



Arizona Supreme Court
Administrative Office of the Courts

**Review of
Reported Unauthorized Access to Pinal County
Superior Court Confidential and/or Sealed
Electronic Court Documents**

June 25, 2015

Superior Court in Pinal County: Case Access Review

Executive Summary – The Administrative Office of the Courts (AOC) review team found approximately six percent of criminal cases (43 cases involving 66 confidential/sealed documents) viewed by the County Attorney’s office personnel or from the public access terminal in the Clerk’s office lobby may have been accessed without proper authority. However, our review also determined that, in some instances, records marked as “sealed” should have been marked as “confidential,” making it impossible, without further judicial and legal review, to determine if sealed information in some cases was actually viewed.

Background – A February 25, 2015 news release issued by the Clerk of Superior Court in Pinal County cited “several hundred instances of security breaches by the County Attorney’s office,” in which County Attorney personnel reportedly viewed sealed case documents without proper authorization. The Clerk reported the County Attorney’s office and members of the general public (via the public access terminal in the Clerk’s office lobby) could view sealed and confidential case documents due to the manner in which the Clerk’s office established security settings within the case management system during its implementation in 2009. According to the Clerk, as of January 2015, access to sealed court documents is limited to only those individuals and agencies authorized to view those documents.

Due to the concerns raised about potential unauthorized access, discussions took place between Presiding Judge McCarville and the AOC throughout February and March 2015 regarding the need for an independent review team to assess the extent to which confidential and/or sealed documents were accessed from the ACJACS Case management system and the OnBase document management system.

Scope and Methodology – On April 6, 2015, Presiding Judge McCarville issued an Administrative Order authorizing the AOC to access and review case records, including sealed documents, which may include but are not limited to: drug/alcohol treatment information and records, psychological, psychiatric, neuropsychological and psychosexual evaluations, assessments and reports from any experts, criminal histories, adoption files, dependency files, and grand jury matters.

Prior to this review, the Clerk’s office prepared a spreadsheet listing all cases identified as “sealed” in the case management system (AJACS) and/or the document management system (OnBase) between June 2, 2008 and February 27, 2015. The Clerk’s spreadsheet served as the starting point for the AOC review team to:

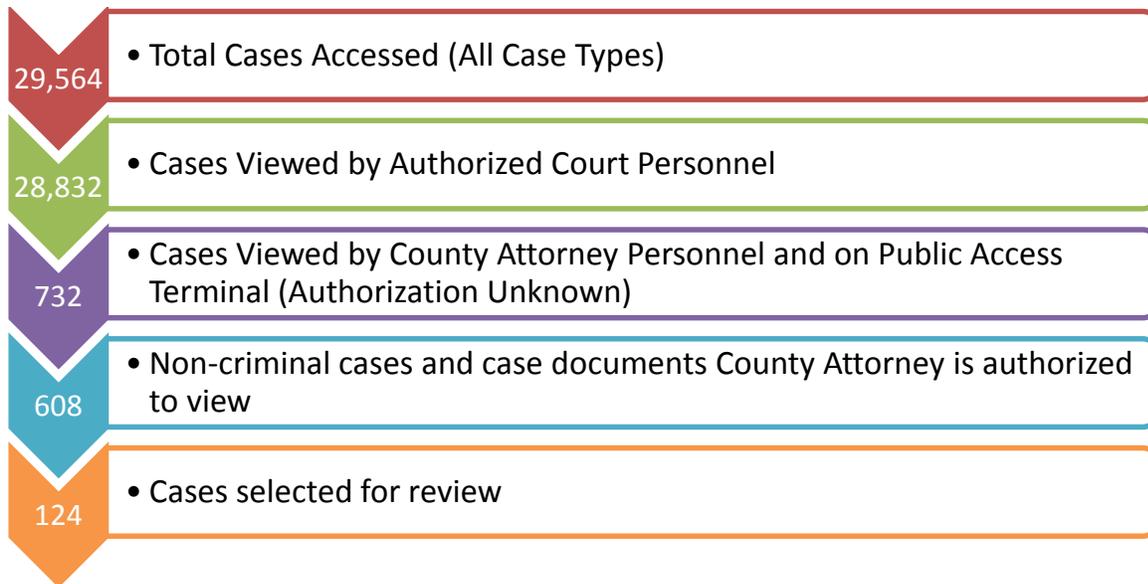
- Identify the case document descriptions deemed most sensitive – The initial spreadsheet contained a listing of all case types viewed by all users including judges, court staff, and County Attorney’s office personnel as well as from the public access terminal located in the Clerk’s office lobby. The review team triaged the report to focus solely on criminal cases which may contain sensitive information that would possibly require a court order to view. As such, the review team removed case documents

viewed by court personnel, case documents in non-criminal cases, and document types the County Attorney’s office is entitled to view in criminal cases such as warrants, minute entries, presentence reports, disposition reports, confidential criminal histories, indictments and transport orders.¹

