

PRIVACY AND PUBLIC ACCESS TO ELECTRONIC COURT RECORDS

LAW LIBRARY

SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY

December 2007

CONTENTS

ARIZONA COURTS	3
FEDERAL COURTS	3
STATE COURTS	4
POLICY STATEMENTS	5
BOOKS	5
PAPERS	5
JOURNAL ARTICLES	7
NEWS ARTICLES	9
WEB SITES	10

ARIZONA COURTS

Greene, Jennifer. *Memorandum: Background Materials on Public Access to Electronic Court Records*, September 11, 2000. Available at <http://www.courtaccess.org/states/az/documents/memo%20on%20other%20states%20pacr%20rules.doc>.

Rules of the Supreme Court of Arizona, Rule 123. *Public Access to the Judicial Records of the State of Arizona*.

Superior Court of Maricopa County. *Administrative Order 96-007: In the Matter of Access to Information Contained in Mental Health Case Files*, January 23, 1996. Available at <http://www.superiorcourt.maricopa.gov/SuperiorCourt/AdministrativeOrders/docs/ao1996-007.pdf>.

Superior Court of Maricopa County. *Administrative Order 2000-043: In the Matter of Public Access to Mental Health Docket*, August 15, 2000. Available at www.superiorcourt.maricopa.gov/SuperiorCourt/AdministrativeOrders/docs/ao1996-007.pdf.

Superior Court of Maricopa County. Local Rules of Practice for the Superior Court of Maricopa County. *Local Rule 5.18: Commitment Hearings and Mental Health Files*.

Supreme Court of Arizona, Committee to Study Public Access to Electronic Court Records. *Report and Recommendations of the Ad Hoc Committee to Study Public Access to Electronic Court Records*, October 2002. Available at <http://www.courtaccess.org/states/az/documents/az-reportandrecommendations.pdf>.

FEDERAL COURTS

Electronic Case Files in the Federal Courts: A Preliminary Examination of Goals, Issues, and the Road Ahead: Discussion Draft. Washington, DC: Administrative Office of the United States Courts, March 1997. Available at <http://www.uscourts.gov/casefiles/ecfmar97.pdf>.

Judicial Conference Committee on Court Administration and Case Management. *Report of the Judicial Conference Committee on Court Administration and Case Management on Privacy and Public Access to Electronic Case Files*. Washington, DC: Judicial Conference of the United States, December 2006. Available at <http://www.privacy.uscourts.gov/Policy.htm>.

Office of Judges Programs, Administrative Office of the United States Courts. *Privacy and Access to Electronic Case Files in the Federal Courts*. Washington, DC: Administrative Office of the United States Courts, December 15, 1999. Available at <http://www.uscourts.gov/privacyn.htm>; <http://www.uscourts.gov/privacyn.pdf>.

