

Minutes of the
Identity Theft Committee
November 13, 2008

Those present: Judge Marshall Berger, Judge John Blawie, Justice David Borden, Judge Patrick Carroll, Atty. Joseph D'Alesio, Professor Elizabeth Marsh, Judge Aaron Ment, Judge Joseph Pellegrino (chair), Atty. Norman Roberts II, Atty. Kevin Shay, Atty. Robert Stillman, and Atty. Elizabeth Yen.

The meeting was called to order at 1:30 PM by Judge Pellegrino.

1. The first agenda item was the approval of the minutes of the meeting of January 17, 2008. Upon motion by Judge Ment and second by Justice Borden, the minutes were approved unanimously.
2. The next item was an update on the review of Judicial Branch forms. Attorney Horwitch reported that forms are being updated and changed to reflect the recommendations of the committee on personal identifying information, including requesting only the last four digits of a social security number or a year of birth rather than a full date. Applications for pretrial diversionary programs (i.e., alcohol education program) that are sealed upon filing of the application can become public if the application is denied or the person fails to complete the program. Those forms have been revised to contain the suggestion that if the document becomes public, the judicial authority should consider ordering the personal identifying information redacted. As new forms requesting personal identifying information come up, they will be reviewed to determine whether such information is essential and the information will be redacted to the extent possible.
3. The agenda item on the final recommendations of the Criminal Subcommittee was initially passed because Judge Blawie was delayed. When he arrived, he said the subcommittee had submitted its final written report to Judge Pellegrino in accordance with his oral report at the last meeting.
4. The agenda item on the report of the Family Subcommittee will not be discussed today because Judge Gruendel was unable to attend this meeting.
5. The next agenda item was the proposed rule change regarding personal identifying information in pleadings and documents. The first portion of the rule (proposed new section 4-7) remained unchanged but the second section, which proposes adding subsections to 11-20A and 25-59A, contains a change. Judge Berger discussed the changes to the last two sentences of the proposed subsections. Assuming that such information has been filed, this provision allows the judge to have the filer submit a redacted version of the document, with the original document retained and sealed or to order the clerk to redact the document. The provision will address the problem of an electronically filed document as well as a document that is filed on paper or submitted at a hearing. This rule pertains to personal identifying information only. Several issues were then discussed including how a non-party whose personal identifying information is contained in a document could move for the removal of that information and what type of notice regarding a motion to remove information would be required. After extensive discussion, the committee suggested that the

commentary to this rule should state that a person not a party to the action need not file a motion to become an interested party or take other formal action to intervene as an interested party in order to move that personal identifying information be removed. In addition, the committee suggested that commentary include general information on the type of notice and hearing that the rule contemplates: a formal hearing is not required, and a conference call or a telephone call to the parties would be sufficient.

A motion to approve the rule as it is currently written with commentary to be drafted by Judge Berger, incorporating the suggestions regarding nonparties and notice, and submitted with the rule was made by Judge Blawie. The motion was seconded by Justice Borden. The motion was approved unanimously.

6. The next agenda item was the Public Service and Trust Commission committee charge. Judge Carroll was delayed and Atty. D'Alesio presented the committee with the background on the development of the thirty-six initiatives that are a part of the initial phase of the implementation process. The implementation process will take advantage of existing committees, and the Identity Theft Committee is being charged with addressing the initiative on Information/Privacy that is part of the plan. The committee is being asked to review court procedures, forms and rules to eliminate the inclusion of unnecessary personal identifying information and to ensure that such information is handled appropriately in accordance with guidelines when it must be collected. The committee will also assess current guidelines on disclosability, staff and public access to information, procedures on the disposal of information, structures to permit or restrict access to information, and training on disclosability of information for judges, staff, and other agencies. The committee will also consider the development of ways to disseminate information on the public nature of court records. Finally, the committee will review information that is currently displayed and the procedures to ensure that accurate information is posted, consider the expansion of information on the website, and explore ways of increasing electronic access to court processes and information.
7. This agenda item, the expansion of membership and change of committee name, was briefly passed to allow for a discussion of the future tasks of the committee as connected to the prior charge from the Public Access Task Force and the expanded charge from the implementation plan arising out of the strategic plan of the Public Service and Trust Commission. Given the expanded nature of the committee's responsibilities under the plan, the group might wish to discuss expanding its membership and changing its name.
8. The next agenda item was the discussion of the future tasks of the committee. Atty. D'Alesio briefly reviewed the list.
 - Policy on Access to Court Records, including remote access – A proposed policy was drafted by the Committee on Records of the Public Access Task Force. The proposed policy needs review by another group.
 - Review and enhancement of information provided on the web – Information about court processes and court records could be expanded, but the protection of privacy rights must be a consideration.

- Consideration of a proposed rule on handling the filing of sensitive data – the possibility of implementing a rule addressed to the handling of sensitive information that the court needs but the public does not need to see should be looked at by the committee.
- Correction of inaccurate information in court files – It is unclear what type of information might need to be corrected. Within the priorities of what the committee has to address, this particular issue is of less urgency.
- Review and enhancement of programs and materials on access to and disclosability of information – The committee will review current security procedures, (password protection, use of jump drives, disposal of records) and the existing information on the web in accordance with the charge.

Once the committee reviewed the expanded list of future tasks, the suggestion was made that the committee change its name to more accurately reflect the nature of its scope, which is beyond the area of identity theft. After discussion, the suggested name was Committee on Judicial Information Policy. Brief discussion ensued as to the committee's looking at the possibility of charging for access to information, as is common in other states. Atty. D'Alesio said that such a topic would be within the scope of this group. The concept of Judicial Information Policy is broad enough to include budget issues and privacy issues.

The motion to change the name to Committee on Judicial Information Policy was made by Judge Ment and seconded by Judge Blawie. The motion was approved unanimously.

The committee then discussed the best way to approach the tasks it must accomplish, including the breaking down into subcommittees to address specific tasks. The suggestion was made that the committee invite someone from the National Center for State Courts to address the committee on these issues of public access and privacy in connection with court records. Connecticut is undoubtedly not the only state wrestling with these issues. Judge Ment agreed to contact the National Center to arrange for someone to come to the next meeting to let the committee know what is being done in the rest of the states.

It was suggested that the committee wait until the next meeting, after the presentation by the person from the National Center, to form subcommittees. In the meantime, the expansion of the committee to include additional members was discussed. Additional members should include someone from the web board and clerks from the courts. Judge Berger suggested adding P.J. Deak, who is a member of part of Superior Court Operations Computer Systems Support. Members of the committee who wish to suggest additional people may email Judge Pellegrino or Alice Mastrony.

9. The next meeting of the Committee will be in January.

Upon motion and second, the meeting was adjourned at 2:50 PM by unanimous vote.