- Obtain further description of case documents with generic headings – As AJACS includes general terms to categorize some case documents, the review team documented the specific description for documents generally identified as “Sealed Envelope,” “Report,” “Miscellaneous: Sealed Document,” and “Motion: Motion” to better determine whether any of those documents were, in fact, intended as non-accessible to the County Attorney’s office.
- Review and validate all sealed case document descriptions – Once the spreadsheet was triaged to the most relevant case types and documents, the review team independently reviewed the cases in AJACS to validate whether the case document descriptions, as indicated in the Clerk’s spreadsheet, matched the descriptions of the actual documents scanned into the document management system.

As illustrated in Figure 1, the review team ultimately reviewed 124 of the 29,564 cases included in the initial spreadsheet.²

Figure 1
Case Review Selection Methodology



¹ Based on discussions with the presiding judge, the review team removed cases with these types of documents from further consideration, regardless of whether the document was viewed with one of the County Attorney user id’s or from the public access terminal.

² The 124 cases includes five capital cases with document types not originally selected for review (primarily “Motion: Motion,” “Miscellaneous: Miscellaneous” and “Order: Order”) and which did reveal some documents (ex parte motions and orders) potentially viewed without authority.

Approximately six percent of cases potentially accessed with questionable authority – Of the 124 cases selected for review, the review team identified 43 cases (approximately six percent of the 732 cases viewed by the County Attorney’s office or from the public access terminal) which may have been accessed without authority. Within these 43 cases, the review team identified 66 confidential/sealed documents as potentially viewed without authority (i.e. without a court order or viewing of an un-redacted version of the document) – see Appendix A for a summary of the cases/documents reviewed, based on Register of Action (ROA) description and Appendix B for a list of the specific cases identified as potentially requiring a court order prior to viewing. Most of the documents potentially viewed without authority primarily related to psychological evaluations, with a smaller portion related to ex parte motions; in most of these cases, an un-redacted version of the document was accessible.³

The review team also noted that the County Attorney’s office accessed approximately 83 percent of the case documents in the 43 cases, with the remaining 17 percent viewed from the public access terminal by undetermined persons. There is no way to determine who viewed documents from the public access terminal.

No issue with matching descriptions in AJACS – The review team found no inconsistencies between the Clerk’s reported description of the case documents accessed and the actual description of the documents scanned into the OnBase document management system. In some instances, the actual document description was not an exact match, but it was clear from the documentation that the ROA description used in AJACS was closely related to the type of document filed. For instance, documents identified with an ROA description of “Psychological Eval Rule 11” were titled more specifically with descriptions such as “Rule 11 Evaluation,” “Status Report re: Competency to Stand Trial,” and “Psychological Evaluation Report.” However, as noted below, slight variations in “naming” similar documents may potentially cause undue confusion for clerks regarding whether or not to flag a document as sealed.

Factors to consider when evaluating the extent of unauthorized access to documents - While the review team identified no major issues with how the Clerk’s office reported the description of case documents, the team identified some factors the Court should consider when further evaluating the extent to which the County Attorney’s office actually viewed court documents without proper authorization. Specifically:

- Some views may not have included sensitive information – The Clerk’s report of cases accessed by either the County Attorney’s office, or from the public access terminal, may have included some views of documents containing no sensitive information. Specifically, the review team learned many documents actually viewed consisted only of a copy of the envelope cover for the confidential or sealed document, which the Clerk’s office commonly scans and files separately from the document itself. Both of those items appear as separate documents in AJACS and on the report of items viewed. Since the Clerk’s report of cases identified which specific document was

³ As the Clerk’s report included multiple documents for some cases, the review included a total of 173 case documents.

viewed, the review team found that only the document envelope cover was accessed in many of the cases reviewed. As such, access to those particular documents revealed no sensitive information.

