

TESTIMONY OF ANDY BURNS
HB 5365-
(Section 9b - a Revision of Original Section 9 - 4 pages)

Proposed Enhancements to Official Connecticut Practice Book

My Recommendations -- In the opening preface to this document, I remarked my October 3, 2009 submission to you of six specific edit recommendations for the Official Connecticut Practice Book which recommendations you summarily dismissed. For the sake of brevity, I limited that presentation to a brief (3-page) hint of the extent of that experience without offering exposure of the experience itself.

The first six recommendations presented here are essentially those included in the cited previous submission with significant elaboration of the first recommendation and minor elaborations of the third and fifth recommendations. Those elaborations and the additional seventh and eighth recommendations were stimulated by my further rumination on that cited experience.

In this presentation, the proposed new Practice Book text and the brief vindicating commentaries are cited separately.

I treat my reactions to your dismissal of the originally submitted six recommendations in the following Section 10.

1) Proposed Text Recommendation #1:

A police report, including associated witness statements, dealing with a postulated breach of the law shall be available to all concerned parties, including any party charged with such breach, the instant the report is available to any party outside the police department. Redactions judged by the senior police official to be essential for witness protection may be made but shall be expressly identified and shall apply equally to copies provided to prosecutorial personnel with the qualification that the latter may gain access to redacted information if given judicial authorization for such in response to explicit justifying petition. Redacted text not made available to a charged party within 14 days after such authorization may not be used against that party in any related court proceeding. Early neutralization of all redactions shall be treated as a high priority for all parties involved.

1) Commentary on Text Recommendation #1:

A charged party's right to pursue investigation of a charge is equal to that of a prosecutor. A citizen's Constitutional right to face his accuser implies the right to know who his accusers are and what they are accusing him of. Delay in the availability to a charged party of pertinent data is a potentially serious impediment to the charged party's opportunity for investigation. I was seriously impacted by the unjustifiable limitation to police report text and associated witness statements contained in a false charge.

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(9b-2)

2) Proposed Text Recommendation #2:

No negotiation relating to a charged breach of the law shall take place between a prosecutorial agent and a representative of the charged party unless such charged party is present or explicitly and formally (e.g. by notarized signature) agrees not to be so present.

2) Commentary on Text Recommendation #2:

This is a maximum priority recommendation. It is intended to prevent an attorney from concealing his negotiation process from a client he purports to represent. I was greatly injured by such a concealment by the grievously incompetent attorney that I hired to assist me in dealing with a false charge.

3) Proposed Text Recommendation #3:

Any information pertinent to a negotiated agreement between a prosecutor and a charged party or his representative shall be available to the charged party without any requirement for the intervention of an attorney -- of record or otherwise. This requirement does not proscribe giving notice of such access to a charged party's attorney of record where such a relationship has been established.

3) Commentary on Text Recommendation #3:

The goal of this proposal is to authorize a charged party to gain access to information regarding negotiations affecting his welfare without his having to pay an attorney (or any other intermediary) to collect and transmit such information. My pursuit of justice was substantially impaired by bureaucratic denial of such information.

4) Proposed Text Recommendation #4:

Any party authorized to audit an open court process shall be authorized to utilize any non-intrusive media, including electronic devices, to record such court session process.

4) Commentary on Text Recommendation #4:

A party entitled to audit an open court process is entitled to recall it accurately. A non-intrusive medium that enhances the accuracy and reliability of the accounting of that process serves the cause of impartial justice. This is a simple "transparency" requirement.

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(9b-3)

5) Proposed Text Recommendation #5:

There shall be no restraints on the distribution of material incorporated in the "OFFICIAL CONNECTICUT PRACTICE BOOK". A call for notice of such distribution and for attribution is permissible.

