

**Minutes of Public Access Task Force
Committee on Access to Meetings and
Judicial Branch Administrative Records
June 8, 2006**

The Committee on Access to Meetings and Judicial Branch Administrative Records met in the Supreme Court Attorney's Conference Room at 231 Capitol Avenue in Hartford on Thursday, June 8, 2006 from 3:35 PM to 5:05 PM.

Those in attendance were: Judge William J. Lavery, Mr. Zach Lowe, Judge Aaron Ment, Atty. Alan Neigher, and Judge Barry Stevens.

The meeting was called to order by Judge Ment at 3:35 PM.

The first item on the agenda involved the staff presentation on issue identification. Judge Ment asked Atty. D'Alesio to present to the committee the process utilized by the staff in organizing and prioritizing the issues raised by the full Task Force at its meeting on May 25, 2006.

Atty. D'Alesio described the process of categorizing and prioritizing the issues and handed out materials. (Copies of the information are attached and incorporated into these minutes.) Wall charts of the issues regarding access to administrative records and meetings were displayed and explained. Atty. D'Alesio emphasized that the committee is free to add or remove issues or to rearrange categories or priorities, but based upon the results of the process, the threshold question is: What is a meeting?

The consensus of the group was that the priority of issues resulting from the process was an acceptable order for discussing these issues.

The next item on the agenda was the identification of additional issues. Atty. D'Alesio began going over all of the headers to see if anything should be added to that topic. Under security concerns, the issues regarding physical security, security of issues under discussion, and privacy/confidentiality issues were added. After discussion, no additional issues were added, but Atty. D'Alesio reiterated that members of the committee could add or combine any other issues during the course of their discussion.

Judge Ment then opened discussion on the next item on the agenda, the development of principles to guide the committee in making decisions on the issues. The principles would be the lens through which the committee will view the issues. A discussion ensued regarding the guiding principles that should be applied to meetings and administrative records, and the list of the principles developed by the committee is attached and incorporated into these minutes.

Judge Ment indicated that the committee would next discuss the fifth item on the agenda, the opportunities to receive comments from the Judges and the Public. Other committees have discussed the need for providing an opportunity for comments and what was agreed upon in other committees was to forward things the committee is thinking about recommending through the media advisory listserv and the listserv for judges. This method insures that people have the chance to comment as recommendations are developed, providing a sense of ownership and buy-in as well as the opportunity for the committee to hear other ideas. Items will also be published on

the website for public comment. Overall, each of the three committees will know what the other committees are doing and the public will have the opportunity to see what is happening through the website. Also, all recommendations will be presented at the meetings of the full Task Force.

Judge Ment then went to the next item on the agenda, the schedule for future meetings. It was suggested that since a majority of the committee lives nearer to Bridgeport, the meetings could be held at the courthouse in Bridgeport on Wednesdays at 2:30 PM. It is understood that every member of the committee may not be able to attend every meeting. The committee agreed to the proposed location and time of the meetings.

A brief discussion of the next agenda item, the timeline for task completion, ensued. An August 1st deadline was determined to be the deadline for committee reports.

The next item on the agenda was other business. The committee decided to begin to define the terms, starting with defining administrative records. As a part of the definition process, the group listed items that might be part of the records relating to the administrative functions of the Branch. That listing, for judges, included all personnel records: payroll records, medical information (separated from other records), evaluations, financial disclosures, attendance (vacation, sick, PL), complaints from individuals re decisions and other types of complaints (in the Chief Court Administrator's office), assignment history (in the Chief Court Administrator's office), annual appointment list, and oath of office form. For non-judge employees of the branch, the records include all personnel record, (pre-employment information, resumes, etc.), payroll records, medical information, performance appraisals, disciplinary actions, attendance, investigatory information, and grievance files. Other records that the Branch has would include other reports and records including statistical reports (i.e., workforce composition statistics), complaint investigations, workers' compensation files, and records dealing with budgeting, purchasing, the bid process, and collective bargaining strategy. Most of these items are governed by the Freedom of Information Act. In general, records and reports that are closed are set forth in the statute.

It should not matter where or by whom the records are held. The recommendation is going to be that if a record fits the definition, no matter where it is, that record is open. We have adopted the GA 7 definition: any records relating to the administrative function of the Judicial Branch are administrative records.

The committee's consensus was that administrative records of the judicial branch, relating to the budget, personnel, facilities, and physical operations of the branch, are open, unless they are part of any adjudicative proceeding or subject to statutory exclusions.

Staff indicated that most administrative records are already open under the Freedom of Information Act. The consensus was that the committee should look at certain records that involve the judges and determine which are currently open, which are closed, and decide whether the current status should be changed.

The meeting adjourned at 5:05 PM.

