

Date: April 10, 2013

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To: CGA Judiciary Committee Member

cc: Senator Rob Kane <rob.kane@cga.ct.gov>  
Senate Republican Counsel Michael Cronin <michael.cronin@cga.ct.gov>

Subject: Re: SB291a - (Justice System Enhancement Proposals)

Dear Judiciary Committee Member:

In a series of demoralizing encounters with Connecticut justice system operations commencing late on Christmas Eve 2002 I, a now 87-year-old Connecticut citizen, was introduced to what I classify as a ***"Widespread and Callous Indifference to the Realization of Justice Among Those Responsible for the Administration of Justice in our state."***

My exposure to that indifference and related research has led me to propose eight new justice system practice requirements specifically formulated to reduce the impact of that systemic indifference on the prospects for attaining justice in Connecticut.

Under the auspices of Senator Rob Kane, these proposals for new practice requirements have been collected in Senate Bill 291a. I offer here a smidgeon of the personal history that motivated me to propose these recommendations. (I'm presently working on a book to describe my pertinent experiences but more time is needed to assemble that story properly.)

#### **The Starting Event:**

**Robbery and Assault** -- As I was sitting in the driver's seat of my car late on Christmas Eve a thug of my acquaintance approached my car, began to berate me and then, broke into the rear passenger seat of my car and, overpowering me, robbed traffic control cones that I was transporting. In a following tantrum, he assaulted my car with the cones doing damage assessed by my auto insurer at \$787.

That unemployed thug, who was eleven inches taller than myself and a hundred pounds heavier, was the pathological president of the Board of Directors of my (then) condominium association. He hated my guts with a passion because he was a determined bully and I refused to be bullied. In months preceding the Christmas Eve attack he had physically threatened me not less than three separate times.

**The Police Abuse** -- With the support of socializing companions and without my awareness, the thug persuaded an incompetent and egregiously abusive responding police officer -- with whom the thug had negotiated two hours earlier -- that I had deliberately hit the thug with my car. That officer, who did not advise me of the thug's perjurious claim, forcibly prevented me from engaging witnesses at the scene without ever advising me that he would never so allow.

On visiting the police station after the scene was completely vacated, I first learned

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that I was being charged with a felony. Discounting the initial ID contact, the charging officer totally refused to face me and I was denied the opportunity to present a statement.

**The Christmas Eve Disposition** -- I engaged a lawyer whom I knew only casually to serve my interests and that proved to be a very unhappy choice. He insisted that the justice system was too corrupt for me to count on justice, that he knew how to work with the system, and that I MUST go along with an A-R deal entailing no permanent consequences that he negotiated out of my presence. (That lawyer died in 2005, having spent the last four months of his life in prison.)

Being totally new to this environment and threatened with an enormous defense cost estimate from a lawyer I had contacted before I was allowed to get the police report, I naively went along.

**The Continuing Legal Abuse** -- Over the next two years the fiscal injury that followed from the Christmas Eve attack and succeeding actions of the thug, aided by attorneys of challengeable ethics, came to the order of \$90,000, with about \$14,000 coming from my own pocket and with a handsome reward going to the thug for having committed his robbery and assault. (In 2008, the thug died suddenly at age 50 of apparent natural causes.)

On the advice of the Chief State's Attorney I ultimately submitted my practice adjustment recommendations, with extensive experiential documentation, to the Rules Committee of the Superior Court. I attended, as a non-participating observer, two Rules Committee meetings for which my submission was on the agenda. (The committee comprises eight Superior Court judges plus a Supreme Court Justice as chair.)

The committee's acting chair did address to me eight pages of existing rule text but the Committee never engaged me in meaningful dialogue about the merits or demerits of my recommendations, ultimately advising me, in effect, to go fry ice!

For me, the personal damage is now pretty much water under the bridge, but the failure of my extensive efforts to breach the cited indifference has persuaded me that meaningful justice system correctives will never arise from within the system. Legislative coercion is essential for significant improvement.