- Protocol for filing sealed and confidential documents resulted in some documents unnecessarily identified as sealed – According to court staff, the Clerk’s office has historically used the terms “sealed” and “confidential” interchangeably and has typically flagged both types of documents in AJACS and OnBase as “sealed” documents. As such, some documents may appear as sealed in the case record when the court did not order the document sealed. As previously noted, many of the documents viewed were simply the envelope covers for the actual document which was scanned separately. For instance, the review team found approximately 93 percent of the documents viewed by CAO personnel and identified as “Sealed Envelope” or “Miscellaneous: Sealed Document” consisted of only the document envelope covers.⁴
- Inconsistency in categorizing documents – The review team also noted, and the Clerk’s office acknowledged, some inconsistency in the descriptions used for court documents; it is not uncommon for the clerks to name the same type of document using multiple descriptions. As described above, if a document is filed using a generic ROA description, the individual would need to open the document to determine whether the document is truly a court sealed document.

Additionally, some ROA descriptions pertaining to the more sensitive information (i.e. psychological evaluations) can be less clear as to the specific information contained in a document. The review team noted in some instances, a psychological evaluation report was filed under the “Miscellaneous: Sealed Document” description. In other instances, the description alludes to a “report,” but does not provide more specific detail. Overall, the review team noted at least 11 ROA descriptions used for Rule 11 or other psychological evaluation documents. Using multiple descriptions, particularly the generic descriptions, for the same type of document could potentially cause confusion among clerks regarding whether or not to flag a particular document as “sealed.” Such naming variations could be due to lack of policy, lack of adhering to policy, and/or need for more training in this area.

⁴ With the exception of one presentence report, 39 of 42 documents viewed by County Attorney personnel contained a document envelope cover only.

APPENDIX A

Summary of Accessed Cases Reviewed

ROA Description	Notes	Cases	Docs Viewed	CAO Viewed	Public Access Viewed	Potentially Unauthorized Views (Cases)	Potentially Unauthorized Views (Docs)
Jury: Lists	Juror information sheet; viewed in a capital case	1	1	1	0	1	1
Minute Entry: Setting/Continuing Review of Warrant on Sealed Case Calendar	Same as ROA description	7	13	13	0	0	0
Miscellaneous: Miscellaneous	Appointment verification form	1	1	0	1	1	1
Miscellaneous: Sealed Document	Presentence report/Defendant's prior record (1); In Camera Inspection (1); Investigator billing (1); Witness list (1); Ex Parte Motion for Court Order to Assist Mitigation Investigation (1); Confidential document envelope cover (25)	30	30	24	6	3	3
Motion: Funds/Fees	Ex parte motion to secure funds for appointment of investigator	1	1	1	0	1	1
Motion: In Camera Inspection	Same as ROA description	1	1	1	0	1	1
Motion: Motion	Ex Parte motion - appointment of and payment of expert (4); Motion to seal defendant's ex parte motion for authorization for additional mitigation hours (1); Confidential document envelope cover (1)	5	8	5	3	5	7
Notice: Filing Miscellaneous Document	This category was reviewed only in identified capital cases. All Notices for Status of Bench Warrant.	3	3	3	0	0	0
Order: Order	Order ex parte (2)	2	2	0	2	2	5

ROA Description	Notes	Cases	Docs Viewed	CAO Viewed	Public Access Viewed	Potentially Unauthorized Views (Cases)	Potentially Unauthorized Views (Docs)
Psychological Eval Rule 11	Rule 11 evaluation (2); Confidential document envelope cover (33)	21	35	21	14	1	2
Psychological Eval Rule 26.5	Confidential document envelope cover (1)	1	1	1	0	0	0
Report: Evaluation	Competency evaluation (2)	2	2	1	1	2	2
Report: IQ Evaluation	Independent Psychological evaluation	1	2	2	0	1	2
Report: of Physician	Competency Evaluation	1	1	1	0	1	1
Report: Psych Evaluation	Rule 11 Prescreen	1	1	1	0	1	1
Report: Psychological Evaluation	Rule 11 Prescreen (1); Psychological report (1); Competence/mental condition examination report (1 - redacted); Mental condition examination report (1)	4	4	4	0	3	3
Report: Psychological Report	ASH Competency evaluation (2)	2	2	2	0	2	2
Report: Psychosexual Evaluation	Same as ROA description	1	1	1	0	1	1
Report: Report	Report from Lionstrike LLC (1); Outpatient Restoration to Competency (1); Mental condition examination report (1); Rule 11 prescreen (2)	4	5	5	0	4	5
Rule 11: Rule 11 Doctor Report	Rule 11 Prescreen (5); ASH Competency Evaluation (2); Psychological report (1); Rule 11 Evaluation/Examination (16); Rule 11 No Show notification (1); Psychological Pre-evaluation (3)	18	28	27	1	18	28
Sealed Envelope	Presentence report/Defendant's prior record (23); plea agreement (1); motion for petscan and order (1); Documentation Presented to Court/Treatment summary (1); Ex parte order (2); Confidential document envelope cover (19)	25	31	18	13	0	0