STATE COURTS

- Judicial Branch of Connecticut. *Connecticut Judicial Branch Public Access Task Force: Final Report*, September 15, 2006. Available at http://www.jud.state.ct.us/external/news/PublicAccess/PATF_finalreport_091506.pdf.
- Judicial Branch of the State of New Hampshire, Task Force on Public Access to Court Records. *Public Access to Court Records: Report of the New Hampshire Supreme Court Task Force on Public Access to Court Records*, February 2006. Available at <http://www.courts.state.nh.us/press/publicaccess.pdf>.
- McMurray, Louis. *Los Angeles County Electronic Filing: Increasing Public Access to the Courts*. Available at http://www.ncsc-ctc.org/D_ICM/programs/cedp/papers/Research_Papers_2001/LA_County_Electronic_Filing.pdf.
- Minnesota Supreme Court, Advisory Committee on Rules of Public Access to Records of the Judicial Branch. *Recommendations of the Minnesota Supreme Court Advisory Committee on Rules of Public Access to Records of the Judicial Branch*. St. Paul, MN: Minnesota Supreme Court, November 9, 2006. Available at http://www.mncourts.gov/documents/O/Public/News/Public_Notices/AccessRuleFinal_Report_061109.doc.
- Nagel, Wil. *"Privacy Schmrivacy?" Drafting Privacy Policy in an Integrated Environment (and Why It's Important)*. Chicago, IL: Illinois Criminal Justice Information Authority, June 2004. Available at http://www.icjia.state.il.us/IJIS/public/pdf/PRV/PrivacySchmrivacy_FINAL.pdf.
- New Jersey Judiciary. *New Jersey Judiciary Open Records: Policies and Procedures for Access to Case-Related Court Records Staff Guidelines, Directive #15-05*. Trenton, NJ: New Jersey Judiciary, November 4, 2005. Available at http://www.legaltechcenter.net/privacy/NJ_staff.pdf.
- New York Commission on Public Access to Court Records. *Report to the Chief Judge of the State of New York*. Albany, NY: New York State Unified Court System, February 2004. Available at http://www.courts.state.ny.us/ip/publicaccess/Report_PublicAccess_CourtRecords.pdf.
- Ohio Judicial Conference, Ad Hoc Committee on Public Records, Privacy and the Internet. *Report of the Ohio Judicial Conference Ad Hoc Committee on Public Records, Privacy and the Internet*. Columbus, OH: Ohio Judicial Conference, September 8, 2004. Available at http://www.ohiojudges.org/cms/tools/act_Download.cfm?FileID=466&/Report%20ubRecs%20Priv%20and%20Net.pdf.
- O'Grady, Michael. *Final Legislative Council Staff Report on Public Records, Privacy, and Electronic Access in Vermont*. Montpelier, VT: Legislative Council, January 2005. Available at http://www.leg.state.vt.us/reports/05PublicRecords/Public_records_study_report.pdf.

Supreme Court of Arkansas. *In Re: Adoption of Administrative Order Number 19 – Access to Court Records*, February 22, 2007. Available at <http://courts.state.ar.us/opinions/2007a/20070222/access.pdf>.

Supreme Court of Colorado, Office of the Chief Justice. *Chief Justice Directive 05-01: Directive Concerning Access to Court Records*, April 27, 2005. Available at <http://www.courts.state.co.us/supct/directives/05-01.pdf>.

Supreme Court of Florida. *In Re: Revised Interim Policy on Electronic Release of Court Records, Administrative Order No. AOSC07-49*, September 7, 2007. Available at http://www.floridasupremecourt.org/pub_info/documents/09-07-2007_Interim_Policy.pdf.

Texas Judicial Council. *Public Access to Court Case Records in Texas: A Report With Recommendations*, August 2004. Available at <http://www.courts.state.tx.us/tjc/pdf/Final%20Public%20Access%20Council%20Report.pdf>.

Utah Judicial Council. *Privacy and Public Court Records: Report of the Ad Hoc Committee Appointed by the Utah Judicial Council*, October 25, 2004. Available at http://www.utcourts.gov/Privacy_Public_Records/Report.pdf.

POLICY STATEMENTS

Joint Court Management Committee of the Conference of Chief Justices and the Conference of State Court Administrators. *Public Access To Court Records: Guidelines For Policy Development By State Courts*, July 16, 2002. Williamsburg, VA: National Center for State Courts, 2002. Available at <http://www.courtaccess.org/modelpolicy/Guidelines16July2002.pdf>.

Model Policy on Public Access to Court Records: Draft for Comment, Draft Dated February 22, 2002. Williamsburg, VA: National Center for State Courts, 2002. Available at <http://www.courtaccess.org/modelpolicy/modelpolicy.pdf>.

BOOKS

Larson, Susan. *Public Access to Electronic Court Records & Competing Privacy Interests. The JusticeWeb Collaboratory*, February 20, 2001. Available at <http://judgelinek.org/Insights/2001/E-Records/index.html>.

PAPERS

Bermann, Sol. *Privacy and Access to Public Records in the Information Age*. Columbus, OH: John Glenn Institute for Public Service and Public Policy, Ohio State University, April 2006. Available at <http://glennschool.osu.edu/research/papers/Bermann.pdf>.

