

REPORT OF THE COMMITTEE ON ACCESS TO COURT RECORDS

Historically, court files have in general been open to anyone who came to the courthouse and asked for them. Technological innovations have already resulted in some court records' availability in electronic form, and in the future, records will be electronic to an increasing extent. Electronic court records allow for easier and broader public access, which is unlimited by proximity to the courthouse and unconstrained by normal business hours. In addition, when court records are in electronic form, the public can more efficiently access large amounts of information. Data from electronic records can be compiled in new ways; and bulk access allows entire databases to be copied and distributed. These technological advances have led to increased concerns about, among other things, protection of privacy, protection against risk of harm, and the consequences of sale by businesses of information from court records. In light of these concerns, traditional access policies need to be reconsidered, in order to insure that the proper balance is maintained between public access, public safety, privacy, and risk of harm while maintaining the integrity of the judicial process.

In March 2001, Court of Appeals Chief Judge Robert M. Bell appointed the Committee on Access to Court Records to study these matters and to recommend whether to make any changes in the courts' current system of public access to court records, and in particular, to electronic court records. The Committee was to consider the policies and practices of the trial and appellate courts of Maryland.

The Committee's Report is in four parts: Part I provides background information; Part II sets out relevant definitions; Part III describes the current court records system and Part IV contains policy recommendations, each of which is followed by commentary.

In formulating its recommendations, the Committee has been mindful of its role. On one hand, the Committee recognizes that it has been the province of the legislature to make the policy decisions that determine the scope of public access to court records. (Examples include the Public Information Act, the laws closing adoption and juvenile case records, and the expungement statute.) The Committee's recommendations are intended to assist the Court in formulating its access policies, within relevant statutory directives. On the other hand, the recommendations are at a somewhat general level. The Committee does not view its role as drafting specific rules that the Court may wish to promulgate in order to implement the policies it adopts.

I. Background

In March 2000, on recommendation of the Judicial Cabinet, Chief Judge Bell appointed an ad hoc committee to study issues concerning access to court records. That ad hoc group, which is the predecessor to the current Committee, developed a draft Judiciary Policy on Public Access to Records and a draft Administrative Order covering access to criminal records. In November 2000, the ad hoc committee published the draft Policy and Order for public comment, and on December 13, 2000, a public hearing was held. In light of the nature and extent of the response to the draft Policy and Order, Chief Judge Bell formed the current Committee on Access to Court Records to further study the matter.

The Committee met on April 23, July 5, September 24, October 25, and January 7. These meetings were open to the public, and minutes were posted on the Court's website after each meeting. In the course of its proceedings, the Committee considered extensive written materials, including reports prepared by its four Subcommittees [to be attached], and a preliminary draft of a model policy on public access to court records prepared by the Justice Management Institute in conjunction with the National Center for State Courts. (The Committee found this draft very helpful and has used language from it in this Report.) On February 5, 2002, the Committee posted a draft Report on the website and solicited written comments. Comments (attached to the Report) were received from nine individuals and organizations; and the Committee considered these before finalizing its Report.

II. Definitions

As noted above, the Committee's recommendations address the policies and practices of the trial and appellate courts of Maryland. Before delving into the relevant policy matters, it is helpful to establish a clear picture of what is at issue. The following definitions are central to understanding the Committee's recommendations.

A. Court records:

1. Court records are (a) documents, information or other things that are collected, received or maintained by a court in connection with a court case; and (b) indexes, calendars, orders, judgments or other documents and any information in a case management system created by the court that is related to a court case. The physical form of court records may be paper, electronic, or other.
2. Court records do not include (a) records, such as public land and license records, that are maintained by a court but are not connected with a court case; (b) notes, drafts and other work products prepared by a judge, or for a judge by court staff; (c) information gathered, maintained or stored by a governmental agency or other entity to which the court has access, but which does not become part of the court record as defined in subsection (1) above.

