

Draft Minutes of
Identity Theft Committee
March 8, 2007

The Identity Theft Committee met at 99 East River Drive, East Hartford, in Room 707 on Thursday, March 8, 2006 from 1:15 PM to 3:15 PM.

Those in attendance: Judge Berger, Judge Blawie, Mr. Callahan, Atty. Fisher, Judge Pellegrino, Judge Pittman, Det. Sabetta, Atty. Shay, and Atty. Yen.

Judge Pellegrino called the meeting to order at 1:15 PM. The first agenda item was the review of the minutes of the last meeting. Upon motion and second, the minutes were unanimously approved as distributed.

The next item on the agenda was discussion of the scope of the review of the forms. There are about 1000 forms, and the review is ongoing. Judge Pellegrino suggested that the committee consider eliminating the criminal forms from its review because the committee does not have the people needed to adequately address the issues raised, i.e., no representatives from public defenders, corrections, or adult probation. The committee will consider this question after the review of forms.

Attorney Horwitch provided information on the forms review. Over 1000 forms organized by different types and identified by letter and numbers exist. To date, Legal Services has received and reviewed approximately 600 forms to determine whether they request information that presents a risk of identity theft. Based on prior meetings and the definition contained in the identity theft statute (C.G.S. 53a-129), it was determined that sensitive identifiers include Social security number, account numbers (bank, brokerage, credit card, and debit card), date of birth, names of minor children, maiden name, mother's maiden name, motor vehicle operator's license number, and government-issued identification number (state ID, passport, military ID, and alien registration). Forms requesting this information were sent to the particular group that uses the form. Forty-three responses have been received, of which 35 stated that the information was critical for the need that was being met by the form and 8 stated that the information could be eliminated or redacted in some way. The charts handed out reflect the status of the review as of today, with additional forms and responses continuing to come in. Primarily, it is criminal and adult probation forms that request this type of information, and this information is important to other agencies, not just judicial. The forms are being reviewed individually and not in terms of how they could be combined because it is difficult to predict how forms might be combined so it becomes important to have a mechanism to protect this type of information if Judicial needs to collect it. A suggestion was made that Judicial try to move away from using these personal identifying factors and move toward a number that is of no material value to a thief, i.e., a docket number.

Discussion ensued on carving out criminal and adult probation from the consideration of this committee and the consensus was that criminal and adult probation forms, statutes, and rules will be handled by a subcommittee made up of interested members of this committee as well as other individuals involved in criminal. Upon motion and second, the motion to create a subcommittee was approved unanimously. Judge Blawie, Atty. Shay, and Detective Sabetta would like to be a part of the subcommittee.

Judge Pellegrino then diverged from the agenda to share with the committee a letter received by Atty. Shay from an individual from New Haven who saw on the website that the Identity Theft Committee had a meeting today. She had some questions regarding Identity Theft, but no response is possible because there was no contact information.

After a discussion, the committee determined that staff should collect and evaluate the responses that come in and provide this information to the committee. Staff will provide information on which forms are available on the website. The committee will then review the forms and the recommendations.

Atty. Livesay reported on the review of statutes and practice book rules that request the inclusion of personal identifying information. The most commonly requested piece of information was the social security number. Responses indicated that the full information was need for various reasons (identification, processing payments), and some P.B. Rules in the civil area could use only a redacted version of account numbers.

A discussion ensued regarding the information that comes in not because Judicial requests or requires it, but because it is part of the culture, i.e., forms used by firms for years, common practice in particular types of cases like collections. Judge Pittman suggested recommending to the Rules Committee that a rule be passed that would require the redaction of particular information from documents filed with the court, unless otherwise ordered by the court. It would be a rule, but also a policy statement. The committee agreed that such a rule would be beneficial. Atty. Livesay will work with Judge Pittman on drafting a proposed rule.

Discussion ensued as to what the committee should do with the statutes and rules. Criminal and adult probation statutes and rules will go to the subcommittee, but the committee would like to obtain more information from staff regarding the forms, statutes, and rules where they have responded that the information is necessary. Judge Pittman also asked that staff cross-reference the Practice Book rules and the statutes since some of the practice book rules essentially track the statute. She also stated that she did not believe the committee should concern itself with private discovery issues, but only with what is in the court file. At the next meeting, representatives from Civil, Family, Jury, Adult Probation, and Support Enforcement will be available to explain why the information is needed. Atty. Yen suggested that Judicial might consider some updated equivalent of the old carbon forms that blocked out information on some copies when the person receiving one copy did not need the information, but someone else did.

Atty. Mastrony presented the three options that have been taken by states in handling sensitive information in court files: a) treat paper and electronic differently, b) treat paper and electronic the same with the onus on filer not to submit sensitive information, limit online access, and not all information is publicly viewable), and c) a three tier system where records are deemed public and available on the Internet, public and available at the courthouse, and records deemed private. Atty. Yen said that options B and C were quite similar. Judge Pittman suggested another option: Option A, but start to look at what we accept for filing. Look at the requirement and be certain that Judicial does not ask for things that it does not want, and collect documents only as exhibits, not viewable except at the courthouse. Judge Pellegrino said that all the sensitive information would

still be in there, but Judge Pittman said it would only be available to the extent that we do not eliminate the collection of it. Also, a barrier would be up, requiring a person to come to the courthouse to view the documents. Judge Berger talked about the need for the power to redact when sensitive information is submitted in a file. Discussion continued about information that might be filed in family cases and foreclosure cases. Judge Pittman said that information would not be in the file under her scenario. She reiterated the need for a prohibition on submitting such sensitive information in pleadings or any other documents filed with the court.

Judge Pellegrino said there would be further discussion of these options at the next meeting. He summed up the meeting by saying that at its next meeting, the committee would have the following to consider: the draft of a practice book rule proposed by Judge Pittman, Judge Berger's report on the status of redaction, Atty. Horwitch's update on the forms review, staff reports on why information is necessary, and an update on the formation of a subcommittee to review criminal and adult probation rules, statutes, and forms.

Atty. Yen said that in reviewing the information provided by staff on the availability of electronic records on the Internet, she noticed that most states have very little out there, and she was wondering why that was the case. The costs of the technology were one concern, but the issues this committee is grappling with on identity theft, as well as the larger issues of information privacy also impact on the posting of court records online.

There being no further business, the meeting was adjourned at 2:35 PM.