	2
King County	Yes	3.1

[27] Maricopa County indicated that a staff increase must be justified through a workload analysis; however in previous fiscal years, courtroom clerks have been added when additional judicial divisions were created.

B. Workload

Table 7 Number of Filings

	Number of cases filed	Number of land records filed
Fulton County	30,059	373,838
Maricopa County	145,383	0
Cobb County	19,000	200,000
Fairfax County	22,000	178,000[28]
Gwinnett County	140,838 (Superior, State & Magistrates Courts)	214,211
King County	75,899	0

Table 8 Value of Financial Transactions

	Amount of financial transactions
Fulton County	$88,674,100
Maricopa County	$112,688,000
Cobb County	$50,000,000
Fairfax County[29]	$150,000,000
Gwinnett County [30]	$60,869,814
King County	$119,371,240

Other measures used by respondents to measure workload include: documents received, customers served, case docket entries, receipts, disbursements, accounts receivable and the dollar amount, exhibits received, marriage licenses issued, passports processed, orders of assignment, documents requested, minute entries created (Adult), minute entries created (Juvenile), hearings attended (Adult), hearings attended (Juvenile), documents added to electronic repository, microfilmed images, documents e-filed and telephone calls received.

[28] Fairfax County indicated 2008 land record filings were down from an all time peak of 525,000 cases.
[29] Depending on the real estate market Fairfax County handle between 150 million and 220 million dollars per year.
[30] Gwinnett County financial transaction is based on fines and fees, and trust fund monies of 25,810,312. However, it was indicated that trust fund monies can be up to 80,000,000.

Table 9 Are Any Functions of the Office Outsourced? (e.g., microfilming, scanning, indexing, other)

	Are any functions of the office outsourced?	Functions outsourced
Fulton County	Yes	Microfilming
Maricopa County	Yes	Technology Applications
Cobb County	Yes	Technology Applications
Fairfax County	Yes	Redaction Services, Microfilming
Gwinnett County	Yes	Real Estate Indexing
King County	No	

C. Budget

Table 10 Annual Budget

County	Annual Budget
Fulton County	$14,792,160
Cobb County	$5,200,000
Gwinnett County	$9,172,000
Fairfax County	$10,000,000
King County	$22,534,073
Maricopa County	$41,000,000

Table 11 Is Some Fee Revenue Used to Support Specific Items Such as Technology or Training?

	Fees used to support special functions.
Maricopa County	Yes
Cobb County	Not Specified
Fairfax County	Yes
Gwinnett County	Not Specified
King County	Not Specified

Two offices responding indicated that they charge electronic document management or court automation that they are able to retain to support these purposes.

D. Use of Technology

Table 12 Is a Single Automated Case Management System in Use

	Single automated case management system	**If not, how many are used?**
Fulton County	No	Separate incompatible systems are used for Criminal and Civil Cases
Maricopa County	Yes	
Cobb County	Yes	
Fairfax County	Yes	
Gwinnett County	Yes	
King County	No	Statewide Superior Court Management Information System and Electronic Court Records (ECR)

In King County, Washington, case information and docket entries are entered by clerk's office staff into the statewide Superior Court Management Information System (SCOMIS) supported by the Washington State Administrative Offices of the Courts. On a county level, the Electronic Court Records (ECR) system manages the official court record for all King County Superior Court cases filed after January 3, 2000. The ECR system comprises multiple applications addressing specific functional requirements (i.e., Core ECR, ECR Online, E-Filing, E-Service, E-Commerce). In preparation for the June 2009 mandatory E-Filing requirement, an E-Working Copies application will soon be added to the ECR program suite. Court staff use a variety of locally developed and maintained case management systems. Currently the court has separate case management systems for civil, criminal and juvenile cases. The case management system Maricopa County, Arizona, contains several applications including document management system and e-filing.

Table 13 Were the Systems Developed/Purchased Locally Or Are They State Systems?

	Were the systems developed/purchased locally?
Fulton County	Local
Maricopa County	Local
Cobb County	Local
Fairfax County	Local
Gwinnett County	Local
King County	State & Local

Table 14 Can Case Files Be Updated Electronically in the Courtroom?

	Case files can be updated electronically in the courtroom?
Fulton County	No
Maricopa County	Yes
Cobb County	No (read only)
Fairfax County	Yes
Gwinnett County	Yes
King County	Yes

Table 15 How Are Court Documents Received?

	Over the counter	**Mail**	**E-mail**	**E-filing**	**Other**
Fulton County	X	X			
Maricopa County	X	X	X	X	
Cobb County	X	X			
Fairfax County	X	X			
Gwinnett County	X	X		X	
King County	X	X	X		X

In Maricopa County, judges' copies and other work copies can be faxed or e-mailed. King County differentiates between documents that have fees and those that do not. Document with associated fees may be received over the counter, via mail, and by E-Filing. Documents without associated fees may be received over the counter, via mail, E-Filing, drop-box, or fax.

Table 16 Are Paper Documents Scanned?

	Are paper documents scanned?	**At what point are they scanned – upon receipt, upon closure of the case?**
Fulton County	Civil Cases Only	Upon receipt
Maricopa County	Yes	Upon receipt
Cobb County	Yes	Upon receipt
Fairfax County	No	
Gwinnett County	No	
King County	Yes	Upon receipt

In all paper documents for cases initiated post-January 3, 2000 are scanned into the ECR system following receipt by the clerk's office. The scanned image is then validated for acceptance and indexing into the official electronic court record. Large sized documents and documents that cannot be scanned are converted into file exhibits. Paper copies of the filed documents are recycled after 30 days except those pertaining to: cases filed prior to January 1, 2000, original wills and codicils; documents of foreign governments under official seal; aggravated murder cases; and certified records of proceedings for purposes of appeal.

Table 17 Are Paper Documents Microfilmed?

	Are paper documents microfilmed ?	**Upon receipt**	**Upon closure of the case**	**Upon archiving**	**Other**
Fulton County	Yes	Criminal	Civil		
Maricopa County	Yes		X	X	
Cobb County	Yes	Land Documents	Court Documents		
Fairfax County	Yes				Only on request
Gwinnett County	No				
King County	No				

Inactive court documents in Maricopa County cases filed prior to January 2002 may be microfilmed before destruction of the originals. More recently, these cases have been

scanned for retention by the clerk, and may be subsequently microfilmed for transfer to state archives pending development of the archive's digital archive.

Table 18 Are Case Files/Documents Presented to the Court in Paper or Electronic Form?

	Paper	Electronic
Fulton County	X	
Maricopa County		X
Cobb County	X	
Fairfax County	X	
Gwinnett County	X	X
King County		X

Although Maricopa County operates mainly on electronic form, paper originals are occasionally provided upon request to verify authentication issues. Gwinnett County uses electronic form for images. In King County, the court uses the electronic court record (ECR), except for specific high volume calendars. The court also has access to all case files electronically and may request additional case documents be printed by the clerk's office. Open cases with pre-2000 file dates are provided to the court in paper file form. Documents presented to the court during a hearing or trial are presented by parties in paper form and subsequently scanned for filing into the official court record.

Table 19 In What Form Are Closed Case Files Kept?

	Paper	Images	Microfilm	Other
Fulton County	X		X	
Maricopa County		X	X	X
Cobb County		X	X	
Fairfax County	X			
Gwinnett County	X	X		
King County		X		

Historically, in Maricopa County, closed cases have been micro-filmed for retention, but currently they are scanning all the documents for more convenient storage. King County images its closed case files originating after January 3, 2000.

Table 20 In What Form Are Archived Case Files Kept?

	Paper	Images	Microfilm	Other
Fulton County	X		X	
Maricopa County	X		X	X
Cobb County	X	X	X	
Fairfax County	X			
Gwinnett County	X	X		
King County	X	X	X	

The form of archived case files in King County depends on the date of filing: pre-1979 microfiche, pre-1999 microfilm, 1996-1998 minimal paper files, and post-1997 imaged.

E. Data Exchange

Table 21 From What Agencies/Entities are Court-Related Records Received/Sent Electronically

	Received Electronically	Sent Electronically
Fulton County	None	None
Maricopa County	E-warrants from ICJIS (Integrated Criminal Justice Information System), Criminal Subsequent filings from ICJIS/Prosecutor, Criminal File from: ICJIS Civil filings from Wiznet (an eFiling provider), Minute Entry Data from ICJIS, Expedited Service Notices from ICJIS.	Bond Data Exchange thru ICJIS–to Public Defender (PD), Maricopa County Attorney's Office (MCAO), Minute Entry Data thru ICJIS to MCAO, PD, Attorneys, Civil Filings To: Wiznet.
Cobb County	Court related records are sent electronically from public web access or county web access.	
Fairfax County	The Virginia Department of Taxation. Working with the State Police and DMV.	

	Received Electronically	**Sent Electronically**
Gwinnett County	None	None
King County	E-Filed documents may be received by all agencies/ entities for filing into an existing case or to initiate a new case. Mandatory E-Filing begins in King County Superior Court on June 1, 2009 for attorneys, with a few anticipated exceptions.	Washington State Office of the Secretary of State (voting records), Washington State Sentencing Guidelines Commission (case disposition document), Washington State Division of Child Support (case disposition document).

Table 21 How Are Documents Regarding Prisoner Transfer or Release Provided to the Jail?

	How are documents provided to the jail?
Fulton County	Paper
Maricopa County	Paper
Cobb County	Paper
Fairfax County	Paper
Gwinnett County	Faxed
King County	Paper

In King County, that documents will be received electronically by the jail later this year.

F. Access to Information

Table 22 Use an Automated Telephone System to Provide Standard Information to the Public

	Is an automated telephone system used?	What types of information are provided via the system?	How well has the automated system worked.
Fulton County	No		
Maricopa County	Yes	The office utilizes a VMX-300 voicemail system	The office also utilizes an Application Programming Interface (API) which allows software to talk directly to other client interface software to use, control, share, direct and provide information between multiple software applications. An Automated Attendant Interactive Voice Response (IVR) also supports customer child support queries from the public statewide.
Cobb County	No	N/A	N/A
Fairfax County	Yes	General information about court hours and the different sections (criminal, civil, probate, marriage licenses)	Good and bad. People have to press a lot of buttons to go through the automated menu. Also, people still prefer a human contact.
Gwinnett County	Yes	General, Office Hours, Location, Juror Reporting Times	Ok
King County	Yes	Responses to frequently asked questions (FAQ) are provided via the automated telephone system. Questions and information may be provided upon request.	The automated FAQ dissemination process works very well. A recent test revealed the large numbers of calls to the customer services line that are resolved prior to connect with a clerk's office customer service professional.