3. Under subsection (2)(c) above, the Criminal Justice Information System (CJIS), which is maintained by the Department of Public Safety and Correctional Services is not a court record. CJIS is a fingerprint-based system containing certain reportable events such as arrests, case dispositions, and releases from prison. Public access to and dissemination from CJIS is governed by federal and state statutes and regulations. A complete listing of reportable events is in an attached Legal Framework Subcommittee report. As provided by relevant statutes and regulations, CJIS provides information to the criminal justice community and authorized users. Differences between CJIS and the databases maintained by the Judicial Information System (JIS) department are explained in the attached Technology Subcommittee report. Most, but not all, of the information in CJIS is derived from court records. To the extent that the CJIS database contains information that is otherwise available in court records, the fact that the information also appears in the CJIS database does not affect public access to that information contained in court records.

4. Court records fall into two main categories: case docket sheets and case files.

(a) **Case docket sheets** contain basic information about the parties and the case and list the events that have occurred including filing and disposition. This is the information currently available online, through dial-up modem access in the JIS databases.

(b) **Case files** contain court filings in their entirety, including motions, exhibits, briefs, orders and decisions, as well as exhibits admitted into evidence during court proceedings. Case files do not include other types of information, including discovery material and law enforcement records that are not filed in, or maintained by, the court. Case files are not currently computerized, except, as noted in Part III below, in a few pilot programs

B. Bulk data is data copied from one or more databases (including copies of entire databases) and ongoing, regular updates of the data. Bulk data can be provided in any format, for example electronically via modem or magnetic or optical storage media, or in paper form via printout.

C. Data compilations consist of data copied or extracted from one or more databases (including copies of entire databases) in response to a request, without ongoing, regular updates. Data compilations can be provided in any format, for example electronically via modem or magnetic or optical storage media, or in paper form via printout.

D. A database is a large collection of factual information recorded and organized for rapid search and retrieval by a computer. For example, JIS maintains several databases, included for example, the District Court criminal database and the District Court civil database.

E. Public Access means that all persons can inspect and obtain a copy of the court record. Access can occur at the courthouse or access can be **remote**, as is the case, for example, with dial up access.

III. The Current Open System of Public Access to Court Records

The starting point for discussion of public access policies is the current system. As far as court records in paper form are concerned, the longstanding practice, rooted in law and tradition, is that court records, including case docket sheets and case files, are open to the public. There are two major exceptions: Court documents or files that are closed by statute (for example adoption cases and juvenile cases); and documents or files that pursuant to court rules are sealed by court order in particular cases (for example, trade secrets). Such statutes and orders are the main mechanisms for protecting personal privacy and other sensitive matters. The former represent the legislature's decisions about the information that, as a matter of public policy, should not be made public. The latter enable judges, on a case-by-case basis, to keep from public view sensitive private information within categories established by statute and rule.

At present, court records that are in electronic format are limited in nature. JIS maintains databases of District Court case docket sheets. These docket sheets contain basic information about civil, criminal and traffic cases, including filing, disposition and other events. In all cases, the parties and their lawyers are identified by name and address. In criminal and traffic cases, defendants are also identified by date of birth, height, weight, sex and race. JIS also maintains electronic docket sheet information for Circuit Court civil cases except for Montgomery County (which has a system with similar information that is available by link from the JIS dial-up system) and Prince George's County (which has a separate system with similar information). Finally, JIS maintains electronic docket sheet information for circuit court criminal cases for Anne Arundel County, Carroll County, and Baltimore City (for which paternity and nonsupport case information is also included).

Currently, there are four means of public access to these electronic records :

- (1) Access via computer terminals that are located at courthouses for use by the public or by court personnel;
- (2) Remote "dial-up" access via modem or internet, subject to prior registration (except in Prince George's County where no registration is required);
- (3) Remote access to bulk data electronically via modem or magnetic or optical storage media, or in paper form via printout, pursuant to a registration agreement with the court; and
- (4) Access to data compilations either printed out or transmitted electronically, pursuant to requests submitted to court personnel.

