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Senate Agenda No. 2. That is Emergency Certified Senate Bill 1700.

THE CHAIR:

Mr. Clerk?

THE CLERK:

Calling from Senate Agenda No. 2, Emergency Certified Senate Bill 1700, LCO 172, An Act Concerning Criminal Justice Reform. Bill is accompanied by Emergency Certification, signed Donald E. Williams, Jr., President Pro Tempore of the Senate, James A. Amann, Speaker of the House of Representatives.

THE CHAIR:

Senator McDonald, good afternoon.

SEN. MCDONALD:

Good afternoon, Mr. President. Mr. President, I move acceptance of the Emergency Certified bill and passage.

THE CHAIR:

Acting on approval of the bill, Sir, will you remark further?

SEN. MCDONALD:

Thank you, Mr. President, I will. As all Members of the Circle certainly know, we are here today to debate and vote upon comprehensive reforms for our criminal justice system.

Mr. President, the reform package that is before the Chamber today is the result of an extraordinary amount of work by an extraordinary number of people, not only within this Chamber and the House but from the Governor's office and her taskforce as well.

And certainly, Mr. President, at the outset, I would be remiss if I did not note that many of the issues that are before the Chamber today are the result of a horribly tragic event that took place in Cheshire, of which we are all aware.

Mr. President, horrible as that event was, it had the effect of informing us in this Chamber and in the

House, and perhaps in the wider community as well, about some of the inadequacies in our criminal justice system, in our Board of Pardons and Parole, and in our Judicial Branch, Mr. President.

And from that experience, we in the Legislature have been called upon to draw broader public policy decisions, informed and guided by those events but with a full knowledge that our responsibility is to address the totality of the system that we oversee in the State of Connecticut.

Mr. President, this has in fact been an exhaustive legislative process. The Judiciary Committee had a hearing earlier in 2007, where we talked about many of these subjects in great detail.

We had national experts who came before us and testified about what other states have done in response to similar tragedies.

In addition, Mr. President, we opened the doors, if you will, to proposals from all areas of the

criminal justice system, from advocates, from prosecutors, from defense lawyers, from the Judicial Branch.

And through that process, we had 15 bills that were submitted to the Judiciary Committee, upon which we had an extraordinary 12-hour public hearing and heard from dozens of people, experts and laymen alike.

And we took all of those factors, all of those opinions, into consideration in our deliberative process. But a coequal partner in that process was the Governor's taskforce.

And I want to commend Governor Rell on convening such a thorough and educated taskforce as the one that she empanelled because, Mr. President, among those members were judges, victim advocates, seasoned state and federal prosecutors, leading legal academics, criminal justice policy experts, top Judicial Branch administrators, corrections officials, law enforcement officials at the highest municipal and state levels,

mental health experts, community groups, and ordinary, dedicated citizens of the State of Connecticut.

And that process, and the process we observed in the Judiciary Committee, has been synthesized as best as possible into the reform package that is before the body today.

This bill, I believe, has broad, general consensus in the Legislature and in the State of Connecticut. We have focused on our public hearings and the taskforce's public hearings and its work.

And certainly, we do not pretend that this is the totality of the work we have to do. When we convene in regular session, beginning in February, there will be more work that needs to be done, and we in the Legislature are committed to continuing that work.

And I know from speaking to individuals in the Governor's office that the Governor continues to work on these issues as well. We have collaborated with the Governor and many of the proposals that are going

to be addressed by us will be talked about by her at the beginning of the General Assembly.

Mr. President, we are making some substantial public policy changes today, I hope, and with those changes, we have an obligation, in my opinion, to commit the resources necessary to implement those public policy decisions.

If we did one without the other, I think it would be disingenuous and counterproductive. So with this bill, we propose substantial changes, and we commit substantial resources.

We've done our homework. We know some of the solutions, and we know what those solutions will cost. Not everything is going to change between now, I should say nothing substantive is going to change between now and the beginning of the session that begins on February 6.

And so, Mr. President, we have a lot of work to do today, and we have a lot of work to do in the

regular session. But I do just want to briefly point out for the Members of the Circle what this bill would do.

First and foremost, Mr. President, this bill would create a new crime of home invasion, and it would increase the penalty for burglary of a dwelling at night by making it a burglary in the first degree, instead of its current status as burglary in the second degree.

Additionally, someone who is convicted of burglary in the second degree, or home invasion, would be ineligible for parole considerate until that individual had served at least 85% of the sentence imposed.

Perhaps most importantly, Mr. President, this bill substantially enhances the state's three-strikes law by eliminating the requirement that judges make factual findings before sentencing an individual up to life in prison for a third strike.

It also alters the composition, requirements, and appointment process for the Board of Pardons and Parole. It creates a requirement that the board hire at least one psychologist to assist it in its work, as well as two victim advocates to advocate on behalf of victims before the board in its deliberations.

We are also increasing the size of the Board of Pardons and Parole to 12 members on the parole side, 7 of whom would be full-time members, 5 of whom would be part-time members. And there would be five members of the pardons function as well. That would begin on July 1 of 2008.

We would be eliminating the use of administrative review procedures for the board. As we all know, in the Cheshire tragedy, one of the defendants was approved for parole on administrative review.

It is our opinion that had the board had complete information before it, had it had the sentencing reports, had it had the transcripts, had it had the

ability to sit down and look in the eyes of these individuals, they might have made a different decision.

So under this proposal, Mr. President, the board would be required to sit down and see, either in person or through secure video link, each and every inmate that is being considered for release.

We would substantially enhance the notification opportunities for victims of crime. And we would implement an automated victim notification system that would allow victims to know each and every time the case in which they were a victim is going to be considered by the court system or by other agencies of government.

All too often, Mr. President, we have required in our statutes that victims be notified, and certainly because of the lack of resources, those requirements have not been met.

We need an automated system that, like many of the states across the country have used, to ensure that those victims are notified before a plea bargain is accepted, before anything substantive happens in their case.

Additionally, Mr. President, we would be limiting the instances in which the Department of Corrections could use furloughs, reentry furloughs, to release people before the end of their sentence.

We need to have as great an opportunity as possible to ensure that people who have been sentenced serve those sentences with appropriate supervision. And certainly, we know, from our hearings, that the Department of Corrections is not equipped currently to supervise individuals who are on furlough.

Until such time as they have demonstrated that, we would be eliminating those types of furloughs. Additionally, we would be increasing the number of

reentry and diversionary beds and staff-secure beds for sexual offenders.

We have all read in the papers about situations where people who are being released at the end of sentence do not have an appropriate environment in which they can be monitored and supervised.

The residents of Southbury will tell you that they wish we had sex offender beds in the community so that someone who is a persistent offender could be appropriately supervised.

Between the diversionary and reentry and sexual offender beds, Mr. President, over the next two years, we would commit resources necessary for 280 such beds.

We would also be requiring that the Judicial Branch post on its website arrest warrants for individuals who have been violated, for probation violations and for which a warrant is outstanding for their arrest.

We would also be expanding the use of GPS technology for 300 additional parolees and probationers. We would also be requiring that the Judicial Branch provide the Board of Pardons and Parole with access to certain juvenile records in very limited circumstances.

But the fact is, Mr. President, that if an adult who is convicted as a crime as an adult has a juvenile record for which they have been convicted, at the time of sentencing, for that adult crime, the prosecutor has that information, and the judge has that information.

The only board or entity that doesn't have it is the Board of Pardons and Parole when that individual applies for parole consideration. We would also be establishing a committee to study ways to create incentives for municipalities to allow community-based offender programs in their communities.

And perhaps what I consider to be one of the hallmarks of this legislation is we would finally begin to realize that the information technology system we have for criminal justice in the State of Connecticut is woefully inadequate.

We've learned in our hearings that not only do agencies not communicate between agencies about inmates, or defendants, but that offices of the same agency can't communicate between their own offices about inmates because of the deficient information technology systems that we have.

Mr. President, under this proposal, the Criminal Justice Information System Governing Board would be empowered to hire an executive director who, with experience in system design and implementation, would oversee that process and would commission the Needs Assessment Study for immediately beginning to implement that comprehensive information technology system.

Other states have done it. We certainly should as well. Under this proposal, Mr. President, we would also create a diversionary program for individuals who are suffering from mental illness for less serious crimes.

We heard repeatedly that one of the biggest problems we have in our criminal justice system is the incarceration of people with mental illness who are not receiving appropriate treatment.

We would also be appropriating money under this proposal for enhancing reentry and diversionary services in Bridgeport, Hartford, and New Haven.

And as I said, we would be creating secure video links between correctional facilities and the Board of Pardons and Parole for the consideration of their applications.

And finally, Mr. President, we would be requiring the Department of Corrections and the Board of Pardons

and Parole and the Judicial Branch to develop a risk assessment strategy for offenders in DOC custody.

I should say, Mr. President, that I have had a great partnership with the Governor's office. But I would be remiss if I did not thank as well for this work the Members of the Judiciary Committee, who have spent an extraordinary amount of time over an extraordinarily long period of time, trying to develop a bipartisan consensus package.

I want to particularly thank Senator Kissel for his work on many of these issues as well. We do not profess to claim that this is a cure-all.

And in fact, if you think about the unbelievably tragic circumstances that took place in Cheshire, I suspect almost nothing that humans could do would ever have stopped such a tragic, tragic event.

But I think our collective charge is to try as best as we can, as humans, to close the loopholes so that people in Cheshire or in Hartford or in Stamford

or in Norwich, in all of our 169 towns, feel safer in the great State of Connecticut. Thank you, Mr. President.

THE CHAIR:

Thank you, Mr. President. Will you remark? Senator Kissel.

SEN. KISSEL:

Thank you very much, Mr. President. I would like to thank Senator McDonald for those kind words. It was a sultry evening way back this summer, in July, when an individual's home was broken by what we all have known now to be some of the most horrific events anybody could ever imagine.

Dr. Petit, his wife, Ms. Hawke-Petit, and their two young daughters, Hayley and Michaela, ages 17 and 11.

It is probably ever individual's nightmare that the peace and security that they feel that they have when they get home at the end of the day, and they go

into their homes and go to bed, that all of that was rocked to its core, with Dr. Petit being brutally beaten, his wife murdered, and his two daughters horrifically murdered and burned.

It's the kind of shocking story that, for whatever reason, seemed to resonate throughout the entire State of Connecticut. And immediately, come towards that end of July, individuals were saying, what happened? What went wrong? We don't feel safe anymore.

Now since that period of time, many very good and important questions have been asked. For example, in our urban areas, there are crimes that occur almost weekly, where individuals are killed.

But for whatever reason, good or ill, this particular horrific crime cut across race and ethnicity and socioeconomic status, such that nearly everyone that I talked to after this occurred said, what is going on? You have got to do something.

Within a few days of that event, my colleagues and I were saying that a person's home is indeed their castle, and if there was ever a burglary, it should be classified as a violent offense.

And it was amazing to note that as individuals were reviewed for possible pardon, that, for whatever reason, historically, in the State of Connecticut, burglaries were not being considered as violent offenses.

And so we called out immediately that that change take place. And within a few days, it didn't matter whether individuals were Democrats or Republicans, but Legislators in the House and the Senate were all saying that we need to examine this situation, and great ideas were brought forward.

There were many of us, myself included, that said, let's try to take care of some of the things we all are in agreement on as soon as possible. We were

clamoring for a Special Session as soon as the end of summer.

Our colleagues, particularly on the other side of the aisle, said, let's take a different approach. But I am happy that ultimately, that led us to a Special Session where here we are today with the proposal that we have before us.

And I would say at the outset that probably in excess of 95% of what is in the bill before us is bipartisan/nonpartisan. It's the best of all of our ideas that have been fleshed out and vetted through a variety of processes.

Clearly, right at the forefront of this legislation is a new crime called home invasion, home invasion where if an individual enters a dwelling unit, the person's home, that they feel is their castle, where they should feel a sense of safety and security, and if indeed they have a weapon, and I want

to thank the drafters because it is fairly, broadly defined as a dangerous instrumentality.

So I would believe that if an individual is charged under this, that we wouldn't get bogged down as to exactly how narrowly those definitions are drawn, because indeed, if a person's life or health or safety is threatened, that is a dangerous instrumentality and that if a person is charged herein, that they would receive a mandatory minimum ten-year sentence.

Indeed, time and effort was put into examining the status of, well, what about if crime occurs at night? And the hearings that I went to, and Senator McDonald did indicate that when we had the multiple bills before us, that was one of the longest public hearings that I can recall in the 16 years that I've had the honor of serving in this Senate.

It went until about 1:30 a.m., and it started about 1:00 in the afternoon. And we learned that people feel particularly vulnerable at night.

That is not to say that there wasn't ample testimony, people that might work a third shift and sleep during the say, saying, hey, what about us? What about our sanctity and peace of mind when we're home?

And maybe that's another issue that we need to get to when we get into the regular session, February 6.

But at least here, a distinction is made that at night, individuals feel less secure, and indeed, in many instances, when those individuals are perpetrating burglaries, and they're not out to harm individuals but just to steal items, which is a crime, I'm not minimizing it, but they may not have a dangerous instrumentality on them, a gun, a weapon, an explosive device.

Most of those folks, criminals though they be, they're not out to harm individuals. But it takes a different kind of individual to go into a person's home at night, when most people would suspect someone is in there, and if you walk outside in the neighborhoods at night, you can't tell if anybody is in there because if it's 1:00 or 2:00 or 3:00 in the morning, their lights are out. They're fast asleep.

Those individuals, whether they're carrying a gun or not, clearly, clearly are elevating the risk to the individuals that feel that their home is their castle.

So I think, at least to that extent, this bill has made great headway in addressing this very serious situation that occurred in Cheshire and in so many other places in the State of Connecticut, where people that I work with, people that I encounter, people that are my constituents have come up to me immediately and said, you as Legislators have got to get your arms around this and toughen our laws.

And that makes an awful lot of sense. At the same time, this bill also makes great strides in addressing the Connecticut Supreme Court decision in State v. Bell. You all remember that decision? It was a horrible incident that took place down state, where I believe a police officer was killed.

And there was a decision that said that part of that sentencing had to go back because it wasn't necessarily the statute, but it was the application of the statute that did not pass constitutional muster.

And indeed, to comport with certain United States Supreme Court decisions, the fact finder had to be the same. And we decided to remedy it by taking out certain criteria that seemed to be causing us to run into some trouble.

And so right now, with the changes in this proposal, it just takes those question marks right out so that upon a second conviction for some of these

crimes that are so delineated, the court has discretion to add additional time.

And I know that my friend and colleague, Senator McDonald, calls that a three-strikes proposal. Later on this afternoon, I anticipate, as that amendment is being drafted, there will be another three-strikes proposal that I believe the public might feel is more akin to the three-strikes proposal that has been debated over the last several months by folks on both sides of the issue.

But certainly, these persistent offender laws have an ability to ratchet up the ultimate sentence that an individual will serve.

Now at the same time we had the public hearing on these variety of bills, we learned an awful lot, an awful lot, about the state of the criminal justice system in the State of Connecticut.

And there's a part of me that I would never wish that it would take a tragedy to shake us at our core

to move forward on an issue. But unfortunately, sometimes, that's what it takes.

And it's not just the Petit family, but it's every family and individual that suffers because of crime, that has been harmed or indeed killed, that we are responding to here today.

And indeed, I agree with Senator McDonald that this is not the end by any stretch of the imagination but that we are using this Special Session as the beginning of a long process, where we are dedicated to reforming our criminal justice system, and I believe that we can get there, that we can be a leader in our nation when it comes to reforms.

And I want to thank, as Senator McDonald did, Governor Rell for her initiative throughout this process, shortly after the tragedy in Cheshire and completely throughout this process, in convening the Governor's special taskforce that vetted a lot of these issues.

Now as I am wont to say, and many of you know I have several correctional facilities in my district, and right now, probably a very safe guess that I have, in north central Connecticut in the various correctional facilities, probably in excess of 8,000 inmates. That's a lot of folks behind bars.

And I've made it very clear that I don't think that bricks and mortar are going to get us out of this situation. I want to get tough, and I believe many of us indeed want to get tough, on the perpetrators of violent crimes.

But at the same time, at the same time, we need to be thoughtful as to the allocation of precious tax dollars so that we can break the cycle of recidivism, and we can cycle out those individuals in our correctional system and in our criminal justice system that want to be redeemed, that want to follow the right course, that want to turn their lives around.

And I believe as much as there are horrific, diabolical individuals out there that perpetrate these heinous crimes against innocent victims, that the vast majority of criminals, we can turn their lives around.

They can turn their lives around themselves. I've worked closely over the last several years with Senator Harp, Representative Walker, and other folks, trying to break that cycle when it's at the juvenile stage, trying to up the juvenile jurisdiction age and trying to address that issue so that young people, in particular young men, do not feel that joining a gang or pursuing a life of crime is their only option.

And that's going to take continued focus and dedication of resources that we don't even see in this bill.

Indeed, most recently, at Governor Rell's summit on early childhood education, it was very apparent that when we talk about addressing early childhood

education, that we need to get to some of these young people between birth and three.

Vocabulary is different in different households. By the time some of these young children get to be in elementary school, they're already fighting to keep up, and they're behind.

And ultimately, we see the results in so many instances where options are foreclosed, and individuals feel almost predestined to pursue a life of crime. We can get our arms around those issues. We can change how we allocate resources, and we can break the cycle of crime at that stage.

At the same time, the public hearings clearly indicated that to the extent the state commits resources to an individual leaving the Department of Corrections, that to the extent we have programs for substance abuse, addiction, just being a good parent, someone to check where you live, jobs programs, and

the like, that the percentage of individuals recidivating goes dramatically down.

Doesn't that make a lot of sense? If we pursue the old-fashioned path of you've done your time, here's your bus ticket, go home, and turn your life around, see you, that in the vast majority of circumstances, an individual has an awful high mountain to climb to turn their life around successfully.

And to the extent we don't use what we've learned, then with that high recidivism rate, it's just an endless cycle. But worse than that, worse than that, by foreclosing that opportunity to help an individual turn their lives around, how does that individual get back into the system?

They commit another crime. And so by not reallocating our resources in a thoughtful manner, we've created new victims. We as a state cannot

afford to continue to go down that path for a variety of reasons.

First, correctional facilities, bricks and mortar, vastly expensive, already pushing at the seams in a number of my correctional facilities.

I have communicated with the Co-Chairs and the Ranking Members of Appropriations because I have concerns about staffing levels, even where we have population levels in our facilities right now.

That's a tough job. That's not a 40-hour-a-week kind of job. Inmates need to be watched 24 hours a day, 7 days a week, each and every day of every year, and that's a dangerous job.

And we need to make sure that the men and women who serve in our correctional facilities get to go home to their spouses and their children, like all of us. And so we got to make sure that those staffing levels are appropriate.

At the same time, to alleviate the pressures on the system, we need to pursue a course, as Senator McDonald and others have indicated, where we need reentry beds, housing, programs, appropriate parole officers, probation folks to watch over individuals.

For the nonviolent offenders, quite often, they do want to turn their lives around. But if getting out of the system means you can't even find a birth certificate so that you can't even prove who you are, maybe your family doesn't want to get a hold of you, and all of these other things, you're immediately running up against a wall that is difficult to overcome.

We need to reallocate those resources. And we heard at the public hearing that it costs an awful lot less, even for complete support services, for an inmate that is released back into their community than it does to keep them incarcerated.

It's roughly $50,000 a year per inmate to keep an individual incarcerated. We had individuals testify in front of us, saying it's far less and much more productive. This goes a long way, takes first steps in addressing that.

Chief State's Attorney Kevin Kane, when we had Commissioner Lantz and Chairperson Farr come before us, we had several hearings, and we had an initial sort of review as to sort of what took place to precipitate the Cheshire tragedies and what's going on in our criminal justice system.

So before we had the bill proposals, we had sort of a generic hearing with folks from the administration to come and talk to us.

And I really want to commend everybody that did, but Chief State's Attorney Kane, I think, really hit the nail on the head when he said, it's communications, communications, communications.

Our criminal justice system is not in the 21st Century. Even within state's attorneys' offices, they have computer systems that just don't talk to any other computer systems. So much of their files is on paper.

And after a certain period of time, it's put in a box, and it's sent off to storage. That's not an excuse for why information has not heretofore been shared within the criminal justice system, but it points out the flaws in the system that we need to address.

And before these state agencies take their very valuable resources and say, I need to upgrade this computer system, or, I need to upgrade this computer system, we need exactly what Senator McDonald had indicated earlier and what Governor Rell's taskforce had indicated and what leadership on my side of the aisle had indicated, Senator McKinney, Representative Cafero, and others.

We need a cohesive, coherent communications effort where all parts of the system are able to talk to each other, where the state's attorneys can work with police, and that will be a stretch, tying in all our police departments.

But at least by the time it gets to the state's attorneys, they can talk to folks in the Judicial Branch, that the PSIs, the information there can go. Think of this because this is the ultimate goal, I believe.

In our medical system, we want to have your medical records follow you from when you go in the doctor, when you go to the hospital, when you get released. Those records need to follow you. And then if you go to another physician, those records should follow you.

We need to have the same processes in place in our criminal justice system. We need to have an individual's record follow them. Now when it comes to

reforms regarding juveniles, I clearly agree that that information should not be made open to the public to harm a youngster.

We made a policy decision long ago that to the extent someone has an indiscretion when they're young, it shouldn't brand them for life from being able to turn their lives around. It shouldn't dog them. It shouldn't haunt them.

But to the extent that individual commits another crime and is found guilty by a judge or a jury, then at other points along the system, that information can be incredibly valuable and indeed incredibly valuable if an individual is coming up for possibility of parole.

Because in the seminars that I've gone to, the testimony that was offered at our public hearings, and the other information that was given to us by experts in the field, clearly what has happened early on in an individual's criminal career is a great predictor,

probably the number one predictor, as to future actions.

So should not that information be made valuable to other folks in that chain of the process, to the Department of Corrections so that they can make meaningful decisions regarding housing? Would not that be critical information?

And I use this as an example. Let's say you have somebody that assaulted someone. Well, if, in their juvenile past, wouldn't it be helpful to know if they had a juvenile record, where they were found as a juvenile to have stolen a pair of sneakers or to have tortured small animals?

Wouldn't you look at that individual differently? And experts in the field say yes. You need to look at a totality of an individual's behavior because when you look at all those factors, they are the greatest predictors.

Another item in this bill is changing the Board of Pardons and Paroles, allocating resources to the Board of Pardons and Paroles and also, and I think extremely importantly, the Chairman of the Board of Pardons and Paroles has got to make a determination that all the information that's available has been gathered up before those folks on the Board of Pardons and Paroles make a determination as to whether to grant parole.

So we're narrowing the scope of possible administrative parole. We're expanding the scope of those parole decisions where criminal defendants are looked right in the eye and have to come before the board to explain themselves, to answer any questions.

We're expanding the pool of information that is going to be required before those determinations can be made.

We're working along a path of increasing the pool of information, and the communication of that

information. And so indeed, as I believe we have seen this afternoon, how could we not think of this daunting task that we are about to embark on, how can we not look at this legislation as not a first step?

I want to conclude my remarks by stating to Dr. Petit that no one can bring your loved ones back, and to all the family and friends of victims throughout the State of Connecticut, no one can bring your loved ones back.

And quite honestly, it's unfortunate that sometimes, it takes a shocking tragedy or something quite out of the ordinary to shake this Legislature into looking into something and buckling down and trying to solve it as best we can.

To that extent, maybe some good can come out of some very bad instances. But our commitment here this afternoon has got to be not to try to pass this piece of legislation in Special Session, which we have spent, many of us, on both side of the aisle, so much

time and effort, but to make a commitment to the family and friends and to the memories of those who may have lost their lives due to crimes, for who may be out there suffering with the memories of being maimed or raped or whatever, that our commitment is long lasting, and that we know we have a daunting task before us, and that we are up for this challenge, and so that this bill, a fitting first step to try to turn the criminal justice system in Connecticut around, where I believe the vast majority of individuals are committed to doing the very best that they can.

And so as I indicated earlier, thank you, Governor Rell. Thank you, Senator McKinney, Senator Caligiuri, my [Changing from Tape 1 to Tape 2]

--colleagues, Senator Fasano, Senator McDonald, Senator William, everyone who put their heart and soul into trying to make the very best legislation possible for this afternoon.

I do believe later on, there will be an amendment placed upon our desk, and look forward to debating that also. But with that caveat, I would say at this time that I find the vast majority in this bill to commend, and I would urge my colleagues to support the underlying bill. Thank you very much, Mr. President.

THE CHAIR:

Thank you, Senator Kissel. Will you remark further on Senate Bill 1700? Senator Caligiuri.

SEN. CALIGIURI:

Thank you, Mr. President. I'll be brief at this point. But I'll just say, notwithstanding however the debate on three strikes turns out, which I think is going to be a very important part of our debate today, I rise to say that in this Member's view, this is a very good bill that does a number of very important things.

And although I believe that there is one very important way that we can strengthen it,

notwithstanding that, I think that this is a bill that is going to help keep the people of Connecticut safer.

And I will just identify two aspects of the bill in particular that I think are especially important. First is dealing with the crime and creating the crime of home invasion. I think it's very important in light of what occurred.

And the second, frankly, was what was, for me, especially early in the process, one of the most frustrating and tragic realizations about the way a certain aspect of our criminal justice process works and which desperately needs to be reformed, and that is the sharing of information with the Board of Parole and the way that the Board of Parole was conducting its business and, frankly, the culture of having it be acceptable to make parole decisions with less than all of the information that, by statute, they were required to have, just because they had gotten used to never having that information.

To think that as a matter of process, it became acceptable at any point for that to be the case and for that to be an appropriate basis for making a decision is among one of the most tragic realities of what we learned following this horrible incident in Cheshire.

And I believe that among the greatest improvements made in this bill will be those related to strengthening the Board of Parole and to information sharing.

And I think that for those reasons alone, in addition to the issues dealing with home invasion, this is a good bill that's going to help make the people of Connecticut safer, which is why at the end of the day, I will be supporting it proudly. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Caligiuri. Senator Prague.

SEN. PRAGUE:

Thank you, Mr. President. Mr. President, I too would agree that this is a very good bill, but there is one part of it that I would like to discuss probably with Senator McDonald. You know, it talks about burglary, and it talks about having it happen at night.

There are several lines here that makes reference. In Line 27, it says, 26, such person enters or remains unlawfully in a dwelling at night with intent to commit a crime therein. And then it goes down and talks about at night again in Line 38, enters or remains unlawfully in a dwelling at night.

And then in 54 again, it makes reference to at night. I would just like to bring to the attention of the Chair of the Judiciary Committee that many senior citizens are home all day long, and I believe that this was an issue that was overlooked.

I don't think that we should just reference burglary at night. I think it should be burglary of a

home period, whether it's day or night. And as I said, particularly in light of the fact that there are so many seniors and disabled people who are home during the day, who are vulnerable.

I think eliminating those words at night would make this a better bill. Thank you, Mr. President. I'd like to direct those remarks through you to Senator McDonald and ask him to take that into consideration in the upcoming session when the entire bill will again be before us.

THE CHAIR:

Thank you, Senator Prague. Those remarks will be directed to Senator McDonald. Senator Harp.

SEN. HARP:

Thank you, Mr. President. For the record, I just would like to ask maybe one and a half questions to Senator McDonald. This has to do with juvenile records.

Once juvenile records are in the possession of the Board of Pardons and Paroles, as contemplated by this bill, what protections will be in place, and will those records be FOI'able?

THE CHAIR:

Senator McDonald?

SEN. MCDONALD:

Thank you, Mr. President. Through you, Mr. President, under this proposal, if somebody's juvenile records were provided to the Board of Pardons and Parole, and again, I need to emphasize that this would be in a situation where somebody had been convicted as an adult for a separate crime and was being considered by the Board of Pardons and Parole for potential parole.

Under those circumstances, they would be eligible to see criminal convictions when that individual was a juvenile but only where the case had been removed to

the regular docket as a juvenile case. So I just want to be clear about what we're talking about.

But under those circumstances, the board would have that information available to it in consideration of the application and for the limited purpose of determining eligibility for parole.

Specifically, they would be precluded from sharing that information with any other person, and that would, that provides a statutory exemption from disclosure under the Freedom of Information Act.

So the board could not disseminate it to any other third party, and no third party could ask the board for that information and obtain it from the board, if that answers the Senator's question.

THE CHAIR:

Senator Harp.

SEN. HARP:

Thank you very much. So then I'm going to infer from that then that DCF records then would not be covered under this law, as proposed.

THE CHAIR:

Senator McDonald?

SEN. MCDONALD:

That is my understanding and certainly is our intent.

THE CHAIR:

Senator Harp?

SEN. HARP:

Thank you. I just want to, with that clarification, indicate that I will be supporting this bill. I've got to say though that I have some concerns about our overall justice system in our state.

And the fact that Connecticut has probably a system, particularly in corrections, where minorities, people of color, represent those incarcerated to a

greater degree than any other, and certainly to a greater degree than there are members of our communities and our state on the whole, and that one of the things that I hope this bill begins to do is to assure that the real predators of our society, those people who create havoc and chaos, and the types of crimes that we saw in Cheshire, are the ones who are incarcerated and not those who are drug users who need help or those who are mentally ill and need help, and not those who basically have had dirty urines and are back in prison for a crime really that was not adjudicated in our courts, as many people have been.

And we've been trying, I think as a state, we've been a leader in trying to reduce those types of occurrences.

We spend hundreds of millions of dollars in corrections and judicial, and yet, our net basically, I think, catches a lot of people that would better be in treatment, would better be supported in ways that

would limit their criminal activity and their criminality.

And I'm hoping that as we begin to look at the reentry programs that are supported by this, that it will reduce recidivism and hopefully get us to think about getting the real predators that cause all of us fear and cause chaos in our communities.

THE CHAIR:

Thank you, Senator Harp. Senator LeBeau.

SEN. LEBEAU:

Thank you, Mr. President. I'd like to associate myself with the remarks of Senator Harp and also with the remarks of Senator Prague.

Looking at the same lines as Senator Prague was looking at earlier, in terms of changing the burglary in the first degree, and then part three is when a person enters or remains lawfully in a dwelling at night with intent to commit a crime there.

And I think this is something we should look at. I'm not proposing an amendment today, and I don't believe Senator Prague is, but I think it's something we should look at as we go through this session.

There are many elderly who are vulnerable at home during the day. There are many handicapped who are vulnerable in their home during the day, and there are many children, particularly in the afternoons, after school, sometimes sick at home during the day.

And I think that if we're going to provide this extra protection through this vehicle of the law, that we should make sure, ensure that we're doing this for all the potential populations, not just when it's at night.

So I would like to reaffirm that I hope we can work on this as we go through the session. I know that there's some intent to do that, that this is not the last we're going to hear of reforming the criminal justice system today, but that as we move through the

regular session, which will begin in a couple of weeks, that there will be some modifications, some tweaking of this bill and some tweaking of some other statutes.

So I'm hoping we can look at that also. Thank you, Mr. President. Mr. President, while I have the floor, I would like to compliment Senator McDonald on what I consider to be a fine bill, a very balanced bill, a bill that does many of the things that we need to do to make our criminal justice system work better.

Sometimes, we talk about this, and we say, well, what is that all about? Well, it's all about making us all feel safer and making us be safer.

If the criminal justice system works, then we live in a safer society, and I think that's probably the very first job, the very first priority, that we have as Legislators, to make our society as safe as we possibly can be.

Now obviously, in a human society, it will never be entirely safe and perfectly safe, but the reforms that we're looking at today, I think, go a long way to making our system work better and making us safer.

THE CHAIR:

Thank you, Senator LeBeau. Senator Crisco.

SEN. CRISCO:

Thank you, Mr. President. Mr. President, a question through you to Senator McDonald.

THE CHAIR:

Senator McDonald.

SEN. CRISCO:

Yes, Mr. President, to Senator McDonald, for purpose of clarification, I was under the impression that even though we are defining home invasion as evening, where some people have expressed concern that there is a need to change the law for daytime, that the present statute and present penalties automatically take care of that situation.

THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

Thank you, Mr. President. Through you to Senator Crisco, and I thank him for the opportunity to clear up any confusion on this issue.

First of all, under this proposal, to address Senator Prague's concern and Senator LeBeau's concern, it certainly still would be a felony to break into somebody's home at day, whether it was a senior citizen or otherwise, and that would still be burglary in the second degree.

Burglary in the second degree still would require that if somebody broke in and remained unlawfully in that dwelling while somebody was present in that dwelling, it would still be burglary in the second degree, regardless of the time of day.

Excuse me, Mr. President, and as a Class B felony, that individual would be subject to between 5 and 20 years in prison.

All we have done in this proposal is to say that if the crime is committed at night, it would actually be considered burglary in the first degree and would be subject to a heightened penalty for burglary in the first degree.

And let me clarify, I apologize, I misstated. Burglary in the second degree is a Class C felony. We'd be elevating the burglary at night to a Class B felony.

THE CHAIR:

Senator Crisco.

SEN. CRISCO:

Thank you, Mr. President.

THE CHAIR:

Will you remark further? Senator Gaffey?

SEN. GAFFEY:

Thank you, Mr. President, Members of the Circle. I want to go back to and pick up on something that Senator Harp said because what she said was so very true, the number of people with substance abuse and mental health problems that are in our prison today.

And I remembered in my freshman year, the first budget I voted on, I think, was put on my desk at about 3:00 in the morning.

And included in that budget was the closure of Fairfield Hills in Newtown and Norwich State Hospital, which used to provide hundreds and hundreds of people in Connecticut with services for mental health and substance abuse problems.

And with the closure of those facilities, the number of people that have now entered into our prisons has grown exponentially, concomitant to the number of people who were being provided those services back then.

So when I heard a previous speaker talk about our prisons busting at the seams, they are busting at the seams for one reason, because of the failed policy decision made in 1995 in that budget, the first Governor Rowland budget, to close those facilities.

And unfortunately, that Fairfield Hills site now has been sold off to private interests, and the Norwich State Hospital site has been dreamed to be a utopia but hasn't materialized to that.

But the long and short of it is that we have a lot of people in prison today that wouldn't be there if they had been able to receive the services that they offered at those facilities.

Now to the underlying bill, and I take this very seriously because I'm the Senator whose district this occurred in, this heinous, awful crime. And when you talk to people in my district, they have just had it. They're done. They want bold action, and they want to be safe in their own homes.

And they want their state government to put in place law and put in place personnel that are going to adhere to those legal requirements to make certain that they're safe in their own homes because, by God, when you don't feel you're safe in your own home, what else do you have?

And this bill does an awful lot of bold things. The home invasion, making it a separate and distinct category of offense, is a great addition to Connecticut State Statutes.

The Parole Board changes that are being made in this bill are long, long overdue. I stood with President Pro Temp Don Williams a couple of months ago and called for a complete overhaul of the Parole Board.

Because let's talk about the Cheshire case for a second. Let's remember what happened here. I hear about lack of communication.

There was certainly a lack of communication here, a woeful lack of communication, that unfortunately and tragically, at least one of these individuals may not have been out on parole on that day and that evening when this heinous crime occurred.

Because when you read what the judge said about Mr. Komisarjevky, labeled him a cold, calculating predator, but those words cold, calculating predator never got to the Parole Board, never got to the desks of the people at the Parole Board. That information was never provided.

Why wasn't it provided? Even though there was a legal requirement for that to be provided, it wasn't provided. Ostensibly, the response was, well, we don't have enough staff to make copies. That is not only unacceptable, but in this case, it was tragic, woefully tragic.

And that's what I mean about we can do bold things in law, but, Ladies and Gentlemen of the Senate

and Mr. President, there's law, and then there's reality.

You can have all the law you want on the books, but in reality, if the law is not being adhered to, and the requirements of the statute aren't being followed, awful things can happen.

And on that summer evening, an awful, horrible thing happened in my district. So I challenge the whole system here, that being state government, from the top down, to make people accountable.

Because in the case of the information not being provided, that was the job of the prosecutors. And when the prosecutors don't adhere to a legal requirement, who prosecutes the prosecutors? Who holds them accountable?

Who got held accountable here for the failure to deliver this information to the Parole Board? Nobody, and that's unacceptable. And we're not really talking

about that. No one is talking about that. Well, why did this happen?

I mean, this is something somebody ought to really look at, and somebody should be held accountable for this because otherwise, the statutes that we put on the books don't matter.

Now with the passage of this bill and full implementation and full funding, and I dare say it's going to probably cost a lot more than what we have in the fiscal note right now into the future. But that's money well spent to ensure the security of people in the sanctity of one's own home.

So if it's fully implemented, fully funded, and most important, the personnel responsible in the State of Connecticut's government, responsible for the implementation of these changes, then it will help make sure that the awful situation that occurred in my district never repeats itself again in Connecticut's history. And that's the goal here.

But the goal is only going to be met by people paying attention to their job, doing their job, and not letting things fall through the cracks. So with that, Mr. President, I rise in support of this bill. It's an excellent bill.

And with the full implementation and the full focus of everyone whose charge it is to enforce it, it will help ensure the safety of the people in my district and throughout the State of Connecticut. Thank you, Sir.

THE CHAIR:

Thank you, Senator Gaffey. Will you remark? Will you remark further on Senate Bill 1700? Senator Daily.

SEN. DAILY:

Thank you very much, Mr. President. I also rise in support of the bill and do want to point out to my colleagues, and I don't need to read it to you, but

this bill is paid for in full, and it's a very, very important thing as we move forward.

We too often in this Chamber will pass something and not pass the money to pay for it. And if we intend to make this happen, that money needs to be in place and will be.

And again, I'd like to join those that are thanking Senator McDonald and all his colleagues on such a wonderful job. Thank you.

THE CHAIR:

Thank you, Senator Daily. Will you remark? Will you remark further? Senator Debicella.

SEN. DEBICELLA:

Thank you, Mr. President. And I'd like to echo the remarks of many of my colleagues, to really thank Senator McDonald, Senator Kissel, and all those who have worked so hard on what is a truly great bipartisan bill.

I think there's an emerging philosophy that both Republicans and Democrats can agree upon when it comes to crime in Connecticut.

And that is we should definitely be more on the liberal side when we are dealing with first-time, nonviolent offenders and more on the conservative side when we're dealing with repeat violent offenders, that those people who are not people who are out there doing the types of Class A and B felonies that we're talking about, the type of heinous crimes like murder and rape.

People who are in for first-time drug charges, the focus should be on rehabilitation. However, for the repeat criminals, we definitely should be looking at incarcerating them for a very long time, not just as a deterrent but to remove them from society and keep our people safe.

However, Mr. President, as is typical, the devil is always in the details with these, and I would like

to compliment the Committee for coming up with some great ideas and proposals.

But through you, Mr. President, I would like to ask Chairman McDonald a few questions on some of the specifics.

THE CHAIR:

Senator McDonald.

SEN. DEBICELLA:

Thank you, Mr. President. First, I'd like to talk a little bit about the reentry programs that we're talking about because it is so important to try to treat the nonviolent, non-habitual criminals.

And one of the questions I had in looking through this is around success metrics because we are going to be putting more money into these programs, and we're going to be talking about this going into the General Session.

How do we know when we're being successful? And how can we actually measure whether or not we are

going to be investing this money to reintroduce these people into society? And how do we change direction midcourse if we find we're not being effective, through you, Mr. President?

THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

Thank you. Through you, Mr. President, to Senator Debicella, in our Committee hearing, we heard testimony about, well, let me first say reentry programs are not new, and they have been successfully used in Connecticut and other states for years and years with great success.

To your question though, Senator, in our public hearing on this issue, we heard testimony from several individuals, including a research professor at Yale, who is actually currently involved in doing those benchmark studies.

And though the data is not yet statistically significant enough, because there's not been enough time, it appears that the recidivism rate for people who have been engaged before, shortly before they are released and have the support services after they are released do tremendously better in the community and are much less likely to recidivate.

And in particular, I should say these reentry programs are not merely getting people re-acclimated to society and connecting with family or other support structures but also helping that individual find a place to live, helping that individual find a place to work.

So while the information we have is not conclusive, the initial, and perhaps Senator Kissel can correct me if I'm wrong because I don't have the data in front of me, but my recollection is that the early indications were that successful reentry

programs bring down the recidivism rate from about 40%, and the early data was 5% or 6%.

And so we are waiting for greater data to draw broader public policy conclusions. But what we are seeking to do is not cut those programs, as is currently the plan, and at least keep them in place so that we can get a more statistically relevant set of data to perform those measures.

THE CHAIR:

Senator Debicella.

SEN. DEBICELLA:

Thank you, Mr. President, and I thank the Chairman for his answer. That makes complete sense. And look forward to actually seeing that because I think we should be tracking the progress of these programs to make sure they are effective and change them if they're not being effective.

Just one other question through you, Mr. President, to the Chairman, and that's around to the

point that Senator Gaffey had just made, which is, you know, there obviously was a failure in the system in the Petit case.

But it wasn't just a people issue. It was also an information technology and a process issue. And through you, Mr. Chairman, because there's some great stuff in this bill, if the Chairman can just address some of the IT changes and the process changes that are going to go on with the Parole Board to actually enable better decisions to be made in the future, through you, Mr. President.

THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

Thank you, Mr. President. Through you, if I understood the question correctly, it's specifically related to the Board of Pardons and Parole's information?

SEN. DEBICELLA:

Correct.

SEN. MCDONALD:

Thank you. Through you, Mr. President, under this proposal, the Board of Pardons and Parole would be required to have complete information before it considered any application for parole.

In specific, Mr. President, the board chairman would have to certify that, to the best of his knowledge, all available information had been secured. That would include, among other things, the police report.

It would include the pre-sentence investigation report. It would include the victim impact statements. It would include the transcripts of sentencing. And it frankly could include many other things.

Part of the problem, going retrospectively, is that many of the documents we are talking about are not locatable or have been destroyed. There have been

unfortunate circumstances where records have been kept in basements, and there have been floods, and the documents have been destroyed.

So there is no way to absolutely guarantee that every document would physically be in the possession of the board, but the board chairman would have to take personal responsibility for certifying that every document known to exist, and after diligent efforts, had been obtained, before the consideration of the application, if that answers the Senator's question.

