

MINUTES
Subcommittee on Audio Recordings of Court Proceedings
Judicial-Media Committee

The Subcommittee on Audio Recordings of Court Proceedings met at 90 Washington Street, fourth-floor conference room, Hartford, Conn., on February 9, 2009.

In attendance: Atty. Charles Howard, Chair, members Judge David Gold, Thomas B. Scheffey, Patrick Sanders, and Nancy Brown. Judge Patrick L. Carroll III was unable to attend.

The meeting was called to order at 3:10 p.m.

- 1.) Chairman Howard welcomed the members to the first meeting of the Subcommittee.
- 2.) Discussion of the charge: The subcommittee members were provided with a copy of the charge, as explained by the Co-Chairman of the Judicial-Media Committee, The Hon. Douglas S. Lavine. Chairman Howard said the subcommittee's charge is to collect relevant information and recommend a proposed rule for the audio recording of court proceedings by members of the public. Judge Lavine encouraged the subcommittee, in an e-mail to Chairman Howard, to consider the collateral issues that will likely arise in considering such a rule, but to try to keep focused on the larger Judicial-Media Committee's desire.
- 3.) Review of Branch rules and court reporter policies on audio recordings: Chairman Howard distributed a letter that was sent to the co-chairs of the Judicial-Media Committee from Chief Justice Chase T. Rogers, responding to a 2007 survey of journalists and judges. In response to a number of suggestions to the Branch by the Judicial-Media Committee, the Chief Justice said that many of the suggestions are currently being addressed by the Branch through the implementation of its Strategic Plan.

One of the suggestions by the Judicial-Media Committee was that copies of court reporters' audio recordings of court procedures be made available for purchase, in the same manner as written transcripts. The Chief Justice indicated that legislative changes would be required and possible changes to union contract rights, which could be considered in the future, but that this issue was not one of the Branch's current priorities.

The committee received copies of current state statutes that govern audio recordings. Ms. Brown, who is a Program Manager with the Branch's Court Transcript Services unit, said she informally polled court reporters about the idea of making available to the public copies of the recordings. The court reporters had several concerns, Ms. Brown said, including whether such recordings could be manipulated after purchase and whether someone would attempt to create unofficial transcripts based on what they hear on a recording.

At the request of the subcommittee, Ms. Brown will furnish those comments in written form to the committee prior to the next meeting. Ms. Brown said some court reporters also expressed concern with members of the public bringing in tape recorders. Among the issues the court reporters are concerned with is the possibility that sidebars and other confidential conferences between judges and attorneys, attorneys and attorneys, and defendants and their attorneys could be recorded.

The committee also discussed Connecticut Practice Book Rule 1-10, which governs recording in the state Supreme, Appellate, and Superior courts. Mr. Scheffey, of the Connecticut Law Tribune, said he believes the rules allow recording in courtrooms with a judge's permission.

4.) Review and discussion of relevant court cases: The subcommittee received copies of the Appellate Court and Superior Court decisions in *Fromer vs. Freedom of Information Commission*, which related to the request of a plaintiff to listen to and/or buy copies of an audio recording in his civil lawsuit.

5.) Policies of other states: The subcommittee received from Judicial Branch support staff information about Connecticut and other states' policies on public recording of proceedings. Those states include Arizona, California, Georgia, Maine, New Hampshire, New Jersey, North Carolina, Ohio and Vermont. Some of these states allow the public to use personal tape recorders for note-taking purposes, others allow media members to use them for note taking, and still others say recorders can be used with the judge's permission.

There was vigorous discussion among the members about the various policies, and what this subcommittee may want to recommend. Judge Gold said that the current taping rules governing the media are specific and this group should consider for the public rules governing requests, penalties for non-compliance, and other concerns. Some members expressed concern about the public taping confidential or off-the-record conversations, and wondered what kind of technology currently exists in the form of small tape recorders. Mr. Sanders, News Manager of the Hartford bureau of The Associated Press, agreed to provide to the committee by its next meeting information about the most up-to-date recorders.

6.) Timeline for recommendation to the Rules Committee and the Judicial-Media Committee: The subcommittee expressed its desire to send a proposed rule to the Judicial-Media Committee by its April 13 meeting.

7.) Additional issues: Based on the information discussed at the meeting and the members concerns, the subcommittee will at its next meetings review recording technologies; court reporter concerns and contracts; retention rules for court-reporter made recordings; what other Branch committees may be doing with regards to access to electronically recorded copies of court proceedings; the number of typed transcripts created in each of the last two to three years.

8.) Schedule future meetings: The subcommittee agreed to meet on Monday, February 23, 2009, at 1:00 p.m., and Monday, March 9, 2009, at 1:00 p.m. The meetings will be at 90 Washington Street, Hartford, Conn., and are open to the public.

Submitted by: Heather Nann Collins, Staff Support
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