



**THE 46th NCACC
ANNUAL CONFERENCE IN
LEXINGTON, KENTUCKY
JULY 28—AUGUST 2, 2019
Susan Clary, Host**



Welcome from the Bluegrass State!

Come join us for the 46th Running of the NCACC Annual Conference in Lexington, Kentucky, July 28-August 2, 2019.

The Conference will be held at the [Griffin Gate Marriott Resort and Spa](#), a four star Marriott property with a golf course, tennis courts, pools and a spa on the premises. Hotel reservations may now be made on our NCACC page or through this link: [Book your group rate for NCACC Annual Meeting](#). The room rate is \$102.00, with on-site parking provided at no charge. The resort is conveniently located in horse country, near the intersection of Interstates 64 and 75, and for those flying, is within minutes of the Lexington Bluegrass Airport.

Kentucky is renowned for its thoroughbred horses, fine bourbon and gracious hospitality. Our social program will showcase these unique traditions of our great state. Your Bluegrass sojourn will include an event at the quaint two hundred-year-old [Labrot and Graham Distillery](#) for an evening of music, food and bourbon “sippin’,” with one of the world’s seven master distillers. Next, we will be off to walk among the stars, those on four hooves, as we travel to the Show Barn at [Keeneland Race Course](#) to taste some of Kentucky’s finest fare and canter the night away to the sounds of Chief Judge Glen Acree’s band.

Our fields in August faintly reflect the bluish-purple cast of spring that caused early pioneers to gather and trade the “blue” grass of Kentucky. We look forward to welcoming you to the spectacular beauty of our state-the land of the Run for the Roses and bluegrass hospitality. My Old Kentucky Home.

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THE DOCKET

News of the National Conference of Appellate Court Clerks

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THE PRESIDENT'S PAGE

DAN SHEAROUSE (SC)



This year, I have the honor of serving as the President of the National Conference of Appellate Court Clerks. While it has now been almost twenty years since I joined the NCACC, I remember my first conference in Portsmouth, New Hampshire, in 1999 as if it were yesterday. I found this organization to be the most open and welcoming of any I have encountered, and I soon involved myself in committee work and developed lifelong friendships with many members. It is my hope that each of you will benefit from your membership as much as I have.

I want to thank all of the members who volunteered to serve on our committees this year. These committees are indeed the life-blood of this organization, and without your willingness to commit your time and energy to these committees, this organization would simply be unable to function. If you did not sign up for a committee this year, I would encourage you to do so next year. For new members, serving on a committee is an excellent way to learn about the organization and to get to know your fellow clerks of court.

In 2012, I was privileged to serve as the host for the 39th conference held in Charleston, South Carolina, and I regard this event as one of the highlights of my professional career. Indeed, my name tag from that event hangs prominently from one of the admission certificates in my office. If you have not considered serving as a host, I encourage you to do so because it is a very rewarding experience.

The annual conference in San Diego was outstanding, and on behalf of the members, I wish to express to our host, Kevin Lane (CA), and his staff, our appreciation for all of the time and effort they expended in planning and executing this conference. Kevin's attention to detail was readily apparent. The Convention Assistance Committee chaired by Deena Fawcett (CA) provided exceptional support during the conference. As to the educational program, Jakob Trierweiler (AZ, Program Chair), Jenny Kitchings (SC, Vendor Chair), and the members of the Program Committee provided us with a thought-provoking and highly informative educational program, and increased the number and diversity of vendors at our

THE PRESIDENT'S PAGE

DAN SHEAROUSE (*Continued*)

conference. I commend them for their exceptional service. Finally, it is the members, both active and retired, in attendance who are the most important component of a successful conference. It is your participation and engagement that gives each conference its unique and rewarding character!

Our next annual conference will be held in Lexington, Kentucky, hosted by our Past-President, Susan Clary (KY). This conference will be held from July 29 through August 2, 2019, at the same hotel where our 1985 conference was held. Please add these dates to your calendar! I know that Susan is already deeply involved in planning this conference, and I look forward to the opportunity to experience her hospitality and that of Lexington (along with perhaps just a bit of bourbon!).

This month the Executive Committee conducted its fall meeting in Point Clear, Alabama, the site of our 2020 conference. Scott Mitchell (AL), our host, provided us with a tour of the facilities at the Grand Hotel, which also served as the site of our 1997 conference.

Finally, the founders of this organization had the wisdom to establish a transition path to President which includes a year as the Vice-President and a year as the President-Elect. I am indebted to the three Presidents who directly mentored me during this transition period, Blake Hawthorne (TX), Irene Bizzoso (PA), and Eileen Fox (NH). I am extremely grateful for their wise counsel and leadership.

I thank you for giving me the opportunity to serve as your President. If I can be of any assistance, please do not hesitate to contact me.