Case files, which contain all the documents filed in a case, are not widely available in electronic form. They are not in any JIS database. There are, however, pilot projects contemplated or underway in, for example, Montgomery County and Baltimore City Circuit Courts. And in the coming years, other courts may consider adopting an electronic filing

system. In light of these circumstances, the Committee has also included a recommendation concerning access to electronic case files.

IV. Recommendations

The following policy recommendations are intended to provide a comprehensive and balanced policy on public access to court records. As an initial clarification, the Committee recognizes that the Judiciary maintains records other than those defined by the Committee as “court records” (for example, public land and license records) and does not intend to preclude access to those other records in any of its Recommendations.

In formulating these Recommendations, the Committee considered many factors, including the (sometimes overlapping) public policy interests in:

- The benefits of access for the public, including individuals, businesses, and the media;
- Supporting the role of the judiciary;
- Promoting government accountability;
- Contributing to public safety;
- Avoiding risk of harm to individuals;
- Making effective and efficient use of court staff;
- Court staff’s providing the public with excellent customer service;
- Protection of personal privacy;
- Protection of trade secrets and other proprietary business information; and
- Avoiding undue burden to the ongoing business of the judiciary.

Some of these public policy interests are not always fully compatible. Some of them support access, while others do not. An appropriate balance must be found. The factors are not co-equal, but no one factor overrides all of the others in every circumstance. The Committee’s recommendations, and the commentary that follows them, illustrate how the Committee balanced these sometimes-competing interests.

The Committee did not approach the matter as a blank screen. Instead, the Committee started with a presumption in favor of the current open system of court records, described in Part III above – a system rooted in constitutional law, common law, statutes, and longstanding tradition. The Committee then considered whether, in light of recent developments and concerns, there was a need to change the system.

The Committee did not intend to address legal questions about whether or to what extent access is **required** by law in particular circumstances. There are a number of unresolved legal issues in the area of access to Maryland court records, and members of the Committee have strong and conflicting views about these issues. Rather, the Committee’s recommendations address what access **ought** to be provided as a matter of policy, regardless of whether or not it is **required** by law.

The Committee's recommendations, listed below, are unanimous unless otherwise noted. [split votes to be inserted after final Committee votes.].

1. General Policy: The current policy, grounded in law and tradition, that court records are generally open to the public should be continued. The public should have access to court records in all forms (e.g. paper or electronic), with the appropriate exceptions and safeguards described in Recommendations 2, 3, and 4. Subject to those exceptions and safeguards [15-for, 2-against, 1-abstained]:

(a) Access should be the same whether the record is in paper or electronic form [16-for, 2 against];

(b) Access should be the same for criminal and civil cases, subject to applicable statutes and rules [15-for, 3 against]; and

(c) Access should be the same for all members of the public, regardless of the reasons for their requests and their intended use of the records (including the intent to disseminate the records for profit). At the same time, users should be given notice that illegal uses of the records, including discrimination, identity theft, stalking or harassment are punishable under other laws [13-for, 4-against, 1- abstained].

Commentary

This Recommendation is intended to maximize public access to court records, consistent with appropriate exceptions, which are set out in Recommendation 3 below, and safeguards, which are set out in Recommendations 2 and 4 below. In reaching its recommendations, the Committee carefully considered the advantages of public access, and in particular, the advantages of the easier, faster and broader dissemination that is possible with electronic court records, as well as the concerns that weigh against it – and considered these factors as they apply to the realities of Maryland court records.

The public benefits from access to court records are numerous. To begin with, open court proceedings – and records of them – are fundamental to our form of government, which depends upon an informed citizenry, the rule of law and government accountability. The public nature of judicial proceedings has been so integral a part of our government from its inception that it is easy -- but unwise -- to take it for granted.

