

THE JUDICIAL BRANCH PUBLIC ACCESS TASK FORCE

SEPTEMBER 15, 2006



THE JUDICIAL BRANCH PUBLIC ACCESS TASK FORCE MISSION

*The mission of the task force is
to make concrete recommendations
for the maximum degree of public access
to the courts, consistent with the needs
of the courts in discharging their core
functions of adjudicating and managing cases.*





STATE OF CONNECTICUT
SUPREME COURT

CHAMBERS OF
RICHARD N. PALMER
JUSTICE

DRAWER N, STATION A
HARTFORD, CT 06106

September 15, 2006

Honorable David M. Borden
Senior Associate Justice
Supreme Court
State of Connecticut
231 Capitol Avenue
Hartford, CT 06106

Dear Justice Borden:

It is my pleasure to present you with the final report of the Judicial Branch's Public Access Task Force.

The proposals contained in the report reflect the mission of the Task Force, namely, to make concrete recommendations for the maximum degree of access to the courts consistent with the needs of the courts in discharging their core functions of adjudicating and managing cases. I trust that you will find that our recommendations are consistent with that mission.

The members and staff of the Task Force worked diligently and cooperatively to discharge their responsibilities in a timely yet thorough manner. Although we worked long hours, our participation was extremely rewarding. On behalf of the Task Force membership, I thank you for the opportunity to contribute to such an important project.

Very truly yours,

A handwritten signature in dark ink, appearing to read "R.N. Palmer".

Richard N. Palmer
Chairman, Public Access Task Force

Enclosure

***Connecticut Judicial Branch
Public Access Task Force***

Final Report

September 15, 2006

Contents of the Report

Members of the Task Force

Committee Membership

Chapter 1	Introduction
Chapter 2	Task Force Recommendations
Chapter 3	Final Report of the Committee on Access to Judicial Branch Meetings and Administrative Records
Chapter 4	Final Report of the Committee on Access to Court Records
Chapter 5	Final Report of the Committee on Access to Judicial Proceedings
Chapter 6	Task Force Votes with Minority Statements

CONNECTICUT JUDICIAL BRANCH
PUBLIC ACCESS TASK FORCE

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Hon. Richard N. Palmer
Associate Justice
Connecticut Supreme Court

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Judge, Superior Court

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Dr. William J. Cibes, Jr.
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Mr. Patrick Sanders
Connecticut News Editor
Associated Press

Hon. Barry Stevens
Judge, Superior Court

TASK FORCE COMMITTEES

Committee on Access to Court Records

Hon. Jon Alander, co-chair
Ms. Heather Nann Collins, co-chair
Dr. William J. Cibes, Jr.
Hon. Patrick Clifford
Hon. Julia DiCocco Dewey
Ms. Alaine Griffin
Hon. Douglas Lavine
Hon. Aaron Ment

Committee on Access to Judicial Proceedings

Attorney Aaron Bayer, co-chair
Mr. Patrick Sanders, co-chair
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Ms. Erin Cox
Hon. Douglas Lavine
Mr. Ken Margolfo
Hon. Barbara Quinn

Committee on Access to Judicial Branch Administrative Records and Meetings

Hon. Aaron Ment, co-chair
Attorney Alan Neigher, co-chair
Attorney Aaron Bayer
Hon. William A. Lavery
Mr. Zach Lowe
Hon. Barry Stevens

INTRODUCTION

“... we in the Judicial Branch require the trust and confidence of the public for us to do our job properly and effectively -- for us to render our judgments and manage the people's judicial business, not only fairly and impartially in fact, but fairly and impartially in appearance...”

Senior Associate Justice David M. Borden
Remarks at the Opening Meeting of the Task Force
May 25, 2006

THE TASK FORCE

The Judicial Branch Public Access Task Force was appointed by Senior Associate Justice David M. Borden in May, 2006. The mission of the Task Force is to make concrete recommendations for the maximum degree of public access to the courts, consistent with the needs of the courts in discharging their core functions of adjudicating and managing cases. Senior Associate Justice Borden appointed Associate Justice Richard N. Palmer as chair of the Task Force, and appointed individuals with various backgrounds to participate in the Task Force as members. Included on the Task Force were representatives from the print and electronic media, trial and appellate court judges representing civil, family, criminal, juvenile, and appellate divisions of the Judicial Branch, a former chancellor of the state university system, and attorneys with an expertise in First Amendment law. Each individual member brought a unique perspective to the analysis and extensive discussion of the issues facing the Task Force while being open to the concerns and experiences of other members. As a result, many of the recommendations from the committees that formed the basis for the Task Force recommendations were adopted by consensus.

THE PROCESS

The Public Access Task Force held its first meeting in the Supreme Court courtroom on May 25, 2006. Subsequent meetings of the Task Force were held at that location on June 15, 2006, August 10, 2006, August 24, 2006, and September 11, 2006. All of these meetings were open to the public; agendas for each meeting were posted on the Public Access Task Force website prior to each meeting, and minutes were similarly posted after each meeting. From its inception, the Task Force and its committees sought and received written comments from members of the public. The Task Force also benefited from the input received from individuals who attended committee meetings.

Each committee reviewed and discussed the issues raised at the first Task Force meeting. Specific recommendations were prepared and submitted to the full Task Force in draft committee reports. All committee agendas, minutes, working papers and reports were posted to the web site in the same manner as those of the full Task Force. On August 10, 2006, these draft committee reports were first considered by the full Task Force. Revised reports were posted and distributed for the Task Force meeting on August 24, 2006, and final committee reports were distributed and posted on September 1, 2006.

On August 24, 2006, September 5, 2006, and September 7, 2006, the Task Force convened in the Supreme Court courtroom in Hartford, at the Middlesex Superior Court, and in Memorial Hall at the Supreme Court in Hartford, respectively, to receive formal public testimony. Both written and oral comments were received from individuals representing diverse interests, including those whose contact with the court system was related to their business or profession as well as those whose involvement with the courts was of a personal nature. The

comments and concerns expressed at these hearings were circulated among all members of the Task Force. All comments, whether submitted at the public hearings or through email or mail were considered by the Task Force and the committees in the course of their discussions.

THE REPORT

The Task Force report contains recommendations which were, in large part, a result of the work of the three committees: Access to Judicial Meetings and Administrative Records, Access to Court Records, and Access to Judicial Proceedings. Each committee report forms a chapter of this Task Force Report following the chapter detailing the recommendations acted on by the Task Force as a whole. To fully document the extensive discussions and reflect the diversity of viewpoints and opinions, the minutes and working documents reviewed and considered by these committees are posted on the Task Force web page of the Judicial Branch web site, and are available upon request. The Task Force recognized that, given the time constraints under which it was operating, it would not be possible for it to study and make recommendations on all issues. Therefore, the committees and the Task Force have identified certain areas and concerns for further review and consideration. Some of the issues deferred for further study are the development and implementation of education programs for Judicial Branch staff, the public, and the media regarding access policies governing records and proceedings, the consideration of security and privacy concerns of litigants, witnesses, jurors, and victims in connection with remote electronic access to proceedings and documents, and study of the difficulties and costs citizens face in getting copies of judicial documents.

GUIDING PRINCIPLES

At the first meeting of the Task Force, the members collectively identified numerous issues to be addressed by the committees. Each committee included among its membership representatives of the Task Force as a whole, but of necessity could not include all Task Force members. A suggestion was brought forward at the second Task Force meeting to adopt guiding principles that would set forth a common framework for the work of each committee when addressing the issues allocated to each group for consideration. The full Task Force accepted this suggestion and accordingly sought to articulate certain general principles to guide its committees and members when recommending changes in laws and policies. The principles are as follows:

1. All court records, judicial proceedings, judicial branch meetings, and administrative records are presumed open.
2. Public access to all court records, judicial proceedings, judicial branch meetings, and administrative records should be limited only if there is a compelling reason to do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the compelling interest at issue.
3. There should be an expeditious and open process for resolving disputes regarding access to all court records, judicial proceedings, judicial branch meetings, and administrative records.
4. There should be clearly defined guidelines that are universally applied regarding public access to all court records, judicial proceedings, judicial branch meetings, and administrative records.

SUMMARY OF RECOMMENDATIONS

The specific details of the recommendations may be found in the chapters that follow, but a brief, non-comprehensive summary of those recommendations is provided here.

- Adopt a definition of “meeting”
- Provide access to the Rules Committee of the Superior Court, the Appellate Court Rules Committee, and the Annual Meeting of the Judges, among others
- Provide notice of the time, place, and agenda of meetings on Judicial Branch Internet
- Provide for convening of a closed session under specific circumstances
- Amend current rules to allow broadcasting, televising, recording, or photographing of Judicial Branch meetings open to the public and scheduled in court facilities
- Adopt a definition of “Administrative Record”
- Confirm that attendance records of judges are open to the public
- Retain current policy on access to Judicial Performance Evaluation records
- Establish procedure for handling complaints received by the Judicial Branch regarding a particular judge
- Adopt a comprehensive policy on access to court records
- Amend the Judicial Branch Mission Statement
- Provide online access to the daily criminal docket
- Review and revise Judicial Branch forms with respect to identity theft
- Provide online access to criminal conviction information
- Revise form for sealing of arrest warrant affidavits
- Revise procedure for sealing of search warrant affidavits
- Provide access to police reports used in determining probable cause
- Adopt a written policy allowing handheld scanners
- Suggest the legislature review the sealing of case files involving pretrial diversion programs
- Provide online access to pending criminal case information
- Revise procedure for handling competency evaluations
- Provide access to alternate incarceration assessment reports if the plan is granted
- Eliminate sealing requirement for financial affidavits in family matters
- Expand electronic media access to the Supreme and Appellate Courts
- Implement a pilot program for electronic media access to criminal proceedings
- Revise current rules on electronic media access to civil proceedings
- Adopt definition of “media”
- Provide a record of off-site judicial proceedings
- Confirm note-taking policy
- Create a Judicial–Media Committee
- Provide for evaluation process of implementation of recommendations

Recommendations for further study

- Development of a procedure permitting non-parties' intervention in a case to seek or restrict access to information
- Development of a policy on the scope and manner of remote electronic access to court records
- Development of a policy on the administrative waiver of fees for copies for an indigent individual
- Development of ways to reduce the cost and difficulty of obtaining documents and transcripts
- Development of a policy on requests for bulk distribution of information contained in court records
- Development of a policy/rule on the correction of inaccurate information in a court record
- Creation of a retention schedule for all administrative records held by the Judicial Branch
- Expansion of access to proceedings in family and juvenile court
- Expansion of use of other media, including videoconferencing, streaming media and other Internet media for covering the courts
- Study expansion of media coverage of arraignments
- Development of education and training programs to apprise public of access rules and policies and to ensure staff compliance with policies and rules
- Consideration of security and privacy concerns of those affected by electronic coverage of judicial proceedings

TASK FORCE RECOMMENDATIONS

The Public Access Task Force is aware that the creation and implementation of any public access policy requires a balance of both the need for openness and transparency in order to foster public confidence in the integrity of the judicial process and the need to respect legitimate concerns of individual privacy, confidentiality, security, and constitutional rights. Any policy must address these concerns and be consistent with the overall mission of the Connecticut Judicial Branch to resolve matters brought before it in a fair, timely, and efficient manner. The Task Force also recognizes that any comprehensive and effective public access policy will require the involvement of the Executive, Legislative and Judicial Branches. Therefore, its recommendations include suggested legislative changes, administrative policy changes, and rule changes. The following recommendations were adopted by the Task Force; the final chapter of this report includes votes and, where submitted, minority statements.

First Recommendation:

Definition of meeting

- (a) For purposes of this provision, a “meeting” is defined as a hearing or other proceeding of (1) the Rules Committee of the Superior Court, (2) the Appellate Court Rules Committee, (3) the Annual Meeting of the Judges of the Superior Court, (4) the Executive Committee of the Superior Court, (5) a multi-member Judicial entity established by Practice Book rule, statute, or administrative authority of the Judges of the Superior Court, the Appellate Court, or the Justices of the Supreme Court or (6) any subcommittee of the foregoing bodies.
- (b) A meeting as defined in subsection (a) shall not include: any meeting of a personnel search committee for executive level employment candidates; any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business; strategy or negotiations with respect to collective bargaining; an administrative or staff meeting of a single-member committee or task force; and communications limited to notice of

meeting of any public agency or the agendas thereof. A quorum of the members of a committee included within the definition of a meeting in subsection (a) who are present at any event other than a meeting of the committee of which they are a member shall not be deemed to be at a meeting of that committee provided that no discussion of official business related to their committee occurs.

- (c) Except as otherwise provided by statute or Practice Book rule, any meeting as defined in subsection (a) shall be open to the public. Notice of the time and place of such a meeting, as well as a copy of the agenda for such a meeting, shall be posted on the Judicial Branch Internet website at least 48 hours in advance of the meeting.
- Applying the definition of “meeting”, the Task Force identified the following examples of committees that would be open to the public: Advisory Committee to Judicial Department Concerning Parenting Education Programs, Annual Meeting of the Judges, Appellate Court Rules Committee, Bar Examining Committee, Board of Examiners for Court Reporters, the Civil Commission, the Criminal Division Task Force, the Code of Evidence Oversight Committee, the E-Filing Judges’ Advisory Committee, the Executive Committee, the Law Library Advisory Committee, the Legal Internship Committee, the Legal Specialization Screening Committee, the State Advisory Council to the Office of Victim Services, and the Superior Court Rules Committee.

The Task Force further concluded that meetings or committees concerning the education and training of judges, such as the Judges’ Institute, judges’ education seminars, and the Education Committee should not be open to the public.

Second Recommendation:

Definition of Closed Session

- (a) Upon motion and a two-thirds vote of the members present and voting at a meeting, the members may go into closed session (1) for any purpose permitted

- by the Freedom of Information Act, or (2) if a public session would have a deleterious impact on debate or the receipt of information and thereby substantially impede the ability of the committee or entity to perform its duties. Any motion to go into closed session shall specify the permissible purpose, in accordance with the Freedom of Information Act, for the closed session, or the reason a public session would have a deleterious impact on debate or the receipt of information. The closed session should continue only so long as needed to serve those purposes.
- (b) No vote shall be taken at a closed session except as permitted pursuant to the Freedom of Information Act.
- (c) Examples of a public session that may have a deleterious impact on debate or receipt of information, and for which a closed session would be permissible under subsection (a), include, but are not limited to, situations where: (1) the information sought to be disclosed would invade “personal privacy” as that term has been construed in C.G.S. § 1-210(b), (2) disclosure or discussion of information would be likely to give a party to pending or impending litigation a procedural or tactical advantage, or (3) the members determine that their need for information is obtainable only on a promise of confidentiality and outweighs the public’s interest in attending the portion of the meeting at which the confidential information will be received or debated.

Third Recommendation:

Access to public meetings scheduled in court facilities

- Practice Book § 1-10 be amended to permit broadcasting, televising, recording, or photographing of Judicial Branch meetings that are open to the public and scheduled in court facilities. Members of the media attending a meeting with equipment for the purposes enumerated above may only use such equipment in connection with the meeting. A marshal shall ensure that the equipment is being utilized in accordance with this rule.

- A committee shall notify the administrative judge of the judicial district in which the court facility is located anytime a meeting is scheduled.
- Practice Book § 70-9 be amended to permit broadcasting, televising, recording, or photographing of Judicial Branch meetings that are open to the public and scheduled in court facilities. Members of the media attending a meeting with equipment for the purposes enumerated above may only use such equipment in connection with the meeting. A Supreme Court Police Officer or marshal shall ensure that the equipment is being utilized in accordance with this rule.

Fourth Recommendation:

Definition of Administrative Record

“Administrative Record” includes the following information maintained by the Judicial Branch (which, for purposes of this definition shall include any of its departments, offices, committees or panels) pertaining to the administration of the Judicial Branch with respect to, *inter alia*, its budget, personnel, facilities and physical operations which is not associated with any particular case and includes:

1. Summaries, indices, minutes and official records of any meeting of the Judicial Branch, and
2. Information maintained or stored by the Judicial Branch, not otherwise exempted, in all paper and electronic platforms and formats.

Fifth Recommendation:

Judges attendance records

Attendance records of judges are open to the public

Sixth Recommendation:

Judicial Performance Evaluations

The statute governing access to Judicial Performance Evaluation records, currently available to members of the General Assembly's Judiciary Committee and to members of the Judicial Selection Commission, should not be amended.

