

**JUDICIAL BRANCH TASK FORCE
ON
TRANSPARENCY AND PRIVACY IN COURT RECORDS**

Type: Task Force
Established: March 1, 2017
Chair: Justice Ann Murray
Report Date: September 30, 2017
Reports to: Supreme Judicial Court
Completion Date: July 1, 2018

I. Background:

For decades and even centuries, court files have existed in paper format. The presumption, in the absence of specific statutory language or court order, has been that the documents contained in case files are open to anyone willing to come to the courthouse to examine the files.

Today, transparency in judicial action remains a critical component of public trust and confidence, and yet that transparency must be balanced against the recognition that public access to certain personal information contained in court files is not appropriate and that specific types of personal information, if released publicly, can lead to identity theft or other harms.

With the advent of emerging technologies, the Judicial Branch is challenged to address the increasingly complex questions related to public access to court records. The easier, remote accessibility that will accompany the replacement of paper court files with digital court records, as well as the relatively recent practices of the digital sharing or sale of private information or illegal images require a thoughtful and clear system of access rules.

As the Judicial Branch prepares to transition from paper to digital files, it would benefit the public, the litigants, and individuals with unique issues of privacy to establish clear guidelines and rules related to the access to the wide variety of court records.

II. Goals:

The goals of the Task Force are to review all case types and recommend a comprehensive set of rules to address all court records, with accompanying guidelines and suggestions for any necessary statutory changes including but not limited to:

- Court files generally, by case type;
- Document content, including trial and motion exhibits;
- Specific types of information within court files—for example, social security numbers, private financial, medical, or psychiatric information;
- Digital images, videos, or other evidence in court records that may have specific privacy related characteristics; and
- Accessibility of trial lists, scheduling lists, court schedules.

III. Responsibilities:

The Task Force will be assisted by the analysis that has been undertaken nationally and in other states. As much as practicable, the Task Force will gather the work that has been done to date regarding Court Records Access in other states and at a national level to create a framework for the discussion and drafting of the rules for Maine.

The Task Force will make specific recommendations regarding who will have access to what records or data, in what format, and through what process. The Task Force may also consider ancillary matters, such as records retention policies, and procedures for sealing or protecting specific records.

The Report of the Task Force will make recommendations to the Supreme Judicial Court for a comprehensive approach to accessibility of court records, and will recommend specific changes in statutes, rules, and Administrative Orders.

IV. Membership:

The membership of the Task Force will include multiple stakeholders, including members of the Judicial Branch, advocates in the field of domestic and sexual violence, along with practitioners in family, criminal, and civil cases, a media representative, and others who bring a specific perspective to the work.

Given the anticipated perspectives and possible divergence in positions regarding this emerging area of law, the Court will seek members who are excellent and respectful communicators. The Task Force may also seek consultation and input from other branches or units of government, other potential users of the system, and from legal, technical, and communication experts. It is anticipated that the membership may be expanded as new issues