ATTENTION:

The Bylaws Committee has been requested by President Shearouse to review the Bylaws of the NCACC to determine if there are any needed changes or corrections that should be considered by the membership. It is the Committee's intent to ensure that the Bylaws are clear to all members. Therefore, the Bylaws Committee is hereby seeking input from all members. Please email Jim Hivner (jim.hivner@tncourts.gov), Chairman of the Bylaws Committee, if you have any recommendations for revisions to the Bylaws that will improve their clarity.

Continuity of Operations Plan/Disaster Recovery

By Larry Royster, Clerk of the Michigan Supreme Court

In the past two years, four major hurricanes—Harvey, Irma, Maria, and Florence—have adversely impacted government operations, including the court systems, in several states and territories. Almost twelve months after Hurricane Maria, the courts in Puerto Rico and the Virgin Islands were still recovering from the damage. And in recent memory, Hurricanes Hugo, Katrina, and Sandy caused catastrophic damage in the southeast United States, Louisiana, and New Jersey, respectively. Although hurricanes often garner the most media attention because of their significant and long-lasting devastation, the potential for a major disaster exists in every state through earthquake, blizzard, fire, flood, pandemic, or computer virus to name a few. Having a Continuity Of Operations (COOP) plan in place will determine how quickly and how well a court recovers from a disaster.

The Continuity of Operations Plan/Disaster Recovery presentation at this summer's NCACC conference was divided into two parts. First, Tom Weber, a professional emergency manager with the Michigan State Police, discussed the development and testing of a COOP plan. And second, three NCACC members whose courts were affected by recent hurricanes participated in a panel discussion on the lessons learned from those disasters. The panelists were Lonn Weissblum, Clerk of the Fourth District Court of Appeal in Florida; Carol Anne Harley, Clerk of the Ninth Court of Appeals in Texas; and Christopher Prine, Clerk of the First and Fourteenth Courts of Appeals in Texas. This article will focus on the development of the COOP plan.

Tom Weber noted at the beginning of the presentation that every state is required by federal law to have a COOP plan. Therefore, he recommended that courts contact the emergency management offices of their states to obtain a copy of that plan because it could serve as a starting point for developing the court's plan. The appellate courts of nearby states may also be willing to share their COOP plans. Lastly, a generic template for developing a COOP plan was included with the educational materials for this session. Preparing a COOP plan is, as one member remarked during the discussion, a lot of hard work. Starting with an existing plan and amending it to address your court's specific needs may substantially reduce the time and effort required to develop your plan.

The first step in developing a COOP plan is to appoint a program manager and establish the leadership/planning team. The program manager should be someone with good organizational skills who is well respected and is comfortable in a leadership position. The planning team should be comprised of all the stakeholders in the court—judges, supervisors/managers, clerks and staff attorneys, security, information technology, human resources, and finance. Broad representation by stakeholders ensures that all issues and needs are addressed, encourages greater investment in the planning process, spreads the workload, and raises the visibility of the planning process.

The next step is to determine and prioritize the essential functions of the court. An essential function is one that provides vital services, exercises civil authority, maintains the safety and welfare of the general populace, or sustains law enforcement and the industrial/economic base during the disaster. Start by identifying all the functions of each department of

Continuity of Operations Plan/Disaster Recovery (continued)

the court and selecting those that are necessary under all, most, or just some circumstances. Then, prioritize based on the length of time the court can operate without the function—a shorter time period may have a higher priority. For each essential function, you should identify the key personnel necessary to execute it, as well as orders of succession in the event the primary person is not available. The COOP plan should include a phone tree of all key personnel with their contact information (email addresses and phone numbers) and clearly indicate who is responsible for contacting whom when an emergency arises. Commercial software programs are available that can send email notifications and make automated phone calls to judges and staff, informing them of the situation and directing them on what needs to be done.

Mr. Weber emphasized that the COOP plan should also include the contact information of state and local emergency preparedness officials because they may be critical to determine the extent of the disaster and to avoid interfering or operating inconsistently with other government agencies. As an example, Michigan law authorizes the director of public health to prohibit the gathering of people for any purpose in the event of a pandemic. Thus, in that situation, it may not be possible for court staff to work together at an alternative location. Similar laws may exist in other states. Mr. Weber also noted that, for those courts that occupy a building with other government agencies or private companies, you should check with the facility's management to determine if the building has a COOP plan. With shared facilities, the court's COOP plan should be as compatible as possible with the building's plan.

