



Maine Pro Chapter

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December 13, 2017

**Comments of the Maine Pro Chapter, Society of Professional Journalists  
regarding the report of the Task Force on Transparency and Privacy in Court  
Records**

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The Maine Pro Chapter of the Society of Professional Journalists urges the court to modify the recommendations of the Task Force on Transparency and Privacy in Court Records in adopting rules regarding electronic access to court records.

The Society is this nation's most broad-based organization of journalists. The courts will receive comments from the Society's national organization and its New England Chapter. The comments below represent the views of our Maine members, who work in

newspapers, radio and television stations and online sites. While we have a direct interest in these rules as gatherers of news, we do our jobs as proxies for the public at large. The issues we raised are not journalism issues, per se, they are concerns of the broader public, which the court system should address.

The Task Force, in its report, recommends court-generated case materials be made available to anyone, anytime, via electronic means. We commend this recommendation and urge the court system to adopt it.

But the task force is also recommending that information submitted to the courts by parties in a case, be made available electronically only to those directly involved in such cases. The Task Force would require most people who are not party to the case, to come to the courthouse, where they could review all non-confidential information.

This distinction, we believe, is hard to justify. We take particular exception to the Task Force description of “practical obscurity,” which it said “protected confidential, sensitive, and embarrassing information but also served as an impediment to broader information access.” (Report of the Maine Judicial Branch Task Force on Transparency and Privacy in Court Records (p.3)

The Task force report also recommends new standards for what information litigants submit in court cases (Task Force Report, Attachment 3). Courts do handle information that should remain confidential, for narrow reasons, say, the physical safety of a litigant, or sensitive business information. Courts accomplish this now through sealing of documents, or, where only some information need be confidential, redaction.

We do not believe “embarrassment,” to be a valid test for whether information is made publicly available.

The Task Force’s claim that “practical obscurity,” will prevent the release of this information is unfounded. It would, as the document suggests, continue to be available at courthouses. And in cases of broad interest, nothing in its recommendation will prevent us as members of the news media, or others, from gathering the information in person and disseminating it broadly.

Our point is that truly sensitive material should be protected by the courts from dissemination, period. All other information should be freely available, in part, to assist the courts.

In a country dedicated to self-government, where the people are sovereign, it has long been established, in spirit, as in law, that the operations of government be open to the greatest degree possible. The Task Force reports acknowledges as much. Transparency allows people to understand the workings of government. Understanding breeds trust. It also deters bad behavior, and provides accountability when necessary. In the very early days of our Republic, transparency was more easily accomplished. The citizens of a then smaller, more agrarian country, could, and did, spend time observing the workings of their courts in person. This is still possible today, but, in our larger, more complex society, far more difficult for the average person, not directly involved in a case.

The electronic interconnections that have grown during the last few decades, offer the promise of allowing a larger percentage of the citizenry to learn about the workings

of the court. The Task Force's recommendations, if followed, will hamper the public's ability to fully understand court proceedings, and could undermine their faith and trust in judicial processes.

Therefore, we respectfully request the court system reject the recommendation of the Task Force as proposed and allow full public access, electronically, to all case information that is not otherwise deemed confidential under court rules.