

*Committee on Access to Court Records
Summary of October 25, 2001 Meeting*

The meeting was convened in Baltimore at 200 St. Paul Place (the Office of the Attorney General). Those present were Judge Paul Alpert, Deborah Eisenberg, Del. Grosfeld, Lesa Hoover, Sen. Jimeno, Bill Leighton, Alice Lucan, Carol Melamed, Marcia Reinke, Sally Rankin, Carole Shelton, and Judi Wood.

Judge Alpert suggested the members present discuss the feedback elicited by the questionnaire sent to all members. The questions were intended to help the Committee identify the broad policy recommendations it would provide to Judge Bell. After a lengthy discussion of all the questions, the Committee reached consensus (unanimously unless otherwise noted):

- C There should be guidelines for court clerks to follow in dealing with requests for access to court records.
- C There should not be a difference between paper and electronic records. [Staff note: 7 to 3 vote]
- C Civil and criminal files should not be treated differently, subject to applicable statutes and rules. [Staff note: 7 to 3 vote]
- C The definition of "record" in either paper or electronic format:
Court records are records kept by the courts of court proceedings either in paper or electronic format. For purposes of our Committee, court records fall into two main categories: (1) 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 in the Judicial Information System (JIS). (2) 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 most significantly discovery material and law enforcement records that have not been filed in court. Case files are not currently computerized. Court records also include an alphabetical index of case names and numbers, which is created by the clerks, and the court schedule for the day.
- C There should be a process for questioning and/or correcting a record.
- C The Judiciary should, upon request, provide compilations of court data, if possible. Competing programming needs should not be used as the sole reason not to respond to PIA requests. The language in the draft recommendation will use "should," not "must."
- C There should be guidelines addressing how the Judiciary should handle requests for copies of bulk data/databases.
- C Dial-up access should be afforded to anyone who wishes to subscribe assuming there is a registration mechanism.
- C Electronic access should be widely available to the public to the extent that records are kept electronically.
- C Electronic access should be available to subscribers with the same safeguards as JIS promulgates for dial-up access.
- C There should be uniformity of access to electronic records across the State.
- C The Judiciary should continue providing JIS access to records now available to subscribers. These records, which display case docket information, include basic

identification information and notations of the actions taken in the case. [Staff note: 7 to 2 vote]

- C The future computerization of case files and public access to them should be encouraged.
- C The privacy perspective will be included by the recommendations drafting committee, using language similar to that in the report from the subcommittee that looked at competing access and privacy issues, e.g., continue access with safeguards.
- C Privacy concerns can be addressed by shielding certain data fields.
- C The Judiciary should improve accuracy of data to the extent possible (recognizing that accurate identification is balanced against privacy intrusions). Legislative action may be required for remedies for inaccurate identification, requirements to disclose reasons for denial of housing or employment, and disclosure to individuals that their records were searched for housing or employment purposes.
- C The actions taken by the U.S. Judicial Conference will be referenced in the report being drafted.
- C An ongoing working group of court administration staff and outside stakeholders should be established to implement the recommendations, and to identify, study, and make recommendations regarding specific problems that may emerge.
- C The report being drafted should include the elements suggested in the access/privacy subcommittee report.

A member of the Office of the Attorney General offered to answer some of the legal questions posed during the discussion, particularly in the areas of what the PIA requires with regard to data compilation requests, and what obligation, if any, there may be to notify individuals that data is being collected about them for a database.

The group appointed to draft recommendations for consideration of the Committee at its next meeting: Judge Alpert, Deborah Eisenberg, Del. Grosfeld, Bill Leighton, Carol Melamed, and Judi Wood.

The next meeting, originally scheduled for December 12, 2001 at 5:30 p.m. in Annapolis, will be rescheduled. [Staff note: members will be surveyed about their availability for a meeting in early to mid-January.]