

255 Main Street, 5th Floor
Hartford, CT 06106
kenkrayeske.com



KENNETH J. KRAYESKE
LAW OFFICES

P: 860-969-4911
F 860-760-6590
attorney@kenkrayeske.com

October 8, 2019

Criminal Justice Commission
300 Corporate Place
Rocky Hill, CT 06067

re: Search for new Chief State's Attorney

To Whom It May Concern –

At the outset, I am grateful that the Criminal Justice Commission will listen to the concerns of the public during the search for a new Chief State's Attorney. As much as I would like to attend the public hearing Friday, October 11, 2019 at 3 p.m., I have commitments which prevent me from going.

Therefore, I submit that my desire for the Criminal Justice Commission to host public hearings in every courthouse across the state after work hours is utopian fantasy, and instead, I take this opportunity to submit comments via writing and hope that the Commission hears me.

As a member of the criminal defense bar, I have two main concerns that I wish to see a new Chief State's Attorney address: first, we need to reconcile the gubernatorial aim of reducing the state's prison population with the attitudes of prosecutors who fill the prisons; and second, we need a chief state's attorney who insures people accused of crimes in Connecticut are treated identically from courthouse to courthouse.

To my first point, recently while defending a person accused of a Class C felony, I encountered this disconnect between the idea of decarceration and prosecutorial zeal (or callousness, depending on your view).

My client, if forced to plead to a felony, would then end up serving another year in another state due to outstanding issues there. My client is willing to plead to a misdemeanor and time served (almost six months), which would not involve additional time elsewhere.

When the prosecutor asked for my client's legal defense, other than he didn't do it, was dopesickness. While not strictly a mental capacity defense, opiate withdrawal makes people do awful things. My client needs treatment, not jail.

My client's need to parent his two-year-old son and 9 month old daughter failed to move the state's attorney, and when I suggested we need to address public health matters like this

outside of the criminal justice system, the prosecutor responded "Some people need to be warehoused."

Connecticut has enjoyed a seamless approach between Gov. Dannel Malloy and Gov. Ned Lamont to decrease incarceration. Gov. Malloy's former Criminal Justice Advisor (and state legislator) Mike Lawlor regularly indicates online about the ongoing drop in the state's prison population. For example, on October 5, 2019, Mr. Lawlor tweeted that Connecticut now has less than 12,900 prisoners, for the first time in 26 years.

This philosophical bon mot from a state's attorney that some people require jailing seems to run contrary to this executive branch position of reducing prison population. A new Chief State's Attorney must insure that all prosecutors across the state adopt the executive branch aim of reducing prison population.

A new Chief State's Attorney should envision and embrace alternative programs like Judge Raymond Norko's Community Court in Hartford.

To my second point, more than once, I have had to tell a client that they had the bad luck of getting caught with drugs in Geographical Area 19, Rockville. If they had been arrested three towns away, I likely could have negotiated a different plea arrangement with the prosecutor.

It is a well-known fact among the criminal defense bar that the amount of time a client will get for the same charge varies wildly from GA to GA. It is also a well-known fact among the criminal defense bar that the criminal procedure from GA to GA varies wildly.

For example, one GA will turn over all discovery without a lawyer even asking, another GA will ask a lawyer for a letter, yet still another demands that the lawyer files motion practice seeking all documents.

For 20-some odd courthouses in a state with a population smaller than the City of Los Angeles, one would think that all courthouses would be on the same page with all procedures and legal interpretations and valuations of criminal offences.

But what would get my client a walk in Hartford will get the same client two years suspended after 18 months and 2 years probation in Rockville. While I grasp the need for prosecutorial autonomy and discretion, the quality of justice for a defendant should not hinge on a random factor like the town in which they were arrested and the courthouse in which they were prosecuted.

Criminal Justice Commission
Public Comments for Chief State's Attorney Search
October 8, 2019

Page 3 of 3

Thank you in advance for your time, and it is my sincere hope that the Criminal Justice Commission finds a candidate for Chief State's Attorney who will address issues such as these.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Krayske', written in a cursive style.

Kenneth J. Krayske
attorney@kenkrayske.com