Table 23 Are Court Records Available Electronically?

	Accessed only at the courthouse	Via the web
Fulton County		
Maricopa County		
Cobb County	X	X
Fairfax County	X	
Gwinnett County	X	X
King County		X

In those counties in which records are available electronically, there are written policies keeping some types of information confidential such as juvenile and family social files and adoption case files.

Table 24 Is a Fee Charged for Accessing Court Information Electronically?

	Fee for single case file	Fee for bulk downloads
Fulton County	N/A	N/A
Maricopa County	N/A	N/A
Cobb County	No	No bulk downloads
Fairfax County	No	No bulk downloads
Gwinnett County	No	No bulk downloads
King County	Yes	

In Maricopa County, a protocol governing bulk data is being developed. Fees will be established by statute or locally by county. In King County there is no cost for viewing a case record in the clerk's office; however, there is a 15 cents per page charge for viewing a case online over the web. In 2008, ECR Online generated $132,292 in revenue. Customers may request research reports based on case file data at the cost of $20 per hour for staff time. In 2008, research requests generated $461 in revenue.

G. Off-Site Records

Table 25 What Court Records Are Stored Off-Site?

	What court records are stored off-site?
Fulton County	1999-2005 court records stored off-site by the Clerk's Office; pre-1999 cases are archived at the County records facility.
Maricopa County	No court paper records are stored off-site. Electronic court records have required back-up storage at off-site locations.
Cobb County	Pre-2000 court cases
Fairfax County	All inactive court cases. All land records are on-site.
Gwinnett County	Images and microfilm are stored off-site. Physical records are on-site.
King County	A limited amount of 1996 archived paper file court records are stored off site at the county records warehouse plus assorted other court records.

Table 26 How is access gained to off-site records?

	How is access gained to off-site records?
Fulton County	The customer submits a records request; staff retrieve the record from storage, and the customer is provided the record for viewing in the Clerk's Office.
Maricopa County	N/A
Cobb County	Records retention delivers to courthouse
Fairfax County	The off-site records center is open to the public during normal business hours
Gwinnett County	By request of the clerk
King County	The customer submits a records request; staff retrieve the record from storage, and the customer is provided the record for viewing in the courthouse.

Table 27 How often is it necessary to retrieve off-site records?

	How often is it necessary to retrieve off-site records?
Fulton County	Daily
Maricopa County	N/A
Cobb County	Daily
Fairfax County	Daily
Gwinnett County	Rarely
King County	Approximately 25 off-site records are requested per week

Table 28 How long does it take to retrieve a record from an off-site location?

	How long does it take to retrieve a record on an off-site location?
Fulton County	2 days from English St., longer from the County Records Center
Maricopa County	N/A
Cobb County	1 Day
Fairfax County	Less than 24 hours.
Gwinnett County	
King County	2 days

4. FINDINGS AND RECOMMENDATIONS

The mission statement of the Office of the Clerk of the Superior Court of Fulton County states:

> The Clerk's office is committed to providing and delivering excellent service in filing, recording and preserving of records as mandated by law. Our purpose is:
>
> > (1) to maintain the highest standard of service by ensuring the perpetuity of records for the public and;
> >
> > (2) faithfully and accurately perform the duties of this office as set out by the Georgia Code.[31]

The NCSC team found strong evidence of that commitment to excellence during our discussions with the Clerk and her staff. The Office with characterized by a noteworthy passion and energy. During her brief tenure, the Clerk has instituted numerous changes to address many of the problems that have impaired the performance of the Office in the past, set forth customer-service as the Office credo, and instituted standards for the performance of the staff's duties. More than one manager and staff member with whom we spoke, commented on the importance of the Office's role—each piece of paper we receive represents someone's life or property; we need to treat it accordingly.

[31] http://www.fcclk.org/.

The following findings and recommendations are intended to assist the Office to achieve its goal of excellence. They are based on the analysis of the current trends and legislative initiatives, the organization, practices, and policies of clerks of courts in comparable jurisdictions, the interviews with the leadership and staff of the Clerk's Offices and observation of its operations, and discussions with key stakeholders. These findings and recommendations are divided into five inter-related sections: Information Technology, Governance, Organizational Management, Records Management, and Customer Service.

A. Information Technology

The Clerk's Office has achieved a moderate level of automation of its duties. However, the needs and expectations of the public, the Superior Court, and other stakeholders in Fulton County's justice community are high and continue to rise. Nearly everyone has experience with the internet and systems of various kinds, and become frustrated when their computing and system interaction needs are not met quickly and efficiently. People tend to believe that an office or organization is not managed properly when this occurs. Improving service and performance further will require additional automation capability that will allow the clerk's office to meet the following goals:

Table 29 Goals of Further Automation

External Goals	Internal Goals
• Enhance the efficiency of operations for justice partners, the legal community, unrepresented litigants, and the public • Meet increased demands for easy public access to court case information • Provide justice agency online access to data not available to the public • Provide interface (data exchange) capability for electronic communication with the IT systems of justice agencies • Enable e-filing for the District Attorney, Public Defender, and other County agencies as well as private attorneys and unrepresented litigants	• Increase internal efficiencies by eliminating redundant and manual processes • Provide regular management informat • on internal operations, Office performance, and case management • Provide ad hoc statistic reports curren performed manually • Reduce costs of service • Enhance the capacity to handle increa demands for service due to higher caseloads

Meeting these goals is instrumental to achieving the mission of the Clerk's Office. Acquiring the automation tools to achieve these goals should be viewed as an investment, not just an expense, in order to increase the capacity for work in the office.

1. Criminal Justice Information System (CJIS): In nearly every jurisdiction into which the NCSC is invited, there are a variety of software systems among the partners in the justice community, which were acquired at different times, and have a range of technology from first through fourth generation of such applications. Software technology changes at a pace that many systems are deemed obsolete before the end of their useful life. Software technology generally become obsolete when a better tool is available at the same price, or a similar tool is available for a lower price.

Almost universally, the systems in a typical jurisdiction are unable to exchange data, requiring information which passes from on justice partner to the next to be entered into another system, creating what is known as "silos of information" unconnected to each other. This lack of automated data exchange limits the overall efficiency and effectiveness of individual justice partners.

Currently, the Clerk's Office operates one case management system (CMS) for civil, another for criminal cases, a third one to track appeals, and a collection of systems to handle accounting functions in the Office. Clerk's office staff also uses systems of other justice agencies in limited ways.

TSG: For civil cases, the Clerk's Office has used the Tyler Technologies TSG case management system since 1998. TSG is an older-generation system that functions reasonably well and allows users to scan documents and attach them to cases. TSG is user-friendly, easy to use, and is stable (i.e., it stays up all the time.). The usability of the system has not been raised as an issue by Clerk's Office staff, though it lacks some features of the new generation of systems now available. TSG sets a baseline expectation in the Office for how documents can be more accessible, though neither the Superior Court nor the Clerk's Office is ready to contemplate using electronic documents exclusively and printing documents only on demand.

Banner: For criminal cases, the Clerk's Office uses the ACS Banner case management system. Banner was implemented in 2000 and is in Release 4.4.1. Although Banner is generally available in Release 5, Fulton County had the system customized by the vendor (the latest change was implemented about two years ago), and may be unable to upgrade to the newer release because of the customization. This is a common problem in the industry when the vendor is unable to disassociate customizations from base functionality of the system.

Older versions of Banner, like the one in the Clerk's Office are notoriously cumbersome to use, given today's higher expectations and user interfaces designed more recently. Data that used to be on a single screen on the Mainframe system that served as the unified justice system in the 1980s, is now fragmented in Banner on many screens, requiring significant navigation among screens to locate what is needed. Frequent users are able to get their work done; infrequent users, however, are often frustrated when they attempt to query the system for specific information, because they may have to look in several locations in the system to find what they need. An even more significant concern regarding Banner is the lack of data exchange to and from the jail system and the prosecutor's CMS. An interface has been developed that imports some data from the jail management system into Banner.

JDL/Tiburon/Mainframe: The Sheriff's jail management system is referred to as JDL (for Justice Data Link) or as Tiburon (the name of the vendor). JDL/Tiburon was supposed to replace the Mainframe system, but the Mainframe system retains some functional use and was not abandoned. Clerk's Office staff in the Complaint Room use the JDL/Tiburon and Mainframe systems. There is a long learning curve to master what pieces of data are in which system. It can take one year to learn both processes and system interfaces to handle the work at the complaint room desk.

Although some data is transferred from JDL to Banner, and it is helpful overall, it is an incomplete transfer that requires extra effort to overcome. For example, the OTN (Offense Tracking Number) needed by the Clerk's office to report dispositions to the Georgia Criminal Information Center (GCIC) is in the Mainframe system, but is not among the data items transferred to Banner. This requires staff to look it up in Mainframe. If Banner is down, Clerk's Office users can look in JDL/Tiburon for some kinds of information, but it is minimally useful for this purpose.

Other Systems: Other justice partners have a variety of systems. No data is exchanged with the clerk's systems, so all incoming and outgoing transactions from the Superior

Court, the District Attorney, the Public Defender, and Probation are on paper, requiring data re-entry by the recipient. The Georgia Bureau of Investigation (GBI) receives convictions on paper, but has plans to go paperless through receiving data exchanges. As characterized by one interviewee, "The paper is overwhelming."

The Proposed Unified Justice CMS: The proposed system, referred to by some as the Unified CJIS, would consist of provide interlocking systems that automate data exchanges and provide custom views of data to various users of court case information. A "best of breed" approach to seeking products from different vendors that will work together appears to be the right approach. There are few, if any, vendors that provide the range of functionality from arrest and offender management through court case disposition.

Recommendation 1: Fulton County should move forward with the procurement and installation of the United CJIS as quickly as possible and schedule the Clerk's Office to be one of the initial recipients.

