

Legislative History for Connecticut Act

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**Act Number:** PA 04-66  
**Bill Number:** 5293  
**Senate Pages:** 1476-1477, 1517-1519 5  
**House Pages:** 1276-1282 7  
**Committee:** Judiciary: 1269-1272, 1293-1294, 1300, 1312-1315, 1317-1323, 1325-1334, 1339-1341, 1346-1356, 1501-1504, 1507-1508, 1512-1521, 1523-1541, 1565, 1566, 1645, 1649 74

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2004

VOL. 47  
PART 5  
1227-1521

001476

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Senate

April 22, 2004

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

HB 5032

Calendar 429, H.B. 5034, Madam President, I would  
move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 436 should be marked passed retaining its  
place on the Calendar.

Calendar 437, H.B. 5058, Madam President, I would  
move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Madam President. Calendar 439 should  
be marked passed retaining its place on the Calendar.

Calendar Page 14, Calendar 440, H.B. 5043, Madam  
President, would move to place this item on the Consent  
Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 441, H.B. 5293, would move to place this  
item on the Consent Calendar.

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Senate

April 22, 2004

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 442, H.B. 5411, Madam President, would  
move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 444, H.B. 5452, Madam President, would  
move to place this item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Calendar 447, H.B. 5561, likewise, Madam  
President, would move to place this item on the Consent  
Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Madam President. Calendar Page 15,  
Calendar 448 should be marked passed retaining its  
place on the Calendar.

Calendar 449, H.B. 5196, Madam President, I would  
move to place this item on the Consent Calendar.

THE CHAIR:

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001517

Senate

April 22, 2004

please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, those items previously placed on the First Consent Calendar begin on Calendar Page 6, Calendar 133, Substitute for S.B. 157.

Calendar 137, Substitute for S.B. 536.

Calendar 164, Substitute for S.B. 440.

Calendar Page 7, Calendar 228, H.B. 5548.

Calendar 229, H.B. 5550.

Calendar 279, S.B. 590.

Calendar 304, Substitute for H.B. 5450.

Calendar Page 9, Calendar 359, Substitute for S.B. 604.

Calendar 370, Substitute for H.B. 5240.

Calendar Page 10, Calendar 377, Substitute for H.B. 5102.

Calendar 378, Substitute for H.B. 5212.

Calendar Page 11, Calendar 384, H.B. 5394.

Calendar Page 13, Calendar 429, Substitute for HB5032  
H.B. 5034.

Calendar 437, Substitute for H.B. 5058.

Calendar Page 14, Calendar 441, Substitute for H.B. 5293.

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Senate

April 22, 2004

Calendar 442, Substitute for H.B. 5411.

Calendar 444, H.B. 5452.

Calendar 447, H.B. 5561.

Calendar Page 15, Calendar 449, H.B. 5196.

Calendar 450, Substitute for H.B. 5341.

Calendar 451, H.B. 5567.

Calendar 452, H.B. 5629.

Calendar 454, H.B. 5401.

Calendar Page 16, Calendar 456, Substitute for  
H.B. 5507.

Calendar 457, H.B. 5490, correction, 5479.

Calendar 458, Substitute for H.B. 5483.

Calendar 459, Substitute for H.B. 5181.

Calendar Page 17, Calendar 463, Substitute for  
H.B. 5366.

Calendar 466, Substitute for H.B. 5635.

Calendar Page 20, Calendar 149, S.B. 477.

Calendar Page 28, Calendar 431, S.B. 150.

Calendar Page 29, Calendar 357 and Calendar Page  
30, Calendar 115, S.B. 66.

Madam President, that completes those items placed  
on the First Consent Calendar.

THE CHAIR:

Thank you, Sir. Members please check the machine  
to make sure your vote is properly cast. If so, the

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Senate

April 22, 2004

machine will be locked. The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.

Total number voting 35; necessary for adoption, 18. Those voting "yea", 0; correction, those voting "yea", 35; those voting "nay", 0. Those absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted.

Senator Looney.

SEN. LOONEY:

Yes, thank you, Madam President. Madam President, I would ask for suspension for immediate transmittal to the House of Representatives of Calendar 268, S.B. 478 which was previously adopted as the Order of the Day.

THE CHAIR:

Without objection, so ordered.

At this time, the Chair will entertain points of personal privilege or announcements. Will you, Senator Crisco?

SEN. CRISCO:

Thank you, Madam President, for the purpose of personal privilege.

THE CHAIR:

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
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gmh

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001276

House of Representatives

Wednesday, April 14, 2004

The Clerk will announce the tally.

CLERK:

H.B. 5341, as amended by House Amendment Schedule

"A"

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	144
Those voting Nay	0
Those absent and not Voting	7

DEPUTY SPEAKER HYSLOP:

The bill, as amended passes.

Clerk, please call Calendar 329.

CLERK:

On page 12, Calendar 329, Substitute for H.B. 5293,  
AN ACT CONCERNING DUAL ARRESTS IN FAMILY VIOLENCE CASES.  
Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99<sup>TH</sup>)

Good afternoon, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Good afternoon.

REP. LAWLOR: (99<sup>TH</sup>)

I move acceptance of the Joint Committee's  
Favorable Report and passage of the bill.

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House of Representatives

Wednesday, April 14, 2004

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will you remark?

REP. LAWLOR: (99<sup>TH</sup>)

Thank you, Mr. Speaker. This bill seeks to give discretion to police officers when responding to family violence cases with regard to the second person or third person involved in an incident.

In short, Mr. Speaker, Connecticut, like most states, has a mandatory arrest rule when police officers respond to family violence situations. However, there is a question now about when the police respond to a scene and it's obvious that one person is the aggressor and the other person may have been acting in self-defense, whether or not the police officer is obligated to make an arrest of the person in which the police officer believes was probably acting in self-defense based on the complaint of the initial aggressor.

This bill simply makes it clear that a police officer has the discretion not to arrest a person whom the police officer believes was probably acting in self-defense. It doesn't, in any way, eliminate the mandatory arrest law, it just clarifies that a police officer does have that discretion and I urge its passage.

DEPUTY SPEAKER HYSLOP:

Will you remark on the bill? Will you remark on the bill? Representative Farr.

REP. FARR: (19<sup>TH</sup>)

Yes, thank you, Mr. Speaker. I just also want to urge passage of the bill. One of the problems that happens in many communities is that the police departments tend to have a policy of trying to maximize the arrest in domestic violence cases. And what the statistics show is that in some communities the police department will actually arrest both parties in 50% of the cases and in other communities, only 5% of the cases will both parties be arrested.

The problem in the communities where there's a 50/50 chance that the complainant is going to get arrested, is that this becomes a tremendous disincentive to someone to make the complaint in the first place. The threat is made that if you call the police on me, I'll have you arrested, as well and if that is a real threat, it's a tremendous detriment to actually getting the police involved in these cases.

I think this is a good bill. I don't -- there's been a lot of talk in the various hearings on this bill as to what the appropriate statistics should be. In other words, how many cases should the police be arresting both parties and how many cases should they

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only be arresting one party and frankly I don't know what the answer to that is, but I do know that the current law, as it's drafted, is interpreted in such a fashion that it leads to many unnecessary arrests and I think this language will give the police much more flexibility and make a difficult job perhaps a little bit easier. And I would support passage of the bill.

Thank you.

DEPUTY SPEAKER HYSLOP:

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5<sup>TH</sup>)

Thank you, Mr. Speaker. Through you to the proponent of the bill.

DEPUTY SPEAKER HYSLOP:

Proceed.

REP. KIRKLEY-BEY: (5<sup>TH</sup>)

If the police were to come and this is a little bit aside, Michael, not directly to the issue, if there are minor children in the home and for some reason they feel that both parents are being aggressive, what happens to the minor children at home? Is this something where DCF would get involved?

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99<sup>TH</sup>)

Thank you, Mr. Speaker. I think -- well, for starters, a police officer's a mandated reporter. So if a police officer's involved in a situation where he or she believes that children are, in any way, at risk, then they have a legal obligation to notify the Department of Children and Families. So, if that were an issue in any particular situation, I'm sure the police would do it regardless of whether there was a family violence situation, as well.

Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5<sup>TH</sup>)

Thank you, Mr. Speaker. The reason I ask is I have been reading some disturbing information with regard to the Department of Children and Families, the treatment of children that are in their possession and other things and my concern is I did not want more children to inadvertently, and they might, based on your answer, get involved in that system, but this bill looks like there's an alternative that maybe one parent could be left at home, therefore the children would be in the safe custody of a parent and in an environment that they're used to being in their own homes.

So based on that, I concur that I believe this is a

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better bill.

Thank you.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill? Will you remark further on the bill? If not, staff and guests to the Well -- Representative Peters.

REP. PETERS: (30<sup>TH</sup>)

Thank you, Mr. Chairman. I rise in support of this bill. I think this will correct the situation that we presently have now where the police officers are almost mandated to arrest both parties and we end up having two or three children we have to take into custody. So I think this is a great correction in the right direction and I certainly support it.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill? Will you remark further on the bill? If not, staff and guests to the Well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER HYSLOP:

Have all members voted? If all members have voted,

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House of Representatives

Wednesday, April 14, 2004

please check the machine to make sure your vote is properly recorded. The machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

H.B. 5293

Total Number Voting	145
Necessary for Passage	73
Those voting Yea	145
Those voting Nay	0
Those absent and not Voting	6

DEPUTY SPEAKER HYSLOP:

The bill passes.

Clerk, please call Calendar 198.

CLERK:

On page 22, Calendar 198, Substitute for S.B. 136,  
AN ACT CONCERNING REGISTERING UNDERGROUND FUEL TANK  
REMOVERS. Favorable Report of the Committee on Finance,  
Revenue and Bonding.

DEPUTY SPEAKER HYSLOP:

Representative Mazurek.

REP. MAZUREK: (80<sup>TH</sup>)

Good afternoon, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Good afternoon.

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 4  
1063-1409

2004

REP. LAWLOR: Next is Chief State's Attorney Chris Morano. And once again, just to point out to the members of the committee, we are trying to get through this -- we have 40 minutes left in the first hour and we have 17 persons left to testify. So, keep that in mind in your presentation and in the questions from the committee. It would be greatly appreciated. We're not going to alternate.

CHIEF STATE'S ATTORNEY CHRISTOPHER MORANO: Very subtle, Mr. Chairman, very subtle.

REP. LAWLOR: We're not going to alternate. I'm just saying. It doesn't effect you, but it effects other people.

CHIEF STATE'S ATTORNEY CHRISTOPHER MORANO: Well, I'll be as quick as I can be and as brief as a lawyer, let alone myself be.

First of all, I appreciate the opportunity to once again appear before you and I'm here on a variety of bills that I will talk about.

I want to touch, first of all, on the first bill, H.B. 5043, which is a massive bill, but one particular section, Section 8 deals with criminal violations against minors. It's laid out there in depth, more depth than I could talk about today, but I can tell you that members in my office that have had to deal with that particular issue have worked closely with the Connecticut State Police and Lieutenant Governor Rell's Office on seeing that this bill addresses some of the issues that were of constitutional concern in the past and I believe that this section in this bill, as it's written, does address those and I would encourage favorable action by the committee.

HB 5358

Now, there are six particular bills I want to talk about briefly today. The first one is H.B. 5293 which deals with AN ACT CONCERNING DUAL ARREST IN FAMILY VIOLENCE CASES. I want to stress, first of all, that the Division of Criminal Justice and myself are extremely committed to dealing with domestic violence cases. We have sought federal money to hire prosecutors. We've sought to build on

HB 5439

HB 5440

HB 5441

HB 5442

HB 5444

domestic violence investigations and initiatives that currently exist. We have put new prosecutors in the Milford district, in Windham, and I've added an additional domestic violence prosecutor in Hartford.

We are working with the Connecticut Coalition Against Domestic Violence to address this issue in a variety of forms and have a great dialogue with them, which we can talk about later.

Also through the initiatives and leadership of this General Assembly, we've been able to proceed quite rapidly.

If you look back at the 1980's, this matter was often dealt by police officers as a civil matter. They would be called to a location, they would speak to the parties and say, you know what, let's just -- everyone calm down, you guys have to work this out with a little bit of talk amongst yourselves, and they would leave. Obviously, that was a disastrous approach. History has shown that.

It has now evolved today where it is treated as a criminal matter. There are now procedures that provide the criminal justice (inaudible) to put mandatory arrests on the perpetrator and to put that individual in the criminal justice system and that is appropriate.

However, developing to that area, we sometimes now cast the net too broadly. The result is that sometimes true victims of crime, those that are not the primary aggressors, those that are defending themselves or in some way intimidated, are often arrested. My concern is that this creates a chilling effect on those victims and will chill them to report further abuse, thus empowering the abuser.

The time has come to re-examine this issue. And in doing that, I have looked at this bill and talked with members of the Connecticut Coalition Against Domestic Violence and I've sought the advice of my line prosecutors. This bill covers four areas, four categories in subsection (c) and they are areas

that should be looked at by police officers in deciding what to do. However, my concern is a concern that I've expressed as a philosophy in many areas of legislating police action and how they should do their jobs.

Certainly, that should be required in determining probable cause, but these particular four areas go further and would require them to establish other areas and other categories in deciding whether to arrest.

My concern is that this would be fought by defense attorneys who would utilize those four areas in cross-examining a police officer in a prosecution against an abuser. Also, while subsection (c) talks about providing some liability coverage for them, that liability only addresses areas of deciding probable cause, these four factors go beyond that.

In short, I think probably a better approach to this would be to take these factors and to incorporate them into training, which I believe is already mandatory, which probably should be increased in the time that police officers have to be exposed to it. So there should probably be more training for police officers and prosecutors and that these four areas that are mentioned in subsection (b) should be mandated as subjects that should be covered in that training.

I believe by doing it that way, we are achieving the goal that we want and we are not providing fodder for defense attorneys or defendants to utilize in the future. If that does not work, then we should revisit the issue and see about setting some sort of statutory obligations.

Our future efforts in this area, we will continue working with the CCADV. Both the Executive Director Lisa Holden and I are serving together on a committee that is specifically addressing dual arrests. We met last week. As part of that, we will continue to discuss the language that we believe should be enacted into law. We are also seeking grant funding to address the training issues immediately and when I say immediately, we're not

waiting until next year, we want to keep doing this throughout the next few months.

The next issue I want to touch briefly on is the bill that is H.B. 5358, a task force on the trafficking of women and I'm going to ask Executive Assistant State's Attorney Judith Rossi, who has sat on that commission to look into that, to briefly speak.

JUDITH ROSSI: Thank you, honorable members of the committee. The H.B. 5358 proposes the creation of a permanent task force to study the issue of trafficking in persons here in Connecticut. The Division of Criminal Justice supports a one year task force to identify and study this issue.

Trafficking in persons is a trans-national crime. It's considered to be one of the most prolific organized crimes after drug trafficking and arms smuggling. The activity of trafficking violates many civil and criminal laws. It also implicates issue of immigration, labor, asylum, repatriation, language translation, smugglings, social support systems, etcetera, etcetera.

The United State is a destination country for trafficking in persons and federal law addresses with both the anti-trafficking and anti-smuggling statutes aimed at the movement of human beings across the borders.

U.S. officials work on these issues not only on U.S. soil, but in foreign countries and international organizations. And the Justice Department, in the near future, is going to issue a progress report on the federal efforts and that's something that could be looked at by such a task force.

The members of the study group that led to the recommendation of this bill included representatives from state and federal law enforcement, many victim advocacy groups, civil and human rights advocates, Immigration and academics. None were able to specifically identify a trafficking problem here in Connecticut nor did any

like medical expenses. But capping non-economic losses is severely limiting and discriminatory to children, as well as to many women and the elderly because children are not wage earners.

Non-economic losses are not just about pain and suffering. They are about compensation for a permanent disability and how disability impacts a person's quality of life, our whole family's quality of life. And they are about accountability for negligence.

Everyone needs to pay attention to what caps really mean to the thousands of people out there who are going to be the victims of medical malpractice in the years ahead. If you could visit our home and see what life after medical malpractice is really like on a daily basis, I can't imagine that you would ever impose a \$250,000 cap.

We need to continue to make negligent doctors accountable for their actions. Hospitals and doctors must enact the kinds of system reforms that have been shown to prevent medical error. Five percent of doctors nationwide commit over half of all malpractice. Why are they still practicing?