THE CHAIR:

Thank you, Senator McDonald. Senator Debicella.

SEN. DEBICELLA:

Thank you, Mr. President. And again, I thank the Chairman. It does. One final point, Mr. President, and before we go on with the debate and discussion, there is one area where the bill is lacking.

And I'd be remiss if I didn't address it, which is where, as we are doing a lot of good things to

actually try to increase our rehabilitation of nonviolent, first-time offenders, the area where we could go much farther is removing the persistent violent criminals from society.

And the so-called strengthening of the persistent offender law that is in the current bill is not a three-strikes law. And in fact, the persistent offender law, as we have seen it, has been a failure.

There are currently, from my understanding, only 30 criminals in jail in our entire system who have gone through the persistent offender statute.

And because of this, if we are looking just to strengthen this, rather than putting in place a stronger three-strikes law that will remove repeat criminals from society, I don't think we're doing justice to that side of the equation, which I think philosophically, we're all aligned with.

So I hope our discussion and amendments that will follow will address that weakness, Mr. President, and I thank the Circle for its time.

THE CHAIR:

Thank you, Senator Debicella. Senator Crisco for number two.

SEN. CRISCO:

Thank you, Mr. President. The first was a question, I appreciate that. In regards to this historical legislation, I want to commend Chairman McDonald and Chairman Lawlor and the Ranking Members, Kissel and O'Neil and the rest of the Judiciary Committee for a magnificent effort in addressing this issue, and also to the Governor, her taskforce, for their attention.

Mr. President, it's unfortunate that we have to react to an incident, but it's still also realistic that we cannot foresee the future.

But what our action does today, and hopefully similar action in the House and by the Governor, will give many people in the State of Connecticut a peace of mind that they haven't had before because of this incident.

We will never rectify the situation or can never correct the pain and suffering that Dr. Petit and the relatives of that family have endured.

But what we can do is assure that the process does work and whenever possible, I know Chairman McDonald will pursue this, wherever we can establish creativity and look forward in reviewing what exists today and how we can make it better to make Connecticut a better place to live. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Crisco. Senator Kissel.

SEN. KISSEL:

Thank you very much, Mr. President. As I had alluded to earlier this afternoon, we were waiting for an amendment, and that amendment has arrived. So at this time, I'd ask the Clerk to please call LCO 10099.

THE CHAIR:

Mr. Clerk?

THE CLERK:

LCO 10099, which will be designated Senate Amendment Schedule "A". It is offered by Senator McKinney of the 28th District.

THE CHAIR:

Senator Kissel?

SEN. KISSEL:

Thank you very much, Mr. President. At this time, I move adoption of the amendment, waive a reading, and ask leave to summarize.

THE CHAIR:

Please proceed, Sir.

SEN. KISSEL:

Thank you very much, Mr. President. The amendment that we have before us this afternoon colloquially has been described as the three-strikes amendment. It is very closely patterned after the, what I would call, compromised proposal offered just a few weeks ago by Governor Rell.

And it's my understanding that leadership has spoken to the Executive Branch and that she's supportive of the amendment we have before us this afternoon.

Essentially, the amendment was tailored very narrowly to address what many folks believe to be the lack of utilization by the court system of the persistent offender statutes.

It is called three strikes, and you're out. But I guess perhaps it should be called three strikes, and you might be out, because indeed, as with any other criminal statute, it is up to the state's attorney as

to whether he or she will charge an individual with this crime, should this become law.

Now we've heard a lot, and I would almost say that detractors of a three-strikes proposal have almost demonized it by pointing to the State of California and showing how a third crime under their three-strikes-and-you're-out provisions of even stealing an apple might result in someone doing 25 years to life in their facilities.

And without a doubt, it's pretty darn clear that the State of California has big problems with its inmate population and its inability to gain control with that, even so far as to possibly have federal intervention.

At the outset, I want to state that those individuals who helped draft this amendment, and in particular, Senator Caligiuri deserves an awful lot of credit, combed through the criminal statutes that we have in the State of Connecticut and selected just

those crimes which rise to the level of being violent offenses. That's first.

Second, to distinguish this proposal from the one in effect in California, it doesn't take the commission of any felony to give you your third strike. You have to be found guilty of one of these violent offenses.

So an individual, we're talking about a very narrow group of individuals that have been judged guilty of committing a violent offense against innocent victims in our state, not once, not twice, but three times.

And what we're saying is three times is probably three times too many, and you will be sentenced to life in prison.

We have adopted Governor Rell's suggested review after 30 years. After the individual has been convicted and has been sentenced to life, that individual, upon request, can have a review by a

three-judge panel, selected by the chief court administrator.

The three-judge panel is a slight variation of what Governor Rell had put forward. The other slight variation, and I would draw your attention to Lines 23 through 25, indicate that this review would take place, in nearly all instances, after 30 years but that in no circumstances would it occur sooner if the underlying crimes, in totality, would indicate that a person would not be eligible for release under parole until a later date.

And that's language that was inserted in response to concerns raised by our colleagues on the other side of the aisle, specifically Representative Lawlor, who I see is in the Chamber with us this afternoon, and Senator McDonald.

Because we wanted to avoid the unintended consequences that if an individual was sentenced under three strikes, that that would be less of a possible

prison sentence than if they were sentenced under other statutes, where perhaps the totality of the sentences were consecutive sentences.

And so we listened to our friends on the other side of the aisle, and we've attempted to fashion this legislation in response to that.

The reason we're doing this is because many of us have heard from our constituents and other folks in the state and feel, and I believe, I can't speak specifically for Governor Rell, but I've heard her on a number of occasions saying, if you commit one of these crimes, and you've been found guilty three times, enough is enough is enough.

And we don't want people going into corrections on the installment plan and just getting cycled out and committing these horrible, violent crimes and creating a new set of victims.

So in a nutshell, that's the three-strikes proposal. I think it's fair and balanced. Certainly,

a ton of time has gone into addressing and listening to the concerns raised by folks throughout the State of Connecticut.

I have indicated, Mr. President, that I urge adoption, but at this time, Mr. President, I would like to yield to Senator Caligiuri, if he would accept the yield, in support of the amendment.

THE CHAIR:

Senator Caligiuri, do you accept the yield?

SEN. CALIGIURI:

Mr. President, I do.

THE CHAIR:

Please proceed, Sir.

SEN. CALIGIURI:

Through you, thank you, Senator Kissel. My colleagues and my friends, as many of you know, this is an issue that I've been working on very hard since this broke this summer, along with a lot of other people.

And I know that each and every one of you has thought long and hard about this issue and about this package. And perhaps some of you may have made up your minds already on whether you think three strikes is good as a matter of public policy for the State of Connecticut.

But I would ask you to indulge me just once, since this is the only chance I've had to speak to this entire body about why, in the core of who I am, I am absolutely convinced, as a matter of public policy, that enacting three strikes and you're out, in the form in which we have crafted, is appropriate and wise as a matter of public policy and in fact is important for the goal of achieving what we're trying to achieve here today, which is trying to make the people of Connecticut safer.

The overall objective of three strikes and you're out is to give prosecutors an additional tool that they can utilize to impose the most difficult,

rigorous, and appropriate mandatory minimum sentence on the most serious, repeat, violent criminals.

The notion of a mandatory minimum sentence is not new. This General Assembly has adopted it in many different forms over the years and current, including in the persistent offender statute, to some extent.

So to the extent that you're sitting there resisting the notion that a mandatory minimum sentence is appropriate, let me suggest to you that that horse has left the barn because this body over the years has expressed its support for mandatory minimum sentencing.

So the only real issue is is it appropriate in this case? When people think of three strikes and you're out, they think of the State of California, where if you have two felony convictions for violent crimes, any third felony puts you away for a minimum of 25 years to life.

And that's become the lightning rod when people think about three strikes and you're out. But we do not believe that is reasonable.

Rather, we think the reasonable course of action, the better course of action, for the people of Connecticut is to focus narrowly on individuals who commit three serious, violent crimes, arson, rape, murder, manslaughter.

It is hardly debatable that the crimes that we list in our amendment are among the most violent that one can commit against another.

And I stand here today to say if our system has tried twice to rehabilitate these people, to make them constructive, positive members of society, and they have consistently resisted our best attempts to do so, shouldn't we say to those individuals, upon the commission of that third serious, violent crime, you have forfeited your right to continue to be a member of our society?

You must be incarcerated because we've tried our best, and you've said time and again, I'm not going to be fixed. Either I can, or I don't want to.

We should say, as a matter of public policy, to that small handful of individuals, who notwithstanding their small number, can have a disproportionate, horrific impact in the lives of real people, you, Sir, you, Madam, should be in jail for life.

Now I've heard it said that the fix we've made to our persistent offender statutes is an adequate substitute for three strikes and you're out. In fact, I've heard it said, it's better than three strikes. And let me explain why I don't believe that's true.

First of all, the fix that we're making to the persistent offender statutes, which is a very important fix, is one to address a constitutional problem that was identified by the Connecticut Supreme Court, a technical problem, about who should be making a finding of fact, the way the statute was originally

drafted, as to whether the individual is appropriate for an enhanced punishment.

We're fixing that because we need to fix that to make our persistent offender statute workable. And that's a good thing, but that's not three strikes and you're out, Ladies and Gentlemen.

And let me reference something to you. I started off by saying that three strikes is about a mandatory minimum sentence. The most serious category under our persistent offender statutes is for a persistent, dangerous felony offender.

Most of the crimes that we have in our list to which three strikes would apply are included in this category of persistent, dangerous felony offender. But please hear me, my friends, please hear me.

In our persistent offender statute, there is no minimum mandatory sentence for an individual who has been convicted once, twice, or three times and who is

found to be in this heinous category, known as a persistent, dangerous felony offender.

You know what this statute does? It creates a mandatory maximum sentence, but what does that mean? That means that all the law says is if an individual is in this category, you can't sentence him or her to more than X, to more than Y.

It doesn't say, as a matter of public policy, that they must be sentenced to a minimum of X or a minimum of Y. That's the difference. Please, just because our persistent, dangerous felony offender category here references the commission of a third crime in this category, please don't equate that to three strikes because it's not.

All it is is it says that a judge can sentence up to a certain amount of time. This is not three strikes.

It is a mandatory maximum, not a mandatory minimum, and the people of Connecticut are saying, my

God, if you do nothing else up there, have the most serious repeat violent criminals stay away for a long time.

This law, even with the fix that we're making today, which we have to make, doesn't do that, my friends. It doesn't do that at all. I've heard a lot about discretion and who should have discretion. And people say, you know, I think a judge should have discretion.

But as Senator Debicella pointed out, for whatever reason, we only have 23, 30 people incarcerated out of approximately 2,400 in our system who already have 2 strikes against them, who have been charged under our persistent offender statutes. That is hardly a workable statute that's being utilized.

It's not working. And we need to give the prosecutors that additional tool. And that's where the issue of discretion is. It's not a question of

whether there will be discretion. It's a question of who will have the discretion.

Please hear me, instead of having a judge have the discretion to sentence up to a certain amount of years, why not give prosecutors, who are on the ground day in and day out, who can look the bad guys right in the eyes, and who can assess, based on the facts and circumstances of each and every case, which case is it most appropriate to say, you, Sir, do not deserve to be out on the streets again, and we're going to charge you under our three strikes and you're out statute.

It is a false notion to argue that three strikes removes discretion. It doesn't. The reality is it gives the discretion to the prosecutors rather than to the judges.

And what I would argue for many reasons, including the fact that the judges are not using it, that it is more appropriate to give it to the

prosecutors who are on the front line of the criminal justice system.

I've also heard it said that three strikes will add to our prison overcrowding problem in Connecticut. I will tell you that based on numbers that the Department of Corrections has given us, there are 435 individuals walking our streets right now who have 2 strikes against them the way we've defined an eligible offense.

We know, from an eastern Connecticut state university system study that Commissioner Lantz cited in her testimony before Judiciary, that we have an average recidivism rate in Connecticut of 39%.

If that's true, 166 approximately of the 435 people who are walking our streets are going to commit a 3rd crime. They're not all going to commit a third strikable offense. But if they do, incarcerating an extra 166 people over a period of time is not going to overburden our prison system, it's not.

What it would do, I would urge you, is help make Connecticut a little bit safer. This is not designed to cast a broad net.

This is designed to narrowly focus on the most serious repeat violent criminals. How can you go back home to your constituents and explain to them why it is not good, as a matter of public policy, to tell someone who's committed three rapes that he shouldn't be behind bars for life? Why? How can you do it?

I can't. And I would say, especially as evidenced by the fact that over 44,000 people have signed a petition encouraging us to enact a three strikes and you're out law, and when is the last time we saw that level of grassroots support for any issue, that the people of Connecticut intuitively, instinctively understand, as a matter of common sense, that the most serious repeat violent criminals should be incarcerated for a long time.

That's what three strikes does. Our current law doesn't do it. People have argued that, as I indicated, the lack of judicial review and judicial discretion is a problem.

And so to try to deal with that, we've incorporated, at the Governor's suggestion, which we think is a wise one, the opportunity for a judicial review of the sentence, which is not a new concept because we already have a sentencing review process on the books in Connecticut, by a 3-judge panel, an opportunity after 30 years or longer period if the 85% of the sentence under which they were convicted is one that would allow them to serve, and require them to serve, for longer than 30 years, a review.

So there you go. We have found a way, thanks to the Governor's leadership, to incorporate some element of judicial review into this process without ruining the fundamental goal of the three strikes, which is to

impose a tough mandatory minimum sentence on the most serious repeat violent criminals.

My friends, I don't know how else to say it. My goal today was to leave it all on the playing field, and I'm about to do that, and we'll do that certainly by the time this day is over.

But I got to tell you, we've disagreed on things from time to time, and I and others have tried very hard to anticipate all the concerns, to hear the concerns, to react to them, and to draft something that's good for the people of Connecticut.

Let me leave you with one other question, and I ask you to please consider this. If this law helps to save one person because it allowed a prosecutor to incarcerate for life someone who turned out to be a horrific character, wouldn't it be worth it, especially when, if you do a dispassionate review and analysis of this bill, the downside risk is minimal, as I believe it is.

This is a clear example, in my view, of the potential good, tremendously outweighing any potential costs or bad. I look forward to a healthy debate.

You know I don't typically make long speeches, but I thank you very much for your indulgence and your attention, as I've had the opportunity to share this. And with that, I yield back to Senator Kissel.

THE CHAIR:

Senator Kissel, do you accept the yield back?

SEN. KISSEL:

Yes, I do, Mr. President.

THE CHAIR:

Please proceed, Sir.

SEN. KISSEL:

And again, I would, at the outset, commend Senator Caligiuri for his impassion and thoughtful arguments and all the efforts he has made to try to fashion what can only be said as Connecticut's version of three strikes.

I want to also commend Senator McKinney, Senator Fasano, who have taken incredible leadership positions regarding this and all the other criminal justice reform proposals, Governor Rell and her very thoughtful efforts regarding three strikes, which does engender some spirited debate and differences of opinions, Minority Leader Cafero and my colleague in the House, Representative O'Neil.

I'll just leave you with this. I believe, for the vast majority of folks in our state that are criminals, I believe in redemption. This amendment does not cast with a broad brush aspersions at whole groups of individuals.

One of the reasons I support the underlying legislation is because I believe it sensibly and thoughtfully targets reentry and building bridges to allow individuals that have committed crimes to reenter society and our communities who want to turn their lives around.

But without a doubt, if an individual has done one of these crimes, not once, not twice, but have been adjudged guilty three times, to my mind, that has created three too many victims, and we just need to take a tough stance with those individuals.

And to Governor Rell's great credit, she listened to the public, a public that said there needs to be a safety valve, there needs to be some element of judicial discretion in the process, and we have crafted a compromise with a narrow set of crimes, predicate crimes, along with the possibility for judicial review after 30 years, or longer if the underlying convictions would result in a sentence that under this amendment would address that.

Therefore, Mr. President, I urge my colleagues in this Circle to vote yes, and I urge adoption of this amendment. Thank you.

THE CHAIR:

Thank you, Senator Kissel. Will you remark? Will you remark further on Senate Amendment "A"? Senator Meyer.

SEN. MEYER:

Thank you, Mr. President. This is a very populoused amendment. On the surface, it appears to be tough on crime, but it's not a smart amendment.

The law enforcement community generally, from judges who sentence criminals to prosecutors all across the country, including, of course, defense lawyers, have felt that mandatory minimum sentences basically do not work.

They're particularly unfair on women who have often been coerced by aggressive males to commit crimes, crimes very often of passion. The biggest example of that was in 1972 when New York passed the Rockefeller Drug Law, which did something similar to this amendment before us today.

It imposed a mandatory minimum of people found with drugs, hard drugs, of 25 years to life, and New York is still paying the penalty for passage of the Rockefeller Drug Law as hundreds of women, young people, and minorities were found guilty of these crimes, very often coerced by others.

And defense lawyers have been trying to break that law and recently have broken that law. Have you noticed who was opposed to this amendment? Very significant, the two best prosecutors in Connecticut are opposed to this amendment.

Our Chief State's Attorney, Kevin Kane, and the Public Safety Commissioner, John Danaher. John Danaher is one of the great federal prosecutors that Connecticut has ever had.

Kevin Kane is State Prosecutor of renowned integrity, who has been a tremendously successful prosecutor in Connecticut for many, many years. They are opposed to this.

Did you notice that the Office of Legislative Research and Report in the last week came down and pointed out that this amendment is a very weird amendment because actually, it permits inmates to get out after 30 years, not serve a life sentence that the proponents say but actually permits them to get out at 30 years. It's inconsistent.

In some ways, the bill that we have before us today is stronger than this amendment. Did you notice that Quinnipiac did a poll with respect to this amendment and that 63% of the state residents polled said that they did not agree with the mandatory minimum sentence that this amendment would provide?

Did you notice what the *Hartford Courant* today said, namely, that such a bill as this, such an amendment as this, I'm quoting, would tie the hands of prosecutors and judges who should have discretion in charging and sentencing. It's an unnecessary distraction, close quotes.

This is a populoused amendment. It's very difficult to vote against it. I was a tough prosecutor.

I'm part of a law enforcement community that believes, very unfortunately, that mandatory minimum sentences of this kind, that take away the good discretion of jurists who are trained with respect to the application of criminal law, that this would be a travesty, and has been a travesty in other parts of the United States where it's been enacted.

The proponents refer to horrible, violent crimes. You know, I was chatting with some of you earlier today about the new law, which I will vote for, of course. It's a very good, balanced law, but it creates a new crime, the crime of home invasion.

And on the surface, because of what happened in Cheshire, we think of home invasion in the most awful, terrible, tragic terms.

But as the sponsors of the current bill that's before us today have said, a person could go into a house, who is an alcoholic, steal a bottle of vodka from the house when the family was sleeping.

And if that alcoholic had a nail file or a screwdriver or a jackknife on his possession, he would be guilty of the new Class A felony of home invasion. The same would apply to a person hungry who went into a house and stole a loaf of bread.

The fact is that when we've passed mandatory minimum sentencing for what we believe is bad, violent acts, the human condition is such that it doesn't always happen that way. And bad things are done, and bad results occur.

So I'm saying to you stick with the bill that's been brought to us by Senator McDonald. It provides that after 2 violent criminal convictions, that a judge can sentence up to 40 years in jail. And after

three such convictions, a judge, after looking at the facts, could sentence a person up to life in prison.

I urge you not to take that discretion away and lead to the kind of situations we've seen across the country where travesties have occurred. This is a good bill. This is a good, balanced bill. And to pass this amendment will take the balance out of it. I urge you to defeat it. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Meyer. Will you remark? Senator McDonald.

SEN. MCDONALD:

Thank you, Mr. President. Mr. President, I rise in opposition to the amendment. And first a housekeeping matter, Mr. President, when the vote is taken, I ask that it be taken by roll call.

THE CHAIR:

So ordered, Sir.

SEN. MCDONALD:

Thank you, Mr. President. Mr. President, if I understood some of the proponents of this amendment correctly, and I certainly hope I understood it in error, there is a suggestion that somehow, if you're opposed to this amendment, you are opposed to heightening the sense of safety in the State of Connecticut.

And I certainly hope that's not the suggestion here today. The public safety of the people of the State of Connecticut is not a Democratic or Republican issue. It is not a House or a Senate issue.

It's all of our concerns, and I am certain that every Member of this Circle wants to do their very best to ensure public safety. The question is not whether it's going to be a Democratic or Republican issue. The question is are we going to deliver results that matter?

Are we going to deliver results that matter? And when you look at this proposal, and Senator Kissel

suggested that we are, in the underlying bill, trying to target some sensibly and thoughtfully crafted proposals to improve public safety in the State of Connecticut.

Many of those proposals were directly the result of the Governor's taskforce. They were sensibly and thoughtfully considered. What was not considered, or I should say, what was not approved by the Governor's taskforce was this amendment, was this amendment.

So let's just recall for a moment that that body was comprised of the professionals. That body had the prosecutors, both state and federal. That body had the top law enforcement official of the state, the commissioner of public safety.

That body had the commissioner of the Department of Corrections. That body had the police chiefs of some of our finest police forces in this state. That body had the legal academics who study this stuff all the time.

The Office of Policy and Management had their professionals in criminal justice on that taskforce as well. Does it not strike everybody in this Circle as remarkable that the taskforce would not embrace this proposal? Why?

Because we know from experience from around the country it's doesn't deliver results. It sure as heck may provide for some great bumper sticker mottos, but it doesn't present results.

So to suggest that by adopting this amendment, we're going to make the people of the State of Connecticut safer is false. Prosecutors don't want it. The states that have adopted it have come and testified to us about how poorly it is implemented in their states.

The State of California, which has it, is entertaining a mass release of 27,000 inmates and is facing a billion dollar price tag for building new prisons. And their rate of incarceration is not

better than the State of Connecticut. California is not safer than the State of Connecticut.

And yet, they've had this proposal in place for years. It hasn't delivered results. Offering false promises to the public, I suggest, does a great disservice to what they sent us here to do.

And I would also have to remark, Mr. President, that though it did not limit the scope of what we are doing here, much of what we focused on in this Special Session, as opposed to the regular session, is to address what we identified as glaring problems from the Cheshire tragedy.

And I think it bears noting, for everybody here and for the people who might be watching this, that this proposal wouldn't have done anything to make the people of Cheshire or the State of Connecticut safer.

Neither of those defendants would have qualified under this proposal. Neither of them would have qualified. So to suggest that somehow, this would

have been part of a grand scheme that would have made the people who signed a petition safer is a false suggestion.

I suggest, however, that we should listen to the law enforcement professionals. Just quickly looking around, I don't know that any of us have the credentials that were brought to bear in the Governor's taskforce. We're not on the front lines.

The victims' advocates don't want this. Doesn't that strike you? The victims' advocates don't want this. The people who prosecute it don't want it because it doesn't work. And you know, the fact is, as Senator Meyer noted, 63% of the State of Connecticut gets it.

We need to understand that each case presented to a court has to be judged on its individual merits. Absolutely, there are situations where somebody who is convicted of multiple offenses absolutely should be put away for life.

That's why our proposal allows a judge to do it. Judges are the ones who sit day in and day out and listen to these cases and understand the complexity of it and understand the complexities that prosecutors face when they bring these cases to court.

We don't. The judges do. The prosecutors do. The Judicial Branch doesn't want this. The prosecutors don't want it. The law enforcement officials don't want it. But I also want to note that the underlying three-strikes proposal in our bill is stronger in fact. Absolutely, it is stronger.

Under that proposal, a judge can sentence somebody to life in prison for a third strike, life in prison. Under our laws, that is defined by at least 60 years. And that individual would not be eligible to even apply for parole until 85% of that sentence had been served.

Do the math. It comes out to 51 years. Under this amendment, that same individual could ask for

judges to release them after 30 years. Why is that better? Why is that better?

And after 30 years, judges, who apparently, in the first instance, we don't think should have any discretion in sentencing somebody to life in prison without possibility of release, somehow 30 years hence, their discretion makes sense.

Well, where is the logic in that? 30 years later, when you don't have the victim in front of you? When you don't have the prosecutor who prosecuted the case? When you don't have the law enforcement officials who investigated the case? When all of it is stale?

That's when we're going to say, judges, step up and do your job now? And on your discretion you can release somebody from prison after 30 years?

Seems to me that in the first instance, when they have all the people in the room, when they have the ability to listen to the victim testify in person,

that's going to be more meaningful at that point in time, not 30 years hence.

I also have to say that I am still intellectually struggling with one of the fundamental premises of this amendment because under this proposal, you would be sentenced, without discretion, in the first instance, to a term of life imprisonment without possibility of release.

Now my understanding of the law, and my understanding of the English language, leads me to believe that that means you are sentenced for the rest of your natural life in prison, except 30 years later, you can apply to get out. Where's the truth in sentencing with that?

Life in prison without possibility for release means forever, not with an asterisk, not with a footnote, except in 30 years, you can try to get out.

Now I'm also struggling to figure out how one might apply under the exception here that you could

ask for it if it otherwise wasn't covered by another provision of the General Statutes.

Well, if that's true, then we're talking about somebody who was convicted of aggravated assault, sexual assault with a firearm, right. You're facing a lengthy prison sentence, and under this, it's life in prison without possibility of release.

Can somebody calculate 85% of life in prison without possibility of release for me? It's illogical. It doesn't make sense. I understand the sentiment, but the draftsmanship doesn't work, which is exactly what we're trying to fix in the underlying bill.

Senator Meyer correctly noted that in the decision released by the Connecticut Supreme Court in *State v. Bell*, they identified a flaw in our three-strikes law. We are correcting that flaw today. It will in fact be a workable three-strikes law that can have results.

And in fact, as it was pointed out, your second strike can lead to 40 years in prison, on top of whatever the second-strike crime was. You can get an additional 40 years.

And if you actually get by that one, on the third strike, it's life, life in prison. That's going to be the statute that makes people safer in the State of Connecticut.

Suggesting that we're going to have 85% of some undefined period of time within which to have the life in prison without possibility of release sentence absolved for that inmate doesn't make sense, Ladies and Gentlemen.

And I certainly hope, I certainly hope that we are not going to put forth legislation like this, that law enforcement officials have rejected, that the leading scholars of the country have rejected, so that we can feel better about ourselves. It's not feeling

better about ourselves. It's making the people of the State of Connecticut safer.

THE CHAIR:

Thank you, Senator McDonald. Will you remark? Will you remark further on Senate Amendment "A"? Senator Gomes?

SEN. GOMES:

First of all, before I speak, my heart goes out to the Petit family and the horrific crime that was committed in Cheshire. But there are horrific crimes committed all over the State of Connecticut, and in some of the areas that they are committed in, it is never hardly noted.

I've seen the results of crimes in Bridgeport, the famous [inaudible] a person who killed somebody in a barbershop in a chair, and because a child was a witness to it, calculated where the child lived and went and killed that child and the mother.

First of all, this law, any laws that we're making today for improvements would not have helped what happened in Cheshire. It would not have prevented it. It's just irresponsible to pass policies based on one crime or one tragedy.

And it is not as widely publicized, but there are tragedies committed in many communities in Connecticut. And we need to look at alternatives to incarceration and not make new policies that will put more people in prison for longer periods of time.

This three-strikes law produces unintended consequences in the communities that affect people of color. Blacks are 12 times more likely to be incarcerated in the State of Connecticut, and Hispanics are 6 times more likely to be incarcerated in the State of Connecticut than whites.

These harsher sentences impact the communities that I come from. And I don't intend to look down on other communities that have a tragedy like they had in

Cheshire. They speak of the petition that came out of Cheshire.

Certainly, you can gather 3,000 petitions in 1 community or 1 section of the State of Connecticut that would say, we need to act and change the laws. Other communities had the same problem and did not come up with the petitions, and maybe they should have.

I am not in favor of a three strikes and you're out, and the reason I'm not in favor of it, I don't much like what's in place right now because my community has suffered under that.

But for us to pass a three strikes and you're out, or you're incarcerated for life makes no sense because it does not cure any of the problems, just like the death penalty does not deter people from killing people.

I've always been against the death penalty. And I'm also against measures that would put people away

for long periods of time without the due consideration that the courts would give them.

Just as my friend over there had said, 63% of the people in the State of Connecticut do not want you to give up judicial discretion. It doesn't always serve some people, but it serves the most, and it's the fairest.

In my community, they have a saying that says justice means just us. And when they say just us, they don't mean the community. It means just some other people making determinations on how long you're going to live your life in prison.

Like I said, we need other alternatives to incarceration. People that are being spilled out of prisons have nowhere to go. They cannot get a job. People don't want them in their community. So what happens?

We have this recidivism you're talking about because these people know nothing but what they do

because nobody will give them an opportunity to do anything else.

If we're to have any sort of fair justice system, you've got to look at what has happened on a constant basis, rather than one or two incidents.

And for these reasons, and other reasons that have been mentioned by other Senators here, I will come out for the bill that has been proposed, but I am opposed to the amendment that has just been spoken of. Thank you.

THE CHAIR:

Thank you, Senator Gomes. Senator Cappiello.

SEN. CAPPIELLO:

Thank you, Mr. President. I rise in support of this amendment. And I think sometimes we overcomplicate things in this building and in this Chamber. You know, I've heard a lot of talk about what people want in our state.

I can only speak for the people in the 24th District, people that I've spoken with. And I'm not sure who Quinnipiac spoke with when they did their polling, but I know that the majority, overwhelming majority, of people that have spoken with me support a strict three-strikes-and-you're-out law.

I'm also a little confused at the fact that we're even bringing up polls in this Chamber and saying that we're on the side of the angels because we support the people who were questioned, the Quinnipiac polling, and that's one of the reasons why we want to go that way maybe.

Even though last year, there was a poll on the tax proposals that were in this building, and yet, people didn't care about the polls last year when the majority of folks, vast majority of people, didn't want us raising any taxes.

There have been polls on same-sex marriage and every other major issue that came along the pike in

Connecticut, but at times, people can turn a blind eye to what the polls say, and then when it serves their purpose, we can cite those polls. And that happens on both sides of the aisle, we know that.

But we really shouldn't be making our decisions based upon polls anyways. We should be making decisions based upon what we think is the right thing to do for our constituents and for our state.

I for one think that the number one purpose of government is public safety and that we should do whatever we can do to make sure that the people within our districts and our state are as safe as they possibly can be.

I've heard tonight that, you know, our bill is weaker than your, and we have a stronger proposal. Even though we're against three strikes and you're out, we still have a three-strikes-and-you're-out bill, and it's better than yours.

And I've also heard that we're opposed, some people are opposed to three strikes and you're out, but I'm going to support the underlying bill, which, as some people have mentioned, is a three-strikes-and-you're-out bill.

It's very, very confusing for people who, I think, who are paying attention to us tonight and watching us on TV and are going to read about this tomorrow in the papers to understand what we're doing.

I think simple is sometimes much better and that a strict three-strikes-and-you're-out bill would go a long way, and people would understand it. They would understand that if you're a dangerous felon, and if you committed the crime once, twice, three times, you're going away for life.

Some think that's not fair, that it doesn't help people. It helps the people who are afraid and lock their doors at night because they don't want someone

breaking into their home. They don't want to be harmed.

And if the recidivism rate is at 39%, and someone commits three dangerous felonies, they should go away for a life. It would make our constituents safer. It would make our families safer. And it's just the right thing to do.

So again, Mr. President, again, I rise in support of this amendment. I hope it passes, and I hope that we can do the people's business in accordance with the way people in our districts feel. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Cappiello. Senator Coleman.

SEN. COLEMAN:

Thank you, Mr. President. Mr. President, I rise also in opposition to this amendment. And I oppose this amendment because this three-strikes proposal

bears no rational relationship to what has occurred, unfortunately, in Cheshire.

This three-strikes proposal is a merely symbolic gesture and is perhaps designed to make us look like men and women of action who are tough on crime. I'm actually, Mr. President, disappointed that we're here in Special Session.

And first and foremost, I'm disappointed that we're here in Special Session because this Special Session was called in response to the incident that occurred in Cheshire. And obviously, if that incident hadn't taken place, we wouldn't be here in Special Session.

So in that sense, I'm very disappointed that we're here in Special Session. And my condolences go out to Dr. Petit and the other surviving family members and friends of the victims of the horrendous crime that occurred in Cheshire.

As well, my sympathies and condolences go out to the many surviving family members and friends of the crime victims, the victims of horrendous crimes that have occurred in the State of Connecticut.

Many of those crimes have not received the governmental and the political response that this particular incident has received, and so I'm sort of disappointed that we're here in Special Session because being here in Special Session causes me to have to respond to the questions of my constituents who ask are the lives of the people in our community less valued than the lives of the people in Cheshire?

And I said in the Judiciary Committee that I don't argue that we should take the severe response to horrendous crimes in Cheshire, but also, we should take a tough stance in response to horrendous crimes everywhere else, in Senator Gomes' district in Bridgeport, in my district in Hartford, in various other places around the State of Connecticut.

I think all of those incidents deserve the kind of care and attention that the incident in Cheshire has received.

All too often, we make an emotional response to incidents of this nature. And we're human, and therefore we are emotional. But I am very concerned that sometimes the emotion becomes haste.

And I've been here a while, so I'm all too familiar with what can occur when we, in this institution, act hastily. Let me just cite some examples.

After some horrendous crime has occurred, typically what will take place is a debate concerning whether our correctional centers are for the purpose of rehabilitation or for punishment.

And when we feel that we have to portray ourselves as tough on crime, we argue that our correctional centers are primarily, if not purely, for punishment.

So we eschew rehabilitation, which is a shortsighted approach to criminal justice in the State of Connecticut because we lose sight of the fact that eventually, the people in our correctional system who we are punishing without any kind of rehabilitation will eventually return to our communities.

And when they return, they're not better than they were before they were moved from our communities. In fact, in many instances, they're worse. And that doesn't do anything for public safety in the communities that they're being returned to.

That creates the potential for worse public safety in the communities that these now-hardened criminals are returned to.

And it doesn't do anything for the offender or the offender's family, except almost certainly guarantee that that individual will recidivate and will eventually return to the correctional system.

Somebody said, as another example, that crack cocaine is a much more dangerous drug than powder cocaine.

And so in our wisdom, we created penalties that were much more severe for the possession of crack cocaine, only to find out down the road that there is in fact no difference in the effects of crack cocaine being ingested as to powder cocaine.

And so we created the disparity that existed for a fairly long time, until a few years ago. We corrected that disparity, or so we thought. And somebody said at some point in time that juveniles were being recruited in order to work for drug dealers or to commit crimes on behalf of criminals.

And so in our wisdom, we moved to treat juveniles as adults and incarcerate juveniles and give records, adult criminal records, to juveniles and build multi-million dollar maximum prison facilities and euphemistically referred to them as training schools.

We're human. We act emotionally. That's true, but when we act emotionally on symbolic proposals, to make us look tough on crime, what we do is almost guarantee that unintended consequences will occur. And I'm also concerned that disparate consequences will occur.

The individuals who committed the crime, the horrendous crime in Cheshire, were not people of color.

But if we look closely at the statistics regarding the criminal justice system and the prison system in the State of Connecticut, there's a good probability that if we adopt this three-strikes proposal, that the people who will be most adversely affected by it with be poor people and people of color.

That, in my estimation, just contributes to the continuation of disparate outcomes in our criminal justice system.

Among the things that I think we ought to acknowledge at this juncture, rather than to promote a three-strikes policy, is to acknowledge that we've tried many approaches to achieving public safety.

We've spent, as others, like Senator Kissel, have noted, billions of dollars in construction of new prisons and creating, expanding capacity in our prison system. That didn't work.

We've adopted mandatory minimum sentences, and we've taken discretion away from judges, judges who I think we train pretty well and we pay fairly decent.

I'd like to see the judges have an opportunity, even in instances where individuals have committed three felonies, I'd like to have the judges have the opportunity to use their training and their discretion in order to bring about some effective result in the case that's immediately before them.

And finally, I believe that if we're serious about achieving some sufficient degree of public

safety in our communities, that we really ought to pay more attention and invest in the economic infrastructure of poor communities.

If, for example, we supported small businesses in such communities, the owners of those businesses, those businesses being nurtured could create employment opportunities for the residents of those communities and are probably more inclined to ignore the stigma of a felony [Changing from Tape 2 to Tape 3.)

--conviction than some of the major corporations who are not employing ex-offenders. And we would all probably be surprised by the fact that when people feel invested in society, when they feel they have a stake in society, represented by an opportunity to support themselves and their families, how compliant they might become with the laws of our state.

The other side of that coin is if people don't feel they have a stake, if they don't feel invested in

our society, or they could care much less of a damn about what they do, all they know is they're trying to make it from one day to the next.

And if there's a Black Market opportunity that presents itself, the likelihood is they'll continue to participate in it. So, Mr. President, I am opposed to this particular approach to arriving at some solution for public safety in the criminal justice context in the State of Connecticut.

I just don't think that it works. I'm not sure who's doing the math. By my calculation, anybody who is convicted and incarcerated for 3 violent felonies is likely to be 70 years old or more by the time they end up serving those sentences.

And that, to me, just doesn't make a lot of sense, Mr. President, so I would urge my colleagues to not feel threatened by 70 year olds or octogenarians.

I don't think that they're going to present much threat to the public safety in the State of

Connecticut. And consequently, I'd urge a vote against this particular amendment, Mr. President. Thank you.

THE CHAIR:

Thank you, Senator Coleman. Senator Kane?

SEN. KANE:

Thank you, Mr. President. I wasn't going to speak today because I truly epitomize freshman Senator, today being my first day and all, but I probably have the most fresh perspective that anyone in this room can bring, having run a special election and being elected just a week ago.

During that time, many subjects came up, obviously taxes, the economy, jobs, healthcare, and probably 50 other. But most importantly, the discussion always came back to crime, and are you going to pass a three-strikes bill?

And one of the things I promised my constituents, because I traveled all ten towns in my district, going

to coffee shops, going to diners, visiting different communities, and the talk again always came back to crime, and can you pass a three-strikes bill?

And I said to my constituents and my people in my district that, yes, I would work toward a strong, decisive three-strikes bill, and I think this amendment does that, and I am in favor of this amendment, Mr. President, thank you.

THE CHAIR:

Thank you, Senator Kane. Senator Nickerson.

SEN. NICKERSON:

Thank you, Mr. President. Mr. President, there are going to be, and there have been, expressed a variety of views on this amendment. I respect that. We should have a difference of views, and I'm sure the vote will be a divided one.

But I do think it's important that we agree on at least what the bill says, how it compares to the underlying bill. And in that regard, let me just

bring up three points. It has been said that this amendment would not have prevented the crime in Cheshire.

Obviously, in a metaphysical sense, that's true because the crime has already taken place. The larger question is what do we draw from that incident? Do we craft the bill, either the underlying bill or this amendment, specifically targeted to that crime?

I say the answer is no, because that would be a fruitless endeavor. The question we should ask, and I think we have asked ourselves, in the underlying bill is what are the fragilities, the failures, and the weaknesses in the current criminal justice system which we need to cure?

And that is what the underlying bill has done in many ways, not only with regard to sentencing, new crimes, technology, improvement of the parole system.

There's a wide variety of weaknesses and failures which were revealed as a consequence with the wake of

the Cheshire crime, and the underlying bill addresses that in the same way that this amendment does.

So it is no objection to this amendment to say that it wouldn't have prevented the Cheshire crimes any more than that would be an objection to the underlying bill. Neither would have prevented something that's already taken place.

Both are directed towards the fragility, perceived failures, and weaknesses in our criminal justice system. Second point, it is said that the sentence imposed by this amendment will have a racially disparate effect.

And I don't want to argue that one way or another but simply to say if that is the concern, that should equally be directed to the underlying bill. The underlying bill creates crimes, new crimes, of home invasion.

It creates increased penalties for burglary, and it's replete with additional criminal sanctions.

Would they not also, if the, excuse me, if this amendment is criticized in that it will have a racially disparate effect, would that not also apply to the underlying bill?

Yet, I heard no one criticize the underlying bill for that reason. So it doesn't seem to me that this is a reason for favoring the underlying bill but not favoring this amendment. They don't fit together.

Third and finally, it was said that a failure of this amendment is that it's too weak in sentencing and that the underlying bill has stronger sentencing, sending people to prison for longer terms, and this amendment would weaken that.

Well, first of all, that's an extraordinary argument because I don't think there's anything in either of the two pieces of paper that says that.

I particularly refer to Lines 23, 24, and 25, in which it is said that the onset of the review period by the Judicial Branch will commence not, not at 30

years after the sentence but rather at the later of a 30-year period or the earliest date that the person would be eligible for release under any other provision of the General Statutes, including the underlying bill.

So there's nothing in this amendment that could reasonably and fairly be said to weaken, to weaken whatever sentencing provisions are in the underlying bill, which I support, or anywhere in our criminal statute. So I want the, I was going to say I want the debate to continue, but obviously, it will.

But I hope it won't be revolving around whether we will prevent Cheshire, as opposed to learning from it. I hope it won't consider whether increasing criminal penalties will be racially disparate because that's a debate we should have had when we had the underlying bill.

And finally, I certainly hope that there won't be anyone in this Circle who will vote against this

amendment on the false ground that it weakens and diminishes the length of sentences for which people would be eligible.

I think that may have been a flaw with an earlier draft and an earlier discussion, but it's directly addressed by Lines 24, 25, and 26. I support the earlier bill.

It's an excellent attempt, a thoughtful attempt, and it goes way beyond sentencing, as I've said earlier, in dealing with parole, information technology, and a wide range of criminal justice failures. I support that bill.

I support this amendment, not because it undermines the underlying bill, but it simply takes a logical step further in imposing a sentence, with a reasonable review period, preserving, not undermining, judicial discretion. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Nickerson. Will you remark? Will you remark further on Senate Amendment "A"? Senator Caligiuri for the second time.

SEN. CALIGIURI:

Thank you, Mr. President. Just a few additional comments, and let me begin by saying, as much as Senator McDonald hopes that our debate and our views do not suggest that by voting against this, we think those who oppose it are weak on crime, let me say that I am equally hopeful that by calling this amendment populoused, Senator Meyer isn't suggesting that it's irrational and a knee-jerked reaction, because it's not.

