

**Minutes of
The Subcommittee on Audio Recording of Court Proceedings
Monday, February 23, 2009**

The Subcommittee on Audio Recording of Court Proceedings met at 3 p.m. in the fourth-floor conference room at 90 Washington Street, Hartford, Connecticut.

In attendance: Atty. Charles Howard (Chair), Hon. David P. Gold, Nancy Brown, Thomas P. Scheffey, and Patrick Sanders. The Hon. Patrick L. Carroll III was unable to attend.

Guests in attendance: Atty. Joseph Del Ciampo, Branch Legal Services.

Chairman Howard called the meeting to order at 3:05 p.m.

- I. The minutes of the Feb. 9, 2009 meeting were read and approved.
- II. Review of information regarding effects and parameters of rule change proposal: Mr. Howard noted that he and the Subcommittee members received an e-mailed letter from the Executive Committee of the Connecticut Court Reporters Association, or CCRA, regarding the Subcommittee's charge of recommending a rule regarding the public's ability to tape record judicial proceedings. The CCRA is a professional association of professional court reporters. The CCRA Executive Board's letter expressed numerous concerns about allowing the public to audio record judicial proceedings.

The Subcommittee also reviewed information supplied by members and support staff including: the number of transcripts ordered in 2008; the salaries of Branch court reporters and court monitors; a summary of the numbers of full- and part-time court reporters and monitors; a copy of Practice Book rules on retention of files and records; and a copy of the state statutes governing court reporters.

The members discussed the parameters of the focus of the Subcommittee. Mr. Howard, Judge Gold, and Ms. Brown said that they believe the Subcommittee should focus its efforts directly on whether to allow members of the public to use personal tape recorders to tape judicial proceedings.

Mr. Scheffey said he believes that the existing Branch policy, based on the 2009 Practice Book rule 1-10, already allows taping by the public, with a judge's permission, and that the rule is as broad and complete as it can be. The larger question, Mr. Scheffey said, is whether the public should have access to electronic recordings being made by court reporters and court monitors.

Mr. Howard suggested the members focus on determining what if any recommendations or procedures this Subcommittee should make to the Judicial-Media Committee regarding members of the public making recordings, rather

than access to the tapes or records of court monitors and court reporters. He indicated that the latter issue involved significant legal issues regarding the statutes and collective bargaining agreements, technological issues, and had been stated by the Chief Justice not to be a priority of the Branch at the present time. He indicated that the subcommittee may wish to say that this latter issue should be addressed at some later time, but given the current fiscal crisis, it did not make sense to try to do anything at present. Rather, the subcommittee should focus on the issue of whether individual members of the public should be able to record court proceedings, and if so, under what circumstances.

There was extensive discussion about the current Branch policy on the use and possession of electronic devices in Superior Court facilities, as articulated by Chief Court Administrator Barbara M. Quinn.

Mr. Sanders said before this Subcommittee can make any recommendations, the members should consider a single question: should the public be allowed to use a personal recording device in a courtroom? Mr. Sanders said he believes the public should be allowed to use tape recorders for personal use only, with the understanding that personal recordings are not official records of proceedings. There would be no impact on the demand for official court transcripts, Mr. Sanders said, and recording devices would help media to report more accurately.

Judge Gold and Ms. Brown disagreed with Mr. Sanders' position. Judge Gold said the public has the right to take notes during open court proceedings or to purchase transcripts of those proceedings. Judge Gold said allowing tape recorders to be used by the public carries with it the possibility that information could be manipulated, distorted, or used to embarrass, harass or intimidate parties to court proceedings.

Ms. Brown concurred with Judge Gold, and expressed concern that personal recordings could also capture sidebars, private conversations between clients and attorneys, and private conversations between attorneys.

Mr. Scheffey said he believes tape recording will only help ensure accuracy, and said that if the public can attend proceedings and take notes, they should be allowed to record for their own records.

Mr. Howard said he might favor allowing recording devices to be used in some proceedings, but would also require that certain rules be followed if that were to be done. He referred to the list of issues that he had prepared after reviewing the provisions of other states. He thought that reasonable procedures might include the recorder making a written request of the judicial authority, and possibly notifying the parties involved in the proceedings, including jurors.

The members then reviewed the policies of nine other states that have policies regarding recording of proceedings. It appears that California is the only state in

the nation that currently allows anyone, with the permission of the presiding judge, to use a personal recording device for personal note taking. Judge Gold and support staff indicated that they would make attempts before the next meeting to confirm this understanding with court authorities in California.

III. Discussion of possible rule proposal: Mr. Sanders left the meeting at 4:30 p.m. The other members said there is need for further discussion of the issues and concerns raised, and no rule was proposed.

IV. The meeting was adjourned at 4:51 p.m. The next meeting will be at 1:00 p.m. on Monday, March 9, at 90 Washington Street, Hartford, Conn.