

2002 Report on Activities

Bench-Bar-Press Liaison Committee (Fire Brigade)

The calendar year 2002 saw regular activity by the Chair (regular in both senses of the word – steadily recurring and of a type consistent with that of past years) and one call which was referred to the full Brigade for assistance.

Fire Brigade calls came in from (or on behalf of) KOMO-TV, KIRO-TV, the Seattle P-I, the Bellingham Herald, the King County Journal and the Lewiston Morning Tribune and maybe half a dozen judges. The courts involved were different levels of court in King, Pierce, Snohomish, Pacific, Asotin and Whatcom Counties.

Cameras in Court

Interestingly, it was hallway photography of criminal defendants rather than in-court photography that seemed to generate the most discussion this year. The design of many of our fine old courthouses necessitates that in-custody defendants continue to be led through public areas *en route* to and from courtrooms. Press photographers understandably chafe at being told they can't snap away at will in the hallways. (Note that GR 16, by its language, is limited to inside the courtroom). For their part, judges legitimately worry about potentially prejudicial images of a defendant tainting a jury and causing a mistrial. Although not satisfactory to either party, a rapprochement seems to have been reached in at least a couple cases where it was mutually agreed that no photos would be taken showing the defendant's shackles. One of these days, either a judge or a photographer will push this issue and we'll see where it takes us.

In late June, a serious concern was raised over a practice threatening to become routine in one District Court. This related to cameras but carried access ramifications as well. A judge conducting Preliminary Appearance calendars by videotape feed from the jail was permitting defense counsel to block the stationary camera that was trained on the arrestee/inmate. The effect of this is that an individual making a court appearance cannot be seen either by the judge or by the public who may be in attendance in court.

The judge explained his position to the Fire Brigade as stemming from frustration over his inability to control media photographers who were tempted to photograph the individual's image from a monitor in the jail lobby (not in the courtroom).

Seeing this as a novel clash of the theoretical and the practical, the undersigned summarized the situation for all Fire Brigade members and solicited their reactions. The clearly prevailing view was to pull the plug on the lobby monitor, leaving full visual access for all in the courtroom subject to the control of the judge.

It was only Judge Stiliz who politely pointed out that someone should politely point out to the judge an overlooked rule. CrRLJ 3.4 states: "Preliminary appearances may be conducted by video conference in which all participants can simultaneously see, hear and speak with each other. Such proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants..."

Such a polite letter was sent, pointing out all of the above, and there is no more to report.

Access Issues

In a rare call from a business reporter, some puzzlement was expressed over the fact that the court file in a commercial case she had been following had suddenly become a sealed file. The not-so-rare explanation was found to be that the attorneys had simply presented an agreed order to the judge with a joint representation that this was necessary to protect trade secrets. The trial judge readily agreed with the Fire Brigade that the order was overbroad and wrote to the lawyers saying he would completely unseal the file in two weeks unless they submitted a more narrowly tailored order and provided justification for it. The latter occurred.

A Prior Restraint Loosened

During a Superior Court trial regarding the kidnapping of a 12-year-old girl, the judge initially directed a local newspaper reporter not to publish the girl's name. That night the judge was called at home by the newspaper editor and the two had a cordial conversation on the topic of whether the judge had that authority. It was agreed that the judge would consult with the Fire Brigade in the morning. After this consultation, the judge reversed himself, saying from the bench that he hoped good judgment would prevail in the newsroom. It did. The

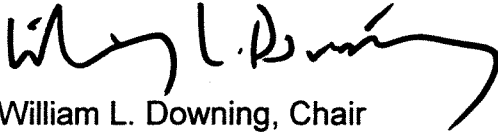
paper ran an editorial praising the judge for his receptivity and open-mindedness. The piece was entitled "It's a tough call, but we're not printing the girl's name."

Proactive Measures

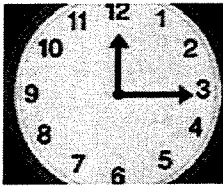
In April, the undersigned spoke at the Superior Court Judges' Conference on the role of the Fire Brigade in helping to solve potential conflicts between free press and fair trial rights in high profile cases.

Late in the year, Brigade members have been actively involved in considering a proposed amendment to GR 16 that would provide trial judges with greater guidance in the exercise of their discretion concerning cameras in court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William L. Downing". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

William L. Downing, Chair



Every 33 minutes, someone will die in an alcohol-related traffic accident

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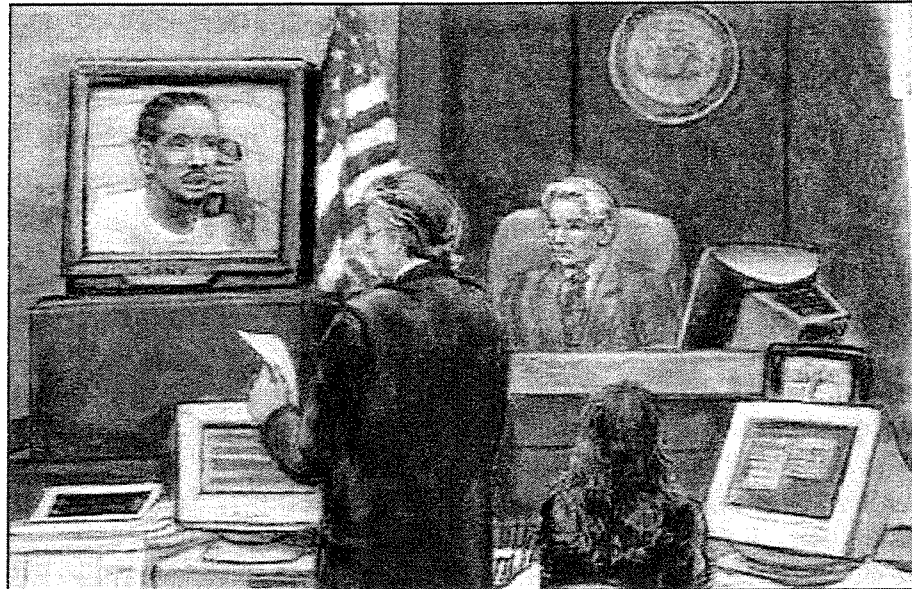
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Philadelphia 76ers' Allen Iverson, left, is depicted video conferencing with bail commissioner Abraham Polokoff, back, as he sat in a detention block at city police headquarters in Philadelphia Tuesday July 16, 2002 in this artist's rendering. In foreground at left is Iverson's attorney, Richard Sprague. (AP Photo/Susan Schary)

✉ Email Photo

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