Seventh Recommendation

Complaints received by the Judicial Branch regarding a particular judge:

All complaints received by the Office of the Chief Court Administrator regarding the conduct of a judge shall be reviewed by the Chief Court Administrator to determine if there is reason to believe that the allegations warrant further investigation by the Judicial Review Council. If the allegations so warrant, the complaint shall be forwarded to the Judicial Review Council, and shall thereafter be governed by the statutes governing such complaints.

In those instances where the complaint is without merit, is properly the subject of review through an existing adjudicatory procedure (such as an appeal, where the complaint concerns a decision made by a judge in litigation), or is otherwise not within the purview of the Office of the Chief Court Administrator, such complaint shall not be open.

Complaints that warrant administrative action, but do not rise to a level that is appropriate for a referral to the Judicial Review Council, such as letters of admonishment, should continue to be handled in a manner consistent with C.G.S. § 51-45a. As provided in that statute, any such action taken by the Chief Court Administrator shall become a part of any performance evaluation record of the judge, and shall be disclosed pursuant to statutes governing the release of performance evaluations.

Eighth Recommendation

Retention schedule for Administrative Records

The Chief Court Administrator be charged with creating a retention schedule for all administrative records held by the Judicial Branch.

Ninth Recommendation

Adoption of a policy on Access to Court Records

The Judicial Branch shall adopt the following policy on Access to Court Records.

Section 1.00 – Purpose of the Policy

- (a) The purpose of this policy is to provide a comprehensive policy on public access to court records.
- (b) This policy is intended to provide guidance to 1) litigants, 2) those seeking access to court records, and 3) judges, clerks, and court personnel responding to requests for access.

Section 2.00 – Who Has Access Under This Policy

Every member of the public will have the same access to court records as provided in this policy, except as provided in section 4.30 (b) and 4.40 (b).

- (a) “Public” includes:
 - 1. any person and any business or non-profit entity, organization or association;
 - 2. any governmental agency for which there is no existing policy defining the agency’s access to court records;
 - 3. media organizations; and
 - 4. entities that gather and disseminate information for whatever reason, regardless of whether it is done with the intent of making a profit, and without distinction as to nature or extent of access.
- (b) Nothing in this policy is intended to alter substantively access to court records by the following:
 - 1. Judges, clerks, or court employees;

2. People or entities, private or governmental, who assist the court in providing court services;
3. Public agencies whose access to court records is defined by another statute, rule, order or policy; and
4. The parties to a case or their lawyers regarding access to the court record in their case.

Section 3.10 – Definition of Court Record

For purposes of this policy:

(a) “Court Record” includes:

- (1) Any document, information, or other item that is collected, received, or maintained by a court or clerk of court in connection with a judicial proceeding;
- (2) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created by or prepared by the court or clerk of the court that is related to a judicial proceeding;

(b) “Court Record” does not include:

- (1) Information gathered, maintained or stored by a governmental agency or other entity to which the court has access but which is not part of the court record as defined in Section 3.10 (a) (1);
- (2) Records representing judicial work product, including but not limited to notes, drafts, memoranda, or research prepared by a judge or prepared by other court staff on behalf of a judge.
- (3) Confidential notes prepared by a clerk or other court employee.
- (4) Administrative records, which includes the following information maintained by the Judicial Branch (which, for purposes of this definition, shall include any of its departments, offices, committee, or panels) pertaining to the Administration of the Judicial Branch with respect to, *inter alia*, its budget, personnel, facilities and physical operations which is not associated with any particular case and includes (a) summaries, indices, minutes and official records of any proceeding of the Judicial Branch, and (b) information maintained or stored by the Judicial Branch, not otherwise exempted, in all paper and electronic platforms and formats.

Section 3.20 – Definition of Public Access

“Public access” means that the public may inspect and obtain a copy of the information in a court record, including a copy obtained by use of a scanner, provided such use is not disruptive to the clerk’s office or to the file itself.

Section 3.30 – Definition of Remote Access

“Remote Access” means the ability to electronically search, inspect, or copy information in a court record without the need to physically visit the court facility where the court record is maintained.

Section 4.00 – Applicability of Rule

This policy applies to all court records, regardless of the physical form of the court record, the method of recording the information in the court record or the method of storage of the information in the court record.

Section 4.10 – General Access Rule

- (a) Information in the court record is accessible to the public except as prohibited by Section 4.60 or Section 4.70 (a).
- (b) There shall be a publicly accessible indication of the existence of information in a court record to which access has been prohibited, which indication shall not disclose the nature of the information protected.

Section 4.20 – Court Records in Electronic Form Presumptively Subject to Remote Access by the Public

The following information in court records should be made remotely accessible to the public if it exists in electronic form, unless public access is restricted pursuant to Section 4.60 or 4.70 (a):

- (a) Litigant/party indices to cases filed with the court;
- (b) Listings of new case filings, including the names of the parties;
- (c) Case detail information for civil and family cases showing what documents have been filed in a case;
- (d) Calendars or dockets of court proceedings, including the case number and caption, date and time of hearing, and location of the hearing;
- (e) Entry of judgments, orders, or decrees in a civil or family case; and

- (f) Conviction information.

[NOTE: Nothing in this section is intended to address or authorize remote access by the public to court files generally because such access involves complex issues that require further study and must be addressed by the Judicial Branch separately.]

Section 4.30 – Requests for Bulk Distribution of Court Records

Bulk distribution is defined as the distribution of all, or a significant subset, of the information in court records, as is and without modification or compilation.

[NOTE: The development of specific policies regarding requests for bulk distribution of court records is a long-term project that is reserved for further study.]

Section 4.40 – Access to Compiled Information From Court Records

- (a) Compiled information is defined as information that is derived from the selection, aggregation or reformulation by the court of some of the information from more than one individual court record.
- (b) Any member of the public may request compiled information that consists solely of information that is publicly accessible and that is not already available pursuant to section 4.20 or in an existing report. The court may compile and provide the information if it determines, in its discretion, that providing the information meets criteria established by the court, that the resources are available to compile the information and that it is an appropriate use of public resources.
- (c) (1) Compiled information that includes information to which public access has been restricted may be requested by any member of the public only for scholarly, journalistic, political, governmental, research, evaluation, or statistical purposes.
 - (2) The request shall:
 - (i) Identify what information is sought
 - (ii) Describe the purpose for requesting the information and explain how the information will benefit the public interest or public education, and
 - (iii) Explain provisions for the secure protection of any information requested to which public access is restricted or prohibited.
 - (3) The court may grant the request and compile the information if it determines that doing so meets criteria established by the court and is consistent with the purposes of the access policy, the resources are available to compile the information, and that it is an appropriate use of public resources.

- (4) If the request is granted, the court may require the requestor to sign a declaration that:
 - (i) The data will not be sold or otherwise distributed, directly or indirectly, to third parties, except for journalistic purposes,
 - (ii) The information will not be used directly or indirectly to sell a product or service to an individual or the general public, except for journalistic purposes, and
 - (iii) There will be no copying or duplication of information or data provided other than for the stated scholarly, journalistic, political, governmental, research, evaluation, or statistical purpose.

Section 4.60 – Court Records Excluded from Public Access

The following information in a court record is not accessible to the public:

- (a) Information that is not to be accessible to the public pursuant to federal law;
- (b) Information that is not to be accessible to the public pursuant to state law, court rule, or case law, including but not limited to:
 - (1) Records maintained in juvenile matters
 - (2) Health and medical information filed with the court pursuant to P.B. sec. 7-18, 15-4, and 25-55.
 - (3) Files/documents sealed by court order
 - (4) Lodged records, P.B. §§7-4C, 77-2
 - (5) Family Division evaluations, studies and reports, P.B. §25-60, C.G.S. §46b-38c
 - (6) Records related to pretrials, mediations, settlement negotiations and plea bargaining, including attempts at reconciliation in action for dissolution, separation, annulment, C.G.S. §46b-10, conciliator records, C.G.S. §46b-53, mediation program records, C.G.S. §46b-53a and non-court ordered mediation, C.G.S. §52-235d, unless such records are filed with the court during a public hearing or trial of the case.
 - (7) Discovery documents or objects subpoenaed into Court pursuant to P.B. §40-2
 - (8) Personal residence addresses of police or correction officer when a witness in a criminal case, P.B. §40-13
 - (9) Record of In Camera Proceeding (criminal), P.B. §40-42
 - (10) Return of Deposition (criminal), P.B. §40-53
 - (11) Presentence investigation reports and assessments, P.B. §§43-7 to 43-9, C.G.S. §§54-91b, 54-142g(a)
 - (12) Erased records, C.G.S. §54-142c

- (13) Youthful offender records, C.G.S. §§54-76c, 54-76l, 54-76o
- (14) Requests for nondisclosure of location information (family), C.G.S. §46b-115s
- (15) Nondisclosure of location/identifying information (support), C.G.S. §46b-212x
- (16) Juror questionnaire, C.G.S. §51-232

[NOTE: Nothing in this policy is intended to change the current policy of the Judicial Branch which is to provide public access to the name and town of the juror.]

- (17) Civil deposition for purposes of preserving the testimony of a witness, C.G.S. §52-156
- (18) Wiretap records, C.G.S. §§54-41a, et seq.
- (19) Record of grand jury proceedings, C.G.S. §§54-45, et seq.
- (20) Information, files and reports held by Court Support Service Division under C.G.S. §54-63d
- (21) Witnesses receiving or considered for receipt of protective services, identity and location, C.G.S. 54-82t
- (22) Name, address and identifying information of sexual assault victim, C.G.S. §54-86e
- (23) HIV information and testing, C.G.S. §§54-102a, 54-102b, 54-102c
- (24) Nonconviction information, C.G.S. §§54-142k, 54-142m, 54-142n
- (25) Motion for leave to withdraw appearance of appointed counsel under Practice Book § 23-41
- (26) Privileged communications pursuant to statute or case law
- (27) OVS records (C.G.S. §§ 54-203(b)(7)(J), 54-204, 54-228, and 54-230)
- (28) Sex offender registry name of victim (C.G.S. § 54-258)
- (29) Records of proceedings pursuant to Practice Book Sec. 2-56 (Grievance Proceedings – Inactive Status of Attorney)

Section 4.70– Request to Prohibit Public Access to Information in Court Records or to Obtain Access to Restricted Information

- (a) Information in a court record may be sealed by court order pursuant to P.B. §§ 11-20A, 25-59A, 36-2 and 42-49A or as otherwise provided by law
- (b) A party to a case may file a request to prohibit public access to information in a court record or to obtain access to sealed information in a court record pursuant to P.B. §§ 7-4B, 11-20A, 25-59A, 36-2 and 42-49A or as otherwise provided by law.
- (c) A non-party has a right to oppose a party's request to seal information pursuant to P.B. §§ 7-4B, 11-20A, 25-59A, 36-2 and 42-49A or as otherwise provided by law.

[NOTE: The process by which a non-party may intervene in a court case in order to be heard on an issue of public access to information in a court record requires further study by the Judicial Branch.]

Section 5.00–When Court Records May Be Accessed

- (a) Court records will be available for public access in the courthouse during hours established by the court. Court records in electronic form to which the court allows remote access under this policy will be available for access at least during the hours established by the court for courthouse access, subject to unexpected technical failures or normal system maintenance announced in advance.
- (b) Upon receiving a request for access to information, the court will respond within a reasonable time regarding the availability of the information and provide the information within a reasonable time. If a request for access is denied, a reason for the denial shall be provided.

Section 6.00–Fees for Access

The Office of the Chief Court Administrator may charge a reasonable fee for access to court records or for compiled information, but the Judicial Branch shall adopt a policy on waiving such fee when the person seeking such access or information is an indigent individual.

Section 7.00–Information and Education Regarding Access Policy

Section 7.10–Dissemination of Information to Litigants about Access to Information in Court Records

The Office of the Chief Court Administrator will advise litigants and the public that court records containing personal information are accessible to the public and will further advise litigants and the public as to the procedure for requesting restriction on the manner of access or for prohibiting such public access.

Section 7.20 – Dissemination of Information to the Public about Accessing Court Records

The Office of the Chief Court Administrator will develop and distribute to the public information about how to obtain access to court records.

Section 7.30–Education of Judges and Court Personnel about an Access Policy

The Office of the Chief Court Administrator will educate Judicial Branch personnel about the access policy and train such personnel to comply with the policy so that all such

personnel respond to requests for access to information in the court record in a manner consistent with this policy.

The Office of the Chief Court Administrator shall insure that all judges are informed about the access policy.

Tenth Recommendation

Amend the Judicial Branch Mission Statement

The Task Force recommends that the Judicial Branch add the word “open” to its mission statement. The proposed mission statement would read: “It is the mission of the Connecticut Judicial Branch to resolve matters brought before it in a fair, timely, open and efficient manner.”

Eleventh Recommendation

Post criminal docket information online

The criminal docket, including docket number, defendant’s name, date of birth, and charges, shall be publicly accessible online as soon as it is available and shall remain available until the next posting. If the Judicial Branch determines that there is a serious risk of identity theft in putting the date of birth online, then the Task Force recommends that the Judicial Branch post a redacted version of the birth date, such as a listing of only the month and year of birth.

Twelfth Recommendation

Review Judicial Branch-issued forms in connection with potential identity theft

In order to lessen the likelihood of identity theft, the Task Force recommends that the Judicial Branch insure that its forms do not request social security numbers, financial account numbers, or other information which may likely lead to identity theft unless such information is necessary for the adjudicatory process.

Thirteenth Recommendation

Post criminal conviction information online

All criminal conviction information shall be made available to the public via the Judicial Branch's website. Such conviction information shall include charges and all other information currently contained in the monthly reports sold by the Judicial Branch Information Technology Division, except that operator license numbers and defendant addresses shall not be publicly available online. Conviction information should be searchable by defendant's name, date of birth, and docket number. The information which would be posted on the web includes the following: docket number of case, defendant's name, arrest date, charges, and disposition including any fines, jail time and probation time imposed by the court. If the Judicial Branch determines that there is a serious risk of identity theft in putting the date of birth online, then the Task Force recommends that the Judicial Branch post a redacted version of the birth date, such as a listing of only the month and year of birth. Conviction information relating to misdemeanors shall not be available through the judicial branch website or otherwise online after five years from the date of the conviction.

Fourteenth Recommendation:

Revise form for sealing of arrest warrant affidavits

To insure that it is clear as to the date a sealing order terminates, the form requesting the sealing of an arrest warrant affidavit shall be revised to require the insertion by the judge when signing the order of a specific date for the termination of the sealing order.

Fifteenth Recommendation:

Revise procedure on continued sealing of search warrant affidavits

Following an arrest, all requests to extend any order sealing or limiting the disclosure of search warrant affidavits must be done on the record for stated reasons as set forth in Practice Book Sec. 42-49A or for good cause shown. Depending on the circumstances,

an oral representation by the State's Attorney that (1) the personal safety of a confidential informant would be jeopardized, (2) the search is part of a continuing investigation which would be adversely affected, or (3) the unsealing of the affidavits would require disclosure of information or material prohibited from being disclosed by chapter 959a (Wiretapping and Electronic Surveillance), may be sufficient to establish good cause. A request for an extension of such sealing or limited disclosure must be made to a date certain, with no single extension to exceed 90 days.

Sixteenth Recommendation:

Permit public access to police reports used in determining probable cause

Any police report used during a court hearing as the basis for a judicial determination regarding probable cause, whether or not probable cause has been found, shall be made part of the court file and available to the public, unless the court, on its own motion or on motion of any party, shall order, for good cause shown, all or a portion of the report be sealed. If such a motion has been granted, the moving party may have up to seven days to make a recommendation as to the details of the sealing order. If no such recommendation is made, the report shall be made public.

Seventeenth Recommendation:

Implement written policy on handheld scanners

The Judicial Branch should adopt and implement a written policy permitting the use of handheld scanners to reproduce court documents provided such use is not disruptive to the clerk's office or the file itself.

Eighteenth Recommendation:

Access to certain pretrial diversion programs currently sealed upon application

The task force recommends that the legislature examine public accessibility of criminal files under the various pretrial diversionary programs with a view toward expanding public access to those files.