Comment: Both external and internal benefits are likely to be realized from installation of the United CJIS.

- *External Benefits*
  - A better CMS may reduce liability in law suits against the County for jail overcrowding, false arrests on warrants where the warrant recall was not quickly and effectively communicated from one system to the next, and overstays in jail where defendants are not released in a timely manner.
  - Better, more coordinated monitoring of jail population may reduce pretrial detention for which there is no reimbursement from DOC or other counties.
  - Data about cases such next hearing dates and docket entries would be on line and available to attorneys and the public, reducing calls to the Court, Clerk's Office, and other agencies.

- *Internal Benefits*
  - Data from one justice partner would be used to populate data used by another partner, eliminating the need (and staff time required) to reenter data from paper, resulting in near-real-time transfer of data, and no data re-entry errors.

- Incorporating scanned documents (see Recommendation 2) would enable discontinuance of the time-consuming and error producing microfilming process now used as well as the contract for operating the microfilming system.
- Having an integrated system with scanning capacity would reduce the number of "lost" or misfiled documents and the time spent locating them.
- Civil cases would be able to be incorporated into the Unified Justice CMS from the TSG system.

2. Scanning for Criminal Cases: Clerks, judges, attorneys, and the public have come of age with paper documents and case files in which the documents reside. When there are 11,391 criminal cases filed (2007), and each file contains, hypothetically, 7 documents, that add up to nearly than 80,000 documents to keep track of. When added to the volume of documents for civil and family cases filed during a year, plus cases filed in prior years and appeals, this is a daunting challenge for even the best-run organization which trains and monitors employee performance through manual methods. Some number of documents will inevitably be misfiled or misplaced through human error.

Document scanning can alleviate this age-old problem by creating an electronic copy of a document and associating it with the electronic record of the case. One of the statements made universally within the Clerk's office and among stakeholders was that having documents available in electronic form would enhance the capacity and efficiency of both internal and external users.

Currently, the Clerk's Office is able to scan documents in civil cases when they are filed and make them available electronically to the Court relatively quickly. Work for the staff in the Clerk's office of the Civil Division comes across the counter, from walk-ins, and through the mailroom. There are five clerk workstations at the windows, each with a scanner. Scanning documents received for cases is an integral part of the document filing process. The process for a new civil case, briefly, is as follows:

- Attorney or pro se litigant files a cover sheet
- The clerk enters the case data, receipts the filing fee paid, date-stamps, and initials the documents
- The clerk assigns a judge, scans the documents, and generates a summons for the case

For filings in existing cases, there is no cover sheet or filing fee. This capability should be available for criminal cases.

> ***Recommendation 2: The Clerk's Office should procure and implement a system for scanning criminal case documents at least comparable to that now available for civil case documents. Procurement and implementation of this capacity should occur as soon as possible.***

Comment: While it would be ideal to connect the scanning system to the Office's criminal case management system as soon as the scanning equipment is installed, Banner is not a good candidate to integrate with document scanning, because the effort and expense to retrofit Banner with document scanning would likely exceed its value. A quick fix would be to install stand-alone criminal scanning equipment that could be easily integrated with the anticipated new criminal case management system when it becomes available. Installing scanning capacity should also eliminate the need to microfilm documents for archival purposes, since the Georgia Records Center now accepts images from local governments and converts it to microfilm when required. Georgia Code sections 16-5-62(a) and 16-5-62.1 now permit preservation of records in digital form so long as there is a paper or microfilm back-up. Thus, it would generate some short-term savings by enabling the Office to end the current contract for microfilming services.

3. E-filing: Many justice systems nationwide aspire to implement electronic filing. A number of issues require resolution at the state and county level, however, in order to fulfill this goal of providing e-filing.

1. The Court and the Clerk's Office must be ready to make a major transition from handling paper documents to handling electronic ones. It would be counterproductive and wasteful to accept electronic filings from parties and then print all of the documents and place them in a paper folder.

2. E-filing, as an entry point of electronic documents into the case management system, requires the firm foundation of a case management system that is fully integrated with the e-filing system. Otherwise, the e-filed electronic documents become a silo of information requiring data entry for e-filed cases into the CMS.

3. E-filing should accommodate both criminal and civil case types. It is not feasible for public attorneys (prosecutors and public defenders) and private attorneys of criminal defendants to pay electronic filing fees. The business model of the e-filing system vendor must accommodate this no-filing-fee requirement to achieve maximum utility of e-filing.

Currently, although most interviews indicated that e-filing would be a boon to the justice community, use of paper documents is deeply ingrained. Moreover, the existing case management system does not provide a technologically adequate foundation for e-filing.

In addition, the business model that has been adopted by Fulton County for the e-filing system, now being challenged by a lawsuit, does not accommodate the provision of e-filing capabilities to criminal cases. Two business models are prevalent in the e-filing industry: (1) provision by a private vendor for civil cases only, at no cost to the court, with private attorneys paying the e-filing fees and passing the fees to their private clients and (2) where the state or local jurisdiction purchases a system license and offers e-filing at low or no cost to civil litigants, and at no cost to criminal litigants.

Recommendation 3: Once the first two conditions have been met and the current lawsuit has been resolved, the County should explore installation of an e-filing system that would extend to all the Courts and all types of cases.

Comment: Implementing an e-filing system that extends beyond private civil cases and is integrated with the Clerk's case management system would significantly reduce the

paper that now burdens the County justice system; lessen the time required for attorneys and litigants to file documents; reduce the workload for the Clerk's Office now required to accept, stamp, docket, scan, or microfilm; and place documents in the appropriate file. While it is premature to consider whether, when possible, e-filing should be voluntary or mandatory, the better practice is to train attorneys and law offices to use e-filing, and incentivize them to use it rather than persist in paper-based filings. Experience in other jurisdictions shows that attorneys and law firms are accustomed to e-filing in federal practice, and that progressive ones will readily adopt it for the rest of their practice.

4. Use of Microfilm for Court Records: Documents for both civil and criminal cases are now microfilmed by the Clerk's Office. Criminal case documents are microfilmed as soon as they are filed in order to provide a back-up copy. Civil case documents are microfilmed all at once at the conclusion of the case. The process is manual, laborious, and prone to error. The documents must be sent from the file rooms to the microfilming station on the ground floor. They must be disassembled (unstapled or clipped) before microfilming, reassembled in the proper order afterwards, and then returned to the file room. Paper logs must be kept to track the movement of the documents. The rolls of film after they have been developed must be spot-checked for readability, and if the quality is not sufficient, the affected files and documents must be returned to the microfilming station in order to repeat the process. In the rare circumstance when the need arises to recreate a criminal file from microfilm, staff has to undertake a labor-intensive process requiring accessing many different microfilm rolls to find all of the documents in the file (using dates in Banner).

> ***Recommendation 4: If it is determined that microfilming by Clerk's Office staff is for archival purposes, civil case documents should be microfilmed from digital images rather than from paper.***

Recommendation 5: Once scanning is available for criminal cases, the practice of microfilming criminal case documents upon filing should be eliminated and, if necessary, criminal case documents should also be microfilmed from digital images rather than from paper.

5. Use of Data as a Resource: Every day in the Clerk's Office, 60 public inquiry computers are occupied by representatives of land title companies and credit reporting agencies, among others, researching court records for information that has commercial value to these companies. Access to court records is free as a matter of public policy, but these companies spend significant amounts of money on labor performing this research task. If the Clerk's Office were able to aggregate and sell the same data that the researchers are painstakingly combing court records to obtain, the Clerk's office could benefit financially by selling its data resource.

Current Georgia law presumes that all court records must be open to the public. Generally, the public may access docket information, the pleadings and motions of the parties to a lawsuit, decisions and orders of the court, evidence introduced in court by either side, trial transcripts, official recordings of the judge's remarks made in open court, and records of pre and post-trial hearings. Online access and bulk distribution of court data are not addressed, though the Reporters Committee for Freedom of the Press reports that there is a commission trying to develop a policy concerning electronic access to court records.[32]

The Conference of Chief Justices and Conference of State Court Administrators (CCJ/COSCA) adopted Guidelines in 2002 to assist state courts in formulating policies for providing public access to court records, and has published a guide to implementing those CCJ/COSCA Guidelines.[33] The Guidelines define "bulk distribution" of data as "obtaining information about a group of cases as opposed to just one." They also make clear that a court need not provide:

[32] www.rcfp.org/ecourt/survey.html#GA.
[33] www.ncsconline.org/WC/Publications/Res_PriPub_PubAccCrtRcrds_FinalRpt.pdf.

> . . . bulk distribution of all court records in all available case types to prevent the exploitation of the information for commercial or other purposes unrelated to the operations of the court.[34]

The implementation Guidelines also address issues about the quality, reliability, and validity of the information in court records that are publicly available, noting that "just because a party to a case has filed a document with the court does not mean that all of the information in the document is accurate or complete." They also make clear that users of information on a court or clerk's website should not treat it as a "full and complete criminal history."[35]

The CCJ/COSCA Guidelines indicate that a clerk's office may charge a fee for providing bulk distribution. King County (Seattle), Washington charges 15 cents per page for viewing a case online over the web at the portal ECR Online.[36] In 2008, ECR Online generated $132,292 in revenue. Customers may also request research reports based on case file data at the cost of $20.00 per hour staff time. In 2008, research requests generated $461 in revenue.

The Washington State Administrative Office of the Courts sells court data in bulk under contracts which differ for large resellers like Lexis-Nexis, credit reporting agencies, and smaller companies like title companies. The state has a data dissemination policy as part of a court rule that governs protection of privacy.[37] The contracts invoke those statutes and policies.[38] Online-accessible information contains only docket information. Among other prohibitions, the Washington policy prohibits use of the information for

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[34] *Id.,* at 19.
[35] *Id.*, at 19-23.
[36] www.kingcounty.gov/courts/Clerk/Records/LocatingCourtRecords.aspx.
The secure portal for account holders is at https://dja-ecreweb.kingcounty.gov/ecronline/External/LogonPages/Logon.aspx?ReturnUrl=%2fECROnline%2fDefault.aspx.
[37] http://dw.courts.wa.gov/index.cfm?fa=home.policyFull.
[38] A sample contact is at
http://supreme.state.az.us/Rule123/Other_States/WAStandardDDContractforJIS.pdf.

communicating with individuals named in the record for the purpose of facilitating profit-expecting activity.