It therefore bears stating that courts have awesome power. Criminal courts can deprive people of their freedom and at times, their lives. Civil courts adjudicate important property and personal rights: they can take away one's money and one's children. For hundreds of years, the public nature of court proceedings and records at its most obvious level has meant that the community is aware of the outcome of individual cases. Perhaps not so obviously, the public nature of these proceedings also has been an important guarantor of their integrity and of the accountability of the court system.

Thus access to court records serves the public as a whole (often through stories that appear in the print and broadcast media), as well as serving the interests of particular individuals and businesses, in several respects:

- (1) by shedding light on specific court proceedings that are of vital interest to the community;
- (2) by providing a means of finding and checking historical information about individuals who are involved in newsworthy events, work in positions of trust (e.g. day care providers), or are prospective employees or tenants; and
- (3) by enabling public scrutiny of the operation of the court system.

The first two of these benefits are viewed by some as contributing to public safety. Access to court records allows people to learn about individuals who are convicted of serious crimes, about crimes in their neighborhoods and about crimes involving business matters that may affect them. Thus people can monitor and assess their environment and can protect themselves accordingly.

With respect to the second benefit, the Committee notes that checking court records, either directly or through a commercial compiler, is not the only way of obtaining the criminal history of persons who work in positions of trust. CJIS provides fingerprint-based searches of its database as specified by statute and regulation regarding employment of such persons. Some Committee members stress the greater reliability of such searches and strongly prefer them to court records searches. By recommending public access to court records, the Committee does not intend to imply a preference for court records searches over CJIS searches. The majority of the Committee believes that both methods should be available, particularly in light of the fact that CJIS searches are available only to those authorized by law.

The third benefit above also bears elaboration. Access to court records, and especially electronic court records, enables the public to learn of, and correct, lapses in the system – whether these take the form of injustice in an individual civil or criminal case or in a previously unrecognized pattern of cases. Such scrutiny also reveals the effectiveness and fairness of the court system. Ultimately, public scrutiny fosters public confidence in the courts.

The Committee also took into account concerns that weigh against public access, particularly in light of the increase in the number of people who could receive information as a result of the remote distribution of electronic court records. One group of concerns has to do with the distribution of **accurate** information that was previously available only at the courthouse. There is concern about the protection of personal privacy and protection from risk of physical, psychological and economic harm to the individual (e.g. identity theft, stalking, use of bank accounts). One specific concern is the potential harm from dissemination of information about criminal cases that have not resulted in convictions. The Committee notes, however, that the issue of the expungement of non-conviction data is a legislative matter, beyond the Committee's purview. In addition to concerns about individuals, there is the concern about

protection of sensitive, proprietary business information (e.g. customer lists, trade secrets, internal financial information) that can harm a business and unfairly advantage its competitors.

The Committee gave careful consideration to these concerns, not only because of the potential impact on individuals and businesses but because appropriate respect for personal privacy and business confidentiality enhances public trust and confidence in the judiciary. Our starting point is that when information is in a court record at the courthouse, it is in the public domain. Yet, precisely for the reasons raised in the preceding paragraph, particular pieces of information are protected from public dissemination, either by statutory closure or by court sealing orders in individual cases, as permitted by statutes and rules that define the kinds of information that the court, in its discretion, may seal. The Committee believes that this approach can continue to work in the new circumstances created by electronic court records. Thus, the exceptions to access and the safeguards provided in Recommendations 2, 3, and 4 below can and should be used to address concerns about distribution of accurate, sensitive information in electronic court records.

In addition, it is important to the Committee that state and federal laws guard against and provide punishment for illegal activities such as stalking, identity theft, discrimination, and misappropriation of assets, in which the perpetrator may have used some information from court records. These laws provide protection against harmful use of personal and business information, and the Committee suggests that notice of such laws be widely disseminated.

Some Committee members have noted that much of the public debate about privacy and risk of harm from electronic dissemination of information does not involve court records at all. And concerns about use of court records are somewhat lessened by the fact that the basic personal information now available in Maryland electronic court records is available from a variety of other electronic sources in our society.

