

**Minutes of Public Access Task Force  
Committee on Access to Judicial Proceedings  
June 16, 2006**

The Committee on Access to Judicial Proceedings met in the Community Court Conference Room at 80 Washington Street in Hartford on Friday, June 16, 2006. Those in attendance: Atty. Aaron Bayer, Judge Clifford, Ms. Erin Cox, Judge Lavine, Mr. Ken Margolfo, Judge Ment, and Judge Quinn.

The meeting was called to order by Atty. Bayer, co-chair, at 8:05 AM.

There was an initial discussion regarding the committee's proposal for the creation of an informal dispute resolution group fashioned after the Massachusetts "Fire Brigade." Atty. Bayer indicated that he was concerned about the specifics of how this body would work and how to avoid potential conflicts between this more informal dispute resolution group and a more formal dispute resolution process within the Judicial Branch. Currently, if the media has a question regarding FOI issues or access policies of the Judicial Branch, they would be directed to External Affairs, who could then provide information regarding the resolution of the issue in the past, or could consult Legal Services. The Branch does publish a media guide which is currently being updated. Staff will obtain copies of the guide for members of the committee. There is also an Online Media Resource Center accessible from the home page of the Judicial Branch website ([www.jud.ct.gov](http://www.jud.ct.gov)). The possibility of creating a more "formalized" process regarding access questions was raised.

Discussion returned to the "Fire Brigade" concept. Mr. Sanders is obtaining additional information, and Mr. Margolfo offered to obtain information as well. Judge Lavine wanted it to be clear that the informal process would only deal with access issues and not interfere with the judges' authority in the courtroom because of the concern that the committees, in a legitimate attempt to open up access, will have an unintended impact on judicial independence. The committee agreed that it is important to be cognizant of these concerns.

Atty. Bayer then proposed an approach for the committee to take in reviewing access to judicial proceedings, given the limited time frame. He suggested dividing the tasks for the committee into the following areas:

1. Proceedings currently closed to the public – The committee would ascertain what types of proceedings are closed/restricted, by what authority such proceedings are closed/ restricted (i.e., statute/rule), the rationale/concerns behind the closure, and how other states handle such proceedings. The committee could then arrive at appropriate recommendations, based on the guiding principles, regarding proposals.
2. Proceeding currently open to the public – The committee would ascertain what the current rules and policies are regarding electronic access (video cameras, still cameras, audio recording devices) in appellate and trial courts, what rationale and concerns guide those policies, and research what options might be available, including recent technological advances, to address those concerns. The committee would then determine, based on the guiding principles, what changes to recommend.
3. Dispute resolution mechanisms – The committee would evaluate the use of an informal dispute resolution process (i.e., the Fire Brigade concept, used in Massachusetts), the use of a formal Judicial Branch dispute resolution process, and consider the interaction/coordination of these processes.

A discussion ensued and the consensus of the committee was that recommendations on the second and third items, above, will first be addressed. With respect to proceedings that fall within the first item, the committee will gather information for review and study, but recognizes that it

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may be difficult to go beyond making a recommendation for further study. Staff was asked to provide information on the first item.

A point connected to the opening of judicial proceedings to electronic access was made regarding the use of video equipment by individuals who are not members of the media. This possibility should be addressed as well.

Atty. Bayer introduced Paul Giguere, founder of CT-N, who provided information and an overview regarding public access and technical issues involved in videotaping and broadcasting government proceedings. He indicated that the current process used for arranging coverage for the Supreme Court is different from that used for the executive and legislative branches. In arranging coverage of the Supreme Court, CT-N must submit a request to the court and a certified letter to each of the attorneys/litigants in the case to allow them the opportunity to object to the broadcast. He provided the committee with the Protocol for Videotaping or Photographing Supreme Court Oral Arguments, which includes requirements beyond those set forth in Practice Book §§ 70-9 and 70-10, including a limit of one camera in a fixed location, no use of graphics other than the case name and date of argument, and no zooming or panning. (A copy of the Protocol is attached to these minutes for ease of reference.) He also indicated that in other states, counterparts to CT-N do not have to obtain advance permission to videotape appellate proceedings or notify all counsel and parties in advance.

Judge Lavine indicated that some of the judges are very concerned about cameras in the court causing disruption that could interfere with the judge's ability to maintain appropriate decorum among those present in the courtroom. It would be important to inform the judges about the technology currently available in order to assuage their concerns. Mr. Giguere indicated that it was possible to have three fixed robotic cameras in the courtroom that would be unobtrusive and remotely operated. The video feed, along with the audio, could all be directed from a control room. Other networks could access that feed.

In response to Judge Ment's question about funding, Mr. Giguere indicated that the legislature has appropriated money for new CT-N equipment. For CT-N, coverage of the Supreme Court is a priority. CT-N has sent a letter to Justice Vertefeuille requesting permission to expand the coverage. A timely recommendation from this Committee would make it possible for CT-N to move more quickly on this issue, especially given the timing of funding requests. The committee will seek to rapidly communicate the nature of this proposal, seeking comments and suggestions, to assure that all interested parties have ample opportunity to obtain information and share their concerns.