Anyone can request a custom report[39] subject to restrictions in the Custom Report Policy Summary. Commercially-useful data would be contained in an "index report" would contain filing date, case caption, party names and relationship to case, cause of action or charge, case number, case outcome, and disposition date. Such reports are available, at the cost of Programmer Hours: $40.00/Hour, CPU Minutes: $10.00/Minute, and Administrative Fee: $25.00. There is a charge for the reports of $1.00 per page, or free electronic output.[40]

> ***Recommendation 6: The Clerk's Office, in cooperation with the Superior Court, should consider developing a policy for (1) subscription access to case documents and (2) bulk distribution of case information, as a prelude to considering sale of subscriptions to online data and bulk distributions.***

Comment: Arizona's "Proposal for a Bulk/Compiled Data Access Policy" (Revised September 2008) is provided as an example in Appendix D.

6. Redaction: Redaction is the masking or "blacking out" of sensitive information from a digital document, either originally digital or converted to digital from another media. Redaction protects personal identifying information and helps to prevent identity theft. Typical fields to be redacted include Social Security numbers, bank account numbers, credit card numbers, and driver license numbers. An increasingly common practice is showing only the last four digits of identifying numbers.

Providing public access to electronic court records requires the court system to perform due diligence in protecting privacy interests of persons participating in court cases. The

[39] http://dw.courts.wa.gov/index.cfm?fa=home.dd.
[40] The Clerk of the Superior Court of Chelan County, a small county in central Washington State, has subscription contracts with organizations like the state's. Subscribers can purchase a subscription to the imaging system which allows them to view and print documents filed, for a monthly fee of $60.00.

policy question is, who is responsible for ensuring that confidential information is not made public by the clerk providing access to electronic records? Georgia apparently does not have a statute or court rule that governs redaction. Pending bill HB 55 would amend Georgia Code Section 15-6-61 to require Clerks of Superior Courts to redact Social Security numbers in real and personal property records but does not address court records. Some states, including Minnesota and Iowa have adopted rules governing redaction.[41]

Federal legislation passed the House of Representatives in 2007 that would restrict the sale, purchase, public display, and certain other uses of Social Security numbers in both the public and private sectors. In situations not regulated by this bill, government entities and the private sector may voluntarily choose to use a truncated version of a Social Security number limited to not more than the last four digits.[42] A revised version of this bill is expected to be considered again in this Congress.

The TSG system used by the Civil Division of the Clerk's Office provides authorized users the ability to redact information identified by clerks at the time of filing a document. The process is labor intensive and puts the onus on the staff member at the window to identify information needing redaction and a supervisor to perform the redaction. This has been Office policy going forward, so from a certain date onward, civil case documents are mostly redacted of confidential information. One hundred percent completeness and accuracy will never be achievable. Because adoptions are especially sensitive, adoption records are scanned in a stand-alone system to protect their privacy to the utmost extent. This approach is foolproof, though probably overkill. Images of adoption data that are contained in TSG, are kept separate.

[41] MN Rules of Public Access to Records of the Judicial Branch (2005) www.courts.state.mn.us/rules/publlicaccess/accessrules.pdf; Iowa Court Rule 16.602 www.judicial.state.ia.us/wfdata/rame8066-1022/File25.pdf. See Appendix E.
[42] H Rep. 110-339. HR 3046.

The current approach to redaction in civil records is known as "day-forward redaction" because redaction started on a specified date and has proceeded to the present. Before that date, document images are not redacted. This approach presents a dilemma about making records filed prior to the specified date available electronically, because they may contain sensitive or confidential information. A possible solution is redacting all documents scanned before redaction was available. This is known as "backfile" redaction. It is generally not feasible because it would be too large and expensive an effort, although Florida is attempting to do so.

> ***Recommendation 7: In the absence of legislation, the Clerk's Office in cooperation with the Superior Court, should consider adopting a policy that place the responsibility for redaction on those filing documents.***

Comment: Implementing such a policy on a day-forward basis in anticipation of the day when electronic court documents will be publicly accessible, will reduce the cost and effort required to protect sensitive information and serve to shield the Clerk's Office from potential liability. The Iowa Rules, cited above, provide that:

> The responsibility to redact or mask protected or confidential information is on the filing party. The clerk of court will not review filings to determine whether appropriate omissions or redactions have been made. The clerk will not, on the clerk's own initiative, redact documents or seal documents containing protected information. The same rule applies to transcripts and exhibits.
>
> When protected information is required by law to be included or is material to the case, a party shall record the protected information on a separate protected information form. The protected information form must contain the protected information in its entirety as well as the redacted version of the information used in the filed document.[43]

Other provisions allow a party to seek to file under seal any documents that are not deemed confidential by statute or rule, and provides that certain document types will be

[43] Iowa Court Rules 16.601 and 16.602.

automatically designated as sealed documents ("system-sealed"), and allows a party who mistakenly files confidential information to request an immediate order to temporarily seal the document pending notice and hearing. Another rule punishes a party who purposefully files documents containing unredacted protected information, enabling the court to impose sanctions including payment of damages and reasonable expenses, costs, and attorney fees incurred.[44] Both the Iowa Rules and comparable Minnesota provisions are contained in Appendix E.

B. Governance

The Clerk's Office is a hierarchical organization, headed by the elected Clerk and her Administrative Officer, and overseen by a set of highly experienced Chief Deputy Clerks. Most managers have deputies and smaller work units have supervisors who report to the deputy managers. Information and directions generally flow downward through this chain of command. Interactions between supervisors and supervisees are generally low-key and informal.

1. Development of a Vision Statement: A vision statement is an aspirational statement of what an organization strives to be.

> [V]ision statements are most effective when they "tell a story" of a new reality--a lucid and detailed preferred future. Effective vision statements elevate and compel action because they are both bold and inspirational and believable and achievable.[45]

Vision statements are an inherent part of the justice system and have become familiar governmental goals—"equal justice under law;" "with liberty and justice for all." They serve several purposes:

- As a motivator to inspire those greater efforts and achievement
- As a focus or standard by which to set priorities
- As a rallying point around which groups with differing perspectives can join together

[44] Iowa Court Rules 16.405, 16.608, and 16.609.
[45] National Association for Court Management, *Core Competency Guidelines*, Visioning and Strategic Planning (http://www.nacmnet.org/CCCG/cccg_10_corecompetency_visioning.html).

The leadership of the Clerk's Office is working on updating the Office's mission, vision, values and goals.

> ***Recommendation 8: The Clerk should involve staff in refining the draft of the mission, vision, values, and goals statement.***

Comment: Including staff in the development of the Office's mission, vision, values, and goals statements is important for several reasons in an effort to achieve excellence. First, it delivers the message that the staff is important and valued, which raises morale and commitment. Second and most importantly, it opens the door for staff ideas of ways for achieving the vision, broadening the pool of opportunities for improvement, and easing the implementation of changes in everyday operations.

2. Documentation of Policies: Having well defined and documented office policies in place, with easy access, defines an office and promotes adherence and consistent application. It ensures that all members of the staff have the same information regarding what is expected of them and what tools and resources are available to them.

Based on a review of several Clerk's Office manuals, it appears that office policies, and its mission, vision, and goals are only communicated in the New Employees Orientation package and that this package, like many of the other current manuals, is an accumulation of documents from various sources rather than a coherent and consistent guide. A few of the office policies, mission, and vision were also noted in the middle of the Recording Manual Procedures as well.

> ***Recommendation 9: The Clerk's Office should prepare a comprehensive, well-organized Office Policy Manual and update it regularly. A copy of the Office Policy Manual, and periodic updates, should be provided electronically, to every member of the Office staff.***

Comment: The manual should begin with a comprehensive, alphabetical index of the topics. The topics should be categorized in groupings, e.g., Clerk's Office Mission, Vision, Values and Goals; Benefits; Compensation; Ethics; Employee Relations; Employee Development; Safety and Security, etc. It should include the Fulton County Policies and Procedures Manual and highlight any instances where the Clerk's Office policies and procedures may differ. A list of suggested topics is contained in Appendix F. All materials should be placed in a consistent format. Placing the Office Policy Manual on line not only saves paper, but also facilitates access and simplifies updating.

3. Operating Procedures Manuals: Operational procedures manuals are an essential component of any administrative office. They should be designed to inform employees step-by-step about:

- What they are expected to do
- The purpose of each action
- How they are expected to do it
- What performance expectations and measures apply
- How their actions affect other parts of their division, the Office as a whole, as those who use and depend on the office

The Clerk's Office has an array of procedures manuals including ones for: Administration, Civil Filings, Criminal, Recording Procedures, Record Room Procedures, Indexing Standards for Real and Personal Property Records, Fiscal Services, and Financial Information System. Managers are responsible for the procedural manuals and their maintenance and upkeep. Generally, the existing manuals consist of non-sequential instructions, documents, and examples without a table of contents or other road map. Materials are hard to find, the clarity and completeness of explanations vary, and information gaps are hard to identify. The Recording Manual—Procedure is the best of the manuals reviewed. The front contains a table of recording documents and pagination for ease of use. Descriptors of processes are well laid out and easily followed. However, the manual also includes general office policies and cashier procedures.

Recommendation 10: The Clerk's Office should develop a new operating procedures manual for each Division that clearly and succinctly sets forth: the tasks and functions each position in the Division is expected to perform; the reason for performing those tasks including how they affect other parts of the Office, the Superior Court, attorneys, litigants, and customers; and the methods and standards for performing them. These manuals should be updated at least annually. A copy of the Manual and any updates should be provided to each employee on-line.

Comment: Preparing good operating procedures manuals is a time-consuming, tedious, unglamorous, but highly beneficial task. The process of developing the manuals often reveals how the process can be streamlined or otherwise improved. The manuals themselves promote consistent performance, facilitate training and cross-training, enable employees from unit to step-in to assist another unit when a staff member is absent, and simplify performance evaluation.

Each manual should be developed by department and/or function but should follow an Office-wide format that includes a table of contents with pagination. The topics should be arrayed in a logical order. Copies of forms and system screens with data input descriptors should be included where applicable.

