

Draft Minutes
Pilot Program Committee
April 6, 2009
Jury Assembly Room
Middlesex Judicial District Courthouse
Middletown, CT

Present: Tom Appleby and Judge Patrick Clifford, co-chairs; Judge Marshall Berger; Sara Bernstein; Larry Callahan; Linda Cimino; Judge David Gold; Gail Hardy; John Long; Patrick Sanders; Robin Smith; Judge Elliot Solomon; Mike St. Peter; and Dave Ward.

I. Open meeting

Judge Clifford opened the meeting at 2 p.m.

II. Approve minutes from meeting of January 5, 2009

The committee made one change to the minutes – the meeting started at 2 p.m., not the 3:12 p.m. time stated in the draft minutes. With that change, the committee unanimously approved the minutes.

III. Update on requests for 2009

IV. Discuss latest batch of evaluations

Regarding agenda items III and IV, committee members discussed additional evaluations that they had received from judges, attorneys and members of the media. According to Judge Clifford, the comments were similar to those received before – judges handling arraignments seem fairly satisfied; the media is generally satisfied; and the defense and prosecution want more notice of requests and fear that the publicity may negatively affect cases down the road.

Judge Berger made a motion to adopt one standing order for the videotaping or photographing of court proceedings, so that there is consistency throughout the state. Judge Clifford responded that consistency would be beneficial, but added that he had circulated to judges a memo in which he: 1) recommended that a judge notify the public defender, state's attorney and judicial marshals once he/she receives a camera request from the media through the External Affairs Division; 2) recommended that some type of protocol or standing order should be in place at each court location. Judge Clifford said he did not want to tell the judges what to do and believed that the memo was sufficient at this point.

Attorney Bernstein added that she thinks it would be good for the Judicial Branch to have a general protocol subject to modification.

Mr. Sanders asked whether anyone had argued that having a camera in court during an arraignment had affected a defendant's right to a fair trial. Attorney Bernstein answered that the pilot program hasn't been in existence long enough for the argument to be made yet.

Judge Berger said at some point the evaluation process needs to stop and that the committee needs to make its recommendations to the Judicial-Media Committee. He added that if 95 percent of the cases go to plea, then tracking them won't have any meaning regarding the effect of publicity on selecting jurors for trial.

Judge Clifford agreed that the evaluations are no longer necessary and that committee needs to do its report. Judge Solomon added that he found it hard to believe that televising one image of a defendant at arraignment could affect jury selection; instead, he said, it's the 20 articles in the newspaper.

V. Discuss process for preparing report

Judge Clifford said he thought that the committee would recommend in its report to the Judicial-Media Committee that the pilot program in Hartford be expanded to the entire state. (The rule regarding arraignments already is statewide and is not included in Practice Book section on the Pilot Program.) He also said the report should include the following: the creation of the committee from the Public Access Task Force; background on the committee, information about evaluations; and recommended standing orders.

Judge Berger suggested recommending that Section 1-11 of the Practice Book (re: Media Coverage of Criminal Proceedings) be amended to incorporate Section 1-11C of the Practice Book (re: Pilot Program for Media Coverage of Criminal Proceedings). That way, he said, there would not be two sets of rules.

Judge Clifford asked committee members whether anyone disagreed that the Pilot Program camera rules should apply statewide. No one disagreed.

Judge Gold asked whether the committee is being asked to decide whether the Pilot Program has worked well, or whether it believes that cameras in the courtroom are a good idea, or is it one and the same? If the committee is voting on whether it's good to have cameras in the courtroom, then that's more difficult, he said. Some might say the program is working well, but that it's bad to bring in cameras, he added. Judge Solomon responded that if the Pilot Program is working, then the committee ought to recommend what would make it work better.

The committee decided that a draft of the report should be completed by the end of May, so that the Judicial-Media Committee could receive it by the fall so that its members can vote on the recommendations and then forward them to the Rules Committee.

After the discussion on the report concluded, Hartford Judicial District Chief Clerk Robin Smith asked whether the committee had decided to stop distributing the evaluations. Judge Clifford made a motion to discontinue having the clerks distribute the evaluations to judges, lawyers and the media to fill out. Judge Gold seconded the motion, which carried unanimously.

VI. Schedule next meeting; adjourn

The committee will meet again on June 15, 2009. It adjourned at 3:25 p.m.