The third step is to identify alternative work facilities or locations in the event your courthouse and offices are inaccessible. For employees with remote access capability, the alternative work location might be their homes. An alternate work facility should have sufficient space and the necessary equipment to run the court, including computer equipment and phones. It should allow for fast set up and must be accessible by judges, staff, and the public. You should also have a "Go Kit" prepared ahead of time that can be quickly obtained and easily transported to the alternative work location. A Go Kit should include items that are necessary to operate the court away from the courthouse, including: (1) the COOP plan, (2) a laptop that can access the server remotely and is loaded with the necessary software in case remote access is not possible and, (3) other equipment such as a portable printer, USB drives, cables and power cords, and (4) supplies like paper, pens, envelopes, stamps, stapler, court seals/embosser, receipts and bank deposit slips, and lockable cash box.

After developing the COOP plan, you will need to train the judges and staff on their roles and responsibilities during the plan's activation. You will also need to test the plan to ensure that the alert system properly communicates the plan activation to court personnel and the public, that backup infrastructures and alternative work locations are available and function as expected, and that essential functions are performed in an acceptable manner. If flaws or deficiencies are apparent during testing, adjustments should be made and the new plan should be retested. Finally, the COOP plan must be periodically reviewed and updated as necessary. Mr. Weber explained that updating is required whenever there is a change in court leadership, a realignment or re-organization of the court, changes to a process or system (e.g., a new case management or document management system, relocation to new building), or new or different obligations imposed by law.

DEENA FAWCETT HONORED WITH THE J.O. SENTELL AWARD



In 1979, the National Conference of Appellate Court Clerks (NCACC) established the J.O. Sentell Award. The award is named for one of the Conference's founding members, J.O. Sentell, Clerk of the Alabama Supreme Court, and the Conference's first President. Each year the NCACC has bestowed this, its most prestigious award, on a member of the organization who has exhibited extraordinary leadership, service and devotion to the organization, while furthering the Conference's professional objectives in support of the advancement of the judicial system and dedication to public service.

At the NCACC annual meeting in San Diego, California, the week of July 29 through August 3, 2018, the Conference presented its highest award to Deena Fawcett. Deena is the retired Clerk/Administrator of the California Court of Appeal, Third Appellate District. Deena's list of contributions to the NCACC is exhausting. She joined the NCACC in 1997. She was Program Chair in 2001 and host of the NCACC annual meeting in Sacramento, California in 2009. Deena was a member of the Executive Committee from 2001-2003 and has actively served on multiple committees culminating in her presidency of NCACC in 2013-2014. Deena is also a past president of the California Appellate Court Clerks Association.

One of the many nominations for Deena said, "Deena has done so much for the NCACC and she has always been a loyal friend and colleague to everyone." NCACC recognizes Deena for her dedication and countless contributions to our organization.

CONGRATULATIONS, DEENA!





Cyber-Attacks: What should appellate courts be thinking about?

Contributed by Amy Wood (AZ)

Many people have “grown up” professionally thinking about plans in the event of fires, floods, and even pandemic flus. Thinking exercises related to these types of scenarios help us to be agile when emergencies occur. The types of scenarios that have traditionally been contemplated, however, do not prepare us to think about or react to cyber-attacks. Most leaders are immature in their thinking about cyber-attacks due to a combination of a lack of understanding, and a lack of practice considering the impact of these types of events. Just like a hurricane, once a cyber-attack occurs, it is a matter of how to deal with the event.

This article seeks to start that thinking process, with the idea that the more we think about it, the better equipped we will be when a cyber-attack happens.

Cyber-Attack Stories

Story #1: The Virus

An employee attended an industry event and used an instructor’s USB drive to download presentation materials to a laptop. The USB drive was infected with the Mariposa botnet, and when the user connected the laptop to the corporate network upon returning to work, the virus spread to over 100 hosts on the enterprise network.¹

Story #2: Identity Theft

Hackers stole social security numbers, addresses, dates of birth, and driver’s license numbers from several mortgage companies. These data elements were used to open unauthorized lines of credit and to obtain access to, and deplete, retirement accounts.²

Story #3: Ransomware

A school district paid nearly \$10,000 through Bitcoin after a ransomware attack led to files being encrypted and locked. This impacted information from class registration to school lunches. The payment was considered a business decision, as the alternative would have deprived over 43,000 students access to schools.³

¹Industrial Control Systems Cyber Emergency Response Team Control Systems Security Program 2009-2011 Incident Response Summary report. <https://www.welivesecurity.com/wp-content/uploads/2012/12/ics-cert-incident-response-summary.pdf>

²Stolen Identities (2018). <https://www.fbi.gov/news/stories/hackers-sentenced-in-identity-theft-case-032918>

³Driver, N. (2016). SC school district pays nearly \$10K to ‘ransomware’ hackers. <https://www.wdtn.com/news/sc-school-district-pays-nearly-10k-to-ransomware-hackers/1073185707>

Story #4: Denial of Service

A motion picture association website was inaccessible for more than 20 hours due to the collapse of the web server. The collapse was caused by attempts to respond to requests that were made hundreds of times each second.⁴



Planning for an Attack

Many people have come to believe “it is not if, it is when” an organization will be attacked. In fact, a 2005 survey of 7,818 businesses found that nearly 60% had detected one or more types of cyber-attack.⁵ Thirteen years later, one can only imagine that this has grown. It is a good idea to start incorporating this concept into continuity of operations (“COOP”) plans and begin to build plans for “What would we do if...” in a number of scenarios. Gauging risk is an important part of the plan. Identifying the most likely and/or vulnerable scenarios for an agency is a helpful place to start.

