

2. Memorandum from Chief Justice for Administration and Management Barbara Dortch-Okara, November 10, 2000, “Amendments to the confidentiality provisions of c. 209A”




THE COMMONWEALTH OF MASSACHUSETTS  
ADMINISTRATIVE OFFICE OF THE TRIAL COURT  
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**MEMORANDUM**

**TO:** Honorable Suzanne V. DeVecchio, Chief Justice, Superior Court Department  
Honorable Sean M. Dunphy, Chief Justice, Probate & Family Court Department  
Honorable William J. Tierney, Chief Justice, Boston Municipal Court Department  
Honorable Samuel E. Zoll, Chief Justice, District Court Department

**FROM:**  Barbara A. Dortch-Okara  
Chief Justice for Administration and Management

**DATE:** November 10, 2000

**RE:** Amendments to the confidentiality provisions of c. 209A

As you know, the confidentiality provisions of G.L. c.209A were recently amended. These amendments were effective as of November 8, 2000. The purpose of this memorandum is to revise the procedures set forth in my January 4, 2000 memorandum to you regarding the confidentiality of certain information in the records of c.209A proceedings.

Chapter 209A no longer provides for the impoundment of the plaintiff's address upon request. See c.209A, §3(g) and §8. Any information in the court record which the plaintiff wishes to be impounded may now be impounded only in accordance with court rule.

The most significant changes to the public access provisions of c.209A are to §8. The categories of individuals who may have access to confidential information contained in the record of c.209A proceedings have been expanded. In addition to the plaintiff, the plaintiff's attorney and those specifically authorized by the plaintiff to obtain confidential information, the law now provides that prosecutors, victim-witness advocates, domestic violence victims' counselors, sexual assault counselors and law enforcement officers shall have access to the confidential information, if necessary in the performance of their duties. This last clause is important because it qualifies the access that such individuals have to this information.

The procedures set forth below take the place of the procedures set forth in my January 4, 2000 memo to you concerning the confidentiality provisions of c.209A. Please take the necessary steps to ensure that the following procedures, along with any related guidance provided by you for your department, are implemented immediately:

1) Clerk-Magistrates, Registers of Probate and their staffs shall cease using the Request for Address Impoundment form FA 4 (9/95) because c.209A, §3(g) no longer specifically

provides for the impoundment of the plaintiff's address. Please discard these forms.

2) Clerk-Magistrates, Registers of Probate and their staffs shall advise persons seeking abuse prevention restraining orders that they must exclude from their application [forms FA 1 (9/95) and FA 1A (9/95)] the following confidential information:

- a) plaintiff's residential address,
- b) plaintiff's residential telephone number,
- c) plaintiff's workplace name,
- d) plaintiff's workplace address, and
- e) plaintiff's workplace telephone number.

3) Clerk-Magistrates, Registers of Probate and their staffs shall advise plaintiffs:

- a) to provide the confidential information on the enclosed "Confidential Information Form" and to provide the names of persons authorized by the plaintiff to obtain access to that information;
- b) that these five pieces of information are "confidential" and shall not be provided to any person other than the plaintiff, the plaintiff's attorney, persons specifically authorized by the plaintiff to obtain such information, and, if necessary in the performance of their duties, to prosecutors, victim-witness advocates, domestic violence victims' counselors, sexual assault counselors, and law enforcement officers; and
- c) that the plaintiff's residential address and workplace address will appear on the court order and be accessible to the defendant and the defendant's attorney unless the plaintiff specifically requests that this information be withheld from the order.

4) Clerk-Magistrates, Registers of Probate and their staffs should attempt to segregate confidential information in public case records. They shall remove all confidential information from all cases and case management records before providing access to these case records.

5) Any and all requests to obtain access to the confidential information referred to above, including requests made by persons authorized by the plaintiff and by those individuals authorized by statute for whom access to the information is necessary in the performance of their duties, shall be submitted to the office of the appropriate Clerk-Magistrate or Register on the enclosed Request for Access to Confidential Information Form which shall be signed by the person requesting the confidential information. Persons seeking access to such information shall also present to the office of the Clerk-Magistrate or Register a valid driver's license or other suitable photographic verification of the person's identity and signature and as required by statute, set forth the reason(s) access to the information is necessary in the performance of their duties.

