

**PUBLIC COMMENTS & COMMITTEE RESPONSE MATRIX**  
**PROPOSED ELECTRONIC CASE RECORDS PUBLIC ACCESS POLICY**

Policy Section	Comment	Committee Response
<b>1.00 - Definitions</b>	Definition of Electronic Records should be revised to clearly set forth what records are included in the same.	The Committee amended the definition for electronic case record to clarify what records are included.
	"Web docket sheets" should be defined.	The Committee added "web docket sheet" to the list of terms identified in this section.
	Attorneys, and litigants should, have full access to electronic records of their own cases.	Committee opposed having a tiered system of access wherein certain constituencies are given preferential access. Moreover, attorneys and litigants will still have complete access to paper file.
	The terms "using" and "public terminal" in Section 1.00 and "information" in Section 3.00(A) should be defined.	The Committee specified in Section 3.00 more clearly what juror, witness, victim and informant information is not accessible to the public. A definition for "public terminal" is unnecessary given changes to the policy (see Prologue).
<b>2.00 - Statement of Policy</b>	Section 2.00(c) should be removed to permit local courts to release more/less information.	As explained in the commentary, this provision is essential for purposes of our unified judicial system.

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<b>2.00 - Statement of Policy (cont'd)</b>	In Section 2.00(b) "except as provided as law" is too vague. Policy should list all the legal authorities that touch upon the subject of public access to court records.	Early on, the Committee explored the idea of maintaining a list of the applicable laws and any changes thereto, but ultimately determined it would be difficult to maintain and is not appropriate for inclusion in the policy. Additionally, the AOPC automated systems are programmed according to all applicable legal authority, such that electronic case record information that is restricted pursuant to law is restricted from public access, whether via the Internet or via reports.
	Scope of policy should cover all court records (including paper records).	At this time, the Committee believes that current procedures and practices with regard to paper records should continue. See Explanatory Report for Committee's reasoning and also recommendations regarding sensitive data sheets.
<b>3.00 - Electronic Case Record Information Excluded From Public Access</b>	Victim, Witness and Informant Information should be released or atleast set forth what information is not accessible.	The Committee amended Section 3.00 to specifically set forth what information regarding victims, witnesses, and informants should not be released.
	Need to define who a "party" is.	The Committee amended Section 1.00 to define the term party.

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<b>3.00 - Electronic Case Record Information Excluded From Public Access (cont'd)</b>	<p>Juror information should be released or atleast specifically set forth what information is not accessible, further noting that since the case of <u>Commonwealth v. Long</u> is currently on appeal to PA Supreme Court any related policy provisions should not be implemented until the Court issues a decision (or alternatively, mention should be made of the pending matter).</p>	<p>The Committee amended Section 3.00 to specifically set forth what juror information is not releasable. In addition, a footnote was added to the report setting forth that this issue is currently before the Supreme Court.</p>
	<p>Street addresses of parties should be released to the public. A number of attorneys commented that the street addresses should be released to them as officers of the court for advertising legal services to those criminally charged.</p>	<p>The Committee declined to adopt this recommendation. The Committee amended Section 3.00 to permit the release of the full date of birth for a party. The Committee believes that the release of this information along with the other pieces of information that are releasable under the policy will permit an individual to match the right case record with the right person. Moreover, the Committee believes that releasing a person's entire address would cause an unjustified invasion of personal privacy as well as present a risk to personal security.</p>
	<p>Date of Birth information should be released for matching purposes.</p>	<p>The Committee amended Section 3.00 to permit the release of the full date of birth for a party. The Committee believes that the release of this information along with the other pieces of information that are releasable under the policy will permit an individual to match the right case record with the right person. The Committee received an overwhelming number of comments in favor of release of this identifier for correct identification of a party and associated cases.</p>