Identifying the Risk

What do you have of value? Thinking from the perspective of a malicious cybercriminal, what information of interest do you store electronically? This is important to identify to help point resources in the best direction and to create meaningful plans. Here are some thoughts for appellate courts:

- Services provided over the Internet (e.g., e-filing, remote access to documents, opinions).
- Sealed cases, evidence, and documents
- Opinion/order drafts of authoring judges/panels
- Employee data and information
- Information regarding the outcome of a case

Services can often be overlooked when thinking about valuable information. In a court that mandates electronic filing, what would happen to business if an attack (such as denial of service) prevented filers from filing electronically?

⁴Zuckerman, E. Roberts, H., et al. (2010) Distributed Denial of Service Attacks Against Independent Media and Human Rights Sites.

https://www.webcitation.org/5ws9RPpXi?url=http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/2010_DDoS_Attacks_Human_Rights_and_Media.pdf

⁵O’Driscoll, A. (2018). 100+ Terrifying Cybercrime and Cybersecurity Statistics & Trends.

<https://www.comparitech.com/vpn/cybersecurity-cyber-crime-statistics-facts-trends/>

Cyber-Attacks: What should appellate courts be thinking about? (*Continued*)

Communications Plan

It is important to develop an incident response communication plan related to a cyber-attack. The plan should include some of the following elements:

- In the event of an attack, who would you communicate with, both inside and outside of your organization?
- Who will be responsible for messaging about the attack? This may be different than other forms of communication in other incidents due to the technical nature. Who do you have who can deliver a technical message well?
- What would be your plan for communicating information broadly with a large breach (a website, emails, press release)? What if your communication device is part of the breach?
- Think ahead about legal ramifications of a breach
- Messaging should reinforce the fact that the court is a victim of an attack (not the one perpetrating whatever harm there may be from the breach or attack)

When possible, it is best to communicate about a breach after remediation has started. Make sure that your employees receive the information at the same time as your external communications. Make a business and technical spokesperson available. Try to release information at the same time. Consistency of information reduces exposure.⁶

Legal Responsibilities

Determine what the court's legal responsibilities would be if a cyber attack occurred. This should be done from several perspectives (data stolen, denial of service, etc.).



Mitigating Risks

Know your Status

It may be obvious to business staff what the most valuable information your agency has, but do your technologists see it the same way? Technologists may be looking at the risks completely through technical standards rather than zeroing in on the areas that a malicious cybercriminal would want to attack. Even one conversation with your technologists about this idea may help target resources more appropriately.

Additionally, it may be helpful for questions to be asked of technologists so that leaders have a glimmer of understanding from the technical perspective. This dialog may assist in understanding the anticipated impact

⁶De Souza, Vitor (2017) The Day After Tomorrow Cyber Crisis Management. Presentation at the Court Technology conference. https://d3oxih60gx1ls6.cloudfront.net/11ec5273-3f29-4ab4-99b2-998e7056744d/f9a2d830-0065-4542-bfc9-176ad33d9d69_cyber_crisis_management.pdf

Cyber-Attacks: What should appellate courts be thinking about? (*Continued*)

on business should a cyber-attack occur. Some examples of questions that might be fruitful are provided below.

- What antivirus software are we using? How often is it updated? How many threats has it prevented in the last year?
- What do we have in place to help prevent a denial of service (DoS) attack? Are we current with security patches? How old are our firewalls and routers? Are they still under warranty?
- How is activity monitored? How would we know if we were being attacked? What are the first steps the technologist would take to react to an attack (e.g., shut the website down, disconnect servers from the Internet)?
- What protections are in place for email the organization receives? Are we blocking emails from other countries? Do we have a mechanism in place to block known phishing emails? Is this something staff know to report?
- How are back-ups done? If a breach occurred, how likely is it that the back-up would also be affected?
- How long would it take to restore our systems from the back-ups? How much data/information would be lost?
- What is the riskiest thing our users are doing today?
- Where are we most vulnerable from a technical perspective?
- Is your webmaster auditing code he or she writes from the cyber-security perspective?