This is a legitimate debate about what is the best way of adding to the tools that prosecutors have for fighting the problem of crime.

A few points that I want to run through, number one, one of the things that we can't forget is that

our persistent offender statute has a mandatory maximum sentence.

And so while it is theoretically possible that someone can have up-to-life imprisonment for a third strike, under the persistent offender statute, we know two things that undermine that argument.

Number one, it's not required. And number two, only 23 people are in our prison system right now who have enhanced penalties under our persistent offender statute. That is hardly a resounding proof of the efficacy of our existing statute.

And nothing that we're doing to change it today, that is the persistent offender statute, is going to address that fundamental problem.

Number two, some law enforcement personnel do support this. When Judiciary held the initial informational public hearing, we had the prosecutor from California, whom the Chairman invited, who said that he was initially opposed to three strikes in

California, and he's now a supporter of it because it has helped keep the most serious repeat violent criminals off the streets.

Kevin Kane, at the late hour of the Judiciary Committee, testified, because I watched him, in response to a question from Senator Kissel, that a three-strikes proposal could be a useful and helpful tool for prosecutors to have, so I don't think it's fair or accurate to say that Kevin Kane doesn't support three strikes and you're out.

Commissioner Danaher, when he testified, said that he didn't like three strikes because he thought it might provoke additional violence against law enforcement officers. I immediately spent days with staff researching whether there's any evidence suggesting that's true. I found none.

Called Commissioner Danaher on the telephone and said, Commissioner, I haven't found a shred of evidence that says that's true. What do you know that

I don't know? And he said to me, I don't have any evidence that's true. It's just a gut reaction.

Well, that's hardly evidence to support taking a position against something that almost half of the states in this country have deemed as appropriate as a matter of public policy.

I understand that law enforcement hates mandatory minimums. That comes as a surprise to me, given the fact that our Jessica's Law, enacted last year, has mandatory minimum sentences in it, and I'd be shocked if everyone of us didn't send out a flyer to our constituents, praising the enactment of Jessica's Law, which included mandatory minimum sentences.

Why is it good there and bad here? The Quinnipiac poll misstated the way a three-strikes law would really work. The minute I saw that question, I called Doug Schwartz and asked him to poll it again and explained to him why he did not describe accurately the way three strikes works.

He conceded my points. Said that it was probably too late to go out into the field again with another poll. And I told him I thought that was very unfortunate, given the fact and the high likelihood that that poll would be cited as support for the opposition to this amendment.

But the fact is, it misstates the way three strikes and you're out works. The notion that three strikes ties the hands of prosecutors is absurd and inaccurate. The reality is that three strikes is about giving prosecutors that tool.

As the prosecutors prosecute someone, there's a Part A and a Part B. When they prosecute on the underlying crime, they go for it, and then on the sentencing phase, they decide whether it's appropriate in each and every case they have before them to charge them under three strikes.

If that's not the essence of prosecutorial discretion, I don't know what is. So the notion that

that would actually tie someone's hands is just flat wrong, at least insofar as the prosecutors are concerned.

So I think while legitimate points, worthy of debate, I don't believe those are legitimate reasons to oppose this law. And for that reason, again, and for the final time, I would urge this body to support this amendment. Thank you.

THE CHAIR:

Thank you, Senator Caligiuri. Will you remark? Will you remark further on Senate Amendment "A"? Will you remark further? Senator McKinney.

SEN. MCKINNEY:

Thank you, Mr. President. Mr. President, I rise in support of the amendment. Mr. President, listening to the debate in the Circle, I am reminded of one of my favorite sayings, and that is that we are all entitled to our opinion, but we're not entitled to our own facts.

And many times, I think the public listens to us talk back and forth and wonder, how can people look at the same facts and reach such different conclusions? And I think, sadly, part of the answer is, well, we're not looking at the same facts.

So let's look at some of those facts, and Senator Caligiuri mentioned them. I think we should repeat them. Senator Meyer got up and said that law enforcement officials were against this. Kevin Kane was against this. Commissioner Danaher was against this amendment.

This amendment was drafted and released in final form less than three hours ago. They have never seen this amendment. To suggest that they are against it is absolutely absurd and factually incorrect.

Moreover, the state's attorney admitted and testified before the Judiciary Committee that he supported a three-strikes law, that there is a version that could work. So to suggest as a fact that he's

against it is wrong. You are entitled to your opinion but not your own facts.

We were told that the *Hartford Courant* apparently said today that this ties the hands of prosecutors, again, incorrect. This does nothing to tie the hands of prosecutors. Prosecutors have always had, do have, and will have discretion as to whether or not to charge under this crime.

It's a separate statute. A prosecutor can charge someone under it or not. A prosecutor can charge someone under the persistent felony statute or not. A prosecutor could charge a capital murder or not, or just a murder. That is always their call. That is always their discretion.

The discretion that is taken away in this version, for 30 years, is that of judges. It also leads to another point. Senator McDonald has said that this review after 30 years doesn't make sense.

We're going to have judges look at a case 30 years afterwards.

Well, that's exactly what we do with parole. A parole board looks, when someone is eligible after 85% of a violent crime, sometimes 20 or 30 or 40 years later, to determine whether or not the person convicted of the crime should be granted parole.

So we're told that it's illogical that three judges, people who were so respected that we should let them have discretion, we're told that it's illogical for three judges of the Superior Court to look at a case to determine whether someone's sentence should be reduced, but at the same time, we're fixing a parole system that says a parole board can look at someone 30 years later and reduce their sentence.

I would suggest that that argument is what's illogical. Senator Meyer also said that in every state where there is a three strikes, he said, and I quote, it's been a travesty, also not correct, Sir.

In Washington State, this has worked very well. It has not exploded the prison population. And quite frankly, our version is almost identical to Washington State, except we also add a violent crime of home invasion, which is not included in Washington State.

So let's be very careful about what we assert as facts. And let's talk about our disagreements about public policy and our opinions.

What this comes down to is whether or not you think a judge should have discretion at the time of sentencing regarding the length of a sentence for someone who has convicted their third violent felony. That's really what this is about.

And I think if you look at our system, the answer is we can improve it by passing this law. Senator McDonald said that we were here to address glaring problems in our system. Well, let me give you what I think is a glaring problem.

The Judiciary Committee did an extraordinary job of soliciting input from anyone who wanted to submit legislation and proposed ideas about our criminal justice system. One of those ideas was a three-strikes amendment.

Our nonpartisan Office of Fiscal Analysis, in reviewing a 3 strikes, said that over the past 5 years, if you look at inmates who have been released from all of our facilities in the State of Connecticut, who had 2 prior violent felony convictions and were being released for their 3rd violent felony, there were, on average, 103 people per year.

Over the last 5 years, 103 people released from our prisons, who were being released for their 3rd violent felony. Do you know what the average sentence for those 103 individuals was, 30 years, 20 years, 40 years? No, eight years, eight years on average.

If that's not a glaring weakness, if that's not a glaring problem in our system, then please tell me what it is. If 103 prisoners per year are being released, who had been convicted of 3 violent felonies, had served an average of only 8 years, that's, that's good? That's not good.

That's a glaring problem, and that is addressed in this legislation. We've been told about the fact that the underlying bill, which is a very good underlying bill, and we should all be proud of that, we've been told that this three-strikes recommendation by the Governor and offered here by the Senate Republicans should be rejected in part because the professionals didn't recommend it.

And I won't repeat the list and litany of professionals who served on the Governor's taskforce. They're all extraordinary individuals who did a very good service. But Senator McDonald said they didn't

recommend this. Therefore, why should we think it's the right thing to do?

Well, it's interesting. One would interpret from Senator McDonald's comments that the underlying bill is indeed what the taskforce recommended.

Senator McDonald wouldn't support something in the underlying bill that the taskforce didn't recommend because he's just suggested we shouldn't do something they didn't recommend.

Yet, interestingly enough, fact, there are two very important provisions in the underlying bill, which no one has testified against, no one has spoken against today, that were not recommended by the Governor's taskforce.

One, Section 16, which deals with furlough, and the second, which is the elimination of administrative parole, is an extraordinary change in our criminal system. It's an extraordinary change in how we do parole.

We're eliminating administrative parole, which, I believe, was a suggestion, and I commend him, of the Senate President, legislation that he offered to the Judiciary Committee.

Please note that the Governor's taskforce, all those professionals, the state's attorney's office, the chief public defender's office, the public safety commissioner, all of the people on the ground, the judges, the judicial department, all the professionals were against, Ladies and Gentlemen, against eliminating administrative parole.

Senator Williams thinks it's a good idea. I support him. I think it is, and I guess all 36 of us are going to vote to eliminate administrative parole. But all the professionals in the Governor's taskforce were against it.

So let's not stand here and say that we should not vote for three strikes because the Governor's taskforce didn't recommend it. Yet, we're voting to

eliminate administrative parole, which they also didn't recommend. That is just not a very logical or fair argument.

Let's talk about the issue at hand. Should a judge have discretion when sentencing someone of a third violent crime? And when you look at our system, when you look at the fact that the average sentence is eight years, I think we would all have to say that's not enough.

I really believe that passage of the underlying bill, passage and fixing of the persistent felony offender law is acknowledgement by all of us that that eight years isn't enough, that we want to be tougher.

In fact, I've heard two versions, one from Senator Meyer and Senator McDonald that our three strikes is not as tough as their three-strikes bill, another version by Senator Gomes that it's too tough.

But regardless, I think we would all agree that the fix to the persistent felony offender statute,

required by the Supreme Court in the *State v. Bell*, is acknowledgement that we should be tougher on criminals on their second strike and their third strike.

And I think implicitly, it's an acknowledgement that eight years isn't enough. I don't think any of us would say that someone who's raped three women, serving eight years upon their third rape is sufficient, or someone who is engaged in armed, in home invasion three times, serving eight years after the third time is enough.

I think we've all agreed that that's not. The difference is that, I think, in opposition to three strikes, you're saying there may be on a case-by-case decision, where the judge should have discretion. Here's why the judge should not have discretion.

The reason why those people are being released early, the reason why those people have only gotten eight year sentences, on average, for a conviction of

a third violent felony is because that's what the judge has sentenced them to.

We have plenty of evidence on the record that judges have not, have not given sufficient harsh penalties. And that's exactly what we reached when we came to the conclusion on Jessica's Law.

We stood up here and, I believe without opposition in the Senate, voted for harsh mandatory minimums for sexual predators because many of us were able to point out case after case after case where judges, whether on a plea deal or a conviction of sexual predators, gave people no jail time.

I keep referring to the one case in Avon because it's just extraordinary that, I believe, a 42-year-old male in Avon had hundreds and hundreds of pictures of child pornography, videos of pre-pubescent teens, disgusting stuff. Didn't get a day in jail, didn't get a day in jail.

That's the judicial discretion we saw with the treatment of certain sexual pedophiles and predators, and that's why we reached the conclusion that we needed mandatory minimums because some of the judges just weren't getting it.

And you know what, most of them do, but some weren't. And I would suggest to you that based on the evidence shown from our judicial department, shown by our nonpartisan Office of Fiscal Analysis, that the average sentence for someone convicted of their third violent felony is only eight years is all the evidence you need to say that the judges don't get it.

It's time to take the discretion away. What we have done in this amendment, which Governor Rell called for, is to actually offer a compromise. And that is to say that in some states, like Washington and others, the discretion is taken away and never given back.

Here, we're saying we will let discretion by those very judges come back, but it can't come back until after 30 years. So if you're against taking away judicial discretion altogether, here's a compromise, and we're only going to do it for 30 years.

Senator McDonald also said we shouldn't vote for this, and Senator Williams may suggest that we shouldn't vote for this, because it's poorly drafted.

You know, I actually went back and read some of the Transcripts of the debate in the House of Representatives when the persistent felony offender law was passed, Transcripts that were referenced in *State v. Bell*.

There were amendments offered by House Republicans that were defeated along partisan lines that actually, had they been adopted, the Supreme Court wouldn't have overturned *State v. Bell*.

But the argument back then, by the Republicans ironically, was the statute is too confusing. It's poorly written, and we need these amendments. And the majority said, no, that's okay, we can trust judges to interpret these statutes because they'll read our debate, and they know what we mean.

So the very judges we're supposed to trust with discretion, I guess we can't trust to read this statute. Again, don't vote against this because it's poorly written because it's not.

Vote against this because you simply don't believe that we should take away the discretion of the judge and that someone who's convicted of a third violent felony shouldn't serve at least 30 years in jail before that sentence is reviewed.

If you think that's too long, that's fine. If you think it's going to have a disparate impact, that's fine. Senator Coleman made the comment that

we've made mistakes in the past, trying to be tough on crime, and he's right.

Last year, we addressed one of those mistakes when we equaled the penalties for those using crack cocaine and cocaine. That was a mistake made by trying to be tough on crime.

Senator Meyer referenced the Rockefeller Drug Law. Same mistakes were made in New York with the different treatment of crack and cocaine. We changed that. That was a good review of mistakes that were made.

But this isn't about drug laws and the difference between crack and cocaine. This is not, with all due respect to California and those who use the debacle in California three strikes as a reason to vote against this are hiding from the argument.

The California three-strikes law says that upon conviction of any felony, you go to jail for life, any felony. That is not what this amendment says.

This amendment is limited to the most violent of felonies, and I would respectfully suggest to my friend, Senator Coleman, that it will never be acceptable for anyone to commit a murder or a rape or the types of crimes that are specifically listed in here.

So we will not be making a mistake about being tough on crime because none of these crimes in here will ever be acceptable, especially when you think it's their third time.

You know, recently, there was a big to-do in the news down in our neck of the woods, in southwestern Connecticut, about a young man who had been released from jail upon being convicted of raping two young women. His name was Alex Kelly.

He fled the country for about eight to ten years, was convicted and sentenced for raping two young women. He's been out of jail. He's 40 years old.

Had he not fled the country for those 10 years and been convicted, he would have been out of jail at 30.

It is not inconceivable that certain repeat violent criminals will be out of jail at a very young age unless we have a tougher three-strikes law. He could easily commit another crime again and be out and be a very young man, ready to be a sexual predator again.

This isn't about polls and what the Quinnipiac poll says. This isn't about who's tough on crime, who's not tough on crime, as I think everyone has acknowledged. The underlying bill, the underlying bill is extremely tough on crime. And that's a bill that I anticipate will have 36 yes votes.

But we have significantly increased the penalties for burglary. We have created a new crime of home invasion, which has mandatory minimums. By the way, folks, that mandatory minimum means the judge has no discretion, okay.

So I'm not sure how you oppose taking away judicial discretion for a third violent felony, but you support taking away judicial discretion for your first home invasion. But that's what you're doing if you vote no on this amendment and yes on the underlying bill.

But the underlying bill is extremely tough on crime, so nobody gets painted here as being soft on crime. The question is what do we do, what is our public policy, when someone commits a third violent felony?

And I would suggest to you that given the evidence and given the facts that people who are now being released who have committed three violent felonies have only served, on average, eight years, that that's a problem, that that eight years is not enough, not even close.

And this legislation will more appropriately set the punishment which the public believes and wants for

someone on their third violent offense. And I would urge adoption.

THE CHAIR:

Thank you, Senator McKinney. Will you remark on Senate "A"? Senator Looney?

SEN. LOONEY:

Yes, thank you, Mr. President. Mr. President, in opposition to the amendment, as has been said by Senator Coleman and others, often there is a very understandable visceral and emotional response to a horrific crime, which has galvanized the state's attention, as the terrible tragedy in Cheshire did.

But that does not always result in good public policy, in measures that should be adopted by this General Assembly. And that, I think, is the case with this amendment.

Senator McKinney referred to some of the content of the fiscal note, about the 103 inmates per year that had been convicted of specified crime and so on.

The fiscal note goes on to suggest that those 103 additional expanded incarcerations per year would, each 103 additional offenders would cost approximately $4.28 million annually over the increased length of a sentence.

So we would be, if adopting this amendment, if we are going to do anything responsibly, we have to be willing to accept the consequences of what we do. One of the consequences would be an extraordinary increase in incarcerations and an extraordinary increase in demand on the criminal justice system.

As the fiscal note also mentions, these costs do not include additional facility space requirements. And a new 1,000-bed, high-security prison facility costs approximately $110 million for construction.

So approximately, adopting this amendment alone would perhaps every ten years require then the addition of a new $110 million prison. So again, to do something, we should also accept the out-year

consequences of what we might do and the realities, the painful realities very often.

One of the other difficult realities of our entire criminal justice system, as we all know, that it is built upon the exercise of discretion at all levels, the discretion of police in encountering a crime, making a decision about whether to make an arrest and what to charge, the discretion of prosecutors in deciding what charge to pursue against the defendant, whether or not the prosecutor believes he or she can prove every element of a crime beyond a reasonable doubt, and then the discretion of judges in sentencing, and the discretion of parole boards in terms of reviewing people for possibility of release.

So the entire system is built upon the use of discretion and would come crashing down if it were to be drastically altered. And I say that because we know that more than 90% of the cases in our system are resolved short of trial.

And that is just a reality of every day in the criminal justice system, that almost every case is resolved through a negotiation that results in the charge often being reduced to something lower than what the original charge was.

There is charge bargaining. There is then plea bargaining. And there is negotiation over what the sentence would be. And one of the reasons that this system works and that so many guilty pleas are elicited is that there is a very strong reality of what is called the trial penalty in Connecticut.

Criminal justice experts have said that the trial penalty in many cases amounts to 300% to 600%, meaning that someone who goes to trial and is convicted is likely to be sentenced anywhere from three times to six times what he might have received had he plead to something prior to going to trial.

We see this in a different context in the difference between the outcome for Governor Rowland

and Mayor Ganim. Mayor Ganim did not work out a plea, went to trial, took the risk, rolled the dice, in effect, was convicted on every count and sentenced to serve nine years.

Governor Rowland was able, through his council, to work out a very favorable arrangement that resulted in him being sentenced to a year and serving ten months, a dramatic example of the difference, although some of the factual predicate of the charges was different.

But still, it's a dramatic example of the difference between a negotiated plea and what happens after trial.

If we were to adopt this amendment, there would be no incentive for guilty pleas. If someone is being sentenced mandatorily to a life sentence, under the three-strikes law, and there is no difference between what someone gets after a guilty plea or conviction at trial, why would anyone ever plea?

You'd just roll the dice, go to trial, see what happens, and in some cases, convictions might not even be achieved because things happen at trial, as we know. Sometimes, witnesses that seem very strong going into a trial turn out not to be.

There may be some evidentiary problem, in terms of some piece of evidence that turns out not to be as compelling upon presentation as it looked beforehand. There are all kinds of things that happen at trial.

And that's one of the other great reasons why so many cases are settled prior to trial is that both sides know that there is a risk in going to trial, that the outcome can, that things can unravel, both from the point of view of the defense counsel and from the point of view of the prosecution.

So that's another element. That's another reality in our system that this amendment doesn't really take account of.

And I think that the underlying bill, in terms of the correction to the persistent felony offender law, is a responsible way of dealing with the problem of violent repeat offenders in Connecticut.

And that bill addresses that responsibly, and that is the way we should go, and as far as we should go, at this time in dealing with that particular issue.

In addition also, as discussed earlier about judges and their exercise of discretion, we go through a very, very elaborate process in selecting and approving judges in this state. It is a very competitive position.

Every year, the list of lawyers applying to the Judicial Selection Committee gets longer. A fairly small percentage of the people who apply get approved. The pool gets larger all the time.

The number of people who get appointed out of that pool every year is only a small fraction of those

in the pool and a small fraction of those who are added to the pool every year.

The Governor and her council goes through a very elaborate vetting process before making a nomination out of that pool. The Judiciary Committee goes through another elaborate process of examining the candidates for judgeships. And then the General Assembly votes to approve them.

So we invest a great deal in our judges. They are well compensated. They are hired for their judgment, for their discretion, for their temperament. We should not do things that would reduce that function to something more of a clerical or bureaucratic function. We should trust our judges.

Otherwise, we should not appoint the people whom we appoint. There is a great deal invested in that system.

So for many reasons, Mr. President, I believe that this amendment, while an understandable reaction

in certain ways, it does not take us in a policy direction that makes sense for the State of Connecticut, and we should stick with the underlying bill, which addresses this issue in a responsible way. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Looney. Will you remark? Senator Williams.

SEN. WILLIAMS:

Thank you, Mr. President. I rise to oppose the amendment, but I want to begin by thanking Senators on both sides of the aisle for all of their work leading not only to this amendment but to the underlying bill.

All of the public hearings that were held last fall by the Judiciary Committee, by the Governor's taskforce listed many good suggestions and recommendations that are part of this underlying bill.

It's my belief that those who support the underlying bill and oppose this amendment and those

who support this amendment have the same goals in mind, to have a safer Connecticut, to have safer communities, to let the families across this state know that we have taken strong action to be tough on crime and to provide safety in their homes in the future.

That's my belief, that everyone in this Circle shares those goals. So while I commend the folks for bringing out this amendment, I am opposed to it because I believe that it fails to accomplish some of what they hope to do and, in part, because I believe we accomplish it better in the underlying bill.

There are two three-strikes proposals before us today. There is the three-strikes amendment on the floor, and there is the three-strikes bill in the underlying legislation, the actual amendments to our existing three-strikes law, we've had a three-strikes law, persistent offender law, in the State of Connecticut.

Some have said correctly that it's been difficult to impose, and the changes we make in the underlying bill to the existing three-strikes law make it effective, make it smarter, and in many respects, make it tougher than the amendment that we have here before us right now.

The amendment would not have changed the outcome in Cheshire. That's been said before. This three-strikes amendment, if it were in law now, if it had been in law in the past, would not have changed that tragic outcome.

And I say that because most of what we have together proposed in the underlying bill could have changed the outcome.

A parole system that's not broken, a parole system where the parole officers are professional, full time, where they read the files in advance of the meeting, when the information in the files is complete, that kind of parole system where, yes, it's

not administrative, it's not rubber stamped, it's not a clerk plowing through dozens and dozens of files, making a recommendation just by that clerk, and the parole commission rubber stamping that recommendation.

No, instead to have a true parole hearing where you get to hear and question the inmate and decide, based on a complete record, whether they are ready to be released early into the community. Yes, that could have made a difference. That is part of the underlying bill.

The same is true with the home invasion change that we have, in the new crime of home invasion, a longer sentence for those who break into someone's home when folks are sleeping, believing that they are safe inside their personal dwelling, a longer sentence for that.

Yes, if that had been in effect, it could have kept one of these defendants in jail longer. Tougher and more secure reentry programs with more parole and

probation officers, having greater accountability and providing greater oversight of folks who are released early, yes, that might have provided a different outcome.

Yes, that's part of the underlying bill. Additional ankle bracelet and GPS programs for stricter monitoring of those who are out and released early, yes, that could have provided a different outcome. Yes, that's part of the underlying bill.

A better communication system so that our various agencies that are all involved in the criminal justice and corrections system so that they can communicate with each other and provide critical information that sadly can make the difference between life and death when we are making decisions as to who to release early into our community, that doesn't exist now.

It needs to exist as soon as possible. It is part of the underlying bill. Yes, that could have made a difference in that tragic Cheshire case.

The three-strikes provision in the underlying bill, not this three-strikes amendment but the underlying three-strikes provision, would provide tougher penalties for the second strike. That makes a lot of sense. That's what the chief state's attorney's office specifically recommended.

They were silent as to this type of three-strikes amendment that's before us today. But they said, you know, have a tougher second strike. And that makes sense to me. Why should we wait for three sets of crime victims?

Why should we wait until three families or more are victimized before we get tough on crime? That's what we do in the underlying bill.

Now it has been suggested, and I believe that it's true, that this amendment that's before us, this three-strikes proposal, could actually result in shorter sentences for some offenders after a third violent crime, compared to the three-strikes proposal

that's part of our law, as changed by the underlying bill.

Now Senator Nickerson suggested that in the third version of this three-strikes amendment that's before us today, because there have been three versions, as the drafters have struggled with these issues, in the third version, they fixed that problem, but they did not.

And I would just, for those who want to think about this from a technical point of view, I would just refer you to the beginning of this amendment. It says, notwithstanding any other provision of the General Statutes.

Then it goes on to describe how if someone commits three specific violent crimes, the court shall sentence such person to a term of life imprisonment without the possibility of release.

And then we get to that section that Senator Nickerson cited, where such person, after serving 30

years, could come up for review to be released, or the earliest date such person is otherwise eligible for release under any other provision of the General Statutes.

But let's think about that. We began this paragraph by saying, notwithstanding any other provision of the General Statutes.

So there is no other potential for early release because they have been sentenced to a term of life imprisonment without the possibility of release, notwithstanding any other provision in the General Statutes.

So the second part of that sentence that we see in Line 23, 24, and 25 is a nullity. And unfortunately, what the drafters of this amendment have been struggling to do all afternoon, which is rectify the situation that this amendment could be weaker then the three-strikes bill that we have right

now, as improved by the underlying bill, what they intended to do to fix that has not been accomplished.

And it is still true that under this amendment, offenders convicted of violent crimes for the third time could receive shorter sentences, spend less time in jail, than under our three-strikes proposal.

Now the three-strikes proposal that is before us here will result in troubling unintended consequences. Folks will be pleading out to lesser offenses, going to trial more often. Maybe that doesn't concern folks, but that will be an additional expense.

It will place a fairly significant burden on our judiciary system if prosecutors choose to use this. Some have said, don't worry, they won't be using this, in which case we would have to say, why are we going through this?

And then the proposal was truly not recommended by the Governor's taskforce, and they specifically considered it. It was not recommended by the chief

state's attorney's office, although the chief state's attorney said, have a tougher second strike, which we do in the underlying bill.

It was not recommended by the commissioner of the Department of Public Safety. So the three-strikes proposal in the underlying bill that amends our existing three-strikes law is tougher. It's smarter. It's more effective.

I commend those who have brought forth this amendment and their intent. And I know that you and we all share the same goal, to make Connecticut safer and to make our communities and our families, to allow our communities and our families to live in peace and safety and with the knowledge that we are doing all we can to make this a safer state. With that, I oppose this amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Williams. Will you remark? Will you remark further on Senate Amendment "A"? Will

you remark? If not, Mr. Clerk, please call for a roll call. The machine will be open.

THE CLERK:

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

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

THE CHAIR:

Have all Senators voted? If all Senators have voted, the machine will be locked, and the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule "A".

Total number voting, 36; those necessary for adoption, 19. Those voting "yea", 15; those voting "nay", 21. Those absent and not voting, 0.

THE CHAIR:

Senate Amendment "A" fails. Will you remark further on Senate Bill 1700? Senator Freedman.

SEN. FREEDMAN:

Thank you, Mr. President. I just rise in support of the bill. I believe everybody has worked hard and with good intentions to try to remedy a situation over which none of us had control, unfortunately.

And I guess as we go forward, prospectively, it's very difficult to think about all the things that can happen in the future, and we learn from our past. Unfortunately, what happened to the Petit family has left its mark on the State of Connecticut.

And I hope that those who survived will understand that things move at a very slow pace in the Legislature, and we can't correct all of society's ills. But we do our best, and we are trying.

Obviously, I would have hoped that the amendment that we just turned down would have passed, but I think it would have made the bill a lot better.

But I do believe that all the efforts of everyone involved has at least given us a step forward to, in the future, be able to at least let people feel that they're a little more secure in their own homes.

The whole new crime of home invasion, I believe, is important for us to have on the books. It's also very sad that we have to take this measure today.

And I hope that as we go forward and look at all of our criminal justice laws, we can be prepared and try to prepare people to be in the future, to look forward and protect ourselves. With that, Mr. President, I hope that this will go through unanimously today. Thank you.

THE CHAIR:

Thank you, Senator Freedman. Will you remark further on Senate Bill 1700? Senator Fasano.

SEN. FASANO:

Thank you, Mr. President. You know, Mr. President, obviously, it is a very difficult issue when we're dealing with the three strikes or dealing with types of crimes like this.

And I'm moved by the comments by Senator Coleman, and I believe that we need to have a more open discussion on what we can do for the plights of our cities, where the kids don't have the opportunity to succeed, where there isn't the opportunity of gain.

And we need to address that issue because that's the root of some of our problems. And it's up to us as a Legislature to deal with those issues. That being said, Mr. President, I look forward to those discussions. But with respect to the underlying bill, it's a good bill.

It's not three strikes. It's just not three strikes. It's tough on crime, and we've done some

things to up the ante if you break into a home at night, but it's not three strikes.

You know, and what bothers me about the bill is when you commit a rape, we don't care if it's day or night. When you steal something, we don't care if it's day or night. When you commit murder, we don't care if it's day or night.

But something when it comes to a house, if it's night, we're going to penalize you more than if it's during the day. I don't fully appreciate that argument. I, like many of us, have children.

If I had my child home who's 13 years old, or 14 years old, and my wife and I are out, if someone breaks into the house, I want a severe crime whether that's day or night. I don't care. As Senator Prague points out, there are elderly at home who can't defend themselves.

Why are we arbitrarily, being one of only the few states that do this, decide that we're drawing the

line at sunset? Does not make a lot of sense to me whatsoever. I don't get it. I don't follow the policy reasoning for it. But I see it's here.

The bill is not strong enough. It's in the right direction. I do appreciate all the work on both sides of the aisle and all the time and effort that everyone put into this bill.

And, you know, what really bothered me and really came home the other day was, and I'm just going to anecdotally say this because it did bother me a lot. My 13-year-old daughter, my wife, and I went out to dinner, and I accidentally left the garage door open. I hit the button, but it didn't close.

And I came back, and my daughter would not go into the house until I searched the attic, the downstairs, the basement, the entire house. She would not go in because of the Cheshire incident. She refused. That was scary to me. It brought home what we're doing in this Chamber.

Now no law that we pass is going to stop somebody from doing horrific acts if that's what they're hell-bent on doing.

But to think that she was afraid to go in her own house because I left the garage door open, fearing that somebody had made their way into the house and were waiting for us to get inside the house, that's scary. That's scary.

But I congratulate all those that worked hard. I wish it could have gone further, but I do support this bill, and I do appreciate the efforts. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Fasano. Will you remark? Senator Caligiuri.

SEN. CALIGIURI:

Thank you, Mr. President. Just very briefly, and for the sake of the record, at least in this Senator's opinion, I've said it already, this is an excellent

bill overall. I intend to support it. But let's not mislead anybody. There's no three-strikes proposal in this underlying bill.

We make a technical fix to an existing statute that's been on the book for a number of years. If this were truly a three-strikes proposal, Connecticut would be the first in the nation to adopt a three-strikes law that has no mandatory minimum provision in it.

And being intellectually honest, that's not three strikes. And to suggest otherwise is just simply inaccurate if you look at the three-strikes laws in the other jurisdictions and compare what we have to that.

The reality is we haven't toughened anything in our persistent offender statute. All we did was make a technical fix. So let's not go around claiming that we somehow enacted a different version of three strikes. We didn't.

We made a technical fix to a statute that's not really a true three-strikes statute because it doesn't impose a mandatory minimum sentence. And we should at least be intellectually honest with the people of Connecticut about that.

Notwithstanding that, this bill does a lot of good things, and I'm proud to support it. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Caligiuri. Will you remark? Senator McKinney.

SEN. MCKINNEY:

Thank you, Mr. President. In support of the underlying bill, I think in light of perhaps the more flowery rhetoric of the prior amendment, it's important for me to get up and point out that this underlying bill does represent, as Speaker Amann said weeks ago, 95% of where we all are, Republicans,

Democrats, and the people of the State of Connecticut on how to fix our criminal justice system.

I think we were all obviously horrified and saddened over the brutal murders that happened in Cheshire. I recall the next day listening to a news story on the radio where Senator Kissel had been contacted as a Senator who represents over 8,000 inmates in his district.

I think Senator Kissel may have more inmates than some of us have in towns that we represent. But he had said immediately that, you know, one of the flaws here is that we don't treat burglary, or home invasion, as a violent crime, and we should.

I think it was within days that Senator Williams and I did a similar TV show, and we agreed before going on air and on air, surprisingly, that we should treat this type of burglary, now called home invasion, as a violet offense and that we should also look equally not just at tougher sentences for people who

commit these violent crimes but making sure that people who do reenter don't recidivate, don't commit crimes again, and making sure that our parole system is professional and will not make the mistakes of the past.

Those are things that we have all done together that will make the people of the State of Connecticut a little bit safer. And that really is our role, to focus on public safety.

I think it's important to point that out because oftentimes, I think the press, you know, largely, I try to tell my constituents, and I think we all do, that Connecticut has a pretty good history of working in a bipartisan fashion.

We really do try to work out our differences and work on legislation together. And I think for the most part, we are successful in that. Maybe 95% of the time we agree, and 5% we don't. I think the press spends 95% of the time focusing on that 5%.

So I think it's important for us to get up here and say, yes, we have our differences. Yes, those of us will continue in regular session to talk about things like a tougher or a different or a real three-strikes law, you can pick your term.

Yes, we may talk about the difference between nighttime and daytime, just as Senator Coleman and others will passionately talk about whether or not our tough-on-crime legislation is having a disparate impact on certain communities. We will continue to advocate and fight for that.

But what we have done here together, what we have done with the Governor's leadership, and yours, Mr. President, is do the right thing for the people of the State of Connecticut. We can be proud for what we've done and live to continue to debate and fight our differences for another day. Thank you.

THE CHAIR:

Thank you, Senator McKinney. Will you remark? Senator Harp.

SEN. HARP:

Thank you, Mr. President. I just wanted to put this on the record that this bill will cost approximately $2 million in Fiscal Year '08 and $17.7 million in Fiscal Year '09, that the bill is paid for in this and appropriates the dollars, that it is under the spending cap.

So I just thought that was very important to say that. And then one of the things that the Appropriations Committee has been doing for the past three years is something that we call results-based accountability.

And one of the things that I hope that we look at is the impact of this bill on a number of the issues that have been talked about. And hopefully, the reentry programs will reduce recidivism.

I'm very excited about the forensic psychologist who will be a part of the new professionalized Board of Parole and Pardons. And so we look forward to measuring this, to look at our trend lines, and to assure the public that, in fact, we have increased public safety in the State of Connecticut.

THE CHAIR:

Thank you, Senator Harp. Senator Looney?

SEN. LOONEY:

Thank you, Mr. President. Speaking in support of the bill, I just wanted to again commend Senator McDonald, Representative Lawlor, all who worked on this bill, and also point out a few very far-reaching provisions that I think will bear fruit down through the years for us in very important ways.

First, in Section 17 of the bill, dealing with reentry beds, that is one of the most important provisions of this bill, and it requires the Department of Corrections to contract for an

additional 35 reentry beds for immediate occupancy, an additional 50 for July 1, 2008, and another 50 by November 15, 2008.

And not only does it deal with the issue of the high recidivism rate. We know that people who have a good plan for reentry and better supervision are likely to do better and to not be among that 39% who fall back into repeat offenses.

Because we know, as we said, there are too many people in Connecticut serving life sentences on the installment plan.

But in addition to that important provision regarding reentry beds, there is an equally important provision in Section 18 regarding diversionary beds.

Under the supervision of the Judicial Branch, Court Support Services Division under Mr. Carbone, there also, an additional 35 diversionary beds for immediate use, another 50 in July 1, 2008, another 50 for November 15, and these are beds available to

offenders who were ordered to participate in alternative-to-incarceration programs, also a very crucial way to deal with the overcrowding in our prisons.

The next two sections, Section 19 and 20, deal with something that is highly controversial and very difficult to deal with, as we saw in the situation in Southbury, trying to deal with the issue of residential sex offender facilities.

In that case, after the objections in Southbury when both the Governor and the Attorney General went to court, they were informed by the judge that there was in fact no possibly placement for that offender, other than the fact that his sister was willing to take him in.

So we're dealing with that issue and, of course, the Department of Corrections and CCSD will have to report back in April about the progress they are making in that regard because, as we know, citing in

facilities like that is extraordinarily difficult, but this bill makes some headway in that regard.

Then Section 33 of the bill, one that I don't think has been commented on previously but is going to be very important, again, the creation of a committee to study municipal citing incentives for community-based offender facilities and housing.

Again, as we know, the citing of halfway houses and other facilities often is as difficult and controversial as citing a prison itself. And we need to find creative ways to provide incentives.

Perhaps in the future, we need to have a pilot program for those kinds of facilities, as we do for prisons. And that is something that may be contemplated under this study with multiple appointing authorities.

And just a final provision to point out, in Section 41, also a highly crucial element of the bill, which is dealing with the problems of the mentally ill

and placement of mentally ill persons within the system.

And as we know, Senator Gaffey pointed out earlier, we have so many people who previously might have been under care under mental health facilities in the state who are now in our prisons. Up to 20% of the population of the prisons is now made up of those who are mentally ill.

This provision of the bill deals with that as well. So the bill is a farsighted one. And it is one, Mr. President, that diversion program in Section 41 creates a supervised diversionary program for people with psychiatric disabilities. Also again, for those who are nonviolent offenders.

It recognizes the reality of our system. That's why this bill is about so much more than the elements that have gotten the most publicity. And that is about dealing with the crimes regarding home invasions and those penalties.

It is much more systematic and comprehensive and gives us a good start in dealing with an issue that has been festering for years and that the unfortunate situation in Cheshire has brought to a head and that we are now dealing with more comprehensively and substantively than at any time in the past. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Looney. Senator Williams.

SEN. WILLIAMS:

Thank you, Mr. President. I rise again to thank those in the Circle, again, as I had mentioned before, I believe we are united in our goal of creating a safer and more secure State of Connecticut.

I want to thank our Judiciary Chairman, Senator Andrew McDonald, for his great and hard work on this, the Ranking Member, Senator Kissel, for his invaluable contributions. Down in the House, Judiciary Chair Representative Mike Lawlor.

I want to thank the Governor and her taskforce, as well as all of those who testified and gave their advice and recommendations to the Judiciary Committee and to the Governor's taskforce.

As I had mentioned earlier, this bill, which provides a professional parole system, a tough home invasion law, tougher and more secure reentry programs, more probation and parole officers, more accountability in terms of the ankle bracelet and GPS tracking systems, and puts us on the path to a much better communications system so that critical information is available, all of these reforms help fight crime. They will help stop crime.

Finally, in order to be tough on crime, I believe we must be smart about fighting crime. This bill does that. Thank you to everyone who had a role in bringing this forward today.

THE CHAIR:

Thank you, Senator Williams. Will you remark? Will you remark further on Senate Bill 1700? Will you remark further? If not, Mr. Clerk, please call for the roll. The machine will be open.

THE CLERK:

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

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

THE CHA THE CHAIR:

Have all Senators voted? If all Senators have voted, the machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on passage of Emergency Certified Senate Bill 1700.

Total number voting, 36; those necessary for passage, 19. Those voting "yea", 36; those voting "nay", 0. Those absent and not voting, 0.

THE CHAIR:

Senate Bill 1700 passes. Senator Looney.

SEN. LOONEY:

Yes, thank you, Mr. President. Mr. President, I move for immediate transmittal of Emergency Certified Senate Bill 1700 to the House of Representatives.

THE CHAIR:

Hearing and seeing no objections, so ordered. Senator Looney?

SEN. LOONEY:

Thank you, Mr. President. Mr. President, for a brief point of personal privilege before we finish our day's business, earlier today, Senator Finch announced that today would be his last day here with us in the Senate.

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that we will guarantee that we will never make another mistake, there will never be a lapse in communications, that no one will ever get through the system, slip through the net the way it seems to have occurred in Cheshire.

And certainly we have many examples since the 23rd of July of other home invasions, of other parolees committing acts of heinous violence. Not as sensational as the one that occurred in Cheshire to be sure, but still a steady drum beat of horrible events that occurred across the State of Connecticut, and that continue to occur even within the last few days.

So again, I want to thank you, Mr. Speaker, for all of the work and also for the opportunity that we now have to address some of the issues that have been raised.

I'd like to take a few minutes to perhaps ask a few questions of the Chair of the Judiciary Committee, focusing on what is the very first section, and I think, perhaps to me at least, one of the most important things that we are going to be considering

here tonight, and that is the new crime of home invasion.

The language that is before us has been circulating for a while although there was a period of time when it looked like the language was going to be somewhat different from what is in the Bill that is before us here tonight.

And I want to ask, with respect to what it would have taken, using the information that we have about Cheshire and what happened there, I guess I would start by asking, through you, Mr. Speaker.

Under the terms of the language that is before us, at what point would the perpetrators in Cheshire, the accused in Cheshire, have become home invaders? I'll just ask that question through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor. Representative Lawlor, are you prepared for the question, Sir?

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. In the Cheshire case, the moment the offenders were inside the house and confronted Dr. Petit, as I understand the facts of the

case, there was a confrontation immediately with Dr. Petit and they brutally assaulted him.

At the point they confronted him, even before the assault, they would have committed a felony and they would be, you would be able to charge them under this home invasion statute. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Neill.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker. Some of the facts that I have gleaned from a newspaper account, which may or may not be absolutely a complete story of what happened, which will emerge at trial.

But the story I heard was that they are alleged to have broken into the basement of the home, and in the basement I believe, acquired a baseball bat, which up until that time I guess they had not been armed with any kind of thing other than an air pistol, which had a little orange tab that we required some years ago to be placed on air pistols filed off or sawed off, but they were not otherwise armed, beside with that.

Through you, Mr. Speaker, when they picked up the baseball bat in the basement as depicted in the news account, would they still have not been considered home invaders under the terms of the language of the statute proposed here tonight? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I think with or without the baseball bat it would be a home invasion the moment they confronted Dr. Petit, you know, and I think we should say, of course, that we don't know the whole story. We're basing this on newspaper accounts, etc., and there will be a trial, and I think we ought to be somewhat careful about commenting on the facts of the case because there will be a trial.

They are very serious charges and I think, I wouldn't want to do anything inadvertently to jeopardize that prosecution by getting too deeply into the facts.

So let's switch, with the permission of the questioner, to a more hypothetical situation is, if, in fact there were a case where two individuals are breaking into a residence and the moment they confronted their first person, they would be now committing home invasion.

The confrontation itself and anything they said to that person, obviously, would constitute either a form of kidnapping or attempted assault, that type of thing. So that's, you've already triggered the home invasion the moment you confront somebody, whether or not you have a weapon.