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<p><b>3.00 - Electronic Case Record Information Excluded From Public Access (cont'd)</b></p>	<p>The full social security number, or alternatively the last four digits of same, should be released for matching purposes.</p>	<p>The Committee amended Section 3.00 to permit the release of the full date of birth for a party. The Committee believes that the release of this information along with the other pieces of information that are releasable under the policy will permit an individual to match the right case record with the right person.</p>
	<p>Social security numbers, dates of birth, street addresses, and operators' license numbers should not be accessible by the public.</p>	<p>The Committee amended Section 3.00 to permit the release of the full date of birth for a party for reasons mentioned above.</p>
	<p>Arrest and Search Warrant information should be available if paper information is available.</p>	<p>This information will continue to be available in the paper file to the extent permitted under law. Upon further consideration, the Committee removed this restriction given technological and substantive law considerations brought to its attention.</p>
	<p>The policy should permit flexibility for expedient adaption to legal and technological changes/issues, upon balancing the interests of transparency and security/privacy.</p>	<p>The Committee amended Section 3.00 to provide for such determinations by the Court Administrator of Pennsylvania when approved by the Chief Justice.</p>
	<p>Operators' license numbers should be released.</p>	<p>The Committee did not believe that any further amendment to this section was necessary.</p>

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<p><b>3.10 Requests For Bulk Distribution of Electronic Case Records and Compiled Information From Electronic Case Records</b></p>	<p>If the definition of bulk and compiled requests includes paper and electronic records, this provision is not consistent with existing legal authority, particularly common law principles regarding access.</p>	<p>The Committee amended the definition of bulk distribution of data in Section 1.00, removed the definition of compiled information, and also clarified the definition of electronic case record in Section 1.00. It is the Committee's opinion that such provisions are consistent with relevant legal authority governing access to court records.</p>
	<p>The term "substantial subset" should be defined.</p>	<p>The Committee amended the definition of bulk distribution of data in Section 1.00.</p>
	<p>Section 3.10(B) leaves too much discretion to court officials to decide who gets non-public information and who does not. Moreover, the policy asks for too much information from requestors and there should be no limits on how requestor uses information.</p>	<p>This section permits access to electronic case record information that is not generally accessible to the public. Therefore, the release of additional data under this section should be subject to limited purposes and appropriate safeguards.</p>
	<p>It was suggested that the Committee consider limiting access to bulk and compiled data to non-commercial interests. It was further suggested that the used limitations applicable to release of restricted data be made applicable to all bulk data requests (i.e., access to bulk data under 3.10(A), which permits releasing in bulk any data that is not restricted under Section 3.00). Additional restrictive language was proposed to prevent the practice of "reidentification" by data requestors: "the data will not be combined with other information sources or processes that serve to identify the individuals in the database."</p>	<p>The Committee is satisfied that the restrictions strike the appropriate balance between public access and individual privacy/security.</p>

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<b>3.10 Requests For Bulk Distribution of Electronic Case Records and Compiled Information From Electronic Case Records (cont'd)</b>	With regard to Section 3.10(b), victim's information should never be released.	Information cannot be released pursuant to Section 3.10(b) if the release of the information will present a risk to personal security or privacy. Therefore, the Committee does not believe that any amendments to the policy are necessary.
	The policy refuses to release information in "bulk" for commercial databases. It was suggested that Section 3.10(B) be amended to provide that bulk data requests will be approved for applicants who submit in writing: (a) identification of the information sought; (b) full explanation of the safeguards in place that protect the use of the information sought; (c) completion of a contract requiring the requestor to keep records that will allow tracking of any search done on its database; and (d) an enforceable requirement to update the records as frequently as updates are provided. Requestors who meet such conditions will not be denied access if they propose to sell database information or publish the information in news reports.	The policy does not prohibit release information in "bulk" to commercial databases - see Section 3.10(A). Because Section 3.10(B) permits access to electronic case record information not generally accessible to the public, it is the Committee's opinion that such releases must be considered on a case-by-case basis and be subject to the use limitations and certifications specified.