Find your Vulnerabilities

It may be difficult for technologists to look at their own systems with objective eyes. It can be helpful to have someone else identify weaknesses and vulnerabilities. The low-cost approach would be to have a technologist from another trusted agency examine systems and provide recommendations while allowing your technologist to do the same for the other agency. The more traditional approach is to hire someone to discover and report weaknesses they find. Prioritization can then be done by evaluating relative risk and costs associated with fixing issues.

Vendor Relationships

Review your contracts from a cyber-attack perspective. Do you have proper escalation processes in place in the event of an attack? Is it the court's responsibility or the vendor's to remedy the attack, to communicate about the attack, etc.

Training staff

One of the biggest threats continues to come from social engineering. Cybercriminals are becoming increasingly sophisticated in their attempts to access agencies through their staff. It is important that staff are trained early and often to be vigilant in protecting access to the court's network and other technology. Some agencies have established annual cybersecurity education requirements for all staff. Some companies periodically conduct phishing experiments to determine the level of awareness in employees.⁷

Policies

Review policies and determine whether additional policies need to be in place to help protect the court from cybercrime. Are employees connecting to the network with personal devices? Are USB drives brought from home and used at work? Evaluating the business needs and the technical risks may be worthwhile.

⁷2018 Hiscox Small Business Cyber Risk Report (2018). <https://www.hiscox.com/documents/2018-Hiscox-Small-Business-Cyber-Risk-Report.pdf>



The Future

Cybercrime is, undoubtedly, here to stay for the foreseeable future. One of the difficult aspects of cybercrime is that it is ever evolving. Some of the statistics surrounding cyber-attacks are quite astonishing:

- Symantec found that there was an 8,500% growth in crimes related to mining bitcoin in 2017.⁸
- Ransomware reports increased by 300% from 2015 to 2016.⁹
- Cisco reported that 42% of organizations surveyed experienced one or more “burst” denial of service attacks in 2017.¹⁰

Symantec reported that future ransomware may shift away from the primary purpose of obtaining money into being used as a decoy. While organizations are struggling to figure out how to decrypt data, pay a ransom, or reinstall from back-ups, hackers may be using the disruption to accomplish further crimes.

Many speculate that the next logical area of cyber-attacks will be the manipulation of data.¹¹ People have become more and more reliant on technology . . . which equates to data. Courts should think about this type of situation and how to protect against it. How trustworthy would a clerk’s office be if the data or documents published could have been altered?

If the current COOP for an agency does not include preparation for cyber-attacks, consider adding a section. Even if only the first three steps can be identified, it will help to know where to start in the event that a cyber-attack occurs.

Spending time thinking about cyber-attacks and their potential implications for an organization can help prevent, detect, and mitigate the impact.

Further Reading for Foundational Information on Cyber-Attacks:

- A general overview of denial of service (DoS) attacks: <https://www.guru99.com/ultimate-guide-to-dos-attacks.html>
- An overview of data breaches: <https://www.trendmicro.com/vinfo/us/security/news/cyber-attacks/data-breach-101>
- An overview of terminology and hacker attacks: <https://economictimes.indiatimes.com/tech/internet/internet-security-101-six-ways-hackers-can-attack-you-and-how-to-stay-safe/articleshow/61342742.cms>

⁸Symantec. (2018). 2018 Internet Security Threat Report. <https://www.symantec.com/security-center/threat-report>

⁹Cook, S. (2018). The Ransomware Removal Handbook: Dealing with common strains of ransomware. <https://www.comparitech.com/blog/information-security/ransomware-removal-handbook/>

¹⁰Cisco Cybersecurity Reports (2018). <https://www.cisco.com/c/en/us/products/security/security-reports.html#~:stickynav=1>

¹¹Overfelt, M. (2016). The next big threat in hacking – data sabotage. <https://www.cloudmask.com/blog/is-data-manipulation-the-next-step-in-cybercrime>



The 2018 Site Selection Committee is looking for a few good members to host the NCACC annual meeting in August of 2022. We invite all members, including past hosts, to step up and show off your wonderful state or perhaps a city that you hold near and dear. You are a one-person office? Too stressed and overworked to handle hosting a conference? Pair up with a cohost like Seattle (2014) or Portland (2021). There are several NCACC members, myself included (PA 2008), who would be willing to work with another member and cohost.

The site selection committee together with the contracts committee is also working on a Request for Proposal (“RFP”) to assist you, but in the meantime we have available various contracts from past meetings, and prior hosts who would be more than happy to discuss various aspects of hosting with you. A ‘secret weapon’ is your local convention services through the visitors’ bureau. They can put you in touch with hotels and venues that you may not have even thought about.

