

Committee on Access to Court Records
Summary of July 5, 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, Julia Andrew, John Baer, Bob Davis, Deborah Eisenberg, Del. Getty, Del. Grosfeld, Lesa Hoover, Bill Leighton, Carol Melamed, Sally Rankin, Marcia Reinke, Ari Schwartz, Carole Shelton, Suzanne Smith, Warren Weaver, and Judi Wood.

After Judge Alpert's welcome, he invited reports from the four subcommittees. Deborah Eisenberg presented the report from the subcommittee on comparisons with other states and the federal courts. She focused on the electronic access to court records permitted in Oregon, New Jersey and Massachusetts. Her presentation and the full report are available.

A question was raised about identity theft cases in Washington State. The subcommittee offered to research the matter and provide an update.

Del. Getty presented the report of the subcommittee on the technological aspects of JIS and CJIS databases (copy available). He described the subcommittee's site visits to JIS and CJIS to see firsthand what data is available and in what format. During those visits, the subcommittee discussed the maintenance of those databases and the likelihood of errors. Del. Getty contrasted the different purposes the two databases serve, and responded to questions about system security. The type of problem considered by the subcommittee was someone using the JIS database for background checks for potential employees or tenants. CJIS, but not JIS, can verify if a check provided erroneous information, or if the check was even performed through CJIS.

Carol Melamed provided an overview of the report from the subcommittee identifying interests and values associated with privacy and access (full report available). Members of the subcommittee presented the sections of the report assigned to them. The report covered privacy concerns raised by public access to electronic court records; benefits of public access to electronic court records: the press point of view; benefits to individuals of public access to electronic court records; and the benefits of access to electronic court records from the point of view of businesses.

The report from the subcommittee studying the legal framework, including definitions, was presented by Judi Wood. She explained that time and the volume of material did not permit the subcommittee to reach consensus, and provided an overview of the submission from the Department of Public Safety. Although Alice Lucan could not be present, her submission was distributed for committee review.

Judge Alpert read an excerpt from the letter he received from District Court Chief Judge Martha F. Rasin about the District Court's experiences with access issues. He also commented on the difference of opinion regarding the U.S. Supreme Court's ruling in the *Reporter's Committee* case, and what the Maryland appellate courts have held.

After much discussion about the next steps, a consensus was reached that the subcommittees would meet at least once, if not twice, before the next meeting of the full committee. The subcommittee members agreed to reexamine their subcommittee reports in light of the other reports and comments/questions from committee members, who were encouraged to provide input to the other subcommittees. In addition, the subcommittees will generate a list of questions or issues that need to be addressed by the committee before recommendations can be developed. The lists from the four subcommittees will be compiled into one list, and redistributed to committee members two weeks before the next meeting of the full committee.

The next meeting of the full committee is September 24, at 5:30 p.m. tentatively in the same location. Consequently, subcommittee lists of questions or issues must be submitted to staff no later than **September 3**. Further information about the specific location of the September 24 meeting will be provided.