



UNIVERSITY OF FLORIDA

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The Honorable Barbara J. Pariente
Chief Justice of Florida
Supreme Court of Florida
500 South Duval Street
Tallahassee, Florida 32399-1925

Dear Madam Chief Justice,

It has been a unique pleasure to chair the Committee on Privacy and Court Records. The individuals appointed to this committee have focused with enormous diligence, effort and intellect. They have taken the responsibility given to them very seriously. Just as critically they worked together with mutual respect and did not attempt force preconceived solutions on this complex issue.

Our group is acutely aware of the importance of an open, transparent and independent judiciary. We recognize that the strength of the American justice system derives not only in its constitutional context but from public belief in it. The committee recognizes the need for openness and, indeed, Florida's unique constitutional commitment to openness. We recognize the realities of the technological age we live in and the need for a court records system that can operate rationally and efficiently in the future.

At the same time the Committee recognizes the importance of the individual and constitutional values of personal privacy. The public is increasingly concerned about personal intrusions and identity theft. Court records are a rich source of personal information and citizens are justly concerned about access to them. The Committee believes that we must avoid unnecessary, negligent or deliberate disclosure of information that should be personal or private. Florida has significant legal protections for personal privacy and a major concern is the ability to establish a system that can rationally implement a balanced policy of openness and privacy.

The balancing of two such vital principles represents a matter about which thoughtful people, bringing to the discussion different experiences and perspectives, can reasonably disagree. Such is the case with this Committee. Committee members

have worked together in good faith but have nonetheless been unable to reach consensus on several major recommendations. To accurately document this diversity of opinion the report reflects the votes of members on each individual recommendation, and includes three separate member comments that reflect member views in more detail.

A majority of the Committee reached the following conclusions:

- Protection of personal privacy is an issue on which the judicial branch, from a larger perspective and given Florida Sunshine Amendment, can have only a marginal impact. The Congress and the Florida Legislature should enact meaningful privacy reform to protect citizens from abuse of information derived from public records.
- The current rule regarding confidentiality in court records cannot be effectively applied. Further, the rule appears to be overly broad. The rule should therefore be reviewed and revised to define a more narrow, appropriate and readily identifiable universe of information that must be kept confidential in court records.
- Provision of electronic access to court records should be a goal of the Florida judicial branch, but such access should only be allowed after appropriate policies described in the report are in place.
- Some records, including dockets, final orders and judgments, and appellate briefs and opinions, should be authorized for electronic release until permanent policies are implemented.
- The Right of Privacy in the Florida Constitution is intended to protect people from unwarranted governmental intrusion into their personal lives. The judicial branch should take steps to ensure that the judicial process does not require litigants to disclose information without adequate reason.

I would like to express the deep appreciation of the Committee to staff of the Office of the State Courts Administrator, including Laura Rush, Peggy Horvath, Jo Suhr and Sherry Waites. In addition, Tim McLendon, Staff Attorney of the Center for Governmental Responsibility at the University of Florida College of Law, and John Adams of the University of Florida Levin College of Law and Sunshine Bradshaw of Florida Coastal College of Law provided invaluable assistance to the Committee.

Particularly acknowledgment is due to Steve Henley for his focused intellect, his ability to work effectively with members of the Committee, and his ability to bring the work of the Committee to fruition. Without Steve we could not have completed this daunting undertaking. Finally, I want to express my deep appreciation to the members of the Committee for their profound commitment and enormous efforts.

Thank you for the privilege of chairing this excellent committee. I look forward to working with you to implement its recommendations.

Sincerely,



Jon Mills
Chair, Committee on Privacy & Court Records
Supreme Court of Florida

cc.: Steve Henley