

Why Defense Lawyers Went On Offense

Group defends its anonymous critiques of judges

On a snowy Jan. 7, a hand-truck load of inch-thick documents was delivered to the Legislative Office Building in Hartford by the Connecticut Criminal Defense Lawyers Association. It contained a compilation of comments, mostly laudatory, about state trial judges that would be distributed to the legislative Judiciary Committee, which was considering the re-appointment of state judges.

The person who collected the comments, which were sent via an e-mail list-serve, was New Haven defense lawyer Tara Knight, of Knight, Conway & Cerritelli. She's a former president of the CCDLA, which includes some 300 private defense lawyers and public defenders.

The anonymous comments came under scrutiny during re-nomination hearings for Superior Court Judge Patricia A. Swords, who was criticized by some defense lawyers for an alleged pro-prosecution bias. Some Judiciary Committee members criticized the anonymous comments; one called them "cowardly." A split Judiciary Committee approved Swords, and she was re-confirmed in the full Senate vote by a one-vote margin.

The CCDLA is not alone in collecting anonymous comments. The Judicial Branch gathers anonymous performance reviews from lawyers who have appeared before judges in contested matters, and from jurors. Senior Writer Thomas Scheffey spoke with Knight about the defense lawyers' efforts to gather information on judges.

LAW TRIBUNE: How did this begin?

TARA KNIGHT: What the board of the CCDLA decided to do was take an active role in judicial reappointments. We started talking about it three or four years ago.

We would get complaints about judges doing outrageous things over the course of the years, and we thought it would be a good idea to let the powers-that-be know our perspective. The intent was not ever to take away someone's livelihood or job, but to educate the people who reappoint judges, or have influence over them.

LAW TRIBUNE: How are the comments collected?

KNIGHT: It is a closed forum for people to talk to each other via e-mail. It is not a public blog where people can comment anonymously, as some legislators said it was. If, say, I had a case in Milford and needed advice about a suppression issue, I could put a question out on the list-serve, and people would respond to me.

LAW

TRIBUNE: So you always know who is writing to you?

KNIGHT: Every single entry and commentary given to me was by an independent, known criminal defense lawyer in Connecticut...I would give an affidavit that each commentary was from an independent, practicing, licensed Connecticut defense lawyer - not from one irate person hiding behind a screen name.

LAW TRIBUNE: Were there primarily complaints?

KNIGHT: The vast majority of commentary was overwhelmingly positive. Glowing reports.

LAW TRIBUNE: So why can't people sign their names when the comments are distributed to legislators?

KNIGHT: Everyone who practices law knows that attorneys are not going to stand up and criticize the judges they may have to practice in front of. It's not that we're cowards,



Tara Knight, former president of the Connecticut Criminal Defense Lawyers Association, said it would be ludicrous for defense lawyers to march into the legislature, unmasked, and criticize even a horrible judge.

ing number of complaints about Judge Swords... Many people who I respect have indicated that she is a very unfair judge. There are certain judges who, if you sentenced, you can expect a harsh sentence. But you can also expect a fair trial and to be treated with respect and dignity. From the people I spoke with, that was not the case in her courtroom.

LAW TRIBUNE: Was she getting feedback about this?

KNIGHT: She was not getting feedback from the Judicial Department. That's something I think the Judicial Department might have to address, and put forth a mechanism to get feedback to the judges.

LAW TRIBUNE: How often does the Judicial Branch convey evaluation data to judges?

KNIGHT: They have to have a certain number of contested matters and trials in order to develop a significant amount of data. If a judge had only conducted one trial in three years, they're not going to get feedback for awhile. It's the litigated matters that generate the evaluation form. The day-to-day criminal court business, [short of trials] doesn't generate data.

LAW TRIBUNE: Was the legislative process here a good one, with Judge Swords ultimately approved by one vote?

KNIGHT: It's not for me to say whether Judge Swords should have been removed... There was a decision by the CCDLA board not to take a position on any judge on behalf of the organization. We decided to just solicit information from the members and to let their voices be heard.

LAW TRIBUNE: Will the CCDLA do something like this again?

KNIGHT: This was our first attempt to get information to the legislature. We need to hone some things. We're totally open to suggestions of how to make this better, and maybe give the judges the commentary ahead of time. I just wish the legislators were more receptive to information that we're trying to give them. We're not trying to hurt anyone. We're just trying to let them know what's going on, and I think as legislators they should be receptive to that.

as one of the legislators called us, it's because we represent human beings in criminal court. These people have liberty interests at stake, and we're not going to risk harming them due to our problem with the judge.

LAW TRIBUNE: So there's fear of retribution?

KNIGHT: Retribution doesn't have to be 10 more years in jail. It could be very subtle and nuanced, like calling your case last.... The overwhelming number of criminal cases are plea-bargained. That's where you need the help of a judge to make the prosecutor come down on the charges.

LAW TRIBUNE: Had you heard complaints about Judge Swords?

KNIGHT: I had heard an overwhelm-



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