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**Comments to the Judicial Conference of the United States
Committee on Court Administration and Case Management
On Privacy and Security Implications of Public Access
To Certain Electronic Criminal Case File Documents
October 24, 2007**

The American Association of Law Libraries (AALL) is pleased to have this opportunity to respond to the *Federal Register* notice for comments of September 10, 2007 regarding security and privacy concerns related to public Internet access to plea agreements in criminal case files.

AALL is a nonprofit educational organization with 5000 members nationwide who respond to the legal information needs of legislators, judges, and other public officials at all levels of government, corporations and small businesses, law professors and students, attorneys and members of the general public. Our members serve the information needs of the legal community and the public at more than 1900 academic, firm and state, court and county law libraries. AALL's mission is to promote and enhance the value of law libraries, to foster law librarianship and to provide leadership and advocacy in the field of legal information and information policy.

Thank you for the opportunity to comment on the proposed restrictions of online access to certain case documents. Our members use court records accessed via PACER every day so we take a great interest in the policies that govern the system.

The Association does not object to the Justice Department's request to restrict online access to certain sensitive documents. However we encourage the Conference to consider the less restrictive measures outlined below. The patrons we serve do research into judicial administration and policy, not just substantive law. Access to information about criminal case dispositions, especially plea agreements and the recommended sentences contained therein, is vital to their research. We understand that the proposal does not unduly restrict access to this information because it would still be available to researchers at courthouses. Nevertheless we encourage the Conference to adopt the minimum restrictions need to protect the safety of those defendants who choose to accept plea agreements from prosecutors.

If defendants' safety could be protected by simply redacting portions of any agreement related to cooperation with prosecutors or agreements to testify at related trials, we would urge that this interim step be taken. This solution would still allow researchers and the

public to understand the role that plea agreements play in judicial administration and would allow the gathering of statistics on their use and comparison among judicial districts. Studying differences between districts could be especially difficult if the researcher were required to visit each district clerk to gather data.

The pending rule which allows courts to restrict Internet access to certain documents on a case-by-case basis might also meet the Justice Department's concern in a less restrictive manner. If, for example, only those plea agreements whose participants were legitimately concerned for the safety of the defendant were kept off-line, perhaps as an element of the agreement itself, the courts would not need to spend the resources to redact each agreement.

While we support the consideration of less restrictive alternatives, we appreciate that consistency might weigh more heavily in favor of keeping all criminal plea agreements off-line. Our members accept that this outcome would also serve the interests of efficient judicial administration. We ask simply that the docket and minute entries related to plea agreements remain easily accessible through PACER, even if the actual plea documents are only available at the courthouse.

Again, we thank the Administrative Office and the Conference for the opportunity to comment on this important policy decision. We would be happy to address any public hearing at your request.

Submitted by:

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