Nineteenth Recommendation:

Post certain case information regarding pending criminal cases online

Other than the criminal docket, the Judicial Branch cannot make available online additional information concerning pending criminal cases, as it does for civil and family cases, because a pending criminal case file may be statutorily sealed upon the filing of an application under certain pretrial diversionary programs. If and when the Legislature allows public access to pretrial diversionary programs, then the Judicial Branch should make pending criminal case information publicly accessible online. The information which will be made public in pending criminal cases should include the following: the case name, the docket number, and the charges.

Twentieth Recommendation:

Availability of competency evaluations

The Task Force recommends that competency evaluations completed pursuant to C.G.S. § 54-56d shall be maintained under seal, and their contents shall not be revealed to the press or the public except if and to the extent that any participant in the competency hearing relies upon them as a basis for his or her testimony, questioning to witnesses, arguments to the court or judicial findings at the hearing. The judge shall state on the record the reasons for any such findings.

Twenty-first Recommendation:

Access to alternate incarceration assessment reports

Alternate incarceration assessment reports shall be made available to the public if an alternate incarceration plan is granted by the Court.

Twenty-second Recommendation:

Non-party intervention to seek or restrict access

The Task Force recommends further study of the issue of whether, and if so, how, non-parties should be able to intervene in a case in order to seek or restrict access to information.

Twenty-third Recommendation

Remote electronic access to court records

In light of the complex issues of privacy and security involved in providing remote access by the public to court files and the short period of time that the Task Force had available to it, the Task Force recommends the convening of a committee that is specifically charged with analyzing and making recommendations on remote access to court records and further recommends that remote electronic access to documents currently viewable through the e-filing system at this time continue to be limited to attorneys or firms with an appearance in the case in which such documents have been filed.

Twenty-fourth Recommendation:

Written policy on administrative waiver of copying fees

The Judicial Branch should adopt a written policy that allows for the administrative waiver of fees for copies for an indigent individual.

The Task Force further recommends study of the difficulties and costs citizens face in getting copies of judicial documents (e.g., photocopying documents in a file, getting transcript copies, etc.) , especially in light of the possible use of technology both to create and provide access to court records.

Twenty-fifth Recommendation:

Bulk transfer of information

The Judicial Branch should study the issues related to requests for bulk distribution of information contained in court records.

Twenty-sixth Recommendation:

Policy on correction of inaccurate information

The Judicial Branch should consider the development of a policy or court rule concerning the correction of inaccurate information in a court record.

Twenty-seventh Recommendation

Adopt a definition of “media” for purposes of recommendations on access to proceedings

The term "media" shall be defined as the term "news media" is defined in Sections 1, 2(A) and 2(B) of Public Act No. 06-140, "AN ACT CONCERNING FREEDOM OF THE PRESS" which states:

(2) “News media” means:

(A) Any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite or other transmission system or carrier, or channel or programming service for such station, network, system or carrier, or audio or audiovisual production company that disseminates information to the public, whether by print, broadcast, photographic, mechanical, electronic or any other means or medium;

(B) Any person who is or has been an employee, agent or independent contractor of any entity specified in subparagraph (A) of this subdivision and is or has been engaged in gathering, preparing or disseminating information to the public for such entity, or any other person supervising or assisting such person with gathering, preparing or disseminating information;....

Twenty-eighth Recommendation:

Consideration of issues in connection with implementation of the definition of “media”

Issues concerning the implementation of this definition shall be considered on an ongoing basis by the Judicial-Media Committee, upon the creation of such a Committee.

Twenty-ninth Recommendation:

Expand electronic access to the Supreme and Appellate Courts

- All judicial proceedings in the Appellate and Supreme Courts should be presumed to be open to the public and to electronic coverage by the media.
- Unless a timely motion is made to limit or preclude the broadcasting, televising, videotaping, audio recording or photographing of an appellate proceeding by one of the parties or victims involved the case, or by the court on its own motion, all such proceedings may be so broadcast, televised, recorded or photographed. If such a motion is made, the Court shall determine, after providing an opportunity for the parties, victims and media to be heard on the issue, whether to preclude or limit electronic coverage of the proceeding, bearing in mind the “Guiding Principles” discussed above, including the principle that “public access to judicial proceedings should be limited only if there is a compelling reason to do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the compelling interest at issue.”

- A decision to close any appellate court argument to the public or limit or preclude electronic coverage of such a proceeding should itself be made openly, with the reasons for the decision stated on the record.
- The policy on the use of cameras should be revised to permit more flexibility in the placement, use (e.g., close-ups, split screens, informational graphics), and the number of cameras allowed, in order to more accurately depict the proceeding.
- In light of legitimate concerns and possible disruptions associated with numerous video cameras being set up and operated to record appellate proceedings, the Task Force recommends installation by CT-N of three permanently mounted, remotely operated video cameras, creating a feed or tape available to other networks and news media.
- The rules governing still photography in the Supreme and Appellate Courts should be reviewed in light of technological changes. The rule should permit one pool still photographer with adequate equipment that will not disrupt court proceedings.

Thirtieth Recommendation:

Pilot program on media access to criminal proceedings

- The Judicial Branch should establish a two-year pilot program in a single judicial district in which all types of media coverage of criminal proceedings would be permitted, in accordance with the principles and limitations set forth below.
- The Supreme Court's Judicial-Media Committee shall be charged with evaluating the pilot program and making recommendations for its expansion. It is anticipated that, based on the evaluation of the pilot program, the Superior Court judges will refine and extend the program to other districts. In the absence of any action by the judges, the pilot program will continue to operate in the pilot district.
- The selection of a Judicial District for the pilot program shall be based on the following considerations: the courthouse facilities (age of the buildings, their ability to accommodate the media technology involved, and security and cost concerns); the volume of cases and assignment of judges to that district, the likelihood of significant criminal trials of interest to the media in the district, the proximity of the district's courts to the major media organizations, and to CT-N if CT-N has an interest in

providing coverage, and the proximity of the courts to the Judicial Branch administrative offices. The following locations ought to be considered as possible locations for the pilot program: Bridgeport, Hartford, Middletown, New Britain, New Haven, New London, and Waterbury.

General Principle of Access

All forms of media, including still cameras, video cameras, and audio recordings, are to be allowed to cover all aspects of criminal trials and sentencing, subject to the rules and guidelines set forth below.

Rules for Coverage in Pilot Program

- The Judicial Branch will take appropriate steps to ensure that litigants, the press, the bar, the bench, staff, and the public are aware that any criminal trial and sentencing may be subject to media coverage including being broadcast, photographed, videotaped or audio-recorded. Absent good cause shown, the media shall provide advance notice of their intent to use still cameras, video cameras or audio recording, and the trial judge should, to the extent possible, consult in advance with the media about anticipated coverage of proceedings.
- Any party, attorney, witness or victim may object in advance of pre-trial proceedings, trial or sentencing to the use of cameras, video cameras, or audio recording if there is a substantial reason to believe that such media coverage would undermine the rights of a criminal defendant or significantly compromise a witness's safety or legitimate privacy concerns. The parties, as well as a witness or victim whose rights may be affected by electronic coverage of the proceedings, and the media, may participate in the hearing to determine whether to limit or preclude electronic coverage. The burden of proof will be on the person seeking to restrict electronic coverage.
- If no party, witness or victim objects to electronic coverage of a proceeding, the trial court may nonetheless propose to limit or preclude such coverage where the court reasonably believes that such coverage would undermine the legal rights of a party or

compromise legitimate concerns about security or about a person's safety or privacy. The court will provide notice to the parties and others whose interests may be directly affected by a decision on electronic coverage, including the media, so that they may participate in the hearing.

- The court will decide after a hearing whether to preclude or limit the use of cameras, video cameras, or audio recording, taking into account the rights asserted and bearing in mind the “Guiding Principles” adopted by the Judicial Proceedings Committee and the Task Force – in particular the principle that “Public access to judicial proceedings should be limited only if there is a compelling reason to do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the compelling interest at issue.” The court shall take into account special considerations that may arise, such as the testimony of children, alleged victims of sexual offenses, confidential informants and undercover officers. Neither agreement of the parties, nor a general statement by the court that it does not favor electronic coverage generally or in a particular category of cases, shall be sufficient to meet the standards articulated in the Guiding Principles for limiting or precluding electronic coverage.
- To the extent practicable, objections to the use of still cameras, video cameras and/or audio recordings, and the date, time, and location of the hearing on those objections, will be posted on the Judicial Branch web site, so that affected parties may attend the hearing.
- Objections made during the course of a pre-trial proceeding, trial or sentencing to photographing or video taping or audio recording specific aspects of the proceeding (e.g., testimony of a juvenile or sexual assault victim), specific individuals (e.g., sexual assault victims or witnesses whose identity is protected) or exhibits (e.g., autopsy photographs), will be heard and decided by the trial court, based on the same standards and principles used to determine whether to preclude or limit access based on objections raised before the start of a trial.
- Cameras, video cameras and audio recording equipment may be used in the courtroom, but not used in other parts of the courthouse.

- To ensure coverage and minimize disruption, pool representatives should ordinarily be utilized for video, still cameras and radio, with each pool representative to be decided by the relevant media group.
- Cameras, video cameras, microphones and other related equipment are to be placed in the courtroom in the location designated by the Judicial Branch to ensure maximum coverage of the proceedings while minimizing disruption. To minimize disruption, cameras, microphones, video cameras and related equipment may be set up and taken down only when the court proceedings are in recess. During a trial, operators of cameras and video cameras and audio recording equipment may be required to be present for the entire day's proceedings.
- There shall be no video taping, audio recording or photographing of jurors. There shall be no video taping or audio recording of trial proceedings held when the jury has been excused from the courtroom unless the trial court determines that such coverage does not create a risk to the defendant's rights or other fair trial risks under the circumstances.
- Nothing in this proposal is intended to eliminate the trial courts' existing authority to take reasonable measures to preserve order in the courtroom and to ensure a fair trial.

Thirty-first Recommendation:

Coverage of Arraignments

Expanding media coverage of arraignments should be the subject of additional inquiry – including further discussion with criminal judges and review of the experience of other states that allow media coverage of arraignments with limited restrictions – with additional recommendations to follow. In the interim, electronic coverage of specific arraignments may be considered on a case-by-case basis upon reasonable notice by the press (recognizing the last-minute nature of some arraignments), and that, to the extent practicable, judges should consult with the press to coordinate the logistics of such coverage.

Thirty-second Recommendation:

Media access to Superior Court civil proceedings and trials

Electronic media access shall be permitted for most civil proceedings and trials, in accordance with the principles and limitations set forth below.

General Principle of Access

All forms of media, including still cameras, video cameras, and audio recordings, are to be allowed to cover all aspects of civil proceedings and civil trials, subject to the rules and guidelines set forth below and subject to Practice Book Section 11-20 concerning closure of the courtroom in civil cases. This recommendation does not permit electronic media access to family relations matters or juvenile proceedings, proceedings and trials concerning trade secrets, and proceedings and trials now closed to the public, to comply with the provisions of state law, which the Task Force believes require further review and consideration.

Rules Governing Coverage of Civil Proceedings and Trials

- The Judicial Branch will take appropriate steps to ensure that litigants, the press, the bar, the bench, staff, and the public are aware that most civil proceedings and civil trials are subject to media coverage, including being photographed, videotaped or audio-recorded. Absent good cause shown, the media shall provide three days advance notice of their intention to broadcast, video-tape, photograph or audio-record such proceedings. The trial court should, to the extent possible, consult in advance with the media about anticipated coverage of proceedings.
- The Judicial Branch, in consultation with media representatives, will take appropriate steps to identify those courthouses and courtrooms within such courthouses within the state where there may be special logistical concerns about the placement and operation of media equipment. The Branch shall share such information with media representatives as well as with the judges sitting in such locations.

- Any party, attorney, witness or victim may object in advance of pre-trial proceedings or trials to the use of cameras, video cameras or audio equipment if there is a substantial reason to believe that such media coverage would undermine the legal rights of a party to a civil proceeding or civil trial or significantly compromise a witness's safety or impact legitimate privacy concerns. To the extent practicable, the fact that an objection has been lodged to the use of still cameras, video cameras and/or audio recordings, and the date, time and location of the hearing on those objections, will be posted on the Judicial Branch web site so that affected parties may attend the hearing. The parties, as well as a witness or victim whose rights are at issue in considering electronic coverage of the proceedings, and the media, may participate in the hearing to determine whether to limit or preclude electronic coverage. The burden of proof will be on the person seeking to restrict electronic coverage. To the extent practicable, where an objection to electronic media coverage of a proceeding has been filed, media representatives shall provide written notice three days in advance of the proceeding if they intend to broadcast, video-tape, photograph or audio-record the proceeding.
- If no party, witness or victim objects to electronic coverage of a proceeding, the trial court may nonetheless propose to limit or preclude such coverage where the court reasonably believes that such coverage would undermine the legal rights of a party or compromise legitimate concerns about security or about a person's safety or privacy. The court will provide notice to the parties and others whose interests may be directly affected by a decision on electronic coverage, including the media, so that they may participate in the hearing.
- The court will decide after the hearing whether to preclude or limit the use of still and/or video cameras or audio recording, taking into account the rights at issue and bearing in mind the "Guiding Principles" adopted by the Judicial Proceedings Committee and the Task Force – in particular the principle that "Public access to judicial proceedings should be limited only if there is a compelling reason to do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the compelling interest at issue." The court shall take into account the special considerations that may arise, including, for example,

those involved in the testimony of children and witnesses who are alleged victims of sexual offenses, as well as those matters in which there may be other additional legitimate privacy concerns, as in civil commitment proceedings. Neither agreement of the parties, nor a general statement by the court that it does not favor electronic coverage generally or in a particular category of cases, shall be sufficient to meet the standards articulated in the Guiding Principles for limiting or precluding electronic coverage.

- Objections raised during the course of a pre-trial proceeding or trial to photographing or video taping or audio recording specific aspects of the proceeding, specific individuals or exhibits will be heard and decided by the trial court, based on the same standards used to determine whether to preclude or limit access based on objections raised before the start of a trial.
- Cameras, video cameras and audio recording equipment may be used in the courtroom, but not in other parts of the courthouse.
- To ensure coverage and minimize disruption, pool representatives should ordinarily be utilized for video, still cameras and radio, with each pool representative to be decided by the relevant media group.
- Cameras, video cameras, microphones and other related equipment are to be placed in the courtroom in the location designated by the Judicial Branch to ensure maximum coverage of the proceedings while minimizing disruption.
- To minimize disruption, cameras, microphones, video cameras and related equipment may be set up and taken down only when the court proceedings are in recess. During a jury trial, operators of cameras and video cameras and audio recording equipment may be required to be present for the entire day's proceedings.
- There shall be no video taping, audio recording or photographing of jurors. There shall be no video taping or audio recording of trial proceedings held when the jury has been excused from the courtroom unless the trial court determines that such coverage does not create a risk to the defendant's rights or other fair trial risks under the circumstances.
- Nothing in this proposal is intended to eliminate the trial courts' existing authority to take reasonable measures to preserve order in the courtroom and to ensure a fair trial.

Thirty-third Recommendation:

Record of off-site judicial proceedings

Absent exceptional circumstances, in the case of an out-of-court judicial proceeding where a transcript or recording of the proceeding is made, such record shall be available to the public. The court will also state on the record in open court, by the next court day, a summary of what occurred at such proceeding.

Thirty-fourth Recommendation:

Note taking in judicial proceedings

The taking of notes in any courtroom shall be permitted. The chief court administrator shall inform all Judicial Branch employees of this policy. Nothing in this rule or policy shall be construed to limit in any way the court's inherent power to prevent the disruption of court proceedings.

Thirty-fifth Recommendation:

Establishment of a Judicial-Media Committee

A Judicial-Media Committee shall be established in accordance with the principles listed below:

- The goals of the Judicial-Media Committee are to foster and improve better understanding and relationships between the Judicial Branch and the media, both print and electronic, and to discuss and recommend resolutions of problems confronted by the media and the public in gaining access to court proceedings and documents.
- The Committee should be operated under the policies governing committees appointed by the Judicial Branch.
- The Committee should be chaired by a member of the Supreme Court and a media executive. Membership should include representatives of print and electronic media,

judges, members of the state bar association, a victim representative, and others whose experience and expertise could benefit the Committee.

