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The Administrative Office of the U.S. Courts
Court Administration Policy Staff
Attn: Privacy Comments
Suite 4-560
One Columbus Circle N.E.
Washington, D.C. 20544

RE: PACER

September 19, 2007

To Whom It May Concern:

We are writing in response to the September 10, 2007 press release regarding possible changes to the availability of Rule 11 plea agreements on the Public Access to Court Electronic Records (PACER) system. We do not believe a more restrictive system is a good idea.

This agency frequently receives CJA-31 appointments to work for defendants in capital cases. It is our experience that a number of these cases involve, at least partially, the testimony of informants who may have received some sort of consideration from the government. Additionally, these cases often include other participants. Our access to this information is crucial to our ability to adequately defend our clients, particularly because we have an obligation to diligently research the backgrounds of our clients, co-defendants, government witnesses, defense witnesses, and others.

The Rule 11 information provides another necessary source of information, especially in non-capital cases. The scoring and sentencing information of similarly situated defendants within the same District is important to address sentencing and scoring issues *and* for discussing plea agreements with a client (which can save the government a costly trial).

Another aspect of our business includes background investigation into witnesses from other cases and pre-employment screening of individuals. In both situations, an individual's prior conduct is very important, particularly where there is a criminal conviction. Because many plea agreements are to charges considerably less than those presented in the indictment, the records of the exact behavior to which the subject admits responsibility are very important for determining things like a witness' credibility or an applicant's employment worthiness.

We believe there is already a mechanism in place for District Court judges to seal Rule 11 agreements when there is a legitimate concern for an individual's safety. We think it is better to handle this on a case-by-case basis rather than through a blanket policy, particularly when many plea agreements do not involve cooperation and/or do not place the defendant at any risk. The proposed changes seem unnecessarily broad and would hinder the pursuit of justice.

Finally, beyond business considerations, we believe the public has an inherent and assumed "right to know" when it comes to the Federal Judiciary, and any impingement upon this right—however necessary in certain situations—must be carefully considered. In fact, we hope the Court Administration Policy Staff uses this as an opportunity to set narrow and stringent guidelines under which case information can be sealed or rendered inaccessible, and places a high burden of proof on any party that so moves. At the very least, we hope *any* restrictions remain a result of reasoned calculations in a given case, and do not become the norm.

Sincerely,

SUNSHINE INVESTIGATIONS

A handwritten signature in black ink, appearing to read "Julianne Cuneo". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Julianne Cuneo

A handwritten signature in black ink, appearing to read "Andrew Dillon". The signature is cursive and somewhat compact.

Andrew Dillon