ROA Description	Notes	Cases	Docs Viewed	CAO Viewed	Public Access Viewed	Potentially Unauthorized Views (Cases)	Potentially Unauthorized Views (Docs)
Total		132	173	132	41	48	66
Less # of cases w/ more than one document type viewed		8				5	
Total Unique Cases Reviewed		124				43	

APPENDIX B

List of Cases Potentially Viewed Without Authority

The list of cases presented on the following pages represents the 43 cases and 66 confidential/sealed documents the review team identified as having been potentially viewed without authority. The 81 cases (of the 124 cases reviewed) removed from further consideration contained documents identified as confidential or sealed that did not appear restricted to the County Attorney's office, such as minute entries for review of a warrant, presentence reports, confidential document envelope covers (which contained no sensitive information) and a miscellaneous filing notice.⁵

Note: When counting documents potentially viewed without authority, the review team counted one document in cases where there were multiple "views" on the same day for a document with the same ROA filing date.⁶ In instances where the same document was viewed, but on different days, the review team counted two or more documents, depending on how many additional dates the document was reportedly viewed.

⁵ OnBase user accounts associated with the County Attorney's office for the time period reviewed include: CACH (County Attorney Courthouse), CATTY (County Attorney), and CAVA (County Attorney Victims Assistance).

⁶ The review team typically found each document for a particular case listed multiple times on the Clerk's spreadsheet; this was sometimes due to views of the same document on different days, sometimes due to different filing dates for the same type of document, and sometimes due to multiple views within seconds or less for the same document. Regarding the latter, the duplicated views on the same day are likely due to the individual accessing the document by "double-clicking" the item to open the document, thus creating a time stamp for each "click." According to Clerk's office staff, a "double click" is not necessary to open a document in the case management system. As such, the number of separate items actually viewed was less than reported in the Clerk's spreadsheet.