If you have a weapon, you're already on the hook, but, and certainly a baseball bat would constitute a weapon. But I was talking more about the first subsection here, which says attempts to commit, commits or attempts to commit a felony against a person, another person.

So that would trigger it, and then add the weapon, you get triggered both ways.

SPEAKER AMANN:

Representative O'Neill.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker. I don't see the word confront in the statute before us, and I guess I would like to have a further explanation of what exactly does that mean? What does someone have to do to be confronting an occupant of a dwelling?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Well, presumably at the confrontation there'd be some type of a threat or an assault or something would have, there would be some statement made, something would happen for sure, and I think pretty much anything you can imagine that would happen then would be a felony, and that would kick in the home invasion.

So when you confront somebody, something is going to happen. You're either going to grab them or you're going to tell them to freeze or you'll kill them, but something is going to happen.

And it would either be kidnapping, in other words, confining someone against their will for the purpose of committing another crime, or an actual assault, or even an attempted assault.

So all of those would be felonies, and that would trigger the, because what it says is, acting either alone or with one or more persons, such person or another participant in the crime commits or attempts to commit a felony against the person of another person.

So that, the moment the confrontation takes place, something is going to happen, and any of the possible things that could happen would all be felonies under those circumstances.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Neill.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker. And without trying to get too deeply into the facts of the Cheshire case, which as I say I'm only reading or knowing what I read about it in the newspapers, but we're talking about

things that typically people are at home in the evening, although many people are at home during the day.

If someone is asleep when a person seeks to burglarize the home, and they come into let's say the bedroom of the people who are sleeping and steal things from the bedroom, jewelry, let's say, would that be considered a home invasion?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

If there was no weapon involved, and if there was no felony involved against the person, it would not fit this definition. Correct.

Through you, Mr. Speaker. It would, however, be a burglary first degree, but it wouldn't be a home invasion.

SPEAKER AMANN:

Representative O'Neill.

REP. O'NEILL: (69th)

Okay. Thank you, Mr. Speaker. And I'm thinking in terms of a case that I read where a person was choked, strangled, briefly losing consciousness, but the conviction was based on a reckless choking of the person.

I'm not quite sure how they got there. It was a domestic violence kind of episode. It arose out of a three or four hour long argument between a husband and a wife.

And in that particular case, which was actually State v. Atkinson, someone was kind enough to supply me with a copy of it, at the, toward the end of the case the judge reaches the conclusion that the state has in fact carried its burden of proof, that even a brief period of unconsciousness does constitute serious physical injury, and then goes forward to convict the defendant of the misdemeanor of a typical version of an assault.

If I can identify it, I think it's 53a-61, but it appears to me that you can be, you can choke someone to unconsciousness and not commit a felony.

So if someone did that in a burglary situation, let's say the person sleeping in the bedroom where the jewelry was that was about to be stolen wakes up, and the person recklessly places their hands upon the individual's throat, which was a conviction in the Atkinson case.

That's what the person ended up convicted of, and we still have that in our new strangulation statute as a misdemeanor, I believe, because the recklessness is the standard that's used to determine the level of culpability. I think it's mens re.

Would that constitute a home invasion if all that could be proved by the prosecutor was a reckless application of the hands of the burglar to the homeowner's throat? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Well, aside from that, it would certainly be a robbery, because a robbery is the use or threat or implication that you're going to use force in order to obtain property.

In the situation you gave it's clearly a robbery, and all of you watching on TV you say robbery, burglary, sounds like the same thing. Many people use those words interchangeably, but a robbery is a larceny accomplished by force.

You don't have to use a gun or even have a gun. Any use of any force whatsoever or even any implication that you might use force, or a threat that you would use force, that makes it a robbery.

So that's, all robberies are felonies, one, two and three are all felonies, and in that factual situation if someone's going in to get jewelry, encounters a person and uses any force whatsoever in furtherance of the robbery, or even threatens it or implies they have it.

Like for example, if you walk into a bank with your hand in your pocket as if you have a gun, ask for money, it's still a robbery even if you don't have a gun in your pocket, because you made it look like you have a gun.

And even if you didn't think that the other person would think it was a gun, the fact that you did

that certainly creates the impression that you have one, so it's definitely a robbery. There's no question about that in the hypothetical situation you described. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Neill.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker. Well, we've been assuming, or at least in the hypothetical when I mentioned the jewelry that the individual, that we know that they've taken the jewelry. I suppose one way to know that is that after they are apprehended, the jewelry is found in their possession.

If at that point, however, with the strangulation of the homeowner who wakes up, the burglar then runs away without actually taking anything, and unless they otherwise admit we have some evidence that their intent was a jewelry theft, just the choking part upon the homeowner's throat, would that constitute a home invasion if the recklessness was the standard of intent? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I still think it would be a robbery.

SPEAKER AMANN:

Representative O'Neill.

REP. O'NEILL: (69th)

Through you, Mr. Speaker, it would be a robbery on what basis, in terms of taking a larceny. Where's the larceny element showing up here?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Whether or not you actually obtain the, just like if it's a bank robbery, even if you don't end up getting any money, and the statute says the attempt as well.

So even if they didn't end up taking it, they ran out the door, they chickened out, whatever it happens to be, if they use any force whatsoever with the intent of obtaining property, that's a robbery.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Neill.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker. I don't want to belabor the point, but it occurred to me as I was reading through this statute, that if you don't find the property on the burglar's possession showing that he had stolen something, unless he is kind enough to admit to his intent, whatever it was when he broke into the house, that he could actually choke someone, and we wouldn't have any other basis for determining that a larceny had occurred.

As I said, if you catch him with property that's been stolen you can presume, I think you can make a case for larceny at that point or if he admits, I was breaking in to steal things, then you've got the larceny and then you take the force and the larceny plus the break in and you get perhaps to home invasion.

But I can foresee situations where someone, what we're talking about is a home invasion. Even if

someone applies physical force to the person of the homeowner, unless they are using guns or explosives or deadly weapons, they may in fact not be as easily proved to be home invaders as perhaps at first blush we might assume.

Nevertheless, this is certainly a big stride in the right direction. I have similar concerns about burglary in the first degree and what it takes to qualify for it, and I think again, it's something that we might want to think about, as with so many other aspects of this Bill, where we might have to revisit some of this in the Regular Session to make sure that we have covered all the bases, so that we do not leave any kind of loopholes here for people to slip through.

As I said earlier, I think we would be foolish to think that we are going to draw the net so tight here tonight that we will guarantee that nothing will ever slip through the net.

But a couple of other quick questions. Was the abolition of administrative parole something that was recommended by the Governor's Task Force, the front line experts? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I don't think that was a, I don't think they actually recommended the full-time, full-time Parole Board. I think that initiative came from the Senate President and the Governor individually.

So I think there was a concern about resources for the Parole Board that the Task Force identified, and I think there was a necessity for training and more staff, etc., and I think consistent with that, once we had, and this takes effect on July 1st, I think, the abolition of the, and just so we understand.

Administrative parole means a parole decision made where the offender is not present. They're, typically, as I understand it, the Parole Board one day a week does these administrative paroles where they can go through 50 or so decisions in an afternoon versus the live parole hearings they go through maybe 12, 10 or 12 per panel per day.

And so it's a way for them to make up some volume, and I think we all understand in an ideal world all the hearings would be face to face, a live parole hearing, but obviously for logistical reasons that can't be accomplished.

Since we are beefing up the Parole Board, bringing a lot of staff on line. They should all be on line by July 1st. The money is in place to do that.

We felt that since there's been so much scrutiny of the Parole Board, let's make them face to face and therefore presumably you get a better outcome.

And so, given the fact that the resources are going to be there, we are recommending and this Bill provides that every parole hearing is a, in effect, in person or at least by video link up hearing as opposed to just reviewing papers provided by the staff parole officers that work for the Parole Board.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Neill.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker. I just want to make sure I understood, if I understood the answer correctly, that the Governor's Task Force recommended various resource allocations and increments and moving to having full-time professionals.

But I didn't hear a statement to the effect that the board, the Task Force recommended that administrative parole, this paper review itself be abolished. Am I correct in that? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. That's correct.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker, because not everything that's in this Bill was recommended by the Governor's Task Force. Many parts of it were, and certainly those things, which have achieved that level of support and consensus from the professionals in the field are to be, I think, very carefully considered and given great weight.

But on the other hand, things have gotten into this Bill that I don't believe the Governor's Task Force really gave a great deal of thought to. I don't believe that the issues relating to motor vehicles were part of the Governor's Task Force's consideration, and that has found its way into the Bill.

So there are some things in here, this is not just taking the Governor's Task Force and casting it into legislative language and the moving forward here tonight. That there are things that were not recommended by the Governor's Task Force that are not in this Bill.

One thing that had been of concern, and I want to make sure I understand that I'm reading the Bill correctly.

As I read the Bill, rather, it is my impression that the Chairman of the Parole Board will not have to undergo a reconfirmation hearing during the course of this year at least, that the Governor, that the Parole Board Chair will be allowed to finish the term that is co-terminus with the Governor's term of office.

Am I correct in that, Mr. Speaker, through you?

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I apologize. I was double checking the exact language.

I believe, and I read it quickly, and I was assured that it does this. I think it does do it, but it leaves alone the status of the Chairman of the Board of Pardons and Parole.

So in other words, the current Chairman has been appointed to a term, which is co-terminus with the Governor and that is not changed at all by this enactment.

So if this Bill were to become law, the term of the current Chairman would be unaffected, and in effect he would serve until the term of the Governor expires. Through you, Mr. Speaker.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker.

SPEAKER AMANN:

Representative O'Neill.

REP. O'NEILL: (69th)

And I thank the Chairman for his answer. I intend to support the underlying Bill. I think that it does many good things.

I think it's the product of a lot of efforts. I will take a certain amount of credit for having been one of those who helped move along the process here.

I think that this is something that initially people may have, some people may have been reluctant to go forward and have a Special Session for this, but I think that it is important that we are here tonight and that we are doing this work.

This is something, which while it was triggered by the murders that occurred in Cheshire, I think as we examine the system that we have here, we realized that there were many things that needed repairing and fixing, and then of course the Supreme Court came down with the Bell decision, which made it very clear that that particular law, the persistent felony law, offender law, had to be repaired.

So we are here tonight doing, I think, important work. I wish we could have perhaps been here a month

earlier or two months earlier, but I'm very glad that we are here tonight, and I think that everyone in this Chamber and everyone in the Legislature should take credit for at least moving as far as we have this evening.

But again, I want to emphasize that no system of instruments that we have, that I've seen presented during all of our discussions to try to evaluate prisoners to determine who's dangerous and who's not is 100% effective.

No system of reviewing the records is 100% effective. I believe that the Chair of the Judiciary Committee just explained briefly, but has given me a longer explanation of the very clever character of one of the people who was arrested in Cheshire, who apparently was able to convince people that he was quite different from what he really was in terms of his behavior and his background.

And so, we don't know how clever some of the folks are that are in the prison system. So even if we hire a psychologist with a background in evaluating risk, we don't know if that person's going to catch

all of them. That's probably not going to be the case as some will slip through and by that person as well.

But what we are doing here tonight is to try to reduce the chances of this sort of thing happening again, and certainly of having the prosecutors or anyone else under orders to ship paper or information from their office to someone else's office to enable them to make important decisions, we certainly should not allow that sort of thing to happen in the future.

And so, Mr. Speaker, I would urge adoption of the, rather passage. I hopefully will be able to vote on it soon. Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Sir. Representative Fritz.

REP. FRITZ: (90th)

Thank you, Mr. Speaker. I, too, rise in support of this Bill and truly wish to congratulate the Governor and all of the people who worked so hard on this Bill.

I very strongly believe that this legislation addresses many of the concerns, and the wishes of both the people of Cheshire and the people of Connecticut.

It makes home invasion a serious crime. It changes the information/communication system between agencies.

It changes our system regarding parole, and truly strengthens the persistent violent offender statute.

Implementation is going to come in stages, and I believe at the end this is a good thing, because that way, as we walk slowly through the process, we can make sure that what is intended is accomplished.

Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Representative. Do you care to remark further? Representative Cafero.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Mr. Speaker, ladies and gentlemen of the Chamber, I want to join Representative O'Neill, Representative Fritz in congratulating, frankly all of us.

You know, there are days, I've been here starting my sixteenth year, and there are days for all of us, whether this is our first term or our dean, Representative Dyson going on 30 plus years, there are

times that we meet in this Chamber where we roll our eyes and get frustrated and angry at the process.

This is one of those days and one of the occasions that I'm pretty proud of how we got here and the fact we are here.

As Representative Lawlor stated earlier, it was the tragedy that will be six months ago tomorrow that occurred in Cheshire, that opened our eyes. Many might say, shame on you if it took that to, these many of these incidents happen day in and day out. Probably right.

But it did open our eyes. The attention it got, the horrific details, and many of us called for action. We felt that action was needed before we convened in February.

And I want to thank the Speaker who in many private conversations assured me, he said Larry, we will have a Special Session, and he was good to his word.

I want to thank Chairman Lawlor who in various correspondence that I've had with him agreed at the

need to have a Special Session. We are here, and he was good to his word.

I want to thank Representative O'Neill for his work as Ranking Member of Judiciary and sitting through all of the hearings, gathering all of the information and working so hard on this Bill and so many people in this Chamber who worked so hard.

I want to thank our Governor for showing leadership in forming the Task Force and acting upon their recommendations.

I want to thank the Members of the Senate, President Pro Tem of the Senate Williams, and Minority Leader McKinney, Ranking Member Kissel, Chairman McDonald, for all their hard work as well.

When Representative Lawlor stood up to bring out the Bill, he said we're here to solve a problem, and as much as I respect and sat in awe of his almost flawless recital of the elements of this Bill, I wish I could share his optimism that by the adoption of this Bill we will solve the problem.

And maybe I've been here too long, and maybe I'm a bit cynical but I've seen things happen that with

the best of intentions sometimes we don't get everything right.

As a matter of fact, some of the things in this Bill and some of the things Chairman Lawlor mentioned is testimony to that.

We're correcting a persistent felony offender law that we passed back in 1994. I was here for that. We thought at that time that was going to solve the problem and it didn't.

In fact, as we know in September, our Supreme Court said there was a part of it that was unconstitutional.

Representative Lawlor said that we have a bill regarding drunk driving that we made a mistake, we got it wrong. We're going to fix it, but we got it wrong. We make mistakes. We try to do what's in the best interest of our constituents, of our citizenry, of our state, but sometimes we get it wrong.

It doesn't mean we stop trying. It doesn't mean that this Session will be the be all and end all and last word and silver bullet on all things concerning criminal justice, it won't be. We'll deal with it

next Session and for sessions far in the future, long after all of us are gone because things happen.

We learn from mistakes. We learn from incidents, etc.

The bill we have before us is a good attempt, a bipartisan attempt to address some of those issues we hope to make things better, to make use of incidents that happened in Cheshire hopefully not happen again, but we are not perfect.

With that, I'd like to ask some questions, through you, Mr. Speaker to Representative Lawlor with regard to the Bill that's before us.

SPEAKER AMANN:

Please frame your question, Sir. Representative Lawlor, please prepare for questioning. You may proceed, Sir.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Mr. Speaker, through you to Representative Lawlor. Representative Lawlor, Representative O'Neill had asked you a series of questions concerning home invasion and the burglary

statutes as they are laid out here, and to avoid getting into facts with regard to Cheshire.

Many of us thought, in fact once again in conversations with the Speaker, we talked about this world that's far different from the world 20, 30 years ago. We know that people work two and three shifts and sometimes when we are in bed they're at work and when we're at work, they're in bed, and whether it's day or night or light or dark makes no moment or has no bearing on what certain people do.

And in this Bill, I guess it tries to lay out a series of scenarios wherein we are calling burglary or home invasion a serious violent felony.

If an unarmed individual, through you, Mr. Speaker, were to go into a home at 2:00 o'clock in the afternoon and happened upon the occupant of that home sleeping, say that individual was a person who worked the third shift and was sleeping during the day, or a 15-year-old boy or girl who was home sick from school that day.

A person went in and happened upon that sleeping individual, did not disturb them, robbed from their

bedroom, left and was later apprehended, would that person under the law before us be guilty of home invasion or burglary in the first degree?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I think assuming those were the only facts, it sounds like a burglary first degree as opposed to home invasion.

I think it's important to point out that how much effort went into designing this particular statute. This grows out of both the Governor's Task Force and then ultimately the Governor herself proposing this identical language last week.

And I think her proposal reflected the best advice obtained from the actual prosecutors and law enforcement officials who handled this. So this is their product.

But to answer the specific question, it sounds like absent a weapon, absent any attempted or actual felony being committed during the course of the

burglary, it sounds like it would be a burglary first degree, which carries a 20-year sentence with five-year mandatory sentence as part of that.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker, and maybe I wasn't clear about it. In my hypothetical, I indicated that this encounter took place during the daytime and not the night, and I ask that question because it seems in burglary one to make a distinction from night and day, given the hypothetical I gave you.

Am I correct in that reading, that that hypothetical might be at best burglary two, second degree, and not burglary one?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Yes, Mr. Speaker, that's correct. I take that back. It would be a burglary second degree.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. I guess that's what I meant when I started. We're not perfect. There's a lot of people out here, a lot of people, myself included.

And by the way, I'm going to preface my remarks by saying I intend on voting for this Bill that's before us.

It is a compromise, and we might revisit it next Session or in Regular Session, but that's not probably what a lot of people thought.

If you go up to anyone on the street and say if somebody breaks into your home in the middle of the day, goes into the bedroom where you or your child is sleeping and robs jewelry or money, is that a home invasion, I bet you nine out of ten if not all ten would say, you bet it is.

Well, we're about to pass a law that says it is not. We're about to pass a law that says not only is

it not a home invasion, it's not even burglary in the first degree.

A mistake? Maybe. We're not perfect.

Through you, Mr. Speaker, I wanted to ask some more questions of Representative Lawlor, and I guess I would like to focus on the whole concept of discretion that we have in our criminal justice system.

So with your permission, Mr. Speaker, through you, a question to Representative Lawlor.

SPEAKER AMANN:

Representative Lawlor. Representative Cafero, I apologize.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Through you, Mr. Speaker, Representative Lawlor, I know there are various stages of discretion in our criminal justice system, and I would like to start, and I don't profess to be anywhere close to the expert as you are, and I mean that with all sincerity.

Your history as a prosecutor and certainly your years and expertise on the Judicial Committee,

Judiciary Committee, far exceed my knowledge of criminal law.

But at that first level, the police officer. The police officer is called to a scene and he or she witnesses a crime. Is it at the discretion of that officer that he or she makes an arrest?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. In most cases, yes, with few exceptions. For example, domestic violence.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you. And therefore, Mr. Speaker, through you, it is my understanding based on Representative Lawlor's answer, that at that first level the police officer, when he or she happens upon a crime, they have the discretion to make an arrest or not, with the exception of domestic violence, and I would guess that that means, through you, Mr. Speaker, it was in the

wisdom of this General Assembly that we said when a police officer happens upon a scene wherein the allegation is domestic violence, an arrest must be made.

The police officer has no discretion in making that arrest. Is that correct? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. It has to be more than an allegation. It has to be probable cause, so not simply the allegation, but there has to be probable cause. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you. Through you, Mr. Speaker, with the exception of probable cause in a domestic violence case, a police officer has discretion when they happen upon the scene to make an arrest or not, and through

you, Mr. Speaker, my question would be, has that always from time immemorial been the case?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

I'm sorry, was the question about has the domestic violence thing always been the case?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero, please repeat your question, Sir.

REP. CAFERO: (142nd)

Through you, Mr. Speaker, the police officer's discretion to make an arrest or not, has that always been the case in the history that you know of our criminal justice system?

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I would say in general, yes, although you know, now that I think of it a

little more, there are departmental policies for governing police conduct, and in some situations police officers are, as a matter of policy, ordered either not to make an arrest under certain circumstances or ordered to always make an arrest under certain circumstances if they believe there's probable cause.

According to our state law, there's the domestic violence situation. There may be a few other examples of that, which I can't think of.

But in terms of individual police departments, they may or may not have a policy on obligatory arrests or sort of prohibition on an arrest under certain circumstances.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Through you, after the arrest stage, where we've determined for the most part has been and always has been, with some exceptions,

the discretion, the discretion of the police officer to make the arrest or not.

Once an arrest is made and that individual is brought to be prosecuted, does the prosecutor under our state laws have discretion as to what statute to charge that individual under?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. It's actually a constitutional principal of prosecutorial discretion. They are, they can't be sued or anything. They have unfettered discretion to either charge, I mean, there are ethical rules that govern this so they obviously can't charge anything unless they believe they can prove it beyond a reasonable doubt.

If they don't believe that, they have an obligation to drop the charges, even short of trial.

They have unfettered discretion to drop charges or not under any circumstances, but assuming there's probable cause and assuming they believe they can

prove it beyond a reasonable doubt, it's their decision whether or not to go forward with the prosecution. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

So to put it another way, through you, Mr. Speaker, consistent with some ethical obligations, the prosecutors of the State of Connecticut have a constitutional protection, if you will, of unfettered discretion in prosecuting an individual based upon a certain statute.

Is that correct? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Not just the Connecticut Constitution but the United States Constitution. That's a universal principle under our how shall we say it, United States or American jurisprudence and also the Federal and State Constitutions.

So yeah, that's not unique to Connecticut, but that is the case for prosecutors.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. So we've discussed police officer discretion that's been around with few if any exceptions since time immemorial.

We've discussed prosecutorial discretion, which is a constitutional right that is as old as our American jurisprudence, yeah, jurisprudence, I had a little trouble with that.

SPEAKER AMANN:

Judas Priest.

REP. CAFERO: (142nd)

Judas Priest, I was going to say, something like that.

I want to talk about judicial discretion, discretion of a judge. For the most part, through you, Mr. Speaker, is it true that judges have

discretion in sentencing individuals who have been convicted of a crime? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. There are lawful sentences for every crime and judges, I mean, every state has a slightly different system, but within the range of lawful sentences, the judges are, well, I guess I should take that back.

No. It's not the case. There is, under our statutory scheme there's a lawful sentence for every offense. But just because there's a range doesn't mean a judge has unfettered discretion to impose any sentence he or she wants to.

There's a process through Judicial Review, etc. where a sentence is imposed, reviewed for disparate impact, and other things like that.

So there's a fair amount of oversight into sentences that judges can impose and taking into account both the lawful sentences provided under the statutes, and sort of comparative sentences, which is

measured through a different process, through a judicial process.

However, it's important to note, like prosecutors, judges have unfettered discretion to dismiss charges, and they have the exclusive authority to do that.

And the best illustration of that one is not here in Connecticut, but just the same system here in Connecticut is a perfect illustration of this.

Remember the nanny murder up in Massachusetts a few years ago where there was a nanny from England. She got convicted of ultimately murdering a small child, and the judge actually dismissed that, even though the jury had convicted her, and imposed a lesser sentence for a lesser charge.

So there's, the judges do have some powers to get around it that way and occasionally they exercise that. So there's probably a few other things I'm not thinking of but there is, it's a complex answer, and there's no simple answer to that question.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

I appreciate that. Through you, Mr. Speaker, I have, and it's available to everybody, many of us have been here for a while have seen it, it's an OLR memo on mandatory minimum sentences. We hear about them so much.

And the reason I bring up the OLR memo is because in it, it listed at the request of a Legislator, what are the crimes for which we have mandatory minimums, and they have three pages of crimes that have mandatory minimums.

And I guess my question to Representative Lawlor, through you, Mr. Speaker is, in those cases where there are mandatory minimums is an element of the judge's discretion taken away?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. The statutes outline the lawful sentences and there's a range, so it could be

zero to ten, or it could be five to twenty, whatever. There's a lawful range for every sentence.

But with the caveat I mentioned before, which is what happened up in Massachusetts, a judge could theoretically avoid the mandatory minimum with the conviction by dismissing that conviction and imposing a conviction for what they call lesser included offense.

So there are ways around it, but I would say more often than not, well, I mean, that would be relatively rare that that actually happened. So there's a lawful sentence for every crime, and some crimes have a minimum and a, well, all crimes have a maximum sentence. Some crimes have a minimum sentence, and a judge typically will go within that range. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you. Through you, Mr. Speaker, just to clarify. I'll just take for example employing, one of a Class A felony we currently have is employing a

minor in an obscene performance, which carries with it a ten-year mandatory minimum.

Through you, Mr. Speaker, if a judge wanted to use his or her discretion and give a sentence of less than ten years, would they be able to do that under our law? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Not for that crime, no, but conceivably, and this is what happened in Massachusetts. It's an interesting case. That's why I keep mentioning it.

If a judge really felt compelled to impose a lesser sentence a judge could switch to a lesser included offense, which didn't carry the minimum and to dismiss the conviction on the principal offense and go down to a lesser included and you could do that.

I don't, I'm not aware if it's ever happened in Connecticut, but theoretically it's possible.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you. Through you, Mr. Speaker, I bring this up because we in the wisdom of this General Assembly, we have passed laws over the years, some of which we might regret.

But as we sit here today, we have passed laws that contain within them mandatory minimums.

Basically, it's a legislative statement that says, regardless of the discretion of the judge, we believe the nature of this crime is such that we, the Legislature, will restrict that judge or remove the discretion from that judge to the extent that he or she cannot impose a sentence of less than what we, the Legislature said.

And we have done that to scores and scores of crimes, three full pages of what we have as mandatory minimums.

And I might add, just as a personal note, Representative Lawlor and I over the years have had discussions over this, and some of the less serious offenses that carry with them mandatory minimums, I have some problems with.

I have some problems with the concept of a mandatory minimum for some crimes that I consider, most of us consider nonviolent in nature.

So I'm very sensitive to the whole concept of mandatory minimums but the fact they are on the books and are called such means by definition that we've taken discretion away from judges to the extent that we have imposed that mandatory minimum.

Through you, Mr. Speaker, I'd like to focus if we could, on what we continue to call the persistent felony offender law.

Through you, Mr. Speaker, Representative Lawlor in explaining the Bill has referred to it, and I've heard others refer to it as our Three Strikes and You're Out Bill. I actually jotted that down when Representative Lawlor said it.

And I guess, unfortunately, that bumper sticker term, Three Strikes and You're Out has been used for so many things, and I guess my question is, through you, Mr. Speaker, why did Representative Lawlor, and I don't mean him in particular, but why do we refer to

the persistent felony offender law as Three Strikes and You're Out? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker, because upon a third conviction it carries the potential of a life sentence, upon a conviction for the, let's see, what's the best way to say it.

If you have two previous convictions for the listed serious violent crimes and you pick up a third, then instead of looking at the normal sentence, which would typically be 20 years, you're looking at a life sentence, which in Connecticut is 60 years.

And you know, I guess the genesis of the Three Strikes and You're Out bumper sticker thing was California. They enacted this law. In California it's a life sentence you get, but in reality it's a 25-year sentence because you get good time credits. So life in California is really 25 years.

By the way, it's the same in Texas for those of you who follow such things. A life sentence in Texas is 25 years because you get good time credits.

So our law allows for a life sentence for your third conviction, so that's why it's called Three Strikes and You're Out. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker, to Representative Lawlor, you used the term allows. When you say allow, I presume you mean that under the verbiage of the persistent felony offender act as it is today and as it was back in 1994 when we passed it, it gives discretion to a judge to impose a sentence up to life for certain offenses.

Is that correct? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

That's correct, Mr. Speaker, and I think, you know, in many ways we're more accurate than California

because in California, life is 25 years. So if they can call theirs Three Strikes and You're Out, certainly this one would qualify.

And I think the point is that for certain offenders should be locked up for as long as possible and practical, and I think some of the concern, you get the older offenders in their seventies or their eighties, it becomes very expensive to keep them in prison so maybe not in every case you'd want to do it for the rest of, the balance of their life.

And in addition to that, and I think it's a very important point, and I'm sure we'll talk about this later, but this, the all or nothing, the alternative would be to make it life all the time, no matter what, and the prosecutors tell us that if that were the case, and we even heard this from the California prosecutor, that without discretion, and in California now both the judges and the prosecutors have discretion on these things, that it wouldn't really work very well.

And that's basically what the prosecutors told us here in Connecticut. They said, give us the authority

to seek a life sentence, and we think this will work pretty well.

The obstacle in the current law is the findings that need to be made. By removing those findings the prosecutors tell us that what we've proposed here tonight, what we're currently debating is workable and usable, and they prefer this one.

So they're the ones who have to do it. Look to them for their advice. This is what they're telling us. Give us more flexibility and we can make this work.

And it's important also to note that they did consistently tell us that the one size fits all sentence, the Washington State type sentence would not be very usable for them, and I'd be happy to explain that if we end up debating that type of proposal, but that's the bottom line. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you. Through you, Mr. Speaker, I guess it would more accurately be called Three Strikes and You

May Be Out, because you may not be out because that's up to the discretion of the judge. I think that would be most accurate.

But Representative Lawlor has brought up the California law, and it's my understanding that California says, if you commit two serious felonies, that if you commit a third felony and it doesn't have to be serious, then their so-called life, as described by Representative Lawlor, kicks in.

First of all, is that correct, through you, Mr. Speaker, that the third felony in the California law does not have to be a serious felony?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Well, in the original version that was true, and they had a lot of problems in the first few years with that. Since that time, it's been modified more through case law and evolution.

Now there's both judicial discretion and prosecutorial discretion in California. Judges are free to disregard strikes. Prosecutors can seek the sentence or not seek the sentence, and basically it's used occasionally now, but both the judges and the prosecutors have discretion in California at this point. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you. Through you, Mr. Speaker, with regard to our current persistent felony offender law, and frankly, the persistent felony offender law that's envisioned to be corrected under the Bill that's before us, does someone automatically get charged with that offense or is that charge at the discretion of the prosecutor? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Well, the prosecutor gets to choose how to prosecute the case, as we

discussed earlier, and I think this is a very important point because I know there's people watching this on CT-N and elsewhere, and these lawyer explanation of things I'm sure are very confusing.

So to explain how the mechanism works, which is the question that was asked, how does this work?

Let's say someone has two previous convictions for qualifying crimes. So for example, robbery first degree or burglary first degree or assault first degree, that type of thing.

If you now are arrested for a third time, you've got the two previous convictions, now you've been arrested now and charged with another one of these crimes, let's say burglary first degree.

The prosecutor can either prosecute you just on the burglary first degree, in which case you're facing the maximum 20-year sentence, or charge you as a persistent serious dangerous offender, which would expose you to the life sentence.

But that is in and of itself a separate charge, and it keys in procedural steps. For example, once you've exposed someone to a life sentence, the

prosecutor is required to do a full probable cause hearing, an evidentiary hearing where they must bring in witnesses.

Those witnesses can be cross-examined by the defense attorney and I think that for reasons that are understandable to most people, that that's something that you'd want to avoid if you could because you're giving away a lot of your case up front.

You're giving the opportunity to poke holes in the case not even in front of the jury to learn stuff, so it requires a full probable cause hearing, which can be avoided if you don't charge the persistent offender thing. So that's number one.

And then under the current law, even under the proposed changes, and even under the amendments that I've seen floating around, you're still going to have a two-part trial.

First you're going to have a trial about whether or not the person is guilty of the new offense, and then after that, a whole separate trial in front of a jury regarding whether or not they have the previous convictions.

And it's a very elaborate and time-consuming process, and in general prosecutors can avoid it by not charging the persistent offender. So they do use that discretion, obviously, most of the time.

However, on the other hand, in most of these cases the prosecutors have more than one charge to work with. Like in the case of the one murderer in Cheshire, he had 18 separate burglaries, each one carrying a 10-year sentence, so those could all be run consecutively, so you've got 180 years in potential sentence to work with, without even charging anything else.

So oftentimes, almost always, these kinds of guys have many charges against them each time they're arrested, and if you add up all the potential time, you're well over 100 years anyway, and prosecutors typically feel they can work with that trying to figure out a way to resolve the case, usually through some type of plea bargain with an appropriate sentence.

So it's completely up to the prosecutor which way to proceed. They can either charge the persistent

offender or not, and I say that because a lot of people assume we've been talking about if it's your third conviction of one of these crimes there's going to be a law that says you automatically get locked up forever, and no one has proposed that. I'm not sure you could propose it, but that's not what we're discussing.

We're discussing whether or not the prosecutors have this option to seek a life sentence and that's the Bill before us. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker, I appreciate Representative Lawlor's answer. Basically what we've learned today is that the persistent felony offender law that's before us and that we've had, but even corrected version, is for lack of a better term, a tool to be used at the discretion of the prosecutor.

The prosecutor can use the persistent felony offender law as a tool if he or she so chooses. They may not. As a matter of fact, Representative Lawlor

pointed out some technical reasons that a prosecutor might not want to go to that extra trouble to use the persistent felony offender law because it requires a two-stage hearing.

The prosecutor might not want to reveal some of the evidence that he or she has against the defendant at that earlier probable cause hearing. So there are some things that are not so attractive about this persistent felony offender law to the prosecutor, but he or she could use it if they want, or could not, but it's an option. It's a tool in their toolbox.

I remember, I've been here so long, and have enjoyed serving with Representative Lawlor. He always used to say, if the only tool you have is a hammer, you tend to treat every problem as if it were a nail.

And I think what we tried to do as a Legislature is give our prosecutors more tools because we realize that problems are more than just nails.

Representative O'Neill touched upon the fact that there are certain proposals here in the Bill before us that were recommendations of the Governor's Task Force.

As a matter of fact, when Representative Lawlor brought them out, he indicated and used the word unanimous recommendations.

Through you, Mr. Speaker, were there any recommendations made by the Task Force that were not unanimous? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Through you, Mr. Speaker, I believe the answer is yes. They were not all unanimous, but I don't know that for a fact. There was clearly consensus and you know, I tried to watch as much of that final meeting as I could, but I believe at the end of the day they may have all been unanimous because they made some adjustments as they went through it, so they may actually have been all unanimous but I can't say that for a fact. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. And through you, Mr. Speaker, as you had answered before, Representative Lawlor, there are some things that are contained in this Bill that were not even recommended by the Task Force.

You indicated the elimination of the administrative parole hearings, and also possibly some of the furlough considerations. But certainly not everything that's before us was recommended by the Task Force, and that's the way it should be.

We are the Legislature. It doesn't mean we have to adopt wholeheartedly what a Task Force said, or though, as good a job as they did, they are advisory at best and cannot supplant our deliberative function in this process.

Through you, Mr. Speaker, a question to Representative Lawlor with regard to the whole concept of parole.

We have an individual that is arrested and serves a period of time on their sentence, and based on our laws may be eligible for parole.

Is it possible under our current laws that someone could be eligible for parole say 20, 30, 40 years after they've actually committed the crime?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Sure, it's possible. There's plenty of people serving very long sentences, and typically those are for violent offenses, so for them, by the way, we didn't even have parole until 1993.

Before then, we had good time credits so people were typically serving about 10% of their sentences. We had these good time credits. We had the supervised home release program, and I think that's what people were reacting to.

So in '93 we said, it would be better to have a parole system where early releases are decided on a case-by-case basis by a parole board, and we built in some truth in sentencing standards.

So we said for nonviolent offenders, they have to serve a minimum of 50% of their sentence before they're even eligible to be released on parole, and for violent offenders, they have to serve at least 85% before they're eligible for being released on parole.

So, sure, assuming they were convicted for a crime committed after 1993, and assuming they got a very long sentence, like let's say 60 years, 85% of 60, I didn't figure it out, but it's like 50 something years, maybe even 60 something years that sure, that's when they'd be eligible for parole, 30, 40, 50 years from now. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

And through you, Mr. Speaker, based on the system that was described by Representative Lawlor, we would find ourselves in a situation where an inmate, a prisoner, is being reviewed by parole, 20, 30, 40 years after they've committed the crime with the possibility that the prosecutor who prosecuted them, the victims who were involved, the witnesses who were

involved, the judge who sentenced, all may have long been deceased, and we now have a parole personnel, a Parole Board member, or members, that are making a decision as to whether or not to release this individual.

The scenario that I just described, through you, Mr. Speaker, I'd just like to have verified through Representative Lawlor if that is accurate, if that could happen?

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Through you, Mr. Speaker, yes, but with all the laws that we've enacted, including some of the ones in here, when that decision is made, even if it's many years after the fact, the Parole Board will be considering the victim's point of view, because that's often recorded on a videotape for parole hearings that are going to come up many years into the future, and there's a whole set of criteria, which apply to Parole Board decisions, not just victim notification and input, but also risk assessments, etc. etc.

And the system we're designing will bolster that considerably so that all of these decisions are based on risk assessment tools, which have been tested as valid. I mean, not 100% predictable, but that's the whole point of the Parole Board process, to give them the expertise they need to make informed decisions.

A little bit different than what judges do, but through you, Mr. Speaker, that's what would happen even 40 years from now.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Thank you, Representative Lawlor.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you Representative Lawlor, sincerely, for your candid answers and your patience.

Ladies and gentlemen of the Chamber, I thank you for indulging me. Maybe someone will say, we didn't

have a choice, Cafero, but I think it is important and I'll tell you why.

It is no secret that there are certain people on this side of the aisle, and frankly, on that side of the aisle, who believe that we are taking such an important step here, a necessary step here, a bipartisan step here, but there's something missing.

There is something missing because whether related to Cheshire or not, the whole concept, idea, thought and horror of serious violent felonies has come to the forefront in the last six months.

And we talk about, in this Bill, persistent felony offenders, persistent serious felony offenders, people who have committed serious crimes not once, not twice, but over and over again.

And to most people in this state, and this world, we can't fathom that. Most people go through a lifetime without getting in trouble with the law, let alone a serious violent felony, and when I say that, I think it's important to say what that is.

You know, it sounds so vague, serious violent felony. We're talking about murder other than capital

felony, manslaughter, arson, kidnapping, robbery in the first or second degree, robbery involving an occupied motor vehicle, assault constituting a felony, sexual assault in the first degree, aggravated sexual assault in the first degree, burglary, home invasion.

We're talking about those crimes, just those crimes, because we as a Legislature in the Bill before us, have defined those crimes as the most serious, dangerous felonies, and we have instances where unfortunately we have people, God willing, not a lot, that continue to repeat these serious violent felonies.

The Office of Legislative Research did a report based on all of the proposals that were put out during the process of this Special Session in studying of the criminal justice system, and they said over the past five years, of all the inmates that were released from a facility, an average of 103 inmates per year have been convicted of a serious dangerous felony, the likes of which I mentioned, three times.

And on that third offense, the average time for that third offense, the average time of those 103

people over the past five years, the average time they served in jail after being convicted, beyond a reasonable doubt by a jury of their peers of one of those serious violent felonies three times, was eight years.

Now, earlier I said to you, can you imagine going up to someone and giving them the hypothetical of somebody sneaking into your house at 2:00 o'clock in the afternoon, encountering you sleeping, stealing all of your jewelry, walking out and then getting apprehended, and I asked you, well you think that person would define that as a home invasion and I saw the heads not, you bet they would and we found out that our Bill before us does not define it as such.

I wonder if we went to our constituency and we said to them, we have a person who has been convicted beyond a reasonable doubt by a jury of their peers for rape. They served a period of time and were released.

They then committed another rape, were convicted beyond a reasonable doubt by a jury of their peers and they were released after they did their time.

They came out, a third time were arrested and convicted beyond a reasonable doubt by a jury of their peers of rape again, the third rape, and they did eight years. Do you believe me? I'll be you most people would say no.

They should have gone to jail for good, for life, and that's where the concept of Three Strikes and You're Out comes from.

Now the debate that has raged about Three Strikes and You're Out has been the element of discretion, but we've learned today that police officers have from time immemorial always had discretion as to whether or not to place an arrest or not, that prosecutors have always constitutionally guaranteed discretion unfettered, to charge an individual for one charge or another.

And that the third category of discretion that's held by the judges is probably the one that we, as a Legislature monkey with the most by passing all those mandatory minimums.

So the concept of Three Strikes and You're Out comes from that basic understanding of people, that

when you describe not just a general serious violent felony, you name them. Rape and murder and arson.

And you say those people are convicted not once, not twice, but three times by a jury of their peers beyond a reasonable doubt, should they go to jail for life? Most of the people I talk to, ladies and gentlemen say yes.

Now, we've been told that what is in this Bill is our version, Connecticut's version of Three Strikes and You're Out, otherwise known as persistent felony offender.

We've learned during the course of today, not only in this Chamber, but watching the debate upstairs and through all the various hearings we had, that only about 30 people have ever been convicted of being a persistent felony offender.

As a matter of fact, that means that prosecutors for the past 15 years have only decided 30 times to use that tool that we gave them, and once we gave them that tool, the judge had discretion to charge an enhanced sentence or not.

We don't even have a mandatory minimum for that. We have a maximum, but no minimum for it. So that's why there are people who honestly believe there's something missing that we could do.

And with that, Mr. Speaker, the Clerk has LCO Number 10103. May he call and I be allowed to summarize.

SPEAKER AMANN:

Will the Clerk please call LCO Number 10103.

CLERK:

LCO Number 10103, House "A" offered by Representative Cafero and Senator McKinney.

SPEAKER AMANN:

Would you like to summarize, Sir?

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Ladies and gentlemen of the Chamber, the Amendment before you basically says, when an individual has been convicted of one of the serious dangerous felonies that are enumerated in our statutes, and including the persistent felony offender law in the underlying Bill, for the third time, that

they will be sentenced to life without possibility of release.

Except, except, that after 30 years or the earliest they would be able to receive parole under the underlying charge they've been put in jail for, whichever is later, a three-judge panel may review that sentence and elect to release that prisoner, modify their sentence, or refuse to diminish the original sentence, and that right to that judicial review occurs every five years.

Mr. Speaker, I move adoption.

SPEAKER AMANN:

The question is on adoption. Will you remark?

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Ladies and gentlemen, you've heard the various iterations of Three Strikes and You're Out.

You heard the proposal that's contained in the Bill today known as persistent felony offender.

You heard proposals, which were adopted in California, which said that that third felony didn't have to be serious. That is not this.

You've heard proposals, which have said once you are convicted of that third serious felony you're in jail for life, no ifs ands or buts, no review, no parole, period. That is not this.

