

Testimony before Joint Government Administration and Elections Committee -- March 10,
2014

by Don DeCesare

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Chairman Musto, Chairman Jutila, Vice Chairs Meyer and Lesser, Ranking Members
Maclachlan and Hwang and all Committee Members --

I have been my privileged to be Co-chair of the Connecticut Task Force, as created by PA 13-311, on Victim Privacy and the Public's Right to Know. Throughout its more than six months I, along with my Co-Chair, Rep. Angel Arce, worked to achieve three goals: first, to conduct our business in a courteous and professional manner; second, to illuminate the issues fully, so that third, the Task Force could offer to the legislature a set of recommendations endorsed by a strong majority of its membership. I believe we achieved all three of those goals.

The Task Force report, published at the end of January, contains our recommendations. Your staff has translated these into legislative language, which you have before you. Like Co-Chair Arce, I must note that your latest amended language, for lines 265-301 inclusive, more correctly reflects the recommendations the Task Force agreed upon and sent to the legislative leadership. Like Rep. Arce, I would urge you to use this newer language, coupled with your earlier language for the other sections of the raised bill, as your text for discussion.

There is an urgency to act during this legislative session and put the Task Force's recommendations into law. According to the Governor's office, about one hundred of our neighbors were murdered in Connecticut during 2013. As PA 13-311 requires, the most critical of homicide crime scene materials, related to these murders, remain unavailable to public scrutiny. No one can truly know whether the investigations into the murders were properly conducted or even if those investigations correctly concluded anything with regard to the crimes. The public is left needlessly ignorant and powerless. Confidence in law enforcement and the justice system is being eroded. The Task Force recommendations, when enacted into law, will re-open all murder files to public examination and, when essential, full public release.

Indeed I am most pleased that -- overwhelmingly -- the Task Force reaffirms the public's right to inspect and review all official documents and materials, both audible and visual, associated with homicides. As you consider these recommendations, remember we found a way to maintain the principle of full public availability, yet preclude the general release and subsequent dissemination of horrifying photos, videos, and audio.

Furthermore, we protect against potential malfeasance by inserting a reasonable appeal process, which could provide full public release through the already existing FOIC and, if necessary, the courts. Adopting these recommendations into law should again place Connecticut at the forefront in providing public access to homicide evidence whatever its nature.

Beyond homicide, the Task Force's recommendations also address Section 1 of PA 13-311, which with five words -- "the identity of minor witnesses" -- created an entire class of citizens who might never be accountable for statements they made, signed or unsigned, to the authorities. We debated this section strenuously and, in the end, agreed, again

overwhelmingly, to limit it. The Task Force's recommendation in this area can achieve for law enforcement and the justice system all of what we perceived to be needed to protect minors yet encourage them to come forward voluntarily.

There is one other Task Force recommendation I wish to highlight: that associated with Section 4 of PA 13-311. By this recommendation we urge the Legislature, to study the broader public policy questions associated with victim privacy in an information age. Connecticut's Freedom of Information Law, now nearly forty years old and already revised numerous times, seems too often, as one of our members said, to be gauged both the villain and the savior, depending on who is referencing it, when complicated and sensitive public policy issues are raised. New exemptions to it -- even the ones we are recommending here -- only further frustrate the public's belief that government should have nothing to hide. From my perspective, given the history of the law and the complexity of interpreting its numerous amendments, revisions, and exemptions, it would seem prudent to undertake a thorough review with the dual aim of simplifying and clarifying it for all, yet preserving its intent.

You will have noted that the Task Force recommendations are strong, and the votes for them overwhelmingly affirmative. Despite this, please do not underestimate the intense negotiation and the true spirit of compromise which were required to achieve them. Indeed the recommendations are truly the product of many weeks of work. They represent the best that both sides could achieve through mutual agreement. As such, you should consider them as a package, carefully crafted to balance all the issues we had before us. I urge adoption of the recommendations as they are.

Overall the Task Force is providing to the Legislature a framework which fulfills our charter. We, by overwhelming majority, found a way to balance the privacy rights of homicide victims (and their families) and the public's right to know what its government is doing and has done on the public's behalf. Clearly the issues which we debated are of sufficient consequence that our recommendations, even when made law intact, cannot nor should not end the considerations we have begun.

Thank you for your time. I am pleased to answer any questions you may have.

Don DeCesare