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<b>4.00 - Responding to a Request For Access to Electronic Case Records</b>	Can a request and response be done electronically?	The policy does not preclude an electronic request or response.
	Should the policy set forth the competing interests that courts and offices must balance when determining the time it will take to fulfill a request?	The policy specifically sets forth the time limits for responding to requests for access to electronic case record information, and the commentary stresses that the requests should be handled in a "predictable, consistent and timely manner statewide."
	Timeframe should only apply to bulk and compiled requests. Otherwise time frame too long.	Timeframes essentially only apply to requests for bulk distribution of information, as the other electronic case record information is posted on web docket sheets.
<b>5.00 - Fees</b>	No fees should be charged.	The Committee did not believe that any further amendment to the policy was necessary.
	This section should set forth that fees can only be actual costs.	Given the requirements that the fees must be reasonable, approved and publicly posted, the Committee did not believe that any further amendment to the policy was necessary.
<b>6.00 - Correcting Data Errors</b>	Need to place guidelines for correcting erroneous information in timely manner and remove records of those individuals who were arrested but not convicted.	The Committee substantially amended Section 6.00 to specifically set forth a correction of error procedure. However, expungement of records procedures are controlled by law and are not impacted by this policy. Internal procedures are in place to remove expunged records from the automated systems.

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<b>6.00 - Correcting Data Errors (cont'd)</b>	No record should be "corrected" without participation of prosecutor and judge.	Section 6.00 provides notice to all parties to the case regarding a request to amend an electronic case record.
<b>Miscellaneous Comments</b>	Revisions to the policy should be done by a task force made up of court and non-court personnel.	No amendment to the policy is necessary.
	Test used by Committee is biased against access of records and not consistent with existing legal authority.	This policy does not change current access to official court information (ie, paper case file). It merely provides parameters to accessing information in an electronic format via the UJS' automated case management systems.
	Information should not be posted on the Internet because information will be used inappropriately by employers and landlords.	At this time, the Committee did not believe that any amendment to the policy was necessary. See Prologue.
	Do not post pre-conviction information.	For reasons set forth in the prologue to the proposed policy and report, the Committee believes that preconviction information should continue to be available.
	Discrimination of ex-offenders will increase because it will be too easy to obtain this information. We should continue to make people get this information from the courthouse or from PSP.	A statement was added to the web docket sheet portal page that indicates that criminal history information should be obtained properly through the Pennsylvania State Police, as required by law. The web docket sheets should not be used as a substitute.
	Arrests that do not result in conviction should be removed within 30 days following conclusion of a case.	Current procedures regarding expunging court records will continue unabated by this policy.

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<b>Miscellaneous Comments (cont'd)</b>	PSP should be providing criminal history information rather than people going to the courts.	The disclaimer to the web docket sheets was amended to set forth that a criminal background check can only be done by PSP. Moreover, one should not use the web docket sheets as a substitute.
	A policy of minimization should be employed that discourages the collection of personal information by courts. An audit should be performed as to why courts collecting information in first place.	The Committee believes that this is an idea that should be studied further.
	Are the records of the prothonotaries and clerks of Orphan's Court covered by policy?	No, those records are not covered by this policy.
	Commentator raised technical concerns (e.g. system requirements) about the UJS web portal where the Web Docket Sheets reside.	The Committee was advised that Judicial Automation staff is actively addressing issues regarding the UJS web portal on a daily basis to facilitate the needs of the system users and citizens. Judicial Automation staff is focused on supplying users with the best product available. The UJS web portal has been undergoing changes that will increase the quality of the user experience. In addition, Judicial Automation staff has and will continue to make appropriate changes to enhance security as well as utilize technologies that will provide better browser independence.

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<b>Miscellaneous Comments (cont'd)</b>	The policy should set forth specific technical system requirements to ensure the security of the data that our automation systems are collecting and releasing to the public.	As was noted in the preceding answer, Judicial Automation staff is actively facilitating the needs of the system users and citizens. Moreover, Judicial Automation staff has and will continue to make appropriate changes to enhance security as the need arises. Therefore, the Committee believes that Judicial Automation staff is in the best position to monitor these concerns.
	The policy should provide for regular audits to ensure that the automated systems are operating as designed and our staff is not using the information for inappropriate purposes.	As was noted above, Judicial Automation staff is actively facilitating the needs of the system users and citizens. Moreover, Judicial Automation staff has and will continue to monitor the performance of the various automated systems as well as the staff performing work on the same. Therefore, the Committee believes that Judicial Automation staff is in the best position to monitor these concerns.
	Before an individual's information is released on the Internet the court should get his/her informed consent to do so.	Being that the information that is the subject of the policy is a matter of public record, the Committee does not believe that any amendments to the policy are necessary.