The process of securing confidential information and providing appropriate access thereto is separate and distinct from the impoundment process. Requests for access to impounded information shall be reviewed by the court.

6) The offices of the Clerk-Magistrate and Register of Probate shall take appropriate steps to ensure that unauthorized persons do not obtain the confidential information referred to above

through access to the Confidential Information Form or through any other record associated with the abuse prevention proceeding including, but not limited to files, tape recordings and docket books.


Thank you for your continuing cooperation and efforts in implementing these amendments to the confidentiality provisions of c.209A.

Enclosures

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<b>COMPLAINT FOR PROTECTION FROM ABUSE (G.L. c. 209A)</b>	Docket No.	<b>TRIAL COURT OF MASSACHUSETTS</b> 
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**CONFIDENTIAL INFORMATION**  
Statute 2000, Chapter 236, §24

1. Plaintiff's name: \_\_\_\_\_
2. Plaintiff's residential address: \_\_\_\_\_  
\_\_\_\_\_
3. Plaintiff's residential telephone number: \_\_\_\_\_
4. Plaintiff's workplace name: \_\_\_\_\_  
\_\_\_\_\_
5. Plaintiff's workplace address: \_\_\_\_\_  
\_\_\_\_\_
6. Plaintiff's workplace telephone number: \_\_\_\_\_
7. Persons authorized by the plaintiff to obtain access to this confidential information:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The information that you provide above is confidential and will be provided only to persons authorized by you in #7 above, to certain individuals if necessary in the performance of their duties and to the defendant and his or her attorney, as the law may require. Your residential address and workplace address will appear on the court order and be accessible to the defendant and the defendant's attorney unless you specifically request that this information be withheld from the order. At your request, the court may also impound certain information in this case. Access to impounded information would be determined by the court. Please ask the staff of the Clerk Magistrate or Register of Probate of the court in which you are filing a Complaint For Protection From Abuse if you would like to request impoundment of certain information.

\_\_\_\_\_  
Plaintiff's signature

\_\_\_\_\_  
Date

**REQUEST FOR ACCESS TO  
PLAINTIFF CONFIDENTIAL INFORMATION**  
G.L. c. 209A, § 8 or G.L. c. 258E, § 10

DOCKET NO.

Massachusetts Trial Court



All requests for access to a Plaintiff's confidential information must be submitted to the Clerk-Magistrate or Register on this form. Requesters "shall present a valid driver's license or other suitable photographic verification of the person's identity and signature and, as required by statute, set forth the reason(s) access to the information is necessary in the performance of their duties." MASSACHUSETTS TRIAL COURT DIRECTIVE OF NOVEMBER 10, 2000.

REQUESTER'S NAME

PLAINTIFF'S NAME

CONFIDENTIAL INFORMATION TO WHICH ACCESS IS REQUESTED

**BASIS FOR ACCESS**

1. ☐ Plaintiff or Plaintiff's Attorney
2. ☐ Authorized by Plaintiff to obtain such information  
*Written authorization from Plaintiff must accompany request form unless requester is named in the Plaintiff Confidential Information form)*
3. ☐ Prosecutor  
*Name, address and telephone number of prosecuting agency:*  
\_\_\_\_\_
4. ☐ Law Enforcement Officer  
*Name, address and telephone number of law enforcement agency:*  
\_\_\_\_\_
5. ☐ Victim-Witness Advocate (G.L. c. 258B, § 1)  
*Name, address and telephone number of prosecuting or other criminal justice agency:*  
\_\_\_\_\_
6. ☐ Sexual Assault Counselor (G.L. c. 233, § 20J)  
*Name, address and telephone number of sexual assault victims' program:*  
\_\_\_\_\_
7. ☐ Domestic Violence Counselor (G.L. c. 233, § 20K) (209A cases only)  
*Name, address and telephone number of domestic violence victims' program:*  
\_\_\_\_\_
8. ☐ Other, authorized by Court  
*(A copy of the Court's order must accompany request form)*

IF YOUR BASIS OF ACCESS IS (3) THROUGH (7) ABOVE, EXPLAIN HOW THE INFORMATION REQUESTED IS NECESSARY IN THE PERFORMANCE OF YOUR DUTIES  
(G.L. c. 209A, § 8 or G.L. c. 258E, § 10 allow access only if necessary in the performance of your duties)

DATE

SIGNATURE OF PERSON REQUESTING ACCESS

TITLE

X