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APPEALS COURT

June 15, 2015

Mr. Joseph Stanton, Clerk
Trial Court Public Access to Court Records Committee
Massachusetts Appeals Court, Room 1200
One Pemberton Square, Boston, MA 02108-1705

Dear Trial Court Public Access to Court Records Committee:

As one of the librarians working for the Massachusetts Trial Court Law Libraries, I would like to express support and applaud the work of the Trial Court Public Access to Court Records Committee. Thank you for giving us a chance to provide comments for your hearing.

"The mission of the Trial Court Law Library System is to provide timely, efficient access to current and historical law-related information in an impartial and respectful manner to anyone in need of legal information." As such, our public law libraries, located throughout the Commonwealth, have been providing a form of access to justice for 200 years. While the libraries began as associations of attorneys who got together to share resources, from the beginning any inhabitants of the county were given the right to use the books. The sense that the public has a right to know their law has always been a part of our libraries' mission and our legal system. Article XI of Part 1 of the Massachusetts Constitution's "Declaration of Rights" reads:

Every subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obligated to purchase it; completely, and without delay; conformably to the laws.

In that spirit, the Law Libraries and the Public Access to Court Records Committee share the same goal of bringing access for our citizens to the reports of the proceedings of the Judicial System.

One of the frequently asked questions in the Trial Court Law Libraries is a request for a case about "x". The general public has little understanding of the precedential value inherent in appellate level cases. They do not know, when they ask for a case about a specific subject, that they will only see the final decision of the Court, and that the Trial Court level cases are not so readily available. Sometimes, they are interested in a particular case from the Trial Court. Sometimes, they want to know procedure, how to proceed with their issue, and would like to look at an example of a case like theirs. We can help them with Court Rules and procedural manuals, but usually not with the cases.

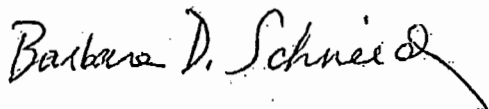
Our patrons (Judges, attorneys and members of the public) come to us in person, by telephone, by email, and through our Document Delivery Service and the several ways of contacting us via the "Ask A Law Librarian" service at <http://www.mass.gov/courts/case-legal-res/law-lib/libraries/services/ask.html>. We get questions about Court records from all of these directions.

It is exciting to be living at a time of expanding access to online resources. User expectations have made a paradigm shift, and there is a sense that Court records, beginning with docket sheets, and including the publicly available electronic or paper filings, should be available online. Access is one of the core values of librarianship as outlined by the American Library Association (<http://www.ala.org/advocacy/intfreedom/statementspols/corevalues>). As librarians, we would support the efforts of the Trial Court Public Access to Court Records Committee to increase access to Court records, tempered with a balance between public access and personal privacy concerns. It does seem like the Courts have been careful to protect these personal privacy concerns in both in the 2000 Judicial/Media Steering Committee "Guidelines on the Public's Right of Access to Judicial Proceedings and Records" and 2003 policy. The last sentence in the 2003 "Policy Statement by the Justices of the Supreme Judicial Court Concerning Publication of Court Case Information on the Web" reads "It is expected that this policy will be reexamined periodically to consider whether changes are appropriate in light of experiences and advances in technology." Technological changes have given us both the responsibility and opportunity to move forward with creating more access.

The National Center for State Courts has provided an Index on their website for state links to "Privacy/ Public Access to Court Records" at <http://www.ncsc.org/topics/access-and-fairness/privacy-public-access-to-court-records/state-links.aspx>.

In an effort to see what other states are doing, I looked at a 2002 Maryland "Report of the Committee on Access to Court Records": <http://www.courts.state.md.us/access/finalreport3-02.pdf>. In the commentary at the end, it says a "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." This, then, is the ongoing, seemingly never-ending, work of the Massachusetts Trial Court Public Access to Court Records Committee. Thank you for your work, and thank you for giving us the opportunity to be heard. Please keep us informed of any increased access to Court records, so that we can better assist our patrons. And let us know if there is anything that we can do as information professionals to help your Committee.

Sincerely,



Barbara Schneider
Head Law Librarian
Berkshire Law Library