



**THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF THE TRIAL COURT
ACCESS TO JUSTICE INITIATIVE
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To the Trial Court Public Access to Court Records Committee:

I respectfully submit the following information regarding public access to court records.

As you know, the Trial Court has begun the process of increasing online public access to court dockets through masscourts.org, including four case types in District, Housing, and Boston Municipal Courts; eight case types in Land Court; one case type in Probate and Family Court; and nine civil case types in Superior Court as of this month.

As the Trial Court moves toward developing mechanisms for individuals to review their own cases online, I would like to take this opportunity to outline the federal Department of Justice and national Council of Chief Justices recommendations regarding access to court records.

The Department of Justice recommends developing "a secure online system for individuals to be able to access specific details about their case, including fines owed, payments made, and pending requirements and deadlines."¹ This recommendation applies to all case types. It is intended to promote government accountability and public trust, particularly in the areas of court fees and upcoming court dates.

The Department of Justice recommendation on individual access aligns with the Council of Chief Justices / Council of State Court Administrators (CCJ/COSCA) Guidelines regarding general public access. The CCJ/COSCA Guidelines recommend that the following court records be presumptively made remotely accessible to the public, barring other restrictions:

"(a) Litigant/party indexes to cases filed with the court; (b) Listings of new case filings, including the names of the parties; (c) Register of actions showing what documents have been filed in a case; (d) Calendars or dockets of court proceedings, including the case number

¹ Investigation of the Ferguson Police Department, U.S. Dep't of Justice Civil Rights Division (March 4, 2015), available at http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.

and caption, date and time of hearing, and location of hearing; (e) Judgments, orders, or decrees in a case and liens affecting title to real property.”²

The Guidelines balance public right of access with individual privacy concerns, including consistency with other state and federal laws regarding sensitive criminal history or other information.³

Thank you for the opportunity to provide comments in advance of the development of Trial Court rules on the subject.

Sincerely,

Erika J. Rickard, Esq.
Access to Justice Coordinator

² Martha Wade Steketee & Alan Carlson, *Developing CCJ COSCA Guideline for Public Access to Court Records: A National Project to Assist State Courts* 27 (2002), available at <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/accessfair/id/210>. See limitations in Section 4.50.

³ Id. at 47-48.