- The Committee should be charged to form a quick-response team, comprised of judges and reporters, structured similarly to the committee known as the “Fire Brigade” that has operated successfully in Massachusetts. The mission of this team is to be available to review questions and disputes over access to judicial proceedings and to recommend a resolution the same day the question is presented.
- The committee should take steps to educate the public on issues relating to access to judicial proceedings.
- The Committee should meet on a regular basis.

Thirty-sixth Recommendation:

Evaluation of Implementation of Recommendations

The Office of the Chief Court Administrator should collect and compile information on the implementation of the Task Force recommendations which are adopted and implemented, including statistical information concerning coverage of court proceedings. This information should be made publicly available and shared with the Judicial-Media Committee for purposes of ongoing evaluation and education initiatives.

Thirty-seventh Recommendation:

Judicial Authority

Nothing in the Judicial Branch Public Access Task Force recommendations should be read or interpreted in any way which would impede or diminish a judge’s obligation and authority to conduct fair and unbiased trials and proceedings. It is a judge’s responsibility in such proceedings to ensure the safety of individuals within his or her courtroom and, to the extent possible, to ensure that safety after the individual leaves the courtroom.

Thirty-eighth Recommendation:

Financial Affidavits

The Task Force recommends that the provisions of the current Practice Book rule on sealing of financial affidavits in family matters be rescinded.

FINAL REPORT OF THE COMMITTEE ON ACCESS TO MEETINGS AND JUDICIAL BRANCH ADMINISTRATIVE RECORDS

The Committee on Access to Meetings and Judicial Branch Administrative Records (Committee) was charged with making concrete recommendations for the maximum degree of public access, consistent with the needs of the Judicial Branch to balance legitimate security and confidentiality concerns.¹ At the first meeting, the Committee developed the following guiding principles:

- A presumption that all Judicial Branch meetings, as defined by the Committee, are open to the public,
- A presumption that all administrative records of the Judicial Branch, as defined, shall be open to the public unless they are part of an adjudicatory proceeding or subject to statutory exclusions, and
- Anyone denied access to meetings or administrative records should have prompt and efficient recourse to appeal the denial of access.

The Committee first took up the subject of Judicial Branch meetings, and adopted the following definition of “meeting”:

- (a) For purposes of this provision, a “meeting” is defined as a hearing or other proceeding of (1) the Rules Committee of the Superior Court, (2) the Appellate Court Rules Committee, (3) the Annual Meeting of the Judges of the Superior Court, (4) the Executive Committee of the Superior Court, (5) a multi-member Judicial entity established by Practice Book rule, statute, or administrative authority of the Judges of the Superior Court, the Appellate Court, or the Justices of the Supreme Court² or (6) any subcommittee of the foregoing bodies.
- (b) A meeting as defined in subsection (a) shall not include: any meeting of a personnel search committee for executive level employment candidates; any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating

¹ The Committee on Access to Meetings and Judicial Branch Administrative Records was co-chaired by the Honorable Aaron Ment and Attorney Alan Neigher. Other members of the Committee were: the Honorable William Lavery, Mr. Zach Lowe, the Honorable Barry Stevens, and Attorney Aaron Bayer. It met on five occasions throughout June and July of 2006 and considered all issues referred to it by the Task Force.

² Examples listed, *infra*.

to official business; strategy or negotiations with respect to collective bargaining; an administrative or staff meeting of a single-member committee or task force; and communications limited to notice of meeting of any public agency or the agendas thereof. A quorum of the members of a committee included within the definition of a meeting in subsection (a) who are present at any event other than a meeting of the committee of which they are a member shall not be deemed to be at a meeting of that committee provided that no discussion of official business related to their committee occurs.

- (c) Except as otherwise provided by statute or Practice Book rule, any meeting as defined in subsection (a) shall be open to the public. Notice of the time and place of such a meeting, as well as a copy of the agenda for such a meeting, shall be posted on the Judicial Branch Internet website at least 48 hours in advance of the meeting.

Applying this definition, the Committee then cited examples of committees that would be open to the public:

- Advisory Committee to Judicial Department Concerning Parenting Education Programs, Annual Meeting of the Judges, Appellate Court Rules Committee, Bar Examining Committee, Board of Examiners for Court Reporters, the Civil Commission, the Criminal Division Task Force, the Code of Evidence Oversight Committee, the E-Filing Judges' Advisory Committee, the Executive Committee, the Law Library Advisory Committee, the Legal Internship Committee, the Legal Specialization Screening Committee, the State Advisory Council to the Office of Victim Services, and the Superior Court Rules Committee.

The Committee further concluded that meetings or committees concerning the education and training of judges, such as the Judges' Institute, judges' education seminars, and the Education Committee should not be open to the public. The Committee did not reach consensus regarding the Criminal and Civil Jury Instruction Committees, and this issue will be reviewed by the Public Access Task Force in its entirety.

While stressing the need for a maximum degree of openness, the Committee also recognized that there may be occasions when, due to the sensitive nature of the discussion, it would be appropriate for the meeting to continue in closed session. To this end, the Committee adopted the following definition of "closed session":

- (a) Upon motion and a two-thirds vote of the members present and voting at a meeting, the members may go into closed session (1) for any purpose permitted by the Freedom of Information Act, or (2) if a public session would have a deleterious impact on debate or the receipt of information and thereby substantially impede the ability of the committee or entity to perform its duties. Any motion to go into closed session shall specify the permissible purpose, in accordance with the Freedom of Information Act, for the closed session, or the reason a public session would have a deleterious impact on debate or the receipt of information. The closed session should continue only so long as needed to serve those purposes.
- (b) No vote shall be taken at a closed session except as permitted pursuant to the Freedom of Information Act.
- (c) Examples of a public session that may have a deleterious impact on debate or receipt of information, and for which a closed session would be permissible under subsection (a), include, but are not limited to, situations where: (1) the information sought to be disclosed would invade “personal privacy” as that term has been construed in C.G.S. § 1-210(b), (2) disclosure or discussion of information would be likely to give a party to pending or impending litigation a procedural or tactical advantage, or (3) the members determine that their need for information is obtainable only on a promise of confidentiality and outweighs the public’s interest in attending the portion of the meeting at which the confidential information will be received or debated.

Recognizing that many committee meetings take place in Judicial Branch courthouses, the Committee also felt it was appropriate to seek a rule change specifically permitting electronic or photographic access to meetings. The Committee recommends:

- Practice Book § 1-10 be amended to permit broadcasting, televising, recording, or photographing of Judicial Branch meetings that are open to the public and scheduled in court facilities. Members of the media attending a meeting with equipment for the purposes enumerated above may only use such equipment in connection with the meeting. A marshal shall ensure that the equipment is being utilized in accordance with this rule.

A committee shall notify the administrative judge of the judicial district in which the court facility is located anytime a meeting is scheduled.

- Practice Book § 70-9 be amended to permit broadcasting, televising, recording, or photographing of Judicial Branch meetings that are open to the public and scheduled in court facilities. Members of the media attending a meeting with equipment for the purposes enumerated above may only use such equipment in connection with the meeting. A Supreme Court Police Officer or marshal shall ensure that the equipment is being utilized in accordance with this rule.

In regard to administrative records held by the Judicial Branch, the Committee agreed that all such records are open to the public, unless there is a specific statutory provision providing otherwise or an exemption noted below. The Committee then adopted the following definition:

- “Administrative Record” includes the following information maintained by the Judicial Branch (which, for purposes of this definition shall include any of its departments, offices, committees or panels) pertaining to the administration of the Judicial Branch with respect to, *inter alia*, its budget, personnel, facilities and physical operations which is not associated with any particular case and includes:
 - 1) Summaries, indices, minutes and official records of any meeting of the Judicial Branch, and
 - 2) Information maintained or stored by the Judicial Branch, not otherwise exempted, in all paper and electronic platforms and formats.

The Committee specifically reviewed three types of records pertaining exclusively to judges: judges’ attendance records, performance evaluation records, and complaints received by the Judicial Branch regarding a particular judge. On the first two issues, the Committee took the following action:

- Confirmed that attendance records of judges are open to the public, and
- Recommended that the statute governing access to Judicial Performance Evaluation records – currently available to members of the General Assembly’s Judiciary Committee and to members of the Judicial Selection Commission – not be amended.

On the third issue – complaints received by the Judicial Branch regarding a particular judge – the Committee made the following recommendations:

- All complaints received by the Office of the Chief Court Administrator regarding the conduct of a judge shall be reviewed by the Chief Court Administrator to determine if there is reason to believe that the allegations warrant further investigation by the Judicial Review Council. If the allegations so warrant, the

complaint shall be forwarded to the Judicial Review Council, and shall thereafter be governed by the statutes governing such complaints.

- In those instances where the complaint is without merit, is properly the subject of review through an existing adjudicatory procedure (such as an appeal, where the complaint concerns a decision made by a judge in litigation), or is otherwise not within the purview of the Office of the Chief Court Administrator, such complaint shall not be open.

The Committee also believes that complaints that warrant administrative action, but do not rise to a level that is appropriate for a referral to the Judicial Review Council, such as letters of admonishment, should continue to be handled in a manner consistent with C.G.S. § 51-45a. As provided in that statute, any such action taken by the Chief Court Administrator shall become a part of any performance evaluation record of the judge, and shall be disclosed pursuant to statutes governing the release of performance evaluations.

The Committee further recommended that the Chief Court Administrator be charged with creating a retention schedule for all administrative records held by the Judicial Branch.

In sum, members of the Committee on Access to Meetings and Judicial Branch Administrative Records unanimously re-affirmed the principle that meetings and records should be open and accessible to members of the public. Only in certain, narrowly defined matters is it appropriate to limit access; in all other instances, the public trust demands openness and accountability. It is the expectation of the membership of this Committee that its recommendations will achieve this objective.

FINAL REPORT OF THE COMMITTEE ON ACCESS TO COURT RECORDS

The Task Force on Public Access was convened in May of 2006 and charged by Senior Associate Justice David Borden with making concrete recommendations for the maximum degree of public access to the courts, consistent with the needs of the courts in discharging their core functions of adjudicating and managing cases. The Committee on Access to Court Records met nine times from June 6 through August 21, 2006 to consider the issues involved in providing public access to court records.

PROCESS FOLLOWED BY THE COMMITTEE

At the initial meeting of the Public Access Task Force, the members of the Task Force identified and categorized, through an affinity diagram exercise, issues that would fall within the scope of the charge delivered by Justice Borden. The exercise produced a long list of issues that were grouped under five general headings. To facilitate the work of the Task Force in reviewing, analyzing, and making recommendations on the numerous issues, three committees were formed and charged with addressing issues that fell within these five general headings. This chapter discusses the work of the Committee on Access to Court Records, which was charged with addressing the issues included under the fourth general heading: “Maximize and facilitate access to judicial records with proper regard for legitimate privacy interests.”

The Committee on Court Records was composed of individuals from the various groups represented on the Task Force as a whole. The members of this committee were:

- Superior Court Judge Jon Alander, co-chair
- Dr. William J. Cibes, Jr., Hartford
- Judge Patrick Clifford, Chief Administrative Judge for Criminal Matters
- Heather Nann Collins, Court Reporter, *Journal Inquirer*, co-chair
- Superior Court Judge Julia DiCocco Dewey, Chief Administrative Judge for Family Matters
- Alaine Griffin, reporter, *The Hartford Courant*
- Appellate Court Judge Douglas Lavine
- Judge Trial Referee Aaron Ment

Prior to the first meeting of the committee, the list of issues that had been identified by the full Task Force as within the committee's ambit was reviewed and categorized by staff, again through an affinity diagram exercise. Each of these categories was then organized, providing the committee with a prioritized list of headings. This list and an explanation of the process used to create it were presented to the co-chairs of the Committee on Court Records on June 5, 2006, and then to the full committee at its first meeting on June 6, 2006. Additional issues were added to the list by members of the committee and placed in the appropriate categories.

Over the ensuing eleven weeks, the committee met nine times. The Agendas and Minutes of each of these meetings are included in Part III of the Task Force Report. A review of the full list of issues and headings during the early stages of the committee's meetings permitted the committee to focus specifically on the issues that could fully and reasonably be addressed within the short time frame given to the committee by the Task Force. In the course of these meetings, extensive and vigorous discussions were held on each of the myriad issues encompassed by the broad topic of public access to court records.

In connection with its discussion of the issues, the committee sought input from a variety of sources and in a variety of ways. The committee directly sought input from the following in connection with specific questions on procedures and information:

Mr. John Brooks, the Director of Administration in the Court Support Services Division,
Attorney Deborah Del Prete Sullivan, Office of the Chief Public Defender
Attorney Ronald Gold, Office of the Chief Public Defender
Mr. Robert Wannagot, Chief Probation Officer in New Haven
Mr. James Carollo, Probation Department
Mr. Stephen Grant, Deputy Director Family Services
Mr. Lawrence D'Orsi, Deputy Director Criminal Matters, Superior Court Operations
Ms. Terry Walker, Manager, Criminal Justice Applications
Ms. Linda Cimino, Office of Victim Services
Office of the Chief State's Attorney
Attorney Michael Bowler, Statewide Bar Counsel
Attorney Mark DuBois, Chief Disciplinary Counsel
Mr. Patrick J. Deak, Superior Court Operations Computer Systems Support

In addition, the committee sought general comments through an e-mail delivered via a list serve to Judges of the Superior Court and Appellate Court, and Justices of the Supreme Court as well as members of the media. The committee further sought comment through the Public Access Task Force website.

At the outset of its discussions, the Committee on Access to Court Records adopted a set of guiding principles to inform its deliberations. These guiding principles are identified in the body of this report. Two of the principles that informed the committee's decisions are that all court records are presumptively open and court records should be closed only if there is a compelling reason to do so. The committee, during its discussions, recognized various interests which the committee found to be compelling in certain instances, including the protection of individual privacy and security concerns.

The committee was able to reach a consensus on many of its decisions and recommendations. Other decisions were decided by a majority vote of the committee. The committee was unable to reach any decision regarding one issue, that concerning the current Practice Book rule automatically sealing financial affidavits in family matters, because a motion to rescind the Practice Book rule failed on a tie vote.

The committee, in addressing the issues before it and in making its recommendations, also recognized that the implementation of an open and effective access policy requires a coordinated effort by the Judicial Branch, the Legislative Branch, and the Executive Branch. The committee is also aware that its recommendations require rules changes, statutory changes, and policy changes before any implementation can occur.

The Committee makes the following recommendations for consideration by the full Task Force.

SUMMARY OF COMMITTEE RECOMMENDATIONS

RECOMMENDATIONS ON POLICY AND RULE CHANGES

1. Recommendation on the adoption of a Policy on Access to Court Records

The committee recommends that the Judicial Branch adopt a Policy on Access to Court Records. A proposed policy is attached as Appendix A to this report. The committee used the CCJ/COSCA Policy on Access to Court Records as a template, and after extensive discussion, adopted many of the guidelines without substantial change and altered others to reflect the law and situation in Connecticut.

2. Recommendation on Judicial Branch Mission Statement

The committee recommends that the Judicial Branch add the word “open” to its mission statement. The proposed mission statement would read: “It is the mission of the Connecticut Judicial Branch to resolve matters brought before it in a fair, timely, open and efficient manner.”

3. Recommendation on posting of criminal docket information online

The criminal docket, including docket number, defendant’s name, date of birth, and charges, shall be publicly accessible online as soon as it is available and shall remain available until the next posting. If the Judicial Branch determines that there is a serious risk of identity theft in putting the date of birth online, then the Committee recommends that the Judicial Branch post a redacted version of the birth date, such as a listing of only the month and year of birth.

Currently, the criminal docket is posted in the morning at each courthouse in the state. The committee’s recommendation would insure that the daily criminal docket is available online as well.

4. Recommendation related to identity theft

In order to lessen the likelihood of identity theft, the committee recommends that the Judicial Branch insure that its forms do not request social security numbers, financial

account numbers, or other information which may likely lead to identity theft unless such information is necessary for the adjudicatory process.

5. Recommendation on posting criminal conviction information

All criminal conviction information shall be made available to the public via the Judicial Branch's website. Such conviction information shall include charges and all other information currently contained in the monthly reports sold by the Judicial Branch Information Technology Division, except that operator license numbers and defendant addresses shall not be publicly available online. Conviction information should be searchable by defendant's name, date of birth, and docket number. The information which would be posted on the web includes the following: docket number of case, defendant's name, arrest date, charges, and disposition including any fines, jail time and probation time imposed by the court. If the Judicial Branch determines that there is a serious risk of identity theft in putting the date of birth online, then the Committee recommends that the Judicial Branch post a redacted version of the birth date, such as a listing of only the month and year of birth.