You have heard the Governor's initial proposal, which said at the end of 30 years you will have a judicial review, and many people said aha. In some cases that could actually be more lenient than what the person was actually charged with. That is not this.

We have made that charge so it is the longer of what you would have received. The earliest you're available for parole under the underlying charge, or 30 years, whichever is longer.

It does give judicial discretion. It's a three-judge panel, the same three-judge panel with the same appointment process as we currently have under any sentence review.

It is a tool, ladies and gentlemen, a tool, just like the persistent felony offender act. A prosecutor has the discretion not to use that tool, just like he or she does with the persistent felony offender act.

It might not be used. It may be used. But as I was told by many prosecutors, including Kevin Kane, the Chief State's Attorney, it is a workable tool much like persistent felony offender was described by Representative Lawlor, a workable tool.

Not always used. Used at the discretion of the prosecutor, but available to the prosecutor for use.

Would it have solved the Cheshire murders had it been in place? No.

Would the persistent felony offender law have solved the Cheshire murders because it was in place? No. Not pretending it would.

Will it solve all our problems? Will it put every serious criminal behind bars for life and throw away the key? No.

But it's a tool, and it better meets the expectations of the public, who I would bet you very seriously never, ever assumed that someone who's convicted not once, not twice, but three times for rape, would on that third offense do an average of eight years and be out.

I don't think anyone ever believed that could be the case.

So I bring it before you, not as a cure all, not as some act to say we're tough on crime. As another tool to be used, just like persistent felony offender, just like our redefined home invasion.

I ask you to consider it. I don't want to give false hope to the public. I don't think that's what we're about.

We've very openly admitted the mistakes we've made in the past and admitted we're going to make them in the future.

But it's a tool, a tool I think that would give comfort to some degree to the public, a tool that could be effective when it's chosen to be used, a tool that is not contrary to prior statutes that we've done before.

We've done mandatory minimums. We've taken discretion away from judges. We did it in Jessica's Law. We say there are certain crimes, certain circumstances that are just so serious, with all due respect, good judges, we're going to take this one

over. We, meaning the Legislature. We're going to assign that particular sentence.

That's what we're doing here. No more, no less.

Mr. Speaker, I would ask that when the vote be taken it be taken by Roll.

SPEAKER AMANN:

The question before the Chamber is a Roll Call Vote. All those in favor of a Roll Call Vote please signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER AMANN:

Indeed, the requisite 20% has been met. When the vote is taken, it will be taken by Roll.

Will you remark further? Will you remark further? Representative Mikutel.

REP. MIKUTEL: (45th)

Thank you, Mr. Speaker. Mr. Speaker, I was going to comment on the Bill, but I'd like to say a few words on the Amendment.

You know, I think in my community I've noticed that more people, especially elderly and single women

live in fear more than they have ever lived in fear, fear of walking on the streets, not only at nighttime, but even in the daytime. They feel very vulnerable.

And this issue of violent crime has really made our constituents feel like prisoners in their own homes.

I have studied this Three Strikes and You're Out law, first introduced in California where they say it was too broad and didn't really work that much. But with a study recently that was done in California says that the law is effective.

So if someone thinks that the Three Strikes and You're Out law is ineffective, there are studies that indicate that it is effective, and we should know that it does reduce violent crime.

I think it's time that we send a message to the violent criminals in this society and in our state, a message that I think will be delivered by this Three Strikes and You're Out Bill.

After all, violent criminals commit most of the, the career criminals that this Bill is trying to

address, that this Amendment is trying to address, they're responsible for 50% of the violent crimes.

So it's a matter of some common sense. If we take the hardcore violent, repeat violent criminals off of the streets, that will serve to reduce the violent crime in this society.

That's all I have to say, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I just had a couple of questions.

SPEAKER AMANN:

Please frame your question, Sir.

REP. LAWLOR: (99th)

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

SPEAKER AMANN:

Representative Cafero, please prepare yourself, Sir. You may proceed.

REP. LAWLOR: (99th)

If you don't know, that's fine, but I'm just curious. This appears to be identical to the amendment that was debated in the Senate earlier tonight except for the effective date, and I'm just inquiring, is it in fact identical except for the effective date? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

It's absolutely correct, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Well, I have a lot of sort of technical questions about it, but I just wanted to, you know, because people are watching and this has been an important issue and it's been discussed ever since the Cheshire tragedies in great detail.

Representative Cafero alluded to this, but I just, I think it's important to go through the details of this a little bit, and I think his exact words

were, this would not have solved the Cheshire murders had it been in effect at the time.

And I think the reason why it wouldn't have solved it is not clear to a lot of people, and so I think it's important to go through why, exactly, it would not have applied, even this proposal, or even the California law, or the Washington State law, or anybody's law, Three Strikes and You're Out, why it would not have applied.

So there was two offenders in that case, one of whom, the younger one, the murderers, the younger one, had received 18, had been convicted for 18 separate residential burglaries and received a sentence of I think it was nine years to serve followed by a variety of special parole and other things. So he was convicted 18 separate times.

Does Representative, through you, Mr. Speaker. Does Representative Cafero acknowledge that this law would not apply to that offender and if so, why would it not apply to that offender?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Thank you. Through you, Mr. Speaker, based on Representative Lawlor's question and recitation of the gentleman's criminal history, I believe I heard him say repeated burglaries.

The law that is before us pertains to serious violent felonies. At the time that the burglaries were committed, in fact, up to this present moment, burglary in the State of Connecticut until we pass the underlying Bill, is not considered a serious violent felony.

So I guess one reason why this law would not have applied to the gentleman in the Cheshire case is, based on what Representative Lawlor said, and I could stand corrected, is that the gentleman was convicted for repeated burglaries, which under our statutes as we stand here today, prior to passage of any bill, is not considered a serious violent felony.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. But my question was, had this, what's being proposed right now, had this been in effect at the time that that murderer committed the 18 residential burglaries, burglary second degree. He was convicted of 18 separate accounts of burglary second degree.

And if you notice in the Amendment on Line 11, or 10 and 11, actually, it refers to burglary in the second degree as one of the crimes that would be covered under this.

Would this Bill, had it been in effect at the time, have affected that murderer, the subsequent murderer, and if not, why not?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Well, through you, Mr. Speaker, I don't know the facts, all the facts, in fact as you sort of admonished us rightfully that we shouldn't try to start talking about the Cheshire murders because we

have a trial pending, and the only fact that I know of, because the trial has not taken place, are the facts that have been alleged in the newspaper.

Based on the facts that I know, and I don't even know a complete history of them, and don't know whether they would apply to this fact scenario.

But as we discussed, the answer to your question, the first thing that would have to happen is if this law was in effect, is the prosecutor, very much like the persistent felony offender law in the underlying Bill, would have to choose to prosecute that individual under that law.

So I can't, I don't know whether or not the prosecutor would have used his or her discretion to have prosecuted under this law upon any of the offenses or whether or not they even qualify.

I guess it's more, it's easier for me to tell you what kind of case would apply under this than to talk about a case that I don't truly know the facts of, and say would it have applied if this was the law at that time. It's difficult for me to do. Maybe someone else could do that. I can't.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Well, through you, the facts I'm referring to are a matter of public record. They're not allegations. They're actual convictions that this particular person, who in my opinion is a murderer, he was in fact convicted of 18 separate counts of burglary second degree.

All, he was arrested, this is all public record, so this is not an allegation. This is public record. These are actual convictions. He was arrested for one residential burglary. While in custody, he admitted to 17 others, and was charged with all 18 burglaries and was prosecuted for all 18, actually pleaded guilty to all 18 burglaries and I think it was three separate courts all at the same time.

So he had 18 separate convictions for residential burglaries, burglary second degree, which is covered under this law. So that is the case. It's a matter of public record.

So, would your proposal tonight apply to someone who is being convicted all at the same time of 18 separate burglaries second degree, and if not, why not? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

I guess I'm having a little difficulty with the question. I'm not trying to be cute, but I'm trying to understand it because this burglary in the second degree you talk of and you say that these are public facts. They might very well be. I'm not familiar with them.

The burglary in the second degree, was it with a firearm or not with a firearm? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Mr. Speaker, I see the problem. Apparently in this Amendment it doesn't include residential

burglaries, burglary second degree as a strike, apparently.

So is that the case? Your proposal doesn't include residential burglaries as a strike under your Three Strikes and You're Out proposal?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

That's correct, Mr. Speaker. Through you, we tried to have the exact same language that the, Representative Lawlor put in the persistent felony offender law, their version of Three Strikes and You're Out. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Well, through you, Mr. Speaker, on that particular count, my reading of this Amendment, and correct me if I'm wrong, on the issue of whether or not it only contains the dangerous felonies that are in the existing law, plus home invasion and burglary

first degree, which we've added under our proposal, this Amendment seems to add quite a few others, including all assaults constituting a felony.

So through you, Mr. Speaker, is that not the case, that all felony assaults would constitute a strike under this Amendment's proposal? Is that the case, Mr. Speaker?

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker, the felony assaults that are enumerated in the Bill would be the ones that were counted as a strike.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

In Line 7 of the Amendment it appears to say an assault constituting a felony, so I'm interpreting that any assault that's actually a felony would be a strike under this proposal.

Through you, Mr. Speaker, is that the case?

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Will you give me one moment, Mr. Speaker? That is correct, Mr. Speaker, through you.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. So just for the edification of the Chamber, I mean, there's many assaults that constitute a felony. One example would be assault with a motor vehicle in the second degree, that's a felony. That's a drunk-driving charge.

So if you're drunk driving and get into an accident and anybody else other than yourself is injured in the accident, I think we all agree that's a very serious crime.

But since it's a felony, just to be clear, that would count as a strike, making you eligible for life in prison without possibility of release, assuming you had the other necessary convictions. So that would

count as a strike under this proposal. Is that correct? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker, so long as first of all, based on that fact scenario, the prosecutor decided to use this tool to prosecute, and provided that the other two strikes were enumerated in this Bill, there is a possibility, again, based upon the discretion of the prosecutor, that that would fall within this Bill. That is correct.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. But just to be clear. We're talking about the first two strikes as well. So in the earlier prosecutions, the prospect of an ultimate Three Strikes and You're Out prosecution doesn't present itself. But you would certainly be

eligible for that if you pick up a new conviction down the road.

So through you, Mr. Speaker, we're not talking about just a third strike. We're talking the first or second strike could be now again, we all agree that drunk driving is a very serious crime, and certainly if you injure somebody in an accident, even if it's a passenger in your own car, that's a very serious crime.

But just be clear, that would count as a strike under this proposal if it were to become the law. Through you, Mr. Speaker, is that the case?

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Again, Mr. Speaker, if the prosecutor prosecuted the third strike under this Bill, and one of the three strikes were as Representative Lawlor described, that would be correct. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. And also, you know, since we're discussing California, I think it's important to go through some of the examples of things that would be included as strikes under this proposal that are not included as strikes under the proposal that's in the Bill itself.

So another example of a felony assault would be what we might characterize as a barroom brawl. So it's a felony to assault somebody with anything other than your fist, it's assault second degree.

So for example, if you're in a fight in a barroom brawl, hit somebody with a chair or throw a bottle at them, anything like that, even if it doesn't cause a serious physical injury would be an assault second degree because some type of dangerous instrument was used.

So if someone were convicted of that type of an assault, that would count as a strike under this proposal, through you, Mr. Speaker. Is that correct?

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Well, through you, Mr. Speaker, you have to sort of tell me about this barroom brawl, because I've witnessed them. I've been involved in cases as an attorney concerning them.

Barroom brawls can involve a knife, a weapon. I've had circumstances as an expulsion offer where in a school it wasn't a schoolyard fight, it was a fight in which a guy took a ball peen hammer and smacked a kid's nose, followed by a razor blade that cut him, his face open.

You could characterize it as a schoolyard brawl. It was a very serious felony assault.

So if what you're describing rises to the case where the arresting officer uses his or her discretion to arrest them for that serious felony assault and the prosecutor prosecutes for that serious felony assault, then it could be used as a strike in the Bill that's before us. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. But I just think it's important for people to understand what would count as a strike under the current proposal, keeping in mind the ultimate sentence, taking into account prosecutorial discretion.

But you'd certainly be eligible for life in prison without possibility of release, and these would be examples of the strikes under this proposal that are not in the existing Three Strikes and You're Out law.

So in essence, I won't ask a question. I'll just state the law and people can differ, but assault second degree is assaulting anybody with anything other than your fists, regardless of how much injury you cause. If you hit somebody with anybody other than your fist, that is an assault, it's a felony assault. It's assault second degree.

My next question, Mr. Speaker, is that under the existing Three Strikes and You're Out Law, as rewritten by the underlying Bill, which we proposed tonight, in order to count as a strike, not only would you have to have been convicted of one of the

predicate crimes, but you also have to have been incarcerated for that crime in order for it to count as a strike.

So in other words, there are people who get arrested and ultimately convicted of one of these serious crimes, but for whatever reason are not actually incarcerated for it.

And in the Connecticut law, as is the case in many other states, not only did you have to be convicted of it, but you had to be sent to prison for at least a year for it to count as a strike, and that is intended to differentiate between let's say a barroom brawl where it's an assault second degree, but the ultimate resolution is simple probation as opposed to incarceration, which happens frequently.

And you know, whether or not there's incarceration tells you a lot about how serious it really was.

So under your Amendment, does it still count as a strike, even if after the original conviction you weren't incarcerated at all, you got straight

probation, no incarceration? Would that still count as a strike if you had the conviction?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker, the Bill, the Amendment before you does not base the seriousness of the offense on how much time you did, but on the actual offense itself as we enumerate in our statutes.

So to answer your question, no. Whether or not the person for some very rare reason doesn't do any time in jail but has been convicted of a serious violent felony, is of no moment with regard to this Bill. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Well, thank you, Mr. Speaker, but just to be clear, and I think the facts will bear me out. It's a matter of statistics. The vast majority of people are convicted of assault second degree, which is a felony,

but the vast majority receive a sentence of some type of probation.

You know, recently there was a case down in my area where a high school coach was attacked by one of the parents with a baseball bat and received some relatively serious injuries, and the end result of that case was that all involved agreed that a probationary sentence and no incarceration would be appropriate.

And it is very frequently the case that you can be convicted for this type of an assault, not a serious, you know, it's not, assault first degree where in the example Representative Cafero gave with a razor blade. That's assault first degree. It's a deadly weapon.

But anything other than your fist constitutes a felony assault, and I would hazard to say the majority of those convictions result in no prison time at all because, although it's relatively serious, it's not a dangerous, it's not anywhere near the more dangerous types of cases that criminal courts typically handle.

And I only say that because there's a lot of technically felony assaults that you compare to the things we're talking about in the underlying Bill, most people would agree aren't quite that serious, including some that are not even intentional at all, they're reckless.

So all of those would be included as strikes under this proposal, and I think it's worth noting that in maybe more than one would normally think.

So the technical aspects of the Bill, I notice that it doesn't take the place of any section of the underlying Bill. It's being added on to the end.

So, how do you deal with the fact that if the Bill is passed with this Amendment, it will include both this version of Three Strikes and the existing version of Three Strikes with the elimination of the necessity of the findings.

So there would be two separate Three Strikes and You're Out laws on the books. How would a judge sentence someone given the fact there's two apparently conflicting authorized sentences for the same thing?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker. I learned the answer to this question from you, Representative Lawlor.

Prosecutorial discretion. This is yet another tool that a prosecutor can choose to use when prosecuting a defendant.

So as you indicated before, a prosecutor can prosecute under the underlying crime.

A prosecutor could also choose to prosecute under a persistent felony offender, and if this Amendment were to pass, he or she would have a third option to prosecute under this particular case.

I don't think in any way, shape or form that the Amendment that's before us contradicts the underlying Bill's persistent felony offender law, and can be used in the alternative by a prosecutor at his or her discretion. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Well, I'd like to point out, it would be true if that's what this Amendment actually said, but that's not what it says.

It says in the very first lines, notwithstanding any other provisions of the General Statutes, it cites a situation whenever a person stands convicted of the following, it has a mandatory sentence of life in prison without possibility of release.

The persistent serious, sorry, the persistent dangerous felony offender statute, the existing Three Strikes and You're Out law, is a separate allegation, a charge, which must be proven in court.

That's not what this is. This is not a separate charge. It just says, under that circumstance there's only one authorized sentence. It doesn't require an allegation that someone is, you know, what would you charge them with?

I mean, there's no allegation here. It's just, it's establishing a mandatory minimum sentence for someone who picks up a third conviction if they have these previous ones.

On the persistent dangerous felony offender law it's very clear on its face. There's certain things. There's a charge. You're in court. Here's what happens. You're charged as a serious dangerous violent offender. It's a separate allegation. It's a two-part information.

This doesn't provide for that. This seems to say there's only one authorized sentence because it says notwithstanding anything else in the General Statutes, which it doesn't say in the persistent dangerous violent felony statute.

So I think what this actually would say if enacted, is that a judge, if the person has a predicate convictions, this is the only sentence that's allowed. I think that's what it says. It's very confusing. It doesn't follow the format of the existing enhanced sentencing statutes.

It seems to be very different. It seems to be very confusing and it seems to say that there's only one possible sentence.

It does not, again, it does not read like the existing persistent dangerous felony offender, and I

think if it's a choice to substitute this, I think you might want to say that this is instead of the existing statute, not in addition to it.

Now, the other question a lot of people had in reading this, and I know this came up in the Senate, and I just want to ask it again here.

There is a provision here that seems extremely confusing and for the life of me, I can't understand what it actually means.

And, I think most people are aware that all of these kinds of things ultimately get challenged in court, and there's a constitutional principle called void for vagueness.

In other words, criminal statutes, which are vague are unenforceable, in other words, unconstitutional. If it's not clear what exactly the law says, then it runs the risk of being unconstitutional.

It doesn't apply to all other kinds of laws we pass, but criminal statutes are very strictly and narrowly interpreted.

So I wonder if Representative Cafero could explain the meaning of the language, which is principally contained in Lines 22 through 25. It seems to talk about that you're receiving a mandatory life in prison without possibility of release.

Then it requires a three-judge panel to reconsider that after 30 years, and then there's some language about otherwise eligible for release, and I do not, I think I know what's intended, but I don't think the language is very clear, and I'm not sure I know what it means and how it actually would work.

So, through you, Mr. Speaker, could the proponent explain what that actually means? How would that be interpreted? What does that actually say?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Yes, Mr. Speaker, I'll attempt to do that. What it says is that upon the conviction of the third serious violent felony as enumerated in the Statutes, the first section, an individual would be sentenced to

a term of life imprisonment without the possibility of release, provided such sentence may be reviewed upon that defendant making an application to a three-judge panel that would be appointed by the Chief Court Administrator.

The earliest that that individual could do that is either after 30 years or if that individual was convicted of a crime that carried with it a sentence that was not parolable, releasable, reviewable, before 30 years, whichever date is later.

As a matter of fact, Representative Lawlor, this particular provision came as a result of a comment you had made. You had indicated that there are certain crimes that say, under our current laws, for instance murder, not capital felony, that you're not eligible for parole or even the review or consideration of parole until say 45 years or after you've done 85% of your sentence, which in some cases might be 51 years, 45 years, etc., something in excess of 30 years.

So we didn't want anyone to think that we were trying to be more lenient in cases like that, allowing the review of the sentence before 30 years.

So what we're saying is, the earliest it could be is 30 years, but if you happen to have been convicted for the underlying crime that carries with it no possibility of parole or review until a later date it's that later date that you would be allowed to have application for a three-judge panel review.

And in communicating that thought, which was inspired by yourself, we went upstairs to Rick Taff in LCO and worked with him in coming up with the language that's before you. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. First of all, I think it's a bad precedent to put our nonpartisan staff in the middle of one of these things, and I don't think that specific statement was necessarily true in terms of whose language this actually is.

I understand the LCO's office drafts these things, but sometimes they're given exact language by Legislators and I just think it's a hard enough job

that they have rather than put in the middle of these debates, and so I don't think that's appropriate.

But to be clear, and I understand what the intent of this is, but I certainly don't think that's what this says because what the point I was trying to make is, that if I were a prosecutor and I wanted to lock someone up for as long as possible, under the original version of this, which was in effect the Governor's attempt to come up with some compromise language, which says life in prison without possibility of release, but it can be reviewed after 30 years by a judge. That was her original proposal.

I pointed out after discussing it with a number of prosecutors, that they said that why would you go with that when it's pretty obvious they're going to get out after 30 years. I mean, that's their point of view.

Why wouldn't we just go with the normal scheme and get the guy sentenced to whatever we can get using the regular Statutes, knowing he has to do 85%, okay? So that's the problem.

I don't think this solves it because you can't know what they would have gotten under the regular scheme unless they're actually sentenced under that.

So, although it doesn't refer to the 85% parole eligibility number, I assume that's what you're talking about.

So my question to you would be, 85% of what? How would you know what sentence he would have gotten under the regular Statutes unless he was actually, unless a judge imposed such a sentence? Then you could know how much he'd have to serve, but that wouldn't happen here.

The guy would get sentenced to life in prison without possibility of release. That's the only sentence he'll get.

So how can you figure out whether 30 years is more or less than 85% of some sentence that was never actually imposed? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker. First of all, I'd like to address something, and I agree with Representative Lawlor that we shouldn't in these debates bring in nonpartisan staff unless we're doing so to complement them.

Many of us when we're bringing out bills at the end of a long arduous process, thank the nonpartisan staff for all their work, and we thank them by name.

And I've got to tell you something. I have enormous respect for all the people in LCO, including Mr. Taff, and my comment was not to pin any blame or whatever at him, but merely to indicate my high regard for him.

But I think the point is well taken and I will refrain from doing that in the future.

That being the case, what we're talking about here is the underlying crime, that third strike that you are charged with, if in fact that third strike you were charged with carries with it a penalty, and you are convicted of it. Remember, you have to be convicted of that third strike.

And if that underlying crime carries with it a penalty that calls for no possibility of parole until a certain time, whether it's 85% thereof, or whatever, then whatever is longer, 30 years or that longer period of time would be the first time you could apply for review by a three-judge panel.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

I'm sorry, Mr. Speaker, I didn't hear the question. I'm sorry. I'm asking the questions, right, I forgot.

Well, the thing is, you can't figure out what 85% is unless you know what the sentence was, and you know, the fact is, for all of the crimes outlined here, at least the ones that are, there's ones that are A felonies and the sentence ranges there, not less then 10, no more than 25.

And the other is, if it's a B felony, and there's some B felonies here, the range is not less than 5 no more than 20. But that doesn't tell you what sentence

they would have gotten had they been sentenced by a court. That just tells you what the range is.

So what I was saying is, that if I were a prosecutor, and prosecutors have said this, that I would rather pursue let's say a 50 or 60 year sentence if I can get it from a judge, rather than go with this, because this seems like you're pretty much guaranteed to get out after 30 years.

And because as was pointed out in the Senate, and I think this is a very valid point, if on the one hand the goal here is to take away judicial discretion from the judge who's actually imposing the sentence after the trial, and by the way, these will all be trials. No one's going to plead guilty and take life without possibility of release.

No one is going to plead guilty to that, and I lost my train of thought.

I got it. I got it. I'm sorry, Mr. Speaker. The point is that you won't know that, and I think if however, you know under the way it always works, if you pursue a normal conviction for the normal charges, let's say there's three or four counts of burglary

first degree or something like that, you know that for these kinds of guys with the previous convictions, the judges will typically run sentences consecutively, etc.

So if you feel you have a good likelihood of getting 50 years or even if the guy is willing to plead guilty and take 40 or 50 years, there's a certainty that goes along with that. You know that they're going to have to serve at least 85%.

Under this version, if I had a guess, 30 years from now, the guy's going to be in his 50s, 60s, 70s, a different judge, a different prosecutor, the witnesses will all be gone, the victims will all be gone.

We'll probably say, hey, this guy has served enough time, get out. So why give the discretion to a judge way down the road, and not give the discretion to the judges directly involved and has everybody present and is looking at this, so I think that's a flaw.

I'd like to go back for a moment to the, to why this wouldn't have applied to the two offenders in the Cheshire case.

The younger guy had 18 separate convictions for burglary second degree, and the reason this wouldn't apply to him, well, is because it doesn't even include burglary second degree. So let's just be clear, that it wouldn't include it.

However, under the new laws we're adopting, those crimes would probably be burglary in the first degree. And so, if this were in effect, if all of this were in effect today and he were arrested again, it wouldn't apply to him because this requires you'd have previous convictions before your arrest on the third offense.

Since he had all his convictions at the same time, he had no previous strikes, and that's the reason.

So through you, Mr. Speaker, to the proponent of the Amendment, why did you not draft if so that if you get three or more convictions all at the same time, that would also count as a Three Strikes and You're

Out situation, just so I can understand the rationale behind that decision? Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker to Representative Lawlor. Representative Lawlor, as I said at the outset, though we are probably here in a Special Session because of the instances, the instance, the murders that took place in Cheshire, not everything we're doing is directly related to Cheshire or would have prevented Cheshire from happening, the Cheshire murders, etc

I never said at any time that I represented that this was formulated so that if it were in effect it would have stopped the Cheshire murders. There's other things we're doing in the underlying Bill that may or may not do that.

What I simply said is, this is a tool, an additional tool to be used by prosecutors at their discretion when they believe in their discretion that the case fits, is appropriate, just like they will

use, depending on how they feel with regard to a certain case persistent felony offender, just the way they will charge whether, under the new home invasion we're creating.

So I can only say it is what it is. It was done as an additional tool. It doesn't cover every circumstance. Nothing does, I think, that we do. There's not a catch all silver bullet bill that's going to solve all the problems.

It's another tool to be used in the case of someone who for the third time is convicted for serious violent felony by a jury of their peers beyond a reasonable doubt. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Well, thank you, Mr. Speaker, but I just, there are, like you, Mr. Speaker, I, and I'm sure every other Member of the Legislature has received countless contacts, phone calls, emails from people, and we've spoken to people about the notion of repeat offenders,

and whether or not they should be locked up, in essence, forever.

And I think it's important that since we're being asked to vote on this, that people understand what it actually does and what it doesn't do, because I think there's a fair amount of confusion in large part based on the relatively short sound bites that we're permitted to make in the news media about explaining these things.

That even people under this proposal, under this Amendment, even people who are getting convicted three, four, five, six times all at the same time, would not be eligible because they have no previous convictions that were already obtained prior to the new arrest.

And this Amendment, as I read it, and I stand to be corrected, requires you to already have previous convictions before you committed the newest crime. So even if you did it all at the same time, it wouldn't cover you. You would not even be eligible, prosecutorial discretion or not, you would not be

eligible for this. So that's an important distinction.

Now, the other murderer involved in the Cheshire case did have, and this is a matter of public record, he had many, many, I think as many over 20 previous convictions before his arrest for the crime, which resulted in his incarceration and then his subsequent parole, and then these murders.

And so, I think I know the answer, but just to be clear, through you, Mr. Speaker, given the fact that well, let me state it as a hypothetical so, because I understand the Representative may not be exactly familiar with this guy's record.

The most serious crime he had ever been convicted of was burglary in the third degree, not one of the strikes listed on here, and that resulted from him breaking into a, this is public record, breaking into a car, stealing a pocketbook off the back seat.

He had more than 20 previous convictions, many of which were felonies, but none of them involved any of the crimes on this list.

And so, just to be clear, if that's the case, if you have repeat felony convictions, including burglary in the third degree and weapons possession, and those are the only ones he had, even if you have 20 previous convictions for those crimes under this Amendment you would not be eligible, even eligible to be treated as a Three Strikes and You're Out offender.

Through you, Mr. Speaker, is that correct?

SPEAKER AMANN:

Representative Cafero.

REP. CAFERO: (142nd)

Through you, Mr. Speaker, to be honest with you, Representative Lawlor, you lost me, because we seem to be going back and forth.

Either it's too strict that it gets that barroom brawl, or it's not strict enough because it lets some guy who's convicted of 20 times stealing a purse off the back seat of a car.

I don't know which it is or what you want me to answer. I know this. It is what it is. It says what it says.

If someone is convicted of the crimes enumerated here for a third time, and by the way, you indicated with regard to multiple offenses all at once, and again, I'm not quite sure what you mean.

But if you mean this, that on one day a guy pops his cork, he goes out and he hijacks a car, and later on that same day he in the course of doing that he commits an arson and a burglary and a murder, does he get charged with three separate trials and three separate convictions?

Does it all get wrapped into one, etc. etc. That doesn't play into this. There are other laws I assume that we have that will address that.

This talks about three separate convictions of a serious felony and what happens upon the third.

So with due respect, I don't know even in the hypothetical you gave me, it sounds like it would not be covered under this because that's not what this was intended to do.

You know, the person who committed the horrible shooting in the University of Virginia, my understanding is he had no criminal record.

Would it be fair to say, well, would this have stopped this crime? Of course not.

So, I don't know any other way to answer it. Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Well, I point these things out because I think there's a fair number of people who believe had this proposal been in effect at the time the two murderers in this case were arrested and sentenced prior to these murders, that they would have gotten a life sentence, and would not have been able to commit this crime.

I think there are people, not anybody in this Chamber, but I think there's people who think that, and I think it's important to understand that what we're discussing today would not apply for the reasons that I've cited.

In the case of the younger one, he had 18 separate convictions, not all from the same day. There was a burglary spree that was going on for

several months, public record, and he was arrested, essentially all at the same time, and convicted over the course of a few weeks in different courts of all these different things.

But this would not apply to him because he didn't have previous convictions before his most recent arrest.

And with the other guy, he had no, nothing that would qualify as a strike, even under this proposal, and so this would not have affected him even if this had been effect at the time.

And I think people need to understand that, because there's been at least the people who have contacted me, have felt, and I understand how they could be led to believe this, that had this law been in effect, it would have prevented this tragedy.

But it wouldn't, and that's been clearly disclosed by all sides here tonight.

The final thing I want to say is what I've been told by the front line people that actually would have to deal with this.

They actually did make a recommendation as part of the Governor's Task Force regarding persistent offender, and this is what the recommendation says, and I'm reading from the report, and it's very short.

The present persistent offender statute should be made more functional and amended as suggested by the Connecticut Supreme Court in State v. Bell by removing the statutory predicate requiring the court to be of the opinion that the public's interest would be best served by extended incarceration.

That recommendation is what is embraced in the underlying Bill. That's not binding on us, but that's what the actual people who would have to work with this have said.

And beyond that, they have said that such a proposal, many of them, not all of them, and certainly not unanimous, but essentially what they said is, if this version were to pass, it would be unworkable for them, and why is understandable.

It requires extraordinary types of process ahead of time. No one's ever going to plead guilty under it because it requires a life sentence, and it in effect

is like a death penalty type prosecution, and a lot of resources would be devoted to it because of the prospect of what you actually get under the death penalty statute, which is life imprisonment without possibility of parole.

It would cause an immediate impact on the system, not down the road, but immediate because as was the case in California, for the first few years, people would avoid pleading guilty to or being convicted of, anything that would count as a strike, and I think that would further complicate the jobs of prosecutors.

Allowing judges to make decisions on a case-by-case basis, our current law, as well as prosecutors, is an appropriate safeguard. I'm not sure of any case that anyone can cite in here where had this law been in effect there would have been a different sentence that would have substantially affected any public safety interest.

Repeat offenders who are convicted of these crimes get long sentences in Connecticut, and they serve 85% of them, and they're not getting out early.

I think we should stick with the proposed changes in the underlying Bill, and I think we should reject this Amendment.

SPEAKER AMANN:

Do you care to remark further on the Amendment before us? Representative DelGobbo.

REP. DELGOBBO: (70th)

Thank you, Mr. Speaker. Mr. Speaker, I think a lot of us have heard different debates of Representative Lawlor, Representative Cafero over the years, and both of them being of the profession they are, we know we're going to learn things and we're going to be confused a bit at times as they speak as intelligently as they do on these issues.

But I think as a non-attorney, and I think a feeling that we all have here today, maybe getting back to that is that the Bill, the underlying Bill that this Amendment seeks to, I think, very importantly improve, the underlying Bill is a very good bill, and it deals with some issues that kind of cross any party, any way you can describe the nature

of any society. It's important improvements for the people of this state.

But, Mr. Speaker, in rising in support of this Amendment, I wanted to suggest beyond the debate we just heard, why I believe this Amendment is so important.

Frankly, Mr. Speaker, I look at it into more layman's terms. What is the most fundamental, basic reason why we're in business? Not just this Legislature, but having governments at all, and I think it's the concept of providing for the safety of citizens, of its individuals in that society wherever that government is.

Before we can get to anything else in this Legislature, whether it's the importance of education, helping and providing for seniors, whether it's fixing our roads, it really comes down to providing for the public safety first and foremost as an organizing principal of why there's government at all.

No one is going to be able to enjoy life or liberty if they fear for their life and liberty, for

their safety and their lives, and you know, it's not an exaggeration.

People, Representative Mikutel mentioned earlier, people are afraid right now. Our opportunity here is to provide some leadership and give them a reason and this underlying Bill does so, why they should feel less afraid.

But I think given some of the examples of the debate, I don't think we go far enough to our responsibility as a government. People are afraid in the suburbs and people are afraid in the cities.

And you know, I have to make a comment. We know the events that happened in Cheshire and are sickened by those. But as a society, we shouldn't be somehow desensitized to what goes on in the cities and what has gone on in the cities and the attention, the media attention that happens for some events and not for others.

I recognize that, and I've kind of reflected on that myself, and it's something we should continually be aware of as a society and those of us speaking on behalf of the people we represent.

But what I think this Amendment gets to beyond the legal issues of how it works, is a couple of simple things.

There's a lot of debate for years since I've been in this Legislature so that there's balance. This Amendment is about balance, you know, sort of what is the role and responsibility of society in trying to provide the right support for people. The Bill here has, you know, re-entry beds and all kinds of things, the psychologists and review process.

What's the role of society and the responsibility of society versus what is an individual's own responsibility for their actions?

And I think this Legislature and legislatures across this country have had that balance go way beyond individual responsibility. They say, well, it's our government's job and it's society's fault.

I understand that to an extent, and our society and our taxpayers are pretty darned generous in trying to deal with those issues as best we can with the resources we have.

But I think we've gotten way, far too far away from instituting that concept of individual responsibility for your own actions.

We're talking about here in this Amendment, you have to, on three occasions, have committed heinous, violent felony offenses. Why shouldn't you be subject to the most, strictest penalty that our society can provide for?

And you know, I have to say, some would argue that this Amendment, or you know, if passed, would not have affected the incidents in Cheshire. I'm not saying it would have directly been applicable to a sentence or a charge, but you know what?

I think the concept of instituting in our judicial system and in our public policy making, the concept of individual responsibility, would have a real effect on these kinds of things being able to happen again. So think it does apply to the circumstances in that sense in Cheshire.

This Amendment is also about discretion we've heard, and there seems to be, we fall all over ourselves to provide appropriate discretion, whether

it's from the level of the law enforcement officer through the discretion of a prosecutor, and the discretion we've given to judges.

And the reality is, at some point we've got to step back and assess, okay, we did that maybe for good purposes, and there's a million different stories in the big city.

But I think from real world examples that we know, that discretion left the way it is, is not working for the benefit of our citizens.

When there can be on average, and if I understood the debate earlier correctly, when there could be on average 103 individuals who have been convicted of their third violent offense, violent felony offense, released every year in Connecticut, and when the average sentence on that third offense was eight years? Was only eight years after having committed, having three violent felony offenses?

It tells me, not as a jurist, or a lawyer, I'm none of those, but as some kind of common sense, that this concept of discretion the way we allowed it to

happen is not working, and I think we need to pull back on that a bit. That's what this Amendment does.

And finally, this Amendment's about reality, the reality that as I just mentioned, we know what is happening based on the statistics that are brought forward of the number of violent felony offenses that are happening, and the amount of their offense.

The reality is that I think the people of this state in cities and in suburbs are demanding something different.

Mr. Speaker, I rise in support of this Amendment. We talk about an anniversary, a tragic anniversary that's coming up, but it's actually, there's also another anniversary if we think about our responsibility here today.

It was, sort of an arcane statistic, it was 430 years ago, almost to the day, that the first Fundamental Orders, our original Constitution, was created in this state.

The first paragraph of that stated that its purpose of having this government here in Connecticut was to maintain the peace and the union, maintain the

peace and union, sort of an arcane way of saying providing for the public safety.

That's carried forward in our national Constitution and our State Constitution to this day. At its core, I believe that's our first responsibility.

I believe this Amendment fulfills that responsibility that we all have to the citizens and residents of this state. Thank you, Mr. Speaker.

SPEAKER AMANN:

Do you care to remark further? Representative Adinolfi.

REP. ADINOLFI: (103rd)

Thank you, Mr. Speaker. As most of you are aware, the tragedy in Cheshire was in my district in a development where I live, and only a few doors away from my home.

Obviously, because of that I'm very close to all the neighbors and the people living within this development. There's 124 families that are very close knit and we have a neighborhood organization.

And it becomes very difficult to dwell on the crimes, especially every time we talk about this and refer to the family that was involved in the tragedy. Naturally, you have to put yourself in their spot. It just brings everything back, and I'm going to try and avoid that. I think that we should all try and do that.

If you recall on January 6th in Cheshire, we had a luminary event. We had 140,000 luminaries throughout the town. In the development where the tragedy occurred, right down the street from me, we had a little memorial service that night after which we had six or seven open houses in the development, where people opened up their homes for people to come, have a cup of coffee and chat.

Of course, like many of you here, throughout this whole past few months we've all been confronted with emails and letters and people approaching us. But I've never had the opportunity to sit with groups of people as I did that night and hear their inputs.

And their inputs were very simple. They were all aware. We keep on talking that nothing that we do

changing these laws now could have changed what happened in Cheshire at that time. We're all aware of that. They know that.

But what happened there, it gave us all an awakening that we needed changes in our laws, and that's what we're attempting to do here tonight.

I feel that we have ignored the 44,000 people that signed a petition requesting a strong Three Strikes law, six months of hard, dedicated work by many people, not only from Cheshire, but throughout the whole state were put in getting this petition together.

The argument that the opponents make that the Three Strikes law is that it takes away the discretion of the judge, yet the Bill sets a mandatory sentence of 10 to 25 years for home invasion. I think I have that right. I'm not sure whether it was 10 to 20 or 10 to 25, but I remember Representative Lawlor saying 10 to 25.

And I have a question for the Chairman of the Judiciary Committee, but he's not here, so I don't know who could answer it for him.

While I'm waiting for Representative Lawlor to get here, I think they're going to find him, the underlying Bill I'm in favor of. I think we made some major steps to improve the laws in this state and we're headed in the right direction.

There are some minor things, which I'll take up later after we get through with the Amendment. I have some questions that I want to ask, which came from my constituents, and we'll do that later. But for the time being, I guess we're on wait for Representative Lawlor to get here. Here he is.

Through you, Mr. Speaker, a question to the Chairman of the Judiciary Committee. It's a very simple question. One question.

SPEAKER AMANN:

Mr. Adinolfi, Representative, I just want to make sure we stick to the Amendment because--

REP. ADINOLFI: (103rd)

I am sticking to the Amendment, yes.

SPEAKER AMANN:

Okay. I just want to make sure, Sir.

REP. ADINOLFI: (103rd)

Through you, Mr. Speaker, can the judge impose a 10-year sentence at the third conviction under the persistent offender law for home invasion?

SPEAKER AMANN:

Representative Lawlor. Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Yes.

REP. ADINOLFI: (103rd)

Thank you.

SPEAKER AMANN:

Representative Adinolfi.

REP. ADINOLFI: (103rd)

Thank you, Representative Lawlor, and your answer is the exact reason why I encourage my colleagues and I, myself, will vote in favor of the Three Strikes and You're Out Amendment. Thank you.

SPEAKER AMANN:

Will you remark further on the Amendment before us? Will you remark further on the Amendment before us? Representative Nicastro.

REP. NICASTRO: (79th)

Thank you, Mr. Speaker. Mr. Speaker, I'd like to speak on the Amendment if I may.

SPEAKER AMANN:

You may, Sir.

REP. NICASTRO: (79th)

Thank you, Mr. Speaker. Mr. Speaker, you know, I try to look at this as our constituents look at it, and I know there's a lot of emotion involved here on both sides of the aisle, and what we have to do is, we have to set that aside.

I applaud everybody who had anything to do with the writing of this Bill, and as far as that's concerned, the Amendment, because everybody's heart is in the right place.

But speaking to my constituents out in the field, you know, they understand Three Strikes and You're Out as meaning, three strikes and you're out, Mr. Speaker.

Mr. Speaker, if somebody said to me, would you explain that, and I were reading a bill to them, and I look at the Amendment as written, it says here subsequent the court sentence such person to a term of life imprisonment without the possibility of release.

But it doesn't end there, Mr. Speaker, and if it's three strikes and you're out, and you're going to prison without the possibility of release, that's three strikes and you're out.

But then it continues on, provided such sentence may be reviewed upon, you know, a three-judge panel appointed by the Chief Judge Advocate, Administrator. And you know, that's almost like having an Appellate Court.

And yes, we heard Representative Lawlor say that a judge could do 10 years, but a judge could do 60 years, and if I'm incorrect on this, as a new person, I'd like to be corrected.

But if we said, if a judge gave somebody 60 years and if they have to do 85% of their time if I understand Representative Lawlor correctly, that means they're going to be in prison for a minimum of 50 years or so, give or take one or two. Here you're talking 30 years, and it doesn't make any sense.

You know, you're going to have judges who can be lenient. You're going to have judges who can be

strict. The point being, the Bill is written, Senate Bill Number 1700, is trying to cover all bases.

This Amendment, while well intentioned, could have people out of prison a lot sooner than they should be.

If we're going to do a bill that says Three Strikes and You're Out, then it should say Three Strikes and You're Out. You're staying and you're not getting out.

Any chance of possibility of parole in my opinion is not Three Strikes and You're Out.

So, Mr. Speaker, while I know intentions are honorable all the way around, I rise against this Bill, this Amendment. Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Sir. Representative Hetherington.

