



NEW YORK  
CITY BAR

April 5, 2017

Hon. William Donnino  
Co- Chair, Judicial Advisory Committee on Evidence

Hon. Susan Read  
Co-Chair, Judicial Advisory Committee on Evidence

Professor Michael J. Hutter  
Reporter, Judicial Advisory Committee on Evidence

Dear Justice Donnino, Justice Read, and Professor Hutter:

We write to you regarding the Judicial Advisory Committee on Evidence, which Chief Judge DiFiore charged last year with compiling a guide to New York’s existing law of evidence that will be available to judges, lawyers, and the public. A consolidated and updated source on the law of evidence in New York – as opposed to an attempt to codify existing common law rules – would be a welcome addition to the current panoply of source and case law material on point.

The members of the New York City Bar Association (“the Association”) include prosecutors, defense attorneys, current and former members of the judiciary, as well as civil litigators. We practice and appear, in large part, before the state courts of the five boroughs and adjacent suburbs, and in other courts throughout New York State when the matter necessitates it. We write to you as court practitioners, without reference to any particular area of law.

We support the guide’s purpose as strictly advisory, and we appreciate the effort to bring clarity to the law of evidence. We believe, however, that even greater clarity may be achieved by including practitioners in the development of the guide, and for that reason, we write to offer our assistance going forward. Such an approach would mirror the work of other judicial advisory committees, which often benefit from the multiple perspectives and bases of experience of judges, practitioners, and academics involved in the development of recommendations and work product. We strive for the same mix and balance in the Association’s committees. This balance is particularly important here because the guide may be taken, by some, to be the “codification” of the laws of evidence, even if this is not what the guide is intended to be.

We therefore write to offer our support and assistance to the Judicial Advisory Committee on Evidence in any way that would be helpful. If we can be of assistance, please reach out to Monica Hickey-Martin, Chair of the Criminal Law Committee, at (347) 649-3276 or [mhmartin@promesa.org](mailto:mhmartin@promesa.org). Thank you for your consideration.

Respectfully,

Criminal Advocacy Committee  
Michael C. Miller, Chair

Criminal Courts Committee  
Steven Wasserman, Member

Criminal Law Committee  
Monica Hickey-Martin, Chair

Council on Judicial Administration  
Hon. Carolyn E. Demarest, Chair

State Courts of Superior Jurisdiction  
Committee  
Adrienne B. Koch, Chair

Cc: John McConnell, Esq.