Don’t worry, if you do host, you will have plenty of resources available for assistance, including the Program Committee, Convention Assistance Committee, Executive Committee, and others. Please consider, as we would love to see your city! Questions? Feel free to contact any of us:

Ron Carpenter (WA - Ret)
Debbie Autrey (TX)
Jim Hivner (TN)
Kelly McNeely (LA)
Renée Simen (LA)

Ed Hosken (US CT Appeals - Ret)
Amy Fundetburk (NC)
Lisa Matz (TX)
Ann Marie O’Neill (MN)
Sonya Stromberg (CO)

Irene Bizzoso, Chair (PA)

Lonn Weissblum, Vice-chair (FL)

Click below to see where we have been:
[NCACC Host Cities](#)

E-Briefing from Both Sides of the Bench

By Jakob Trierweiler

The final education session of the 2018 Annual Conference was presented by the Honorable Robyn Ridler Aoyagi, Judge of the Oregon Court of Appeals, and the NCACC's own Blake Hawthorne. Judge Aoyagi was appointed to the Court in July of 2017, and chaired a project for the American Bar Association's Council of Appellate Lawyers (CAL) that produced a report (*The Leap from E-Filing to E-Briefing*) on which much of the presentation was based. Blake Hawthorne, in addition to serving as the Clerk of the Texas Supreme Court, has filled many positions with the NCACC during his time as a member, including serving as President from 2015-16.

The discussion between the two presenters centered on ways courts can adapt to electronically-filed documents, with concentrations not only on the filers, but on the end users (judges) as well. While we have spent much time in past meetings (and in our individual courts) discussing e-filing from the filer's perspective, thinking about ways to involve our benches may not be a point of view that many of us have given as much thought to as we could have.

One consideration discussed was *how* end users will access documents. Does your bench have access to portable electronic devices that will allow them to view documents electronically? How easy is it to access the documents, or make electronic notes for later review relating to a document? When considering potential portable electronics, a court should also consider *what kind* of devices would be best. Would laptops suffice, or will some sort of e-reader (like an iPad or other e-notebook) be easier to use, transport, and work with? Whittling down from there – once the preferred device style is decided, should the court institute a uniform device for the end users to use (example: everyone gets a Samsung Galaxy), or should that decision be left up to individual users? While uniformity could be beneficial (especially for the I.T. department, or whoever oversees servicing the devices), forcing an unfamiliar product on someone may not encourage them to use it to its fullest capabilities.

Sharing of information can also benefit all members of a court. Sharing information with other courts (appellate or trial) can help cultivate ideas and best practices among different jurisdictions, and perhaps allow users to see other methods of e-document handling that they had not considered. Additionally, sharing with the public how the end users view e-documents can assist filers in determining how to format and compile their e-documents. If attorneys know that a judge will be reading their brief electronically on a portable device, they may be more apt to insert hyperlinks or bookmark tabs that allow the judge to quickly access an exhibit or document within the brief that counsel believe is important to their argument. Additionally, making filers aware of what file format(s) the court will accept (Searchable PDF, Word, etc.) can cut down on any confusion or issues a filer may have when attempting to submit an electronic document.

The conversational presentation was eye-opening for many, and gave us a chance to think about those facets of e-filing that perhaps we had not shone a light on previously. The report that Judge Aoyagi's council authored (*The Leap from E-Filing to E-Briefing*) is available on the NCACC website at <http://www.appellatecourtclerks.org/conferences/45/EducationMaterials.pdf> (Section 13) for further review or for other consideration topics.

CONFLICT COMPETENCE: WAIT FOR IT

By: Meredith Montgomery
Chief Deputy Clerk, Alaska Appellate Courts



WAIT stands for Why Am I Talking? If we can ask ourselves this question in the midst of a conflict or confrontation, we gain the power to diffuse it. This was one of the techniques for managing conflict that we learned from Kristine Van Dorsten when she addressed us on July 31, 2018 in San Diego.

The afternoon session was a balance of lecture, group discussion, self-reflection, and working with our table-mates to practice conflict management techniques in response to both fictional and real life scenarios. Kristine is a Senior Education Developer with the California Judicial Council's Center for Judicial Education and Research. She addressed us last year in Lake Tahoe on the topic of emotional intelligence. Both emotional intelligence and conflict competence are keys to successful leadership.

Like emotional intelligence, conflict competence requires self-awareness and the discipline of self-managing. Some tips for being able to self-manage during a conflict involve practicing (when we are not stressed) those behaviors that cause us to slow down and step back. These might include mindfulness, listening, gratitude, and humor. Kristine led us through destructive behaviors and asked us to reflect on which ones were triggers for us and why. We then examined constructive behaviors (*i.e.*, patience, listening, being proactive) that could lead to successful outcomes in conflict scenarios.