5) Commentary on Text Recommendation #5:

Restraints on general dissemination of information which bears on prescribed and proscribed procedures for administering the affairs of justice in the State of Connecticut are plainly reprehensible. Obscuring the rules for the administration of justice and requiring notice of motivation for such exposure is fundamentally un-American! Inhibiting the distribution of such material is especially offensive where the pertinent text was prepared at Connecticut taxpayer expense.

6) Proposed Text Recommendation #6:

No rudeness or bullying on the part of justice system personnel (including jurists) is to be condoned.

6) Commentary on Text Recommendation #6:

By the nature of justice system operations, justice system personnel have an uncommon capacity for inflicting unwarranted harm on parties who are the object of their professional attention and further, such personnel have an uncommon freedom from exposure to responsibility for such harm as they may inflict. Not uncommon rudeness and bullying on the part of justice system parties betray a personal subjectivity that can severely compromise the attainment of justice. In dealing with justice system personnel in connection with false charges, I have several times been exposed to such offensive deportment.

7) Proposed Text Recommendation #7:

Each of the several state agencies concerned with justice seeking operations shall provide meaningful and timely response to such citizen protests or inquiries concerning specific judicial system actions as that agency may receive and there shall be no limit to such agency's freedom - or obligation - to respond to a citizen's reaction to the agency's response with the qualification that such citizen(s) may be referred to specific other justice seeking system agencies judged to be better equipped to deal with the applicable matter(s). Where conventional communications fail to resolve an issue at hand, due consideration shall be given to a request by the contacting citizen for an open hearing between that citizen and cognizant agency personnel.

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(9b-4)

7) Commentary on Text Recommendation #7:

In not less than four separate instances, I have submitted complaints concerning lamentable Connecticut legal system operations and/or recommendations for ameliorative action to Connecticut agencies charged with promoting the attainment of justice and have had my submissions dismissed with very unsatisfactory responses and, further, then had my explicit challenges to such responses dismissed with the proposition that challenges are out of order.

8) Proposed Text Recommendation #8:

The Attorney's Oath shall be modified by including in the existing text (from Public Act 02-71, General Statutes 1-25 and annotations) the additional phrase as indicated by the bold text below:

"You solemnly swear or solemnly and sincerely affirm, as the case may be, that you will do nothing dishonest, and will not knowingly allow anything dishonest to be done in court, and that you will inform the court of any dishonesty of which you have knowledge; that you will not knowingly maintain or assist in maintaining any cause of action that is false or unlawful **and that you will make a reasonable effort to ascertain the validity of such claim as you do maintain**; that you will not obstruct any cause of action for personal gain or malice; but that you will exercise the office of attorney, in any court in which you may practice, according to the best of your learning and judgment, faithfully, to both your client and the court; so help you God or upon penalty of perjury."

8) Commentary on Text Recommendation #8:

The additional phrase is proposed for the purpose of denying civil claims attorneys and prosecuting attorneys the defense of innocence when pursuing claims of reasonably questionable validity. I was seriously injured by both prosecuting attorneys and by an attorney I engaged to serve me because these parties failed to reasonably evaluate a false police charge which contained conspicuous internal contradictions. Also, my (admittedly incompetent and ultimately dishonest) auto insurer was seriously injured in a related civil action pursued by an attorney who failed to reasonably evaluate his client's claim - or, possibly, was simply dishonest!

Date: February 1, 2012

From: Andrew Burns <andrewburns@juno.com> 203-262-8245
790B Heritage Village, Southbury CT 06488-5323

To: Senator Rob Kane <rob.kane@cga.ct.gov>
Representative Arthur O'Neill <arthur.oneill@housegop.ct.gov>

cc: Senate Republican Counsel Michael Cronin <michael.cronin@cga.ct.gov>

Subject: **My Recommendations for Legislative Action**

Gentlemen:

Just a quick note to refresh your awareness of my passion for legislative action bearing on the attainment of justice in our state.

