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March 13, 2014

The Honorable Petra Jimenez Maes
Chief Justice, New Mexico Supreme Court
237 Don Gaspar Ave.
Santa Fe, NM 87501

Re: Public access to Bernalillo County Metropolitan Court records

Dear Chief Justice Maes,

I am writing on behalf of the New Mexico Foundation for Open Government to express our concern about reduced public access to records of civil and criminal cases in the Bernalillo County Metropolitan Court ("Metro Court").

Metro Court, our state's busiest court, has recently begun using the Odyssey system, replacing the AS-400 system that the court had used for many years. It is our understanding that as a result of the system change, most of the case records contained on the AS-400 system will no longer be available online. As a result, years worth of public records will no longer be accessible to the general public on the internet. Although the records may presumably still be available in some form from the Metro Court, that availability is not clear, and their removal from the internet significantly restricts access to the public. Requiring citizens to obtain records directly from the Metro Court requires substantially more expense and delay, unfairly burdens those persons outside of the Albuquerque area, and places an additional burden on the staff and resources of the court itself.

We appreciate the need for the courts to upgrade their computer systems, but not at the expense of public access to public documents. Having easily accessible case information going back decades benefits the public in numerous ways. First, those criminal defendants and civil litigants who are the subject of the records have a strong interest in access to the records, for such purposes as showing dismissal of criminal charges, completion of sentences, or payments of restitution; demonstrating satisfaction of judgments; or asserting claims for collection of past judgments.

Furthermore, there are any number of ways that past records are of use to other members of the public, including background checks by schools, volunteer organizations and employers; inquiry by the media into matters of public importance; and investigations by law enforcement, just to name a few.



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Furthermore, any restriction on public access to public records negatively impacts our citizens' fundamental right to information. Our Legislature, in enacting the Inspection of Public Records Act, declared as follows:

Recognizing that a representative government is dependent upon an informed electorate, the intent of the legislature in enacting the Inspection of Public Records Act [14-2-4 NMSA 1978] is to ensure, and it is declared to be the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is the further intent of the legislature, and it is declared to be the public policy of this state, that to provide persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees.

NMSA 1978, § 14-2-5. As stated by this Court, “[o]pen records laws . . . are based on the premise that public access to public records will result in better government.” *San Juan Agric. Water Users Ass’n v. KNME-TV*, 2011-NMSC-011, ¶ 15.

We urge the Court to take whatever steps are necessary to ensure that the online records of Metro Court previously accessible to the public on the Odyssey system remain available online to the citizens of New Mexico. We are happy to provide whatever assistance to the Court that is necessary to preserve the rights of the public to have access to these public records.

Thank you very much for your consideration of this issue.

Very truly yours,

Susan Boe
Executive Director, New Mexico Foundation for Open Government

cc: The Honorable Richard C. Bosson, Justice, New Mexico Supreme Court
The Honorable Edward L. Chavez, Justice, New Mexico Supreme Court
The Honorable Charles W. Daniels, Justice, New Mexico Supreme Court
The Honorable Barbara J. Vigil, Justice, New Mexico Supreme Court
The Honorable Julie N. Altweis, Chief Judge, Bernalillo County Metropolitan Court
Arthur W. Pepin, Director, Administrative Office of the Courts