Kristine places a high value on being able to listen without judgment, assumptions, and bias, and to truly want to understand another person's point of view. She calls this the perspective of curiosity. We discussed the importance of understanding that conflict is a behavioral manifestation of a complaint, and that underlying a complaint is a request or need for something.

We were presented with practical suggestions for managing conflict between two different people or groups. The first step is always to ask for willingness to resolve a conflict. The next step is to articulate an issue statement. This goes back to understanding the request underlying the complaining behavior. If possible, ask each party to write down their own issue statement in advance. You could also ask each side for questions they would want to ask the other. Our role as managers is to hear the underlying needs and to identify common interests. It is also our role to move the conversation from individual impacts to how the issue or conflict impacts the team and/or the court.

In sum, we have the ability and responsibility to create "conflict competent" cultures in our workplaces. This involves creating a culture of trust and safety where all voices feel welcome. It requires us to reframe conflict in a positive light so opportunities and benefits are embraced. It also requires us to cultivate transparency within our organizations about what is going on, and what our expectations are. It should be clear to everyone in our organizations what the process will be when conflicts arise, and we should be willing to lead in demonstrating system accountability and follow-up if necessary. For additional information and study, Kristine recommended the book *Developing Your Conflict Competence* by Craig E. Runde and Tim A. Flanagan.

2018-2019 NCACC Committees

AWARDS, RESOLUTIONS AND MEMORIALS COMMITTEE:

The purpose of this committee is to recommend to the Executive Committee nominees for the J.O. Sentell Award and Morgan Thomas Award, to prepare appropriate resolutions for adoption by the Conference as formal expressions of its will and intent and to prepare memorials for deceased members.

Chair: Doug Shima (KS)

Committee Members: Bill DeCicco (DC); Deena Fawcett (CA); Ed Hosken (VA); Joseph Lane (CA); Terry Lord (MO); and Eileen Fox (NH), Executive Committee Liaison.

BYLAWS COMMITTEE:

The purpose of this committee is to consider amendments to the Bylaws and to make a written report to the Executive Committee each year by April first. The Bylaws Committee shall consist of no more than 5 members including the Chairperson.

Chair: Jim Hivner (TN)

Vice-Chair: Jakob Trierweiler (AZ)

Committee Members: Ron Carpenter (WA); Greg Hilton (MD); Joseph Lane (CA); and Malcolm H. Squires, Jr. (VA), Executive Committee Liaison.

COMMUNICATIONS COMMITTEE:

The purpose of this committee is to: (a) inform the membership of the activities of the Conference, to provide information to enhance the professionalism of appellate court clerks and their offices, and to publish the NCACC newsletter at least quarterly, and (b) promote the mission and objectives of the NCACC by providing information about the Conference and its members to appropriate individuals and groups.

Chair: Sherry Williamson (TX)

Vice-Chair: Clarissa Hodges (TX)

Committee Members: Polly Brock (CO); Colette Bruggman (CA); Trish Harrington (VA); Greg Pachmayr (IN); Doug Robelen (VA) (Editor); Jakob Trierweiler (AZ); and Deana Williamson (TX).

CONTRACTS COMMITTEE:

The purpose of this committee is to review any contract referred to it by the President or the Executive Committee. The committee shall report its recommendation to the President and the Executive Committee.

Chair: Larry Royster (MI)

Vice-Chair: Greg Pachmayr (IN)

Committee Members: Meredith Montgomery (AK); Amy Wood (AZ); and Stacey Pectol (AR), Executive Committee Liaison.

2018-2019 NCACC Committees

CONVENTION ASSISTANCE COMMITTEE:

The purpose of this committee is to provide practical guidance, advice and assistance to the Clerks who are hosts of upcoming annual meetings. The Convention Assistance Committee shall consist of an unlimited number of members.

Chair: Meredith Montgomery (AK)

Vice-Chair: Claudia Jenks (TX)

Committee Members: Debbie Autrey (TX); Deena Fawcett (CA); Lisa Matz (TX); Dorian Ramirez (TX); Mark Reynolds (NM); Laura Roy (MO); Doug Shima (KS); Renee Simien (LA); Debra Spisak (TX); Renee Townsley (WA); Monica Zamarripa (TX); and Deana Williamson (TX), Executive Committee Liaison.

EDUCATIONAL FUND COMMITTEE:

The purpose of this committee is to develop sources of income to be invested in a restricted fund, the proceeds of which shall be used for educational purposes as more fully set out in the Operational Guidelines. The Educational Fund Committee shall be composed of the President-Elect, the Treasurer, and one Executive Committee member to be named by the President. The President shall appoint one of these members as Chairperson.