Legislators must act not to limit victims' rights, but to require the medical community to reduce medical error and be accountable for their malpractice.

Thank you.

SEN. MCDONALD: Thank you very much, Mrs. Ladd and thank you for sharing your family's story with us.

Are there any questions from members of the committee? Thank you very much.

MARY ELLEN LADD: Thank you.

SEN. MCDONALD: Next is Natasha Pierre, followed by HB 5358 HB 5292  
Jennifer Manganello.

HB 5294 HB 5297

NATASHA PIERRE: Good afternoon, Senator McDonald and members of the committee. I'm Natasha Pierre. I'm

HB 5293

HB 5043

the Associate Legislative Analyst for the Permanent Commission on the Status of Women and I have Susan Hoover here who is our Special Projects Director and she's going to testify after I do about the trafficking bill.

HB 5358

We are here in support of several bills before you, H.B. 5292, AN ACT CONCERNING THE REDUCTION OF DISPORPORTIONATE MINORITY REPRESENTATION IN THE JUVENILE JUSTICE SYSTEM; H.B. 5294, AN ACT CONCERNING A JUVENILE JUSTICE PLAN FOR GIRLS; H.B. 5297, AN ACT CONCERNING THE NEEDS OF JUVENILE JUSTICE STATUS OFFENDERS, and the bill that would provide for dual arrests, but I will allow you to read our written testimony for that.

HB 5293

SEN. MCDONALD: Thank you.

NATASHA PIERRE: I am just going to address the Governor's recommendation which is Section 6 of H.B. 5043 about non-economic damages. As I'm sure you've heard us testify before, we are strongly opposed to caps on non-economic damages. There is considerable evidence that caps on non-economic damages will disproportionately effect women injured by medical malpractice and will not solve the problem by leading to a reduction in premiums.

Empirical research conducted by law professor Lucinda Finley on gynecological malpractice cases, over the past ten years in California and Florida, it shows that non-economic damages comprised approximately 75% of women's total awards. The reason is that the harm suffered by women in these cases include impaired fertility or sexual functioning, miscarriage, incontinence and disfigurement of intimate areas of the body. And these consequences, while very significant, are not directly related to economic losses.

Finley concludes that capping non-economic damages will have a discriminatory impact on women patients that will be the greatest when women experience the most profound sort of harm to their sexual and reproductive lives.

Moreover, there's empirical evidence that caps on

SEN. MCDONALD: Thank you very much, Jennifer. And are there any questions from members of the committee? Thank you very much for your testimony. We wish you the best of luck.

JENNIFER MANGANELLO: Thank you.

SEN. MCDONALD: Next is Deborah DelPrete Sullivan, followed by Gus Valez.

DEBORAH DELPRETE SULLIVAN: Good afternoon. Thank you for this opportunity to testify before you.

My name is Deborah DelPrete Sullivan. I'm legal counsel to the Office of Chief Public Defender. There are actually seven bills. We've submitted written testimony for from the Office of Chief Public Defender, but I would just like to highlight a few of those bills, if I may.

HB 5357

HB 5444

HB 5043

Raised H.B. 5293 regarding dual arrests in family violence cases. After our office read this through, we raised the concern that it's not clear that an individual, the second individual maybe arrested based on probable cause. The way this was written, it appears that the officer may make an arrest based upon the subjective criteria that is listed in that bill.

So we're opposing this bill and asking if the committee is going to pursue looking at this because I believe the intent is not to have more arrests, but to actually look at the situations. Perhaps that language could be clarified.

In regard to H.B. 5296 regarding a sexual assault services trust fund. The Office of Chief Public Defender is not opposed at all to that concept, but we do ask that the proposal contain a provision that would permit the court to waive or remit the mandatory fine if the court finds that the person so convicted is actually indigent.

Raised H.B. 5297, the Office of Chief Public Defender is not opposed to the provision of treatment in services, but there are two concerns within that bill. The first is that the bill

prosecution for doctors, patients, and primary caregivers? The answer is before you in raised H.B. 5355, which recognizes the fact that no federal law mandates that states must enforce federal laws against marijuana possession or cultivation. States are free to determine their own penalties or lack thereof for drug offenses.

State governments cannot directly violate law by giving marijuana to patients, but states can refuse to arrest patients who grow their own.

I'll skip two paragraphs and just get right to my closing.

SEN. MCDONALD: There you go.

REP. BACCHIOCHI: I have personally witnessed the devastating affects of terminal disease and the wasting away of life. I can testify to you, under oath in front of this committee or in any court that medical marijuana does work. It works for people who have tried very other drug without success. Medical marijuana can give quality of life to those who have lost it.

And as a state government, if we cannot offer these people protection from prosecution, I ask you, who will do that job?

Thank you very much.

SEN. MCDONALD: Thank you. I have just one very quick question. Do you know how this language lines up with the language from California that was just upheld by the Ninth Circuit Court of Appeals?

REP. BACCHIOCHI: I don't know exactly, but I have read that. The nine states are very similar to the Connecticut legislation that's before you.

SEN. MCDONALD: Thank you very much. Any other questions? Thank you. Next is Lisa Holden, followed by Jeanne Milstein.

LISA HOLDEN: Eighteen years ago, Connecticut gained national reputation for taking domestic violence

HB 5293

seriously. In 1986, the State Legislature passed Connecticut's Family Violence Prevention and Response Act still considered one of the most comprehensive family violence statutes in the country. This hallmark legislation created the mandatory Arrest Law.

Then, in 1997, the State of Connecticut's judicial branch was awarded federal funding to develop, implement, and evaluate a graduated continuum of prevention, sanctions, and treatment options that expanded on Connecticut's existing network of alternative sanctions.

In spite of these major accomplishments and others, Connecticut has also earned a national reputation for arresting domestic violence victims. The turn to the law to solve one problem, the lack of arrest in domestic assault cases has led directly to a new and unexpected one, the problem of dual arrests.

Good afternoon, Senator McDonald, Representative Lawlor, and members of the Judiciary Committee. My name is Lisa Holden and I am the Executive Director of the Connecticut Coalition Against Domestic Violence.

I am here today to support raised H.B. 5293, AN ACT CONCERNING DUAL ARREST OF FAMILY VIOLENCE CASES. The increase in arrests of ongoing victims of abuse, following the introduction of mandatory and pro-arrest policies presents a challenge not only to domestic violence advocates, but to the criminal justice system, as well.

After mandatory or pro-arrests statutes began to be implemented around the country, many, but not all jurisdictions found that along with the general increase in all single offender domestic violence arrests, they also witnessed a large jump in the number of dual offender arrests.

Connecticut's dual arrest rate averages 25%. Not all states collect arrest data as well as Connecticut, which is one reason why there has been widespread tolerance of this high rate. Yet in neighboring Rhode Island, a state with comparable

statistical measures, the dual arrest rate is a mere two to three percent.

Dual arrests should be reserved for those cases in which officers truly feel that they have exhausted their ability to determine who the perpetrator is and who the victim is or where both parties are clearly a continuing danger to each other or others. Raised H.B. 5293 adds specific language that allows law enforcement officers to follow a pattern of investigative activities that should lead them to a more accurate arrest decision. Having police consider past history is an avenue for them to be able to begin to contextualize the violence that is occurring and who is doing what to whom with what impact.

Asking about the history of abuse therefore, is not about verifying the party's credibility, but rather about gaining insight about the use and context of violence within the relationship.

While many law enforcement officers may balk at this approach saying that it flies in the face of previous mandates, its efficacy lies in long range goals of victim safety and the good use of community resources.

When victims who have been beaten for many years use self-defense in response to the force being used against them, arresting them can have a number of negative consequences.

First, their most immediate response is to never call the police again. Knowing this, abusers may feel uninhibited in their use of violence towards the victim. In fact, they often use dual arrest as a reason to further isolate the victim from any legal remedies.

Second, if the victim is arrested, there are tremendous repercussions for them at the time of the arrest and in the future. The ramifications of this can range from the loss of child custody to not being able to qualify for affordable housing, employment, or loss of immigration status, amongst other things. All of this only exacerbates a

victim's reliance upon the batterer, increasing the batterer's control over the victim, and thus increasing the likelihood of future danger.

The end result is both victim safety and offender accountability are undermined.

SEN. MCDONALD: Are you almost finished?

LISA HOLDEN: Just about.

SEN. MCDONALD: Please wrap up.

LISA HOLDEN: I will. The Coalition and our eighteen-member programs call on the Connecticut Legislature to pass H.B. 5293 in support of improving the criminal justice response for domestic violence victims.

I also want to testify in support of raised H.B. 5358, AN ACT ESTABLISHING A PERMANENT INTERAGENCY TASK FORCE ON TRAFFICKING IN PERSONS. CCADV supports this bill, as most, if not all of trafficking victims are victims of domestic violence. CCADV participated on the study group and we feel this bill will begin a process to help address the complex needs of trafficking victims, one of the most underserved populations in Connecticut.

SEN. MCDONALD: Thank you.

LISA HOLDEN: Thank you.

SEN. MCDONALD: Any questions? Thank you very much. Next is Jeanne Milstein, followed by Mark Wynn.

JEANNE MILSTEIN: Good afternoon, Senator McDonald, and members of the Judiciary Committee. My name is Jeanne Milstein. I'm the Child Advocate for the State of Connecticut.

HB 5292  
HB 5294  
HB 5358

I'll be brief. I'm here to support several bills today. First, H.B. 5297, AN ACT CONCERNING THE NEEDS OF JUVENILE STATUS OFFENDER AND STATUS OFFENDER VIOLATORS. We have a serious problem in our juvenile justice system and that the juvenile

competency in providing programs with cultural competency. This is not just another catch phrase. I think this is so critical. Cultural competency is the ability to assess and identify the challenges that children and their families face and provide helpful interventions.

Let me give you a real quick example of a story from our office. This past year we received a call about a young boy, we'll call him Carlos, it's not his name, who was a status offender. He had border line intelligence, substance abuse problems, problem behavior, and he spoke Spanish. We were told there were no Spanish speaking providers. Anyway, this child was sent to Virginia, lost that connection with his family. He's done very poorly, having a very difficult time reintegrating.

We also support the act, H.B. 5294, AN ACT CONCERNING THE JUVENILE JUSTICE PLAN FOR GIRLS. We don't have comprehensive plan in the State of Connecticut. Long Lane School closed a year ago and I think we need to do, not only a plan, but we need some timeframes and I also support H.B. 5358, AN ACT ESTABLISHING THE PERMANENT INTERAGENCY TASK FORCE ON TRAFFICKING IN PERSONS.

SEN. MCDONALD: Thank you very much. Are there any questions? Thank you.

Next is Mark Wynn, followed by James Papillo.

MARK WYNN: Thank you. It is an honor for me to be here today. This is my second visit to your state around this issue. I was here in January when we discussed the issue of mandatory arrests around the domestic violence cases and I've been asked to come here today to speak to you about a coalition, the Connecticut Coalition. HB 5293

I've worked twenty-five years around this issue of domestic violence as a police officer and as an expert witness in courts. Over the years, I've worked for the National Association of Chiefs of Police, the National Sheriffs, the National College of District Attorneys, and the National College of Family Juvenile Court Judges where in 1994, the

National College enacted what was called the Model Code and the Model Code, they recommended the states to enact legislation around mandatory arrests and the dual arrests issues and that's why I'm speaking here today, because I'm in support of H.B. 5293.

Just briefly and Lisa, Ms. Holden, covered a lot of these issues and I don't want to cover the same ground, but over the last twenty years I've crossed this country and trained at every state except Alaska and trained with police officers and agencies who have both a state statute that explains dual arrest issues and mandatory training like California, Illinois, Mississippi. Also, victim advocates, prosecutors, very much like it and think it's much easier to deal with when they have a state law that gives them clear guidance.

Training is a critical issue, obviously, and when you see the combination of training in the state law, that's when you see the law really work its best.

Training alone, seems to be not as effective because the law in itself becomes the lighthouse. When all else fails as a police officer, no matter what my training is, I go back to my law for my guidance and that's certainly what this provision allows for.

As Lisa was saying earlier, this crime is devastating in itself and now we're having this issue of dual arrest around the country where both parties are being arrested and it is a training issue, but it also is a law issue. It is one of the most complex, confusing, and dangerous calls we answer in law enforcement. There's no margin for error, certainly, and we often find ourselves being manipulated by an offender at the scene of a domestic violence call where we find ourselves falsely arresting both parties. And in the law change, we'll certainly address some of these issues.

We changed our law in Tennessee several years ago. I helped draft the legislation there. And we didn't

look at our code as being lacking. We changed the code not to criticize it, but to refine it. And we are refining this art of investigating domestic violence calls in law enforcement and it's taking us a long time to get here.

In closing, as Lisa said, what we've seen with a community, a county, a state where the law is unclear, where the intent's unclear, we found that both parties in some of these cases are being arrested. We're having civil rights violations being committed. So, quickly, we see offenders being empowered. We see victims being disempowered, causing inability to prosecute the case. The problem goes back to the home where the officer has to go back to again and again and again. It punishes the citizens for committing self-defense. It sidetracks the mission of the Violence Against Women Act, which is to hold the offender accountable and make the victim safer, and it increases the likelihood of civil liability for law enforcement.

Thank you.

REP. STONE: Thank you very much, sir. Thank you. Any questions from the members of the committee? Thank you for your testimony.

James Papillo. Kathleen Sloan.

KATHLEEN SLOAN: Good afternoon.

REP. STONE: Good afternoon.

KATHLEEN SLOAN: I have been a victim of domestic violence at the hands of an abusive man. I have also been doubly victimized by the practice of conducting dual arrest.

HB 5293

I was assaulted and hit several times on the head and face. I suffered an ear concussion as I swung out of multi-colored stars in my line of vision after I was struck. Because I attempted to defend myself from my attacker by pushing him away from me, I was also issued an arrest citation after I called the police for assistance. My attacker had a

few minor scratch marks resulting from my attempts at self-defense. My attacker was a 6', 200 pound man. I am a 5'4", 110 pound woman. I was physically incapable of posing any physical threat to this man.

The officers told me that I shouldn't be concerned and to simply be present at court where I would probably be told to get counseling. When I arrived in criminal court, I had no idea of the nightmare which would unfold over the next six months. In addition to the extreme emotional, psychological, and physical trauma of the assault, I found myself filled with horror and fear at having to face the further trauma, humiliation, and indignity of being treated as a potential criminal when I had only attempted to defend myself against extreme bodily harm, a constitutional right.

I spent endless sleepless nights in terror, paralyzed with fear of both my attacker and the criminal court system. As a law abiding responsible citizen, with a graduate level education, who was the victim of a violent crime, the system I had called upon for help in a time of grave danger had responded by treating me as equally culpable. As a result, when I was again assaulted by my attacker, I would not call the police for fear of being further victimized yet again.

Something is terribly wrong when the system, which should protect victims essentially tells a woman that if she is violently assaulted by a man, she should not attempt to defend herself because she will be viewed as equally guilty if she does. The ramifications of such a situation for victims of violent, abusive men are despair, hopelessness, paralyzing fear, paranoia, and possibly permanent injury and even death.

Statistics readily verify that the victims of domestic violence are overwhelmingly female. I implore this committee to do all in their power to stop this double-victimization by ending the practice of dual arrest. By so doing, you can save lives. The life you save, could be your colleague's, your neighbor's, your sister's, your daughter's,

even your own.

Thank you.

REP. STONE: Thank you very much for that testimony. Does anyone have any questions? Thank you very much.

Fernando Betancourt, Vanessa Burns. Penni Micca. You have to forgive me, Penni, if I mispronounced your name.

PENNI MICCA: Good afternoon, Chairman and members of the Judiciary Committee. Thank you for accepting my testimony on behalf of Interval House.

My name is Penni Micca. I am an Interval House advocate stationed full-time at the Manchester Police Department as part of the Domestic Violence Outreach Team.

Interval House is one of Connecticut's largest and oldest domestic violence intervention and prevention programs covering 23 communities in the greater Hartford area.

We have worked with thousands of victims of domestic violence over the years.

I am here to ask for your support on raised H.B. 5293, AN ACT CONCERNING DUAL ARRESTS IN FAMILY VIOLENCE CASES.

An officer once told me that back in the early 1980's when he went through the police academy it was standard training that if you stuck your nose into domestic violence, you were going into something you had no business in. "ninety-nine percent of the victims", he said, "drop charges before you've finished your report."

