

**Testimony of James H. Smith, CCFOI president and privacy/foi Task Force member, on raised bills 381 and 388. March 9, 2014**

The people's right to know is, like "the spirit of scientific inquiry," a "search for the truth," wrote Herbert Brucker in his 1949 groundbreaking book entitled "Freedom of Information."

The highly regarded Hartford Courant editor and journalism educator wrote that, "Democratic society is predicated on the search for truth."

"To put it another way, the information system serves democratic government as the bee serves a flower, by pollinating it," he wrote.

Most of my colleagues on the Task Force were too willing to give up truth.

The General Assembly leadership appointed this 17-member Task Force with the charge to find "the balance between victim privacy . . . and the public's right to know."

That is the wrong balancing test. The traditional and still available remedies to an invasion of privacy are lawsuits against another who 1. uses of a name or likeness without permission; 2. intrudes into a person's

seclusion, solitude or private affairs; 3. Puts a person in a false light; and 4. publishes embarrassing personal facts.

The only balancing test for FOI should be between the need for government secrecy vs. the people's right to know what its government is doing.

Now this bill, for the first time in our FOI statutes, proposes that unauthorized copying of crime scene documents will be a crime, originally proposed as a felony, now as a misdemeanor. Perhaps we should make it a misdemeanor whenever a government official illegally withholds public documents.

Connecticut should not adopt the federal "unwarranted invasion of privacy" standard, making it easier to keep information secret and shifting the burden of proof from the government to the people. We should hew to Connecticut's long-standing test that the government must show that the information sought is "highly offensive to a reasonable person" AND is not of "legitimate public concern;" making it harder to keep information secret. We should not make judgments on public policy based on half-truths or partial truths or emotions. It is better to solve society's ills knowing the whole truth or as much of the truth as we can know.