

**Minutes of Public Access Task Force
Committee on Access to Meetings and
Judicial Branch Administrative Records
June 28, 2006**

The Committee on Access to Meetings and Judicial Branch Administrative Records met in Courtroom 5D of the Superior Court at 1061 Main Street, in Bridgeport on Wednesday, June 28, 2006 from 3:05 PM to 4:00 PM.

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

The meeting was called to order by Judge Ment at 3:05 PM.

The Minutes of the Meeting of June 16, 2006 were reviewed and approved.

The review of the types of meetings was then continued from the last meeting. A discussion ensued as to the Bar Examining Committee. The recommendation agreed upon is that this committee should be open to public access, with the proviso that the intent of the committee is that discussions as to the qualifications of individual candidates should be conducted in executive session.

Staff provided a brief summary of information on seven committees, which were part of a list of committees, commissions, and boards that were not specifically addressed in the statutes or rules. (A copy of the summary and that list is attached to and incorporated into these minutes.) At the last meeting, the committee had arrived at a consensus on the majority of these groups after discussion. A discussion ensued as to the remaining ones.

The first committee discussed was the Criminal Task Force/Criminal Justice Committee. The Criminal Justice Committee spends a great deal of its time discussing problems that members of the bar and members of the public have experienced with the various people and departments in the criminal justice system. Bringing these matters to the attention of the Chief Court Administrator and staff in an informal setting allows individuals to express their concerns frankly and openly and have them addressed. The concern is that if the committee were open to the public, private attorneys would be reluctant to speak openly. The point was made that if openness is to be achieved, the committee must be careful about using the fear of retribution by individuals as an excuse to keep a meeting closed. Further discussion ensued regarding the unique nature of the criminal justice committee. It had originally been set up to deal with a backlog of murder cases. In essence, the informal nature of the committee has led to benefits. Given the uniqueness and the fact that it appears to be a safety valve for dealing with what appears to be somewhat difficult issues, several members of the committee favored leaving the meetings closed; however, no consensus was reached on a recommendation at this time. The discussion will be continued at the next meeting.

The next two committees discussed were the Civil Jury Instruction Committee and the Criminal Jury Instruction Committee, which meet two to three times a year. The consensus of the committee was that the meetings of these groups should be open to the public, but the work of the committee members as they edited and agreed on the instructions would not be open.

At this point, the committee reviewed the status of the committees on the list after the discussions of the last meeting and the current meeting. After discussion, the committee determined that with the exception of the Education Committee, which the committee agreed should not be open to the public, and the Criminal Task Force, for which no consensus has been reached, a recommendation should be made to the full Task Force that the meetings of the following committees be open to the public: Advisory Committee to Judicial Department Concerning Parenting Education Programs, Annual Meeting of the Judges, Appellate Court Rules Committee, Bar Examining Committee, Board of Examiners for Court Reporters, the Civil Commission, the Civil Jury Instruction Committee, the Criminal Jury Instruction Committee, the Code of Evidence Oversight Committee, the e-filing Judges Advisory Committee, the Executive Committee, the Law Library Advisory Committee, the Legal Internship Committee, the Legal Specialization Screening Committee, the State Advisory Council to the Office of Victim Services, and the Superior Court Rules Committee.

At the next meeting, the committee will review the meeting definition and the list of meetings that it will recommend be open and those that it will recommend be closed. At that time, the committee will formally vote to on the adoption of the recommendations and submit them to the full Task Force. These recommendations will be circulated by means of these minutes prior to the next meeting.

The committee then began its discussion of administrative records. Attorney Neiger had drafted a definition of "administrative record" for the use of the committee. (A copy of that definition is attached to and incorporated into these minutes.) The intent of the definition is to eliminate records of cases or records that affect the adjudicative process of contested cases. The records are to include only the records connected to the administration of the Judicial Branch.

An extensive discussion of which records would be included and which ones would not be included under the definition ensued. The definition as written would exclude, for example, records that are exempted by statute, i.e., records on competitive bidding. Three types of administrative records were specifically discussed in connection with the definition: Judicial Performance Appraisal Program records, records of complaints about Judges sent to the Chief Court Administrator, and judicial attendance records.

