

To: The Commission on Public Access to Court Records
From: Lisa Robert Lewis, editor, *The Record*, Troy
Re.: Testimony on putting court records on the Internet
Date: May 16, 2003

Your Honor, Mr. Chairman and distinguished members of the Commission on Public Access to Court Records:

It is a privilege to be able to address you on a matter that is of the utmost importance to newspapers throughout the state: Internet access to court records, and I thank you for your time.

My name is Lisa Robert Lewis, and I am editor of *The Record*, a 23,000-circulation newspaper prepared and published in Troy. *The Record* is part of the Journal Register Company, a major corporation based in Trenton, N.J., that operates almost two-dozen newspapers, primarily in the Northeast. In addition to *The Record*, JRC's New York State holdings including *The Saratogian*, *The Oneida Daily Dispatch*, the *Kingston Daily Freeman*, the *Community News* of Clifton Park, the *Independent* of Hillsdale and *The Taconic Press*.

I firmly believe in full and open disclosure of public records and that court records should be available on the Internet.

The Internet, as advertised, is indeed the information superhighway, and any roadblocks can only slow the progress made in providing important facts that all newspapers now use to enhance, enrich and make more accurate their reporting on matters of interest to the public. That court records are not currently accessible on the Internet is a roadblock.

At the heart of this matter is one simple fact: Court records are, and must always remain, public records, so denying easy Internet access is denying individuals and newspapers the right to use actual documentation in formulating an informed opinion on a criminal matter. Of course, newspapers and the public already have the right to access court documents, but as the members of this panel already know, that can be an expensive, time-consuming effort, an effort that not only creates difficulties for interested parties, but also ties up the time and equipment of understaffed courtrooms.

And for us at *The Record*, and at newspapers of a similar size, staffing and time constraints are legitimate issues.

Our larger colleagues in the Capital District and throughout the state have the luxury of staffing that allows one reporter to cover one case if it is important enough. For example, in our newsroom, one reporter might be covering court cases in Albany, Troy and its environs all at the same time. As a result, research time — time to examine records on a court clerk's schedule — is a luxury we can't always afford on a day-to-day basis.

And while this might seem a self-serving argument, when newspapers the size of *The Record* are able to do a better job covering the courts, it is, ultimately, the public that is served. While the economic realities facing small daily and weekly newspapers are not the responsibility of this Commission or the courts, the reality is that the combined circulations of these small dailies and weeklies across this state must be taken into consideration as a tremendous readership could be deprived of timely information.

The members of this committee will hear arguments against Internet access to court records, mostly centered on the right to privacy. The simple fact is that in New York state, there is no right to privacy written into law. A person's name or image can't be exploited for commercial purposes, to be sure, but that is the only guarantee afforded by law in the state. Perception of a common-law right to privacy is consistently rebuffed by the state's courts.

Naturally, there is a difference between what is legal and what is right, and exploiting a person's privacy is not the right thing for anyone to do. But what goes on in an open court of law is not privileged information; it is the right of all to see it.

And let's be bluntly honest. If someone wants information on another person, no matter how private, it is out there already. Free websites call only for a name and a general locale to come up with an address and telephone number in a matter of seconds. If a person does any commerce on the Internet, and an increasing number of us do, your Social Security number is out there for unscrupulous hackers with just a touch of technical know-how to tap into.

We believe, however, that Internet access to court records does not add to this problem. As I previously stated, court records are already a matter of public record. Making them more readily accessible would represent growth in the relationship between courts and the public.

The Internet itself is cluttered with unwanted email solicitations and pornography, and to some it represents an evil in our society. But just as television in its formative years, the Internet has incredible potential to create a better-educated society, one that understands the courts and the decisions made on a virtually daily basis that have major impact on our daily lives. Access to court records would help the Internet realize its potential, simultaneously serving the public.

Personally, I am very pleased that Chief Judge Judith Kaye appointed a commission to study Internet access to court records, as it is bound to create a healthy debate and air all sides of a vitally important issue. We hope the commission, when weighing its recommendations, looks beyond the few minor, fixable problems that could occur with Internet access to court records and sees how valuable a tool this access would be to newspapers and the public at large.

I thank you for your time and the opportunity to join in the debate.