I've heard similar stories from others about that time period. As a result, officers resolved things unofficially. "We would encourage the man to go spend the night at his Mama's house", said the same officer. Well, we've come a long way. I'm not going to give you a history lesson on what changes were

made in the laws along the way, you know what they are. Many of you helped craft them and lent your support.

The results, however, of the mandatory arrest policies that came into play during the mid 1980's turned out to be a mixed blessing for victims of domestic violence. For some officers, any easy answer to mandatory arrest is to say, "You both take a ride, I can't figure it out." For others, there is fear that they will risk personal liability through civil actions if they don't make an arrest and someone is hurt or killed in the future. Others misinterpret defensive action by victims to protect themselves or their children as an act of domestic violence.

As a result, the number of victims arrested for committing acts of violence against their partners has inappropriately increased over the years. Dual arrests are a safety issue. I can't begin to tell you how many victims of domestic violence find themselves at increased risk of harm because they are terrified of calling the police. I will never, never call the police again. I am the victim. I called for help and I was arrested. I can't afford to call the police. If I get arrested, they'll take my kids. I'll take my chances.

He told me if I dialed that phone, he would tell the police I hit him. It is not uncommon for a batterer to cause himself injury before the police arrives.

REP. STONE: I am going to ask you wrap up, Penni, if you would, please.

PENNI MICCA: Okay. I'll just fast forward. You know it takes just one arrest. We have gotten to the point where victims of domestic violence are fearful of even making a first call to the police. The police have to arrest you both, it's the law, friends and neighbors and social service providers tell them.

Others call their local police department for information about what their options are. Many tell me they have spoken to a dispatcher or officer who

listened and was caring and supportive and explained the law to them as it is being interpreted across the State. We have mandatory arrest laws. If your partner states that you pushed or hit him, it's your word against his. We will probably arrest you both.

Remember the officer that told the man to spend the night at his mama's house? Well, fast forward to 2004. Some victims are being told by officers and dispatchers about mandatory arrest laws. Unofficially, they're being told to spend the night at mama's house.

I am hoping that you will support this bill.

REP. STONE: Thank you. Don't leave yet, Penni. Hold on. Does anyone have any questions of Penni? Thank you very much for your testimony.

Representative Toni Boucher.

REP. BOUCHER: Thank you and good afternoon to members of the Judiciary Committee and especially to the ranking members, Representative Stone and Representative Farr, co-chair.

Good afternoon. Last year, with \$1 billion budget gap that was looming in the 2003 session in its final two weeks, we, in the House of Representatives spent the better part of a day debating and rejecting Connecticut's move towards limited legalization of marijuana for medical use.

As you can see, I'm here to discuss H.B. 5355. For three hours, we debated the pros and cons of allowing people to possess, grow, and smoke marijuana if a doctor certified that it would ease pain or nausea. Many passionately questioned the message it would send to our children, especially given evidence that marijuana itself is harmful and often leads to the use of increasingly dangerous drugs.

Still others raised legal concerns that the State Legislature would contradict federal law that still outlaws marijuana as a controlled dangerous

some great articles by Dr. Dupont who happens to be the Clinical Professor of Psychiatry at Georgetown Medical Center and also of the Maryland based Institute for Behavior and Health. It really outlines a little bit more carefully, but just so that you know, crude marijuana contains more than 400 chemicals, most of which have not been studied by scientists. Some sixty of these chemicals which can be very dangerous substances.

So on that note, and because the time is so short and you've been here a long time, I just wanted to let you know that we should definitely wait and allow the FDA to do its job before heading in this very dangerous and destructive direction. And I might remind you, even if we were to pass this, that it would still be a violation of federal law to prescribe or use marijuana for medical purposes.

Thank you.

REP. STONE: Thank you very much, Representative Boucher. Does anyone have any questions of the Representative? Thank you very much for your testimony.

REP. BOUCHER: Thank you very much.

REP. STONE: Marie Kenny.

MARIE KENNY: Good afternoon and thank you very much for the opportunity to speak to you in support of raised H.B. 5293, AN ACT CONCERNING DUAL ARRESTS.

Prior to moving to Connecticut, I served as a Massachusetts State Trooper for eleven years, eight years of which I spent specializing in domestic violence and so what I would like to talk to you about is the law enforcement perspective and the changes that are recommended to the Family Violence Prevention Act.

We are asking that the law be refined to accommodate the intent and it is asking that the police officers consider the intent of this statute and I am confident that it was not the intent of the Connecticut General Assembly to have victims of

domestic violence regularly arrested for defending themselves and that is, unfortunately, an adverse affect of this language, as it stands.

Police officers are now going to be -- if these changes are accepted, police officers would be asked to consider the level of injuries inflicted against the parties as a way to help identify who is, in fact, the abusive partner in the relationship.

I'd like to give you a typical scenario. We know a lot more about how batterers think, based on what we're hearing from the Batterer Intervention programs and my experiences with the programs in Massachusetts.

But a typical scenario. Suppose the husband is the abuser and the female wife is the victim. Most people over the age of twelve know that if you call a woman the "c" word, you are likely to get slapped. Now, I am not advocating that as an appropriate response, but it is common knowledge and abusers know that and abusers will talk in batterer groups that they use that kind of stuff, they use these strategies to provoke their partners.

So case in point would be a batterer calls his wife the "c" word. She slaps him across the face. In his mind, that is the green light and she is then met with a barrage of fists and feet, pulled by her hair and thrown around the room, held up by her throat. When the police arrive, he says, "Hey, she started it, she hit me first." The police turn to the woman and she looks them right in the eye and she says, "You bet I hit him." Under the current language, the police have no option other than to arrest both without having the tools and the ability to investigate deeper and find out what is going on in this relationship in a more deep way.

The police are also going to be asked to identify fear and which partner may be in fear of the other. And again, if you ask batterers how do they feel when their partners attack them, they will invariably laugh. They may consider it an affront

to their authority, but make no mistake, abusers are not afraid of their victims.

My greatest concern around dual arrests is not even necessarily the impact on the victim, although I think that in and of itself should be enough to move you to approve these language changes.

What concerns me the most, as a former police officer, is the effect of dual arrest on batterers. It places the criminal justice system in a position of telling batterers, yes, your victim is equally responsible. Your victim is also to blame. And that is singly the most dangerous thing we can do to victims of domestic violence and that it empowers and emboldens batterers and places the victims in significantly greater danger.

So I urge you to accept the changes as they've been proposed in raised H.B. 5293.

REP. STONE: Thank you very much for your testimony. Does anyone have any questions? I just have one, if I might.

The Massachusetts law that you, as a police officer, State Trooper, were charged to enforce, was that similar to the Connecticut bill that we have before us or the Connecticut bill --

MARIE KENNY: No, in fact --

REP. STONE: -- we want -- has changed?

MARIE KENNY: It's closer to where the language would take the Connecticut statute. In fact, when Massachusetts heard about the Connecticut statute, the Legislature decided to enact very similar legislation and the battered women's community asked the Legislature to hold off and because of dual arrests, they made arrests preferred. The only incident of mandatory arrest in Massachusetts is for violation of a court protective or restraining order.

REP. STONE: Okay, thank you very much. Representative Farr.

REP. FARR: A quick question. There was some suggestion that a lot of this problem could be cured with better training. You don't agree with that?

MARIE KENNY: I don't because the statute says to the police officer if you believe a family or a household member has committed an assault against a family member or a household member, you will arrest. As long as it says you will arrest, police officers and I had this affirmed when I spoke at the public hearing previously by police officers who were in the audience. They affirmed that they feel, in that scenario I gave you, for instance, where she slaps him and then she gets throttled. If they do not arrest her, they are in violation of the statute and then face vulnerability for civil - they're vulnerable to civil liability.

REP. FARR: Okay.

REP. STONE: Thank you, Representative Farr. Thank you very much for your testimony.

MARIE KENNY: Thank you.

REP. STONE: Julie Fables.

JULIE FABRO: Good afternoon and thank you for this opportunity to speak with you about the issue of domestic violence and the impact of dual arrests on victims. HB5293

My name is Julie Fabro and I have been employed for the Center for Women and Families for three years. Currently, I'm the coordinator of Court Advocacy Services and work out of GA 2 in Bridgeport.

As some of you may be aware, Bridgeport has a specialized domestic violence docket and receives approximately 300 to 350 new referrals each month. Therefore, I've dealt with thousands of victims of domestic violence after an arrest has been made.

Dual arrests is a major concern to the family violence service providers. Arresting victims along with offenders can have a detrimental affect of discouraging victims from seeking help from law

enforcement in the future. I can't tell you how many times I hear victims say they will never call the police again if their spouse or partner was assaulting them. Their arrests clearly closes the door to future assistance from the criminal justice system.

In addition, arrest and conviction can effect access to housing, employment, state assistance, and educational resources that are essential for the survivor's ability to maintain their safety and independence from an abusive partner and to provide for their children.

Abusers also recognize the mandatory arrest policy and use the language of the statute to manipulate the criminal justice system and law enforcement officers. Perpetrators would like nothing more than to see their victim arrested. It sends a clear message that he is still in control and continues seeking power.

A theme that social workers who run batterer intervention groups often hear is, get to the phone first. Batterers tell other perpetrators that if they call the police first, they are more likely to be believed by the officers when they arrive on scene and the victim will be arrested. That is why an imperative part of this bill discusses training and clear protocol for police officers in order to identify the primary aggressor.

There is no doubt that officers feel their discretion has been taken away and they are frustrated. More mandated training for police officers must be included in this bill, along with clarification that police officers have and should use discretion in determining who the primary aggressor was.

I urge this committee to support raised H.B. 5293. When unnecessary dual arrests occur, victims are impacted and re-victimized by the very system that was meant to keep them safe. The consequences of dual arrests are drastic. It will severely impact the victim's future, especially when and if the victim feels it is the right time to leave the

relationship, she will not seek assistance from the police nor the courts and other resources may have already been terminated.

REP. STONE: I would just ask you to finish up, if you would.

JULIE FABRO: Sure. Please look at the current statute carefully and make the necessary changes. These changes will benefit the victims, as well as police officers.

REP. STONE: Thank you very much for your testimony. Does anyone have any questions? Thank you very much.

JULIE FABRO: Thank you.

REP. STONE: Cecile Enrico.

CECILE ENRICO: Good afternoon.

REP. STONE: Good afternoon.

CECILE ENRICO: I'm here to testify on H.B. 5293, AN ACT CONCERNING DUAL ARREST IN FAMILY VIOLENCE CASES. My name is Cecile Enrico and I'm the Executive Director of Interval House and a member of the Connecticut Coalition Against Domestic Violence, Board of Directors.

I have worked in the field of domestic violence for twenty-seven years. Prior to 1986, and the inception of the Family Violence Prevention and Response Act, domestic violence was not seen as a crime.

Our typical hotline call was from a battered woman calling to tell us that her partner had beat her up. She had called the police and nothing happened, no arrest was made. My job at the time was of an advocate and I would help victims of domestic violence to the police station so they could take out a complaint. Unfortunately, in many cases, the police did not accept the complaint. So when the Family Violence Prevention Act was passed, I was there doing all that I could see to get that

passed.

Those of us who were involved in the battered women's movement saw this as a major victory for all victims of domestic violence. I still consider it a major victory except for the piece about mandatory arrest.

After the Family Violence Prevention Act was passed, we began seeing and hearing from victims that were being arrested when they called for help from the police. They were being abused, they called for help and they were being arrested. Over the past eighteen years I have done a lot of police training. I hear from many officers that most of the time they arrest both parties if there's a slightest hint of probable cause. Now I want to preface my statement by saying that I am well aware of women who are violent and they should be arrested, but statement from victims who have been arrested solely on what her partner tells the police or because they've used violence as a means of self-defense.

When we ask victims who are in our support groups and in our shelter if they would call the police again, they say no. They state that they would not call the police because they had either been previously arrested when they had called for help or in most cases, because they had heard that both parties get arrested.

We also put this question on our pre and post test and the majority believe that the police have to arrest both parties.

REP. STONE: I am going to ask you to just wrap up, if you would.

CECLIE ENRICO: Okay.

REP. STONE: Thanks.

CECILE ENRICO: What we hear from victims is that they're arrested if the partner often uses this arrest against her throughout the relationship, threatening her if she calls the police.

Another problem in dual arrests that it poses is that it follows the victim throughout. That victims have lost custody and the arrest was used in determining custody. Even today a woman, especially a mother, is looked at much worse when she is arrested rather than a man being arrested because domestic violence is about power and control over the victim. The victim now sees that her partner is able to get away with the abuse.

Arrest empowers her partner giving him justification of the abuse.

Dual arrest also confuses everyone, including the children. Dual arrest also diminishes the seriousness of the arrest. It also diminishes the seriousness of the violence.

So I ask you to support H.B. 5293.

REP. STONE: Thank you very much and just for the record and to all that I might have interrupted and may have to interrupt, it's just that we have four pages of people that want to testify. It's a very important bill and your testimony is very important to all of us. I'd like to have everyone have a chance. So I'm going to try to hold a little bit to the three minute rule and I will certainly let people go --

CECILE ENRICO: I certainly understand.

REP. STONE: Thank you very much for your understanding. Hold on, before you leave. Does anyone have any questions of this person? Thank you very much.

Peggy Bowey.

PEGGY BOUREY: Good afternoon. My name is Peggy Bourey. I would like to thank you for this opportunity to speak with you about raised H.B. 5293, AN ACT CONCERNING DUAL ARREST IN THE FAMILY VIOLENCE CASES.

I'm a survivor of domestic violence. I was born into a family where there was domestic violence and when I grew up, I married an abusive partner.

We had a family and my children witnessed verbal and physical abuse.

One evening after the children went to bed, my husband started arguing. He started arguing with me. He started shoving and shouting very loudly. The neighbors called the police, fearing for my safety.

When the police arrived, he told them that I had started hitting him first and I was being abusive. I tried to explain to the officer that he was lying, but the officer just looked really confused. He told us that he did not know which one of us was telling the truth. He said that we would both have to come down to the station and be booked for breach of peace and let the court figure it out.

I called a neighbor to watch my children, who at this time were wide awake and standing ten feet away. I could not believe I was being arrested. It did not seem to bother my husband, whatsoever. The children were very upset and they were crying and not only from the pushing and the shoving that they had just witnessed moments before, but now that both of their parents were being taken away and arrested. They were confused as to what mommy had done wrong. She must have done something wrong because the policeman was arresting her. I had always brought up my children to believe that the police were there to help people. I had a terrible time explaining to my children why the officers felt the need to arrest everyone and not just daddy who had been doing the pushing, the shoving, and the shouting.

We were taken to the police station, side by side in the police cruiser and booked. I was never so embarrassed in my life. Now for the rest of my life I will have an arrest record, even though there was no conviction and I had done nothing wrong.

I would never have fought back for fear of my life.

I went to court the next day and the charges were dropped if we did some counseling. He went to the counseling and he just -- whatever they wanted.

Whatever they wanted, he did to get out of it. I made sure the police were never involved again.

In the meantime, there was real, excuse my language, hell to pay at home for a while. My husband had me right where he wanted me. Every time something didn't go his way exactly, he would threaten to call the police and I would be arrested again and he would take the children and I would never get my children back because I had been arrested too many times.

I feared for losing my children, so I did what he wanted. I did not want this violent man bringing up my children.

Some years later, I was able to contact a shelter from the Domestic Violence Program. They gave me the support and showed me how to navigate my way through the court system to get what I needed to protect me and my children. This bill, the language in this bill is clear and precise and that it states no arrest shall be made if any injury is reasonably caused is believed to be in self-defense of one's self or a third party and it takes into consideration the history of the family violence, which is a key piece in making a decision on whose the victim and who is the abuser.

It would also establish education and training for law enforcement and those who work in the courts.

REP. STONE: Thank you, Peggy very much and before you get up, does anyone have any questions? Thank you very much for your testimony.

Erin Clark.

ERIN CLARK: Good afternoon. My name is Eric Clark and I'm a public policy intern with the Connecticut Coalition Against Domestic Violence, which works closely with the Connecticut Sexual Assault Crisis Services.

HB 5357

CCADV is a statewide network comprised of eighteen domestic violence programs driven by a mission to work together to end domestic violence by changing

BRIAN ANDERSON: Thanks.

