

TESTIMONY OF SCOTT ALLEN, BOSTON GLOBE, BEFORE THE TRIAL COURT PUBLIC ACCESS TO COURT RECORDS COMMITTEE, JUNE 15, 2015

Good afternoon, Judge Lauriat, members of the committee, and thank you for this opportunity to offer my perspective as you put together a public access policy for the 21st century.

I am Scott Allen, editor of the Boston Globe's Spotlight investigative team, and I want to speak to you as a journalist today, and share with you some of the frustrations we face trying to cover the Massachusetts trial court. At a time that extraordinary public information is increasingly available at our finger tips, our court system lags far behind.

Let me say at the outset that the trial court has often been extremely helpful to the Globe. When the Spotlight Team was investigating patronage hiring in the Probation Department, court officials were prompt in providing us with public documents and explaining how to interpret them. And your chief spokeswoman, Jennifer Donahue, is both responsive and unfailingly polite in the face of all our deadline needs.

But we journalists sometimes feel that we are up against a larger mindset in the courts that views the public as a nuisance or an afterthought. The fact that this is your first public meeting after 19 months speaks eloquently to that. So does the fact that when the long awaited Masscourts computer system was phased in, reporters discovered that they were actually going to lose online access to information without warning or explanation. At courthouses across the Commonwealth, journalists encounter this low regard for public access every day: district courts with no computer terminal to look up criminal case information; policies that make us pay \$1 a page for copies rather than letting us scan the images ourselves; clerks too busy to make copies.

It's not just an inconvenience for working journalists. It's a disservice to the public. My colleague Maria Sacchetti just published a major report on foreign nationals who commit more crimes when they are released from prison in the US, a project that required her to review case information on more than 6,000 ex-cons. In many states, she could do the work from her desk, but, in Massachusetts, she had to go from courthouse to courthouse, looking up individual files, adding countless hours to the process. Maria told me, "A Boston reporter has an easier time searching a case in Alaska than in Massachusetts. That's nuts."

We run into similar roadblocks when we ask for data about the courts. In 2012, the Spotlight Team did a series on the high rate of drunk driving acquittals by some members of the judiciary. But the trial court would not provide us with the case data we needed to determine judge's acquittal rates, forcing us to turn to frustrated district attorneys for the information. In the end, the trial court agreed that this was an important issue, and even did a study of its own, but the lack of help from the trial court delayed the project by weeks.

We in the press understand that you have important responsibilities to protect privacy and the integrity of the judicial process, but many court systems around the country have found ways to do all that and make far more information readily available to the public. The federal court's PACER system is one outstanding example, but there are many more – Alameda County in California, for instance, offers a similar search system, while neighboring Connecticut allows anyone to search court records and docket entries for criminal and civil cases alike for free.

As you continue your deliberations, I would ask you to keep in mind a few guiding principles to make our courts more transparent, democratic institutions:

- Err on the side of the public. Take your inspiration from the state treasurer's remarkable "Open Checkbook" website that allows the public to see the real inner workings of state government – how the money is spent. Put as much information online as possible, including filings.
- Treat everyone equally. The general public should be able to search all the court data that you make available online.
- Minimize fees. For many journalists, charging hundreds of dollars for access to information is the same as refusing access in the first place.
- Treat electronic records the same as paper ones. Electronic filings should improve everyone's access to information, not provide a way to circumvent public scrutiny.
- Please make your statistical reports on court operations readily available and consider making the raw data available to analyze as well. We live in the age of Big Data and journalism today is increasingly focused on obtaining and analyzing large datasets.

TESTIMONY OF SCOTT ALLEN, BOSTON GLOBE, BEFORE THE TRIAL COURT PUBLIC ACCESS TO COURT
RECORDS COMMITTEE, JUNE 15, 2015

We will all be better served if the courts and the press can find ways to work together on these big picture issues. Thank you for your time. Please let me know if I can be of further assistance.

Scott Allen
Ph: (617) 929-3112
C: (617) 543-4114
Email: scott.allen@globe.com