

**Minutes of the Public Access Task Force Meeting
And Summary of Public Hearing Testimony
September 7, 2006**

Those in attendance: Judge Alander, Attorney Bayer, Dr. Cibes, Ms. Collins, Judge Dewey, Ms. Griffin, Judge Lavery, Judge Lavine, Mr. Margolfo, Judge Ment, Attorney Neigher, Justice Palmer, Judge Quinn, and Mr. Sanders.

Justice Palmer opened the hearing for public comment and questions at 2:38 p.m.

The first person to speak was James Papillo, the State Victim Advocate. Mr. Papillo addressed the concerns of the victims of crimes in connection with the coverage of court proceedings by means of electronic media devices. He indicated that victims support the goals of making the justice system more transparent, accessible, and accountable, but victims are also concerned that these goals be accomplished with due regard for the rights, dignity, and safety of the victims. His written testimony contains greater detail on these concerns and issues, including several recommendations, including a recommendation that no electronic media coverage of sexual assault or domestic and family violence cases be permitted. A copy of his written remarks is attached.

Mr. Papillo responded to various questions from members of the Task Force, indicating his position that judges should make decisions with respect to access, giving great weight to the wishes of the victims, who did not ask to have their lives put on display, and being cognizant of the potency of visual communication as opposed to the print media. He acknowledged that for the most part, the media will be sensitive and is interested in trying to show that justice is done, but when you allow cameras in, there is always the potential for abuse by someone in that courtroom, and the potential to further hurt victims who are already suffering. Mr. Margolfo also suggested that the Judicial-Media committee could be of assistance, and it was suggested that a victim advocate be included in the membership of that committee.

The next speaker was Barbara Keidel, a survivor of a homicide victim, her former spouse. She spoke of the difficulties that victims and survivors of victims experience in the judicial process. She said if a camera is there spotlighting that horrific experience, it is an invasion of privacy and an additional burden at a tremendously trying time in victims' lives. Ms. Keidel also said that journalists must report with integrity not sensationalism, and asked that members of the Task Force remember the survivors of violent crimes and maintain safeguards to protect their privacy, safety, and integrity, and not permit commercial media to come into the courtrooms. Responding to a question, Ms. Keidel said that she would have made a victim impact statement even if she had known it would be televised since it was her only chance to speak.

Chris Powell, the managing editor of the Journal Inquirer and legislative chairman of the Connecticut Council on Freedom of Information spoke next. In his testimony, he highlighted several recommendations, including the recommendations on posting criminal conviction records online, on making public the records of acquittals and dismissals, on implementing a pilot program for broadcasting criminal trials, and on forming a Judicial-Media Committee. He also raised several questions regarding the authority of the judiciary to legislate, the existing policy on note-taking in courtrooms, and the fact that the state Constitution says "all courts shall be open." Mr. Powell submitted

written remarks discussing these points in greater detail, which are attached. Justice Palmer asked whether Mr. Powell's position on openness included jury deliberations and wire tap panels, and Mr. Powell said he did not advocate open jury deliberations, but did wonder where the authority to create the exceptions to openness came from.

The next speaker was Mary Hamel, who discussed her experience as a crime victim and survivor of domestic violence and sexual assault. She spoke about the press coverage that is about sound bites, and is driven by concerns of making money, not by concern for justice. Ms. Hamel said that the only thing that she had going for her was that her name and face were not being published at the time. Her strong opinion is that any crime victim should have the right to refuse to allow cameras in the courtroom, and that right to refuse should be absolute. Ms. Hamel submitted written remarks which contain more details, and they are attached to this summary.

Attorney Debra Del Prete Sullivan, legal counsel, Office of the Chief Public Defender, spoke to the Task Force next. She said that the remarks did not address the recommendations of the committee on cameras in the courtroom because the public defenders are still considering issues regarding handling of sequestered witnesses, family members of defendants, innocent bystanders, impact on individual voir dire, handling of graphic exhibits, and bench conferences, among others. Attorney Del Prete Sullivan expressed concern about the negative impact the posting of criminal docket information and criminal conviction information would have on an accused's housing, employment, and education. Once posted, the charges, even if subsequently reduced or disposed of by nolle, dismissal, or acquittal, would exist in perpetuity. The office also strongly opposes recommendation #11 concerning the pretrial diversion programs, competency evaluations, alternate incarceration assessments, and erased records. Her written testimony, which is attached, contains detailed reasons for the positions of the office regarding the recommendations of the committee on court records.

A question was raised about the opposition to the access to disposition information. Attorney Del Prete Sullivan said that if it were necessary, the client could get that information themselves or through her office. It is too prejudicial to a person to have it accessible to the public. She stated that those who are wrongly charged and convicted are victims themselves, and that such information is more likely to be misused than helpful to a defendant. When asked if it would be better to allow a defendant the option of having the information remain sealed or be open, she said allowing them to opt to have it be available would be preferable to making them opt to have it inaccessible. Another question was raised regarding the inclusion of original charges, which Attorney Del Prete Sullivan also opposed as having a significant negative impact on a person trying to get back into society.