REP. STONE: Deb Drucker. Dr. David Simon. Doctor, you're going to follow Ms. Drucker, okay. Good afternoon.

DEBBORAH DRUCKER: Good afternoon. Good afternoon. My name is Deborah Drucker. I thank you for the opportunity to speak with you about raised H.B. 5293, AN ACT CONCERNING DUAL ARREST IN FAMILY VIOLENCE CASES.

On July 12, 2002, my now former husband assaulted me. I went to the pond where he was fishing. I complained to him that he needed to stop sending tenants to my workplace looking for money that they believed they were owed.

I parked my Jeep and walked over to where he was fishing. I called out to him and wanted to know why -- he wanted to know why I was there and to go home. I stated he was being a jerk sending the tenants to my workplace. He threw down his fishing pole and came at me, yelling the whole time, he was going to hurt me and damage my car.

He started toward my car. Fearing what he might do, I placed myself between him and the door. He pushed me many times while I held onto the door and side mirror. He grabbed at me while attempting to get my keys from the ignition leaning his body into me with its full weight.

I tried to push back, but he was too heavy. I leaned up against the car with my back to the door, holding onto the side window for support, whereby he forced his total body weight against me with his arms raised and crossed against my chest crushing me.

I couldn't move and panic set in. I couldn't breathe. I tried to scream for help, but I was in the woods. The friend fishing with him came over to the truck, but did not attempt to intervene. He finally let go, but laughed that no one was going to help me. I ran to his car hoping that if I got inside, I would lock the doors because the windows

were electric and I would be safe in his car.

He grabbed my legs, twisting them. I climbed through this car and in the process, papers fell out, scattering to the ground. I sat on the ground trying to think what to do. I moved back to my car and he followed. I was looking for my cell phone. I had locked the doors, but in my state of fear, had forgotten that I had a soft top Jeep and he just had to unzip the back, which he did.

He fought with me to get the cell phones because he feared I would call the police. He came around from behind and grabbed my upper chest and neck. I grabbed his face, hoping he would let me go. I gave him one cell phone, but I kept asking him for him to leave me the keys so I could leave.

I opened my car door, when grabbed my purse, which had another cell phone, after threatening to crush my legs with the door if I didn't give him what he wanted.

I held onto my purse while he dragged me over the ground. Throughout the assault, he kept smiling, a smile as someone who enjoyed what he was doing.

Finally, he leaned up against his car and stated, while looking over the pond in the wooded area, that he would get rid of me and no one would ever find me.

In my heart, I knew that this was a serious threat. And in the essence of time, I did go to the hospital. A state trooper took my statement. Never did the trooper look at me nor look at the injuries that were inflicted upon me. A hospital worker took the pictures for the police report. I stated that I fought for my life, that my husband's intention was, to this day, and I still believe, to kill me. The officer's statement to me was that I had thrown papers out of the car, therefore he had to write me a summons for disorderly conduct.

Yes, I pushed my husband. Yes, I pushed his face because I was being hurt and fighting for my life. Yes, papers fell out of the car, but I believed he

was going to kill me.

Dual arrest is not what the law intended. It was intended for mandatory arrest so the victims of family violence did not have to be forced to give statements that may otherwise endanger them even more.

Unfortunately, this is not what takes place and as in my situation, many victims are arrested because it's just easier for the officer to leave it to the courts to decide what happened.

REP. STONE: Thank you very much.

DEBORAH DRUCKER: Thank you.

REP. STONE: Does anyone have any questions? Thank you very much. Dr. Simon.

DR. DAVID SIMON: Ladies and gentlemen of the Judiciary Committee, I'm Doctor David Simon. I am a licensed physician and have practiced medicine in the State of Connecticut since 1991.

My professional background includes being a board certified anesthesiologist and having the added qualification of certification in addiction medicine by the American Society of Addiction Medicine.

Today I'm here to support an amended version of raised H.B. 5355, AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA.

Last year I heard on t.v. the debate regarding H.B. 5100 on the House floor and was deeply troubled by comments of those that oppose the bill. Therefore, I'm here today to speak to some of those issues.

On the floor of the General Assembly, opponents of H.B. 5100 used the following arguments against the bill. One, there are no doctors that support the bill. This claim is false. In today's public hearing you will hear from two licensed physicians, one who holds a Masters Degree in Public Health who have practiced in the State of Connecticut and who

there a tremendous increase in anorexia in the United States now?

DR. DAVID SIMON: I wish I could answer that with authority, but that's not my area of expertise, unfortunately. But I do know it is a very serious problem in the United States.

REP. MCMAHON: Yeah. Okay. Thank you.

DR. DAVID SIMON: You're welcome.

REP. STONE: Thank you, Representative. Anyone else? Thank you, Doctor.

DR. DAVID SIMON: Thank you.

REP. STONE: Chief Salvatore and Chief Strillacci. Identifying the bills they're going to speak about has "various". I will remind you, Chief, of the time limit I'm trying to hold onto here.

CHIEF ANTHONY SALVATORE: Yes, sir.

REP. STONE: Thank you, Chief.

CHIEF ANTHONY SALVATORE: We're Tony Salvatore and Jim Strillacci. We represent the Connecticut Police Chiefs Association. We're here only to speak on two bills.

The first is H.B. 5293, dual arrests. We oppose this bill. Since 1986, Connecticut has had a very strong and clear law on domestic violence. If there is probable cause, we make an arrest. It's mandatory.

Section (b) of this bill is going to undermine that by putting between the determination of probable cause and the actual arrest, a list of subjects that the officer is going to have to consider. If it looks like one person has broken the law.

And the wording of these requirements is fairly vague. It's going to make it difficult to understand. And even if understood, it's going to be difficult to apply because of the breadth of the

terminology.

Domestic is already complex and volatile. Modifying the probable cause standard in these particular cases is going to add confusion. It may actually dissuade the officer from making an arrest at all.

The bill, to us, appears to stem from a comparison of statistics between Connecticut and other states. The observation that Connecticut makes more of these what they call dual arrests than other states and the assumption, based on the stats, that some of these arrests are wrong.

We don't necessarily agree with the assumption, but we believe that the intent of the bill is to keep victims of family violence from being arrested for merely defending themselves. We certainly have no objection to that, that's a worthy cause. We support it, but we think there's a better way to do it under current law - 53a-19 defines "self defense." 46b-38b already mandates that the police officer (inaudible) and training council, on conjunction with the Division of Criminal Justice, must provide family violence training to police at both the recruit level and at the in-service refresher level.

If, at least one training cycle, usually a three year cycle, this training were to emphasize the legal concept of self-defense, police would be better equipped to determine whether a person's conduct was criminal or justified.

Now, if an officer going into a domestic believes that there was legal self-defense, there's no probable cause and therefore, there's no reason to make an arrest. A simple yes or no decision on probable cause maintains the current protection for victims of domestic violence in the mandatory arrest statute.

The proposed standard, which is probable cause plus exceptions, would water down their protection. Now that the dual arrest problem has been raised, (inaudible) can adequately address it and the changes suggested by this bill are unnecessary.

CHIEF JAMES STRILLACCI: And Representative, if I may add, I am the Chairman of the Police Officers Standards and Training Council. And the first time that I learned that there were these concerns out there was as a result of reading this bill. No one has ever brought these concerns to the Council's attention and I agree with what we said here as far as our position with the Connecticut Chiefs, but I agree that we can direct, both in-service and recruit level classes, to receive training in this area if that is, in fact, where the problem lies. We don't see a need right now, though, for this type of language.

REP. STONE: Okay. Any other bill you were testifying on?

CHIEF ANTHONY SALVATORE: Just briefly. We do support H.B. 5311, the temporary protective order for sexual assault cases. It's (inaudible) in current law and we think it would be well served.

REP. STONE: Thank you very much. Does anyone have any questions of either Chief? Yes, Representative Hamm.

REP. HAMM: Thank you, Representative Stone. Gentlemen, it sounds to me like your testimony is that we didn't know there was a problem and I guess I find that a little hard to believe. Obviously, you're on the ground. You know what officers are doing. And if they're arresting both people, didn't that strike you as probable cause for both?

HB 5293

CHIEF JAMES STRILLACCI: Just arresting both people doesn't mean that the arrests are incorrect, though. There are many cases where you go to -- and there's mutual accusations and there's mutual physical evidence to back it up. It is not currently the freedom in the officer's eyes to disregard one or the other.

If there's probable cause, make an arrest, it is made.

REP. HAMM: Well, then let me ask you this. What do you believe the intent of the our Family Violence laws

are the core? What did we do all that for with Tracy Thurman?

CHIEF JAMES STRILLACCI: To make sure that cases were not treated as social work, to make sure cases were not ignored, to make sure that we didn't treat people differently because they were a domestic violence situation rather than a bar fight or an on the street assault.

For many years, officers that came out of our generation like Chief Salvatore and I, we're taught that these were essentially family problems, should be solved as families and that there weren't things that the police could solve. Thurman taught us otherwise, that we're perhaps the last resource or recourse for victims in domestic violence, that they needed our attention, they needed our intervention. That we may not solve all their problems, but we will at least get them into the system, we'll separate the violator, the brutalizer from the victim, and let the courts intervene.

It's not going to solve all the problems, but at least we did our part.

REP. HAMM: Well, actually I was leaning toward thinking maybe we could resolve this with training until you two spoke, I have to be honest with you.

Has dual arrest been discussed in any kind of training at all since this thing was passed?

CHIEF JAMES STRILLACCI: Dual arrest has been raised this year.

REP. HAMM: No, but I mean as part of your training as far as looking at definitions of self-defense and assessing what happens on the scene and who is the victim and who is not.

CHIEF ANTHONY SALVATORE: Well, our officers are taught what probable cause is. And if they go to a domestic violence and they have probable cause to arrest both individuals, then in essence, an arrest is made of both individuals. If the officer determines that one individual was protecting him

or herself and the other one was the aggressor, then only one party is arrested.

Your question previously of dual arrest, no, this has not been discussed by the Chiefs or by the Council previously and prior to this, no.

REP. HAMM: Well, I think that is pointing out important this is that we have to do something with language, I thought had been around a long time and thought our model bill and law worked so well and that the core of that was the way we trained our police officers so that they understood the context of domestic violence and it wasn't just a domestic. And I'm not hearing you tell me that the training that you're getting separates probable cause in a domestic violence situation differently. So that I don't understand whether there's a context.

CHIEF ANTHONY SALVATORE: It should not.

CHIEF JAMES STRILLACCI: We should backup a step. We're being told there's a problem because there's a statistical disparity between our state and other states. We don't know what the laws are in those other states, though. We don't know if those states mandate arrest for domestic violence. They may treat it the way we used to do back in the 70's. So we're not sure those stats are valid.

REP. HAMM: Well, forget the stats. Okay, we'll throw them out. I don't care if we're high or we're low. If you believe and your officers believe that the dual arrest issue is only about probable cause, without a context of domestic violence and the dynamic of violence against women, then how are you ever going to train them to not have a dual arrest?

CHIEF JAMES SALVATORE: Well, that's we see as a problem right here in this language. It's going to cause more confusion amongst our own police officers. We're not saying --

REP. HAMM: They're going to have to think. They're going to have to assess the facts on the ground.

CHIEF JAMES STRILLACCI: Ma'am, I --

REP. STONE: Representative, let him answer the question before you go on.

CHIEF JAMES STRILLACCI: I understand what you're saying, Representative. We've never heard that there was a problem and when I say we never heard there was a problem with dual arrest, I mean we never heard that the numbers were rising to a level that allegedly there was a problem and the problem was with the police. No one has ever come to us and brought this to our attention.

REP. HAMM: I appreciate that.

CHIEF JAMES STRILLACCI: And what we're saying is if this is the fact, then we think the best way to address it, at least to start off the way to address it, is to look at what we do for training and go back and take a look at it that way with regard to basic and in-service training if that is, in fact, the case. But we're only given numbers compared to allegedly other states and I have no idea what they're doing in other states.

I know what Tracy Thurman meant to this state and it basically took discretion away from the police officer and that they could no longer, if there was a need for an arrest, they could not walk away from it, they had to make an arrest.

REP. HAMM: That we agree about.

CHIEF JAMES STRILLACCI: And we don't have a problem with that, Representative. All we're saying is this is the first time we heard that there is an alleged problem and we're saying that if there is a situation that requires to be addressed, the best way to do it is through training. I don't think what you're saying here is going to address it one way or the other. We're just saying that's confusing and we think the way to allow us to attempt to look at the problem and address it is through training.

REP. HAMM: But it says to me that you don't think there's a problem.

CHIEF JAMES STRILLACCI: I didn't say I didn't think there was a problem. The only time this was brought to my attention and my attention as the Chairman of POST is when I read this bill.

REP. HAMM: You don't understand my point, do you? So I mean I'm going to have to end there.

CHIEF JAMES STRILLACCI: You're asking me if I think my officers are making unnecessary arrests? I don't believe my officers are making unnecessary arrests. I believe my officers are arresting individuals, as required and both under the law.

REP. HAMM: Okay. We agree to disagree.

REP. STONE: Thank you, Representative Hamm. Anyone else? Representative Berger.

REP. BERGER: Thank you, Vice-Chairman Stone. You sounded a little bit like a judge there, when you said let them speak.

REP. STONE: I'll let you talk about one minute.

REP. BERGER: Thank you, Representative. Just quickly. What is the training component for an officer, first going into the academy on domestic violence? How many hours are they trained currently?

CHIEF JAMES SALVATORE: I don't have the exact numbers of the course, but I can get it to you. I want to say it's upwards of eight to ten hours for domestic violence.

REP. BERGER: Has that training increased since the Tracy Thurman case?

CHIEF JAMES SALVATORE: Yes.

REP. BERGER: By how much?

CHIEF JAMES SALVATORE: Well, I don't know the exact numbers again, but I know that recruit level, basic training now is 19 to 20 weeks and in-service is now 60 hours every three years for municipal police officers.

REP. BERGER: After an officer graduates from the academy and goes into the field, is there a continuing education on domestic violence cases that the officer is required by state law and regulated by state law to get?

CHIEF ANTHONY SALVATORE: Yes.

REP. BERGER: And what is that number?

CHIEF ANTHONY SALVATORE: That is the 60 hours every three years mandatory in-service certification training.

REP. BERGER: And how much of that component of that 60 hours do you believe, approximately is dedicated to domestic violence training?

CHIEF ANTHONY SALVATORE: That's variable and that can be addressed by POST. We can allow as little as an hour or two to as many as we see fit to address what we feel is a certain situation.

REP. BERGER: So it's an additional two hours, you said, every two years out of the 60 hour component?

CHIEF ANTHONY SALVATORE: Yes.

REP. BERGER: Thank you.

REP. STONE: Thank you, Representative. Anyone else?

CHIEF ANTHONY SALVATORE: As required by law.

REP. STONE: Anyone else? Chief, just one question, if I might. Either Chief can respond.

You were here during most of the day and you heard the testimony of some of the witnesses who came forward and related personal events that occurred in their lives and I'm just wondering whether you sense from those circumstances whether there might have been a problem with the actions of a police officer?

CHIEF JAMES STRILLACCI: Well, we're only hearing one

side of the story and as you know, with a domestic, there's always two. Sometimes there's more. And frankly, the more sides we can get, the better. Part of the difficulty with domestic fights is you do have to look at both sides of the story. It's a lot easier if we have witnesses. It's a lot easier if we have physical evidence. What we're generally faced with is two people in a very heightened emotional state and they both have completely different perceptions of the event that transpired and sometimes we even have intentional disingenuous versions. Trends that I've read in some of the information given to us by the folks against domestic violence shows an upward trend in women being arrested. I think some of the male parties are learning how to play the law and they're learning to lie to police officers, but police officers don't have polygraphs in their pockets. They can't discern between truth and a lie unless there's something to break the tie. If there's physical evidence or there's a witness.

So, we're kind of stuck with what people give us for evidence.

REP. STONE: But your training in this area is designed to look beyond -- look into those issues, look at all the facts and circumstances, not necessarily automatically arrest both parties involved, but --

CHIEF ANTHONY SALVATORE: We have --

REP. STONE: -- let me just finish. But to go through an analysis based on all the circumstances and determine whether one, both or none of the parties should be arrested. Is that an accurate statement?