There are different, but nonetheless significant, concerns about possible harm from the distribution of **inaccurate** information contained in court records, particularly concerning criminal convictions. Distribution of inaccurate information about individuals' criminal records could harm them by unfairly damaging their reputations or depriving them of employment or housing, without the individuals' knowing about the existence of the incorrect information. Some (but not all) users of information from court records are subject to the Fair Credit Reporting Act, and the Committee notes that this Act contains provisions for the disclosure of the use of such information to the subject of the record and for the correction of inaccurate information. In any event, the correction procedure in Recommendation 4 is intended to help ensure accuracy.

Some Committee members believe that civil and criminal court records do not always provide accurate identification of the individual named in the records. To the extent that this is true in criminal cases, the problem is not present in CJIS' fingerprint-based searches by authorized users. Furthermore, some Committee members point out that the identifying details currently provided in the JIS criminal case databases (date of birth, height, weight, sex and race) reduce the likelihood of misidentification.

Subsections (a) and (b) above reflect the Committee's intention to maximize public access and to do so in as clear and simple a manner as possible.

Subsection (c) is intended to place members of the public on the same footing with respect to access. The public comprises individuals, businesses and non-profit entities. The Committee intends to include businesses that obtain bulk data from courts and sell that data or portions of it, with value added, to customers such as prospective employers and landlords, who in turn use them to protect the safety of their current employees and tenants.

Public access is not conditioned on the reason for the request or the intended use of the records. These criteria would necessarily involve the court in evaluating these reasons and intended uses and would thereby create the possibility or appearance of the court's denying access to requesters whose reasons or uses the court finds disagreeable. Furthermore, the fundamental nature of the courts as public institutions supported by public revenues suggests that selective access is inappropriate. The recommended notice regarding illegal uses of information is a different way of meeting the concern about inappropriate use.

It is understood that for access purposes, the parties to the cases and their lawyers; court personnel; and private investigators, security personnel, government agencies, and others whose access to court records is established by law may have more access than the public.

2. Requests for Electronic Records: Pursuant to the policy set out in Recommendation 1 above, the Committee recommends as follows regarding the currently available means of access to electronic court records [15-for, 2-against, 1-abstained]:

(a) Requests for dial-up access to electronic court records should continue to be granted, subject to compliance with appropriate registration procedures.

(b) Requests for data compilations from court records should be granted, if possible. Competing programming needs should not be the sole reason to deny such requests [15-for, 3-against].

(c) Requests for bulk data should be granted, subject to compliance with appropriate registration procedures [16-for, 2-against].

(d) The Court may charge fees for dial up access, bulk data distribution and data compilations, subject to applicable statutes and regulations [17-for, 1-against].

Commentary

Subsection (a) addresses dial up access to electronic records currently and provides that such access should continue, subject to appropriate registration procedures. Registration by dial up users provides a record of access and thus serves as a safeguard. The registration form now in use consists of basic identifying information, including name and address and billing information. The Committee does not intend that registration requirements diminish the access

provided by Recommendation 1. In particular, a registration procedure is not “appropriate” if it requires that the requester identify the reason or intended use of court records.

Requests for data compilations, covered in Subsection (b), are a complicated and controversial subject. The Committee’s recommendation does not address the legal question of whether, or under what circumstances, such compilations are required by the Public Information Act (one legal issue is whether a particular compilation constitutes a new record for PIA purposes).

Instead, the Recommendation sets out the majority of the Committee’s belief as to the preferable course of action. The public benefit of data compilations is that they enable much more extensive monitoring and evaluation of the operation of the court system, including for example analysis of the sentences imposed for a particular crime on defendants of different races.