Currently, records of Judicial Performance Appraisals by statute may be given to the Selection Commission, and to the chairs and ranking members of the Judicial Committee of the Legislature. After an extended discussion regarding these records, the consensus was that these records should continue to be kept confidential and released only as set forth in the statute currently.

The second category is records of complaints about Judges that are sent to the Chief Court Administrator. These complaints may be anonymous and nonspecific or may be signed and specific. Currently, specific and signed complaints are evaluated and responded to. If there is potential crime or misconduct alleged, the complaint is forwarded to the Judicial Review Council or the States' Attorney. At that point, the complaint would be confidential pursuant to the rules and statutes governing those entities. Mr. Lowe expressed a concern about the public's perception of the handling of

complaints against Judges. There should be some ability for the public to know how complaints are handled and to see the deliberative process that goes on.

A question was raised about the Judicial Review Council, and the suggestion was made that the Council could report in a different way; however, since this Council is not part of the Judicial Branch, its workings are beyond the scope of the committee's charge.

After further discussion, the consensus of the committee on anonymous complaints was that such complaints should not be made public. However, the committee will revisit the issue of complaints that are specific and signed by an individual(s).

The final category of records is the attendance records of the Judges. The committee was told that there is a committee of the Governor's Task Force also looking into the status of these records.

There was a discussion of the nature of these records. Attorney Neigher stated that these records would be of interest to the public and that the public would have a right to know this information. His view is that the records are objective; there is nothing subjective about whether or not a judge is at work. After an extended discussion, the committee agreed to recommend that Judges' attendance records be open to the public.

There was further discussion of the definition of administrative records specifically with reference to the meaning of the word "proceeding" in the definition. Attorney Neigher used the word "proceeding" to avoid limiting the possible records to records arising from meetings only. The definition is intended to include compilations of records or statistical records, i.e., indices of the time between filing and resolution of civil cases or an annual report of the composite scores of judges on the performance evaluations.

Judge Ment said that the minutes containing an understanding of what the committee had agreed upon regarding meetings and records would be circulated so that he would be able to make a report to the full Task Force on July 13th. The summary of the committee's recommendations is attached to and incorporated into these Minutes.

Meeting adjourned – 4:00 PM.

Commissions, Boards, and Committees

Board of Examiners for Court Reporters is a group created by a vote of the Superior Court Judges. This group is composed of judges, official court reporters, and other employees of the Branch, and the Executive Secretary of the Judicial Branch. This board oversees the testing and certification of court reporters.

The Civil Commission is a group that was originally formed to address issues associated with the large backlog of jury trials and to establish an ongoing dialogue between the bench and bar on civil matters. The Commission is composed of judges and members of the civil bar, including representation from the Supreme Court, the Office of the Chief Court Administrator, trial courts, and plaintiff and defense attorneys. Members of the Commission meet on a quarterly basis to review the status of the civil docket and to suggest and develop practices that will improve the administering of judicial services to litigants, members of the bar, and the public.

The Civil Jury Instructions Committee was formed for the purpose of reviewing, updating, expanding, and completing the collection of civil jury instructions. The committee is composed of judges of the Superior Court.

The Code of Evidence Oversight Committee was originally created by a vote of the Judges at an Annual Meeting in 1999. This purpose of this committee is to make suggestions to the Rules Committee regarding updates of the Evidence Code. The committee includes Judges, attorneys from private practice, the office of the State's Attorney, and the Public Defender, as well as professors of law.

The Criminal Justice Committee (Criminal Task Force) was formed in April 2001 by Chief Justice Sullivan to open and encourage a line of communication between the bar, the bench and the office of the Chief Justice. The committee is comprised of judges and members of the criminal bar, including representation from the Supreme Court, the Office of the Chief Court Administrator, the trial courts, the Office of the Chief State's Attorney, the Office of the Chief Public Defender and private defense counsel. Committee members raise criminal law related issues which are discussed and evaluated for necessary action. Members are assigned tasks and report results to the committee at subsequent meetings. The committee meets on a quarterly basis.