-
- Briefing Paper: *Research and Government Relations Privacy and Access Initiative*.
Williamsburg, VA: National Center for State Courts, rev. January 24, 2001.
- Carlson, Alan. *Public Access to Court Records: Reducing the Risk of Disclosure of Personally Identifiable Information*. Williamsburg, VA: National Center for State Courts, 2007.
Available at <http://www.ncsc-ctc.org/WC/Publications/Trends/2007/PriPubTrends2007.pdf>.
- Carlson, Alan and Martha Wade Steketee. *Public Access to Court Records: Implementing the CCJ/COSCA Guidelines Final Project Report*. Williamsburg, VA: National Center for State Courts, October 15, 2005. Available at
<http://www.courtaccess.org/modelpolicy/PublicAccessFinalReport%20.pdf>.
- Conference of State Court Administrators. *Concept Paper on Access to Court Records*.
August 2000. Available at
<http://cosca.ncsc.dni.us/WhitePapers/courtrecordaccess.pdf>.
- Douglas, Merrill. *Government Technology: Privacy Concerns*, January 2, 2006. Available at
http://knowyourcourts.com/Public_Records/docs/2006-01-02_privacyConcerns.pdf.
- Givens, Beth. *Public Records on the Internet: The Privacy Dilemma*. San Diego, CA: Privacy Rights Clearinghouse, updated March 2006. Available at
<http://www.privacyrights.org/ar/onlinepubrecs.htm>.
- Jennen, Susan M. *Privacy and Public Access to Court Records*. Williamsburg, VA: National Center for State Courts, 1995. Available at
<http://www.courtaccess.org/legalwritings/ncsc1995pub/papa.htm>.
- Larson, Susan J. *Future Trends in State Courts 2006 Court Record Access Policies: Under Pressure From State Security Breach Laws?* Williamsburg, VA: National Center for State Courts, 2006. Available at <http://www.ncsc-ctc.org/WC/Publications/Trends/2006/PriPubRecordAccessTrends2006.pdf>.
- Wallace, Anne and Karen Gottlieb. *Courts Online – Privacy and Public Access in Australian and United States’ Courts*. Article written in support of a presentation given for the National Center for State Courts Seventh National court Technology Conference (CTC7), August 14-16, 2001. Baltimore, MD: National Center for State Courts, 2001. Available at http://www.ncsconline.org/D_Tech/ctc/showarticle.asp?id=23.
- Webster, Lawrence P. *Caught in Converging Technologies: The Modern Court Administrator and the Privacy/Access/Security Conundrum*. Article written in support of a presentation given for the National Center for State Courts Sixth National Court Technology Conference (CTC6), September 14-16, 1999. Wilmington, DE: Administrative Office of the Courts, c1999. Available at
http://www.ncsconline.org/d_tech/ctc/showarticle.asp?id=39.

JOURNAL ARTICLES

- Arkfeld, Michael R. "Are Court Records Commodities?" 84 *ABA Journal* 116 (July 1998).
- Baker, Mary Wahne. "Where There's a Will, There's a Way: The Practicalities and Pitfalls of Instituting Electronic Filing for Probate Procedures in Texas." 39 *Texas Tech Law Review* 423 (2007).
- Barber, Grayson. "Personal Information in Government Records: Protecting the Public Interest in Privacy." 25 *Saint Louis University Public Law Review* 63 (2006).
- Barber, Grayson. "Uneasy Access: Court Records Online." 163 *New Jersey Law Journal* 23 (March 5, 2001).
- Bepko, Arminda Bradford. "Public Availability or Practical Obscurity: The Debate Over Public Access to Court Records on the Internet." 49 *New York Law School Law Review* 967 (2004-2005).
- Blankley, Kristen M. "Are Public Records Too Public? Why Personally Identifying Information Should be Removed From Both Online and Print Versions of Court Documents." 65 *Ohio State Law Journal* 413 (2004).
- Bloom, Mark D., David M. Olenczuk and Richard L. Wynne. "Reorganizing in a Fish Bowl: Public Access vs. Protecting Confidential Information." 73 *American Bankruptcy Law Journal* 775 (Fall 1999).
- Byrd, Richard J. "View from Counsel's Table: Efiling and Privacy in Domestic Cases." 1 *e-Filing Report* 9 (March 2001).
- David, Shirley. "Access to Public Records; Court Representatives Discuss Privacy and Electronic Issues in Phoenix." 3 *AALL Spectrum* 16 (December 1998).
- Drasco, Dennis J. "Public Access to Information in Civil Litigation v. Litigant's Demand for Privacy: Is the 'Vanishing Trial' an Avoidable Consequence?" 2006 *Journal of Dispute Resolution* 155 (2006).
- "Federal Courts Seek Advice about Putting Documents on the Web." 6 *Andrews' Bank & Lender Liability Litigation Report* 13 (December 29, 2000).
- Gomez-Velez, Natalie M. "Internet Access to Court Records – Balancing Public Access and Privacy." 51 *Loyola Law Review* 365 (Fall 2005).
- Graves, Scott E. "Electronic Filing in the Federal Appellate Courts." 27 *The Justice System Journal* 348 (2006). Available at http://www.ncsconline.org/WC/Publications/KIS_EIFileFederalJSJVol27No3.pdf.
- Groner, Jonathan. "Courts Consider Perils of Electronic Filing." 5 *Internet Newsletter* 6 (January 2001).
- Hirsch, David A. "Public Records Is Public Records." 1 *e-Filing Report* 12 (June 2001).

