

Minutes of March 1, 2007, Judicial-Media Committee

Members of Judicial-Media Committee present: Judge Douglas S. Lavine, Mr. G. Claude Albert, Judge Patrick Clifford, Attorney Joseph D'Alesio; Judge Nina Elgo, Mr. Paul Giguere, Judge Robert Holzberg, Attorney Charles Howard, Mr. Ken Margolfo, Mr. Chris Powell, Judge Barbara Quinn, Mr. Patrick Sanders, Judge Michael Shay, Attorney Stanley Twardy Jr., Ms. Adriana Venegas.

Absent: Mr. Scott Brede, Mr. Morgan McGinley, Ms. Dana Neves, Judge Barry Stephens.

Members of Fire Brigade present: Judge David Gold, Ms. Heather Collins, Judge Patrick Carroll III, Judge Patrick Clifford, Ms. Erin Cox, Ms. Karen Florin, Judge Susan Handy, Judge Barbara Bailey Jongbloed.

Absent: Attorney Michael Kokoszka, Mr. Zach Lowe, Ms. Lynne Tuohy.

Agenda Item No. I: Meeting called to order @ 2:05 p.m.

Committee Co-Chairs Judge Lavine and Claude Albert introduced themselves. Judge Lavine then introduced Justice Borden. He said that Justice Borden has guided the Judicial Branch for almost a year and appointed the Public Access Task Force that led to the creation of the Judicial-Media Committee. Judge Lavine also cited Justice Borden's commitment to public access to the courts.

Agenda Item No. II: Justice Borden thanked members of the committee and Fire Brigade. He outlined goals and expectations of both groups and suggested ideas to consider, including a law school for journalists, journalism school for judges, and updating the court access field guide. He also suggested the use of former law clerks as resources. (A copy of the speech was provided to committee/Fire Brigade members, and is accessible through the Judicial Branch website.)

Agenda Item No. III: Mr. Albert asked everyone to introduce themselves and to say something about his/her background.

Agenda Item No. IV: Mr. Albert and Judge Lavine then made opening remarks.

Mr. Albert mentioned he was uncomfortable when first asked to serve but that it seemed "we should seize the opportunity for dialogue." He continued that it can only make everyone wiser and better serve the public regarding the media's and courts' respective functions. Mr. Albert also said that transparency of the judiciary is the foundation of democracy. Courts, he said, impact real people and openness provides the courts with credibility, respect and a public record of individual and institutional actions. In an era of increasing secrecy, courts provide a window – sometimes the only one – into important issues and actions that are otherwise concealed, he said. The public, he added, is the unseen party in the courts. Mr. Albert concluded by saying that his goal is to facilitate discussions regarding public access and the rights the courts must uphold, and that benefit the public most of all.

Judge Lavine said the committee is going into uncharted territory and has an important role to play. He also believes that the committee will play a key role in improving relationships between the media and the courts. Judge Lavine said he anticipates that the committee will provide a way for judges and journalists to come together and discuss ideas and areas of concern, to hear speakers, and to plan educational forums. The Fire Brigade will have an informal role regarding access, he said. He stressed that while the people at the meeting have common concerns, it's important to remember that they have different roles. Besides the perspectives of judges and journalists, he said, private lawyers have a different role and crime victims view public access issues from an entirely different perspective. He concluded by saying that if the committee functions well, there will not only be agreement but disagreement as well and respect for different viewpoints.

Agenda Item No. V: Mr. Albert addressed housekeeping issues, including these points:

- Meetings will be open to the public and on-the-record.
- Off-limit topic is discussion of pending court cases
- Judge Lavine and he will alternate as chairs, but both will speak up
- Meeting sites will be alternated

Rhonda Stearley-Hebert, manager of communications for the Judicial Branch, provided information about a resource notebook that committee and Fire Brigade members received.

Agenda Item No. VI: Judge Lavine next addressed the agenda topic of Committees – Events and Survey. He added that the field guide to court records also needs updating, but that it will be taken up later. Regarding the Events Committee, Judge Lavine said there are a variety of ideas for the group to consider: conferences, planning meetings around speakers, enlisting well-known speakers, panel discussions, and pro-con presentations on controversial issues. Judge Lavine said that he thought the law school for journalist/journalism school for judges were good ideas, and that it also would be interesting to do role-playing between journalists and judges.

Mr. Albert said that he and Judge Lavine decided they should start with a survey and would like to know from judges and journalists the pressing issues that they face. He cited the Massachusetts survey in the members' resource notebooks as a starting point to put together our own survey that would provide some guidance and address points of friction.

Both Judge Lavine and Mr. Albert asked the group to email their committee preferences if they are interested in volunteering.

Judge Lavine also thanked Patrick Sanders, Connecticut editor for the Associated Press, for presenting the idea of the Fire Brigade during last year's meetings of the Public Access Task Force. Mr. Sanders credited his boss in Massachusetts for suggesting the idea.

Agenda Item No. VII: Judge Lavine turned to the Fire Brigade. He described it as having an informal structure and complimented co-chairs Heather Collins and Judge David Gold. Judge Lavine also stressed that members of the Fire Brigade are in the trenches. He then turned over the discussion to Judge Gold and Ms. Collins.

Judge Gold cited the informality of the group and said its role would be essentially one of mediation. He said that the Fire Brigade's ultimate goal would be to disband as a result of the issues in the field not presenting themselves anymore. According to Judge Gold, goals include persuading judges that the Fire Brigade will not be adjudicating issues and stressing a quick response when disputes arise.

Ms. Collins said that co-chairs of the Fire Brigade have met to begin crafting what they think the response team should be. She continued that the recommendations are preliminary and will be modified as input is received from judges, clerks and reporters on the Fire Brigade.