REP. HETHERINGTON: (125th)

Thank you, Mr. Speaker. We have had some proud moments in this Chamber, and I must say, I don't think there's a prouder one I've seen than tonight. I think that the way this has been discussed, the deliberations, the colloquies we've heard, all

scholarly and reasoned, I think really do great credit to our Assembly.

I rise in support of this Amendment. It disturbs me a little bit when I hear these crimes repeatedly referred to as tragedies, just as when I hear 9/11 referred to as a tragedy.

These events, these crimes, that enormous crime are not tragedies. A tragedy is when my good friend's son is killed driving home one night. A tragedy is something like Hurricane Katrina.

These are not tragedies. Tragedies imply that they happen because they just happen. It was the will of the fates.

These are atrocities committed by human beings against each other, and what our charge is, is to try to regulate that behavior either to reform people, which is the preferable way to go, to find that good element in everybody that we can somehow coax out, or to see that they're put away where they don't hurt anyone.

Now the Amendment that is before us is very simple in concept. It says that after the requisite

commissions of earlier crimes are completed, that this Amendment will impose the most severe penalty available under this or any other alternative so that it is the maximum by way of a Three Strikes law that can be achieved.

It is a tool to be used, as Representative Cafero and others have pointed out, and to that point, I would comment specifically on the structure of the statute.

In fact, the Amendment is structured very much like the persistent dangerous felony provisions. It does include the words notwithstanding any other provision, but notwithstanding is rather conventional statutory language.

You might have said the same thing in the persistent dangerous felony language. It simply means that any other, any other statutory provision addressing these very same facts that apply in this instance do not apply because of this language.

So while the persistent dangerous felony offender provisions, that is Section 86 of the underlying Bill et seq, deals with applying the law through the

definition of a persistent dangerous felony offender, the Amendment does the same thing but does it without using a definitional approach. It simply says what happens when these prerequisites are obtained.

The structure is also similar in that both the persistent felony offender language doesn't deal with crimes all committed in the same, at the same time. It relies upon an accumulation of past convictions, and that is exactly the way it looks under the Amendment.

What I'm saying is that although questioned on a technical basis, in fact what the Amendment does, is exactly what the persistent felony offender language does, except it does it in another way and adds another tool, another weapon to the prosecutor's arsenal.

So in order to have this tool available to imposing the maximum sentence, we must have this Amendment.

It's certainly true that, at least I believe it's true that this law and the well-drafted underlying Bill would not have prevented the terrible events in

Cheshire, but we must look forward. We must take every instance like this that shocks, offends us, and use it as an opportunity to reform our laws so that going forward they will better protect us.

I had this question on a survey that I sent out, and I must say I've never received such a large reply, and the overwhelming message from my constituents is, Three Strikes law is what we want.

Now, we can talk about it. We all are part of the law-making process, and we can focus on these details and these nuances, but to the people out there, common sense, common sense in their view is, if you commit three violent felonies, if on three separate sequential occasions, you violate the person of your neighbor, then you ought to be put away.

You've spent the patience of society. You've exhausted our hope of reform and that you should be taken away from being a threat to the rest of society.

So in closing, I earnestly urge my colleagues to support this Amendment. It fits. It is well drafted, fits well with the underlying Bill. It is called for by the outrage in our society and it deals with not

tragedies. It deals with human outrages, and that's what we should be addressing.

Thank you, Mr. Speaker.

SPEAKER AMANN:

Representative Witkos.

REP. WITKOS: (17th)

Thank you, Mr. Speaker. I rise also in support of the Amendment that's before us. I have the ability and the task of being one of the first ones to arrive on the scene of an investigation that Representative Cafero had a discussion with Representative Lawlor, and discretion is a large part of my profession.

However, the victims of these crimes, there's no discretion for them. And as a matter of fact, Mr. Speaker, for every third strike that we're allowing for these defendants, there's an additional victim that's involved, so we've got three victims when we talk about strikes. Let's not forget about the victims of these crimes.

As a matter of fact, since the Cheshire incident, there's been 22 home invasions that have occurred in our State of Connecticut, 22 additional families that

have been terrorized. That's right, terrorized by the acts of these individuals who have invaded the sanctity of their homes.

These persons will come before a judge one day and they will be sentenced. And unfortunately we have, and I find it ironic that we have in the State of Connecticut, something called good behavior credits.

Well, isn't it their behavior that got them before the judge in the first place? They have given them that sentence, but we're allowing them to be released from prison because of good behavior.

I stand corrected? Apparently, we have abolished that.

But with that, Mr. Speaker, we have what's called sentences that can be given consecutively and also concurrently. The people that are the victims of these crimes just don't understand why they're being told, why I'm just an add-on and why am I being different than anybody else?

Why does the person that's done the crime against me not getting additional time? They're just going to do the one sentence and that's it.

And Mr. Speaker, it's not fair. The three sentence strikes that we're debating here tonight, I don't call it Three Strikes and You're Out. I call it Three Strikes and You're In. You're going to be in jail.

In deference to my friend from Bristol, when we were talking about the 30 years, 30 years is a long time to be in jail. Okay? All it says is, you're going to have a review. It doesn't mean you're going to get out. It means you're going to appear before the three-judge panel. They're going to review your case.

And you won't be before the three-judge panel if your sentence was going to be longer. Be very clear about that. It doesn't say it will automatically be 30 years. If your sentence was 45 years, you won't get in front of the three-judge panel after 30 years' time.

The crimes that are enumerated in the Amendment before us, if you went and spoke to any citizen on the street, they would be appalled that we would say that we'd even be having the discussion that somebody shouldn't be locked up for life if they had done this three times.

When do we learn enough is enough? We're giving our children lessons and we're teaching people as we grow in society. If we allow them to do it once, twice, three times, at what point does the message get through? Enough is enough.

And that's what this Amendment does before us folks, tonight, and I urge you to join with us in its passage. Enough is enough. Three Strikes and You're In, behind bars. Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Sir. Representative Noujaim.

REP. NOUJAIM: (74th)

Thank you, Mr. Speaker. Good evening, Mr. Speaker.

SPEAKER AMANN:

Good evening, Sir.

REP. NOUJAIM: (74th)

Mr. Speaker, I also rise in support of this Amendment. I listened, Mr. Speaker, for three hours to the dialogue between the Minority Leader and the Chairman of the Judiciary Committee, and both, God bless them, both of them are very, very smart attorneys. I learned so much listening to them.

But I'm not an attorney, Mr. Speaker, I'm a manufacturer. But as a manufacturer, I learned to listen to people, listen to their opinions, listen to their ideas, and seek their opinions and do as they ask us to do, especially if they are in the majority.

Mr. Speaker, just like all of us, most of us as a matter of fact, we talk to our constituents. After all, they are the ones who put us in this position, who elected us to represent them and to support their positions and their decisions.

I asked my constituents in one of the surveys that we sent, and I started sending it a few weeks ago, I asked about repeat offenders, if they should be receiving mandatory life sentences for crimes such as home invasion.

And Mr. Speaker, the results have started to come in and I have with me here a whole bunch of responses that came from my constituents.

People have taken the time to respond to me. They invested their time. They invested their energy, and also they've invested their 41-cent stamp to respond to this survey.

In this survey so far, all of the responses that have come to me are overwhelmingly in support.

Therefore, Mr. Speaker, as our constituents ask us to do, we support the decision. We listen to their opinions, and we respect their opinions.

Therefore, Mr. Speaker, with this mandate that is coming so far from my constituency, I support this Amendment and I urge my fellow Members to also support this and vote in favor of it.

Thank you, Mr. Speaker.

SPEAKER AMANN:

Would you care to remark further? Would you care to remark further on the Amendment before us?

If not, staff and guests please come to the Well of the House. Members please take your seats, and the machine will be opened.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber.

The House is voting House Amendment Schedule "A" by Roll Call. Members to the Chamber.

SPEAKER AMANN:

Have all the Members voted? Have all the Members voted? If all the Members have voted please check the board to make sure your vote has been properly cast.

If all the Members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk please announce the tally.

CLERK:

House Amendment Schedule "A" for Senate Bill Number 1700.

Total Number Voting	139
Necessary for adoption	70
Those voting Yea	48
Those voting Nay	91

Those absent and not voting 12

SPEAKER AMANN:

The Amendment fails. Do you care to remark further? Do you care to remark further on the Bill before us? Representative Ken Green.

REP. GREEN: (1st)

Thank you, Mr. Speaker. Mr. Speaker, I rise first to offer my condolences and sympathies to all of the victims in our great State of Connecticut and family members who have had to suffer from an incident of seeing a loved one lose their lives because of someone's violent and criminal act.

I have for years watched in the City of Hartford, City of New Haven, City of Bridgeport, and other communities and many communities across the State of Connecticut, where we have seen young people, grandmothers, children, innocent people, all of us I think in one way or another have been affected by some of the senseless and horrific incidents of death to an individual based on, based by the perpetration of those individuals who have no respect for life.

It's a tough feeling. I have lost family members, 19, 15 years' old through senseless acts of violence, and I will never forget, I will never forget and/or not really go through a day thinking about how we might make our communities safe.

We are here tonight to try to discuss and to pass, or at least to discuss and have people decide on how they vote on trying to toughen up some of our criminal justice statutes to deal with a particular incident that I think is on all of our minds.

But I think also, to address the issue of crime in our communities, because I stand here saying that I do not want persistent violent criminal individuals who are going to consistently violate the laws of our state, disrespect the common good of fellow persons and/or really cause harm to anyone.

I do not want those individuals in my community. But I'm just a little concerned. For years, for years I have believed, I have stood, I have advocated, that we try to address crime in our community.

I've done that to try to particular in the cities that I represent, the town that I represent, tried to

encourage that we remove guns from the street, from the hands of those who should not have it because that was, that situation when you have guns in people's hands, create a lot of deaths, particularly among young people.

For over five years I have talked with and debated with, and tried to encourage my colleagues to strengthen lost and stolen firearms laws to say that we have a serious problem because people who want to commit criminal acts do not have any respect for life or liberty. And we have been seeing that every day, and I have been seeing that for a number of years.

It took over five years for us to even pass, debate and pass a lost and stolen firearms bill that was not very strict, but simply said, let's try to identify the trafficking of lost and stolen firearms.

I wish we had reacted quicker. There were many lives lost because of those individuals in possession of those guns. We could have done something to prevent that.

I constantly get concerned around issues around domestic violence. I have been here and debated

issues around protective orders and restraining orders, and yet still, particularly women and children are dying at the hands of those individuals who violate protective and restraining orders.

In East Hartford, Connecticut, a few years ago we had a terrible incident where a person violated a restraining order. A mother and two daughters were killed. Three individuals, a mother and two daughters, sounds familiar, because the person violated a restraining order.

There was no rush to say, what about our current legislation that involves restraining and protective orders did not work. What can we do? How can we not let this happen again?

Talk to the family members of those individuals. Talk to the community where those individuals come from. Ask them to sign petitions. They happen to be probably in East Hartford, and I'm not making any disparities, but I could probably guess that the income level was not as much as the income level of those individuals in Cheshire.

They were black women, and there was no outcry. Horrible, horrible, terrible incident. The law was violated. Why was not someone protecting those women?

I could probably tell you, and you probably know of many instances of, particularly the restraining and protective orders being violated.

We have not had a very serious discussion of what we might need to do to change the statute to protect those individuals from harm.

It's been happening for a number of years. Those are serious issues. Those family members lost somebody in their family that they were close to, that they were dear to.

I just would imagine, I would just imagine, I've got to tell you. If I was a family member of one of those young ladies, I would be saying, why didn't the General Assembly come and talk to me? Why didn't they ask me about how they could have protected my family before this incident? Nobody asked them, probably.

I would suspect that some of my colleagues from East Hartford did ask. I'm going to believe that,

because I know my colleagues from East Hartford that were very concerned about that incident.

But we did not analyze that situation. We did not have a special public hearing. We did not have Special Session. We in fact, probably don't even remember that incident. Most of us probably don't even remember that incident.

Horrible, terrible incident, happened to three black women in East Hartford, Connecticut, because somebody violated a restraining order, a law that we passed to protect people, it was violated.

Because we've heard here tonight about how we made some mistakes as a Legislature. We've heard how our employers, employees in certain departments of the state maybe did not do as much as they should have done, didn't follow statutes about sharing information that they should have shared.

We're all taking some responsibility and some blame, and I would take some responsibility and some blame. But I can tell you, I stand here committed to removing specific violent, dangerous offenders from my community.

Why am I standing here wanting to do that? That's because as I sat in on some of the Task Force, from the Sentencing Task Force when they were reviewing some sentencing standards, I listened to a couple of the consultants that we hired to give us information.

And one of the things that I thought, because the discussion always centered around that our citizens and our communities in Connecticut, one of the main thrusts that each and every one of us wants is to be able to live in safe communities.

This is about creating safe communities. This is about increasing the level of safety for all of the individuals in the home, out of the home, sleeping, in their cars, walking on the street, to feel like they can be safe, that the laws will be followed, the laws will be enforced for those who violate the laws, and that they can have a level of confidence we're removing those serious dangerous offenders from the street.

That's what we all want. So I want to remove those individuals from my community. Why? Because as

I listened to the consultant, the consultant told us that how do you determine the level of safety in a community?

Because one of the things I wanted to think about was, well, where are these unsafe communities because obviously, those communities that are more unsafe, we want to make them safer.

Communities that are relatively safe, we need to continue to provide the resources and make sure they're relatively safe, but we know that sometimes crime will happen. We cannot eliminate crime.

So if you have a relatively safe community for a lot of reasons, people are going to want to live there.

But if you have an unsafe community, people are not going to want to live there. There's going to be certain activities in that community that's going to make it very dangerous to live there, and it's going to be a constant fear of people because they live there.

So what makes an unsafe community? Well, this consultant said there's basically four areas that make an unsafe community.

So as I think about, how do I make laws, or how do I change laws, or how do I debate whether or not what we should do here to make our communities safe, one of the main things I want to do is, I want to figure out what are unsafe communities, why are they unsafe, and how could I make them safer?

Because if I can make unsafe communities safer, continue to support those relatively safe communities, I am not only going to just address one particular issue after one incident, but I'm going to try to make all of our citizens in the State of Connecticut feel safer.

Four areas. One of the ways that you could indicate whether or not a community is safe is that you actually can go and see how many individuals come from that community that get arrested, get convicted and get incarcerated.

So if you can determine where the offenders come from a community, you can determine one area level of safety.

Not only how many individuals are coming from a community that get arrested and get incarcerated, but how many individuals go back to that community after being incarcerated, because that's going to create a level of safety.

If they come from that community and go back, there may be a likelihood that that community continues to be unsafe.

The other thing that is determined by a safe community is the type of crimes that are committed in that community. So how many people commit crimes? Who goes back in that community, and what kind of crimes do they commit?

Because if they commit violent crime, and there's a lot of them, there's going to be somewhat of an unsafe community.

And then the fourth piece is a different piece, but you can almost tell whether a community is going

to be safe based on some other areas that really related maybe to some economic issues.

Level of poverty. Opportunities for jobs. Opportunities for educational payment, a chance for people to believe there's other resources out there, there's other opportunities out there so that they don't feel that the behavior of getting involved in illicit activities or the under-growing economy is the way to go.

So safe communities have to address who's committing the crimes? What kind of crimes and what kind of opportunities people have?

The legislation that's before us does not address anything about making communities safer. It doesn't say anything about making communities safer. It doesn't even address who are these individuals that's committing the crimes, what kind of crimes are they committing, and why are they committing those crimes?

These are serious issues that you have to think about when you want to try to change criminal justice legislation.

It would be very easy for me to vote for this legislation tonight. That would be very easy, and I could talk about being tough on crime, and I could talk about changing the law, and I could be talking about, and I could talk about removing those violent individuals from my community.

But if you've been listening to the debate, Representative Lawlor from the beginning, from the beginning said, I do not want people to have false hope out there. Don't believe that this is the answer.

Some people say to me, well, you don't want to be soft on crime. I am not soft on crime. And the reason I'm not soft on crime is because in my community, I have a high, in the City of Hartford we have a high number of people that go for the City of Hartford that get incarcerated and go into the criminal justice system, which means a high number comes back.

Hartford is a poor city, so the economic level creates a certain kind of behavior, a certain kind of

undercurrent. It's in the type of crime. As you know, unfortunately, we had a high number of murders.

So in a sense, based on the consultant's analysis, I live in an unsafe community. But I don't want to abandon that community. I want to make the laws tougher. I want those individuals that are committing crimes to be off the street, and I want them to be off the streets for a long period of time if needed, and if necessary.

But any time that we do criminal justice legislation, I always, always have to believe that our system of justice is fair, and I have to believe that it is my job to make sure that I advocate that the laws and the Constitution of the State of Connecticut, the statutes that we pass here are followed to the fullest by the prosecutor, judiciary, the judges and the defense.

That people's due process right and people's rights have to always be followed because the system has to be just.

In a number of ways, and this is very unfortunate, I'm going to be honest with you, because

I want if anybody's out there in the public looking at us, I want to be honest with them, and I want to be able to look them in the face and say, this is why I voted against this proposal.

And I want to make sure that they know that a couple of things that I really believe in this proposal, but I'm going to talk about why, overall, this proposal is not a good proposal.

But I'm going to tell them that I do believe that home invasion should be a crime, and should be a serious crime, and I have really, and I support that.

Again, keep in mind the issue of justice and a fair process always have to be there. But I believe in home invasion having to be a crime.

I believe that our technology system should be one that departments can share information, that we are able to analyze those individuals who are involved in our criminal justice system, and that we could make those kinds of decisions based on clear information, readily available information, for those individuals that are making those kinds of decisions.

So I believe that we have to improve our technology system and our communication sharing system for those individuals to do that.

I can support full-time Parole Board, Pardon Board. I could support that. I would rather support that knowing what is the goal and what are the agendas that I'm trying to get out of having it full time.

But I can support that. If I think that that might be able to process applications better, cleaner and fairer, I can support that.

I would ask my colleagues, because I've got to tell you, I did not know this. I've been working in the field of criminal justice for a long time. I have attended court. I have talked to people that have been requesting parole, and until this situation in Cheshire happened, I was not even aware that the Parole Board can give an administrative parole. I was not aware of it, and I wonder how many of my colleagues were unaware of it.

Because I tell you, every, every individual that I have ever talked to, that have ever tried, that have been before Parole, have asked to go before Parole,

have been on parole, every individual that I've talked to, always had to be presented in front of a Parole Board.

So it was one of those things that I just believed that was the process. So I didn't even know they had the process, so I can support not having that administrative parole process, because I'm a social worker, and I do believe that I need to see a person because I can take some information from that person just by being in their presence, so I have no problem with that.

There are some pieces of this legislation that are appropriate. They are appropriate to deal with what we know were some of the flaws that might have contributed to these individuals being in our community.

But also I'm very concerned because again, the public needs to know, and we need to know, and we need to be hones. There are 44 sections in this legislation, 44 sections.

Some could be five sentences. Some could be three pages. It could be whatever, different levels. Forty-four sections.

I'm going to say that 95% of us saw this piece of legislation today. Outside of those individuals that were crafting the legislation, most of us saw this legislation today.

As a matter of fact, most of us saw a draft of the legislation on Friday, and here it is Tuesday, and the legislation changed. So whatever you got on Friday, you have new legislation today.

So when we talk about, we have to act with deliberation, we have to act trying to fix the system, we don't want to make the mistakes that we made in the past around the criminal justice system.

And I'm not sure we made that many mistakes, because if we tried to protect the community and certain individuals don't do their job, I don't know what else we can do.

However, there are 44 sections in this piece of legislation. We got it today. Major piece of legislation. We're debating it at 11:20 o'clock at

night, and I can imagine what's going on in some of my colleagues' minds right now. We've been here since 10:00 o'clock a.m.

Let's just pass the Bill and get out of here. Let's not talk and debate on it.

That's not what we were elected to do. Tough as it may be, we're in Special Session with emergency certification. Special Session. Take a little bit of time to determine why you're here at a Special Session. Don't rush through this.

We're going to be in Session, in Regular Session in a couple of weeks, where we could have had more opportunity to actually craft better legislation, involve more of the public to hear their concerns, involve more of us to offer input into where we need to go, and probably offer a better piece of legislation to address the issues that we need to address.

But we're here at 11:20 o'clock p.m., just got the Bill today, 44 sections, one size fits all in the Bill. Not the way to go.

I had requested earlier to say these issues are too important to our public, to our constituents, to put a one size fits all.

Why do we make mistakes here at the Legislature in terms of the bills, and then why are we coming back trying to fix it? Because we try to have one size fits all.

One size does not fit all. The home invasion is a separate piece. It should have been addressed on its own merits.

Parole Board, Parole and Pardon Board, whether we should go with a full-time or not, on merit.

Issues with the Department of Corrections and re-entry and furloughs, its own merit.

Appropriations, how much money? Where's the emphasis? Is it on re-entry? Is it on incarceration? Is it on the Parole Board, its own issue.

And then we have the persistent offender law, major piece of this legislation. It should have been debated on its own merit.

Once again, there's a number of my colleagues that probably are not familiar with the persistent

offender law, are not familiar as I'm becoming more familiar with. I am no expert on this.

But the way I tried to not continue to make the same mistake, is the one, try to analyze what were the mistakes in the first place, maybe change some minor things to correct the mistakes, see how that plays out, observe and evaluate it with the new changes, and then possibly have to come back and change it again. Give it some thought. Review it.

A number of us, we don't know what the persistent offender law is. It's not the persistent dangerous offender law. Well, it is, but it's a persistent offender law. It's a persistent [inaudible] offender with a [inaudible]. It's a persistent in a number of categories, not just dangerous, persistent serious offender. Persistent sexual offender.

There's a number of categories and there's persistent offender laws, a number of them. There was a court decision.

Now this is how I might think. If I created legislation and the court says, well, wait a minute,

that legislation is not clear on the issue, that legislation is too vague, as we've heard earlier.

If you're going to apply that legislation this is the steps you have to make. Then one of the ways I might look at it and say, okay, now that the Supreme Court made a decision, let's ask the judges and the prosecutors to apply the law based on the interpretation of the court and then tell me how that law plays out.

Because now once I know that the interpretation is clear, now I need to see how it plays out because now I need to see if I need to change it.

We're changing a law that just was decided and clarified with the Supreme Court as to how you need to apply the law, then we changed the law. We don't even know the facts of application based on the Supreme Court decision. We don't know that, but we're going to change it. We're going to change it.

We just defeated a Three Strikes You're Out law. I thought there was some very good points made by the proponent of the Three Strikes You're Out. I got to tell you, I thought there were some very good points.

I don't need to call a Three Strikes a different name and it means the same thing. I don't need to do that. I don't need to do that. Some people can be happy with that. I don't need to do that. There were some valid points.

In fact, if the public really wants to know, the persistent offender law actually can be harsher in some ways than the Three Strikes and You're Out law. In some ways.

But it was one thing that in my analysis of the court decision around the persistent offender law, and with some of the changes in the proposed legislation, I don't think we need to do it, because I've got to tell you.

Any other persistent offender laws, if there's a series of findings, and Representative Lawlor mentioned that, and I was very concerned.

I was very concerned about a couple of things that he mentioned because a couple of times he mentioned the prosecutors had discretion.

And I've got to tell you. I think that there's four parts to a criminal proceeding. There are four

parts, there's four entities in a criminal proceeding. And if you listen, and if you go back in the transcript, at most, you heard two of those entities in the criminal justice system, the court system. You heard two of those entities.

There's the judge. There's the prosecutor, and there's the defense attorney. Nobody ever, you didn't even hear defense attorney tonight. And there's the jury. There's the jury. A jury of your peers.

Tonight, you've heard very little about jury, you've heard very little about defense attorney. You heard a lot about prosecutors' discretion, judicial judges' discretion, let them decide. You heard a lot about that.

If I'm, what happens with these kinds of pieces of legislation? Sound good. We need these. We need some of these changes. They're not bad changes.

There is no way I would not be able to support this. I'm not going to support it, but I could support this in a lot of ways, but I'm, you know, because they're on the right track. And there's been a few things, but they're on the right track.

The four entities in the court system you didn't hear much about the jury, and you didn't hear much about the defense attorney and I guess the fifth person is the defendant and the victim. So see, just a whole bunch of entities in the system.

I like some of the things we're doing about victim notification and victim rights. I like that, because too many times victims have been shut out of the system.

But there's more than a judge and a prosecutor to decide the merits of a case. Every individual has a right to due process and the right to be tried by a jury of their peers.

If, in the persistent offender law, the Supreme Court said, if you're going to have that, they're not saying our persistent offender law and Representative Lawlor is a former prosecutor. He obviously knows more about this than I do.

If the Supreme Court said the way that we interpret your persistent offender law is unconstitutional, if they said here are some ways that you would have to apply it if you're going to apply

it, and they talked about a series of findings, and they talked about being decided by a jury, that's not necessarily a bad thing.

If an individual who has already been convicted of an offense and is facing 20 years, and possibly under the persistent offender has to face 40 years, why not give that person an opportunity to say, wait a minute, let me have an opportunity for due process in front of a jury of my peers to decide if I'm a persistent offender.

And I would encourage the prosecutor with the evidence that can convict, that they go in and try that person because if they're a persistent offender, and you can prove it, then they need to get double their time.

So I support trying to address these persistent offenders out there. But that's an additional 20 years, and an individual should have a right to be heard by a jury of their peers if they're facing an additional 20 years.

This sounds real good until, because right now, right now we have to do something. But when you meet

that individual, when you meet that individual, for example, in a hypothetical, when you meet that individual that was 18 years old, got into a fight, unfortunately, somebody got a black eye, got charged with an assault one.

I think I heard somebody got hit with a fist and he got hurt and there's damages, there could be an assault. Felony conviction. Eighteen years old.

Sometimes that happens. I'm not encouraging that. I'm a person of nonviolence.

He realized he made a mistake. But guess what? That person was on their way to college. That person, in fact, goes to college, graduates from college, 24 years old, again, I'm not condoning this, this is just a hypothetical, is involved in a relationship, and there's a disagreement and there's a scuffle.

The police come, arrest somebody, because you know, if it's domestic violence, they've got to arrest. Based on the circumstances they decide it's going to be a felony because somebody got pushed down. They get hurt by a push down. Let's imagine that's a felony.

Eighteen years old, twenty-three, a couple of assaults. One when he was eighteen. Now he's twenty-three, got a college degree, got a little problem, he had a problem with the partner, a significant other. Second strike. Two felonies.

Twenty-three, got a college degree, working. Got a family, married. Thirty years old, thirty years old, got two offenses, thirty years old facing another assault.

Got into a bar fight. I heard that earlier. Got into a bar fight. Went out with his buddies. Somebody started something with them. He was trying to defend, in fact, he was trying to stop the fight. He got hit, turned around, happened to have his beer in his hand, hit the person with the glass over the head, assault with a deadly weapon. Thirty years old, had a fight with his friends trying to stop a fight.

When that happens to somebody in your community you're going to say that's not what this was for. That's not what this, wait a minute. Well, what's this for?

Then you're dealing with an individual, a real situation, even though it's a hypothetical, and then you're going to say, well, wait a minute. Eighteen, college degree, twenty-three. Went out with his friends. One of his friends was about to get married. Somebody started something.

Thirty years old, three offenses in a span of twelve years, Three Strikes You're Out. Persistent offender law. Say it was ten years, let's double it to twenty years. Thirty years old. Three offenses.

The only three times that person has ever been arrested in their lives. Now I'm not sure if that person should do more time.

On the one hand, I might say yes but I also want there to be some discretion. I also want to be able to look at the individual circumstances.

And I've got to tell you, I would be a little leery if it was the prosecutors that were deciding whether or not this person is charged. If that prosecutor wanted to charge, then prove the case. Prove the case in front of a jury of that person's peers.

That's what I believe. That's what the current law says. It is workable.

Why is this law not workable? Can anybody answer why the current law is not workable, even after the Supreme Court decision? You don't know that it's not workable because there was just a decision and there probably haven't been any cases heard since the Supreme Court made the decision. So you don't even know if it's workable but you're changing it.

But now that they clarified and told us how to apply it, they haven't used it, and you don't even know if it's workable. We don't know that.

Wouldn't we rather see what the problems are based on the Supreme Court decision and then see if there's something that we need to change?

We're talking about people's lives here. We're talking about the minute situation, not minute, but we're talking about the situation that I described in the hypothetical, and we're talking about the serious offender that probably do need to double their time. But we've got to have discretion with that. We have to prove that.

Why is the persistent offender law not workable? Representative Lawlor said we had it on the books for over 25 years. I believe he said 25 years, over 20 years, just to be safe. We've had it on the books for 20 years.

I've been a Legislator, this is going on my 14th year. I have never had, never, had a prosecutor in my 14 years come and say, Representative Green, you sit on the Judiciary Committee. The persistent offender law is unworkable. We need to talk to you about changing it, and this is why it's unworkable. They never said it.

Now they say it's unworkable. Why is it unworkable? Part of what I heard from an explanation by Representative Lawlor was that it was unworkable because the first thing you have to do is find the person guilty of the offense that they're charged, and then you have to go through a series of findings that the judge has to find to make sure that the law has been followed, the person was given a fair trial, and they're working within the guidelines of this entity structure to sentence a person.

They have to find certain things. And the idea was that if you're going to use the persistent offer law, the prosecutors would have had to then convince the jury that in fact, all those findings were true.

Well, guess what? Then that means the prosecutors had to do a lot of work, because in reality, if someone was facing the charge of persistent offender, it's likely that they're going to plead not guilty.

If I was going to be charged with persistent offender, I'd never say, yes, guilty, double my time. Oh, that's real smart. Criminals are a lot smarter than that, believe me.

They would say no, I plead not guilty, go to court. Guess what? The prosecutors would have to then, by jury trial, convince all those people that's a persistent offender, by jury trial.

Over 95% of our criminal cases are handled through a plea bargain procedure. The prosecutors have stated publicly at a number of hearings that I've been at, that the system might be overloaded and unworkable if individuals decided to use the jury

method when they're charged with an offense because the system could not handle it if 95% of the people plead guilty and they asked for a jury. Plea bargaining has been a convenience.

I heard earlier, I heard earlier that an individual got arrested, got arrested for 10 crimes, an individual get arrested. Police arrest the individual. They get stopped being in a stolen vehicle. In the stolen vehicle they have some illegal substances.

Not only do they have some illegal substances, they have a minor in the car and they're just driving the stolen vehicle, got a minor in the car, driving a stolen vehicle, illegal substance, risk of injury to a minor, speeding. Found out the person had a warrant. Failure to appear. A number of charges.

Not only that, the person had just had a fight with somebody and he was fleeing in a stolen vehicle. In fact, he carjacked the stolen vehicle and so he knocked somebody out and stuff like that.

A number of charges that the person's facing based on that information, and based on the charges

that the police charged him, it's possible that that person, let's say, could be facing 100 years, because each charge, 7 or 8 charges carry anywhere from 10 to 15 year sentence. Seven charges, could be facing a hundred years.

If the arrest was made appropriately, and if the prosecutors wanted to prosecute, I'd say go for the charges that the person was arrested for, because that was what I thought the criminal justice system was. A person charged, get a chance to plea, [inaudible] prove innocence or guilt based on the charges and the evidence, and then sentence the person once they're convicted.

That's not what happens. That person's now facing 100 years. I can't do 100 years. I'm going to plea bargain. I'm going to plea bargain.

Well, you can't plea bargain on the charges that they were charged with, because they carry certain sentences. You've got to plea down to some lesser charges because you're not going to do 100 years. You want to do less years.

So what happens in a sense is that the court gives our communities a false sense that somebody has been arrested and convicted of the charges they were charged with, and they got the maximum sentence. It's not what happens.

They changed the charges, reduced the amount of time the person gets, and the person might get five years out of all of those charges because he plead to stolen vehicle and reckless endangerment or something. Makes a deal. Makes a deal.

Now on one hand, that's really not good for our persistent offender law, because what happened, where that person could have been convicted of some felony charges, that person has now plead down to possibly some misdemeanor charges or some felony that don't apply to this, and in a sense, after the second or third time of plea bargaining serious charges to lesser charges, we might have a violent offender out there, who on record never appeared as a serious dangerous violent offender. That's the way the court system works.

People want us to be transparent. I hear that a real lot. Transparency. And the [inaudible] a lot, transparency. Let's be transparent here.

Let's be transparent here. Let's be fair here. Let's talk to our constituents and our public and say, we definitely, each and every one of you, my colleagues, we want a safer Connecticut. We want offenders behind bars. We want dangerous serious offenders off the street. We want that. Not anybody here that don't want that. Regardless of the vote, we do not want that.

The issue of families and individuals being impacted by losing loved ones to violent offenses has been happening in my community for years.

I have worked with so many young people, so many families, so many mothers. We have a group, Mothers United Against Violence, a group of mothers whose children have been murdered by violence in the City of Hartford.

Every rally that we do, every time somebody, a person's life is lost, those mothers will go to those individual's homes and try to comfort the families.

These are individuals who have lost family members themselves, but they are committed to go. This is heart-wrenching.

Nobody should have to face that. Communities have been facing that for many years in the State of Connecticut. Urban communities with the high rate of murders in some of our communities have been facing that for a number of years.

We have consistently asked for tougher laws. We have consistently asked for removal of guns from our streets. We have consistently asked for real opportunities for those, for individuals. Yes, take individual responsibility to change your life, but be given a fair opportunity to change your life so you can be a more productive member of our community.

We have asked for that. And it has taken a long time and continues to take a long time for people to respond to that.

On one hand we can say, and I've got to tell you, I'm not of this philosophy. On one hand, let me say that I believe we should continue to provide services for individuals any time they really want to change

their lives to be a productive member of our community.

However, if I'm going to invest my money, and we talk about investment, and when we talk about education, we say let's invest in the early years. Let's invest in pre-K to three, because we've got to get them before they start. We've got to get them before they begin to get behind. We've got to get them before they drop out.

We've got to get them at a young age because we have to invest in our future by investing in our young.

So what we said here with this criminal justice bill is that yes, we have to invest. Parts of this bill, and I have no problem with the philosophy and the programming and the money that will go here, but I would have said, and I would have asked for more money on the front end.

What I would have said is this. I don't mind giving individuals a chance if they take individual responsibility and want to change their behavior and not violate the law. I want to live in safe

communities. I want my children to live in safe communities.

I had a murder about a year, a year and a half ago in December right in front of my house. I was pulling out of my driveway, four houses up, shoot, the guy ran and hit the pole right at the corner, I pulled out of my driveway, I hear the shots, I see the gun. I see the individual.

Representative McCrory and I, last year, this year? Last year. Last year Representative McCrory and I were having a conversation at his house. I said, Representative McCrory it's been a good discussion, I have to leave. He walked me out.

When we walked out of his house, we actually, in front of his house we were roped off. There was a young man lying across the street in the front of his house, shot.

There has been too much violence, too many lives lost in this State of Connecticut by people who want to violate and disrespect the rights of others to live peacefully. They should not be on the street. I agree.

But we are all affected by it, and all of those family members that for years have been affected by it have been asking us to do something. So when we do it, we should do it a little smarter.

We should examine all of the issues. We really should do that. When we put 44 sections, possibly 15 to 16 different angles, different thoughts, different objectives in this, we really muddled it. We really muddled it, and it really makes it hard for us to be able to vote on this, because you've got to either take the whole package or none of it.

And that's in a sense not fair to us. It's not fair to us. Because they have some pieces that are very good pieces, that need to be in here, and need to be addressed.

But that's what a Regular Session does. A Regular Session helps us to determine what we need to do quickly, what we need to wait on, what we need to give more thought to.

We're going into Session in two weeks. We're going into Session in two weeks. We could have waited. We waited five years for the lost and stolen

firearms a little bit more, and on a number of other bills.

As I go through this Bill, I think we're making a grave mistake to have the persistent offender pieces in here. I think those pieces really need their own discussion, obviously, as we've seen with the Three Strikes You're Out, a lot of concern and discussion about that persistent offender law, and I think that we need to have it as its own legislation.

The Parole Board and the changes to the Parole Board, it might work. It might not. But look at the piece of legislation, and I just want to point out one piece here.

I have an Amendment, and will call it in a minute, so if you're wondering if I'm going to call it or not, yes, I am.

And one of the things that I talk about in this Amendment, and I'm going to bring it up in a minute, is the front side. But if you look at some of the changes, just one of the changes we're trying to make with the Parole Board, this is what we're saying. Think about this.

One of the individuals that now have to be on the Parole Board and review parole needs to be a forensic psychologist, psychiatrist, something like that.

After the person is in jail, about to get out of jail, now they need to be evaluated by a forensic psychologist. I'd rather have the forensic psychologist evaluate him when he first went to jail.

When he's getting out, what are you going to tell me? He's getting out. He's going to get out. I'd rather put it on the front end to address the mental health needs of individuals before they go in, while they get arrested, how do we need to offer it to them, so we can determine whether or not, through a forensic psychologist at the parole hearing when somebody's on his way out, should they be released?

Based on that parole decision, they may decide, based on that forensic psychologist's report not to send the person out on parole. But you need to be clear, when that person's sentence ends they will be out, okay, they're going to get out. Okay. So understand that. They may not get out for parole, but they're going to get out.

So you haven't done a whole lot except now know that you're about to let out a violent offender if that's the analysis. And there's really nothing you can do about it.

You see, I want to prevent those violent individuals from being in my community. So on the front end, I want to assess, through some of the risk assessment techniques that Representative Lawlor talked about, but I almost want to do it before they get convicted. I want to do it when they first get arrested, when they get on bail.

If anything, I would have told the Bail Commissioner that one of the things they should have done before they get out on bail is do a risk assessment. That's when they should do it, and that's when they should determine, based on that assessment, what kind of conditions the person on bail will even get out.

There are a lot of people that are out on bail that commit other crimes.

I mean, we've got to, if we want to make the community safe, do some of these things on the front end.

I'm just going to bring up one other point right now before I go to my Amendment. I believe that Section, the section about the DUI. I just want to bring up something real quick about the section on the driving under the influence, because I think I heard earlier that, I want to believe, I think I heard Representative Lawlor talk about how we are going to get tough on those individuals arrested, Section 34.

Those youngsters, and he gave an example of those young people, which I agree with. Once again, if you remember a few years ago, in Glastonbury, Connecticut, there was a father, I believe of children, and I think the two young men died in a car accident after a young man was speeding in Glastonbury.

Found out he had I think, two cases of beer in the trunk. Half of the cases were finished. Young people were under 18. I think three people died in that incident.

So when we talk about young people and we talk about driving, particularly talk about driving under the influence, we should be very strict with young people because they should not even really be consuming the alcohol to be able to have the blood levels that we know are illegal.

But this is the confusing part, because on one hand we want to get tough on those individuals that break the law. And I've got to tell you, once again, I'm not a fan of people driving under the influence. I have heard too many horrible stories about the death, the young people. We all have to take more responsibility with that.

So there's laws. The current law, this is what the Bill proposes. This is a bill that says we're going to get tough. We're getting tougher.

Now, I've got to tell you, once again, it's a segment of our community that have experienced loss of life based on somebody driving under the influence. So if you talk to them, they're very serious about what we need to do while those individuals that get arrested for DUI.

If you look at the OLR report for Section 34, and if you look at Table 1, the administrative per se license suspension period, the current law says that if you have a first offense your license is suspended for 90 days.

The Bill would keep that on your first offense, if you're over .08, but under .16 of the blood alcohol level.

But look at the second offense. Now, here the person has committed a second offense of DUI. I've got tell you, my response would be tougher sentence. This is the second time. What did the guy not learn the first time, the woman did not learn the first time?

And once again in Glastonbury, you might want to recall some of these things. Look at what happened. We reduced the suspension time on the second offense under the new Bill.

So here we are getting tough, but for DUI for the second time, your license is suspended for a lesser period of time. The second time. Not the first time. The second time. But we're getting tough.

Now, after the third time it does go back up again. It goes up. So we can say, well, we got tough on the third time.

DUI, I want to get tough on the first time, and every time. Let's imagine, now take a look at this. Let's imagine that your blood alcohol content was over .16, over twice the legal limit. Over twice. Let's forget the young people. Young people shouldn't be drinking anyway, so you know, we can say we're getting tough on them, but there's a serious problem when young people drink alcohol and drive. Believe me, there's something else going on, and you really need to check that out.

However, look under the blood alcohol content double what the legal limit is. The first offense we actually see an increase. Very good decision.

Instead of current 90 days, add another month, 120 days. I would have added more time, but I can live with 120 days.

Look at the second offense. The person for the second time gets arrested and convicted of driving under the influence with a blood alcohol content of

twice, over twice the legal limit, he gets less of a suspension on his license than the current law says.

That's not strengthening the law. Second offense for driving under the influence you get less time on your suspension. You put him back on the road sooner.

I don't want to wait for a third time and then suspend him for two years. The third time, I'm sorry, folks. Think about it. Double the blood alcohol level, and you want to give him less time on the second?

What might be the psychology, because this is sometimes the psychology of the individuals in our system as to why possibly the certain punishment that we have don't deter them from using or doing the crime again.

If after the second time, I could have gotten a year, I get ten months, I'm thinking, oh, those guys are real smart. I got less time now than what I thought I would have gotten. Gee, I guess I won't drink again, because they're real tough. Okay. You take it from there.

This is the problem of putting 44 sections in a bill like this that says we're tough on crime, and then we don't tell the people everything that's in the Bill. I'm about transparency.

So somebody said, well, see, you've got to be tough on crime because you can't look soft. I am not soft on crime. My community not only is perceived, but I believe has some real serious issues with crime. I want to be and live in a safe community.

I was burglarized last January. I've been burglarized four times in the years that I've been at my house. Fortunately, no one was home at any time of the burglaries. But I've been burglarized.

I lost a nephew, I lost a cousin's grandson, 15 and 19 years old to murders. One, two years ago, one about five years ago.

I know young people. I work with young people. I know young people, unfortunately, who have committed such horrendous crimes.

But I also know that I've seen young people at 8, 9 and 10 years old, and I've seen the innocence. I've seen the curiosity. I've seen the interest that

they've had to want to grow up and just have a fair opportunity, and I've seen in a lot of ways that based on race, based on class, based on geographics, based on gender, based on parental income, parental education, that a number of those individuals did not have real opportunities at certain ages.