In the preface to that 66-page proposal I addressed to the Rules Committee of the Superior Court (and included in my 1/19 e-mail to you) I remarked the "widespread and callous indifference to the realization of justice among those responsible for the administration of justice" in Connecticut and in that proposal I documented extensive personal experience exposing the consequences of such indifference.

For this refresher, lemme offer a Big Picture Illustration.

In the several years I've been pursuing amelioration of defects in Connecticut's justice seeking operations I've acquainted a least a couple dozen prosecutorial and judicial system agents with abuses that afflicted me in a two-year series of justice system breakdowns.

None of these agents ever explicitly challenged any of my claims. None ever expressed regrets that the system unjustly burdened me. Indeed, none has betrayed any recognition that he or she or the system might have gone wrong. That is the crux of the problem.

These people, as a class, suffer from the Royal Priesthood Syndrome; they are indifferent to their fallibility, unable - or unwilling - to objectively evaluate consequences of their own professional pursuits. Such indifference necessarily compromises the attainment of justice in our state.

The goal of the legislative proposals I cited to you when I touched base with you after the 1/18 Heritage Village meeting (on condominium budget matters) is to gain a smidgeon of protection from such indifference for potentially innocent objects of justice system attention.

As I've previously remarked: I'd be pleased to receive any guidance you'd care to offer regarding what initiatives I might take in pursuing my mission.

Best regards,

Andy Burns

Date: March 7, 2012

To: Senator Rob Kane <rob.kane@cga.ct.gov>

cc: Legislative Aide to Senator Kane <andrew.larson@cga.ct.gov>
Senate Republican Counsel Michael Cronin <michael.cronin@cga.ct.gov>
Representative Arthur O'Neill <arthur.oneill@housegop.ct.gov.>

Subject: Reinforcing my Call for Legislative Action

References: My 2-1-12 e-mail to you re My Recommendations for Legislative Action,
and Andrew Larson 2-1-12 e-mail Acknowledgement.

I sortuv summarized in my 1-page referenced e-mail my previously communicated passion for legislative action. By way of reinforcing the need for such I here call attention to two specific demonstrations of failure to fully embrace existing law on the part of senior justice-seeking system administrators.

1) From CT PA 51-14(c) I excerpt the following text:

"A public hearing shall be held at least once a year, of which reasonable notice shall likewise be given, at which any member of the bar or layman may bring to the attention of the judges any new rule or change in an existing rule that he deems desirable."

In response to my first contact with the Rules Committee of the Superior Court (comprising eight Superior Court judges plus one Supreme Court Justice as chair) I was advised that the Committee "voted not to submit (my) proposals to public hearing and will therefore not be recommending them to the Superior Court judges for adoption." In the course of 14 months of interaction with the Committee, I never received a single hint of the public hearing opportunity that I since discovered in PA 51-14.

2) From Connecticut Constitutional Amendment Article XXIII (1984) I excerpt the following phrase:

"The prosecutorial power of the state shall be vested in a chief state's attorney..."

A substantial portion of my recommendations for changes in justice-seeking procedures deals with prosecutorial steps. The Official Connecticut Practice Book, with which I associated my recommendations, contains considerable text pertaining to prosecutorial procedure. Our Constitution appears to place such text outside the hegemony of the Rules Committee.

I see nothing in the law to indicate that the Chief State's Attorney could not delegate such hegemony and, indeed it was Chief State's Attorney Kevin Kane who referred me to the Rules Committee in connection with my mission. I did address a 5-15-11 e-mail to him (cc'd to you) seeking, among other things, to determine whether such a delegation had ever been implemented.

I never succeeded in reaching Atty Kane or his deputy in telephone follow up efforts but Mike Gailor of the Chief State's Attorney Office did indicate to me that the office has not issued a specific license for the Judicial Branch to control prosecutorial aspects of the Official Connecticut Practice Book.

To my mind, the seeming indifference of senior justice-seeking system agents to the letter and just application of Connecticut law truly warrants legislative push.

Andy Burns