Ms. Cox mentioned that another reason to move ahead on this issue is that the Judicial Branch has the opportunity to establish a workable solution now before technology outstrips their ability to make reasonable decisions regarding access.

There was a consensus that the same rules and procedures regarding electronic access should apply to both the Supreme Court and the Appellate Court. In addition, the committee should consider the more complicated concerns at the trial level, in terms of witnesses, jurors, victims, and others who may be affected by any change to the current procedure. Discussion ensued regarding the technology available and how limitations to protect these interests could be put in place in the trial courts. CT-N is willing to work with the Judicial Branch in implementing safeguards to prevent problems in covering all types of court proceedings. Judge Ment mentioned the possibility of video records instead of court monitors or reporters serving as the

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official court record in sentencing and arraignment proceedings. Equipment currently in place might be compatible with CT-N equipment with some additional programming. Sentencing and arraignment hearings could be a starting point.

Judge Ment returned to the Protocol for Videotaping or Photographing Supreme Court Oral Arguments (attached) and sought to identify the items that should be changed in order to accommodate the needs of CT-N in providing coverage of the appellate courts. The items on that list to be changed were #'s 1, 3, 4, 6, and possibly 8.

Atty. Bayer proposed that the committee recommend that CT-N be permitted to install cameras so that it can do its job similarly to the way that it does its job in the other branches. Anyone with the proper equipment would be able to tap into the feed from CT-N. The committee consensus was that there was no reason to distinguish between the Appellate Court and the Supreme Court. Also, as part of the recommendation on expanded electronic access, the committee decided to include a recommendation for a rule change, to make it clear that any argument at the appellate level could be videotaped unless a timely objection was submitted and upheld based on an overriding interest that outweighs the public right to access. This would replace the current practice of requiring advance notice to litigants and attorneys that an argument may be videotaped. Judge Ment will prepare and circulate a proposal on incorporating these recommendations for the consideration of the committee by Monday afternoon. Judge Lavine indicated that this issue would be on the agenda for an Appellate Court conference to be held on July 26<sup>th</sup>.

There was then a discussion of the current policy on other video cameras and still cameras in the courtroom. For still cameras, the rule provides for pool coverage by one person with two cameras and two lenses in the courtroom. Ken agreed to contact Ms. Collins and Mr. Sanders regarding the position of the print media on the issue of still cameras in the courtrooms. Atty. Bayer wants to discuss whether these restrictions on still cameras make sense. A discussion ensued regarding audio recording. The current rule does not permit audio recording devices in a courtroom. All of these issues should be considered by the committee.

Atty. Bayer asked the committee members look at P.B. §§ 1-10 and 1-11 consider potential changes taking into account the concerns about electronic access in the trial courts, including family and juvenile, so the committee can discuss access policies for the trial courts. It was also suggested that the committee focus on hearings that are currently open to the public. In addition, the committee should consider methods of dispute resolution for the next meeting. Any thoughts or comments on these issues should be circulated by e-mail before the next meeting.

The dates of the next two meetings are June 27<sup>th</sup> and July 6<sup>th</sup> at 8:00 AM in the attorney conference room at 231 Capitol Avenue.

Judge Quinn moved to accept the minutes as circulated. The motion was approved.

The meeting was adjourned 9:50 AM.

PROTOCOL FOR VIDEOTAPING OR PHOTOGRAPHING  
SUPREME COURT ORAL ARGUMENTS

All camera and electronic coverage of arguments before the Supreme Court shall be subject to the requirements of Practice Book §§ 70-9 and 70-10, which will be strictly enforced.

The following additional requirements are also imposed:

1. Only one video camera will be permitted in the Supreme Court courtroom, and it shall be placed in a fixed location at the right rear corner of the courtroom.
2. Flashes and artificial lighting of any type are prohibited.
3. Zoom close-ups, split screens, modified screens, sensational or dramatic shots and reaction shots are prohibited.
4. There shall be no filming of the empty bench. When court recesses, all cameras shall be turned off.
5. All cameras must be operated silently; motor-driven still cameras are prohibited. Audio coverage will be provided using the Court's current audio system.
6. Videotapes of oral arguments shall be replayed without any editing or analysis and without graphics other than those identifying the names of the case and the date it was argued.
7. If there are multiple requests to videotape the same argument, the persons making such requests must make pooling arrangements among themselves.
8. The video camera shall be set up prior to the opening of Court and shall not be dismantled or removed until after Court adjourns for the day.
9. Photographers and equipment operators must conduct themselves in the courtroom quietly and discreetly, with due regard for the dignity of the courtroom.
10. Upon request, copies of the videotapes or photographs will be provided to the Court to determine compliance with all applicable requirements.