Recommendation 11: In addition to the Operating Procedures Manuals, the Clerk's Office should develop check-lists for key, multi-step processes.

Comment: These checklists should be available in hard copy as well as electronic form to provide an everyday reminder for staff and a training tool.

4. Development of a Comprehensive Training Program: Clerks of court offices commonly experience the "swinging door syndrome"—position vacancies due to staff departures for other positions offering more opportunities for growth and development and/or higher pay. This may be seen as negatively impacting a clerk's office and its ability to perform its mandated duties; on the other hand, it can be used positively to

attract qualified staff looking for an opportunity to gain career advancing skills and experience. In order to limit the negative impact of the "swinging door syndrome" and strength the positive possibilities, a solid, comprehensive training program is needed.

In order for a training program to be effective:

1. There must be appropriate training materials for the position being trained for included the types of procedural and policy manuals recommended above.
2. The trainer must have the necessary skills to be an effective trainer (having subject matter expertise does not always equate to being an effective trainer).
3. The training should reflect the three primary learning styles (audio, visual and experiential learning) and include opportunities to apply the information and skills being taught.
4. There must be follow-up as trainees begin to use what they have learned.
5. There must be evaluation and updating of the training offered. If a trainee is not demonstrating an acceptable level of knowledge, skills, and abilities, it is important to evaluate the training program being provided as well as the trainee.

Currently, training for new or transferred employees is conducted on-the-job by the Clerk's Office's Division Managers. The training does not appear to be consistent in how it is structured or implemented. Only the Recording Division conducts a week-long classroom setting with experienced staff training, use of scenarios, and real estate packages, and assigns a trainer at the trainee's desk for a week afterwards providing hands-on assistance and support on the job.

> ***Recommendation 12: The Clerk's Office should develop and implement a comprehensive training program. That program should include orientation and skills development for new employees, and new knowledge and skills development for existing employees to enable them to perform additional tasks and undertake new responsibilities.***

Comment. Providing a comprehensive training program serves the Clerk's Office, the individual, and the customers of the Clerk's Office well. Trainees have the opportunity

to acquire the needed knowledge, skills, and abilities for the job, as well as the necessary tools and resources available, to quickly be an effective contributor to the office and support to the staff at large. Training for new hires may be offered in increments in order to allow the individual to begin a limited scope of duties and relieve existing staff of the burden of extra duties. As training continues, the new hire continues to perform more of the position requirements until fully trained in all aspects of the job.

5. Performance Measures:

> Performance measurement has come to be considered an essential activity in many government and non-profit agencies because it "has a common sense logic that is irrefutable, namely that agencies have a greater probability of achieving their goals and objectives if they use performance measures to monitor their progress along these lines and then take follow-up actions as necessary to insure success."[46]

To be useful, the measures used and reported by an organization should be directly related to the organization's vision and goals and the expectations of its customers. To the greatest extent possible they should measure outcomes as well as outputs. Performance measures for individual employees and managers should be tied directly to the organization's goals and measures.

Currently, the "performance indicators" that the Clerk's Office reports to the County such as "total number of completed requests, number of indictments and accusations, amount of fees managed, number of scanned images verified, etc., are workload measures. They are important for determining productivity and resource needs, but they do not measure how the Office is performing, just what it did. Internally, the Office uses an impressive array of both quantitative and qualitative performance measures on a frequent and on-going basis including but by no means limited to what the whether:

[46] D.M. Rubio, F. Cheesman, W. Federspiel, *Performance Measurement of Drug Courts: The State of the Art,* 1 (Williamsburg, VA: NCSC, 2008), quoting T. Poister, *Measuring Performance in Public and Nonprofit Organizations* (San Francisco, CA: Jossey-Bass, 2003).

- An employee has met the standard for the number of documents to be scanned daily
- An employee has met the standard for the number of requests responded to daily
- An employee has filed all documents received within 24 hours, and
- A file to be sent to the Court includes all the documents that have been docketed

However, most of the standards used are not in writing; the types of measures used vary across Divisions; the performance on these measures is not recorded or formally reported, and with the exception of the "good thru date" for new real estate transactions, not explicitly tied to the goals and objectives of the Office. Thus, to a large extent, the picture of the Office's and an employee's performance is often impressionistic and driven by the frequency or absence of external complaints.

Recommendation 13: The Clerk's Office should develop written sets of organizational performance measures for the Office as a whole, for each Division, and staff performance measure for each position or type of position. These measures should be directly related to the Office's vision, mission, goals, and responsibilities.

Recommendation 14: The Clerk's Office should assess regularly its performance and those of each member of the staff using the performance measures it has developed and report the results at least annually.

Comment: By assessing and reporting its performance using outcome and output related measures, the Clerk's Office and individual employees will be able to document their performance in a particular and chart the progress made in reaching the organizational goals and expectations. The Office will also be able to better place in context and address the anecdotal horror story that all too often now forms the impression of its current performance.

C. Management

1. Staff Organization and Workflow: The Fulton County Clerk's Office is structured into eight operating divisions.

- Records Administrator/Administration
- Fiscal Services
- Recording
- Civil
- Records Processing
- Courts
- Record Room
- Court Services

The analysis in this section focuses on the operating divisions that interact most closely with the Superior Court—the Civil Division and the two divisions that handle criminal cases—Courts and Court Services. The organization of staff, retrieval of information, and the flow of the documents were examined to identify redundancies, inefficiencies, and generally determine where more efficient processes can be introduced. The following narrative highlights the general process flow and is not intended to identify every case type process and activity. For a more detailed documented flow of the process see Appendix G.

The Civil Division and the two divisions that handle criminal cases are relatively similar from a high level perspective; however, vary greatly in terms of process and in the utilization of case management technology. As discussed earlier in this report, the Civil Division utilizes scanning with the TSG case management system while the Courts and Court Services Divisions use the Banner system, the Sheriff's mainframe system, and the District Attorney's JDL case management systems. Not surprisingly the associated work flow for each respective Division is tied to the use of their available technology. Both divisions however, use the same microfilm technology and process for closed cases.

Civil: Within the Civil Division, the Chief Deputy Clerk supervises a Court Support Specialist, a Court Support Manager, an Administrative Coordinator III, and 25 Clerks.

Presently the Division is carrying four vacant Clerk positions. The Civil Division, as the name implies, handles all civil filings as they proceed through the Superior Court process to resolution. Cases can be initiated in person or by mail. Cases initiation at the first floor front counter is not unlike initiating a case at any other general jurisdiction court nationwide. The NCSC team observed a steady flow of customers to the front counter to file their initial or subsequent pleadings.

Documents are presented to the clerk at the front counter who reviews each one for completeness, collects all necessary filing fees, date stamps, initials, and scans all the documents into the TSG case management system. Copies are provided to the person presenting the pleading while the originals are placed in a previously constructed file folder with a case number and bar scan already attached. Pleadings sent by mail are received every four hours from the central mail processing unit and distributed to the front counter staff to process utilizing the same procedures. All civil work passes through clerks at the front counter. Subsequent monitoring of the civil case file is performed by the judge group clerks who maintain the file through resolution.

Work volume is generally steady and is reliant upon the habits of the general public. Staffing issues do arise when family violence advocates, who shepherd groups of domestic violence victims through the process, arrive at the front counter for filing multiple temporary restraining orders (TROs).

> ***Recommendation 15: The Clerk's Office should seek to establish a protocol with family violence advocacy groups under which family advocates will call a specified contact person in the Civil Division, in advance, and advise that person of the number of petitioners who will be arriving and the approximate time of their arrival.***

Comment: With an hour's advance notice that a group of petitioners will be coming, the front counter supervisor can ensure that there are sufficient staff at the counter to handle the surge of filings in a timely and appropriate manner.

The Fulton County Superior Court utilizes an individual calendar system—i.e., judges are randomly assigned cases by the automated case management system as each case is initiated. Once a case is initiated, as previously described, the folder is placed in the assigned judge's basket within the front counter work area for pick up by the supervisor from the assigned judge group. Judge groups consist of two clerks and one lead clerk[47] who picks up, acknowledges receipt of folders by signing a manual log, and distributes work within the group. Group supervisors also maintain statistical information in order to provide regular monthly reports regarding case load and productivity.

The file folders are stored within the judge group work area until needed for court.[48] Case managers employed by Court Administration who work directly for each judge print out the calendar ten days in advance of the court date and give it to the judge group so that the file folders can be pulled from the shelves. The case manager then picks up the set of files needed for the day's court events. Each time a file is pulled for court, a member of the relevant judge group compares the contents of the file to the docket (the list of all documents and events that have occurred in the case to date) to ensure that the file is complete and up to date. As files move back and forth from the possession of the Court's case manager to the Clerk's judge group, each recipient signs a manual log acknowledging receipt. Although each file has a bar code attached, the bar code is not used to track files. The process of utilizing manual logs has become part of the culture of the Clerk's office due to reported past problems with Clerk's staff not taking responsibility for files as they physically move from desk to desk during the adjudication process.

[47] Because of the addition of judicial positions without a parallel increase in positions for the Clerk's Office, some judge groups consist of only two persons.
[48] It should be noted that the chambers of one Superior Court judge keeps the files for all cases assigned to the judge from the initial hearing until the conclusion of the case rather than returning them to the custody of the clerk after each hearing. Members of the Clerk's work group for that judge place new pleadings into the files in the judge's chambers periodically during the life of the case.

The case manager notes the result of each court event on the calendar and produces any necessary orders. The files, calendar, and orders are returned to the judge group by the case manager so that they can officially file the documents by date stamping, initialing, and scanning them into the case management system.[49] If the case remains open, the file is shelved with all other open cases in the judge group's work area. If the court event was dispositive, the folder is prepared for microfilming and sent to closed records. Microfilm preparation includes documenting every item in the file on a Writ List, booking and paging the contents, and recording the number of pages in a log of what is sent to be microfilmed. Once the file has been microfilmed, it is returned to the work group who reassemble the file and sends it to Closed File Room.

Criminal: The Court Services and Courts Divisions employ a total of 95 staff (33 and 62 respectively) due to the volume of criminal cases and the number judicial officers assigned to those cases. Court Services is responsible for "non-complex" cases—felonies that do not involve bodily harm. The Courts Division is responsible for the "complex" felony caseload (murder, armed robbery, sexual assault, etc.). Although the Superior Court handles these cases differently, the workflow in the Clerk's Office is largely the same, although the timetable for non-complex cases is much shorter.