Chair: Malcolm (Mac) H. Squires, Jr. (VA)

Committee Members: Laura Roy, President-Elect (MO) and Janet Johnson, Treasurer (AZ).

FINANCE AND INVESTMENT COMMITTEE:

The purpose of this committee is to recommend finances and investments to the Executive Committee. The Finance and Investment Committee shall consist of the Treasurer, who shall serve as its Chairperson, and four members appointed by the Executive Committee.

Chair: Janet Johnson (AZ)

Vice-Chair: Jim Hivner (TN) (Term Expires 2020)

Committee Members: Chris Crow (LA) (Term Expires 2019); Ed Hosken (VA) (Term Expires 2020); and Sonya Stromberg (CO) (Term Expires 2020).

MEMBERSHIP AND PICTORIAL DIRECTORY COMMITTEE:

The purpose of this committee is to: (a) solicit new members and distribute information about the Conference and its activities to new or prospective members, (b) update and maintain the pictorial directory of the conference, including the annual meeting summaries contained therein, and (c) maintain and promote participation in the NCACC listserv.

Chair: Polly Brock (CO)

Vice-Chair: Petra Hulm (ND)

Committee Members: Lisa Collins (UT); Carol Anne Harley (TX); Clarissa Hodges (TX); Charles Johnson (CA); Lisa Matz (TX); Kristina Samuels (FL); Monica Zamarripa (TX) and Scott Mitchell (AL), Executive Committee Liaison.

2018-2019 NCACC Committees

NOMINATING COMMITTEE:

The purpose of this committee is to recommend the nomination of regular members to office. The Nominating Committee shall consist of at least five but no more than nine members, including its Chairperson, and shall be appointed by the President, with the approval of the Executive Committee at least six months before the annual business meeting.

Chair: Eileen Fox (NH)

Vice-Chair: Deana Williamson (TX)

Committee Members: Lisa Collins (UT); Irene Bizzoso (PA); Eydie Gaiser (WV); Ed Hosken (VA); Chris Prine (TX); Doug Robelen (VA); and Malcolm Squires (VA).

PROGRAM COMMITTEE:

The purpose of this committee is to organize and present an educational program at the annual meeting of the Conference to further the objectives of the Conference and to enhance the skill and knowledge of appellate court clerks.

Chair: Jenny Abbott Kitchings (SC)

Vice-Chair & Vendor Chair: Chris Prine (TX)

Committee Members: Patty Bennett (WY); Colette Bruggman (CA); Eydie Gaiser (WV); Carolyn Grosboll (IL); Blake Hawthorne (TX); Mary Beth Kunenzel (FL); Sheila Reiff (WI); Doug Shima (KS); Deana Williamson (TX); Amy Wood (AZ); Carolyn Ziogas (CT); and Laura Roy (MO), Executive Committee Liaison.

SCHOLARSHIP COMMITTEE:

The purpose of this committee is to recommend recipients of scholarships to the Executive Committee. The Scholarship Committee shall consist of three members, including its Chairperson, and shall be appointed by the Executive Committee.

Chair: Amy Funderburk (NC)

Committee Members: Amy Reitz (OH); and Timothy A. Gudas, Executive Committee Liaison.

SITE SELECTION COMMITTEE:

The purpose of this committee is to solicit potential hosts for future annual meetings, to evaluate invitations from states, and to make appropriate recommendations to the Executive Committee.

Chair: Irene M. Bizzoso (PA)

Vice-Chair: Lonn Weissblum (FL)

Committee Members: Debbie Autrey (TX); Ron Carpenter (WA); Amy Funderburk (NC); Jim Hivner (TN); Ed Hosken (VA); Ann Marie O'Neill (MN); Lisa Matz (TX); Kelly McNeely (LA); Sonya Stromberg (CO); and Renee Simien (LA), Executive Committee Liaison.

2018-2019 NCACC Committees

STRATEGIC PLANNING COMMITTEE:

The purpose of this committee is to review and evaluate ideas and suggestions referred to it by the Executive Committee and based upon its review and evaluation, recommend to the Executive Committee courses of action the Executive Committee should adopt.

Chair: Steve Lancaster (IN)

Committee Members: Polly Brock (CO); Lisa Collins (UT); Greg Hilton (MD); Penny Miller (ND); Scott Mitchell (AL); Deana Williamson (TX); and Timothy A Gudas (NH), Executive Committee Liaison.

TECHNOLOGY COMMITTEE:

The purpose of this committee is to provide technical support and advice to appellate court clerks and their staffs and to coordinate communications between the Conference and other organizations regarding technology issues.

Chair: Amy Wood (AZ)

Vice-Chair: Greg Hilton (MD)

Committee Members: Sheila Reiff (WI); Larry Royster (MI); and Eydie Gaiser (WV), Executive Committee Liaison.