CHIEF ANTHONY SALVATORE: Yes and there's no constitutional right to get arrested. We tell our officers that you don't have to make an arrest on the spot if the facts aren't clear. You can always get a warrant. If it looks like it's unequal, but there's probable cause on each side, you can arrest one, give a summons to the other.

REP. STONE: And I suppose the problem, at least as it has been related to us today, is that that

analysis, prior to making the arrest, at least in practice, has not always occurred, at least based upon the --

CHIEF ANTHONY SALVATORE: I beg to differ because a summons could still come across on the paperwork as an arrest. I think the witness we had earlier mentioned that she was given a summons. And under the circumstances, if the officer did have probable cause for some offense, you probably exercise some judgment by making a custodial arrest of the aggressor and issuing a paper ticket to the lesser of the offenders.

REP. STONE: Well, an arrest is an arrest, right?

CHIEF ANTHONY SALVATORE: It is, but you don't get hauled in with handcuffs. You don't get booked.

REP. STONE: Understood. No, understood.

CHIEF ANTHONY SALVATORE: And you maintain your freedom to go about and arrange your affairs and take care of your children and things of that nature, which are considerations to us.

REP. STONE: I would think. Okay, thank you very much. Anyone else, based upon that? Yes, Representative Hamm for the second time.

REP. HAMM: Would you gentlemen get me a syllabus, for the lack of a better word, of the training you provide, both initially and the two year increments? I would like to actually see what the training's about.

CHIEF JAMES STRILLACCI: Sure, be happy to supply that.

REP. STONE: Thank you very much, gentlemen.

CHIEF ANTHONY SALVATORE: Thank you.

REP. STONE: Tom Sellas, followed by Kathleen Nastri. Last call for Tom Sellas. Kathleen Nastri.

KATHLEEN NASTRI: Good afternoon.

REP. STONE: Good afternoon.

KATHLEEN NASTRI: Senator McDonald, members of the  
Committee, my name is Kathleen Nastri and I  
President of the Connecticut Trial Lawyers  
Association.

HB 5043

I've been before all of you in the past on the  
issue of caps on medical malpractice and to let you  
know that the trial lawyers are opposed to those  
caps.

So this afternoon I am going to, in the interest of  
time, yield my time to Karen Dost who has a  
different and more important, frankly, perspective  
on the issue of medical malpractice and the medical  
malpractice reform issues that you'll be debating  
during the course of this session.

So, thank you very much for allowing us to speak.

KAREN DOST: Good afternoon. Today I speak not on behalf  
of any organization, but on behalf of the family of  
Dianne Folbert, my 50-year old sister, who died in  
a local hospital 5-1/2 months ago.

Dianne's death was caused by an acute hemorrhage  
resulting from a lacerated artery that occurred  
during a very common procedure for re-inflating a  
lung.

Dianne did not know when she entered the hospital  
that she had advanced lung cancer. She never even  
had time to absorb the news or her preliminary  
diagnosis given to her about one hour before her  
downward spiral.

Thirty six hours after entering the hospital,  
Dianne was dead.

While Dianne was still alive and in ICU, a doctor  
approached us and said, and this is a very close  
paraphrase, "I didn't do this to Dianne, but I  
think that I can repair the damage done. If I had  
done that procedure on her, I would have used a  
smaller needle." One month after Dianne's death,  
the hospital apologized for the injury, accepted

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**CONN  
SACS**

Connecticut Sexual Assault Crisis Services, Inc.

96 Pitkin St.  
East Hartford, CT 06108  
Phone/TTY: 860-282-1111  
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Testimony of Connecticut Sexual Assault Crisis Services, Inc.  
Amy Linkovich, Intern from the University School of Social Work  
HB5293 AAC Dual Arrests in Family Violence Cases.  
Submitted to the Judiciary Committee  
March 1, 2004

Senator McDonald, Representative Lawlor, and member of the Judiciary Committee, my name is Amy Linkovich. I am a student at the University of Connecticut School of Social Work and an intern at Connecticut Sexual Assault Crisis Services, Inc. (CONNSACS). CONNSACS is the statewide association of 10 community-based rape crisis centers in Connecticut. Our mission is to end sexual violence through victim assistance, community education and public policy advocacy.

During the fiscal year 2002-2003 CONNSACS community-based programs provided service to 4,706 sexual assault victims and their families. The staff and volunteers at these programs answered over 6,200 calls to our statewide, toll-free, 24-hour hotlines (English and Spanish). More than 5,000 victims/survivors attended the 279 support groups held at sexual assault crisis centers throughout the state. Our member centers also provided risk reduction and prevention education to more than 54,000 children and youth and to more than 16,000 members of the general public and training for over 5,000 professionals, including law enforcement personnel.

CONNSACS urges you to support House Bill 5295, An Act Concerning Dual Arrests in Family Violence Cases. The practice of dual arrest, or the arrest of both the victim and the abusive partner results in consequences that further victimize the victim. When victims are arrested, the likelihood that a victim will report subsequent issues decreases. Thus, dual arrest jeopardizes the safety of victims. Arrest of both the victim and the perpetrator increases the abusive partner's power over the victim. The victim is treated as a criminal, which causes the victim to feel that she is to blame for the violence.

House Bill 5295 An Act Concerning Dual Arrests in Family Violence Cases seeks to add to existing law considerations to be made by a peace officer before arresting more than one person in a family violence incident. This act also calls for the development of training and education procedure for the treatment of family violence cases to be established by the Police Officer Standards and Training Council, in cooperation with the Division of Criminal Justice and the Connecticut Coalition Against Domestic Violence.

Thank you for your consideration.



James F. Papillo, J.D.  
Victim Advocate

001502

## STATE OF CONNECTICUT

OFFICE OF VICTIM ADVOCATE  
505 HUDSON STREET, HARTFORD, CONNECTICUT 06106

**Testimony of James Papillo, Victim Advocate  
Submitted to the Judiciary Committee  
Monday, March 1, 2004**

Good Afternoon Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is James Papillo and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

**Raised House Bill No. 5293, An Act Concerning Dual Arrests in Family Violence Cases**

**Raised House Bill No. 5296, An Act Concerning a Sexual Assault Services Trust Fund**

**Raised House Bill No. 5357, An Act Concerning Sexual Assault Restraining Orders**

**Raised House Bill No. 5444, An Act Concerning the Transfer to Juvenile Court of the Cases of Children Charged with Certain Sexual Offenses**

First, with respect to Raised Bill No. 5293, I want to make clear at the outset that as the state Victim Advocate, I fully support any and all reasonable legislative efforts to further and protect the safety of victims of domestic violence crimes. Over the past four years, the Office of the Victim Advocate (OVA) has worked actively and effectively on a number of important issues and problems facing victims of domestic and family violence. It is clear, however, that more work needs to be done in this important area.

What I like about Raised Bill No. 5293 is that it attempts to address what can be a serious problem for many victims of domestic violence—the indiscriminant enforcement of dual arrest policies and laws. Dual arrests involve the arrest, at the scene of a domestic, of both the suspect and the complainant on the grounds that both engaged in some illegal conduct. The U.S. Department of Justice reports that the number of battered women arrested for committing domestic abuse on their partners is disproportionately high in communities that practice dual arrest. When one victim is inappropriately arrested in a domestic violence matter due to the indiscriminant enforcement of a dual arrest law, that is one victim too many! It should be emphasized that the concern here is with the *inappropriate* arrest of victims of domestic violence and not with arrests that are truly warranted.

The problem appears to be related to the highly complex nature of many domestic violence cases and the concomitant difficulties, experienced by police officers, in effectively investigating the facts and circumstances in such cases and in determining

with accuracy which of the parties should be arrested. In handling such difficult and highly complex domestic violence cases, dual arrest laws often can work to encourage police officials to adopt what can be perceived as the safest and easiest strategy to employ—arrest both parties involved and “let the courts figure it out.” While the temptation to adopt this strategy in the more difficult cases can, perhaps, be understood, there can be a tendency to employ this strategy too generally and, therefore, inappropriately in some cases. This can be extremely problematic for victims, both in the short term and long term, for several reasons. Specifically, the inappropriate enforcement of dual arrest laws can work to trivialize the seriousness of domestic abuse; increase the danger to crime victims; and cause a chilling effect on the reporting of domestic violence crimes by victims.

The best way to address this problem is to better empower law enforcement officials to effectively handle the more difficult domestic violence cases. We must see that police officers are provided with the know-how and the tools to enable them to better assess and investigate domestic violence situations and to better distinguish those situations that may truly warrant dual arrests from those that do not. For example, law enforcement officials should receive thorough training on ways to identify the dominant or primary aggressor in domestic violence cases. Studies have shown that in the majority of cases an effective investigation will reveal the dominant or primary aggressor. Further, training should focus on those factors that would enable police officers to more reliably determine whether one party or the other was engaged in self defense, or defense of a third person, in domestic violence cases. Studies have shown that when women defend themselves or their children, police often interpret such acts as instances of domestic violence. Finally, when dual arrests are deemed necessary, prosecutors should have policies in place to undertake an expedited review of the cases and, if appropriate, refuse prosecution of the party deemed to be a victim who acted in response to an attack.

That being said, I have concerns about some of the proposed changes to subsection (b) of C.G.S. §46b-38b. Specifically, I question the utility and, perhaps even the appropriateness, of including proposed items 1 through 4 in subsection (b) as factors that must be considered by police officers in determining whether to make an arrest of more than one person in a domestic violence incident. For instance, item number 1 would require that police officers consider “the responsibility of such officer to protect victims of family violence.” This seems to skirt the issue under consideration entirely; it fails to recognize the very problem that needs to be addressed—i.e., determining which party is the victim. I am confident that police officers are fully aware of their responsibility to protect victims of domestic violence. Further, depending upon the particular circumstances of the case, items 2 through 4 may or may not lead to valid conclusions regarding who is the victim and who is the offender. My recommendation, which is attached as Appendix A hereto, would be to delete entirely this proposed change to C.G.S. 46b-38b(b). Instead, items 1 through 4 should be included in subsection (f) which addresses training and protocol.

I support the proposed changes to subsection (f) of C.G.S. §46b-38b which would require the Police Officer Standards and Training Council and the Connecticut Coalition

Against Domestic Violence, Inc. to work collaboratively to establish a protocol on police handling of domestic and family violence incidents. However, items A through E of section 2 of subsection (f) seems to refer to subject matter more appropriate for training purposes and not necessarily for inclusion into protocol. **What is intended for training and what is intended for protocol should, in my opinion, be better clarified.**

Finally, there is an additional problem with C.G.S. §46b-38b, which I believe is also related to dual arrest policies and law; a problem not addressed in Raised Bill No. 5293 and, in my opinion, should be. The OVA has received a number of complaints from victims of domestic violence indicating that they had been threatened by the police to be arrested themselves if they continue to report incidences of domestic violence. This is a particularly serious problem and should not be tolerated, regardless of the circumstances. I believe most would agree. To address this problem, **I respectfully recommend that the first line of C.G.S. §46b-38b be amended** to read "At no time shall a peace officer threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party." (See Appendix A attached hereto).

Often, victims of domestic violence have endured a long period of abuse and fear before gaining the courage to end the violence and seek help. Raised Bill No. 5293, with the amendments recommended herein, will enable criminal justice professionals to handle domestic violence cases more effectively, thereby enhancing victim safety. I urge the committee to support this effort on behalf of victims of domestic violence.

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I strongly support Raised Bill No. 5296 which will establish a Sexual Assault Services Trust Fund as a dedicated source of funding for a coordinated community response to sexual assault. Much like the Victims of Crime Act Fund (VOCA) which is a federal victim assistance fund into which fines and penalties imposed on federal offenders are deposited, ~~the Sexual Assault Services Trust Fund being created here would~~ provide much needed funding for services to victims of sexual assault in Connecticut and, further, will operate to hold those offenders convicted of sexual assault offenses financially accountable to crime victims. For these reasons, I strongly urge the committee to support Raised Bill No. 5296.

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Raised Bill No. 5357 will establish a procedure for victims of sexual assault to obtain an order of protection against an alleged offender in situations other than those provided in the domestic and family violence statutes (C.G.S. §§46b-15; 46b-38c) and without the requirement that the victim report the incident to the law enforcement or prosecutorial authorities. Under current law, where the victim of sexual assault (or of any other crime) and the alleged offender never had a "domestic relationship," the victim would not qualify for an order of protection (i.e., a restraining or protective order) from

001507

Office of the Victim Advocate – March 1, 2004

HB 5293

**AN ACT CONCERNING DUAL ARRESTS IN FAMILY VIOLENCE CASES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 46b-38b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) Whenever a peace officer determines upon speedy information that a family violence crime, [as defined in subdivision (3) of section 46b-38a,] except a family violence crime involving a dating relationship, has been committed within such officer's jurisdiction, such officer shall arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not (1) be dependent on the specific consent of the victim, (2) consider the relationship of the parties, or (3) be based solely on a request by the victim. Whenever a peace officer determines that a family violence crime has been committed, such officer may seize any firearm at the location where the crime is alleged to have been committed that is in the possession of any person arrested for the commission of such crime or suspected of its commission or that is in plain view. Not later than seven days after any such seizure, the law enforcement agency shall return such firearm in its original condition to the rightful owner thereof unless such person is ineligible to possess such firearm or unless otherwise ordered by the court.

(b) [No] At no time shall a peace officer [investigating an incident of family violence shall] threaten, suggest or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party. Where complaints are [received from] made by two or more opposing parties, the officer shall evaluate each complaint separately to determine whether [he] such officer should make an arrest or seek a warrant for an arrest. Notwithstanding the provisions of this subsection and subsection (a) of this section, a peace officer shall not arrest any such party if such officer has reasonable cause to believe that the party was acting in lawful self defense or in lawful defense of a third person.

(c) No peace officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a family violence incident for an arrest based on probable cause.

(d) It shall be the responsibility of the peace officer at the scene of a family violence incident to provide immediate assistance to the victim. Such assistance shall include but not be limited to: (1) Assisting the victim to obtain medical treatment if such is required; (2) notifying the victim of the right to file an

affidavit or warrant for arrest; and (3) informing the victim of services available and referring the victim to the Office of Victim Services. In cases where the officer has determined that no cause exists for an arrest, assistance shall include: (A) Assistance included in subdivisions (1) to (3), inclusive, of this subsection; and (B) remaining at the scene for a reasonable time until in the reasonable judgment of the officer the likelihood of further imminent violence has been eliminated.

(e) [On or before October 1, 1986, each] Each law enforcement agency shall develop, in conjunction with the Division of Criminal Justice, and implement specific operational guidelines for arrest policies in family violence incidents. Such guidelines shall include but not be limited to: (1) Procedures for the conduct of a criminal investigation; (2) procedures for arrest and for victim assistance by peace officers; (3) education as to what constitutes speedy information in a family violence incident; (4) procedures with respect to the provision of services to victims; and (5) such other criteria or guidelines as may be applicable to carry out the purposes of sections 46b-1, as amended, 46b-15, as amended, 46b-38a to 46b-38f, inclusive, and 54-1g. Such procedures shall be duly promulgated by said law enforcement agency.

(f) The Police Officer Standards and Training Council, in conjunction with the Division of Criminal Justice and the Connecticut Coalition Against Domestic Violence, shall establish [an education and training program] a protocol, for law enforcement officers, supervisors, [and] state's attorneys and judges on the handling of family violence incidents. Such [training] protocol shall: (1) Stress the enforcement of criminal law in family violence cases and the use of community resources and [include] require initial training for peace officers at [both] the recruit level and mandatory in-service [levels] training thereafter; (2) include, but not be limited to: (A) The nature, extent and causes of family violence; (B) legal rights of and remedies available to victims of family violence and persons accused of family violence; (C) services and facilities available to victims and batterers; (D) legal duties imposed on police officers to make arrests and to offer protection and assistance; (E) techniques for handling incidents of family violence that minimize the likelihood of injury to the officer and promote safety of the victim.

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## State of Connecticut

### DIVISION OF PUBLIC DEFENDER SERVICES

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### TESTIMONY OF DEBORAH DEL PRETE SULLIVAN, LEGAL COUNSEL OFFICE OF CHIEF PUBLIC DEFENDER

#### Raised Bill No. 5293

#### *An Act Concerning Dual Arrests in Family Violence Cases*

#### Judiciary Committee March 1, 2004 - Public Hearing

The Office of Chief Public Defender is opposed to portion of *Raised Bill No. 5293, An Act Concerning Dual Arrests in Family Violence Case* that would authorize an arrest to be made without probable cause. Prior to making an arrest, an officer must have probable cause to believe that the person has committed a crime. Yet, pursuant to the language contained in subsection (b) of Section 1 of the bill, a person could be arrested upon the existence of subjective criteria that is constitutionally deficient and lacking in probable cause.