Cases are initiated either through the arrest of an individual, or an indictment or accusation from the District Attorney's Office. Accordingly the Clerk's Office is organized to accommodate cases initiated over the counter via indictment, and cases that are initiated by the arrest of a defendant and processed through the Fulton County Jail. The divisions responsible for criminal cases utilize three distinct case management systems: the Mainframe system which belongs to the Fulton County Sheriff allows Clerk's Office staff to identify defendants who are in jail; the District Attorney's JDL system; and the Clerk's Banner case management system.

[49] When the case manager positions were established in Court Administration and staff shifted to these positions from the Clerk's Office, the Clerk at the time prohibited case managers from entering information directly into the Clerk's electronic case management systems.

Counter Process: Cases that are initiated via direct accusation when the defendant has not been arrested or "true bills" returned by the Grand Jury on Tuesdays and Fridays are filed at the Criminal Docket counter on the fifth floor of the courthouse. Prior to filing, each case is evaluated to determine if the case should proceed as a complex or non-complex case. The Criminal Docket counter serves as the primary customer point of contact for all criminal matters. Cases are initiated with the staff assigned to the counter reviewing, date stamping, and filing all relevant documents in a pre-constructed case file. The judge may have been pre-assigned depending upon the case track and the charge; if not, the Banner system automatically assigns a judge to the case. The file folder is then placed in the basket belonging to the assigned judge group for the lead clerk of the group to pick up and distribute necessary work assignments within the group. Similar to the Civil Division judge groups, the judge groups for judges hearing criminal cases (or both criminal and civil cases) consist of two data entry clerks and one lead clerk.

Once files are received by the judge group, the group's staff enters the documents into Banner, "Book and Page" the documents (numbers and counts the pages of each document), and places them within a package (book) of documents (not to exceed 100 pages) that goes to the microfilm unit. The clerk also prepares a writ list which is a document that lists all the cases by judge that are sent to the Microfilm department. This is similar to the Civil closed file process. Once microfilmed, the file folders must be reassembled and the files placed on the active shelf in the judge group's work area to be pulled for the next court event.

Case managers assigned to each judge print out the criminal calendars ten days in advance of the court dates and deliver them to the assigned judge group. The judge group staff, files the calendar (date stamp and initial), pulls the appropriate files, prints the docket, and conducts a "docket check" by comparing all documents in file with

those recorded in the Banner case management system. The case manager then picks up the files for the next day's court events.

After the court event, the files are returned to the judge group with any relevant orders via the criminal docket basket so the judge group can process the documents generated as a result of the court event. If the court event was *not* dispositive, the a member of the judge group files (date stamps and initials) the new documents, enters them into Banner, and sends them for microfilming in the manner outlined above. If the case was disposed during the court event, the judge group staff enters all documents on Banner as above but may need to prepare any necessary paperwork for the Sheriff or construct a Department of Corrections (DOC) package.

Jail Process: Cases that begin with an arrest begin in the Fulton County Jail and are handled by the six Clerk's Office employees who are assigned to manage the case files there. These employees are responsible for creating files for the five different calendars that are heard in the courtrooms at the jail.

- Bench Warrants
- Catch-all Calendar
- 1st Appearance
- Arraignment
- Probation Violations

After a defendant is arrested, an Assistant District Attorney reviews the police report and creates a complaint outlining the charges the state will pursue. The list of all defendants against whom a complaint is filed is called the "pull sheet." Clerk's Office staff at the jail receive the pull sheet at 7:00 a.m. from the Sheriff's Department and begin matching all relevant documents with the names of those incarcerated so that a file can be created for the appropriate calendar. The Clerk's staff also pick up any indictments from the District Attorney's Office and transport them to the jail early each morning for the first appearance and arraignment calendars.

Complaints, pre-trial services reports, and all bond documents are placed in a file for review by the judge. As the cases are heard, a clerk records the results on the calendar. The case manager present during the proceedings completes any necessary documents resulting from the ruling. Defense attorneys prepare their Entry of Representation form. All forms are bundled and taken to the Clerk's Office at the courthouse. Once delivered, these files are then taken directly to the Complaint Room on the fifth floor.

The Clerk's staff use their private automobiles to transport court documents to and from the Fulton County Jail. They are not reimbursed for fuel or mileage.

> ***Recommendation 16: The Clerk of Court should hire a licensed, bonded courier service to transport court documents between the Fulton County Courthouse and Fulton County Jail.***

Comment: Relying on staff to use their own cars to transport documents to and from the jail is not only an imposition and unreimbursed expense to them but also a liability risk to the County. Hiring a courier service like that used to transport files from the English Street facility would address both issues.

Complaint Room: The packets from the jail are delivered to the front counter of the Complaint Room where receipt is recorded in a manual log. The files are in the following type packets:

- Department of Corrections – Defendant pled guilty at arraignment
- Superior Court (SC) Documents – Indicted felony cases in which probation was revoked
- Appearance Bonds – Defendants who bonded out of jail
- State Court Files – Misdemeanor cases that fall within the jurisdiction of the State Court

Upon arrival in the Complaint Room, these packets are immediately sent to the microfilm unit. After being microfilmed, they are returned with a list indexing each document to a book, page, and roll number. The books of microfilmed documents are then examined to remove every CP (complaint) bond for separate processing. The documents are then separated so that they can be placed in a file with the appropriate labels and case number.

As is evident from the previous discussion, microfilming criminal case documents as they are received creates extra steps in the process and adds considerable work for staff. This reinforces the importance of ***Recommendation 2.***

When cases are transferred from the jail, they are identified by a "CP" number associated with the Sheriff's mainframe case management system. When the case is processed by the front counter staff of the Clerk's Office, the case is assigned a Superior Court (SC) number by Banner. The folders are then created and given an assigned judge code. The relevant files are picked up by the lead clerk of each judge group.

Appeals: The Appeals Unit of the Courts Division is responsible for transferring the case record for all cases appealed—criminal, civil, and family. The seven staff assigned to this Unit are located on the fifth floor of the courthouse. The Unit tracks appeal on a Microsoft Access database developed by the Chief Deputy Clerks of the Courts Division. Notices of appeal (NOAs) are filed at the respective civil and criminal front counters.

The staff at the civil front counter notify the Appeals Unit by telephone that a notice of appeal has been filed and is ready to be picked-up by the supervisor. The supervisor indicates receipt of the NOA by signing a manual log. The supervisor then delivers the NOA to the appropriate appeals clerk. The appeals clerk will order the file, run the docket, and prepare a bill for payment if the appellant was not granted *in forma pauperis* status. The case is prepared for transmittal to the higher court (i.e. copied, numbered, indexed, hole-punched, bound) after payment is received or an *in forma pauperis* order received. Finally, the original case file is returned to the appropriate judge group.

Criminal appeals are handled slightly differently. When an NOA is filed with the criminal front counter, a copy of the NOA goes into the Appeals Unit basket in addition to the relevant judge group. The judge group has three days to complete a docket check and deliver the file to the Appeals Unit. Unlike civil cases, the criminal case appeals process involves the overlap of responsibilities with the assigned Judge Group and the Appeals Division. At least some judge groups order transcripts and follow-up with the court reporter before forwarding the file to the Appeals Unit.

Recommendation 17: The Clerk of Court should consider assigning all appeal record preparation functions to the Appeals Division.

Comment. Clarifying the responsibility for preparation of the appeals packet will alleviate confusion, avoid duplication of effort, and improve oversight.

There are additional opportunities for streamlining and reducing the cost and effort required to prepare the record for appeal. A necessary procedure in preparing an appellate record is to ensure that all pertinent documents are included, sequentially numbering the pages in proper order, and producing an index. The Appeals Section of the Clerk's Office staff performs these functions following receipt of the file from the

judge group and conducting a docket check. A numbering machine is used to sequentially number each page in the appellate record.[50] In civil appeals, the numbering is affixed on the original documents; in criminal appeals, copies are made first and the numbering is affixed on the copies. Once the page numbering is completed, an index is produced and either two or three copies of the appellate record are made. One of the copies is retained in the Clerk's Office file room.

> ***Recommendation 18: For appeals in civil cases, the Appeals Unit should prepare the appellate record from the scanned image of documents using a page-numbering software package. This procedure should be extended to criminal cases as soon as the documents for those cases are routinely scanned. (See Recommendation 2).***

Comment: Many appellate courts across the country are attempting to achieve time savings and efficiency enhancements through the use of electronic records. Once the record is assembled, and an index produced, the electronic file can either be transmitted to the appellate court or, if the appellate courts are not prepared to receive electronic records, sent directly to a network printer. The electronic file is be saved to a shared drive in the Clerk's Office, eliminating the need to produce an additional hard copies for the file room, and making it easy to share a copy with the record to parties who do not automatically receive on such as the District Attorney's Office.

2. Process Overview: *Docket Checks:* Docket checks have been noted at several points in the description of the process employed by the Civil, Courts, and Court Services Divisions. After every court event and every transfer of the case file from clerk to case manager and back to the clerk, a complete docket check is performed. On the surface this appears to be a prudent and conscientious approach to case management. On the other hand, the repetitiousness of the activity can be viewed as unnecessary and repetitive, and there were suggestions that docket check process is not as effective

[50] This process is commonly referred to as 'Bates numbering' after the machine produced by the Bates manufacturing Company and patented in 1893.

as it appears. The NCSC team was advised that documents are missing from a significant percentage of case files when they reach the Superior Court.