The next speaker was Debbie Florence, whose pregnant daughter was murdered in 2001. She spoke of her experience of sitting in the court room while the defense attorney maligned her daughter in a closing argument with false and painful allegations. Although she understood why it was allowed (to avoid any chance of a mistrial), she expressed concern that if cameras were allowed in that room, the only thing that would have been shown of the trial was her reaction and the defense attorney's harangue. She said that victim's families have been traumatized enough by the crime and do not need to be further traumatized by cameras in the courtroom.

The next speaker was Robert Kalechman. He first stated that the right to freedom of speech had been given to us by the soldiers and sailors who fought for it. He also said that a camera is now part of the press so that the First Amendment is referring to freedom of the television and the camera to go into the courts. Mr. Kalechman addressed the concerns of the pro se filer in the courts, specifically the need to post a bond to initiate a case. His written remarks are attached.

Two other people, Alexander Wood and Samuel Rieger, submitted written remarks to the Task Force, but did not appear at the hearing. The public hearing was recessed at 4:45 p.m.

The second session of the public hearing was called to order at 6:10 p.m.

The first speaker was Robert Fromer, who suggested that there be audio access to tape recordings of proceedings before ordering the transcript and to verify that a transcript was accurate. He had sought such access without success in the past and said such access through streaming audio or video is long overdue. He also suggested the establishment of special land-use dockets, the inclusion of non-attorneys as land use mediators, and the elimination of the term pro se to describe non-attorney parties. His written remarks are attached.

The next speaker was Jane Mills who spoke in favor of more openness in the courts, indicating that her experience in other states, i.e., New Mexico, where court proceedings and records are much more accessible. She recommended that verbatim records of conferences in judges' chamber be made. She also suggested that transcripts and copies of file documents be made more affordable. Ms. Mills also suggested designing data bases with public access in mind, recognizing that certain types of requests will be made. She also suggested simplifying the Freedom of Information law, reducing the exceptions, and checking the law in states like Wyoming, Florida, and New Mexico, where it is easier to obtain information. Ms. Mills also suggested that the Task Force look at the definition of journalist found in Sec. 54-33i of the Connecticut General Statutes, although it was pointed out that the section did not address electronic media. Ms. Mills did not think the definition in the shield law was broad enough.

The next speaker, Joe Niedomys, spoke in opposition to the posting online of conviction information. He indicated that such posting online would put Connecticut companies, who do criminal background searches for out-of-state companies, out of business. He suggested providing access to the conviction information at public access terminals in the courthouses only.

The next speaker was Ellen M. Byrne, who had wanted to speak to issues not before this Task Force. Upon realizing that it was not the proper forum, she spoke in favor of the judges deciding on access.

The next speaker was Mr. David Sunshine, a survivor of the crime of homicide. He spoke of his concern that increased access comes at too high a price for victims and that the purpose of the courts is to dispense justice not to provide entertainment. He is against cameras being in the court rooms. In response to a question, Mr. Sunshine said

he felt that a meeting between victims' groups and members of the media would be interesting for the media. He also spoke about a bill that had not been passed in the past legislative session that would implement a violent offender's registry, like the current sex offender's registry. In response to a question, he suggested looking at the experiences of other states with cameras in criminal trials rather than risking the potential harm to victims and survivors through implementation of a pilot program. He said that the visual media is more powerful than the written media and therefore puts people at greater risk, and he is not in favor of expanding that risk. Mr. Sunshine said there are other forums for public education – not actual criminal proceedings.

The next speaker was Alyssa Peterson, who had suggestions regarding the public access to records of grievances against judges once a decision has been made both to provide the public with the assurance that they were dealing with the best, brightest, most efficient, and alert judicial minds and to improve the performance of Connecticut's judiciary. She also suggested public access to administrative databases and the automation of certain procedures in the practice book. Such access and automation would lead to greater efficiency and decreased costs of for litigants, in terms of attorneys' fees. Ms. Peterson also suggested the simplifying the judicial complaint process so that anyone could file a complaint when they are troubled by a judge's personal conduct or comments in the courtroom. Ms. Peterson submitted written remarks that contain greater detail regarding these suggestions.

The next speaker was Rhoda Micocci, appearing as a member of the public, although her remarks are based on her experiences with people in her employment with the Connecticut legal services hotline. She spoke specifically against the recommendation on posting criminal conviction information online. Her written remarks contained a list of reasons why this quick and easy public access should not be allowed. Among those reasons are the potential for this information to be misused, to reduce the dignity of the criminal justice system by making it a form of entertainment available on the Internet, by never allowing a person to get on with their lives after having incurred punishment, and by subjecting these people to secondary punishment, including social rejection and loss of or denial of employment. Attorney Micocci did not believe that any time limitation or limitation on the seriousness of the offense would be sufficient to protect the people whose information would be posted. She also did not favor the retention of police reports in cases where probable cause is not found.

The final speaker was Sarah Austin. She spoke about her own experience with the legal system, including the difficulty and expense of obtaining a transcript in her case.

There being no further speakers, Judge Ment adjourned the public hearing at 7:55 p.m.