The bill permits an officer to make an arrest "of more than one of the opposing parties", based only upon an officer's duty to protect victims, the degree of injuries, the fear of the parties and the potential for future harm. Such an arrest would be invalid and not based upon probable cause to believe that the person so arrested committed a crime. Further, the existence of such subjective criteria is not relevant to whether an arrest should be made.

Therefore, the Office of Chief Public Defender urges that the Committee reject this proposal.

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**To:** Judiciary Committee

**From:** Marie T. Kenny

**Date:** March 1, 2004

**RE: AAC DUAL ARREST IN FAMILY VIOLENCE CASES**

Good afternoon, my name is Marie Kenny. Thank you for considering the valuable changes within Raised Bill 5293 An Act Concerning Dual Arrest in Family Violence Cases. I appreciate the opportunity to outline why these changes are so crucial to the enhancing the safety of victims of domestic violence.

Before moving here to Connecticut, I served as a Massachusetts State Trooper for eleven years. Eight of those years were spent specializing in domestic violence. The insights I gleaned during those years bring me here to urge you to act promptly on the proposed changes. The changes, while basically simple, are nonetheless essential. The new language will provide law enforcement with the support and flexibility it needs in order to hold batterers accountable, to enhance victim safety, and ultimately, to enforce the Family Violence Prevention Act in the manner and spirit in which it was intended to serve.

When Connecticut enacted this statute, arrests were made mandatory as a way to ensure that victims of domestic violence received the appropriate protection and their offenders were charged with appropriate crimes. At the same time, the Massachusetts legislature realized that the Commonwealth lacked such a statute and began the process of enacting a similar law. The battered women's Coalition descended upon the legislature and basically begged them to wait and see how the Connecticut statute played out. While people understood the intent

behind it, there were some concerns about the rigid language of a mandatory arrest statute.

As advocates feared, stories were soon related that domestic violence victims were being arrested. As a result, the Massachusetts language is very strong in its preference for arrest, but allows officers the option not to arrest even when both parties have been physically struck. In fact, the only provision for mandatory arrest in MA is for the violation of a protective/restraining order.

**Why make the recommended changes?** The statute was designed to provide safety to victims of domestic violence. The mandatory arrest provision results in far too many arrests of victims in Connecticut. The unintended effect of mandatory arrest language is that the application of the statute, when followed directly by law enforcement, actually sabotages its intent. We need to clearly understand the intent of the statute as well as the effects of its current enforcement in order to recognize the need for action.

To begin, what is domestic violence? **Domestic violence** is

1. a **pattern** of behaviors designed to
2. **instill fear** in the family or household member in order to
3. **maintain control** over that individual

In these relationships, one person deliberately uses fear as a means to control another person's life. There is a tremendous imbalance of power. While there may be mutual assaults, there is simply no such thing as "mutual abuse." Offenders will vehemently argue that case, but it doesn't ring true if you understand the dynamics involved in these relationships.

For instance, victims overwhelmingly admit when they hit their partners. In stark contrast, abusers barrage us with denial, minimization, rationalization, justification, and blame. They are experts at manipulating us as well as their victims by diverting our attention to the victim's behavior.

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The language changes recommended here are invaluable for several reasons. First and foremost, they empower police officers to enforce the law as it was intended by freeing them from an obligation to arrest a victim who acknowledges hitting. Some may argue that the self-defense statute provides domestic violence victims with the protection they need. This could not be farther from the truth. The language in the Family Violence Prevention Act, as it currently stands, does not give the officer the option NOT to arrest because of self-defense. While self-defense is an affirmative defense, that is a matter to raise in court. By then, the victim has been traumatized in all the ways I'm sure you've heard about. The victim has a criminal record. Also, these victims invariably plead out in order to get back to their children and their lives, so the issue of self-defense is typically never raised.

The impact of being arrested, on a victim of abuse, is itself enough to prompt me to ask you to make the recommended changes. But what concerns me, perhaps even more, is the impact of dual arrests on the offenders. Arresting the victim of domestic violence causes the criminal justice system to actually reinforce the batterer's denial and minimization of his violence and abusive control. It says to batterers, "Yes, your partner is equally to blame and shares responsibility with you." That is, quite simply, the most frightening thing we can do for batterers. Those of us who have worked in domestic violence know without any doubt that is **does not matter one bit** what the victim does, says, or how the victim acts. Abusers resort to violence when it suits them or when it serves a purpose (as in preventing a victim from leaving.) The criminal justice system must be unequivocal in its message that abusers will be held accountable; that they have no right to use threats and violence to control another person.

It is imperative that officers be given the authority to differentiate, to discern, to identify abusers in domestic violence cases, not just who struck whom. The

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language within the proposed changes is quite helpful to police in providing guidance regarding the identification of the abuser.

First, officers and the entire criminal justice system must remain focused on the intent of the Family Violence Prevention Act as a way to deter and respond to domestic violence. A thorough understanding of the dynamics of domestic violence will assist officers in assessing these cases appropriately.

Next, in general, the victims of abuse end up with much more frequent and more serious injuries, even though they may have struck the first blow. In Massachusetts, we learned quite a bit about the minds of abusers from the batterer intervention programs. Abusers readily describe a variety of strategies designed to deflect blame and minimize their own actions.

For example, just about everyone knows that if you call a girl or woman the "c" word, you're likely to get slapped. I will not argue that this is an acceptable response. Abusers know that it's predictable, though. So, in this scenario, a male batterer calls his wife the "c" word. She slaps him and that is his green light. She is then met with a barrage of fists and feet. She may be thrown to the ground, or held off the ground by her neck. She is punched and kicked and thrown around like a doll. When the police arrive, the abuser says, "She hit me first." When asked, his wife answers, "You BET I hit him!" Under the current statute, they both get arrested.

The police are not currently allowed to consider the level of injuries each person sustained. They are not empowered to look beyond the surface of "who hit whom?" It is clear that officers must be authorized to dig deeper in order to identify the true culprit. Batterers are much more comfortable with violence and are prepared to escalate if the need arises. Victims tend to use the amount of force necessary to defend themselves.

The next element in the proposed changes relates to "fear of physical injury." This is a crucial factor. Remember, domestic violence is a pattern of behavior

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designed to instill **FEAR**. This word should be a vital component of any domestic violence legislation. In the above example, if that abuser was asked about how it felt when his wife slapped him, he would likely laugh. That's how batterers respond. They consider their partners' physical confrontations laughable, a mere annoyance, an affront. **Batterers are NOT afraid of their victims.**

The third criteria that officers are told to consider under the changes, is "the potential for future injury and any history of domestic violence." This also helps get at the basic concept of domestic violence and can assist with identifying the offender. Since domestic violence is, by definition, a pattern, officers really must consider the history and presume the likelihood of future incidents.

I applaud the Coalition and the Judiciary Committee for examining this statute and identifying areas for refinement. Even the best written statutes can be meaningless, however, without adequate training, supervision, and practical protocols. Therefore, I encourage you to also accept the call for written protocol and training standards developed in collaboration with The Police Officer Standards and Training Council and the Coalition Against Domestic Violence.

I speak from personal experience when I tell you that training works. Shortly after being transferred to the Norfolk County District Attorney's Office as an investigator, I was assigned a domestic violence case. My response was "They better not make a habit out of this!" I was adamantly opposed to getting involved with domestic violence investigations. My fervent belief was, "Shame on her!" Now, there was no domestic violence training when I went through the Academy in 1988. This was not a prejudice I learned on the State Police. My attitude was one I brought with me when I joined the State Police.

Very quickly, I learned how incredibly ignorant I had been about domestic violence. Training became something I readily pursued and eventually began to perform. As a trainer, I know our programs were successful because we had troopers from speed and commercial vehicle enforcement units contact us about

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domestic violence cases they came across. These were troopers who, prior to an intense in-service training, would never have considered domestic violence as an area of enforcement in which they would or should become involved.

The mandatory arrest provision of the Family Violence Prevention Act must be refined. The arrest of victims empowers and emboldens offenders, which is extremely dangerous for victims. Police officers must have the authority to investigate and identify those who perpetrate domestic violence. The entire criminal justice system must be unified and unequivocal in what it says to batterers. We need to make it clear, by our words and our actions, that their violence is unacceptable, that their tactics are criminal, and that their actions will have significant consequences.

Thank you again for your consideration on this matter.

Respectfully submitted,

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**Member Shelter Programs**

The Umbrella  
Ansonia, CT

The Center for Women & Families  
Bridgeport, CT

Women's Center  
Danbury, CT

United Services, Inc.  
Domestic Violence Programs  
Dayville, CT

Network Against Domestic Abuse  
Enfield, CT

Greenwich YWCA  
Domestic Abuse Service  
Greenwich, CT

Interval House  
Hartford, CT

Meriden-Wallingford Chrysalis  
Meriden, CT

New Horizons  
Middletown, CT

Prudence Crandall Center  
New Britain, CT

Domestic Violence Services  
New Haven, CT

Women's Center of SE CT  
New London, CT

Domestic Violence Crisis Center  
Norwalk, CT

Women's Support Services  
Sharon, CT

Domestic Violence Crisis Center  
Stamford, CT

Susan B. Anthony Project  
Torrington, CT

Safe Haven  
Waterbury, CT

United Services, Inc.  
Domestic Violence Programs  
Willimantic, CT

**To: Members of the Judiciary Committee**

**From: Lisa Holden, Executive Director of CCADV**

**Date: March 1, 2004**

HB5358

**Re: RB 5293 - AN ACT CONCERNING DUAL ARRESTS IN FAMILY VIOLENCE CASES**

Eighteen years ago Connecticut gained national reputation for taking domestic violence seriously. In 1986, the state legislature passed Connecticut's Family Violence Prevention and Response Act, still considered one of the most comprehensive family violence statutes in the country. This hallmark legislation created the mandatory arrest law.

Then in 1997, the State of Connecticut's Judicial Branch was awarded federal funding to develop, implement and evaluate a graduated continuum of prevention, sanctions and treatment options that expanded on Connecticut's existing network of alternative sanctions. In spite of these major accomplishments and others, Connecticut has also earned a national reputation for arresting domestic violence victims. The turn to the law to solve one problem – the lack of arrests in domestic assault cases – had led directly to a new and unexpected one, the problem of dual arrests.

Good afternoon Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Lisa Holden and I am the Executive Director of the Connecticut Coalition Against Domestic Violence.

I am here today to support Raised Bill No. 5293 - AN ACT CONCERNING DUAL ARRESTS IN FAMILY VIOLENCE CASES. The increase in arrests of ongoing victims of abuse following the introduction of

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a challenge not only to domestic violence advocates, but to the criminal justice system as well.

After mandatory or pro-arrest statutes began to be implemented around the country, many – but not all – jurisdictions found that along with a general increase in all single-offender domestic violence arrests, they also witnessed a large jump in the number of dual offender arrests. Connecticut's dual arrest rate averages 25%. Not all states collect arrest data as well as Connecticut, which is one reason why there has been widespread tolerance of this high rate. Yet in neighboring Rhode Island, a state with comparable statistical measures, the dual arrest rate is a mere 2-3%.

Dual arrest should be reserved for those cases in which officers truly feel they have exhausted their ability to determine who the perpetrator is and who the victim is, or where both parties are clearly a continuing danger to each other or others. RB 5293 adds specific language that allows law enforcement officers to follow a pattern of investigative activities that should lead them to a more accurate arrest decision. Having police consider past history is an avenue for them to be able to begin to *contextualize* the violence that is occurring and “who is doing what to whom with what impact.” Asking about the history of abuse, therefore, is not about verifying the party's credibility, but rather, about gaining insight about the use and context of violence within the relationship. While many law enforcement officers may balk at this approach, saying it flies in the face of previous “mandates,” its efficacy lies in long-range goals of victim safety and the good use of community resources.

When victims, who have been beaten for many years, use self-defense in response to the force being used against them, arresting them can have a number of negative

consequences. First, their most immediate response is to never call the police again. Knowing this, abusers may feel uninhibited in their use of violence towards the victim. In fact, they often use dual arrest as a reason to further isolate the victim from any legal remedies.

Second, if a victim is arrested, there are tremendous repercussions for them at the time of the arrest and in the future. The ramifications of this can range from the loss of child custody to not being able to qualify for affordable housing, employment, or loss of immigration status amongst other things. All of this only exacerbates a victim's reliance upon the batterer, increasing the batterer's control over the victim and thus increasing the likelihood of future danger. The end result is both victim safety and offender accountability are undermined.

Dual arrest is not good for children either. Arresting both parties because officers have not taken the time to do a good domestic violence arrest analysis often means underage children are subject to state intervention, foster care in the middle of the night and further child protection action, usually for the mother. The potential emotional trauma of domestic violence to the children is now compounded by the state intervention. The community picks up the cost of families broken apart and in need of housing, jobs, health care and other services.

The Coalition and our eighteen member programs, call on the Connecticut legislature to pass RB 5293 in support of improving the criminal justice response for domestic violence victims. Victims need to have their faith restored in the law enforcement response. RB 5293 will assist in making that happen.

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## **An Act Concerning Dual Arrests In Family Violence Cases**

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I, Michael P. LaRiviere, offer the following testimony regarding An Act Concerning Dual Arrests In Family Violence Cases for the State of Connecticut. Before speaking to the issue of dual arrests, I would like to share with you some facts about myself that relate to the issue at hand. I am a police officer for the City of Salem, Massachusetts where I have worked full time for twelve years.

HB 5293

Approximately eight years ago I began what is now a life long commitment to end violence against women. It is my experience as a police officer who has responded to and investigated hundreds of domestic violence crimes which has allowed me to facilitate domestic violence trainings across the United States and several other countries.

Most recently, I was asked to participate as the only civilian law enforcement officer to serve on the Congressionally-mandated Department of Defense Task Force on Domestic Violence. The work of the Task Force resulted in almost 200 recommendations to improve prevention of and response to domestic violence in the military.

Through my personal experience as a law enforcement officer and the many concerns shared with me by law enforcement officers across the country, it is obvious that dual arrest is one of the most difficult issues for officers in their response to domestic violence.

While it is a difficult situation for officers who are confronted with an investigation where both parties have assaulted each other, it is an even more difficult situation for a victim of domestic violence who is victimized by the very laws put in place to protect them.

When an officer makes a dual arrest without first conducting a self defense and predominant aggressor assessment, the officer may be placing one party at increased risk while at the same time preventing the legal system from holding the offender accountable. It is not to

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say that dual arrest may not be necessary in some cases but dual arrest cannot be made without the proper investigation.

It has been my experience that for those jurisdictions that have pro-arrest or mandatory arrest domestic violence laws and policies without paying special attention in their laws and policies to ensure the issue of dual arrest is addressed, the officers are left to make a decision that they know is not in the best interest of the "victim" and is not in line with the intent of the law.

Officers need to be directed to investigate the possibility of self-defense every time they respond to a case of mutual combat and in such cases where self-defense does not apply; a predominant aggressor investigation should follow prior to making any dual arrest.

Officers should look at, for instance, which party used the higher level of violence, what is the history of the violence between both parties and who represents the most serious ongoing threat. Officers also need to be made aware that in many cases the predominant aggressor is not the first person to use physical violence.

This is not only a difficult and complex investigation for law enforcement but also one that if handled improperly, presents unintended consequences that compromise victim safety and inhibits offender accountability. Training is of utmost importance.

By adopting the Act Concerning Dual Arrest In Family Violence Cases, you will have made it possible for everyone throughout the criminal justice system and the many other providers who work with battered women to do their jobs more effectively. In being able to do so they will be able to enhance the safety of domestic violence victims and hold more offenders accountable.

Thank you for allowing me to have a voice in this very important matter,

Michael LaRiviere

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To: Judiciary Committee

From: Deborah Drucker

Date: March 1, 2004

**RE: AAC DUAL ARREST IN FAMILY VIOLENCE CASES**

Good afternoon, my name is Deborah Drucker. I thank you for the opportunity to speak with you about Raised Bill 5293 An Act Concerning Dual Arrest in Family Violence Cases.