6. Recommendation on arrest warrant affidavits

To ensure that it is clear as to the date a sealing order terminates, the form requesting the sealing of an arrest warrant affidavit shall be revised to require the insertion by the judge when signing the order of a specific date for termination of the sealing order.

7. Recommendation on search warrant affidavits

Following an arrest, all requests to extend any order sealing or limiting the disclosure of search warrant affidavits must be done on the record for stated reasons as set forth in Practice Book Sec. 42-49A or for good cause shown. Depending on the circumstances, an oral representation by the State's Attorney that (1) the personal safety of a confidential informant would be jeopardized, (2) the search is part of a continuing investigation which would be adversely affected, or (3) the unsealing of the affidavits would require disclosure of information or material prohibited from being disclosed by chapter 959a (Wiretapping and Electronic Surveillance), may be sufficient to establish good cause. A

request for an extension of such sealing or limited disclosure must be made to a date certain, with no single extension to exceed 90 days.

Currently, a request to extend a court order sealing an affidavit supporting a search warrant is not subject to the provisions of Practice Book Sec. 42-49A which require public notice and a public hearing. The committee's recommendation would eliminate the practice of a judge signing in chambers an extension of a court order sealing a search warrant affidavit in those instances in which an arrest in connection with the search warrant has been made.

8. Recommendation on police reports used in determining probable cause

Any police report used during a court hearing as the basis for a judicial determination regarding probable cause, whether or not probable cause has been found, shall be made part of the court file and available to the public, unless the court, on its own motion or on motion of any party, shall order, for good cause shown, all or a portion of the report be sealed.

The committee's recommendation would eliminate the situation which currently occurs when a judge reviews a police report in court to determine probable cause for an arrest, but the police report is not made a part of the court file and is not accessible to the public.

9. Recommendation on scanners

The Judicial Branch should adopt and implement a written policy permitting the use of handheld scanners to reproduce court documents provided such use is not disruptive to the clerk's office or the file itself.

10. Recommendation on the formation of a Judicial-Media Committee

The committee favors the creation of a permanent Judicial/Media Committee on Public Access that would have the following charge:

- (a) to foster and improve better understanding and relationships between the Judicial Branch and the media, both print and electronic; and

- (b) to discuss and, if possible, resolve problems experienced by the media in gaining access to court proceedings and documents.

RECOMMENDATIONS FOR LEGISLATIVE CHANGES

11. Recommendation concerning certain pretrial diversion programs currently sealed upon application

A criminal case file should no longer be sealed upon the filing of an application under the Drug Education, School Violence Prevention and Alcohol Education pretrial diversion programs.

Currently, Connecticut statutes require that a court file be sealed upon the application by a criminal defendant for participation in the following pretrial diversion programs: Drug Education Program ((C.G.S. sec. 54-56i), School Violence Prevention Program ((C.G.S. sec. 54-56j) and Alcohol Education Program (C.G.S. sec. 54-56g). The committee's recommendation is that these files be treated similarly to all other criminal court files and remain open to the public.

12. Recommendation on posting online certain case information regarding pending criminal cases

Other than the criminal docket, the Judicial Branch cannot make available online additional information concerning pending criminal cases, as it does for civil and family cases, because a pending criminal case file may be statutorily sealed upon the filing of an application under certain pretrial diversionary programs. If and when the Legislature adopts this committee's recommendation that files involving pretrial diversion programs not be sealed, then the Judicial Branch should make pending criminal case information publicly accessible online. The information which will be made public in pending criminal cases should include the following: the case name, the docket number, and the charges.

13. Recommendation on competency evaluations

The committee recommends that competency evaluations completed pursuant to C.G.S. § 54-56d be filed under seal, but be automatically unsealed upon use by the court. The document will be considered “used by the court” if it is considered, read and/or reviewed by the court or if it is entered as an exhibit at a competency hearing. Parties, however, can move to seal such evaluations, in whole or in part pursuant to Practice Book Section 42-49A. Updated evaluations shall be treated in the same manner.

Currently, the statute governing a court-ordered evaluation to determine whether a criminal defendant is competent to stand trial is silent as to whether the evaluation should be sealed from public access. The practice of judges varies as to whether and when to seal a competency evaluation. The committee recommends that the statute be amended to expressly provide that a court-ordered evaluation is sealed upon filing but is automatically unsealed and open to the public if and when it is considered by the court.

14. Recommendation on alternate incarceration assessment reports

Alternate incarceration assessment reports shall be made available to the public if an alternate incarceration plan is granted by the Court. C.G.S. §53a-39a; Pr.Bk. §§43-7 to 43-9.

Currently, alternate incarceration assessment reports which are submitted as part of a presentence investigation report are sealed upon filing with the court. The committee recommends that an alternate incarceration assessment report become unsealed and available to the public if and when the court orders a defendant to participate in a program as an alternative to incarceration.

15. Recommendation on erased records

The committee believes that greater disclosure is warranted regarding erased records in criminal cases both because the public has a right to know the disposition of a criminal case and because the concept of “erased” records is unrealistic in an electronic age where information remains widely available in the public domain after it is theoretically erased.

The committee recommends that the following information should be made available to the public in the case of dismissals, nolle after thirteen months, declined prosecutions pursuant to the Practice Book, pardons, and not guilty verdicts: the docket number, the case name, date of birth, charges, the date of disposition, and the nature of the disposition. However, the underlying court records in such cases shall remain closed to the public.

RECOMMENDATIONS FOR FURTHER STUDY AND ACTION

1. The committee recommends further study of the issue of whether, and if so, how, non-parties should be able to intervene in a case in order to seek or restrict access to information.
2. In light of the complex issues of privacy and security involved in providing remote access by the public to court files and the short period of time that the committee had available to it, the committee recommends the convening of a committee that is specifically charged with analyzing and making recommendations on remote access to court records.
3. The committee recommends that the Judicial Branch adopt a written policy that allows for the administrative waiver of fees for copies for an indigent individual.
4. The committee recommends further study of the issues related to requests for bulk distribution of information contained in court records. Due to time constraints, the committee was unable to address this subject.
5. The committee recommends that the Judicial Branch consider developing a policy or court rule concerning the correction of inaccurate information in a court record.

GUIDING PRINCIPLES

To guide the decision-making process, the committee members identified the underlying principles that would provide a constant point of reference. Those were:

- **All court records are presumptively open.**
- **Court records should be closed to the public only if there is a compelling reason to do so.**
- **If there is a compelling reason not to open a record to the public, then that reason should be interpreted as narrowly as possible.**
- **The courts have an affirmative obligation not to collect information that will need to be sealed and to inform the parties not to file information that will need to be sealed unless needed for the adjudication process.**
- **There should be a clearly defined policy that is universally applied regarding public access to court records.**
- **Any decision to exclude public access shall be no broader than necessary to protect the compelling interest at issue.**

APPENDIX A

Section 1.00 – Purpose of the Policy

- (a) The purpose of this policy is to provide a comprehensive policy on public access to court records.
- (b) This policy is intended to provide guidance to 1) litigants, 2) those seeking access to court records, and 3) judges, clerks, and court personnel responding to requests for access.

Section 2.00 – Who Has Access Under This Policy

Every member of the public will have the same access to court records as provided in this policy, except as provided in section 4.30 (b) and 4.40 (b).

- (a) “Public” includes:
 - 1. any person and any business or non-profit entity, organization or association;
 - 2. any governmental agency for which there is no existing policy defining the agency’s access to court records;
 - 3. media organizations; and
 - 4. entities that gather and disseminate information for whatever reason, regardless of whether it is done with the intent of making a profit, and without distinction as to nature or extent of access.
- (b) Nothing in this policy is intended to alter substantively access to court records by the following:
 - 1. Judges, clerks, or court employees;
 - 2. People or entities, private or governmental, who assist the court in providing court services;
 - 3. Public agencies whose access to court records is defined by another statute, rule, order or policy; and
 - 4. The parties to a case or their lawyers regarding access to the court record in their case.

Section 3.10 – Definition of Court Record

For purposes of this policy:

(a) “Court Record” includes:

- (1) Any document, information, or other item that is collected, received, or maintained by a court or clerk of court in connection with a judicial proceeding;
- (2) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created by or prepared by the court or clerk of the court that is related to a judicial proceeding;

(b) “Court Record” does not include:

- (1) Information gathered, maintained or stored by a governmental agency or other entity to which the court has access but which is not part of the court record as defined in Section 3.10 (a) (1);
- (2) Records representing judicial work product, including but not limited to notes, drafts, memoranda, or research prepared by a judge or prepared by other court staff on behalf of a judge.
- (3) Confidential notes prepared by a clerk or other court employee.
- (4) Administrative records, which includes the following information maintained by the Judicial Branch (which, for purposes of this definition, shall include any of its departments, offices, committee, or panels) pertaining to the Administration of the Judicial Branch with respect to, *inter alia*, its budget, personnel, facilities and physical operations which is not associated with any particular case and includes (a) summaries, indices, minutes and official records of any proceeding of the Judicial Branch, and (b) information maintained or stored by the Judicial Branch, not otherwise exempted, in all paper and electronic platforms and formats.

Section 3.20 – Definition of Public Access

“Public access” means that the public may inspect and obtain a copy of the information in a court record, including a copy obtained by use of a scanner, provided such use is not disruptive to the clerk’s office or to the file itself.

Section 3.30 – Definition of Remote Access

“Remote Access” means the ability to electronically search, inspect, or copy information in a court record without the need to physically visit the court facility where the court record is maintained.

Section 4.00 – Applicability of Rule

This policy applies to all court records, regardless of the physical form of the court record, the method of recording the information in the court record or the method of storage of the information in the court record.

Section 4.10 – General Access Rule

- (a) Information in the court record is accessible to the public except as prohibited by Section 4.60 or Section 4.70 (a).
- (b) There shall be a publicly accessible indication of the existence of information in a court record to which access has been prohibited, which indication shall not disclose the nature of the information protected.

Section 4.20 – Court Records in Electronic Form Presumptively Subject to Remote Access by the Public

The following information in court records should be made remotely accessible to the public if it exists in electronic form, unless public access is restricted pursuant to Section 4.60 or 4.70 (a):

- (a) Litigant/party indices to cases filed with the court
- (b) Listings of new case filings, including the names of the parties
- (c) Case detail information for civil and family cases showing what documents have been filed in a case

- (d) Calendars or dockets of court proceedings, including the case number and caption, date and time of hearing, and location of the hearing;
- (e) Entry of judgments, orders, or decrees in a civil or family case; and
- (f) Conviction information.

[NOTE: Nothing in this section is intended to address or authorize remote access by the public to court files generally because such access involves complex issues that require further study and must be addressed by the Judicial Branch separately.]

Section 4.30 – Requests for Bulk Distribution of Court Records

Bulk distribution is defined as the distribution of all, or a significant subset, of the information in court records, as is and without modification or compilation.

[NOTE: The development of specific policies regarding requests for bulk distribution of court records is a long-term project that is reserved for further study.]

Section 4.40 – Access to Compiled Information From Court Records

- (a) Compiled information is defined as information that is derived from the selection, aggregation or reformulation by the court of some of the information from more than one individual court record.
- (b) Any member of the public may request compiled information that consists solely of information that is publicly accessible and that is not already available pursuant to section 4.20 or in an existing report. The court may compile and provide the information if it determines, in its discretion, that providing the information meets criteria established by the court, that the resources are available to compile the information and that it is an appropriate use of public resources.
- (c) (1) Compiled information that includes information to which public access has been restricted may be requested by any member of the public only for scholarly, journalistic, political, governmental, research, evaluation, or statistical purposes.
 - (2) The request shall:
 - (i) Identify what information is sought

- (ii) Describe the purpose for requesting the information and explain how the information will benefit the public interest or public education, and
 - (iii) Explain provisions for the secure protection of any information requested to which public access is restricted or prohibited.
- (3) The court may grant the request and compile the information if it determines that doing so meets criteria established by the court and is consistent with the purposes of the access policy, the resources are available to compile the information, and that it is an appropriate use of public resources.
- (4) If the request is granted, the court may require the requestor to sign a declaration that:
- (i) The data will not be sold or otherwise distributed, directly or indirectly, to third parties, except for journalistic purposes,
 - (ii) The information will not be used directly or indirectly to sell a product or service to an individual or the general public, except for journalistic purposes, and
 - (iii) There will be no copying or duplication of information or data provided other than for the stated scholarly, journalistic, political, governmental, research, evaluation, or statistical purpose.

Section 4.60 – Court Records Excluded from Public Access

The following information in a court record is not accessible to the public:

- (a) Information that is not to be accessible to the public pursuant to federal law;
- (b) Information that is not to be accessible to the public pursuant to state law, court rule, or case law, including but not limited to:
 - (1) Records maintained in juvenile matters
 - (2) Health and medical information filed with the court pursuant to P.B. sec. 7-18, 15-4, and 25-55.
 - (3) Files/documents sealed by court order
 - (4) Lodged records, P.B. §§7-4C, 77-2

- (5) Family Division evaluations, studies and reports, P.B. §25-60, C.G.S. §46b-38c
- (6) Records related to pretrials, mediations, settlement negotiations and plea bargaining, including attempts at reconciliation in action for dissolution, separation, annulment, C.G.S. §46b-10, conciliator records, C.G.S. §46b-53, mediation program records, C.G.S. §46b-53a and non-court ordered mediation, C.G.S. §52-235d, unless such records are filed with the court during a public hearing or trial of the case.
- (7) Discovery documents or objects subpoenaed into Court pursuant to P.B. §40-2
- (8) Personal residence addresses of police or correction officer when a witness in a criminal case, P.B. §40-13
- (9) Record of In Camera Proceeding (criminal), P.B. §40-42
- (10) Return of Deposition (criminal), P.B. §40-53
- (11) Presentence investigation reports and assessments, P.B. §§43-7 to 43-9, C.G.S. §§54-91b, 54-142g(a)
- (12) Erased records, C.G.S. §54-142c
- (13) Youthful offender records, C.G.S. §§54-76c, 54-76l, 54-76o
- (14) Requests for nondisclosure of location information (family), C.G.S. §46b-115s
- (15) Nondisclosure of location/identifying information (support), C.G.S. §46b-212x
- (16) Juror questionnaire, C.G.S. §51-232

[NOTE: Nothing in this policy is intended to change the current policy of the Judicial Branch which is to provide public access to the name and town of the juror.]

- (17) Civil deposition for purposes of preserving the testimony of a witness, C.G.S. §52-156
- (18) Wiretap records, C.G.S. §§54-41a, et seq.
- (19) Record of grand jury proceedings, C.G.S. §§54-45, et seq.
- (20) Information, files and reports held by Court Support Service Division under C.G.S. §54-63d
- (21) Witnesses receiving or considered for receipt of protective services, identity and location, C.G.S. 54-82t
- (22) Name, address and identifying information of sexual assault victim, C.G.S. §54-86e
- (23) HIV information and testing, C.G.S. §§54-102a, 54-102b, 54-102c
- (24) Nonconviction information, C.G.S. §§54-142k, 54-142m, 54-142n
- (25) Motion for leave to withdraw appearance of appointed counsel under Practice Book § 23-41
- (26) Privileged communications pursuant to statute or case law
- (27) OVS records (C.G.S. §§ 54-203(b)(7)(J), 54-204, 54-228, and 54-230)
- (28) Sex offender registry name of victim (C.G.S. § 54-258)
- (29) Records of proceedings pursuant to Practice Book Sec. 2-56 (Grievance Proceedings – Inactive Status of Attorney)

Section 4.70– Request to Prohibit Public Access to Information in Court Records or to Obtain Access to Restricted Information

- (a) Information in a court record may be sealed by court order pursuant to P.B. §§ 11-20A, 25-59A, 36-2 and 42-49A or as otherwise provided by law
- (b) A party to a case may file a request to prohibit public access to information in a court record or to obtain access to sealed information in a court record pursuant to P.B. §§ 7-4B, 11-20A, 25-59A, 36-2 and 42-49A or as otherwise provided by law.
- (c) A non-party has a right to oppose a party's request to seal information pursuant to P.B. §§ 7-4B, 11-20A, 25-59A, 36-2 and 42-49A or as otherwise provided by law.