The Committee recognizes that some requests for data compilations will involve computer programming, and that this programming will range from the trivial to the extensive, depending on the request. The majority of the Committee believes that the courts’ competing programming obligations should not be the sole reason for denying a request. In any event the entire Committee encourages requesters and court staff to work together to reduce the burden on the court by, for example, modifying the request to reduce programming time; accepting easily-provided information that the requester can subsequently reprogram to meet his needs, or accepting data compilations for which the court has already written programs.

Subsection (c) addresses requests for bulk data, which often are made by businesses that sell the information, with value added, to customers such as employers, landlords and trade associations. In this respect, bulk data distribution may reduce the number of requests made by individuals or businesses directly to the Court.

Registration agreements between the court and bulk data requesters can provide a vehicle for reasonable safeguards concerning released data. Registration agreements are commonly used in states that engage in bulk data distribution. These agreements contain basic information identifying the requester's name and address, and they set out the arrangement between the requester and the court, the particulars of which may vary. One possible provision could (1) require that the requester use the data lawfully; (2) provide a general explanation of unlawful uses; and (3) require the requester to pass this information on to its customers. The Committee does not intend that registration agreements diminish the access provided by Recommendation 1. In particular, a registration procedure is not “appropriate” if it requires that the requester identify the reason or intended use of court records.

Subsection (d) provides that the Court may charge fees for dial up access, bulk data and data compilations. Fees must be in accordance with applicable statutes and regulations.

The Committee is divided as to whether or not as a matter of policy fees should not exceed the “actual and reasonable costs” of providing access to the information; and the Committee is also divided on the related question of whether and to what extent the Court should

bear the cost. Most members believe that for bulk data and data compilation requests, additional expenses attributable to extensive new programming should be borne by the requester.

In any event, all members of the Committee agree that to the extent that providing public access via dial up access, bulk data distribution and data compilations requires additional court resources, the fiscal impact of these forms of public access to electronic court records needs to be identified.

3. Exceptions to Public Access to Court Records:

(a) Court records have not been available to the public if they are closed by statute (for example juvenile cases) or sealed by order of the court in a particular case (for reasons of privacy, trade secrets, or other reasons authorized by court rule). These long-standing mechanisms remain adequate to protect privacy interests regarding paper court records [16-for, 2-against].

(b) At present, electronic court records consist of case docket sheets, which contain information identifying the parties (name, address, and in criminal cases date of birth, height, weight, sex and race) and describing case events (such as filing and disposition). This information does not warrant protection beyond the existing mechanisms of statutory closure and case sealing orders. To the contrary, these identifying details are useful in accurately identifying the person named in the record [16-for, 2-against].

(c) At present, case files are not available in electronic form (except for a few Circuit Court pilot programs). In the future, as case files become computerized, there will be more information available via remote access, including, for example, complaints, answers, motions and affidavits – which currently are publicly available in paper court files unless closed by statute or sealed by court order. The nature of some information in case files (e.g. bank account numbers, credit card numbers, medical records) is such that remote electronic public access may possibly lead to potential harm to individuals or businesses. If, in the future, this type of information becomes available in electronic court records, the Court may wish to consider whether the existing mechanisms of statutory closure and case sealing order are adequate.

Commentary

In the Commentary to Recommendation 1 above, the Committee has discussed the benefits to the public from access to court records, and especially from the increased accessibility of court information that the computerization of court records provides. Such dissemination also brings with it concerns about privacy and risk of harm, which weigh against public access. These concerns are also discussed in that Commentary.

The Committee has concluded that at present, with the safeguards proposed in Recommendations 2 and 4, the existing mechanisms of statutory closure and sealing orders provide adequate protection with respect to paper and electronic court records.

The Committee recognizes in Subsection (c) that as circumstances change, and more court records appear online, the Court may wish to consider whether existing closure mechanisms remain adequate and if not, whether the Court should promulgate a rule that would provide for exclusion of narrowly and specifically defined information (such as credit card number, bank account information and social security numbers) from the electronic court records.