Case Number	OnBase User	OnBase Log Date	ROA Filing Date	ROA Description	ACTUAL DOCUMENT DESCRIPTION
S1100CR200400145	CACH-432	2012-12-6 13:34:35.640	6/14/2004	PSYCHOLOGICAL EVAL RULE 11	Rule 11 Evaluation
S1100CR200400145	CACH-432	2012-12-6 13:35:36.767	7/15/2004	PSYCHOLOGICAL EVAL RULE 11	Rule 11 Evaluation
S1100CR200701327	CACH-432	2012-12-21 8:48:03.200	9/23/2009	REPORT: Psychosexual Evaluation	Psychosexual Evaluation
S1100CR200801125	CACH-432	2011-6-24 8:32:24.767	2/7/2011	MISCELLANEOUS: SEALED DOCUMENT	Investigator Billing SEALED
S1100CR200801566	CACH-432	2013-7-8 8:14:11.147	2/14/2013	MOTION: In-Camera Inspection	Motion for In Camera Review of Law Enforcement Records to Determine if the Records Contain Brady Material
S1100CR200900246	CACH-432	2012-5-24 15:25:19.517	5/18/2009	REPORT: Report	Rule 11 Prescreen
S1100CR200900246	CACH-432	2012-11-1 13:39:21.210	5/18/2009	REPORT: Report	Rule 11 Prescreen
S1100CR200900270	CACH-432	2011-6-13 14:46:40.797	6/10/2011	MOTION: Motion	Motion to Seal Defendant's Ex Parte Motion for Authorization for Additional Mitigation Hours
S1100CR200900270	PUBACCESS	2013-9-10 17:41:08.057	6/10/2011	MOTION: Motion	Motion to Seal Defendant's Ex Parte Motion for Authorization for Additional Mitigation Hours
S1100CR200900270	CACH-432	2011-8-19 15:24:51.380	9/17/2009	REPORT: IQ Evaluation	Independent Psychological Evaluation
S1100CR200900270	CACH-432	2010-1-15 13:58:04.760	9/17/2009	REPORT: IQ Evaluation	Independent Psychological Evaluation
S1100CR200900302	CACH-432	2011-3-24 9:55:21.667	9/2/2010	MISCELLANEOUS: SEALED DOCUMENT	Witness List
S1100CR200900555	PUBACCESS	2014-6-23 11:22:17.517	5/27/2009	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Prescreen
S1100CR200900677	PUBACCESS	2014-12-10 14:55:11.637	11/26/2014	MOTION: Motion	Ex Parte Motion for Appointment of Expert; Authorization of Fees, Release of Evidence and Extension of Deadline
S1100CR200901292	CACH-432	2011-11-10 16:16:50.407	11/2/2011	REPORT: Psychological Evaluation	Rule 11 Prescreen
S1100CR200901862	CATTY-524	2012-9-17 14:13:41.937	8/16/2010	REPORT: of Physician	Competency Evaluation
S1100CR200901862	CATTY-524	2012-9-17 14:16:23.967	5/3/2011	REPORT: Psychological Report	ASH Competency Evaluation - Final Report
S1100CR201001172	CACH-432	2012-5-23 10:05:06.127	9/1/2011	MOTION: Motion	Ex Parte Motion to Secure Funds for Expert Assistance
S1100CR201001172	CACH-432	2012-5-23 10:11:14.617	9/1/2011	MOTION: Motion	Ex Parte Motion to Secure Funds for Expert Assistance
S1100CR201001173	CAVA-433	2013-7-11 15:15:52.970	7/1/2013	MOTION: Motion	Ex Parte Motion for Expert Assistance and Order and Order #6
S1100CR201001556	CATTY-524	2011-10-14 12:59:00.540	10/4/2011	RULE 11: RULE 11 DOCTOR REPORT	ASH Competency Evaluation - Final Report
S1100CR201001902	CACH-432	2011-10-20 14:49:10.413	10/6/2011	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Prescreen
S1100CR201001958	CACH-432	2012-11-20 13:12:23.957	11/5/2010	REPORT: Psych Evaluation	Rule 11 Prescreen
S1100CR201002278	CAVA-433	2011-9-7 16:05:15.783	8/19/2011	REPORT: Report	Report from Lionstrike LLC
S1100CR201002360	CAVA-433	2010-11-4 10:42:04.110	10/28/2010	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Prescreen
S1100CR201100697	PUBACCESS	2014-4-4 11:28:30.343	3/27/2014	ORDER: Order	Order Ex Parte
S1100CR201100697	PUBACCESS	2014-6-2 11:47:25.017	3/27/2014	ORDER: Order	Order Ex Parte
S1100CR201100697	PUBACCESS	2014-7-29 14:05:34.997	3/27/2014	ORDER: Order	Order Ex Parte
S1100CR201100697	PUBACCESS	2014-7-23 15:00:28.883	3/27/2014	ORDER: Order	Order Ex Parte