The E-Filing Judges' Advisory Committee was formed in 2003 and is composed of judges, including representation from the Office of the Chief Court Administrator and the trial courts. Members of the Committee meet as needed. This committee sets policy and provides guidance for the development and implementation of electronic filing.

Education Committee – Connecticut Center for Judicial Education – is charged with fostering and guiding efforts to provide the Connecticut judiciary with comprehensive educational opportunities to acquire and enhance the skills, knowledge and understanding that the pursuit of justice requires. The committee is composed of nine judges, including the Deputy Chief Court Administrator.

Judicial Branch Committees, Commissions and Boards

With the exception of the FOIA, to the extent it applies to any particular branch committee, commission or board, statutes and rules do not address whether meetings of the following groups are open to the public:

Advisory Committee to Judicial Department Concerning Parenting Education Programs (C.G.S. § 46b-69c)

Annual Meeting of Judges (administrative authority)

Appellate Court Rules Committee (authority: Supreme Court Justices and Appellate Court Judges)

Bar Examining Committee (Practice Book Section 2-3)

Board of Examiners for Court Reporters (authority: Judges of the Superior Court)

Civil Commission (administrative authority)

Civil Jury Instruction Committee (administrative authority)

Criminal Jury Instruction Committee (administrative authority)

Code of Evidence Oversight Committee (administrative authority)

Criminal Task Force (administrative)

E-filing Judges' Advisory Committee (administrative authority)

Education Committee – CT Center for Judicial Education (administrative)

Executive Committee (administrative)

Judicial Performance Evaluation Program Advisory Panel (authority: administrative; directive from the Chief Justice)

Law Library Advisory Committee (authority: Supreme Court Policy)

Legal Internship Committee (Practice Book Section 3-19)

Legal Specialization Screening Committee (Rules of Professional Conduct 7.4B)

State Advisory Council to the Office of Victim Services (C.G.S. § 54-203)

Superior Court Rules Committee (authority: Judges of the Superior Court)

DRAFT # 1 (6/27/06)

DEFINITION OF "ADMINISTRATIVE RECORD"

"Administrative Record" includes the following information maintained by the Judicial Branch (which, for purposes of this definition shall include any of its departments, offices, committees or panels) pertaining to the Administration of the Judicial Branch, and not associated with any particular case:

Summaries, indices, minutes and official records of any proceeding of the Judicial Branch and information maintained or stored by the Judicial Branch, not otherwise exempted, in all paper and electronic platforms and formats.

Alan Neigher

Summary of Recommendations of Committee on
Administrative Records and Meetings

The committee has agreed as follows:

Meetings:

1. A recommendation should be made to the full Task Force that the meetings of the following committees be open to the public: Advisory Committee to Judicial Department Concerning Parenting Education Programs, Annual Meeting of the Judges, Appellate Court Rules Committee, Bar Examining Committee, Board of Examiners for Court Reporters, the Civil Commission, the Civil Jury Instruction Committee, the Criminal Jury Instruction Committee, the Code of Evidence Oversight Committee, the e-filing Judges Advisory Committee, the Executive Committee, the Law Library Advisory Committee, the Legal Internship Committee, the Legal Specialization Screening Committee, the State Advisory Council to the Office of Victim Services, and the Superior Court Rules Committee.
2. A recommendation should be made to the full Task Force that the Education Committee will not be open to the public.
3. There is no consensus at this time regarding the status of the Criminal Task Force as open or closed to the public.

Administrative Records:

1. A recommendation should be made to the full Task Force that Judicial Performance Appraisal records should not be open to the public.
2. A recommendation should be made to the full Task Force that attendance records of Judges should be open to the public.
3. A recommendation should be made to the full Task Force that complaints against judges that are made anonymously should not be open to the public.
4. There is no consensus at this time as to the status of complaints that are signed as open or closed to the public.