[NOTE: The process by which a non-party may intervene in a court case in order to be heard on an issue of public access to information in a court record requires further study by the Judicial Branch.]

Section 5.00–When Court Records May Be Accessed

- (a) Court records will be available for public access in the courthouse during hours established by the court. Court records in electronic form to which the court allows remote access under this policy will be available for access at least during the hours established by the court for courthouse access, subject to unexpected technical failures or normal system maintenance announced in advance.
- (b) Upon receiving a request for access to information, the court will respond within a reasonable time regarding the availability of the information and provide the information within a reasonable time. If a request for access is denied, a reason for the denial shall be provided.

Section 6.00–Fees for Access

The Office of the Chief Court Administrator may charge a reasonable fee for access to court records or for compiled information, but the Judicial Branch shall adopt a policy on waiving such fee when the person seeking such access or information is an indigent individual.

Section 7.00–Information and Education Regarding Access Policy

Section 7.10–Dissemination of Information to Litigants about Access to Information in Court Records

The Office of the Chief Court Administrator will advise litigants and the public that court records containing personal information are accessible to the public and will further advise litigants and the public as to the procedure for requesting restriction on the manner of access or for prohibiting such public access.

Section 7.20 – Dissemination of Information to the Public about Accessing Court Records

The Office of the Chief Court Administrator will develop and distribute to the public information about how to obtain access to court records.

Section 7.30–Education of Judges and Court Personnel about an Access Policy

The Office of the Chief Court Administrator will educate Judicial Branch personnel about the access policy and train such personnel to comply with the policy so that all such personnel respond to requests for access to information in the court record in a manner consistent with this policy.

The Office of the Chief Court Administrator shall insure that all judges are informed about the access policy.

FINAL REPORT OF THE COMMITTEE ON ACCESS TO JUDICIAL PROCEEDINGS

INTRODUCTION AND SUMMARY

It is well established that the public and the press have a qualified First Amendment right of access to criminal proceedings, and that courts can restrict access only when there is a compelling governmental interest and the restriction is narrowly tailored to serve it. *See, e.g., Globe Newspaper, Co. v. Superior Court*, 457 U.S. 596, 603, 606-07 (1982); *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580 (1980). The same right of access applies in civil proceedings as well; e.g., *Publicker Indus., Inc. v. Cohen*, 733 F.2d 1059, 1066-71 (3d Cir. 1984); *Hartford Courant Co. v. Pellegrino*, 380 F.3d 83, 91-92 (2d Cir. 2004).

The Connecticut Supreme Court has also clearly recognized that “the public has a presumptive right of access to court proceedings and documents.” *Rosado v. Bridgeport Roman Catholic Diocesan Corp.*, 276 Conn. 168, 216 (2005). “The public has a real and legitimate interest in the workings of our courts and vindication of that interest requires, as a general matter, that the courts’ business not be conducted covertly.” *Id.* at 223. *See id.* at 224 (party opposing press access “bear[s] a heavy burden of establishing a compelling interest” in preventing disclosure).

It is with this background in mind that the Committee on Judicial Proceedings approached the task of seeking to expand public access to the courts. Cognizant of the fact that the public today gains meaningful access to, and an understanding of, judicial proceedings primarily through the media, and in particular through electronic media, the committee has focused heavily on expanding electronic access to and coverage of court proceedings.

First, the Committee endeavored to articulate certain general principles -- establishing a presumption of access of the public and the press, including electronic media. These principles are intended to ensure that, when there are important, countervailing interests, they will be considered promptly and thoughtfully, and that close questions will be resolved with full recognition of the public's right to have access to judicial proceedings, in accordance with the “guiding principles” adopted by the Committee and the Task Force.

Second, sensitive to Justice Borden’s charge that the Task Force not merely articulate ideals, but propose changes that can be adopted immediately, the Committee has made a number

of recommendations that we believe can and should be promptly implemented. These include: a) installation of remotely operated television cameras in the Supreme Court and Appellate Court to permit expansive televised coverage of judicial proceedings in those courts, and amendments to the rules governing such coverage; b) amendments to the rules and policies of the Judicial Branch to expand electronic and other media coverage of certain civil proceedings in Superior Court (not including family or juvenile matters); c) for out-of-court arraignments and other off-site judicial proceedings, adoption of a policy ensuring a publicly available transcript, and the entry of a summary of those proceedings in open court the next day; d) affirmation of the existing policy ensuring that the public is permitted to take notes during all judicial proceedings; e) adoption of a standing Judicial Department media access committee and the establishment of a subcommittee, comprised of selected judges and reporters, to provide an informal process for prompt, same-day resolution of disputes concerning access to judicial proceedings.

Third, the committee has also made recommendations for certain more sweeping changes to be adopted on a pilot basis, so that they can be further refined and developed during the pilot period and expanded thereafter. Specifically, the committee recommends a pilot program allowing for electronic coverage of all criminal trials and sentencings in a single judicial district, with certain logistical and procedural guidelines that will be refined during the program. The program is intended to continue at the end of the pilot period, absent action by the Judicial Branch to discontinue it, and it is presumed that the program will be expanded to other judicial districts at the end of the pilot period after evaluation and refinement by the judges.

Finally, also pursuant to Justice Borden's charge, we have identified certain topics for further review. These include further study of expanding access to proceedings in family and juvenile court, use of other media - including videoconferencing, streaming media and other internet media - for covering the courts. The committee also recommends further consideration of: security concerns and privacy concerns of those affected by electronic coverage of judicial proceedings, including jurors, victims, and witnesses; the use of camera phones; education efforts to make the public aware of changes in access policies and rules; and training to ensure compliance with new policies and rules.

PROCESS FOLLOWED BY THE COMMITTEE

At the first Public Access Task Force meeting on May 25, 2006, the members of the Task Force engaged in an exercise to identify issues within the scope of the charge delivered by Senior Associate Justice David M. Borden. That exercise produced a long list of issues relating to public access. Those issues were then grouped under five general headings, the third of which was labeled: Access to court proceedings and how do we insure access and who are the gatekeepers? In order to facilitate the study necessary to address the myriad issues, three committees were formed around those five general headings. This chapter addresses the work of the Committee on Access to Judicial Proceedings, whose charge is to address the issues included under that heading.

Each committee of the Task Force included representation from the various groups represented on the Task Force as a whole. The members of this committee were:

Attorney Aaron Bayer, Wiggin & Dana
Mr. Patrick Sanders, Associated Press
Judge Patrick Clifford, Chief Administrative Judge, Criminal
Ms. Heather Collins, Manchester Journal Inquirer
Ms. Erin Cox, WTNH News Channel 8
Judge Douglas Lavine, Connecticut Appellate Court
Mr. Ken Margolfo, FOX 61
Judge Barbara Quinn, Chief Administrative Judge, Juvenile

The Committee held eight meetings throughout June, July and August. With the assistance of the Judicial Branch staff, the Committee first reviewed, categorized, and prioritized the list of issues identified by the full Task Force. This gave rise to a shorter list of issues to be addressed in the brief time available to the committee. Discussion of specific, real-world examples provided by committee members enabled the committee to consider the practical implications of the issues raised. This also enabled every member to view the issues from the perspective of other members of the committee.

In order to further inform the work of the committee, and consistent with the first category of issues questioning policies regarding public access to judicial proceedings in other jurisdictions, additional sources of information were identified and utilized. A number of recommendations reflect practices successfully adopted by other jurisdictions. The Committee also benefited from comments received as a result of the solicitation of comments via the Task

Force web site generally as well as in response to direct communication from members of the Task Force.

In all aspects of its work, the Committee benefited from the extraordinary talent, dedication and hard work of the Judicial Branch staff, including Attorneys Joseph D’Alesio, Joseph DelCiampo, Alice Mastrony, Stephen Ment and Holly Taylor Sellers, who tirelessly provided valuable research and information to the Committee and coordinated all of its efforts. Their contributions are greatly appreciated.¹

GUIDING PRINCIPLES

To guide the decision-making process, the committee members next identified the underlying principles that would provide a constant point of reference. Those were:

- 1. All judicial proceedings are presumed to be open to the public.**
- 2. Exceptions to the presumption of openness of judicial proceedings should be articulated, limited, well-defined and consistently applied.**
- 3. Public access to judicial proceedings should be limited only if there is a compelling reason to do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the compelling interest at issue.**
- 4. There should be an expeditious and open process for resolving disputes regarding access to judicial proceedings.**

The Committee reviewed the existing Practice Book Rules on closure of judicial proceedings to the public, Practice Book §§ 11-20 (civil cases), 42-49 (criminal cases); *see also* Practice Book § 77-1 (providing for expedited appellate review of any order closing judicial proceedings). These recently adopted provisions allow closure or restriction of public access to a judicial proceeding only when “necessary to preserve an interest which is determined to override the public’s interest in attending such proceeding.” They also require that alternatives to closure

¹ The Committee wishes to thank the members of the public who provided valuable input to the Committee, including attorney Stephen Nevas, who attended many of the Committee's meetings, and Mr. Paul Giguere of CT-N,

be considered and that a closure order be “no broader than necessary to protect such overriding interest,” and that any closure decision be based on specific findings after public notice and hearing. These provisions are consistent with the Guiding Principles adopted by the Committee, and the Committee sees no basis for recommending changes to them.

DEFINITION OF “MEDIA” IN COMMITTEE RECOMMENDATIONS

The Committee was asked to consider defining the term "media," particularly for purposes of the Committee's recommendations on media access to judicial proceedings. In considering how to determine whether an individual wishing to record, videotape or photograph a proceeding was a representative of the news media, the Committee was aware of the potential problems involved in having the Judicial Branch and judges make decisions about who is, and is not, a legitimate member of the press. It, therefore, recommends that the Task Force follow the definition adopted by the legislature in the reporter's shield law enacted earlier this year. Accordingly, the Committee recommends that the term "media" be defined as the term "news media" is defined in Sections 1, 2(A) and 2(B) of Public Act No. 06-140, "AN ACT CONCERNING FREEDOM OF THE PRESS" which states:

(2) “News media” means:

(A) Any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite or other transmission system or carrier, or channel or programming service for such station, network, system or carrier, or audio or audiovisual production company that disseminates information to the public, whether by print, broadcast, photographic, mechanical, electronic or any other means or medium;

(B) Any person who is or has been an employee, agent or independent contractor of any entity specified in subparagraph (A) of this subdivision and is or has been engaged in gathering, preparing or disseminating information to the public for such entity, or any other person supervising or assisting such person with gathering, preparing or disseminating information;....

who provided important information and resources about electronic coverage of government proceedings in Connecticut and coverage of court proceedings in other states.

The Committee further recommends that issues concerning the implementation of this definition be considered on an ongoing basis by the Judicial-Media Committee, should the recommendation for creation of such a Committee be adopted.

RECOMMENDATIONS

The Committee makes the following recommendations, for consideration by the full Task Force.

PROPOSAL TO EXPAND ELECTRONIC ACCESS TO THE SUPREME AND APPELLATE COURT

Based on its review of the existing Practice Book Rules governing cameras in the Supreme and Appellate Courts (Practice Book §§ 70-9 and 70-10) and the protocol for videotaping or photographing Supreme Court oral arguments, the Committee makes the following recommendations for expanding electronic access to the proceedings in the Appellate Court and Supreme Court.

- All judicial proceedings in the Appellate and Supreme Courts should be presumed to be open to the public and to electronic coverage by the media.
- Unless a timely objection is made to the broadcasting, televising, videotaping, audio recording or photographing of an appellate proceeding by one of the parties or victims involved in the case, all such proceedings may be so broadcast, televised, recorded or photographed.
- If an objection is made, the Court shall determine, after providing an opportunity for the parties, victims and media to be heard on the issue, whether to preclude or limit electronic coverage of the proceeding, bearing in mind the Guiding Principles discussed above, including the principle that “Public access to judicial proceedings should be limited only if there is a compelling reason to do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the compelling interest at issue.”
- In appeals involving sexual assault cases of any kind and cases involving children, where discussion of the facts of the case is likely to arise during argument because, for example, sufficiency of the evidence is an issue on appeal, and video or audio broadcast of those facts may identify and cause harm to the child or victim involved, or in other cases in which there are similarly compelling concerns about electronic coverage, the Court on its own motion may preclude or limit the videotaping or audio-recording of the argument, even if no objection has been filed. In such cases, the Court will provide an opportunity for the parties, victim, and the media be heard on the issue, and will determine whether to preclude or limit such coverage of the proceeding, bearing in mind the Guiding Principles discussed above.
- A decision to close any appellate court argument to the public or limit or preclude electronic coverage of such a proceeding, should itself be made openly, with the reasons for the decision stated on the record.

- The policy on the use of cameras should be revised to permit more flexibility in the placement, use (e.g., close-ups, split screens, informational graphics), and the number of cameras allowed, in order to more accurately depict the proceeding.
- In light of legitimate concerns and possible disruptions associated with numerous video cameras being set up and operated to record appellate proceedings, the Committee recommends the installation by CT-N of three permanently mounted, remotely operated video cameras, creating a feed or tape available to other networks and news media.
- The rules governing still photography in the Supreme and Appellate Courts should be reviewed in light of technological changes. The rule should permit one pool still photographer with adequate equipment that will not disrupt court proceedings.

PROPOSED PILOT PROGRAM ON MEDIA ACCESS TO CRIMINAL PROCEEDINGS

Introduction

The Committee recommends the establishment of a 2-year pilot program in a single judicial district in which all types of media coverage of criminal proceedings would be permitted, in accordance with the principles and limitations set forth below.

A pilot program is appropriate because coverage of criminal proceedings -- and the use of cameras and video cameras in particular -- raises complicated issues that would benefit from the insight that can be gained from practical experience. It is the Committee's expectation that, during the 2-year pilot period, the rules governing media coverage of criminal proceedings will be evaluated based on the actual experience of the judges, lawyers, parties, witnesses, victims, jurors, and reporters, and ultimately refined so as to permit maximum media access with limited disruption and without undermining the rights of criminal defendants, victims and others whose interests may be affected.

The Committee recommends that the Supreme Court's judicial-media committee (the subject of a separate recommendation of this Committee) be charged with evaluating the pilot program and making recommendations for its expansion. The Committee anticipates that, based on the evaluation of the pilot program, the Superior Court judges will refine and extend the program to other districts. In the absence of any action by the judges, the pilot program will continue to operate in the pilot district.

The Committee recommends that the selection of a Judicial District for the pilot program be based on the following considerations: the courthouse facilities (age of the buildings, their ability to accommodate the media technology involved, and security and cost concerns); the volume of cases and assignment of judges to that district, the likelihood of significant criminal trials of interest to the media in the district, the proximity of the district's courts to the major media organizations, and to CT-N if CT-N has an interest in providing coverage, and the proximity of the courts to the Judicial Branch administrative offices. The committee

recommends that the following locations ought to be considered as possible locations for the pilot program: Bridgeport, Hartford, Middletown, New Britain, New Haven, New London, and Waterbury.

The Current Rules

Currently, Practice Book Section 1-10 prohibits generally the broadcasting, televising, recording and the taking of photographs in the courtroom and in areas immediately adjacent thereto. A judicial authority may, however, authorize the photographic or electronic recording and reproduction of appropriate court proceedings if the means of such recording will not disrupt the participants or impair the dignity of the proceedings; the parties, and the witnesses to be depicted, have consented; the reproduction will not be exhibited until after the conclusion of the proceeding and all direct appeals have been exhausted; and the reproduction will be exhibited only for instructional purposes in educational institutions.

Section 1-11 of the Practice Book governs the broadcasting, televising, recording or photographing of court proceedings by news media in criminal (and civil) trials in the Superior Court. Permission for media coverage of a criminal proceeding must be requested by a media or pool representative at least three days prior to the commencement of such trial. Disapproval of such requests by the trial judge shall be final. Approval of the request by the trial judge shall be based on that judge being satisfied that the permitted coverage will not interfere with the rights of the parties to a fair trial. The approval by the trial judge shall not be effective unless confirmed by the administrative judge.

No media coverage of any of the following proceedings is currently allowed: family relations matters; sentencing hearings except in trials in which media coverage has been allowed; trials involving trade secrets; in jury trials, proceedings held in the absence of the jury; in trials of sexual offense charges; and in trials closed to the public pursuant to state law. Other limitations on media coverage of a criminal trial include the times and the parts of a trial during which such coverage may or may not occur, and the participants in a trial who may or may not be the subject of such coverage. The trial judge has broad discretion to prohibit media coverage of a trial, and

the logistics of the coverage, i.e., the types and location of equipment to be used and the limits on the number of camera operators, are particularly circumscribed.