Case Number	OnBase User	OnBase Log Date	ROA Filing Date	ROA Description	ACTUAL DOCUMENT DESCRIPTION
S1100CR201100984	PUBACCESS	2014-5-15 9:40:30.037	4/12/2013	REPORT: Evaluation	Adjudicative Competency and Mental State at the Time of the Offense Evaluation Report
S1100CR201100984	CACH-432	2013-3-28 15:14:07.827	9/4/2012	RULE 11: RULE 11 DOCTOR REPORT	Psychological Report
S1100CR201100984	CACH-432	2013-3-28 15:11:52.843	1/2/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201101689	CACH-432	2013-1-15 14:42:35.217	11/6/2012	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201101689	CACH-432	2013-6-24 16:32:03.907	3/15/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201102540	CACH-432	2012-10-31 9:59:05.497	10/26/2012	REPORT: Psychological Evaluation	Psychological Report
S1100CR201102546	CAVA-433	2013-2-27 15:22:57.983	2/21/2013	JURY: Lists	Juror Information Sheet
S1100CR201102826	CACH-432	2013-7-23 8:10:46.403	5/22/2013	REPORT: Report	Outpatient Restoration to Competency Status Report
S1100CR201102994	CAVA-433	2012-6-18 10:28:44.097	5/23/2012	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201200146	CACH-432	2012-11-14 11:08:47.093	7/5/2012	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 No Show Notification
S1100CR201200161	CACH-432	2013-6-17 13:09:51.717	6/6/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Examination
S1100CR201200162	CACH-432	2012-6-1 13:23:55.950	5/8/2012	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Examination
S1100CR201200162	CACH-432	2012-6-1 13:22:31.713	4/25/2012	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201200324	CAVA-433	2013-1-31 15:51:26.280	1/18/2013	RULE 11: RULE 11 DOCTOR REPORT	ASH Competency Evaluation - Final Report
S1100CR201200483	CAVA-433	2013-1-16 14:24:47.713	12/13/2012	REPORT: Evaluation	ASH Competency Evaluation - Final Report
S1100CR201200483	CAVA-433	2013-1-10 17:18:40.227	12/24/2012	REPORT: Psychological Report	ASH Competency Evaluation - Final Report
S1100CR201200633	CACH-432	2012-7-13 9:31:45.380	6/8/2012	MOTION: Funds / Fees	Ex Parte Motion to Secure Funds for Appointment of Investigator and Order
S1100CR201200837	CACH-432	2012-10-29 9:11:50.887	8/28/2012	RULE 11: RULE 11 DOCTOR REPORT	Psychological Pre-Evaluation
S1100CR201200865	CAVA-433	2012-10-1 16:37:43.040	9/18/2012	RULE 11: RULE 11 DOCTOR REPORT	Psychological Pre-Evaluation
S1100CR201200865	CAVA-433	2012-10-1 16:33:07.617	9/21/2012	RULE 11: RULE 11 DOCTOR REPORT	Psychological Pre-Evaluation
S1100CR201201244	CACH-432	2013-4-22 13:48:24.377	4/12/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Examination
S1100CR201201244	CACH-432	2013-4-22 13:47:32.000	4/12/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Examination
S1100CR201201244	CACH-432	2013-4-22 13:44:15.047	3/15/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201201244	CACH-432	2013-4-22 13:45:39.453	4/2/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201201611	CAVA-433	2013-1-10 17:24:25.853	12/20/2012	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201201764	CACJH-432	2013-7-18 15:07:34.200	4/4/2013	MISCELLANEOUS: SEALED DOCUMENT	Ex Parte Motion for Court Order to Assist Mitigation Investigation and Proposed Order; Filed Under Seal
S1100CR201201890	CATTY-524	2013-3-5 15:56:01.717	2/1/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Examination
S1100CR201201890	CATTY-524	2013-3-5 15:56:49.407	2/5/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Examination
S1100CR201202333	PUBACCESS	2013-2-11 13:15:08.400	2/4/2013	MOTION: Motion	Ex Parte Motion for Appointment and Payment of Expert and Request to Seal
S1100CR201202385	CAVA-433	2012-11-14 12:06:31.873	11/9/2012	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Prescreen

Case Number	OnBase User	OnBase Log Date	ROA Filing Date	ROA Description	ACTUAL DOCUMENT DESCRIPTION
S1100CR201202668	CACH-432	2013-3-8 11:19:35.453	2/26/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Prescreen
S1100CR201202668	CACH-432	2013-4-22 13:36:19.093	4/12/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201202668	CACH-432	2013-4-22 13:39:21.890	4/12/2013	RULE 11: RULE 11 DOCTOR REPORT	Rule 11 Evaluation
S1100CR201300007	CACH-432	2013-6-14 9:56:30.343	6/10/2013	REPORT: Report	Mental Condition Examination Report
S1100CR201300007	CACH-432	2013-6-14 10:00:37.780	6/3/2013	REPORT: Psychological Evaluation	Mental Condition Examination Report
S1100CR201301045	PUBACCESS	2014-6-9 13:35:03.667	9/3/2013	MISCELLANEOUS: Miscellaneous	Appointment Verification Form
S1100CR201301716	PUBACCESS	2015-1-8 8:53:09.573	11/5/2014	ORDER: Order	3 separate orders ex parte