> ***Recommendation 19: The Clerk of Court should review the implementation of the process used for ensuring the completeness of case files and should issue written guidelines regarding the process to be used, the actions to be taken when a document is missing, and the number of spot checks of files that should be conducted by Chief Deputy Clerks and/or their deputies.***
>
> ***Recommendation 20: Once there is a shared level of confidence between the Clerk's Office and the Superior Court that the case files being provided to the Court are complete, the Clerk of Court should consider modifying the process to permit docket checks to cover only those documents filed since the last docket check. When there is a greater reliance on electronic rather than paper files, the process should be reviewed again.***

Comment: "A reliable and accurate case file system is fundamental to the effectiveness of day-to-day court operations and fairness of judicial decisions. The maintenance of case records directly affects the timeliness and integrity of case processing."[51] It was beyond the scope of this project for the NCSC team to conduct a detailed review for the completeness of case files. The procedures described by the Clerk's Office appeared more than adequate to ensure case file integrity. However, the impressions offered by some though not all stakeholders raised questions about its effectiveness. Because case file completeness is such a central responsibility of any clerk of court's office, an internal review of how well the current process is working appears justified and necessary modifications and enforcement measures developed and applied. Given the time and work involved in conducting docket checks, the repeated reviews of all documents in a case file need not be the quality assurance used for all time, especially after electronic files begin to be used more frequently in courtrooms than paper files. Thus, once there is the perception that case files are complete and accurate in almost

[51] NCSC, *CourTools: Trial Court Performance Measures,* Measure 6-Reliability and Integrity of Case Files (Williamsburg, VA: NCSC, 2005).

all instances, a more limited form of docket review should be considered in which a judge group clerk initials the docket sheet at the last document verified, and when the file again passes out of the custody of the Clerk's Office, the next docket check covers only those documents filed since the last check. To make this partial check system work effectively, the Court will need to agree not to remove documents from or rearrange files.

Use of logs: Like docket checks, manual logs are used throughout the Clerk's Office to track file movement and document employee actions. The use of these logs provides a high degree of accountability, but is also cumbersome and time-consuming. Bar codes are being affixed to at least some files currently, but do not appear to be used to track files.

> ***Recommendation 21: The Clerk's Office should implement and use a bar coding system to track the movement and location of case files and documents.***
>
> ***Recommendation 22: The Clerk's Office should seek to include automated logs of staff actions as one of the functions provided by any new case management system.***

Implementation of a bar code tracking system could lessen the number of logs that need to be maintained. Automated logs of employee actions (i.e., notation of whose computer entered data, certified a file, or completed some other action as part of the functions performed automatically by the case management system) could reduce the need for initials and logs even further, saving both time and effort.

Size of Judge Groups: The judge group concept was implemented as a result of a study conducted by Dan Haggerty and Associates in 1998. In its report, Dan Haggerty and Associates recommended that each judge group be staffed by three clerks and one lead supervisor. Due to budgetary constraints the recommended judge group concept has never been fully funded. Most judge groups not include a total of three staff; some operate with two.

The question of what is the most efficient ratio of clerk's positions to judicial positions cannot be addressed in this report. The type of analysis performed for this project is insufficient to collect the information to needed to define the proper staffing level. A detailed workload study is required to obtain a true representation of any staffing needs. The most reliable way to measure staff need is on the basis of a weighted caseload analysis that measures the case-related and non-case related time staff spend on specific job related activities in order to develop a mathematical model which can then assign FTE values to the job tasks required to handle the work of the court or clerk staff. Given that the time required to perform specific tasks is likely to be reduced significantly when the Unified CJIS is introduced, this is not the time to conduct the required workload study.

> ***Recommendation 23: The Clerk of Court should initiate a detailed workload assessment following implementation of the Unified Criminal Justice Information System in the Clerk's Office and by those justice system partners with which it interacts most frequently.***

3. Impact of Temporary Positions: The staffing of the Clerk's Office includes both permanent and temporary positions. Temporary positions account for well over 10 percent of all staff positions.[52] The employees who fill these positions do not earn seniority in the County's personnel system. However, individual positions can be eliminated, reduced, or revised much more readily than permanent positions. While the use of temporary positions provides increased flexibility in terms of the Clerk's ability to respond to budget fluctuations, variations in workload, and other operational needs, there are also several drawbacks.

[52] Excluding division managers and unit supervisor positions.

Due to the lack of long-term job security, many of the employees appointed to these positions continue to seek permanent employment within the Clerk's Office or other County Departments. All Chief Deputy Clerks reported that the efforts to train temporary employees and integrate them into the workflow process must be repeated frequently as promising individuals gain knowledge and become productive contributors only to be hired into permanent positions in other divisions or County Departments. As a result, this practice creates a risk in the Clerk's Office of consistently losing the more promising temporary employees while retaining those that present only more limited capabilities. This effectively dilutes the benefits that might be obtained due to the increased flexibility in eliminating or revising such positions.

Recommendation 24: The Clerk's Office should work with the County to convert temporary positions to permanent positions over time.

Comment: Considering the current financial conditions in Fulton County, and the increased cost of permanent versus temporary positions, such conversions may not be possible immediately. When undertaken, the likelihood of retaining more qualified staff as permanent employees and the resulting long-term efficiencies should be weighed against the impact of reducing the total number of staff so as not to decrease overall staff effectiveness and capacity. The workload study proposed in **Recommendation 23** will provide a good opportunity to determine the staffing level required and the appropriate ratio of temporary positions to be converted into permanent slots.

It is a basic responsibility of the Clerk's Office to accurately record and maintain the records of the Superior Court, a significant portion of which consists of legally protected and confidential information. Accordingly, the Clerk's Office conducts background checks on all new employees hired into permanent positions. However until recently, background checks have not been regularly conducted for appointment of temporary employees. Because of the prevalence of temporary employees, they are frequently assigned responsibilities of recording, processing, and accessing confidential information

or handling cash. These circumstances create a situation with increased risk of either intentional or inadvertent misuse, or the perception of such misuse, of funds, records, and information.

> ***Recommendation 25: The Clerk's Office should review the use of temporary employees. Where feasible, temporary staff should not be used to enter, process, or retrieve protected and confidential information.***
>
> ***Recommendation 26: The Clerk's Office should continue the recent practice of conducting a background check before hiring a person for a temporary position, and to the extent feasible, conduct a background check for all current temporary and permanent employees who have not previously been the subject of a background check.***

Comment: Conducting a basic criminal history and financial background investigation for all employees is a prudent risk reduction practice for any clerk's office, given the number and value of financial transactions conducted and the sensitive information contained in many types of case files (e.g., the names and addresses of sexual assault and child molestation victims in criminal case files; family financial information and custody investigation reports in family case files; and protected business information in civil case files). Such background checks have been the standard procedure for persons hired for permanent positions for some time, but have only recently been initiated for new temporary hires. Continuing the practice of checking the background of new employees and extending it to any current employee who has not had such a check is a necessary investment to protect the public, the Office, and the County.

4. Interaction with Case Managers: The case managers employed by Court Administration for each judge and the members of the Clerk's Office group assigned to the corresponding judge necessarily interact on a regular and frequent basis. It became apparent during the course of discussions that dissatisfaction and misunderstanding exists between the case managers and judge groups. Clerk's Office staff complain that case managers disassemble and reorder the documents in case files,

requiring the Clerk's Office to perform the time-consuming comprehensive docket checks discussed above. Case Managers indicated that frequently, case management information is not updated and entered in a timely manner causing a delay in the execution of court orders; entries closing cases are late or do not occur causing inaccuracies in the Superior Court's statistical reporting, and documents are improperly sequenced or missing altogether from the hard copy case files. Staff of judge groups responded that delays are caused because case managers do not return documents and orders in a timely manner because, with few exceptions, they are processed in accordance with the 24 hour rule which requires all entries to be completed within 24 hours of receipt by the Clerk's Office.

Neither the case managers nor the Clerk's Office team members pinpointed specific, systemic breakdowns in workflow and it appears likely that overall, delays are attributable to the amount of time it may take documents to be delivered to the Clerk's Office as well as clerical processing time. Whatever the reason, delays in processing and certifying court orders and other documents were noted by other justice partners, and while such delays clearly do not occur in every case, they occur frequently enough to erode confidence in the process.

Both groups indicated that a consistent and effective communication between them rarely took place. Whatever problem-solving discussions take place, occur in a 'crisis mode' to address immediate issues.

Recommendation 27: The Clerk, the Court Administrator and/or the Chief Judge should require the judge group and case manager for each judge to meet together on a regular and on-going basis to develop:

- ***A clearer understanding of the requirements and constraints under which each works.***
- ***Mutually beneficial procedures and expectations to resolve any on-going impediments to the accurate and timely completion of their responsibilities.***
- ***Additional problem resolution strategies to address problems as they arise.***

The Clerk, the Court Administrator and/or the Chief Judge should jointly set the expectation that judge group staff and case managers are to resolve day-to-day operational problems among themselves and raise and systemic concerns with their respective supervisors.

5. Accuracy of Aggregate Data: Aggregate data is the data collected on individual cases and reported by the Clerk's Office as a total over a given time period, for example, monthly or annually. Accuracy of operational data is not only critical to everyday operations of the Office, but also has more far-reaching effects. These numbers ultimately drive the number of judges allocated by the legislature to serve on the bench in the Superior Court and help determine the staff positions funded by the County for the Clerk's Office. Accuracy of aggregate case data thus has real-world consequences.

Certification of Civil Case Data: The Clerk's Office reports civil and criminal individual case filings and dispositions through the Georgia Superior Court Clerks' Cooperative Authority (GSCCCA) which in turn, provides data on civil and criminal individual case filings and dispositions to the Georgia Administrative Office of the Courts (AOC). The AOC has embarked on a program of certifying the aggregate data produced by all case management systems used by courts in the state to ensure that that the reports submitted by each county uses consistent definitions and data fields, enabling "apples-to-apples" comparisons.

Certification of civil case data from courts using the TSG case management system is not underway at this time, but will begin sometime this year. Since the Fulton County TSG civil case data transmission has not been certified, it is likely that there are differences in the data reported and the definitions of those data between the Clerk's Office and counterparts in other counties, as well as between those used by the Clerk's Office and the Superior Court. The AOC has found in certifying other systems that cases may not be marked as closed, for example, or that clerks are entering dispositions in non-uniform ways. Until certification of TSG is completed, the Clerk's submission of data is considered to be authoritative.

Criminal Case Data: The Superior Court Clerks in some counties are submitting criminal case data to the GSCCCA, which then transmits the data to the AOC. This criminal data transmission has not undergone any certification process, and the AOC does not plan to certify criminal case date until certification of civil case data has been completed. Until a certification of criminal case information systems has been completed, the Clerks are the final authority on the accuracy and completeness of their criminal data.