If they made mistakes, they didn't get other opportunities. It is no secret that in Connecticut we have a disproportionate number of juveniles, of people of color and certain incomes than the population.

It is no secret that we have in the State of Connecticut about 25% black and Hispanic population, an entire population in the State of Connecticut, and we represent 75% of the prison population.

So we've had some studies about that. We wanted to examine that. We want the justice system to be fair. We wanted the justice system to be fair.

I wonder sometimes. I've got to tell you. I'm going to be honest with you. I wonder how these two individuals that were released from our parole system or released from our prison on administrative parole,

I wonder how they were selected to be able to be eligible for that? I just wonder.

And I also wonder, because we talked about judicial discretion, and I believe this is public record, and I know we want to be very careful about what we say about the incident in Cheshire.

But I believe the media account has indicated that at one particular sentencing, I believe of the younger person, that the judge said something about, he was surprised and shocked because this person had committed one of the most horrendous acts during a burglary that he felt that he had seen in years. The judge said that.

Now I believe in judicial discretion. When the judge believed that, he should have given the guy the book. I don't know if he gave the guy the book. I don't know how the guy plea bargained 18 burglaries.

If I would have seen him and seen that, and I was a judge, I wouldn't only say this was one of the worst crimes that I've read in years. I would have given the guy the book. I don't know why. I don't know why

the guy was eligible at that time. I don't know much about the case.

But I do wonder about the administrative parole review.

Mr. Speaker, the Clerk has in his possession an Amendment, LCO Number 10091. I ask that the Clerk call and I be allowed to summarize.

SPEAKER AMANN:

Will the Clerk please call LCO Number 10091, which will be House Amendment "B".

CLERK:

LCO Number 10091, House "B" offered by Representative Green.

SPEAKER AMANN:

Do you care to remark on the Amendment, Representative Green.

REP. GREEN: (1st)

Thank you, Mr. Speaker. Mr. Speaker, I asked if I could summarize.

SPEAKER AMANN:

You can summarize, Sir, yes.

REP. GREEN: (1st)

Mr. Speaker, what this Amendment would do is basically two things.

One, this Bill would add the Court Support Services Division of the Judicial Department that for all those individuals under age 21 that get arrested for the first time, that they should be assigned, if they're convicted, should be assigned a probation officer.

That probation officer should develop what I called a life development plan. And once again, for a first-time offender under 21, that talks about and requires, that young person to have a mental health evaluation, remain in school, and develop basically a plan that talks about staying in school and trying to find a job.

The second piece of this, Mr. Speaker, would say that 10% of the annual appropriations from the general fund of the Department of Correction be transferred to the Judicial Department Court Support Services to fund programs indicated in Section, the new Section 501.

I move its adoption.

SPEAKER AMANN:

Question is on adoption. Will you remark, Sir? Will you remark? Will you remark, Sir? Okay, would you remark, Representative Green?

REP. GREEN; (1st)

Mr. Speaker. Mr. Speaker, I ask that when the vote be taken, it be taken by Roll Call.

SPEAKER AMANN:

The question before the Chamber is on a Roll Call Vote. All those in favor of a Roll Call Vote please signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER AMANN:

I'm going to ask one more time, okay? The question before the Chamber is on a Roll Call Vote. All in favor of a Roll Call Vote please signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER AMANN:

The requisite 20% has been met. When the vote is taken, it will be taken by Roll.

I couldn't tell the first time. Somebody is asking me why? I just wanted to let you know the first time I was not quite sure if that was 20%.

You may continue, Sir. You may continue.

REP. GREEN: (1st)

Oh, thank you, Mr. Speaker. Mr. Speaker, I urge my colleagues to support this Amendment. We have been talking a lot about what happens to prisoners, what happens in terms of sentencing, what happens in terms of re-entry.

Let's think about our educational system. Let's talk about the investment we made on the front end. Let's make the investment on the front end. This is what we're going to do with the passage of this Amendment.

What we're going to do is this. We're going to protect the community by one, identifying those individuals under age 21, they get arrested and convicted for the first time.

We're going to now begin to give a risk assessment to those individuals so that one, we could determine what the likelihood of this person of re-

offending, what the likelihood of this person re-offending with more serious and violent crime.

And not only will we have a risk assessment to do that, this Bill says we're going to do a mental health assessment. You're going to be on probation. You've got to come in with an educational plan. You have to come up with an employment plan.

You have to come up with a plan that talks about a positive development in your life. You have to talk about your vision, your future.

And what we say is that when you have a person under 21 that's been arrested for the first time, that's when we have to try to protect our community.

Because if we find out, and we in a sense track those individuals at an early age, and give those individuals opportunities, those individuals that don't take an opportunity to make an individual decision to be responsible and change their lives, we're going to begin to identify based on those who reject our support, those individuals that may be more subject to repeating crimes and repeating more violent

crimes. Very good risk assessment method by putting in services.

How are we going to pay for this? We're going to pay for this because we spend $670 million per year to incarcerate the individuals in our system, $670 million a year.

We cannot take $67 million of that and try to help someone under 21 to be able to change their lives? Sixty-seven million dollars out of a six hundred and seventy million dollar budget.

We don't have to find new funds for this. We have the funds already appropriated. I don't know how much Department of Correction spends on re-entry and pre-release programming, but I wanted them to spend it before they go into jail.

Let's go in the front end. Let's be about prevention, and that's what we need to do. We have plenty of money out of that $670 million to ask them to not necessarily abandon those issues in terms of release services that people need, but let's really take some, a small chunk, 10%, $67 million to try to save lives.

I urge my colleagues to support this Amendment.

SPEAKER AMANN:

Will you remark further on the Amendment before us? Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Well, you know, I concur with Representative Green. This is an example of one of the many things that we should be doing, and the problem is that to do this would cost quite a bit.

The fiscal note indicates somewhere between I think $9 million and $23 million a year to accomplish this, and I think it would be worth spending that much money to do it.

However, the mechanism in the Amendment is to transfer 10% of the total Correction budget, which is approximately $63 million a year. That 10% would be $63 million a year, over to the Judicial Branch to pay for this.

And the problem is currently, the Department of Correction is running a deficiency somewhere on the order of $18 million for the current fiscal year, so not only do they not have any extra money laying

around. They're already in the hole and they're likely to go much deeper in the hole given the current prison overcrowding situation.

So I think it would further exacerbate an already bad situation. It's not a crisis situation within the Department of Correction to do this.

And I think this is the kind of thing that we can and should talk about when we consider new bills in the upcoming Session, because I think we're actually going to have to spend a lot more money on these types of diversionary and preventive measures, but I don't think we could do it in this way at this time.

So, reluctantly, I would urge rejection of the Amendment.

SPEAKER AMANN:

Do you care to remark further? There are a numerous amount of names on the board. I'm not quite sure if you want to speak on the Amendment, so I'm going to ask Representative Mushinsky, is this on the Amendment? You may proceed, then, Madam.

REP. MUSHINSKY: (85th)

Thank you, Mr. Speaker. Through you, a question to the proponent.

SPEAKER AMANN:

Please frame your question, Madam. Representative Green, please prepare yourself, Sir.

REP. MUSHINSKY: (85th)

Through you, Mr. Speaker, I just wanted to ask the proponent because I'm very fond of his Amendment. Do you have any idea whether we could do these services for less than $70,000 per young offender?

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Green.

REP. GREEN: (1st)

Thank you, Mr. Speaker. Mr. Speaker, if my colleague could tell me where she derived that $70,000 per offender cost that she's indicating?

SPEAKER AMANN:

Representative Mushinsky.

REP. MUSHINSKY: (85th)

Through you, Mr. Speaker, I think that's the ballpark figure for adult offender, although

Representative Lawlor has a better handle on it than I do.

I'm on Finance and he's on Approps but, what my question is, can we do this per person cheaper than we are incarcerating as an adult?

Because if we are, and if you can show that by the time we start doing the budget, you know, we're all following results based accountability now and we should be moving the budget to what is most effective and most efficient and the best use of the dollars.

If you can show, Representative Green, that this is more cost-effective and works better than incarceration in an adult prison, then I think we should move in this direction.

So I hope that whether this Amendment sinks or falls today, you will do the calculations with your supporters, and come in and show the Appropriations process whether RBA justifies running this Amendment and diverting some of these young offenders from the adult correction system.

And if you can show that, I think this whole General Assembly will go along with you.

Thank you, Mr. Speaker.

SPEAKER AMANN:

Representative Green.

REP. GREEN: (1st)

The Representative suggests that if I can show that, I can get the vote. Let me show that tonight.

If you read the Bill, it says that a person under 21 that is convicted, that is put on probation, a person that's convicted and put on probation, we already have to incur the cost.

If you're under 21 you get put on probation. There's already a cost. And this Bill, this doesn't say anything's required. It doesn't say any additional service has to happen.

So if the court already determined that a person is going to be convicted and put on probation, they're going to get a probation officer.

As a matter of fact, in the legislation that we're discussing tonight, we're adding probation officers to lower the caseload, and we already put in some money for additional probation officers.

So this Amendment does not incur any cost because these are individuals that already are on probation. As a matter of fact, it might reduce costs.

How might it reduce costs? Because the individual has to come up with a development plan. The individual, based on the rights of giving a free public education up until age 21, has the right to be in school at no cost.

So if you take the person off the streets where you have to now supervise them. You now have to maybe use other police services to make the community safe, this individual has to be in school.

This individual has to be working, which actually might begin to pay taxes and reduce and actually add to the economy of the state.

So actually, this particular piece of legislation reduces costs that are currently incurred right now, because none of these are required and/or mandated.

Now, on the piece of the Department of Correction, as Representative Lawlor stated, if the Department of Correction is already having a budget shortfall and their current budget is $18 million less

than whatever they were appropriated, it was $18 million less, then obviously, the 10% would be adjusted downward based on its budget.

So this, again, is not any additional cost. It's just a realignment of the current costs, so there's no cost.

I think if you listened, you have seen that not only do I not add any costs, but I could possibly reduce costs to the Department, to the community, and increase taxes in the city with this proposal, and the state. Thank you.

SPEAKER AMANN:

Do you care to remark further on the Amendment before us? Well, again, there are three names up here, I must ask. Representative Boucher, just on the Amendment, Madam?

Representative McCrory, is this on the Amendment, Sir? Okay. And Representative Walker? Okay.

Will you remark further? If not then, staff and guests please come to the Well of the House. Members take your seats and the machine will be opened.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber.

The House is voting House Amendment Schedule "B" by Roll Call. Members to the Chamber.

SPEAKER AMANN:

Have all the Members voted? Have all the Members voted? If all the Members have voted, please check the board to make sure that your vote has been properly cast.

If all the Members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk please announce the tally.

CLERK:

House Amendment Schedule "B" for Senate Bill Number 1700.

Total Number Voting	136
Necessary for adoption	69
Those voting Yea	27
Those voting Nay	109
Those absent and not voting	15

SPEAKER AMANN:

The Amendment fails. Do you care to remark further on the Bill? Representative Fawcett, for what purpose do you stand, Madam?

REP. FAWCETT: (133rd)

I'm sorry, Mr. Speaker. I pushed the button but it didn't register before you closed the vote, so I just wanted to make sure that that was registered in the Journal. Thank you. That was a No vote. Sorry.

SPEAKER AMANN:

Okay. The Transcript is so noted. That was a No. Thank you, Madam.

Do you care to remark further on the Bill before us? I'm sorry, Representative Green, you still have the floor, Sir.

REP. GREEN: (1st)

Okay, thank you, Mr. Speaker. Mr. Speaker, there are a number of disparities in the State of Connecticut. Unfortunately, Connecticut has a lot of issues that it has to address to try to make sure that we increase the standard of living for all of our citizens. We try to encourage our economy to support

jobs, to work with the business community, and particularly to train our young people.

Yet there are a couple of disturbing issues that are happening in our state, and I just want to reference before I call this next Amendment, some issues.

Connecticut has a serious problem with the educational attainment of a number of our young people in the state. And what we now realize is that based on racial and ethnic identity, Connecticut ranks first, ranks first, first sounds good, but this is not so good.

First, the highest state with the largest gap of achievement between black and white students. We have the largest gap in educational attainment of our children based on race.

(GAVEL)

SPEAKER AMANN:

Please tone down just a tad. Representative Green can't even hear himself, so we would ask the indulgence of the Chamber to just keep it down a little bit. You may proceed, Sir.

REP. GREEN: (1st)

Thank you, Mr. Speaker. I'm sure there's probably some people here who would not like to hear me, but, because of the hour. Because of the hour, it being late, and I know we've been talking.

But I've got to tell you, based on some serious issues. As I was stating, it's unfortunate that we rank first in having the largest [inaudible] gap amongst the young people in our community.

All of our young people deserve a fine education that a number of our school districts, a number of our schools are providing to our young people.

Why is it that it's so clear that individuals of various classes, individuals of certain income, individuals of certain geographical areas, and particularly, individuals of racial and ethnic identity, particularly black and Latino fail so miserably on some of our standardized tests? We could do better.

Connecticut, as I mentioned earlier, has a population of about 25% black and Latino, yet we comprise 75% of the prison population.

Connecticut and its urban cities with, primarily comprised of black and Latinos have the highest drop-out rate. The cities that have the highest percentage of minorities you will see correlate with the cities that have high drop-out rates.

So our kids are not being educated. They're dropping out of school. Individuals in our communities are going to jail.

Serious impact on community. Those are serious impacts on any community. But in Connecticut this is what is happening today.

It is really unfortunate with some of the things we're seeing happening in this great State of Connecticut today with our children and our families and our communities around education, around economic opportunity, which relate to public safety.

If you're educated and you have an opportunity to earn income, you commit less crime. Fact. Those are the facts.

So actually, a strategy that talked about improving the lives of all of our citizens increases

the safety in our community. It's a fact. Directly correlated.

If any of us who represent all of the communities of the State of Connecticut, if, hypothetical, it's in reality with some folks, if the Department of Transportation says, I want to build a highway in your town, and we'll knock down these houses. I want to go through the wetlands here, and I want to build a highway because the traffic flow just will flow better if we had the highway in this community.

I don't know how many of us would say, thank you, bring on the highway, I want more cars. Let's make it happen. We wouldn't do that.

One of the first things we would do is say, Department of Transportation, let's have a public hearing. Let's talk about this.

And the next thing they would do is say, you know what? Let's have an impact study. Let's determine if you build this highway, what's going to be the impact on my environment? What's going to be the impact on the people that own homes in the area that you want to run the highway?

What's going to be the impact on the wildlife that live in that area? What's going to be the impact on the emissions if there's more cars that come through here? What's going to be the impact?

In everything that we do, we really suggest, and we encourage, someone to study, well what is the impact if you do this? What's the impact if you do this? What would be the impact if I decide that I want to take these homes and build a business? What's the impact?

Environmental impact? Emissions impact? Community impact? A number of impacts, because that helps us to say if we do this, what's going to happen?

Recently, apparently we had a commission to study the racial and ethnic disparities in the criminal justice system, and in their findings they were disturbed and perplexed as to why people of color, people from poor communities who are impacting the criminal justice system disproportionately than the representations of the population.

And in particular, we're concerned about the racial and ethnic impact and they couldn't explain it.

In this piece of legislation it's going to have an impact on the number of individuals that get arrested, convicted, and spend time in jail.

And based on the current statistics of the population in the prison system, based on the current statistics as to where the population of the prison system comes from, what communities they come from.

What is their family structure like when they get arrested? What happens to their families when one member is incarcerated? There's an impact in our communities when we change the criminal justice laws.

And then based on the kind of impact that currently the criminal justice system is having on urban communities, poor people, rural communities and people of color, some of the changes that we have could have some devastating impacts on some sectors of our community.

Therefore, Mr. Speaker, the Clerk is in possession of Amendment LCO Number 10105. I ask that he call and I be allowed to summarize.

SPEAKER AMANN:

The Clerk please call LCO Number 10105, which shall be designated House Amendment "C".

CLERK:

LCO Number 10105, House "C", offered by Representatives Green and Bartlett.

SPEAKER AMANN:

The Representative has requested to summarization the Amendment. Is there objection to summarization? If not, Sir, you may summarize your Amendment, Sir.

Representative Green.

REP. GREEN: (1st)

Thank you, Mr. Speaker. Mr. Speaker, what this does is that it says, and I would be willing if there's a fiscal note, to suggest that this might be part of what the Criminal Justice Information Advisory Board that is in the current Bill might take up if we pass this.

Basically what this says is exactly what I just spoke on, that any piece of legislation in the criminal justice area that's going to impact a change in the statutes, must have a racial ethnic disparity impact study done before that legislation is passed.

I move its adoption.

SPEAKER AMANN:

The question is on adoption. Will you remark? Will you remark? Representative Boucher, is this on the Amendment, Madam?

REP. BOUCHER: (143rd)

Yes.

SPEAKER AMANN:

Then you may proceed.

REP. BOUCHER: (143rd)

Thank you, Mr. Speaker. Mr. Speaker, I rise to oppose the Amendment, and I do so because I believe, and I certainly can well understand the passion for which my distinguished colleague from Hartford has expressed here tonight.

You know, I also have the same kind of fervor when it comes to certain bills on drugs and other issues. In fact, I even have a superhighway that he was alluding to that has been a 50-year battle for my town, so I really understand where he's coming from.

But I believe very strongly that the previous statements he made about this issue that we're talking

about, about fairness and the inequities and impact of our criminal justice system between a case that may have highlighted this issue versus the city that he represents, could be very real indeed.

But the very points that he brought out actually speak to the fact that the underlying Bill would make his Amendment not necessary, but in fact it would bring consistency, more consistency to a way in which we do a lot of our criminal penalties, and that in fact, maybe a one size fits all might be more beneficial.

And for that reason, I really believe that this would not be necessary, given the intent of the underlying Bill. Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Madam. Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I actually think this is a great idea, and in fact, just earlier this week, I don't know if you're familiar, there's a thing called the Sentencing Project. There's a guy named Mark Mauer who's one of the foremost thinkers in the

country on the issue of sentencing policy, actually published an article where he recommended that every state adopt a system where racial and ethnic impact statements are prepared along with criminal justice bills.

And I actually think this should be part of our evaluation of criminal justice bills. And when I read of this report, which as I said was just a few days go, my sense was this is something we should take up in the Session.

I had intended to ask that the Judiciary Committee raise it, and I'm glad Representative Green has pointed it out. I think this would be an important priority.

On the other hand, it does have a fiscal note attached to it. It's not exactly clear who would prepared such a note, and I'd only suggest that if we're going to have a process in the future where these types of impact statements are prepared, this seems like an ideal task for what I know is also going to be recommended during the Regular Session of the

Legislature, which is making permanent the Temporary Sentencing Commission that has been established.

The author of the article that I referred to recommended that sentencing commissions would be the ideal place to prepare these types of impact statements, and so I think this is a good idea.

I think what should be added to it is who would be responsible for preparing these things, and I think with a little extra work, I think this is something we can consider doing in the Regular Session of the Legislature.

But the money is not in the Bill to pay for the way it's drafted now. So, I think it's a good idea, but I think it's not quite right yet, and I think in a couple of weeks we come into Session, I think we can debate this and add it to the list of things for us to do during the Regular Session. But now I don't think is the appropriate time.

So with those representations, Mr. Speaker, I intend to vote no on this Amendment.

SPEAKER AMANN:

Thank you, Sir. Representative Thompson.

REP. THOMPSON: (13th)

Thank you, Mr. Speaker. Mr. Speaker, I'd like to support Representative Green, but I would defer to the advice given by Representative Lawlor.

But I do want to point out, Mr. Speaker, that the original Amendment offered by Representative Green, which I did support, some years ago when we were doing welfare reform we had a similar proposal, very similar to this as submitted by Representative Green.

And it grew out of the success of the Welfare to Work Program that we had in our community and was sponsored by Mark, Incorporated, who had worked with the, initially with the mentally retarded and then with disabled persons.

They had, we had asked them, and we had a meeting in Manchester, and the Deputy Commissioner of Income Maintenance at the time, and the Deputy Commissioner of Labor came to that meeting, and we suggested that the services offered by Mark to the disabled people could be offered to Welfare to Work programs.

And we indeed convinced this Legislature, and we included $100,000 in our budget to provide this program.

Before the budget was passed, however, the money was withdrawn from the budget, and this was after the Mark, Incorporated had signed contracts with the Department of Income Maintenance to implement the program.

I had the responsibility of informing the executive director of Mark, Incorporated that the money would not be there, and she said, Jack, it's a good idea. We'll raise our money on our own out here in the community.

They enlisted the Chamber of Commerce and they went ahead with this Welfare to Work Program, and it turned out to be the most successful program in the state in getting people back to work.

In fact, the State Labor Department at that time informed us that perhaps it was the most successful program of its kind in the nation. Well, they continue to run that program.

So they had another idea, and I think this addresses the concern that Representative Green has.

Your high school was experiencing a very serious drop-out situation, and again, the community came together, the Chamber of Commerce, Mark, Incorporated, the Board of Education and our Town Council, we call it the Town Board of Directors, and they discussed this program and applying it to creating a program that would address the needs of the kids who were targeted by the school officials as being potential drop-outs.

And what they developed was almost exactly the program that Representative Green is talking about. They developed a special curriculum for these students. They work in conjunction with the adult education evening program.

They developed a program that included things like teaching first aid programs to these kids, getting them certified in first aid.

They had counseling for these kids. They got jobs for these kids, and they did, I think exactly

what Representative Green, and he may be even familiar with through his own work.

But the program was put into effect, and that goes back some years now, and it's still in effect. And as far as I know the kids that participate in this program graduated from high school on time. They get a school diploma. It's not a GED or some other type of recognition.

They get a high school diploma. They have a graduation ceremony, and I've attended those ceremonies and the Chamber of Commerce is there, and the mayor comes, the school superintendent and the families.

But it is exactly, I think, the type of program that Representative Green is talking about, and it's been run by the school system and Mark, Incorporated on the basis through money raised in the community, but it's blessed and it's endorsed by the school board, by the local town council and so on.

It works, and I'd be very happy, and I'm sure everybody in this room would be supportive of

expanding that type of program and accomplishing what Representative Green wants to do.

So along with what Representative Lawlor is suggesting, I think we should extend our look at this type of program that Representative Green is recommending, and I'll bet there are similar programs going on in other communities in working with the drop-out situation.

So I don't think it's time for this particular Amendment, but I think it's time for the ideas in both, so I support Representative Green, but not with this particular Amendment, but with the concept embraced in both, and we take it up during the Regular Session. Thank you, Mr. Speaker.

SPEAKER AMANN:

Representative Green.

REP. GREEN: (1st)

Thank you, Mr. Speaker. I just had my good friend, Representative Thompson and my good friend, Representative Mushinsky talk about how all of us would support these things, and then I don't get the votes, but I appreciate it.

Representative Thompson, Representative Lawlor, I appreciate your comments. I think you have actually advised me on a different method to try to accomplish this particular piece, and at this time, Mr. Speaker, I would like to withdraw the Amendment.

SPEAKER AMANN:

The question is on withdrawal, right?

REP. GREEN: (1st)

Mr. Speaker, if I must say, I appreciate Representative Lawlor assuring us that during Regular Session that we will address this measure, and that he is more than willing to work with us to come up with a bill that I think we could all be satisfied with.

Thank you.

SPEAKER AMANN:

Thank you, Sir. Without objection? Without objection, the Amendment is withdrawn.

Thank you, Sir. Representative Green, you still have the floor, Sir.

REP. GREEN: (1st)

Thank you, Mr. Speaker. Mr. Speaker, as I conclude, hold the applause, I just want to point out

some of the problems we have with some of the pieces of the legislation that's before you.

I have one more amendment. I'm not going to call that amendment. That amendment would have struck those sections with the persistent offender law. I'm really, would just decide to vote my particular way on it.

But part of, I'm just going to point out one more thing. Part of the legislation that's before us talks about improving the criminal justice, I think you call it the Policy Commission. It talks about hiring an executive director. It talks about putting all this money to get the statistics and get the research, and really to try to come up with ideas as to what's happening in the criminal justice system.

Now, I want to show you October, 2007, the report by the Criminal Justice Policy and Planning Division. Now, this is the Division that we empowered in this legislation.

This is the Division, you know, they're the best folks to give us the information on these kinds of issues, and I'm just going to read one thing for you.

In the five year, if the five-year trend continues in the criminal justice system, Department of Corrections the way it continues with the prison population, the prison population six month forecast projects that the prison population will decrease by possibly 1.5% from October, 2007 to April, 2008.

This report, our experts from the Office of Policy and Management, that we're empowering in the legislation to give us the real information as to what's going on, says that the prison population from October until now will be decreasing.

What do you think is happening to the prison population? If you rely on this research, and we just said, that this is the folks that are going to give us the research and look at the predictions they've already made. Were they correct?

Thank you, Mr. Speaker, and Mr. Speaker, I thank my colleagues for their indulgence. I think that we have plenty of reasons why this Bill, even though it is moving in the right direction, even though there are sections of this Bill that are particularly the right thing to do, there are sections of the Bill that

would address the kinds of things that make our communities safer, there are too many flaws with this Bill.

There are too many flaws because it will not provide safer communities. We all acknowledge, and I think Representative Lawlor, Representative Cafero already indicated that these particular changes would not have affected those individuals that were responsible in the Cheshire incident.

I think that we talked about we want our offenders off the streets. We want these serious dangerous offenders out of our community. We have identified that the utmost unsafe communities need more support to become safer.

We want that. I want that. This is not the way to do it. I do not want to continue to apologize for unintended consequences, consequences, and things that we should be getting right, do a full discussion, communications, research, and really thought about what we need to do to address a very serious problem in the State of Connecticut.

This is a great state. We have a lot of positive things going for our families and our communities, but there are a lot of things that we need to improve on, and we need to take a hard look at those things that are not working, why they're not working, and face ourselves in the mirror to say, a lot of these things are based on class, economic status, geographical areas, gender and race. Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Sir. Do you care to remark further? Representative Dyson.

REP. DYSON: (94th)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has LCO Number 10100, 10100. May he please call and I be allowed to summarize.

SPEAKER AMANN:

The Clerk please call LCO Number 10, excuse me, 10100, which will be House Amendment "D".

CLERK:

LCO Number 10100, House "D", offered by Representative Dyson.

SPEAKER AMANN:

The Representative requested to summarize the Amendment. Is there objection to summarization? If not, Sir, you may summarize. Representative Dyson.

REP. DYSON: (94th)

Thank you. Thank you, Mr. Speaker. Members of the Chamber, the Amendment that's being distributed to you now is an Amendment that covers the topic that is not unfamiliar to you.

It is an Amendment that seeks to abolish the death penalty, and in its place, make it legal as a substitute for death penalty that one is to remain in prison without any chance of release, without any chance of release.

That is in essence what this Amendment does.

Now, what I could do here now, I could go on for as long as I like, because I have the floor but I'm not going to do that.

It's an issue that I would venture to say everybody in this place has a position on. Not many people in this place are going to be undecided on this issue. They have a position that they're going to take or they have already taken.

So I don't intend to take a lot of our time trying to present this slated argument to try and get you to support this Bill.

I would love to, however, do that, because I think it says something about who we are, and we must at all times concern ourselves with who we are, and what messages are we conveying to the broader public.

Or better yet, is the public saying to us, this is what we ought to do. This is where we are, and are we to reach for a higher place in terms of addressing this issue.

Are we to be about life, and not death? And it's something I know that all of you have thought about. I don't intend to take a lot of time with it.

I would ask all of you to vote yes on the Amendment. Use your conscience, whatever you want to use. Just make sure the light's green. Thank you.

Mr. Speaker. I've been suggested that I ask for a Roll Call, and I assume it will be a quick one. Thank you.

SPEAKER AMANN:

The question is on a Roll Call. The question before the Chamber is a Roll Call Vote.

All those in favor of a Roll Call please signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER AMANN:

The requisite 20% has been met. When the vote is taken, it will be taken by Roll.

Do you care to remark further on the Amendment? Again, we have names up here. I'm going to ask Representative Walker, Representative Morris on the Amendment, Sir? Are you going to speak on the Amendment or not, Sir? Your light's on Representative Morris. Do you want to speak on the Amendment, or do you want to wait?

Representative Lawlor on the Amendment? Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I think we should abolish the state's death penalty. I've always felt that way. I feel that very strongly.

Two years ago, during the previous Session of the General Assembly, before many of the Members of this Session were elected to serve here, we had a very lengthy and important, and I think informative discussion on whether or not to abolish the death penalty.

It is one of those debates when it occurs it ought to be elaborate and thoughtful, and people ought to have the opportunity to organize their thoughts and work this entire thing through.

If this were such a debate, I would vote yes for this Amendment, but I'm sure this will not be such a debate, and in order that anyone who looks at this vote tonight, that they not think this is the true indication of the actual vote in the House of Representatives on this Bill.

Even though I oppose the death penalty, and I've consistently voted to abolish it, I will vote no on this Amendment for that reason.

SPEAKER AMANN:

Do you care to remark further? If not, staff and guests please come to the Well of the House. Members take your seats, and the machine will be opened.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber.

The House is voting House Amendment Schedule "D" by Roll Call. Members to the Chamber.

SPEAKER AMANN:

Have all the Members voted? Have all the Members voted? Have all the Members voted?

If all the Members have voted, please check the board to make sure your vote has been properly cast.

If all the Members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk please announce the tally.

CLERK:

House Amendment Schedule "D" for Senate Bill Number 1700.

Total Number Voting	138
Necessary for adoption	70
Those voting Yea	49

Those voting Nay 89

Those absent and not voting 13

SPEAKER AMANN:

The Amendment fails.

Representative Dyson, you still have the floor, Sir.

REP. DYSON: (94th)

Thank you, Mr. Speaker. Mr. Speaker, on the Bill that we have before us.

I have listened to the debate today on this issue. I have thought about it long and hard, and it's an issue that's troubled me.

A lot of people have had comments to make about it, and I know they were sincere, and I want to make sure that they know that I'm being sincere as well about this issue.

And I know that some of the comments I make have already been stated on this floor, and in some of them I will repeat, but I'm not trying to stretch you out. I just feel something I need to say.

There's a huge gorilla in this room, and I think we have tried as best we could to avoid it, but I'd

like to hearken to another place in which I'm concerned about how we are viewed.

I'm concerned about how we are viewed, predicated upon a response that we made to an undertaking, and I dread to use the word, let me take that word back, not an undertaking but a response to a horrendous event that took place, the situation in Cheshire.

And I can remember sitting with the Governor at the mansion one day talking about it, and I can remember that we had kind of an exchange.

I can remember talking to many other people about it, and I've listened to others talk about what's taken place in their town, what they've experienced. Some have been personal. Some have been cousins, sisters or brothers.

I never had any of that. Not I. I have been fortunate. I have not had any of that to happen to me. Not in my lifetime. I'm hoping it does not, but I never had any of that to take place with me.

But I do have a part of me that understands. I think I heard the word tonight, a definition on

tragedy, and what that is, and Cheshire was a bad one. It was bad.

And you know, the moment I heard about it, the first thing that raced through my mind was that God, I hope it's not someone black. That's the first thing raced through my mind.

And my prayers were answered, they were answered. It was not someone black. Because I did not want it to be that. I didn't want it to be anybody. But if it had to be anybody, I did not want it to be someone black.

Now you know me pretty well. I don't go laying the race card on the table. I don't do that. If I can't deal with you eyeball to eyeball, person to person, I'd stay away from throwing out the race card.

But the gorilla in the room here, the gorilla in the room here is that we, by virtue of our actions being here in the first place, we have said that there's something important about what took place in Cheshire, something extremely important, that we had to get here and we had to meet, and we had to act on something.

Well, let me tell you what I have. As I pointed out, there's some others here who have talked about what has taken place with their families and people that they have known, and what went on in their communities. I have.

In my town, a young man last June, he got blown away on the street downtown New Haven, by a person who was on furlough from the state. By a person who was on a furlough from the state. Got blown away.

I have not seen anything but silence in terms of responses to that event taking place, and I keep using the word event, and I don't want people to think that I'm talking about, that it doesn't add meaning to it, but I use the term even because it just flows out easily. And I don't mean to disparage by using the term event.

And so that gorilla in the middle of the room, the action that we take here tonight, we are essentially saying that somebody's life is better than another, and that ought not be.

Somebody's life is better than another, and the reason it's better than another is because it looks

different. Notice how I use that term, looks different. I don't want to go and put the other card on the table, but I said, looks different. And yes, that's what it is. Looking different.

Now, the one thing I want to convey to my grandkids and not only just my grandkids but all the other kids out there, starting from the moment they can begin to understand, they can know things, I have learned long ago, as much as we want to tell kids what to do, the most important thing that we can do is show them by what we do, because they do pay attention to what you do.

The gorilla in the room, what it is that kids do, paying attention to what goes on. They know exactly what message we convey here, that some lives are better than others. They get that early by watching what it is that we do, and this is not something that I just seek to apply to anybody because it's Republican or Democrat.

This ain't, this ain't a Democrat, Republican issue. Get that straight. This is not a Republican or Democratic issue. This is about our humanity.

It's about our humanity and what it is that we do to alter those behaviors that's been with us far too long.

Far too long, behaviors that have been with us, and we always ask ourselves the question, why are things the way they are?

Well, they are the way they are because that is the way we have them be. We do it over and over, over and over, and pay no heed to what our behaviors are.

And our behaviors in this body would suggest to the broader public out there, yes, this is a confirmation, yes a confirmation, that certain lives are better than others. Certain lives are better than others.

We may not intend to do that at all. It's not where we want to go. But if we're not taking heed to our behaviors, and what it is we do to seek to provide a remedy to what we deem to be a problem. As I heard it said earlier, a mistake that we made.

And then Representative Lawlor pointed some things out. He pointed out a situation in Bridgeport. He said yeah, we came and we did that. And he pointed

out something with the Lottery Headquarters and yeah, we came and we did that.

Pointed out something in Cheshire, and yeah, we came in and we did that. And I remember Representative Green and heard some other people talk about it in private sessions and all, heard something in New Haven, and nobody did anything. What does that say? What does it say?

And I could sit here all day being silent as a church mouse, not let it concern me at all, but I cannot let the opportunity pass without bringing it to the attention of this body, that there's a gorilla in the room, and we seek to pretend that it's not there, and it is there. It is there. It is there.

Until we begin to pay attention to what our behaviors are and what we do, that gorilla is going to remain in the room, and we of all people, ought to be about the business of trying to get that gorilla out of here. Get it out of here.

Now let me tell you why I describe not only that the gorilla, but let me point out some other things. I went to a prison two weeks ago, three weeks ago,

maybe, and I got this line of inmates, and go in and the people I was with, and I said, well, I wonder how long it's going to take before somebody here knows me.

Soon as we walk out the door, here comes some kid says, hey, Mr. Dyson, how are you doing? Oh, God, somebody found me already.

So we go in and they want to talk about those things that they want to do once they get out. And one guy said something that really, really sunk in on me.

He said you know, the guys in here don't have confidence any more about whether or not they get a fair shake while they're inside. I said, why do you say that, man?

He said, well look what's taking place. You can be as clean as a razor blade, do everything as it should be done, and there is no reward at the end.

That means that you can have the work behavior while you're in there, and you can have the best behavior while you're in there, the outcome is going to be the same. And I said, gee, I hadn't thought of that one. Hadn't thought of that one.

Because they now envision a system in which they see everybody going to be treated the same, why should they be any different?

So when Representative Lawlor said, you know, well, there appears to be that if we don't something about this system, things are not going to right in another couple of months. I think, yep, I agree. I agree that it very well could be.

Now, what have we done, and what is it we're doing with the legislation we've got here, and I'll bring it to a close soon. I'll bring it to a close.

But let me tell you what we've got. Nothing here would have stopped what took place in Cheshire. That's a given. I think Representative Cafero said that. Nothing here would do anything to have stopped what took place in Cheshire. That's a given.

Okay, then, what are we doing? What are we doing? We are by virtue of attempt, efforts, the Bill itself, tightening up a system that we have. Tightening it up.

Matter of fact, part of the tightening it up was in the Bill, is Section 44, just dropped out of the

blue from somewhere to eliminate the administrative review for parole.

We just passed that, I think about two years ago, and in going to Program and Regulation Review Committee, and the regulations were not approved, and it somehow lingered from that point on.

And tonight, better yet today, it shows up in the Bill here to be wiped out. This was a part of something we did two years ago to smooth the process for parole.

Now, that's going bye-bye. Tightening up the system that exists, and what does it mean as the numbers go up, the healthcare. I got numbers today that from last year to this year, healthcare for the Correction system, $19 million. New money. Going up.

And I said, well, if you've got $19 million, based on what number being in the prison? So, based upon the time that it took place and the growth that you've had, it had to be in placed upon 18,000 of them, maybe 18,500.

I gather we're headed toward 21, so the 19 is not even going to be nearly sufficient just for the healthcare piece of it. So we've got that cost going.

I am willing to bet, let's see, probably a dime, that there will be erosion in something else that's extremely important for all of us. There's going to be an erosion somewhere.

I would assume, let me see now, that erosion probably ought to take place with tuition increase. I just smell it coming. I smell it. I smell it coming. Just got to smell it coming.

And the reason it will be a tuition increase, because they won't all do it at the same time. It will be incremental. Bing, a little bit here. Bang, a little bit there. Bing, a little bit over there. Yeah, yeah, yeah. Hear it coming. Right now.

And why does it happen? Part of the gorilla in the middle of the room tightening up a system out there, having no impact on what took place there, and a lot of other things, and people are going to pay for it, going to pay for it.

Now, I'll leave you with your thoughts on this. Just your thoughts on it, is that I don't see this as being a panacea, not by any stretch of the imagination. This is not a panacea at all.

As a matter of fact, I think we will come to regret it. Maybe not next year or the year after, but I don't mean to throw any prognostications that it's going to be depressing for anybody here, but things like this usually pan out coming somewhere down the road.

This doesn't do it. The gorilla remains there. Nothing that we do here is going to, would have stopped anything taking place there. And the message we convey to young people about some lives being better than others is just something we ought not be engaged in.

So I needed to get that off my chest here, and I appreciate your allowing me the opportunity to do that. I just want that all of us ought to engage in reaching to a higher source.

Death penalty? Yes. Higher source in terms of expecting more of ourselves and doing it, and doing it, and doing it. Expecting more and doing it.

We need to get rid of the gorilla. We need to get rid of the gorilla in the room, and that requires all of us, all of us, to invest in doing so.

Not just one or two, or nine or ten or fifteen or twenty, everybody has got to do that. We ought not ever come here again. When we have had situations like that happen, I hope we never have any more. Never have any more.

But we ought not ever come here doing that again. Never again do that, because that's the lesson we just taught young people. Oh, man, by the time we get through with this, the lesson we teach young people out there, they got it. They got it. They got it.

Some lives are better than others. And the reason they're better than others is because they look different. That's the second time I've said that. They look different, and I'm trying to avoid saying something else. Thank you.

SPEAKER AMANN:

Do you care to remark? Representative Walker.

REP. WALKER: (93rd)

Thank you, Mr. Speaker. I know the time is late, but I really feel that this is something that we need to hear, and we need to talk about a little bit further.

I heard Representative Cafero say earlier today that, and way earlier today, that there is something missing in this Bill, when he was talking.

And we talked and we talked and we talked about the Three Strikes rule, and we talked about a lot of other things, and Representative DelGobbo said, we must do something different.

I'm the Chair of Appropriations Judiciary Committee. My job is to watch the dollars, and that's something that has been missed in the debate here on this floor and upstairs in the Senate.

Last year when we were out here debating raising the age of adult jurisdiction, that was the number one issue that we debated. It wasn't the children, it wasn't the change, it was the dollar.

So I just want to go through this Bill real quickly with you, because I want everybody to understand and own what we are doing when we pass this Bill.

In Section 1, we're removing the Class C to Class A. OFA gave a report. I don't know if many of you saw it because it was probably hidden in some other things, but it said that that will cost us approximately $7.5 million in the projections.

In Section 2, when we talk about burglaries, talking about first class burglaries, there are approximately 180 people that will be impacted by this Bill. That will cost us $7.5 million.

Burglary 2 expanded to have as many as 522 people that will be affected by these changes, and that will cost us $19 million.

Section 5 changing the time served from 50% to 85%. Now, I'm not making these numbers up, so don't shake your heads. This is OFA's numbers. These are numbers that I got from OFA.

Going from 50% to 85% in the first six months is going to be $1.2 million. In the first year, it's

going to be $4.6 million and in five years, they're projecting it to cost us $57 million. If you want, I'll give, I'll email you all these OFA reports.

Persistent offender law. That's going to cost us $2.8 million because there's going to be approximately 50 people that will affect that.

On the installation of the Pardon and Parole Board full-time, we are creating a new state agency, my friends. Understand that. A new state agency, which when we say any other time there they go adding more government people for us to pay for. So I'm just pointing that out. A new state agency, between $1.9 and in this Bill, $3.7 million.

Re-entry furloughs, approximately $2.3 million.

Now the GPS system, I found that fascinating when I read the OFA report. We're paying for a passive GPS system. Passive. Not active. What's the difference?

In the OFA report, a passive one means the person is not being monitored immediately. It means that person is being monitored over a time period, so they can commit a crime but we won't know about it until

they check in, and we go through where they've been. Two million dollars.

And then the technology system. I want to remind my friends here. Many of us know and remember Maximus. We're still paying for that.

This thing is going to cost us between $50 million and $100 million. So at the beginning of the Session, we will be going in with about $200 million here.

And you know, I looked at it, because being in Judiciary and learning much more about what it is about the court system and about the criminal justice system and things like that, I started looking. I've been reading all weekend about this.

And I looked at the services quote, unquote, that we've got in here. Those services don't even come in to play until possibly 2009.

Washington State policy for Institute and Public Policy. It's a very well known program here, very well known that has done a lot of evidence based reports.

They talk about what works in changing recidivism. You know why? Because Washington has a Three Strikes law, and they have to figure out how to reduce their population, so they've been doing a lot of research on this. That's not in this Bill.