On July 12<sup>th</sup>, 2002 my now former husband assaulted me. For over a month prior to the incident he constantly stated to me "he was going to hurt me and go to jail", however, I ignored all of his statements assuming they were idle threats. I believed that because he had never physically assaulted me in the nearly six years we were together, I was somehow immune due to my knowledge of domestic violence. I never took his threats seriously even though his behavior over a period of time had become more volatile and erratic.

On July 12<sup>th</sup> I went to the pond where he is was fishing, I complained to him that he needed to stop sending tenants to my workplace looking for money that they believed they were owed. I was angry that he kept doing this and that my place of work was not the proper place for this discussion. I parked my jeep and walked over to where he was fishing. I called out to him and he wanted to know why I was there and to go home. I stated that he was being a jerk sending the tenants to my work place. He threw down his fishing pole and came at me, yelling the whole time that he was going to hurt me and damage my car. He started toward my car. Fearing what he might do, I placed myself between him and the door. He pushed me many times while I held on to the door and side mirror. He grabbed at me while attempting to get my keys from the ignition leaning his body into me with its full weight...I tried to push back but he was too heavy. I leaned up against the car with my back to the door holding onto the side window for support whereby he forced his total body weight (250+) against me with his arms raised and crossed against my chest crushing into me. I couldn't move and panic set in. I couldn't breathe. I tried to scream for help but I was in the woods. The friend fishing with him came over to the truck but did not attempt to intervene. He finally let go but laughed that no one was going to help me. I ran to his car hoping that if I got inside I could lock the doors because the windows were electric I would be safe in the car. He grabbed my legs twisting them. I climbed through his car and in the process papers fell out scattering to the ground. I sat on the ground trying to think what to do. I went back to my car and he followed. I was looking for my cell phones. I had locked the doors but in my state of fear had forgotten that it was a soft top and he just had to unzip the back, which he did. He fought with me to get the cell phones because he feared I would call the police. He came around from behind and grabbed my upper chest and neck. I grabbed at his face hoping he would let go of me. I gave the cell phone to him but I kept asking him for my keys so I could leave. I opened my car door then he grabbed my purse which had another

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cell phone in it after threatening to crush my legs with the door if I didn't give him what he wanted (I had knee surgery a few months before and he knew how difficult the recovery had been). I held on to my purse while he dragged me over the ground. Throughout the assault he kept smiling. Not a pleasant smile. A smile of someone who enjoyed what he is was doing. Finally, he leaned up against his car and stated, while looking over the pond and wood area, that he could get rid of me and no one would ever find me. In my heart I knew this was a serious threat to my life and asked him fishing partner to please help me find my keys. I felt then, as I do now, that he was capable of fatality harming me. His last test of power was that he would let me have my keys. I stood next to my car now I was bleeding and having difficulty breathing. He then told me to move over to a tree.....all the while smiling that eerie, gleeful smile. Then it stopped, as suddenly as it had started, it stopped.

He said he was going to go to the police. I got in my car and went home.

My neighbor talked me into going to the hospital. I was covered with blood, bruises, dirt and I was having trouble breathing. I drove myself to the hospital. The hospital called the police.

A state trooper took my statement. **Never did the trooper look at me, nor look at the injuries that were inflicted upon me. A hospital worker took the pictures for the police report. I stated that I fought for my life that my husband's intention was, and to this day I still believe, to kill me. The officer statement to me was that I had thrown papers out of the car, therefore, he had to write me a summons for Disorderly Conduct, a misdemeanor charge, and that the courts would have to decide who was at fault.** I was arraigned and a Protective Order was issued against me which is now permanently archived in the National Protective Order Registry. I was arraigned for fighting back in order to save my life.

Yes, I pushed my husband; yes I pushed his face because I was being hurt and fighting for my life. Yes, papers fell out of the car but I believed he was going to kill me. I was fighting for my life.

Dual arrest is not what the law intended. It was intended for Mandatory Arrest so that victims of family violence did not have to be forced to give statements that may otherwise endanger them even more. Unfortunately, this is not what takes place and as in my situation many victims are arrested because it's just easier for the officer to leave it to the courts to decide what happens.

Changes in this law are long overdue. Please pass **Raised Bill 5293 ACC Dual Arrest In Family Violence** so the others will continue to call their local law enforcement and not fear that they will be arrested because they defended their life.

Thank you for your time and consideration.

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**State of Connecticut**  
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF  
**CHIEF STATE'S ATTORNEY CHRISTOPHER L. MORANO**

**H.B. No. 5293 (Raised): An Act Concerning Dual Arrests in Family Violence Cases**

*Joint Committee on Judiciary*  
*March 1, 2004*

The Division of Criminal Justice supports the concept and intent of H. B. No. 5293, An Act Concerning Dual Arrests in Family Violence Cases, but has reservations about the specific approach and language of the bill.

At the outset, it should be made clear that the Division Criminal Justice is fully committed to the investigation and prosecution of family violence matters. The Division has aggressively pursued -- and obtained -- federal funding to hire prosecutors who are assigned solely to domestic violence matters. Further, as Chief State's Attorney, I have made it one of my priorities to see that our successful domestic violence initiatives are built upon and initiated at court locations throughout the State of Connecticut.

In the past year alone, the Division of Criminal Justice has appointed new prosecutors who are assigned to domestic violence matters in the Judicial District of Ansonia/Milford and the Judicial District of Windham.

These new prosecutors are in addition to previously appointed domestic violence prosecutors and specialized dockets already in place in Bridgeport, New Haven, the Judicial District of Stamford/Norwalk, in Waterbury and in Hartford, where an additional prosecutor has been assigned to strengthen that existing program.

In addition, the Division has continued to work closely with the Connecticut Coalition Against Domestic Violence in their role as advocates for the victims of domestic violence and keeping in mind our roles and responsibilities as prosecutors.

It has been through the leadership of this General Assembly that these initiatives have been possible. As a result, our State has moved from a position in the 1980's where domestic violence was widely considered a civil matter and that the only response necessary was counseling. Today this crime is treated exactly as it should be, as a crime, and we now have in place policies that make a criminal response -- the arrest of the perpetrator -- mandatory.

Over the years, however, it appears that in attempting to aggressively and thoroughly respond to these matters, the net has sometimes been cast too broadly and there have been instances where the true victim is facing arrest and prosecution. This causes me great concern,

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for not only will such cases have an extreme chilling effect on the willingness of victims to go to the police, but they also can have the devastating consequences of empowering the abuser.

Accordingly, it is clear that law enforcement once again must undertake a careful examination of the factors that are taken into consideration when making arrests in domestic violence cases. This legislation is an attempt to do just that.

In reviewing this proposed legislation, I have sought the advice of those prosecutors who handle these cases on a day-to-day basis. All of them share the underlying concern about dual arrests. However, they have expressed some reservations regarding the particulars of this bill.

One of those concerns is that the four categories spelled out in Subsection (b) of the bill may become fodder for a defense attorney in cross examination, which could aid an abuser. While it is agreed that these are considerations that a police officer should be taking into account, a better approach might be to mandate that these factors be included in the domestic violence training that is already being provided. This training is provided to police officers by the Police Officer Standards and Training Council (POST), for prosecutors by the Division of Criminal Justice and for Judicial Branch employees by the Judicial Branch.

We are already moving forward in this area. At the present time, Lisa Holden, the Executive Director of the Connecticut Coalition Against Domestic Violence, and I serve as co-chairs of a committee that is looking into this issue. In addition, to seeking additional training money for this issue, it is my intent to continue the dialogue to discuss alternative language for this bill. We will continue to keep the Committee apprised of the developments of those discussions.

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**STATE OF CONNECTICUT  
JUDICIAL BRANCH**

**EXTERNAL AFFAIRS DIVISION**

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**Testimony of Deborah Fuller  
Judiciary Committee Public Hearing  
March 1, 2004**

**House Bill 5293, An Act Concerning Dual Arrests  
in Family Violence Cases**

Thank you for the opportunity to submit written testimony on House Bill 5293, An Act Concerning Dual Arrests in Family Violence Cases.

The Judicial Branch is aware that there is substantial concern with Connecticut's high rate of dual arrests in family violence cases, and is supportive of this attempt to address the problem. However, we have concerns with some of the language included in this proposal.

Subsection (b) lists four considerations that a police officer must take into account in determining whether to make an arrest, and whether to arrest both parties. We are concerned that some of these considerations will be very difficult for the police officer on the scene to implement. Number (2) requires the police officer to consider the degree of any injuries inflicted on the parties. This would seem to imply that physical evidence of an injury would be needed in order for an arrest to be made, yet many injuries would not be visible to the police officer on the scene. Number (4) would require a police officer to consider "any history of family violence and potential for future family violence". This introduces a new element - history -- into the police officer's consideration that will be extremely difficult to implement. Moreover, it is

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likely to result in an inconsistent application of the law – one police officer may have been called to the home and therefore have personal knowledge of a history, while another may not. Will there be an objective standard for the police officers to use in determining whether there is a history of family violence? This subsection also prohibits an officer from arresting any party if the officer has reasonable cause to believe that the party was acting in lawful defense of a third person. This may be very difficult to determine.

We are opposed to the provision contained in subsection (f) that would require the Police Officer Standards and Training Council, in conjunction with the Division of Criminal Justice and the Connecticut Coalition Against Domestic Violence, to establish a protocol for, among others, judges. It is unclear what a protocol for judges would entail. The Judicial Branch's Continuing Education unit's Center for Judicial Education operates a comprehensive training program for judges. We employ staff whose full-time job is to determine a curriculum that addresses both current topics as well as those of long-standing importance. They operate both the annual Judges' Institute as well as courses throughout the year.

In addition, we would respectfully suggest that a further study of the risk factors that could guide police in decision-making be undertaken, which would take into account input from experts on offender profile and risk. This will assist both the police, in making the decision of whether to arrest, as well as the prosecutors, in deciding whether and what to charge.

Thank you for the opportunity to submit testimony.

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Good afternoon Chairman and Members of the Judiciary Committee. Thank you for the opportunity to present my testimony on behalf of Interval House concerning Bill # 5293 – An Act Concerning Dual Arrests in Family Violence Cases.

My name is Cecile Enrico. I am the Executive Director of Interval House and a member of the CT Coalition Against Domestic Violence (CCADV) Board of Directors. I have worked in the field of domestic violence for twenty-seven years.

Prior to 1986 and the inception of the Family Violence Prevention and Response Act (FVPA), Domestic Violence was not a crime.

Our typical hotline call was from a battered woman, calling to tell us that her partner beat her up, she called the police and nothing happened – no arrest was made.

My job, at the time, was as an advocate. I would take victims of domestic violence to the police station so they could take out a complaint. Unfortunately, in many cases, the police did not accept the complaint.

So, when the FVPA was passed, I was right there doing all that I could to see that it got passed. Those of us involved in the Battered Women's Movement saw this as a major victory for all victims of domestic violence. I still consider it a major victory – except for the piece about mandatory arrest.

After the FVPA was passed, we began seeing and hearing from victims that they were being arrested when they called the police for help. They were being abused – called the police for help – and they were being arrested!

Over the past 18 years, I have done a lot of police trainings. I hear from many of the officers that most of the time they arrest both parties if there is the slightest hint of probable cause.

Now, I want to preface my statement by saying that I am well aware that there are women who are violent. They should be arrested. My statements are about victims that have been arrested *solely* on what her partner tells them – or because they used violence as a means of self defense.

When we ask victims who are in our support groups and in our shelter if they would call the police again, they say no. They state they would not call because

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of their previous arrest when they called for help, or in most cases, because they'd always heard that both people get arrested.

We also put this question on our pre and post tests and the majority believed that police have to arrest both parties.

By victims not calling the police puts them in great danger. Recently a victim called our hotline and said her partner broke her arm. We always ask if they have contacted the police. She answered by saying she would not because when she had called the police previously she had been arrested.

What we hear from victims is that when the victim is arrested her partner often uses the arrest against her throughout the relationship, threatening her that if she calls the police she will be arrested. I had a woman tell me less than a month ago in our support group that she and her boyfriend in her car, when he was hitting her that when she was going to call the police, he started scratching his face and said he would tell the police that she had done this to her.

Another problem of what dual arrest poses is that it follows the victim. We have worked with many victims who have lost custody of their children as the arrest was a determining factor in custody. Even today a woman who was arrested especially a mother, is looked at much worse than a man who has been arrested. Dual arrest also gives an equal message that both are to blame.

Domestic violence is about power and control over the victim. The victim now sees that her partner is able to get away with the abuse. Arrest empowers her partner giving them justification for the abuse and now he can say "you are as bad as I am." -giving him no reason to change. Dual arrest confuses everyone-including the children. Dual arrest also diminishes the seriousness of the arrest. It also decreases the seriousness of the violence.

I ask that you support bill no. 252-93

001533

To: Judiciary Committee

From: Peggy Bourey

Date: March 1, 2004

**Re: AAC Dual Arrest In Family Violence Cases**

Good afternoon, my name is Peggy Bourey. I would like to thank you for this opportunity to speak with you about Raised Bill 5293 An Act Concerning Dual Arrest in Family Violence Cases. I am a survivor of domestic violence. I was born into a family where there was domestic violence. When I grew up I married an abusive partner. We had a family, and my children witnessed verbal and physical abuse.

One evening after the children went to bed my husband started arguing with me. He started shoving me around and shouting loudly. The neighbors called the police. When the police arrived he told them I started hitting him and being abusive. I told the police officer he was lying. The officer looked real confused. He told us he did not know which one of us was telling the truth. He said we would both have to come down to the station and be booked for breach of peace and let the courts figure it out. I called a neighbor to watch the children who by this time were wide-awake and standing ten feet away. I could not believe I was being arrested! It did not seem to bother my husband at all.

The children were very upset and crying not only from the pushing and shouting they had seen their father doing moments before, but now both their parents were being taken away and arrested. They were confused as to what mommy had done wrong. She must have done something wrong because the policeman was arresting her. They were brought up to believe the police were there to help people. I had a terrible time explaining to my children why the officer felt the need to arrest everyone and not just Daddy who had been doing the pushing and shoving and shouting. We were taken to the police station side by side in the cruiser and booked. I was never so embarrassed in my life! Now for the rest of my life I will have an arrest record even though there was no conviction. I had done nothing. I would have never fought back for fear of being seriously injured.

We went to court the next day and the charges were dropped. I made sure the police were never involved again. In the mean time there was hell to pay at home for a while. My husband had me right where he wanted me. Every time something didn't go exactly the way he wanted, he would threaten to call the police and I would be arrested again and he would take the children. I would never get the children back because I had been arrested too many times. I feared losing my children so I did what he wanted. I did not want this violent man bring up our children.

Some years later when I could not take it any more, I sought shelter from the domestic violence program. They gave me support and showed me how to navigate my way through the court system to get what I needed to protect me and my children.

Law enforcement is usually the first to respond to a domestic violence situation. If it is not handled with an understanding of the dynamics of domestic violence and the manipulative nature of an abuser, it will only add to the burdens on the victims and the children. More harm can be done to the victim so that she will never involve the police or any other services for fear of the repercussions to her and her children.

The language in the raised bill is clear and precise in that it states no arrest shall be made if any injuries reasonably caused is believed to be in self-defense of one's self or a third party. It takes into consideration the history of the family violence a key piece in making a decision on who is the victim and who is the abuser. It would also establish education and training for law enforcement and those who work in the courts. A protocol would create a standard by which all domestic violence incidents are handled.



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Testimony of

Penni Micca

Interval House Advocate

of the

Manchester Domestic Violence Outreach Team

Before the

Judiciary Committee

Connecticut Legislators

March 1, 2004

Manchester Domestic Violence Outreach Team

c/o Manchester Police Department

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001536

Good afternoon Chairman and members of the Judiciary Committee. Thank you for accepting my testimony on behalf of Interval House. My name is Penni Micca. I am an Interval House Advocate stationed full time at the Manchester Police Department as part of the Domestic Violence Outreach Team (DVOT).

Interval House is one of CT's largest and oldest domestic violence intervention and prevention programs covering twenty-three communities in the Greater Hartford area. We have worked with thousands of victims of domestic violence over the years.

I am here to ask for your support on Raised Bill 5293 – An Act Concerning Dual Arrests in Family Violence.