Much of what has been suggested is modeled on the Massachusetts Fire Brigade, she said, and she reiterated that the co-chairs believe the Fire Brigade should serve several informal functions, including promoting discussion about access issues. The co-chairs, she said, do not believe that the Fire Brigade should serve as "front-line emergency responders." The Fire Brigade supports the current system, whereby a reporter with an access issue contacts the Judicial Branch's External Affairs office, Ms. Collins said. If the problem can't be resolved there, it then would go to a member of the Fire Brigade. She added that she and Judge Gold believe that the Fire Brigade needs another co-chair, specifically Middlesex Judicial District Chief Clerk Mike Kokoszka.

If, for example, a reporter is frequently denied access to court files then that matter could be brought to the Fire Brigade, she explained. It may be a matter of a Fire Brigade member providing guidance to the clerks, Ms. Collins said. She again stressed the preliminary nature of the Fire Brigade, its informality and how the co-chairs don't want to create another layer of bureaucracy. She also suggested that the Branch could consider creating an access booklet. While much of the information is available on the website, not everyone has access to the website, she added.

Ms. Collins concluded by saying that she believes the Fire Brigade should be limited to media, as it is in Massachusetts, but that "media" should include new media, i.e. bloggers. She added that she looks forward to meeting soon with the Fire Brigade.

Agenda Item No. VIII:

Mr. Albert told the group that the co-chairs now would like to give everyone a chance to talk about their concerns or to provide comments.

Attorney Stanley Twardy commented on educating reporters about the court process, for example, how do things work in the courtroom? The reverse of that, he said, is: what are the issues confronting journalists? What will help judges understand what reporters are after?

Ms. Collins said she loves the idea of a journalism school for judges and added that she's sure judges love the idea of a law school for journalists.

Chris Powell raised the subject of how best to correct errors the media may make in reporting court news. Judge Lavine responded that the Code of Judicial Conduct does not prevent judges from correcting factual misrepresentations. Mr. Powell responded that it's a two-way street and that the media is as flawed institutionally as the courts. Ms. Collins mentioned that a judge in Hartford recently stated on the record an error made by another reporter covering a trial.

Explaining a ruling on the record is one way a judge can get out his/her message, Judge Barbara Quinn said. She added that the bar had a committee several years ago that helped judges get out their messages; the committee was helpful.

Attorney Charles Howard, citing the adversarial nature of the court process, said he thinks the role of counsel should be included as well. He also offered a law firm as a site for a committee meeting and suggested that if the committee is going to do a survey, then there may be questions that could be tailored to the role of counsel.

Judge Robert Holzberg suggested having forums where members of the public could hear the exchanges between different groups.

Victim Advocate Adriana Venegas mentioned that people who testify often are concerned about their identity being publicized. Judge Lavine responded that his impression is that witnesses do not want publicity and don't want to be in court. He would like to learn about the media's policies regarding victims, witnesses, etc.; to protect them or not protect them. Attorney Twardy said that perhaps the committee needs to hear from people in the criminal justice field on this topic. Judge Susan Handy said that crime victims, specifically sex assault victims and families of homicide victims, are extremely frightened to have their names publicized. She would like to hear from crime victims as well. Judge Lavine said he was somewhat surprised last year during hearings of the Public Access Task Force to hear the extent of victims' concerns and nervousness over the coverage they received. Mr. Albert said the topic of crime victims is highly charged and difficult for everybody.

Judge Michael Shay raised the subject of access to court records and identity theft. Judge Lavine responded that a separate committee headed by Judge Pellegrino is addressing that issue. Attorney Joe D'Alesio recommended that the progress of the Identity Theft Committee be shared with the Judicial-Media Committee. Mr. Albert added that how public records are kept could bear a lot of discussion.

Ms. Erin Cox suggested a project akin to "a day in the life of" or a field trip. She said she goes to court all the time but the people she works with don't. She thought field trips could be enlightening. Mr. Albert invited committee and fire brigade members to The Courant so that they "can watch the sausage being made." The experience is demystifying and interesting, he said.

Attorney Howard suggested that the report prepared by the Public Access Task Force be reviewed to determine what recommendations involve follow-up by the Judicial Media Committee.

Attorney D'Alesio mentioned that a lot of interaction occurs in the clerks' offices. One focus should be on re-educating staff in those offices on such topics as what a deadline is, what recommendations the task force made, etc. Clerks are afraid of doing the wrong thing, he said, adding that the field guide was intended to remove that fear. Judge Holzberg cited inconsistencies among the clerks' offices, and Judge Quinn cited the importance of education within the Judicial Branch.

Mr. Powell asked whether there is a guide or anything like it posted at the courts; is there anything to help the public understand what is public and what they have access to. He asked whether a guide could make information accessible to the public.

Mr. Ken Margolfo said that if a pilot program for cameras comes into fruition, then it would be up to the committee to review the program to see how it works. He also mentioned the issue of cameras outside of court. He referred to an incident in which a judicial marshal escorted a state representative who was a defendant out of a courthouse through a side door. Judge Lavine responded that sometimes there are security concerns; Mr. Margolfo responded that he didn't see any security issues in this particular situation.

Judge Lavine added that education within the branch would involve the judicial marshals.

Mr. Albert summarized by saying all of the comments provide good guidance in developing the survey. He added that some issues will be of more concern to judicial and others to the press, for example, what do we tell jurors? Sometimes they are told not to talk to the press when they leave after a trial is completed. That's a sore point, he said.

Agenda Item No. IX. The next meeting will be at 2 p.m. on Monday, June 11, 2007, at The Hartford Courant.

The meeting adjourned at approximately 3:30 p.m.