-
- Hornby, Hon. D. Brock. "Internet and Electronic Case Filing Raise Privacy Concerns." 32 *The Third Branch* (June 2000). Available at <http://www.uscourts.gov/ttb/june00ttb/internet.html>.
- Leibowitz, Wendy R. "The States of E-filing." 1 *e-Filing Report* 11 (March 2001).
- Losinger, John. "Electronic Access to Court Records: Shifting the Privacy Burden Away From Witnesses and Victims." 36 *University of Baltimore Law Review* 419 (Spring 2007).
- Nelson, Sharon D. and John W. Simek. "Efile Debut in Fairfax County, Virginia." 1 *e-Filing Report* 4 (March, 2001).
- Nelson, Sharon D. and John W. Simek. "Using Technology to Balance the Competing Rights of Public Access And Privacy." 1 *e-Filing Report* 3 (February 2001).
- Ressler, Jayne S. "Privacy, Plaintiffs, and Pseudonyms: The Anonymous Doe Plaintiff in the Information Age." 53 *University of Kansas Law Review* 195 (October 2004).
- Rock, Vickie. "Securing the Courthouse: The Conversion to Digital Documents." 1 *Lawyers Competitive Edge: The Journal of Law Office Economics and Management* 3 (July 1999).
- Sabin, Cameron L. and Kenneth B. Black. "Managing Pandora's Box: Recognizing and Handling the Privacy Risks Associated with Electronic Access to Court Records." 18 *Utah Bar Journal* 6 (January/February 2005).
- Salzmann, Victoria S. "Are Public Records Really Public? The Collision Between the Right to Privacy and the Release of Public Court Records over the Internet." 52 *Baylor Law Review* 355 (Spring 2000).
- Sedona Conference Working Group on Protective Orders, Confidentiality and Public Access. "The Sedona Guidelines: Best Practices Addressing Protective Orders, Confidentiality and Public Access in Civil Cases." 8 *The Sedona Conference Journal* 141 (Fall 2007).
- Stevens, Edward H. and Robert L. Pullen. "Access to Civil Commitment Proceedings and Records in Alabama: Balancing Privacy Rights and the Presumption of Openness." 9 *Jones Law Review* 1 (2005).
- Sudbeck, Lynn E. "Placing Court Records Online: Balancing Judicial Accountability with Public Trust and Confidence: An Analysis of State Court Electronic Access Policies and a Proposal for South Dakota Court Records." 51 *South Dakota Law Review* 81 (2006).
- Sudbeck, Lynn E. "Placing Court Records Online: Balancing the Public and Private Interests." 27 *The Justice System Journal* 268 (2006). Available at http://www.ncsconline.org/WC/Publications/KIS_PriPubRecordsJSJVol27No3.pdf.
- Twerski, Aaron, Sheila L. Birnbaum, Jack B. Weinstein, Jack H. Friedenthal and Harvey Weitz. "Secrecy and the Civil Justice System." 9 *Journal of Law and Policy* 51 (Fall 2000).

Talmadge, Philip A. "The Privacy of Court Records: Striking a Delicate Balance." 54 *Washington State Bar News* 30 (May 2000).