> ***Recommendation 28: Using the definitions adopted for civil case information systems being used for the certification process, the Clerk's Office should provide the necessary training and oversight to assure that staff are entering data regarding those cases accurately and consistently into the TSG system.***
>
> ***Recommendation 29: Once a Unified CJIS has been procured, the Clerk's Office should work with the Superior Court, other justice partners, and the selected vendor, to establish a set of agreed upon definitions for data entry and data fields. After there is an agreed upon set of definitions, the Office should provide the necessary training and oversight to assure that staff are entering data regarding criminal cases accurately and consistently into the new system.***

Comment: Obtaining consistent statewide data will facilitate comparisons of the workload and productivity of Georgia courts and facilitate development and evaluation

of state policies. The certification process is a necessary step toward the goal of having comparable statewide information. Because it is likely that some adjustments in the definitions currently used for civil case data by the TSG system may be necessary before it can be certified, it would be helpful if Clerk's Office identify those needed modifications as early as possible and begin the transition process by training staff to make certain that data is entered correctly and the aggregate information produced is as accurate as possible.

With regard to criminal case data, it will be critical for the Clerk's Office, the Superior and State Courts, and the other justice partners to come to agreement with the vendor about the data fields to be included in the system and how those fields should be defined. Otherwise, the new Criminal Justice Information System will not be fully able to meet its goal of providing consistent, accurate, and exchangeable data to its users. Therefore, training on those agreed upon definitions must be included as part of the overall training on how to use the new system.

D. Customer Service

As indicated at the beginning of this report, the Clerk's Office places a high value on customer services, and serves a large and varied set of customers that is likely to grow rapidly and become even more diverse. Some, like County agencies, members of the bar, and title companies, and corporate litigants are knowledgeable about the services the Clerk's Office provides, the data and records it maintains, and the legal system. Others, such as many members of the public and self-represented litigants are not. The Office already receives hundreds of inquiries each day of one type or another. The Recording Division, for example, averages more than 160 calls per day alone. Some of these inquiries the Clerk's Office staff can respond to quickly and easily. Others, such as requests for direct legal assistance are not appropriate for staff to answer. Still other inquiries fall with the responsibilities of another County agency and must be referred.

Currently these inquiries are handled by front counter staff or whoever happens to answer a ringing phone. Responding to inquiries can be time-consuming. Providing responses takes time away from other duties. And, when the question asked is outside the scope of knowledge or responsibility of the individual staff member to whom it is directed, the questioner may receive inaccurate information or be sent off on a series of referrals. The biggest complaint from callers is that they cannot get through because the line is always busy.

The Clerk has expressed interest in establish a specialized Customer Service Unit to which individual calls can be funneled. This is a very personalized and direct means of addressing this responsibility, but given the flood of daily inquiries, it would be a highly expensive one if it were the only method used, and available only during normal business hours. Technology and written materials provide additional avenues for meeting the demand for information.

> ***Recommendation 30: The Clerk's Office should use a multiple approaches for responding to inquiries and providing information to its customers, including designated customer service staff, widely distributed printed materials, a Interactive Voice Response (IVR) telephone-based system, and an enhanced website.***

Comment: Both public and private sector organizations have learned over the past decade that one of the best ways of providing information to their customers is to have that information available from a variety sources. No one means is likely to appeal to or satisfy every customer. By providing at least the answers to "frequently asked questions" through telephonic and electronic means, the time of the most valuable resource—staff—can be reserved for the more difficult and personalized questions.

1. Interactive Voice Response (IVR) Systems: IVR is a technology that allows a computer to detect voice and keypad inputs. IVR systems can respond with pre-recorded or dynamically generated audio responses to direct users on how to proceed.

IVR systems can be used to control almost any function where the interface can be broken down into a series of simple menu choices. The County is moving toward a digital phone system (voice-over-IP or VOIP), which could easily accommodates IVR.

IVR systems allow callers to get needed information 24 hours a day and obtain data relatively anonymously. They can also be used as a front end to individual staff or call centers in order to answer as many calls without requiring the assistance of customer service personnel. In such cases, IVR does not replace staff, but keeps them from constantly having to answer the same simple questions.

A properly designed IVR application can respond to a caller's needs promptly and with a minimum of complexity. Badly-designed IVRs (like many help desk call center systems) have resulted in knee-jerk criticism for the technology as being unhelpful, difficult to use, frustrating, and annoying. Some callers object to responding to any automated system and prefer speaking with a human respondent.

> ***Recommendation 31: If IVR is used to respond to public inquiries, the Clerk's Office should select a system that is easy to program, use, and update, and that can include transferring the call to customer service staff as a clear and easy option in all menus. The responses programmed into the system should be clear, accurate, and courteous.***

Comment: As with much technology, the most satisfactory IVR system may not be the least expensive, but the benefits in level of use, reduction in staff time spent responding to questions, and customer satisfaction should compensate for the initial investment of capital.

2. Website: Considering the criteria used by JusticeServed.com in its annual evaluation of Top 10 Court-Related Websites,[53] the Clerk's Office[54] website fares well. Its positive attributes include:

- Forms are available (though not as many as needed)
- There is a searchable database of court cases (civil only)
- There are links to other Web resources of interest to users
- It has good aesthetics - design, color and layout
- It is easy navigation, though there is no internal search engine
- The site can be found using standard search engines
- A feedback form is available with an offer to contact the person providing feedback
- It includes 47 phone numbers for all operating divisions although the reference to the divisions responsible for criminal cases are opaque
- A staff directory and judge information are available
- Directions and maps to the North Annex and South Annex are included

However, there are a number of ways in which the Website could be enhance to better serve customers and reduce the current workload of staff. The most important of these is to enable case participants (lawyers and parties) to at least view and preferably download documents. This capability is available in some other metro Atlanta counties and is a highly praised convenience for the litigating bar. Enabling lawyers and parties to download documents will also reduce the number of requests to view files and copy documents, saving time for both front counter and judge group personnel. For many of the same reasons, e-filing is significant as well.

Having all forms and instructions on line would be a service to the bar. Adding clear instructions of how to complete the forms and the basics of what is required to file a case (short of actual legal advice), to obtain other documents, and other materials available from Family Legal Information Center would offer better service to the public as well.

[53] http://justiceserved.com/top10eval.cfm.
[54] http://www.fcclk.org

Recommendation 32: The Clerk's Office should expand the functionality of its website to include the ability of at least some users to download case documents, and all users to download forms, instructions and other explanatory materials.

3. Centralized Customer Service Unit: Given the demand for information and array of services and responsibilities of the Clerk's office, a customer service unit makes sense as part of an integrated customer service system. The equivalent of several full-time positions is already being devoted to answering calls and responding to in-person inquiries. In staffing such a unit, care should be taken to assign staff who enjoy and are good at dealing with the public, and are able to act as effective problem-solvers as quickly as possible. They should receive training so that are well-informed about all aspects of the Clerk's Office, know how and where to refer inquiries that lie within the responsibilities of other County agencies or units of government, understand what information is not appropriate to provide, and are capable of dealing courteously and effectively with angry, intoxicated, mentally-impaired, and otherwise difficult customers. Staff serving in the unit should also have access to the Office's case management systems and to directories of information about County services and how to access them.

Recommendation 33: If a specialized Customer Service Unit is formed, the staff selected for this unit must be carefully selected, well-trained, and provided with the necessary written and electronic resources.

Comment: Once the Customer Service Unit is functioning well and becomes known in the community, it is likely to be seen as a sort of ombudsman service for people having questions about all types of government services and problems they believe government can solve. The Clerk's Office should be prepared if this occurs and seek assistance and financial support from other agencies.

4. Assistance for Self-Represented Litigants: As discussed in the trends section of this report, the number of self-represented litigants in Superior Court cases is likely to continue to increase over the next decade.

> [Clerk's] staff, already overburdened—especially in large urban jurisdictions—are faced with increasing numbers of pro se litigants who ask for explanations of the legal process as it pertains to their cases. While court clerks have traditionally assisted attorneys and their staff by providing instructions as to the appropriate rule to follow or form to file, they are hesitant to provide the same information and forms to self-represented litigants. . . In most jurisdictions, the result has been to turn away these litigants. . . .[55]

While the current number of self-represented litigants in cases before the Fulton County Superior Court is not known, it is estimated that more than 40 percent of the family law caseload involves one or more parties without lawyers.

Many jurisdictions have now developed self-help centers and/or extensive websites to provide information and assistance to self-represented litigants including information on how they may obtain lawyers.[56] When there is a significant portion of the jurisdiction's population for whom English is a second language, many of these materials are offered in other common languages. The printed versions of these materials are often available not only at the courthouse, but in libraries, community centers, and other public facilities. Other jurisdictions have promulgated rules to guide the staff of clerk's offices in determining what is and what is not "legal advice."

> ***Recommendation 34: In collaboration with the Superior Court, the bar, and local legal services organizations, the Clerk's Office should provide appropriate information and services to enable access to the justice system for residents of Fulton County.***

[55] J. Goldschmidt, B. Mahoney, H. Solomon, J. Green, *Meeting the Challenge of Pro Se Litigation: A Report and Guidebook for Judges and Court Managers*, 3 (Des Moines, IA: American Judicature Society, 1998).

[56] See for example, www.judicial.state.ia.us/Representing_Yourself/; www.judicial.state.ia.us/Court_Rules_and_Forms/Family_Law_Forms/; www.supreme.state.az.us/selfserv/; and http://www.selfhelpsupport.org/.

Comment: In 2005, the Georgia Supreme Court established a Committee on Civil Justice to recommend practical steps that can be taken in the state to ensure access to justice for all residents. The Committee's report should be made public soon and is likely to contain a number of recommendations that will affect clerk's offices for all levels of courts.

5. CONCLUSION

The findings, recommendations, and information contained in this report are offered to assist the Office of the Clerk of the Superior Court of Fulton County to achieve its goal of delivering excellent service to the justice system and people of the County. Many of the changes recommended will require time, energy, and hard work to implement. Some will require additional resources; others may ultimately result in reduced costs. Several necessitate consultation with the Superior Court, and other justice system partners. The commitment and innovative spirit that the NCSC team found during the time we spent in the Clerk's Office encourage us to believe that the suggested change can be made over the next few years and that excellence is an achievable goal.