General Principle of Access

All forms of media, including still cameras, video cameras, and audio recordings, are to be allowed to cover all aspects of criminal trials and sentencing, subject to the rules and guidelines set forth below.

Proposed Rules for Coverage in Pilot Program

The Judicial Branch will take appropriate steps to ensure that litigants, the press, the bar, the bench, staff, and the public are aware that any criminal trial and sentencing may be subject to media coverage including being broadcast, photographed, videotaped or audio-recorded. Absent good cause shown, the media shall provide advance notice of their intent to use still cameras, video cameras or audio recording, and the trial judge should, to the extent possible, consult in advance with the media about anticipated coverage of proceedings.

Any party, attorney, witness or victim may object in advance of pre-trial proceedings, trial or sentencing to the use of cameras, video cameras, or audio recording if there is a substantial reason to believe that such media coverage would undermine the rights of a criminal defendant or significantly compromise a witness's safety or legitimate privacy concerns. The parties, as well as a witness or victim whose rights may be affected by electronic coverage of the proceedings, and the media, may participate in the hearing to determine whether to limit or preclude electronic coverage. The burden of proof will be on the person seeking to restrict electronic coverage..

If no party, witness or victim objects to electronic coverage of a proceeding, the trial court may nonetheless propose to limit or preclude such coverage where the court reasonably believes that such coverage would undermine the legal rights of a party or significantly compromise a witness's safety or impact legitimate privacy concerns. The court will provide notice to the parties and others whose interests may be directly affected by a decision on electronic coverage, including the media, so that they may participate in the hearing.

The court will decide after a hearing whether to preclude or limit the use of cameras, video cameras, or audio recording, taking into account the rights asserted and bearing in mind the “Guiding Principles” adopted by the Committee and the Task Force – in particular the principle that “Public access to judicial proceedings should be limited only if there is a compelling reason to do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the compelling interest at issue.” The court shall take into account special considerations that may arise, such as the testimony of children, alleged victims of sexual offenses, confidential informants and undercover officers. Neither agreement of the parties, nor a general statement by the court that it does not favor electronic coverage generally or in a particular category of cases, shall be sufficient to meet the standards articulated in the Guiding Principles for limiting or precluding electronic coverage.

To the extent practicable, objections to the use of still cameras, video cameras and/or audio recordings, and the date, time, and location of the hearing on those objections, will be posted on the Judicial Branch web site, so that affected parties may attend the hearing.

Objections made during the course of a pre-trial proceeding, trial or sentencing to photographing or video taping or audio recording specific aspects of the proceeding (e.g., testimony of a juvenile or sexual assault victim), specific individuals (e.g., sexual assault victims or witnesses whose identity is protected) or exhibits (e.g., autopsy photographs), will be heard and decided by the trial court, based on the same standards and principles used to determine whether to preclude or limit access based on objections raised before the start of a trial.

Cameras, video cameras and audio recording equipment may be used in the courtroom, but not used in other parts of the courthouse.

To ensure coverage and minimize disruption, pool representatives should ordinarily be utilized for video, still cameras and radio, with each pool representative to be decided by the relevant media group.

Cameras, video cameras, microphones and other related equipment are to be placed in the courtroom in the location designated by the Judicial Branch to ensure maximum coverage of the proceedings while minimizing disruption. To minimize disruption, cameras, microphones, video cameras and related equipment may be set up and taken down only when the court proceedings are in recess. During a trial, operators of cameras and video cameras and audio recording equipment may be required to be present for the entire day’s proceedings.

There shall be no video taping, audio recording or photographing of jurors. There shall be no video taping or audio recording of trial proceedings held when the jury has been excused from the courtroom unless the trial court determines that such coverage does not create a risk to the defendant's rights or other fair trial risks under the circumstances.

Nothing in this proposal is intended to eliminate the trial courts' existing authority to take reasonable measures to preserve order in the courtroom and to ensure a fair trial.

Proposed Rules Governing Coverage of Arraignments

The Committee recognizes that there are significant logistical concerns involved in electronic media coverage of arraignments. Because of the large number of arraignments and the rapid pace of processing arraignments, it may be difficult to put into practice meaningful limitations, e.g., precluding or limiting videotaping or photographing of domestic violence victims, sexual assault victims, or minors.

The Committee recommends that expanding media coverage of arraignments be the subject of additional inquiry – including further discussion with criminal judges and review of the experience of other states that allow media coverage of arraignments with limited restrictions – with additional recommendations to follow. In the interim, the Committee recommends that electronic coverage of specific arraignments be considered on a case-by-case basis upon reasonable notice by the press (recognizing the last-minute nature of some arraignments), and that, to the extent practicable, judges consult with the press to coordinate the logistics of such coverage.

PROPOSAL ON MEDIA ACCESS TO SUPERIOR COURT CIVIL PROCEEDINGS AND TRIALS

Introduction

The Committee recommends that electronic media access be permitted for most civil proceedings and trials, in accordance with the principles and limitations set forth below.

The Current Rules

Currently, Practice Book Section 1-10 generally prohibits the broadcasting, televising, recording and the taking of photographs in the courtroom and in areas immediately adjacent thereto. A judicial authority may, however, authorize the photographic or electronic recording and reproduction of appropriate court proceedings if the means of such recording will not disrupt the participants or impair the dignity of the proceedings; the parties, and the witnesses to be depicted, have consented; the reproduction will not be exhibited until after the conclusion of the proceeding and all direct appeals have been exhausted; and the reproduction will be exhibited only for instructional purposes in educational institutions.

Section 1-11 of the Practice Book governs the broadcasting, televising, recording or photographing of court proceedings by news media in civil trials in the Superior Court. Permission for media coverage of civil trials must be requested by a media or pool representative at least three days prior to the commencement of such trial. Disapproval of such requests by the trial judge shall be final. Approval of the request by the trial judge shall be based on that judge being satisfied that the permitted coverage will not interfere with the rights of the parties to a fair trial. The approval by the trial judge shall not be effective unless confirmed by the administrative judge.

No media coverage of any of the following proceedings is currently allowed: family relations matters; juvenile proceedings; trials involving trade secrets; in jury trials, proceedings held in the absence of the jury; and in trials closed to the public pursuant to state law. The trial judge has broad discretion to prohibit media coverage of a trial, and the logistics of the coverage,

i.e., the types and location of equipment to be used and the limits on the number of camera operators, are narrowly circumscribed.

General Principle of Access

All forms of media, including still cameras, video cameras, and audio recordings, are to be allowed to cover all aspects of civil proceedings and civil trials, subject to the rules and guidelines set forth below and subject to Practice Book Section 11-20 concerning closure of the courtroom in civil cases. The Committee does not recommend permitting electronic media access to family relations matters or juvenile proceedings, proceedings and trials concerning trade secrets, and proceedings and trials now closed to the public, to comply with the provisions of state law, which the Committee believes require further review and consideration.

Proposed Rules Governing Coverage of Civil Proceedings and Trials

The Judicial Branch will take appropriate steps to ensure that litigants, the press, the bar, the bench, staff, and the public are aware that most civil proceedings and civil trials are subject to media coverage, including being photographed, videotaped or audio-recorded. Absent good cause shown, the media shall provide advance notice of their intention to broadcast, video-tape, photograph or audio- record such proceedings. The trial court should, to the extent possible, consult in advance with the media about anticipated coverage of proceedings.

The Judicial Branch, in consultation with media representatives, will take appropriate steps to identify those courthouses and courtrooms within such courthouses within the state where there may be special logistical concerns about the placement and operation of media equipment. The Branch shall share such information with media representatives as well as with the judges sitting in such locations.

Any party, attorney, witness or victim may object in advance of pre-trial proceedings or trials to the use of cameras, video cameras or audio equipment if there is a substantial reason to believe that such media coverage would undermine the legal rights of a party to a civil proceeding or civil trial or significantly compromise a witness's safety or impact legitimate privacy concerns. To the extent practicable, the fact that an objection has been lodged to the use

of still cameras, video cameras and/or audio recordings, and the date, time and location of the hearing on those objections, will be posted on the Judicial Branch web site so that affected parties may attend the hearing. The parties, as well as a witness or victim whose rights are at issue in considering electronic coverage of the proceedings, and the media, may participate in the hearing to determine whether to limit or preclude electronic coverage. The burden of proof will be on the person seeking to restrict electronic coverage. To the extent practicable, where an objection to electronic media coverage of a proceeding has been filed, media representatives shall provide written notice three days in advance of the proceeding if they intend to broadcast, video-tape, photograph or audio-record the proceeding.

If no party, witness or victim objects to electronic coverage of a proceeding, the trial court may nonetheless propose to limit or preclude such coverage where the court reasonably believes that such coverage would undermine the legal rights of a party or significantly compromise a witness's safety or impact legitimate privacy concerns. The court will provide similar notice to the parties and others whose interests may be directly affected by a decision on media coverage, including the media, so that they may participate in the hearing.

The court will decide after the hearing whether to preclude or limit the use of still and/or video cameras or audio recording, taking into account the rights at issue and bearing in mind the "Guiding Principles" adopted by the Committee and the Task Force – in particular the principle that "Public access to judicial proceedings should be limited only if there is a compelling reason to do so, there are no reasonable alternatives to such limitations, and the limitation is no broader than necessary to protect the compelling interest at issue." The court shall take into account the special considerations that may arise, including, for example, those involved in the testimony of children and witnesses who are alleged victims of sexual offenses, as well as those matters in which there may be other additional legitimate privacy concerns, as in civil commitment proceedings. Neither agreement of the parties, nor a general statement by the court that it does not favor electronic coverage generally or in a particular category of cases, shall be sufficient to meet the standards articulated in the Guiding Principles for limiting or precluding electronic coverage.

Objections raised during the course of a pre-trial proceeding or trial to photographing or video taping or audio recording specific aspects of the proceeding, specific individuals or exhibits will be heard and decided by the trial court, based on the same standards used to

determine whether to preclude or limit access based on objections raised before the start of a trial.

Cameras, video cameras and audio recording equipment may be used in the courtroom, but not in other parts of the courthouse.

To ensure coverage and minimize disruption, pool representatives should ordinarily be utilized for video, still cameras and radio, with each pool representative to be decided by the relevant media group.

Cameras, video cameras, microphones and other related equipment are to be placed in the courtroom in the location designated by the Judicial Branch to ensure maximum coverage of the proceedings while minimizing disruption.

To minimize disruption, cameras, microphones, video cameras and related equipment may be set up and taken down only when the court proceedings are in recess. During a jury trial, operators of cameras and video cameras and audio recording equipment may be required to be present for the entire day's proceedings.

There shall be no video taping, audio recording or photographing of jurors. There shall be no video taping or audio recording of trial proceedings held when the jury has been excused from the courtroom unless the trial court determines that such coverage does not create a risk to the defendant's rights or other fair trial risks under the circumstances.

Nothing in this proposal is intended to eliminate the trial courts' existing authority to take reasonable measures to preserve order in the courtroom and to ensure a fair trial.

RECOMMENDATION ADDRESSING ACCESS TO OFF-SITE JUDICIAL PROCEEDINGS

The Committee recognizes that the presumption of openness extends to all judicial proceedings. The Committee also acknowledges that access to a proceeding held off-site, such as a hearing at a hospital, may not be within the control of the Judicial Branch. Therefore, the Committee recommends the following policy:

Absent exceptional circumstances, in the case of an out-of-court judicial proceeding, a transcript or recording of the proceeding shall be made and such record shall be available to the public. The court will also state on the record in open court, by the next court day, a summary of what occurred at such proceeding.

RECOMMENDATION ADDRESSING NOTE TAKING IN JUDICIAL PROCEEDINGS

The Committee acknowledges that note-taking by the public is permitted in any courtroom. Accordingly, the Committee recommends the following:

The taking of notes in any courtroom shall be permitted. The chief court administrator shall inform all Judicial Branch employees of this policy. Nothing in this rule or policy shall be construed to limit in any way the court's inherent power to prevent the disruption of court proceedings.

PROPOSAL FOR THE CREATION OF A JUDICIAL – MEDIA COMMITTEE

As a means of furthering open communications between the media and the courts, the Committee recommends the establishment of a judicial – media committee, in accordance with the principles listed below:

- The goals of the Judicial-Media Committee are to foster and improve better understanding and relationships between the Judicial Branch and the media, both print and electronic, and to discuss and recommend resolutions of problems confronted by the media and the public in gaining access to court proceedings and documents.
- The Committee should be operated under the policies governing committees appointed by the Judicial Branch.
- The Committee should be chaired by a member of the Supreme Court and a media executive. Membership should include representatives of print and electronic media, judges, members of the state bar association, and others whose experience and expertise could benefit the Committee.
- The Committee should be charged to form a quick-response team, comprised of judges and reporters, structured similarly to the committee known as the “Fire Brigade” that has operated successfully in Massachusetts. The mission of this team is to be available to review questions and disputes over access to judicial proceedings and to recommend a resolution the same day the question is presented.
- The Committee should take steps to educate the public on issues relating to access to judicial proceedings.
- The Committee should meet on a regular basis.

Similar committees are currently in place in Massachusetts, Indiana and Washington. The Massachusetts Committee has extended an invitation to host a delegation from Connecticut at its next meeting, which will be sometime this fall.

PROPOSAL REGARDING EVALUATION OF IMPLEMENTATION OF COMMITTEE RECOMMENDATIONS

The Committee recognizes the importance of monitoring and evaluating the implementation of its recommendations. Therefore, the Committee encourages the Judicial Branch to engage in an ongoing review of all aspects of its implementation efforts, and makes the following recommendation:

The Office of the Chief Court Administrator should collect and compile information on the implementation of the Committee's recommendations, including statistical information concerning coverage of court proceedings. This information should be made publicly available and shared with the Judicial-Media Committee for purposes of ongoing evaluation and education initiatives.

TASK FORCE VOTES

WITH MINORITY STATEMENTS

First Recommendation:

Definition of meeting

This recommendation was adopted by unanimous vote.

Second Recommendation:

Definition of Closed Session

This recommendation was adopted by unanimous vote.

Third Recommendation:

Access to public meetings scheduled in court facilities

This recommendation was adopted by unanimous vote.

Fourth Recommendation:

Definition of Administrative Record

This recommendation was adopted by unanimous vote.

Fifth Recommendation:

Judges' attendance records

This recommendation was adopted by unanimous vote.

Sixth Recommendation:

Judicial Performance Evaluations

This recommendation was adopted by unanimous vote.

Seventh Recommendation

Complaints received by the Judicial Branch regarding a particular judge:

This recommendation was adopted by unanimous vote.

Eighth Recommendation

Retention schedule for Administrative Records

This recommendation was adopted by unanimous vote of those participating in the vote. Judge Lavery abstained.

Ninth Recommendation

Adoption of a policy on Access to Court Records

This recommendation was adopted by unanimous vote.

Tenth Recommendation

Amend the Judicial Branch Mission Statement

This recommendation was adopted by unanimous vote.

Eleventh Recommendation

Post criminal docket information online

This recommendation was adopted by the Task Force by a vote of 13 – 4. Those voting in favor: Clifford, Collins, Griffin, Neigher, Lavine, Ment, Bayer, Palmer, Sanders, Alander, Quinn, Lowe, and Margolfo. Those opposed: Cibes, Lavery, Dewey and Stevens.

The following minority position statement was submitted for this recommendation:

By Dr. Cibes:

Comments in letters and in public hearings concerning this recommendation and others have made it clear that the Age of the Internet has radically changed the degree to which public information is widely disseminated. Information posted online may be available forever, either from the host server or from servers that pick up and archive that information, so that search engines (e.g. Google) can effectively rummage through the files to find negative data about individuals. The criminal docket is not much more than an unedited list of arrest records. So the fact of arrest, not balanced by a record of the outcome of the case, is now available online. This constitutes a “public database of arrests with no conviction,” according to one letter the Task Force received. “Making criminal court records of arrests available online will result in innocent people losing their jobs because of the stigma of the arrest record.” A national task force convened by the U.S. Department of Justice concluded in 2001 that arrest records should not be disseminated: “Constitutional values, particularly the presumption of innocence, informed the policy behind providing more confidentiality and privacy to arrest records.” Because I cannot support this “collateral damage” arising merely from the fact of arrest, I believe criminal dockets should not be posted online.

