

Testimony of Morgan McGinley March 2, 2008 to the Judiciary Committee in Hartford.

Mr. Chairman:

Thank you for the opportunity to testify today on Raised Bill 5528. I am Morgan McGinley, president of the Connecticut Council on Freedom of Information, an association of newspaper, TV and radio editors and reporters who seek to protect the public's right to know.

We are grateful for the work of this committee in pressuring the Judicial Branch to be more open and responsive to the citizens. The Judicial Branch, under the vigorous leadership of Chief Justice Chase Rogers, has since made much progress towards a more open system.

Raised Bill 5528 will continue to advance the cause of openness within the Judicial Branch by assuring that judges no longer feel free to place basic public information under the umbrella of the system's judicial functions and therefore exempt from the FOI law. Judges perform judicial functions. They should not try to hide from public view the most basic administrative information, yet this is what the Supreme Court did in ruling 4-3 that court dockets were not part of the material that should be made available to the public.

That decision was shocking in its arrogance and disregard for the public. And that is why 5528, which is sponsored by the state Commission on Freedom of Information, should be passed. It states clearly and effectively those administrative functions that should be a matter of public record. The bill would make it more difficult for judges to whimsically decide that information justifiably within the public domain somehow gets wrapped into the definition of judicial functions and hidden from the public-+.

We'd all like to think that transparency flows directly from FOI statutes, but in the past public and legislative pressure was necessary to drag the Judicial Branch from a cocoon of secrecy. Secret court cases, some without names or court dockets, shocked the legislature, the media and the public.

There followed a former chief justice's interference in the legislature's process of confirming judges, this one involving the naming of a new chief

justice. Another Supreme Court justice had to complain to the Judicial Review Council about this improper action.

The common theme in all these matters was the demonstrated need for statutes that lay out clearly the public's right to basic information. The case for openness should depend not on the favorable inclination of a particular justice or judge, but rather be stated in laws impervious to the mood and temperament of whoever may be sitting in power at the time.

The courts do not belong to the judges, prosecutors, defense lawyers or public defenders practicing there. Nor do the courts belong to the legislature or the media.

The courts belong to the public. Those who work in them are merely custodians of a democratic institution whose value lies in the trust afforded by the public. Without the public's confidence and support, the courts are of little value to the society and will wither away.

I urge you to pass 5528 and continue the healthy process of better defining the FOI laws as they apply to the judiciary.

Thank you.