Vock, Daniel C. "Online Access to Court Records Sparks Debate." 147 *Chicago Daily Law Bulletin* 1 (February 6, 2001).

Waters, Robert Craig. "The World Wide Web and E-Filing in Florida." 81 *Florida Bar Journal* 34 (April 2007).

Winn, Peter A. "Online Court Records: Balancing Judicial Accountability and Privacy in an Age of Electronic Information." 79 *Washington Law Review* 307 (February 2004).

NEWS ARTICLES

Buchanan, Scott G. "Internet Access to Court Records Puts Justice at Risk." *Des Moines Register* 11A (September 25, 2007).

Coyle, Marcia. "Federal Prosecutors Want to Shutter Public Access to Plea Agreements." *New Jersey Law Journal* (September 14, 2007).

Cruz, Mike. "Online Access to Plea Deals in Question." *The (San Bernadino, CA) Sun* (October 11, 2007).

Harmon, Amy. "As Public Records Go Online, Some Say They're Too Public." *New York Times* (August 24, 2001).

Higgins, Michael. "Online Court Records Elusive; State Justices Hold Firm, Cite Privacy." *Chicago Tribune* 1 (February 11, 2001).

Hoops, Stephanie. "Courts Unifying Computer Systems: Overhaul is Part of Statewide Revamping." *Ventura (California) County Star* (May 15, 2006).

Horn, Dan. "Hamilton Co. Blocks Access to Records." *Cincinnati Enquirer* 2B (June 27, 2006).

Liptak, Adam. "Web Sites Expose Informants, and Justice Dept. Raises Flag." *New York Times* 1 (May 22, 2007).

Lovejoy, Steve. "Closing Online Records Belies Open Government." *Capital Times (Madison, Wisconsin)* A9 (October 24, 2007).

Murphy, Chuck and Jeffrey A. Roberts. "Judicial Districts Object to Public Access to Files: The Records are Off-Limits in 19 Colorado Counties Despite a Panel's Directive in 2005 to Protect Public Access to Them." *Denver Post* C-01 (March 12, 2006).

Nowak, Liesel. "Online Records Stir Debate: Documents Will Be Easier to Find, But at What Cost?" *Charlottesville Daily Progress* (March 11, 2007).

"Privacy Controls Needed in Bankruptcy." 10 *Consumer Bankruptcy News* 1 (February 22, 2001).

Saunders, Rhys. "Juvenile Records Censored From Web Sites." *The (Farmington, NM) Daily Times* (June 10, 2007).

Schwaneberg, Robert. "State Courts Slow to Put Documents on Internet; Cost, Privacy Cited Despite Fast Action by U.S. Judiciary." *The Newark (N.J.) Star-Ledger* 1 (September 3, 2007).

Scolforo, Mark. "Courts Act to Ensure Unedited Case Files." *Pittsburgh Post-Gazette* B4 (July 29, 2006).

Walbert, Mike. "Court: E-Mails by Official Not Public Record." *Arizona Republic* B5 (August 15, 2006).

"Why the Public Should Have Full Access to Bankruptcy Records on the Internet." 9 *Consumer Bankruptcy News* 5 (July 27, 2000).

Wickham, Shawne K. "No Public Access to J-One." *New Hampshire Sunday News* A11 (April 30, 2006).

WEB SITES

CCJ/COSCA Guidelines for Public Access to Court Records
<http://www.courtaccess.org/modelpolicy/>

Center for Legal and Court Technology
Fifth Conference on Privacy and Public Access to Court Records
Conference Materials by State
<http://www.legaltechcenter.net/privacy/state.html>

Electronic Privacy Information Center
Privacy and Public Records
<http://www.epic.org/privacy/publicrecords/>

National Center for State Courts Public Access to Court Records
<http://www.courtaccess.org/index.html>

National Center for State Courts, Knowledge and Information Services
Electronic Filing
<http://www.ncsconline.org/wc/CourTopics/ResourceGuide.asp?topic=ElFile>

National Center for State Courts, Knowledge and Information Services
Public Access to Court Records
<http://www.ncsconline.org/wc/CourTopics/ResourceGuide.asp?topic=PriPub>