By Judge Dewey: *Judge Dewey submitted a minority statement relative to some of the recommendations adopted by the Task Force. Since it applies to a number of her votes in opposition, it is included in this chapter following the list of adopted recommendations.*

Twelfth Recommendation

Review Judicial Branch-issued forms in connection with potential identity theft

This recommendation was adopted by unanimous vote.

Thirteenth Recommendation

Post criminal conviction information online

The recommendation was adopted by a vote of 10 – 7. Those voting in favor: Clifford, Neigher, Lavine, Ment, Bayer, Palmer, Sanders, Alander, Quinn and Lowe. Those opposed: Cibes, Lavery, Collins, Griffin, Dewey, Margolfo and Stevens.

The following minority position statements were submitted for this recommendation:

By Dr. Cibes:

Although I am more concerned about criminal docket information being available electronically (See Recommendation 11), I also believe that criminal conviction information should not be posted on the Internet, except in those well-considered instances in which the public needs to be informed about such convictions (such as sexual predators). The operation of the judicial process is designed to produce punishment commensurate with the crime. Public policy establishes what the appropriate dimensions of “paying one’s debt to society” should be, and provides that the judiciary should impose that penalty. Another purpose of conviction and incarceration is rehabilitation. Widespread dissemination of conviction records in an electronic age can produce collateral consequences for the convicted person far in excess of the punishment imposed by the judiciary, such as impairing the ability to find a job and re-integrate into society following the punishment. Such impairment also can adversely affect the likelihood of successful rehabilitation. So I believe that widespread dispersion of conviction information should not be encouraged by posting it on the Internet.

By Ms. Collins:

I opposed the recommendation because it was amended to limit disclosure of certain information.

By Ms. Griffin:

My vote opposing this recommendation is based on the addition of the amendment.

By Mr. Margolfo:

I would like to go on record as voting against the 13th recommendation due to the amending of it to include the last line limiting to 5 years the amount of time a misdemeanor conviction would be available online. I would have voted in favor of the

original recommendation that did not limit how long any criminal conviction would remain on line.

Fourteenth Recommendation:

Revise form for sealing of arrest warrant affidavits

This recommendation was adopted by unanimous vote.

Fifteenth Recommendation:

Revise procedure on continued sealing of search warrant affidavits

This recommendation was adopted by unanimous vote.

Sixteenth Recommendation:

Permit public access to police reports used in determining probable cause

This recommendation was adopted by a vote of 12 – 4. Those voting in favor: Cibes, Collins, Griffin, Lavine, Ment, Bayer, Palmer, Sanders, Alander, Quinn, Lowe and Margolfo. Those opposed: Clifford, Lavery, Neigher and Dewey. Judge Stevens abstained.

The following minority position statement was submitted for this recommendation:

By Judge Lavery:

A majority of the task force passed the following resolution on police reports used in Court Hearings:

“Any police report used during a court hearing as the basis for a judicial determination regarding probable cause, whether or not probable cause has been found, shall be made part of the court file and available to the public, unless the court, on its own motion or on motion of any party, shall order, for good cause shown, all or a portion of the report be sealed. If such a motion has been granted, the moving party may have up to seven days to make a recommendation as to the details of the sealing order. If no such recommendation is made, the report shall be made public.”

I strongly disagree with that part of the resolution which requires that police reports be placed in court files where no probable cause has been found and presumed to be open to the press and public unless some action is taken by the trial judge on that day and again within seven days.

When no probable cause has been found, it means that the police report does not contain even the minimum standard of proof to hold a person or arrest a person. It means that there are insufficient facts in the record to meet even the most minimum standard of proof a person has committed a crime. This resolution will make public unsubstantiated allegations against an individual most of whom, who have been arrested without a warrant, are the poorest of the poor. It is just wrong to have unsubstantiated, hearsay and false allegations be open to public view. No one, not the press nor the public, has a right to have unsubstantiated, baseless and false statements made public.

It is a Judge's job to protect people from unsubstantiated allegations and to have these reports not based in fact go back to the presenter and require a report meeting the minimum standards of the law and if that doesn't happen to dismiss that case. The language requires that after a report is sealed - if it is sealed - it will be open after seven days unless someone takes action. How is the poor defendant who is the beneficiary of the no probable cause finding going to know enough to protect his interest in not having unsubstantiated allegations open to public view?

When dealing with the person who is the recipient of a finding of no probable cause, this resolution is incomprehensible and is totally unfair. Unsubstantiated allegations against a person should not be made public and allowed to ruin a person's reputation. The public has no right to know an unsubstantiated allegation. This resolution as it pertains to police reports where no probable cause has been found should not be recommended to the Judges.

Seventeenth Recommendation:

Implement written policy on handheld scanners

This recommendation was adopted by unanimous vote.

Eighteenth Recommendation:

Access to certain pretrial diversion programs currently sealed upon application

This recommendation passed by a vote of 12 -5. Those voting in favor: Clifford, Lavery, Neigher, Lavine, Ment, Bayer, Palmer, Sanders, Quinn, Dewey, Margolfo, Stevens. Those opposed: Cibes, Collins, Griffin, Alander, and Lowe.

Nineteenth Recommendation:

Post certain case information regarding pending criminal cases online

This recommendation was adopted by a vote of 12 – 3 – 1 – 1. Those voting in favor: Clifford, Collins, Griffin, Neigher, Lavine, Bayer, Sanders, Alander, Quinn, Lowe, Margolfo, and Stevens. Those opposed: Cibes, Lavery and Palmer. Judge Ment was absent and Judge Dewey abstained.

Twentieth Recommendation:

Availability of competency evaluations

This recommendation passed by a vote of 13 – 4. Those voting in favor: Cibes, Clifford, Lavery, Neigher, Lavine, Ment, Bayer, Palmer, Alander, Quinn, Lowe, Dewey, and Stevens. Those opposed: Collins, Griffin, Sanders, and Margolfo.

Twenty-first Recommendation:

Access to alternate incarceration assessment reports

This recommendation was adopted by unanimous vote.

Twenty-second Recommendation:

Non-party intervention to seek or restrict access

This recommendation was adopted by unanimous vote.

Twenty-third Recommendation

Remote electronic access to court records

This recommendation was adopted by a vote of 11 – 6. Those voting in favor: Clifford, Collins, Lavery, Neigher, Lavine, Ment, Palmer, Quinn, Dewey, Margolfo, and Stevens. Those opposed: Cibes, Griffin, Bayer, Sanders, Alander, and Lowe.

Twenty-fourth Recommendation

Written policy on administrative waiver of copying fees

This recommendation was adopted by unanimous vote.

Twenty-fifth Recommendation:

Bulk transfer of information

This recommendation was adopted by unanimous vote.

Twenty-sixth Recommendation:

Policy on correction of inaccurate information

This recommendation was adopted by unanimous vote.

Twenty-seventh Recommendation

Adopt a definition of “media” for purposes of recommendations on access to proceedings

This recommendation was adopted by a vote of 14 – 2. Those voting in favor: Cibes, Clifford, Griffin, Neigher, Lavine, Ment, Bayer, Palmer, Sanders, Alander, Lowe, Dewey, Margolfo and Stevens. Those opposed: Collins and Lavery.

Twenty-eighth Recommendation:

Consideration of issues in connection with implementation of the definition of “media”

This recommendation was adopted by a vote of 15 – 1. Those voting in favor: Cibes, Clifford, Lavery, Griffin, Neigher, Lavine, Ment, Bayer, Palmer, Sanders, Alander, Lowe, Dewey, Margolfo and Stevens. Those opposed: Collins.

Twenty-ninth Recommendation:

Expand electronic access to the Supreme and Appellate Courts

This recommendation was adopted by unanimous vote.

Thirtieth Recommendation:

Pilot program on media access to criminal proceedings

This recommendation was adopted by a vote of 15-1. Those voting in favor: Cibes, Clifford, Collins, Lavery, Griffin, Neigher, Lavine, Ment, Bayer, Palmer, Sanders, Alander, Lowe, Margolfo, and Stevens. Those opposed: Dewey.

Thirty-first Recommendation:

Coverage of Arraignments

This recommendation was adopted by unanimous vote.

Thirty-second Recommendation:

Media access to Superior Court civil proceedings and trials

This recommendation was adopted by unanimous vote.

Thirty-third Recommendation:

Record of off-site judicial proceedings

This recommendation was adopted by unanimous vote.

Thirty-fourth Recommendation:

Note taking in judicial proceedings

This recommendation was adopted by unanimous vote.

Thirty-fifth Recommendation:

Establishment of a Judicial-Media Committee

This recommendation was adopted by unanimous vote.

Thirty-sixth Recommendation:

Evaluation of implementation of recommendations

This recommendation was adopted by unanimous vote.

Thirty-seventh Recommendation:

Judicial Authority

This recommendation was adopted by a vote of 13 – 4. Those voting in favor: Cibes, Clifford, Lavery, Neigher, Lavine, Ment, Bayer, Palmer, Alander, Quinn, Dewey, Margolfo, and Stevens. Those opposed: Collins, Griffin, Sanders and Lowe.

Thirty-eighth Recommendation:

Financial affidavits

This recommendation was adopted by a vote of 9 – 8. Those voting in favor: Cibes, Griffin, Neigher, Bayer, Palmer, Sanders, Alander, Lowe, and Margolfo. Those opposed: Clifford, Collins, Lavery, Lavine, Ment, Quinn, Dewey, and Stevens.

The following minority position statement was submitted for this recommendation:

By Judge Lavery:

The 9 to 8 vote of the majority to open financial affidavits in uncontested family matter in my opinion is incorrect for two reasons:

- 1) People who settle their martial disputes without a contested hearing have a right of privacy in their financial information.
- 2) Opening the financial affidavits with e-filing and the Internet opens a wide area for identity theft predators to practice their craft. People who settle their disputes in a non-adversarial manner should not be put at risk of their identities being stolen.

The need for openness is not the only important public policy at issue. The need to protect legitimate personal and family privacy concerns, including financial privacy concerns, is also a public policy concern of great significance. Fairly weighing legitimate privacy concerns is part of the Task Force's charge.

This financial information is universally considered to be of a personal nature and is only rarely shared with friends and neighbors. Exposing this information to public view – particularly in an age where it can be easily and widely disseminated on the Internet – serves no legitimate purpose and only serves to subject people going through a difficult and painful experience to a heightened sense of vulnerability.

There is no legitimate reason for the public to have access to this information in an uncontested case. In fact, there is no need at all aside from prurient interest in the private affairs of people – sometimes famous people – going through a divorce. The parties in the case have a strong interest in ensuring a fair disposition of assets. If they are satisfied with the disposition and reach an agreement with the approval of the trial judge as to fairness, the legitimate public interest in the financial affidavit is extremely minimal, or even nonexistent. The protection of their privacy rights is an incentive for people to settle their disputes and the settlement of these types of disputes is good for families and the court system.

Minority Position Statement Submitted by Judge Dewey

As stated by this task force, it should be the mission of the judicial branch “to resolve matters brought before it in a fair, timely, open and efficient manner.” Without question there is a strong societal interest in an open judiciary. Continued public scrutiny leads to a more efficient, conscientious administration of justice. However, there is an equal, if not stronger, societal interest in preserving constitutional guarantees.

Members of the judiciary have a simple mandate. Succinctly stated: “All courts shall be open, and every person, for an injury done to him in his person, property or

reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.” Connecticut Constitution, Article First, Section 10. A court’s primary responsibility is to provide litigants with fair, timely and efficient justice. A court’s focus is necessarily on the actual court proceeding. For the most part this task force has recognized that duty. To the extent that any of these recommendations may interfere with that charge, I must respectfully dissent.

A further concern is that the task force unintentionally equates a criminal defendant’s constitutional right to a public trial with the public’s right to access to judicial proceedings. Under that premise, the task force has proposed several recommendations that would alter existing statutes and court rules. Those statutes and rules reflect centuries of deliberation, development and modification.

This task force did not have sufficient time to consider the impact of its proposals upon existing constitutional provisions, statutes and rules. The task force acknowledges “the need to respect legitimate concerns of individual privacy, confidentiality, security and constitutional rights.” Unless these considerations are addressed, this individual cannot evaluate the true merits of several proposals.

To the extent that the task force has not had time to fully determine the interaction between its recommendations and the state and federal constitutions, statutes, rules and the common law, and until this task force fully considers the important competing interests of privacy and security, I must respectfully dissent.

Committee Recommendations Not Adopted by the Task Force

Two Committee recommendations were not adopted by the Task Force. The text of each is set forth below along with minority position statements submitted for each.

Providing continued access to certain information in currently erased records

Greater disclosure is warranted regarding erased records in criminal cases both because the public has a right to know the disposition of a criminal case and because the concept of “erased” records is unrealistic in an electronic age where information remains widely available in the public domain after it is theoretically erased. The following information should be made available to the public in the case of dismissals, nolle after thirteen months, declined prosecutions pursuant to the Practice Book, pardons, and not guilty verdicts: the docket number, the case name, date of birth, charges, the date of

disposition, and the nature of the disposition. However, the underlying court records in such cases shall remain closed to the public.

This recommendation failed by a vote of 8 – 9. Those voting in favor: Cibes, Collins, Griffin, Bayer, Sanders, Alander, Lowe, and Margolfo. Those opposed: Clifford, Lavery, Neigher, Lavine, Ment, Palmer, Quinn, Dewey and Stevens.

The following minority position statement was submitted for this recommendation:

By Dr. Cibes:

The following recommendation of the Committee on Court Records was not adopted by the Task Force. Because of its importance, I want to state why I believe it to be critical.

Original Recommendation 23:

Providing continued access to certain information in currently erased records

Greater disclosure is warranted regarding erased records in criminal cases both because the public has a right to know the disposition of a criminal case and because the concept of “erased” records is unrealistic in an electronic age where information remains widely available in the public domain after it is theoretically erased. The following information should be made available to the public in the case of dismissals, nolle after thirteen months, declined prosecutions pursuant to the Practice Book, pardons, and not guilty verdicts: the docket number, the case name, date of birth, charges, the date of disposition, and the nature of the disposition. However, the underlying court records in such cases shall remain closed to the public.

Especially in light of Recommendation 11, it is absolutely essential that persons who have had their arrest record posted on the Internet be able to have a public record of the fact that they were subsequently exonerated – that is, that they were found not guilty, that their case was dismissed, that prosecution was declined, that they were pardoned – or that their case was “nolled” after fulfillment of conditions. I am very supportive of the current public policy that criminal records be erased under those circumstances. But the “Catch-22” is that the arrest record is likely to remain on the Internet, despite the erasure of all other records. So someone with a search engine like Google could find the fact of arrest, but NOT the fact of being found not guilty, perhaps leading to unjustified conclusions that the “erasure of records” was designed to prevent. Although this Recommendation was not accepted by the Task Force, I urge that it ultimately be adopted.

Status of the criminal and civil jury instruction committees with respect to open meetings

The Committee reached no consensus as to whether the civil jury instruction committee and the criminal jury instruction committee should be included among those meetings which would be open pursuant to the first recommendation adopted by the Task Force; therefore, such determination was left to the full Task Force.

This recommendation failed by a vote of 8 – 8 - 1. Those voting in favor: Griffin, Neigher, Ment, Bayer, Sanders, Alander, Lowe, and Margolfo. Those opposed: Cibes, Clifford, Lavery, Lavine, Palmer, Quinn, Dewey and Stevens. Ms. Collins abstained.

The following minority position statement was submitted for this recommendation:

By Attorney Neigher:

I believe that the Criminal and Civil Jury Instruction Committee meetings should be open to the press and the public on the same basis as those committees enumerated at page 2-2 of the final report. Jury instructions are an integral part of criminal and civil trials and reflect the consensus of applicable law as interpreted by our trial and appellate courts. Such meetings do not involve discussion of personal, private, confidential or medical information. To the extent that preliminary or draft notes are circulated in advance of such meetings, these need not be compromised, and there has been no showing that any chilling effect on free and open discussion would result from the opening of those meetings. Jury instructions are the ultimate statements of judicial interpretation of common and statutory law. There is no valid basis why the process which creates these instructions should be hidden from public view.