4. Correction Procedure: Because electronic records have made extensive public distribution of information much easier and more likely, all reasonable efforts should be made to continue to ensure that the information in court records is as accurate as possible. In this regard, the Court should adopt and implement a simple, convenient, and free process for the public to learn about and to correct errors.

Commentary

This Recommendation provides important safeguards. Some members of the Committee have expressed concern about the damage that could be done if, for example, inaccurate information from the JIS database about past criminal convictions were distributed to prospective employers or landlords. The particular concern is that the subject of the inaccurate record would be deprived of employment or housing without ever knowing that the decision was based on erroneous information. For this reason and others, it is important that the Court take all reasonable steps to ensure the continued accuracy of court records. As noted in Commentary to Recommendation 1, the Fair Credit Reporting Act requires notice of “adverse use” by some (but not all) users of court data.

To further promote accuracy, the Committee suggests that the Court adopt and implement an easy, user-friendly way for members of the public to check electronic records that identify them and to correct errors in the rare instances when they occur. Normally the appropriate time to challenge the accuracy of case records is at the time the record is made. However, someone mentioned in the record may not know of its existence at that time, and correction at a later time should be allowed.

5. Uniform Practices: Public access to court records should be uniform throughout the State, so that individuals in particular locations are neither favored nor disadvantaged. To this end, the Court should develop practice and procedure guidelines for court personnel to follow when responding to requests for paper or electronic records under Recommendations 1-4 above. The guidelines should maximize the quality of service provided to the public, maximize court efficiency, and minimize the burden on court personnel. These considerations, however, should not diminish the public access provided under the above Recommendations.

Commentary

Uniform guidelines for use throughout the State will standardize and therefore facilitate access that is provided for the public. They will also establish efficient practices that will minimize the burden on the court personnel and maximize customer service, consistent with substantive access policies.

The Committee recognizes that access policies affect court operations and is sympathetic to the burdens placed on court staff. Staff time is required to maintain and provide the recommended access to paper and electronic records. In some respects, if records are in electronic form, the burden on court personnel is reduced. For example, to the extent that the public uses dial up access, the staff time needed to fill requests for paper records may be reduced. On the other hand, fulfilling some requests for bulk data and data compilations may involve significant amounts of programming time.

The Committee believes that the courts should have sufficient resources to perform its primary job of adjudicating cases, as well as its role as a provider of information to the public about court proceedings. The Committee requests that the legislature take this into account when considering court funding.

6. Future Computerization of Court Records: The computerization of court records (including case docket sheets and case files), and public access to them, should be encouraged. The Committee suggests that such computer systems, (for the District Court, Circuit Courts and appellate courts) be as integrated or compatible as possible. The Committee recommends that the Court facilitate the sharing of technological experience and operational efficiencies for electronic records systems innovations in courts throughout the state.

Commentary

This recommendation is grounded in the Committee's belief that there are substantial public benefits of open electronic court records and its further belief that appropriate protection can be afforded to the information in electronic case files that will warrant protection from electronic public disclosure. See Recommendations 1 and 3. One important benefit afforded by remote access to electronic court records is that an individual's location does not limit his ability to access court records. In addition, computerized access to court records likely reduces the burden on court personnel to fulfill information requests.

Existing electronic records systems in courts throughout the state are not compatible. The suggestion that electronic court record systems should be as integrated or compatible as possible is intended to maximize their usefulness to the public and the simplicity and ease with which the public can utilize them. Furthermore, the Committee intends to promote affordable, feasible and high-quality computerization of court records throughout the state.

7. Ongoing Working Group: The Court should consider formation of an ongoing working group of court administrators, technology staff and outside stakeholders and experts. The group would study and make recommendations to the Court concerning the implementation of the Court's policies [17-for, 1-against].

Commentary

The proposed working group would help in identifying and resolving the questions that will arise in implementation of the Court's policies. Furthermore, as technology improves and electronic records become more commonly used by the courts, the working group might help the court to anticipate and address potential problems before they arise.

Respectfully submitted,
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