

**Minutes of  
The Subcommittee on Audio Recording of Court Proceedings  
Monday, March 9, 2009**

The Subcommittee on Audio Recording of Court Proceedings met at 1 p.m. in the fourth-floor conference room at 90 Washington Street, Hartford, Connecticut.

In attendance: Atty. Charles Howard (Chair), Hon. David P. Gold, Nancy Brown, Thomas B. Scheffey.

Guests: Atty. Joseph Del Ciampo, Branch Legal Services. Two members of the public, John Brandon, and Local 749, AFSCME, AFL-CIO Representative Tricia Cardin, also were in attendance.

Chairman Howard called the meeting to order at 1:22 p.m.

I. The minutes of the February 23, 2009 meeting were approved.

II. Discussion of possible rule on audio recordings by the public: Mr. Howard distributed copies of five e-mailed letters that he has received from court reporters opposing any rule that would allow any member of the public and/or members of the media to make personal recordings of court proceedings.

Mr. Howard acknowledged the two members of the public who wished to address the Subcommittee, Mr. Brandon and Ms. Cardin.

Mr. Brandon said that he has been a court reporter since 1975 and expressed concern that allowing the public to bring their own tape recorders into courtrooms would “open a Pandora’s Box.” He believes that trained court reporters are better able to monitor and interpret proceedings because they have been specially trained to process what they hear and accurately transcribe it, Mr. Brandon said. Court reporters must also pass certain testing in order to become certified, he said.

Ms. Cardin expressed similar sentiments, indicating that the court reporter and court monitor members of Local 749 oppose allowing personal recording of court proceedings. Ms. Cardin said such a proposal would have an impact on collective bargaining. There are currently 197 full- and part-time court monitors and court reporters who are represented by the union.

Ms. Cardin also stated that the members of Local 749 worry that “unofficial” recordings of court proceedings could lead to discipline against union members if they are unable to hear something and produce a transcript that reflects that (as inaudible),. Ms. Cardin also expressed the union members’ concerns that the public would possibly try to record off-the-record conversations, sidebars, and private conversations between attorneys and clients, and that such privileged communication could be “reported” to the public.

The Subcommittee members then moved on to their discussion about a possible rule.

The members received a copy of an article written by Mr. Scheffey for his employer, The Connecticut Law Tribune, about a pilot program in some federal courts where proceedings are being digitally recorded. The digital recordings are available for purchase on compact disks, for \$26, or may be downloaded through the federal PACER system for \$0.08, regardless of length. Mr. Scheffey told the members that the CDs and audio downloads are not official records or official transcripts of those proceedings, and that he believes the program has resulted in additional requests for copies of paper transcripts.

Mr. Howard noted that the Subcommittee received a response from the California Court System's public information officer about that state's policy on personal recorders. It appears that California is the only state to allow the devices to be used by the public for personal use. The spokesman said in an e-mail that there have been no problems reported with the rule, and that there have been no reports of manipulation of personal recordings or public postings of such recordings to Internet sites such as YouTube. Most tape recordings made by individuals for personal use appear to be made by parties to the proceedings, because it saves them from having to buy transcripts, the spokesman said.

The members discussed the pros and cons of allowing or making a rule to expand the existing rule to allow personal recordings.

Ms. Brown is opposed to such a practice. She said her concerns include people making recordings and then typing transcripts from the recordings and passing them off as official transcripts.

Mr. Howard said that while he might be able to support such a rule, he would want there to be further articulation as to what the existing Practice Book Rule 1.10 allows.

Mr. Scheffey generally favors audio recording by the public and said that average people, including news reporters, do not have infinite time or infinite money to allow them to purchase written transcripts.

Mr. Scheffey also pointed out that in cases that are currently being recorded by the media in the Hartford Superior Court pilot program, there have been no reports of problems and that people understand those recordings are not official records.

Judge Gold questioned whether anyone believes that all court proceedings should be open to personal recording, including sex assault or other sensitive proceedings, and whether those recordings could be freely distributed to others or to Internet sites where they could be manipulated or used to embarrass the parties to the proceedings.

There was no consensus between the subcommittee members on articulating a rule. The members said they want to consider input from the absent members, Judge Carroll and Mr. Sanders.

Mr. Howard suggested that rather than drafting a proposed rule, it may make more sense to prepare a report to present to the Judicial-Media Committee reflecting the concerns on all sides of the issue may be more appropriate.. Mr. Howard asked the members to articulate their thoughts and send them to him. There appeared to be agreement to consider this approach. If so, he volunteered to work with support staff to try to prepare such a report. Before any

such report can be finalized, however, the committee felt that it would be important to have another meeting at which Judge Carroll and Mr. Saunders could be present. The subcommittee decided to hold another meeting later this month. The date and time will be posted on the subcommittee's website.

**III.** The meeting was adjourned at 2:37 p.m.