ISSUES FROM THE FLIP CHARTS

Meetings – What are open, how notice of meetings is provided and when meetings are open

- Judicial/nonjudicial meetings
- Quasi-judicial bodies – statewide grievance committee governed by rule
- Stage in proceedings where matter may become open
- Constitutional issues
- Rules committee
- Judicial education events
- Public input into rule-making
- Inclusion of public as members of Rules Committee
- Outreach programs, including surveys
- Trust between courts and the public
- Proceedings in Judicial Review Council governed by statute
- What is a meeting?
- When are they open and to whom?
- Experience of other jurisdictions with public access issues
- Default position is meetings are open unless specifically exempt
- Process to alert media about meetings that are open
- Categories of meetings that are open

What judicial administrative records are open and how they should be open

- Administrative records
- Privacy concerns
- What judges records should be available to the public- and who should decide
- Cost of records and transcripts
- Define what is not available
- Preservation of records
- E-mail records
- Security issues re information being disclosed
- Process for determination of whether record is open

LIST OF ISSUES FROM MEETING NOTES – 5-25-06

Administrative Records

- Which judicial branch administrative records should be open?
- What privacy concerns do we have to consider?
- What information concerning judges should be available to the public?
- Who makes the determination?
- What do other states do in terms of providing access to administrative records?
- Security concerns
- Cost of records and transcripts
- What is an administrative record?
- How long should administrative records be maintained?
- Should there be an appeals process if it is determined that an administrative record or some part of it is not open?

Meetings

- What is a meeting?
- When are meetings open and to whom?
- What do other states do in terms of providing access to meetings?
- How should the judicial branch notify the public regarding meetings that are open?
- Which meetings of quasi-judicial bodies should be open to the public in whole or in part? (Judicial Review Council, Statewide Grievance, Bar Examining Committee)
- Should the proceedings of the Rules Committee be open to the public?
- Should the public be allowed to attend judicial education programs?
- To whom should Task Force recommendations be made regarding nonjudicial-sponsored meetings involving judges?
- Can the public provide input into the rule-making process?
- Should the Rules Committee include members of the public?
- Security concerns

MEETINGS

- What is a meeting?
- What judicial branch sponsored meetings are open to the public and if open, who can participate?
 - Which meetings of quasi-judicial bodies (bodies that involve ownership by the judicial branch either with outside members or without outside members or bodies that involve judicial branch participation) should be open in whole in part?
 - Should Rules Committee proceedings be open to the public?
 - To whom should recommendations be made re nonjudicial sponsored meetings involving judges?
 - Should the public be allowed to attend judicial education programs?
 - When is a meeting open and to whom?
 - Should the Rules Committee include members of the public?
 - Can the public provide input into the rule-making process?
 - Judicial branch ownership
 - Judicial branch participation
 - Impact of future videoconferencing on meetings
- What do other states do in terms of providing access to meetings?
- How should the Judicial Branch notify the public regarding meetings that are open?
- What security concerns should be considered?
 - Physical security
 - Security of issues under discussion
 - Privacy/confidentiality (i.e., disciplinary action against an employee)

ADMINISTRATIVE RECORDS

- What are the judicial branch's administrative records?
 - What is an administrative record?
 - Which judicial branch administrative records should be open?
 - What information concerning judges should be available to the public and who makes the determination?
 - How long should administrative records be maintained?
- What privacy and security concerns do we have to consider?
- What do other states do in terms of providing access to administrative records?
- Access to Records
 - Should there be an appeals process if an administrative record or a portion thereof is deemed not open?
 - Costs of administrative records?

**RESULTS FROM THE INTERRELATIONSHIP DIGRAPH
FOR MEETINGS**

ISSUES	OUT	IN
What is a meeting?	4	0
What do other states do in terms of providing access to court proceedings?	3	1
What Judicial Branch-sponsored meetings are open to the public and if open, who can participate?	2	2
How should the Judicial Branch notify the public regarding meetings that are open?	1	3
What security concerns should be considered?	0	4

**RESULTS FROM THE INTERRELATIONSHIP DIGRAPH
FOR ADMINISTRATIVE RECORDS**

ISSUES	OUT	IN
What are the Judicial Branch's administrative records?	3	0
What do other states do in terms of providing access to administrative records?	2	1
What privacy and security concerns do we have to consider?	1	2
Access to records and appeal process?	0	3

**GUIDING PRINCIPLES
COMMITTEE ON ACCESS TO MEETINGS
AND ADMINISTRATIVE RECORDS**

THERE SHOULD BE A PRESUMPTION THAT ALL JUDICIAL BRANCH-SPONSORED MEETINGS ARE OPEN.

THERE SHOULD BE A PRESUMPTION THAT ALL ADMINISTRATIVE RECORDS OF THE JUDICIAL BRANCH, RELATING TO THE BUDGET, PERSONNEL, FACILITIES, AND PHYSICAL OPERATIONS OF THE BRANCH, ARE OPEN, UNLESS THEY ARE PART OF ANY ADJUDICATIVE PROCEEDING OR SUBJECT TO STATUTORY EXCLUSIONS.

THE PRESUMPTION OF OPENNESS WITH RESPECT TO MEETINGS AND ADMINISTRATIVE RECORDS MAY BE OVERCOME ONLY BY MEETING CAREFULLY DEFINED AND RECOGNIZED EXCEPTIONS NO LESS STRINGENT THAN THOSE SET FORTH IN THE FREEDOM OF INFORMATION ACT.

PERSONS OR INDIVIDUALS DENIED ACCESS TO MEETINGS OR ADMINISTRATIVE RECORDS SHOULD HAVE PROMPT AND EFFICIENT RECOURSE TO APPEAL THE DECISION.