An officer once told me that back in the early 1980's when he went through the police academy, it was standard training that "if you stuck your nose in domestic violence, you were going into something you had no business in. Ninety-nine percent of the victims," he said, "dropped charges before you finished your reports." I've heard similar stories from others over the years. As a result, officers resolved things unofficially. "We would encourage the man to go spend the night at his mama's house," said the same officer.

Well, we've come a long way. I am not going to give you a history lesson on what changes were made in the laws along the way. You know what they are – many of you helped craft them – and lent your support.

The result, however, of the mandatory arrest policies that came into play during the mid 1980's, turned out to be a mixed blessing for victims of domestic violence.

For some officers an easy answer to mandatory arrest is to say, "You both take a ride. I can't figure it out." For others there is fear that they will risk personal liability through civil actions if they don't make an arrest – and someone is hurt or killed in the future. Others misinterpret defensive action by victims to protect themselves or their children as an act of domestic violence.

As a result the number of victims arrested for committing acts of violence against their partners has inappropriately increased over the years.

Victims should not be punished for protecting themselves and reporting domestic violence.

Dual arrests are a safety issue. I can't begin to tell you how many victims of domestic violence find themselves at increased risk of harm because they are terrified of calling the police.

- "I will never, *never* call the police again."
- I am the victim. I called for help and I was arrested.
- I can't afford to call the police. If I get arrested, they'll take my kids. I'll take my chances."
- "He told me if I dialed that phone, he would tell the police I hit him."

(It is not uncommon for a batterer to cause himself injury just before the police arrive.) I'll never forget the woman who called me on her way to court. She had been arrested the night before, again. "He tore the phone out of the wall and hit himself in the head with it. She sobbed. He laughed and told her, "There, now we'll both be arrested." Sometimes she did hit him or push him sometimes she did so - first. He had beaten her too many times, not to know if she didn't do it first - she had no chance of getting away. When the police came, her batterer was always calm. She was not. Once he told the police that she was suicidal. He grabbed her to help her. All he wanted was to keep her safe and get her help. He was eventually arrested - alone, convicted and sent to prison - thanks to the response of an officer who understood the dynamics of what was going on and took the time to conduct an enhanced investigation. Before that happened, however, she was arrested a number of times. She lost her job because of all the time she took off going to court, and risked losing her child. Fortunately for her, her second DCF caseworker believed her and worked with her. Not everyone is so, dare I say, *lucky*.

You know, It just takes one arrest. We have gotten to the point where victims of domestic violence are fearful of even making a first call to the police. "The police have to arrest you both - It's the law, " friends and neighbors and social service providers tell them.

Others call their local police department for information about what their options are. Many tell me that they have spoken to a dispatcher or officer who listened, and was caring and supportive and explained the law to them as it is being interpreted across the state. "We have mandatory arrest laws in

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CT. If your partner states that you pushed or hit him it's your word against his. We will probably have to arrest you both."

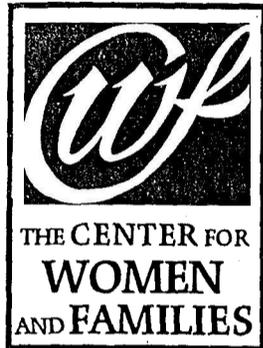
Remember the officer who told the man to go spend the night at his mama's house? Well, fast-forward to 2004. Some victims are being told by officers and dispatchers about mandatory arrest laws. *Unofficially*, they are being told, "We would encourage you to go spend the night at your mama's house."

Most officers want to do the right thing. They work hard and care about the people in their community. I couldn't maintain my job if I didn't truly believe that. Let's give them the tools to do it with. This bill is a start in the right direction. Establishing new protocol and additional training and is the follow-up piece. Change takes a little bit of time, but I believe most officers will embrace it.

I am hoping that most of you welcome this bill, support it. I believe these changes will allow victims of domestic violence more confidence that the police response will support them rather than cause them more harm.

Thank you; again for allowing me the time to share my tho

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To: Judiciary Committee

From: Julie Fabro, The Center For Women and Families

Date: March 1, 2004

RE: AAC DUAL ARREST IN FAMILY VIOLENCE CASES

Thank you for this opportunity to speak with you about the issue of domestic violence and the impact of dual arrest on victims.

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*President, CEO:*  
Kristine Hazzard, M.S.W.

My name is Julie Fabro and I have been employed with The Center For Women and Families for three years. Currently, I am the Coordinator of Court Advocacy Services and work out of GA-2 (Bridgeport) on a daily basis. As some of you may be aware, Bridgeport has a specialized Domestic Violence Docket and receives approximately 300-350 new referrals every month. Therefore, I have dealt with thousands of domestic violence victims after an arrest has been made.

Dual arrest is a major concern to the family violence service providers. Arresting victims along with offenders can have the detrimental effect of discouraging victims from seeking help from law enforcement in the future. I can't tell you how many times I hear victims say they will NEVER call the police again if their spouse or partner was assaulting them. Their arrest clearly closes the door to future assistance from the criminal justice system. In addition, arrest and conviction can affect access to housing, employment, state assistance, and educational resources that are essential for the survivors' ability to maintain their safety and independence from an abusive partner, and to provide for their children.

Abusers also recognize the mandatory arrest policy and use the language of the statute to manipulate the criminal justice system and law enforcement officers. Perpetrators would like nothing more than to see their victim arrested. It sends a clear message that he is still in control and continues to gain power. A theme that social workers, running batterer intervention groups, often hear is "get to the phone first". Batterers tell other perpetrators that if they call the police first they are more likely to be believed by officers when they arrive and the victim will be arrested. That is why an imperative part of this bill discusses training and clear protocol for police officers in order to identify the primary aggressor.

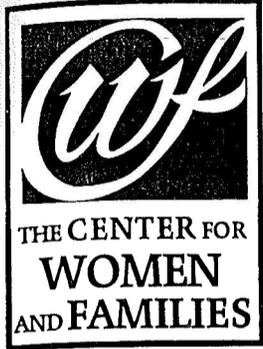
There is no doubt that officer's feel their discretion has been taken away and they are frustrated. More mandated training for police officers MUST be included to ensure that police officers have and should use discretion in determining who the primary aggressor was.



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I urge this committee to support Raised Bill 5293. When unnecessary dual arrests occur, victims are impacted and re-victimized by the very system that was meant to keep them safe. The consequences of dual arrest are drastic. It will severely impact the victim's future especially when the victim feels it is the right time to leave the relationship. She will not seek assistance from the police nor the courts and other resources may have already been terminated due to the arrest and conviction. Please look at the current statute carefully and make the necessary changes. These changes will benefit victims of domestic violence as well as police officers.

Thank you for your time.

Julie Fabro  
Coordinator of Court Advocacy Services  
The Center For Women and Families



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## CONNECTICUT POLICE CHIEFS ASSOCIATION

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### Testimony to the Committee on Judiciary

March 1, 2004

Chiefs Anthony Salvatore & James Strillacci, Connecticut Police Chiefs Association

We oppose RB #5293, AAC Dual Arrests in Family Violence Cases. Since 1986 Connecticut law has protected victims by mandating arrest of family violence offenders when probable cause exists. Section (b) of the bill will undermine that protection by inserting--between the determination of probable cause and the arrest-- a list of subjects the officer must consider if it appears that more than one person has broken the law. The wording of the proposed requirements will make them difficult to understand and difficult to apply even if understood.

An officer investigating a domestic dispute already faces a complex and volatile situation. Modifying the probable cause standard for arrest will add confusion, and may dissuade the officer from making any arrest.

This bill stems from a comparison of Connecticut's domestic-violence arrests with other states', the observation that both parties are arrested more frequently here than in some other states, and the assumption that some of those arrests are erroneous. We may not agree with that assumption, but we believe that the intent of the bill is to keep victims of family violence from being arrested for defending themselves. We certainly support that goal, but we think there's a better way to achieve it under current law.

C.G.S. Section 53a-19 defines self-defense. Section 46b-38b already mandates the Police Officer Standards and Training Council, in conjunction with the Division of Criminal Justice, to provide family-violence training to police at both the recruit and in-service refresher level. If for at least one training cycle this training were to emphasize the legal concept of self-defense, police would be well equipped to determine whether a person's conduct was criminal or was justified.

If an officer believes a person's conduct was legal self-defense, there is no probable cause and no reason for an arrest. A yes-or-no decision on probable cause maintains the protection that our mandatory-arrest statute provides; the proposed standard of "probable cause with exceptions" would dilute that protection.

Now that the dual-arrest has been raised, POST can address it, and the changes suggested by this bill are unnecessary.

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Connecticut National Organization for Women



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*Beverley Brakeman, Executive Director  
Anne D'Alleva and Kathleen Holgerson, Co-Présidents of the Board of Directors*

February 17, 2004

To: Senator McDonald, Representative Lawlor and Members of the Judiciary Committee

From: Beverley Brakeman, Executive Director  
Connecticut National Organization for Women

Re: Support RB 5296 AAC A Sexual assault Services Trust Fund  
Support RB 5293 AAC Dual Arrests in Family Violence Cases  
Support RB 5294 AAC A Juvenile Justice Plan for Girls  
Support RB 5357 AAC Sexual Assault Restraining Orders  
Support RB 5358 AA Establishing a Permanent Interagency Task Force on Trafficking in Persons  
Support AAC The Monitoring of Metal Detectors at Correctional Institutions SB 431

My name is Beverley Brakeman and I represent the Connecticut Chapter of National Organization for Women (CT NOW). CT NOW has over 3000 members throughout the state committed to protecting and expanding the rights and opportunities of women and girls and eliminating gender based discrimination. One of CT NOW's priorities is to strive to end sexual and domestic violence against women.

I am here to lend our support to a number of bills before you today:

Support RB 5296 AAC Sexual Assault Services Trust Fund:

Having worked in the sexual violence field for over 10 years, I am more than cognizant of the barriers to providing quality services to victims of sexual assault and their families including lack of reporting by victims, under resourced programs and services, and fear of being identified. This bill would create a fund for enhancing services to rape victims by fining sex offenders. Given that funding for sexual assault services is less than in 1990 and the statistics are not falling, it seems prudent to be looking at other ways to continue to provide adequate services. This seems an equitable solution.

Support RB 5357 AAC Sexual Assault Restraining Orders

CGS 46b-15 allows a person who is physically abused, harassed or sexually assaulted by a family or household member or by someone they are dating to obtain a restraining order in family court. This civil restraining order is not available however to a person who has been sexually assaulted by a stranger or by a person known to the victim but who is not in a dating relation with the victim. This bill would allow for those victims to apply for civil restraining orders in those situations currently not covered.

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*Connecticut NOW works through feminist activism to protect and expand the rights and opportunities of women and girls and eliminate gender based discrimination.*

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Support RB 5293 AAC Dual Arrests in Family Violence Cases

We strongly support this bill which would begin to address the problems of dual arrest in domestic violence incidents. While the intent of this mandatory arrest system is commendable, the unintended consequences have included women victims of domestic violence being arrested and charged with a crime. As you know having an arrest record has serious negative economic, social and personal consequences, and we should be hyper-vigilant in our efforts to protect victims not further victimize them. This bill begins to do that and sets forth guidelines for handling of domestic violence cases by law enforcement so as to avoid unnecessarily arresting victims.

Support RB 5294 AAC A Juvenile Justice Plan for Girls

We support this bill in recognition that the needs of girls within the juvenile justice system are often unique and different from boys and that there are fewer girls than boys in this system. The programs and services mentioned in the bill Section 1 will begin to address some of the specialized needs of girls within this system by ensuring that services are culturally competent and gender specific.

Support RB 5358 AA Establishing a Permanent Interagency Task Force on Trafficking in Persons

According to a Legislative Study Committee on Trafficking of Women and Children in CT, there are 50,000-100,000 women trafficked each year in the United States. Additionally, there are over 200 mail order bride businesses in the U.S. and up to 6,000 women enter the U.S. each year to be married. The committee made a number of recommendations after several meetings, one of which was the creation of this permanent interagency task force. We think this is an important step to understanding the breadth of the problem in our state and how to best proceed with addressing it and identifying and helping its victims.

Support AAC The Monitoring of Metal Detectors at Correctional Institutions

SB 431

CT NOW has long been involved with challenging the problems within DOC experienced by women correction officers. During the course of our work, we have repeatedly been told of the problems women visiting the facilities experience when having to go through a metal detector. Particularly at Walker McDougall, it appears that women are being asked to remove their bras before entering the facility which is both embarrassing and unnecessary according to many of the correction officers with whom we work. We support a female correction officer being present when female visitors have to go through the metal detector, however, we do not think this will be possible given that there are far fewer female CO's within DOC than male CO's. Additionally, we do not think this is a problem happening at every facility and therefore DOC should look at having a more consistently policy applied to this practice. Many of the CO's with whom we work do not think the metal in underwire bras is of great concern since prisoners are already being given metal objects like razor blades.

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Testimony of  
Natasha M. Pierre  
Associate Legislative Analyst  
Permanent Commission on the Status of Women  
Before the  
Judiciary Committee  
Monday, March 1, 2004

In Support Of:

HB 5358, AA Establishing A Permanent Interagency Task Force on Trafficking in Persons

HB 5292, AAC The Reduction of Disproportionate Minority Representation in the Juvenile Justice System

HB 5294, AAC A Juvenile Justice Plan for Girls

HB 5297, AAC The Needs of Juvenile Status Offenders and Status Offender Violators

HB 5296, AAC A Sexual Assault Services Trust Fund

HB 5357, AAC Sexual Assault Restraining Orders

Re:

HB 5043, AA Implementing the Governor's Budget Regarding the Judicial Department, the Department of Correction, Medical Malpractice Reform, The Recovery of State Assistance and the Prevention of Internet Child Exploitation

HB 5293, AAC Dual Arrests in Family Violence Cases

Good afternoon, Senator McDonald, Representative Lawlor, and members of the Committee. My name is Natasha Pierre, and I am the Associate Legislative Analyst for the Permanent Commission on the Status of Women. Our Special Projects Director Susan Hoover is also here today to testify on the trafficking bill. Thank you for this opportunity to testify on behalf of the PCSW regarding HB 5358, AA Establishing A Permanent Interagency Task Force on Trafficking in Persons

PCSW also supports passage of HB 5296, which would establish a Sexual Assault Services Trust Fund, funded by an additional fine on sex offenders, as a dedicated source of funding for a coordinated community response to sexual assault. State funding for sexual assault crisis services in the current fiscal year is less than it was in 1990. This fund will assist the state in providing services to victims in the state by building the capacity of rape crisis centers and sexual assault crisis services.

HB 5293, AAC Dual Arrests in Family Violence Cases

PCSW supports the goal of HB 5293, which is to reduce the number of dual arrests in Connecticut. In Connecticut, the law mandates arrest in cases where police find probable cause that a person committed family violence. While this law has provided significant additional protection for victims, it has also resulted in an unintended consequence: now, when police are uncertain about a situation, both the victim and perpetrator are arrested. The average dual arrest rate among intimate partners increased 23% between 1987 to 2002. Victims who are arrested feel re-victimized by the same system that is supposed to protect them. By providing a list of specific criteria for arrest, this bill is a step toward addressing the need for police officers to objectively evaluate the situation when they respond to a family violence call.

HB 5043, AA Implementing the Governor's Budget Regarding the Judicial Department, the Department of Correction, Medical Malpractice Reform, The Recovery of State Assistance and the Prevention of Internet Child Exploitation

PCSW strongly opposes Section 5 of HB 5043, which would institute a cap for non-economic damages in medical malpractice cases.

Rapidly rising malpractice premiums is an urgent problem that must be solved in order to preserve adequate health care for women and for all of us, and that caps on damages is not the best nor the only solution. We met with representatives of the medical community, including several Ob/Gyns who have devoted their lives to providing reproductive health care to women. Their premiums have risen so rapidly that some of their colleagues have determined that they can no longer afford to stay in the profession or to deliver babies. Physicians who were working part time – often women – have been hurt the most. They also have a justifiable fear that medical students will tend not to choose this specialty because the costs and the risks are high. Their concerns are serious and the problem is urgent.

There is considerable evidence that caps on non-economic damages will disproportionately affect women injured by medical malpractice and will not solve the problem by leading to a reduction in premiums. Empirical research conducted by law professor Lucinda Finley on gynecological malpractice cases over the past ten years in California and Florida shows that non-economic damages comprised approximately 75% of women's total awards. The reason is that the harm suffered by women in these