The Practice Requirement (#2) that I identify as the most important of my proposed eight consists of just 68 words. I'm persuaded that if it were in place ten years ago, that \$90,000 worth of fiscal injury -- and much personal grief -- would never have been incurred and the criminal (and his lawyers) would not have been handsomely rewarded for his crimes. The only drawback would have been that I wouldn't have learned how badly our justice-seeking system needs remedial attention.

I now know much better and I passionately urge you to endorse SB291a as a significant step toward reducing the routine compromise of justice in our state.

Earnestly,

*Andrew B. Burns*

P.S. I intuit that the justice system indifference problem is nation-wide.

SB 291a - a 04/10/13 supplement to SB291,  
A Connecticut Senate Bill which called for:

**AN ACT CONCERNING PROCEDURES FOR DETERMINING THE POTENTIAL  
DISQUALIFICATION OF A JUDICIAL BRANCH OFFICIAL AND ESTABLISHING A  
PROCESS THAT ALLOWS THE OFFICE OF THE ATTORNEY GENERAL TO REVIEW  
COMPLAINTS OF WRONGDOING BY MUNICIPAL POLICE DEPARTMENTS**

General Assembly

Proposed Bill No. 291

January Session, 2013

LCO No. 1463.5

Introduced by:

SEN. KANE, 32nd Dist.

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This Supplemental Submission, distinguished herein as Bill No 291a, calls for

**AN ACT TO INCORPORATE EIGHT ADDITIONAL MEASURES IN  
CONNECTICUT'S PROSECUTORIAL AND JUDICIAL SYSTEM PRACTICE  
TO ENHANCE THE PROSPECTS FOR THE REALIZATION OF JUSTICE  
FOR PARTIES CHARGED WITH BREACH OF THE LAW.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

That the general statutes be amended to provide that the State's Prosecutorial and Judicial branches shall so adjust their practice standards that such practice shall not be inconsistent with any of the following-listed eight specific Practice Requirements:

**Statement of Purpose:**

To cause the implementation of additional prosecutorial and judicial practice standards to reduce the impediments to the realization of justice for parties charged with breach of the law, such impediments arising from an observed **widespread and callous indifference to the realization of justice among those responsible for the administration of justice in this state.**

Note: These proposed practice requirements were motivated by their formulator's extensive and extensively documented experience reflecting his five separate but related justice system encounters occurring over a period of two years complemented by his extensive corrective seeking interaction with the system. The commentary associated with each practice requirement provides the formulator's capsule rationale for that requirement.

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1) **Practice Requirement #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. Notice of these provisions and notice of access to prosecutorial authority (*as presently cited in Official Connecticut Practice Book Section 39-1*) shall be provided to any party charged with a breach of the law at the time such charge is made.

1) **Commentary on Practice Requirement #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.*

2) **Practice Requirement #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. Notice of this provision shall be provided to any party charged with a breach of the law at the time such charge is made.

2) **Commentary on Practice Requirement #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) **Practice Requirement #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. Notice of this provision shall be provided to any party charged with a breach of the law at the time such charge is made.

3) **Commentary on Practice Requirement #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) **Practice Requirement #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. Notice of this authorization shall be reasonably displayed at court entrances.

4) **Commentary on Practice Requirement #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.*

5) **Practice Requirement #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. These provisions shall be displayed with reasonable visibility on the initial copyright notice page of that Practice Book.

5) **Commentary on Practice Requirement #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 exposing such rules is fundamentally un-American! Inhibiting the distribution of such material is especially offensive where the pertinent text was prepared at Connecticut taxpayer expense.*

**6) Practice Requirement #6:**

No rudeness or bullying on the part of justice system personnel (including jurists) is to be condoned. Administrative procedures for dealing with relevant complaints shall be established and covered in the Official Connecticut Practice Book.

**6) Commentary on Practice Requirement #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) Practice Requirement #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. These requirements shall be reasonably covered in the "OFFICIAL CONNECTICUT PRACTICE BOOK".

**7) Commentary on Practice Requirement #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) **Practice Requirement #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 Practice Requirement #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!*