Then we look at, I think Representative Green brought up the Prison Population Projections Report. I want you to look at that. In there, our statisticians with OPM and OFA give us a projection by 2012 of 23,000 people in our prison system.

Okay. You take those numbers and multiply it by the number that OFA has a chart, it is now $41,000 for every prisoner in our correctional system. What are the costs going to be when we change it?

If you go through that report, it's even better. You should even look at it some more, because it talks about, why has our prison population changed, and you know why? It's not because crime has gone up. It's because of us. It's because of us changing laws every few years, and it says so in this report. I think it's Page 4. It even maps it out, gives you a graph.

It shows you very specifically how we have changed the prison population in this state. It talks about every reform that we've done, and every increment of more people we have put in prison.

Incarceration is not what changes the population. When you have people who have nothing to lose, as many people have said, they will continue to commit the crime until they have hope, until they have the opportunity to succeed.

They want to survive just like everybody else in this building, but all we do is come up with new ways to spend taxpayer dollars with no good results, to incarcerate them longer so that we can have them back over and over and over again.

If you look in the report, it's really, pull it up on the website while I'm sitting here talking, because I don't mind. I want you to know what you're voting on.

We can make change. We must be tough on violent criminals, but we do not need to do this to people who are just struggling to survive.

We can reduce the populations in the prisons, but we must do the right things to reduce the population. Additional incarceration doesn't work anywhere. I don't care.

North Carolina had thought about doing this Three Strikes thing or this persistent. They looked at the budgets. North Carolina turned it down.

If you go back to our history, in 1997 we looked at this through one of our task forces, I don't know which task force, and we decided not to do it because it was too expensive. We thought it was a good idea then, but we don't now. I don't know why we're doing it, but we did.

So I think we need to look at what we're doing and make sure that what we do is going to have an impact that is going to be good for the taxpayers--

SPEAKER AMANN:

Representative Walker, your microphone seems to be not working properly. Would you mind--

REP. WALKER: (93rd)

All right, who pulled the plug?

SPEAKER AMANN:

Would you mind if you would ask Representative Sharkey, maybe he'll let you. We're going to go to Representative Sharkey, see if that's a little better.

REP. WALKER: (93rd)

I'm sorry. Okay, I lost my wind. All right. I'm sorry. I have to be on the microphone, so I can be, okay. Is that better? Is that better?

SPEAKER AMANN:

Sounds better. Representative Walker, may I suggest maybe keep it a couple inches away.

REP. WALKER: (93rd)

Okay, I'm sorry. I apologize.

SPEAKER AMANN:

No, don't apologize.

REP. WALKER: (93rd)

I realize it's late--

SPEAKER AMANN:

That sounds much better now.

REP. WALKER: (93rd)

I realize it's late, and trust me, I don't want to be here. I'd rather be at home rocking my grandchild, because I'm sure she's probably still up

because she's on a two-hour feeding or every hour and a half.

But it's that important that we understand what we're doing. It's that important that we be honest and we talk about the things that are going to work.

Putting this amount of money here, as Representative Dyson said, is going to cost us in other areas. We will pay for this in February.

The Governor's already taken back and is talking about not funding the deficiency in the Judicial budget already.

Now we're going to put in something that is going to create a major deficiency. It may not be this year, immediately, but it definitely will impact by next year, and it definitely will impact by the following five years. Some of us may not be here. Some of us may not be here by the way we vote today, but the point is, we have a responsibility.

I didn't spend all weekend reading this because I wanted to just say, okay, I'm right and you're wrong. I wanted to learn how to educate you and make you understand what we're doing, have some long-range

effects on what we're talking about for the State of Connecticut.

If we do this, we have to be very serious about making some other changes. So, unfortunately, I have talked with Representative Lawlor about this and I applaud everything he does, and I applaud everything that he talks about, and he's been a very strong supporter.

But doing something like this is going to reach back on all of us later on. So I hope that when you press that button tonight, you think about it, because they're going to talk about us. They're going to talk about us bad no matter what, but at least let them talk about us and we feel that we did the right thing because we had the right information.

Thank you, Mr. Speaker.

SPEAKER AMANN:

Will you remark further? Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5th)

Thank you, Mr. Speaker. I'll be asking some questions in a few minutes of Representative Lawlor.

But as I've listened to this debate today, I have come to this question in my mind. What is the value of a human life?

There was a mother and her son who lived in Bridgeport. He was an eight-year-old boy and she was in her early thirties, and he was going to testify against a known drug addict, and they put a contract out and gunned him down in their own home. Are they less valued that the people in Cheshire?

If I listened to the debate here, I would get the impression that that's what's here.

Representative Adinolfi talks about the fact that a few houses away from him were these two murderers. Well, they were one block from me. They don't live in Hartford. Why were they released to Cheshire?

You're not supposed to have a halfway house, or a step-down house. All of them are to be in our cities? We get, or the repositories in the regions that we are in for all of the people from everywhere? I don't think so. I don't think it should be that way.

I've said to Mike, I've said to my mayor, I don't want any of these people coming out unless they live

in Hartford. I don't need to take that many buildings off of my tax roles.

You haven't proven to me I'm going to get PILOT or something. I've already got $3 billion worth of property that can't be taxed in the City of Hartford. We're looking at doing reval all over again.

But I go back to the question. Who determines the value of a human life?

I've listened to too much. I think Dr. Petit would like to have peace, quiet, his name out of the paper, his name off the TV, and start to mourn and start to live another life and he can't because we won't let it rest.

Michael, I need you.

SPEAKER AMANN:

Madam, please frame your question. Representative Lawlor, please prepare yourself.

REP. KIRKLEY-BEY: (5th)

Representative Lawlor, you know that I have questions relative to Sections 23 and 24 that deals with the ability to get the juvenile records to

different people who need them, and the fact that they are needed for various things.

You and I talked with regard to the younger murderer in this case, and you told me that, or I heard that he committed an arson, and at that time I said to you, why didn't they intervene? Was that not a signal to them that there was some trouble with this young man and that he needed to have something to help?

And you said that the justice system tried to do that, but his mother believed in another type of remedy and so therefore, probably he never got the help that he needed with medication and stuff to prevent him from maybe coming to the point that he did, tragically.

We passed a bill here, I think in 1994 or 1995, when I was first here, and it was to get at the problems with kids, and to be able to determine the age at which we need to intervene, and that age was set at seven.

And we said when a child is seven and they start to become truant, then it's time for us to start to

get the agencies involved that will help them to do that.

I asked Representative Lawlor what happened with that? He said it's still on the books but it doesn't have any money.

Last year we had an $800 million surplus and poor people got poorer. So I say to myself, why do I come here every Session? Why do I bang my head against the wall? Why do I cry over certain things? Why do I feel pain?

And I can't seem to get some of you to understand that. The day, June 22nd or 23rd, when you did the budget, I had come in from a cruise later in the night and I watched it on TV and I cried. I cried.

What we did with an $800 million surplus, the earned income tax credit, some of the summer youth employment, some of the things to give grandmothers raising grandkids the opportunity to get out of poverty. All of that's taken.

Now we want to be able to put people in jail for an undetermined amount of time, but we've never set any programs to help them get out of poverty.

Seventy-five percent of the young men who are in prison cannot read at a fifth grade level, but we don't provide that to all of them while we have them as a captive audience.

Someone said today that 50% of the women in York have mental illness. So when they come out if they're mothers, they're going back to homes where they're going to create more emotionally disturbed children.

When we did TANF, I said you're going to have a less educated more impoverished and less committed group of people than you had before you started, and someone who was there when I testified said to me, gee, Marie, aren't you glad that you had it right?

I don't think that's the kind of statistic that I'd be happy with.

But back to you, Michael, because I want to ask you a question.

Why are there so many agencies, there are over 14 of them, that will have access to these records? I counted them, there's employees and authorized personnel and law enforcement and court people, and

the Division of Justice, Department of Children and Families, the parents, the guardians, the everybodies.

Page 19.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. The only new language that's being inserted into the existing law is--

REP. KIRKLEY-BEY: (5th)

I know, what's on the back.

REP. LAWLOR: (99th)

Well, the only thing that's being changed here, through you, Mr. Speaker, is giving the Board of Pardons and Parole and the Department of Corrections, access to juvenile information for convicted offenders, and it can only be used for those limited purposes.

So other than that, it doesn't allow anybody else access to this information. Through you, Mr. Speaker.

REP. KIRKLEY-BEY: (5th)

I don't see any brackets--

SPEAKER AMANN:

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5th)

Through you, Mr. Speaker. So you're saying that 23, all the stuff in the front is out, and it's only the part that's in the back? Because I see brackets around and, and I see brackets around for, a hyphen around for, but I don't see it in the front.

So I just wanted to know why all those agencies need to have access to the records because that should mean that that's currently what's on, in that system, if I'm not mistaken. If I am, please correct me, Sir.

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. That's the current, that was the law that was passed in 1995.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5th)

I understand, thank you for the year. The question was why do all of those agencies need to have the information?

SPEAKER AMANN:

Representative Lawlor.

REP. LAWLOR: (99th)

Well, we're not proposing changing that, but I was here in 1995 and I do recall the rationale behind this.

At the time, one of the main criticisms of the existing juvenile justice system was that, you know, there would be a child, 13, 14-years-old, whatever, and typically these children are being, have issues.

For example, they're at school, they're trouble at school. The teacher is working with them and then the police department is working with them because they're involved in this or that investigation, and plus there's a social service, probably DCF is involved with the same kids.

And as it turned out, you have one kid who has five or six or seven different state agencies, plus some local agencies involved with that kid's life.

But under the law that existed at the time, none of them could communicate with one another about that individual kid.

So the DCF worker would call up the police department and say, hey, you know, can you tell me this about the kid, or DCF would call the school and ask them questions, and the law that existed at the time, they couldn't talk to each other about the same kid.

And at the time, the advocates for these children all agreed that we should make it clear that agencies dealing with a child could communicate with one another about that child, but that that information was still totally confidential, so that was the reason for it.

So all of the agencies listed here deal with children, and if any of them or all of them are involved with the same child they can talk to each other about that individual child without violating the confidentiality law, but they can't further disclose it outside of the people directly dealing with the child.

So that was the rationale in 1995, and although it was 13 years ago, I still remember that part.

Through you, Mr. Speaker.

SPEAKER AMANN:

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5th)

The reason that I ask, and it's been articulated by other Members who have spoken of late, is there's nothing in here to talk about the plans for prevention.

There's nothing in this Bill or anywhere that I know of that says once that child has been talked to by any one of these numerous amounts of agencies.

We put together a plan as articulated by Representative Green, to be able to ensure that we give that family and that child the help that they need to turn them around and to have them have a better life.

We have agencies at DCF, DSS, DMHAS, all contract with, supposedly to help them, and yet they're slipping through the cracks in droves, and I just want

to say, I don't think that's correct, and I don't think that's right.

You know, I can't talk about what it is to live in Glastonbury, and I can't talk about what it is to live in Suffield, or what it is to live in Litchfield. I can talk about what it is to live in Hartford.

But many of you come to the City and never go beyond this building. You've never been to the neighborhoods that I'm talking about that Dyson was talking about, that Toni's talking about. You have no idea what we're talking about.

And so, I don't understand how in a vacuum you can vote on things that have such a great impact on the lives of the people that we're trying to touch.

I don't know if many of you know, but in my other life I'm an executive director of a community center in the Polish neighborhood in the City of Hartford. The median income is $10,000. Most of the parents are on some kind of subsidy or state or the $20 a week and that's it.

Sometimes these kids don't eat, and at 5:00 o'clock p.m. we feed everybody, and we get tons of

kids who come in there for their snacks, and that may be the only thing they get after they get out of school.

There are kids who don't have clothes. There are kids we have to help pay to bury, because they died so young their parents didn't have insurance.

But I'll go back to my first question. What is the value of a human life?

To God we're all the same, but in this room we're not.

SPEAKER AMANN:

Will you remark further? Representative Morris.

REP. MORRIS: (140th)

Thank you, Mr. Speaker. I think my microphone is stuck and won't come all the way out. We'll do the best we can.

I'd like to begin by certainly applauding both the House and Senate leaders from both sides of the aisle, Judiciary Chairs, Mike Lawlor and Andrew McDonald, the Governor's office.

So many of us believe coming in today was to continue with a great effort, a great effort,

attempting to respond to the public outcry resulting from the Cheshire incident.

Along with Representative Green, I extend my sympathy to the Petit family, Dr. Petit.

During my first year in the Legislature, I've come to understand the wonder of gaining agreement, bipartisan agreement, particularly between the House and the Senate on any issue. It's difficult. Particularly during an election year I imagine it makes it even an awful lot harder.

This was a very special weekend for me, and I don't know about the rest of you, but this weekend I was celebrating Martin Luther King's birthday. I know it was a very special weekend.

And it's very interesting, because I found myself conflicted on last night. And the reason I was conflicted is because in the City of Norwalk, on Christmas night, a father of two very handsome, well-behaved young boys, a husband of a beautiful wife, the son of a mother who was sick and went to visit her that night in a housing authority complex, encountered

some young men who were getting high, smoking marijuana.

Somehow a conflict arose and a fight ensued and because the young kid was just trying to get these young men to leave the hallway. To make a long story short, he lost his life in that hallway.

This is a father who was a public servant, gave everything he could the best he could, and certainly the community of Norwalk was devastated by this man's death.

A very interesting thing, though, his wife who now has to raise two children on her own, she came and she spoke at his funeral. And her words that day were, I forgive the men who did this.

I'm sure a lot of people couldn't understand that. I forgive them. Not that I don't think they shouldn't go to jail. Not that I don't think they should be able, whatever punishment the law has for them, but I forgive them.

I met her. I got to speak with her personally. I spent time at the funeral and it stuck with me. And the woman told me, she said, you know, God put this in

my heart and I've got to forgive them and there's a reason for this.

Well, that stuck with me, and that was just Christmas Day. About a week and a half ago, we had 100 kids in our City who for one reason or another went to a party, and the party got out of control.

Young kids. Some as young as 14, many 17, 18. At the end of the night, two kids went to the hospital with stab wounds and another was found in the morning. He was 17-years old. He was dead.

Apparently, a young man who based on the colors he was dressed in his funeral, was involved in a gang, and I went to that funeral. Rather than cry as a forgiveness or anything, the interesting thing in this funeral was, it was a cry of despair from young kids who, as Representative Kirkley-Bey has said, a hopelessness. A hopeless despairing cry that just went through the room. It disturbed everyone.

Many of the same kids were there that night. It has the City of Norwalk in many ways reeling with trying to grasp with the violence that has become a part of our society.

It's interesting, we're doing all this as we're coming into Martin Luther King's birthday. A man who preached nonviolence, who led by example, and I'm sure many of you here tonight, this morning, you went to Martin Luther King Day ceremonies.

But I found myself really conflicted, and I still find myself conflicted today because when I think about these kids who, we just started a new group this week, to kind of raise the sense of hope and expectation in these kids.

Considering a mom who's got to raise a family, and you know, there's a difference in the attitude that she has and the one that was in this other funeral with kids who were concerned about retaliation, were concerned about where this is going to go.

Now, you may be asking, Representative Morris, what does this have to do with the Bill that's before us, and what is your position?

Well, I'm conflicted because our Bill, underlying Bill is labeled AN ACT CONCERNING CRIMINAL JUSTICE REFORM. Martin Luther King's birthday is a special

day and a special weekend, and we're called in today for a Special Session, a Special Session, a special purpose.

The purpose was in response to a tragedy that happened in Cheshire, a tragedy that as horrific as it is, to me is no different than what has happened in Norwalk, what Representative Green has articulated happened in Hartford and other places.

So our Bill is AN ACT CONCERNING CRIMINAL JUSTICE REFORM, and we just got through celebrating Martin Luther King's birthday, and I sat in City Hall late last night before the citizens of Norwalk, and I heard a preacher talking about the 365 days a year. What are we going to do different about Dr. King's dream?

When will it become a reality? When will we do things differently?

I am compelled to want to pick up on the message that I heard others say here today, and challenge us to do something differently.

It's time for Dr. King's dream to become a reality, because it wasn't a dream just for black

folks. It was for all of us, black, white, Hispanic, Indian, rich, poor.

It didn't matter where you came from. He was given the Nobel Peace Prize, recognized internationally. [inaudible} he gave us a message that hate begets hate. It's only love that will dispel hatred. Well, love requires a commitment. It requires some sacrifice.

Representative Cafero earlier today said, he made a comment about what the public expects. He's right. The public had an expectation of us when we came in here today, but not just today, after today, and that's why I talk about Dr. King and his dream. We do it one day out of the year, but we didn't look at 365 days.

I hope at the conclusion of what I have to say, we'll say, you know what? Let's do something today that will last for the next 364.

If I were to pick up on Representative Cafero's comment about what the public expects, I would say that they expect for us to do the necessary work. Examine the facts. Move legislation and policy that

resolves the issues, and then communicate our rationale for representing their best interests.

We were elected to come back and tell the people what is popular. I think we're very fortunate here in the State of Connecticut, in this General Assembly, about something that we do not celebrate very well, and that's our RBA process, our RBA process.

And that's why I said I'm conflicted here today, because I want to reform criminal justice, and we have the tools within this Legislature, if we want to go beyond what the popular answer is to go with tonight.

We were asked, I didn't get a, stick with me, I'm that conflicted. I'm very emotional about what's happening here right now.

We have an opportunity. We have an opportunity. We have an opportunity to continue to operate as a bipartisan party, bipartisan Legislature with the Governor's office to continue the initiative that we began when I first came into this Legislature.

And we understood, and if you'd allow me, I have a few quotes from some very important people that said some things we need to pay attention to.

I'd like to give a quotation if I can, first, from Frederick Douglas. I guess this is why I'm so conflicted. I heard this yesterday during our Martin Luther King Day celebration.

Douglas said, it is easier to build strong children than to repair broken men. It is easier to build strong children than to repair broken men.

Some of the comments you heard from people before me had to do with the fact that we continue to try to incarcerate our way to public safety.

We have a Department of Correction that doesn't correct anything. We need to be honest with ourselves. The rehabilitation isn't happening, and it's difficult to repair broken men. Not impossible, but difficult.

I think we began our Session last year falling upon the words of Douglas. We invested our money to early childcare. We invested our dollars into education.

I think we seriously took a look at the fact that we're spending more than four times of our money on incarceration rather than education, and we know fully

well that those who are in our prisons are either under-educated or uneducated.

Those who the Bill that we're looking at today, if we were going to say yes to this Bill and think, say that we're doing a good thing today, this is a good Bill, well, it does nothing to acknowledge the fact that many of the people who are incarcerated, because they are either uneducated or under-educated were also either unemployed or under-employed at the time they did whatever they did to get incarcerated.

Nothing makes sense to me. One element of the Bill is, we want to take the current statutes around burglary and we want to make the sentences a little harder, a little stiffer. We want to add another five years. Add another .9 years here for a total of $27 million.

Is there nothing to show us there's a benefit to adding that time? There's been nothing shown to indicate, we're defying the good practice that we have under RBA.

It was at the Conference of State Legislatures around the country, everyone came to see the State of

Connecticut's General Assembly receive a reward because we have a good promising practice, that we're just not just taking good dollars and throwing them after bad dollars.

That we understand that we get it, whether we're Democrats or Republicans, that we're going to be responsible with the dollars that are entrusted to us. I think it flies in the face of, it's a knee jerk reaction to say that it's a good Bill, to spend $27 million on something that affects 700 people.

That's the number, you know. Seven hundred people. Turn that number around based on $12,000 a year average to educate, that's 2,200 kids that could be educated.

Twenty-seven million dollars? There are more programs, we know, Representative Lawlor, I'm sure many will come and they'll say, we have had two Sentencing Task Forces giving us more information than what the law should allow.

The immoral thing for us to do today, thank you, I'm glad I remembered that. There's another good quote I have for you of Dr. King's, because the

immoral thing for us to do today, the immoral thing for us to do would be to ignore the fact that Representative Cafero, Representative Lawlor, and others, clearly acknowledge. This Bill will not accomplish what the public is looking for it to do.

Let me give you another one of King's comments. I wanted to quote, I want to hear it, let us hear it well. But if Dr. King was here today, this is what he would tell us.

Ooh, this is a very good one. If you're sitting on the edge, and you're not certain which way you want to vote, well, Dr. King said, the hottest place in hell is reserved for those who remain neutral in times of great moral conflict.

Many of us here, we know there's a moral conflict going on. In our heart of hearts, in our heart of hearts, we know whether this Bill will really do the right thing for our constituents.

We are challenged tonight to look down deep and say, what's the morally right thing to do? Is the morally right thing to just make the political statement and go home and say, well, we gave you a

little bit of something knowing full well as Representative Walker gave us a number, I think on the parole restrictions, five years for about $57 million. We know we're not going to spend that. We're not going to do that.

Is that the morally right thing to do? That had nothing to do with Cheshire.

Let me just give you a few more quotes, because I'm not going to spend a lot of time. I don't want to, you know something? I have to stop saying this, but I'm not going to take a lot of time because time shouldn't be the issue here.

Ladies and gentlemen, time should not be the issue here. Dr. King said, injustice anywhere is a threat to justice everywhere.

The fact that there is something that happened wrong in Cheshire is that something's happening wrong in every community, and particular urban communities, and the fact is we've allowed these injustices to last for so long that it impacts our state budget in such a way that there are operating costs that we have to Corrections that we cannot handle.

Those costs affect us on our human services budget. We cannot handle. It is immoral. It is wrong, especially when we have a tool in our hands.

I believe I'm surrounded by some of the most phenomenal thinkers in the world. I watch each one of you think on your feet.

We're given a Bill with 20 minutes to decipher it and figure it out. We do it pretty good and pretty quickly. We are good. We are good.

Our challenges is, can we make the right moral decision? Let me give you a few more King quotes. Our lives begin to end the day we become silent about things that matter.

Let me say that one more time. Our lives begin to end the day we become silent about things that matter.

Does it matter to you that when Bruce Morris and Representative Cafero go back to Norwalk, we've got to worry about some young kids that are going to be there. We've got to worry about whether they're going to be retaliating against one another.

In fact, there is nothing we've done here today will help to make Norwalk any safer. It will not have accomplished that.

Representative Green, those from Hartford, think about it. The things we've done here today, it's not going to help them. And we didn't come in here today to do that.

We came in here today to deal with Cheshire, and that's all we should have done.

Ladies and gentlemen, I am not supporting this underlying Bill. It is my hope, the same thing, we shoot this Bill down. Let's come back for another Special Session and deal with Cheshire.

There were some things we could have done to impact Cheshire. And that would have been the right and the moral thing to do.

The moral thing would have been, we've already done it. Let me help you out in case you don't know. Yes, it cost $101 million. That was the number. But this will help Cheshire, and it will help the entire State of Connecticut if we do the criminal justice information technology piece.

We know that that is the one thing, the one systemic failure that we had around Cheshire. That was a no brainer for all of us. To stretch and call these other things criminal justice reform, I'm sorry, ladies and gentlemen. I would feel hypocritical. We can do better, and we need to do better.

We could have done a Criminal Justice Policy Advisory Commission. That would help Cheshire. The cost is minimal.

Automated victim notification, $2 million, $500,000 a year to operate. Victims should be a part of that. That was simple. No brainer. I don't even think we have to debate that. Victim notification. minimal.

Court findings, no cost.

Board of Pardons and Paroles, we might have wanted to debate it, but that was only $1.3 million.

The toughest one in there that may have affected Cheshire was the parole eligibility. Every one of you in this room you know, Representative Green said it. There's 40 things in this Bill. The ones I named were

the only things that were really applicable to what we needed to do today.

The others, the Amendments that were raised, those are the things that we need to do.

I'm going to wind this up, but I want to make sure I've given you all the quotes that Dr. King gave because he was really good.

Yeah, you might wonder, in fact, you may wonder why I brought up the piece about it was Mrs. Palk, Mrs. Delia Palk and her forgiveness.

Because I believe everyone here, we're really concerned about public safety but we need to be honest. At the same time, there are people that just want to get, they want to get something back.

You can never get their life back, but if I could, that eye for an eye piece, you know, that's real justice sometime, people feel.

Well, King said, the old law about an eye for an eye leaves everybody blind. The time is always right to do the right thing.

The time tonight to do the right thing is in the words of Representative McCrory, I can't do it as good as him, but tap that red button. This is a no vote.

A no vote today doesn't say that you don't want to do criminal justice. A no vote says, you know what, citizens of Connecticut? We care enough about you and we're so good about what we're able to do that we're going to come back in these three months.

We've got fantastic people in the RBA. We're going to look at the numbers. We're going to look at the things we really need to do. We're going to come back with a package, and we're going to be honest enough to tell you what we can do in three months and what we may not be able to do.

But what we will do, will be comprehensive. It will be systemic. It will be things over time will reduce, will reduce our budget. It will be investments into human infrastructure, and will be the best thing.

Again, I implore you. I am voting no. Vote no. Do the moral thing. Thank you.

SPEAKER AMANN:

Do you care to remark further? Representative McCrory.

REP. MCCRORY: (7th)

Thank you, Mr. Speaker. I rise to say a couple words. Honestly, I wasn't compelled to speak today because I figure the deal was already done, and the deal was already made, and we're going to just go through a quick procedure and be out of here.

Because you know, sometimes the bills are made before we even get out here.

Well, if you notice, tonight I haven't left the House. I stayed here and I listened to everyone's opinion. I listened to the great debate about what is going on in our state, and heard some compelling arguments from everyone here.

And I even listened to the whispers about people who want to get out of here. It's over. Let's go home. It's 2:00 o'clock a.m. and I understand that, and that's why I'll be brief.

I just want to go back to one thing that Representative Dyson said when he talked about the

elephant in the room. And we all know what he's referring to.

And I had that elephant thought last night when I put my son to bed, and I looked at him and thoughts were going through my mind.

Then I thought about when I was a child, and my father put me to bed, and what thoughts were going through his mind.

And then I reflected back on when his father put him to bed, and what thoughts were going through his mind, and his father and his father and his father.

And the thoughts that were running through our mind were simple. Do my son or any child that comes from my community that's poor, that looks like me, whose language, English might not be their first language, who live in the State of Connecticut, are those children all with the first strike against them.

Do they have that first strike against them before they walk out the door? That's the question. And when they get educated or under-educated or under-employed, is that strike two? Think about it.

Murder, 32 murders in the City of Hartford last year, 32. Mothers, fathers, grandmothers, all cried out, been crying out for years. No response. [inaudible] don't have a response.

They get on their knees and they beg to God, stop this senseless fighting. Someone do something about it. Our babies are dying and there's no answer for any one of us up here.

The elephant in the room? But let it happen outside of this community. Let it happen outside, ten miles away, and watch what we do. We're going to run up here, and I'm not saying the Bill is bad. There's a lot of good things in the Bill.

But we're going to march ourselves up here like [inaudible], people watch not what we say, but what we do. And we did it. It's over and done with now. Everything's going to be fine. We're going to give them the perception that now everything's going to be fine, because we fixed the problem.

And trust me, money ain't an issue tonight. We going to spend as much money as we have to spend because that's what we do in Connecticut. We pour

money at problems. You know darned well that money ain't going to solve this problem. You know it and I know it.

Now Representative Green had a great Amendment. He said, let's spend less money and fix the problem before it becomes a problem. Now that made a whole lot of sense to me. As a matter of fact, I had that same Amendment three days ago. We talked about it.

That makes sense. Give me 10% of that budget. Watch what I could do. Someone says, can you justify spending less money, less than $70,000 what it cost? Yes, you can. Guess what you can do?

You know what the best social program is? A job. I would give those 21-year-olds who got the first offense, a job making $15,000. They'd never go to jail again. No, they won't. But that makes too much sense. That's logical.

Maybe, if Representative Green, or someone like him was at the table when the deal was being done, we wouldn't be here talking about it. It would already be in the Bill.

I don't know who was at the table, but I know he wasn't, or somebody who thinks like him.

I came here, and I need everyone to understand something about the people who spoke before me. Green, especially Representative Green, Representative Kirkley-Bey, Representative Dyson, those are my [inaudible].

And people must understand why they speak the way they do, why they're so compassionate about the things they do. Representative Walker, also.

Because we understand that this is going to impact the future generation more so than anyone else, and if we don't do something about it right now, kiss it goodbye.

I work in a school system. I'm going to tell you, I'm losing, I'm losing the battle. I know I'm losing. I preach this to young men every single day. This is what's going to happen to you if you continue down this path.

I had a conversation with a young man about this before I came up here. He told me, and I told him about the legislation, Three Strikes, boom, boom,

boom, what's going to happen. He said, tell them what's really going on. Tell them I didn't grow up and want to drop out of school at 15.

The girls didn't want to get pregnant at 17-years-old. No one wants that for their child. Every parent's an advocate, even if they can't articulate the best way they know how, they know they want what's best for their children.

I'm not saying it's your fault. I'm not saying it's society's fault. But that's the reality of the situation that we're dealing with in the State of Connecticut.

So why do we express ourselves with so much passion? It goes back to the story of Timothy and Jimmy. You see, Timothy and Jimmy were classmates, and they went to school, and the teacher established rules/laws for the classroom.

And the rules were, there will be no stealing. And everybody agreed to the rules until one day little Timmy and little Jimmy were having lunch, and Timmy realized that someone stole his lunch. There was an investigation.

Come to find out there were crumbs under Timmy's desk. And the teacher realized that Timmy had stolen Jimmy's food and ate it, and left the crumbs there.

The law says, the rules were that you have to have 10 lashes if you violate the law, 10 lashes. The teacher told Timmy, take off your jacket. Timmy took off his jacket. The teacher realized that he had no shirt on.

The teacher asked Timmy, why you have no shirt on? Well, Ma'am, I only have one shirt, and my mother had to wash it today, so therefore my older brother gave me his big coat to wear.

And when she examined Timmy, she realized that he's very frail and had bones sticking outside his skin. But the rule of the room, so therefore he had to suffer the consequences.

So when the teacher took out the lash and was about to strike Timmy, Jimmy said wait. Jimmy said, the rules says, if someone steals that someone has to get lashes. I will take them for Timmy because he can't do it for himself.

The teacher said fine. She put the lash, wham on Jimmy's back. Wham, again on the back. Wham one more time, and as she raised her hand to give him the next lash, she held back because she saw the humanity in what Jimmy was doing. Jimmy was covering for Timmy because he couldn't do it for himself.

And that's what we do as Legislators for communities like mine. We have to cover for those who can't speak for themselves.

When we speak, it's not us as individuals. We're talking about, we're speaking for our communities. This is what our communities are telling us. We speak for them, so we have to cover for them.

We want crime out. Representative Green explained it. I live in the most violent city in the State of Connecticut. I have more murders than Bridgeport, New Haven and Waterbury combined. Do you think I don't want criminals out in my community? I want them out more than anybody in here.

I have to worry about crime more than anybody. Representative Green told you. I had a dead body in front of my house, 17 years old. The mother's on her

knees, crying to God, can we do something about it? We have to cover for them because they can't cover for themselves.

I'm not going to take all your time. I'm done. I'm done. You have to vote the way you have to vote.

All I'm saying is, when we move forward, and you hear my colleagues communicate to you about what we believe will change the system, just listen a little bit. Invite one of them. You might not listen. You might not like how they talk to you, but they're going to tell you the truth.

They might talk for a long amount of time but they're going to tell you the truth. They're going to give you a solution. But are we going to listen?

I know one thing. I've only been here for a short amount of time. We can do anything we want in this state, anything we want if we have the political will to do it.

So the question becomes, are we going to do it? Because if we continue down the path we're traveling, we're headed for doom. We can't continue down this way.

Remember, violence, violence is the choice of the hopeless, and hopelessness does not end within the borders of the City of Hartford. It travels outside, too, and you all know bullets have no name to them.

I would hate to be in a community for the hopeless individuals. I don't want it and you don't want it.

So when we come back in February, let's think about the solution instead of the race to incarcerate. Thank you.

SPEAKER AMANN:

Would you care to remark further? Representative Urban. Representative Urban.

REP. URBAN: (43rd)

Thank you, Mr. Speaker. It is getting late. I would just like to talk about a home invasion that happened in Pawcatuck and I talked to them this morning, and I don't ever want to have to talk to an elderly lady who had to go through what she went through.

But I also want to be sure that what we do today accomplishes what it is that we want to accomplish

today, and my colleagues, particularly Representative Walker and the remarks that she made, and my other colleagues who have so poignantly pointed to things that we need to do in Connecticut.

And so I look at the Committee of Appropriations that I have become the Chair of, the Results Based Accountability Subcommittee, and I hope that we can take these things that we have offered up in this Bill, and we can establish trend lines and we can correct data, and we can be sure that what we are doing here tonight is going to accomplish what it is that we want to accomplish here tonight.

So I would urge my colleagues to think this through and be sure that you hold us to this, and that you hold the Subcommittee on Appropriations to being sure that what we put here in law tonight that accomplishes and promotes the safety and the welfare of my families in my district and your families in your district. Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you. Do you care to remark further? Representative Malone.

REP. MALONE: (47th)

Thank you, Mr. Speaker. I'll be very brief, but I do want to say something about the whole process today, the social conscience that is exhibited here.

This body comes together and has to respond and I think they've done as good as they can and put in a great deal of thought and consideration into this Bill.

As the hour has gotten late, or people have pointed out perhaps some things that might be missing. I want to point out to my colleagues something that has not been said today.

We've heard the figure that in the State of Connecticut 19,000 people are incarcerated. We've heard the figure that we'll have, maybe 75 halfway house beds to get some of them out.

The problem that needs to be talked about, because today when we move money or expected money gets spent on this project and we press the state budget and put a bubble in it over here, and it unveils another problem that we have, I need to point that out.

The importation, Mr. Speaker, the importation and distribution of heroin in the State of Connecticut, the importation and distribution of a couple of varieties of cocaine, is what drives those figures that make up the 19,000 people that are incarcerated in the State of Connecticut.

There's not that many murderers. There are not that many people who have done those grave crimes that we talk about today. The majority of those people in our prison system are there because of their addiction to substances, and those bad decisions and crimes they make while using those substances or probably more accurately, pursuing the means to get to them.

We have certain things available to deal with that problem. Those who engage in it see that in desperation, we give up the money that's spent on treating those problems becomes picked away at. It becomes more important to find money to incarcerate people.

We lose hope that lives could be saved and in our zeal to make everybody feel safer, we have loaded up our prisons with those individuals who have made very

bad decisions as a result of their disease of addiction.

It is one of those places that is going to come and haunt us. Some of my colleagues talked about the things that are in this Bill, and the things that just are being pointed out to people now, those things that will affect us.

I have said since 2001 that I regard the distribution and importation of heroin from South America, and now from the Middle East, into this state is as much of a homeland security issue as anything.

It lost its place in that which was important to the people who guarded our borders. This state and this nation will pay for it eventually. I think Connecticut is seeing that now. We never dreamed that we would have 19,000 people in prison.

We never dreamed that those people who, because of their addiction would do horrific crimes that we have never seen before.

I heard the figure today that 81% of the people are in prison because of their substance abuse and their addictions, and I believe that figure to be

inaccurate. I believe that figure to be on the order of 95% or higher.

It is the problem that we are dealing with by incarcerating people. It is a problem that we all know requires constant attention, and work on the front end, those things that people talk about here.

It's a huge problem, Sir, and I think if we don't tackle that portion of it, and I caution this group that we're not solving the entire problem.

That with the proliferation of pure and powerful heroin that we have in this state, that the numbers that we're faced with for incarcerating individuals will even grow greater and we'll continue to be here fighting the criminal justice problem.

So I think we've done the job that we came here to do today. I intend to support this Bill, but I wanted people to understand that my feelings and thoughts to study that a great deal, and I worry about it having a continuing impact on the State of Connecticut. Thank you very much, Mr. Speaker.

SPEAKER AMANN:

Thank you, Sir. Will you remark further? Representative Merrill.

REP. MERRILL: (34th)

Thank you, Mr. Speaker, very briefly. I really do feel compelled to rise just in response to some of the things we've heard tonight.

As Chair of the Appropriations Committee, I can't really let this go without mentioning once again, and thanking Representative Walker, in particular, for her work, and everyone who's worked on this Bill.

But I can't quite get there. I think the out year costs are staggering of what we're doing here, and I can't speak to it as poignantly as many of the Members of this Chamber have. I just think there are better ways we can use the money to do other things.

And I did get some mail from my constituents today. Three people wrote to me. I thanked them for writing to me, because it helps me go where I'm going to go on this Bill, and they all say pretty much the same thing.

There are better ways and better answers to our criminal justice system, more comprehensive re-entry

planning, prevention, alternatives to incarceration. Education is the key, not prisons and increased mandatory prison terms.

And I know many times tonight the results based accountability projects have been mentioned. It's something I've worked very hard on, and when I look at this, I want results for what we're doing, and I just can't get there with the mandatory minimums. I don't think that's the answer. Thank you.

SPEAKER AMANN:

Do you care to remark further? Representative Cafero.

REP. CAFERO: (142nd)

Thank you, Mr. Speaker. Mr. Speaker, ladies and gentlemen of the Chamber, many, many hours ago I stood up to speak on this Bill, and I started off by congratulating various people who participated in putting this Bill together, worked so hard not only over the past few days, but certainly the past several months.

I was sincere in that congratulations because I think that at the end of the day with regard to this

Bill, we're doing some good things. We're not solving all the problems.

We're not addressing the Cheshire incident completely. But we're doing some good things. Even within the Bill itself, we've conceded that we probably could have done some things better.

So I'm going to leave here with some sense of satisfaction and pride. But I've got to tell you what I'm not going to do. I'm not going to be shouting from the rooftops. I'm not going to be saying we solved all the problems.

I'm not going to be doing that new thing, I've just learned. I've been doing public speaking for a while. I even teach it sometimes. But I learned this new thing is, you point with your thumb and your fist. It's a new thing, I guess. I'm not going to do that.

Because we've got a lot of work to do, a lot of work to do, and boy did we just hear about it in the last hour. A lot of work to do.

Representative Dyson talked about that 800-pound gorilla. Let me tell you, folks. We better deal with that gorilla.

Representative McCrory called it an elephant, a gorilla, whatever it is, because if we don't deal with it, it's not going to be 800 pounds, it's going to be 8,000 pounds, 8,000 pounds.

You know, there was a question that bothered me, and it kept coming up here and let's be honest about it. We talked about the fact of the outrage expressed by the horrific crimes committed in Cheshire, and there was outrage.

A lot of people said, you know, that kind of stuff happens in my neighborhood all the time. We heard Representative Kirkley-Bey say it and Representative Green say it, Representative McCrory say it, Representative Dyson say it.

Representative Morris and I come from a town where, as he indicated, we just buried one of our young people.

Was there the same kind of outrage? Not sure. There's a big gang problem in most of the cities, certainly in the City I live in. When we pick up the paper we read about a 17-year-old that's stabbed.

Sometimes you look at where this violence took place, and you say oh, what a shame, a young life snuffed out. Oh, isn't that terrible. It's not so close to home, yet. It's going to get there. It's going to get there.

It wasn't in my neighborhood. Well, it's a shame, but it hasn't directly affected me yet, maybe we will say. It's going to get there if we ignore it.

The young gentleman Representative Morris talked about was buried in his gang colors by his grandmother, and in the audience of the church were his fellow gang members.

And on the way to the church they walked through the housing complex that had the rival gang that they hold accountable, I think, for the death of this young man.

We're very concerned. As Representative Morris said, when we go back to our town, and I'm sure that many people could tell the same story that there's something bubbling up. There's something bubbling up, and we'd better deal with it, because if we ignore it because it didn't happen in our neighborhood or in our

town, or in our side of the town, we're making a big mistake.

So though I am proud of what we've accomplished today, I keep that pride in check because I know we have so much more to do.

I know that what we have done by way of this Bill might turn out to be flawed. We might find out it's not enough. We have more to do.

So in a few moments we'll take the vote. My assumption is it will pass overwhelmingly. We'll go back to our towns and say we did a good thing, but don't overdo it, folks, because we've got to come back and do a heck of a lot more.

And first and foremost, we're going to have to recognize that that 800-pound gorilla that Representative Dyson dealt with is still in this room, and unless and until we all recognize and deal with that, not going to be a lot to shout and point our thumbs in the air about.

It's a start, and I don't want to diminish that, but let's not get too full of ourselves because we have a long way to go.

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the known sample to the lab and tell them there's a hit that came from Birmingham, Alabama or wherever.

The Connecticut police would call there and say, this is the number we have matched to yours. Who is that person? What is that person?

And then they'd launch a traditional investigation to see if that person could have been the person who committed the crime or whatever.

REP. WALKER: So you're saying that it's not any different than fingerprinting or mug shots.

CHIEF STATE'S ATTY. KEVIN KANE: No. And it's even less different because in fingerprinting, when the fingerprint is submitted, the name and identification of the person is right on that fingerprint record.

So that's sitting somewhere in the FBI database with a fingerprint and the name of the person who produced it.

The only information in the database, with regard to DNA, is a number from an unknown sample. And there's no way for anybody else to connect that number to a person.

REP. WALKER: Okay. We just passed Senate Bill 1700, and there were a lot of things in there. This was one of them.

I believe this one was about $725,000 between the correctional budget and Court Supportive Services, the judicial budget for this.

But unfortunately, a lot of the things that we passed in Senate Bill 1700 were not funded. So now we have to make a choice, do a lot of different things, just like we have to do in everything else.

CHIEF STATE'S ATTY. KEVIN KANE: I know.

REP. WALKER: So we look at this, and we say, okay, which one is more important, the psychiatric services that was not funded? The number of correctional officers that we say we need that was not funded?

The number of prosecutors that we need to do this that are not funded? I mean, the list goes on.

So we look at which things are really going to aid in what we're supposedly trying to do with this reform, to choose which one is more important.

If you look at it from our standpoint, which one of them do you think is the most important? Should we have the psychiatric services? Absolutely. Should we have prosecutors? Absolutely.

Should we have public defenders? Absolutely. Should we have correctional officers because of overcrowding? Absolutely. Is this in that same category?

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We, as I've indicated, we have a number of people who have signed up, but we have also received today, when I say we, Chairman Lawlor and myself and Representative O'Neill and Senator Kissel, a piece of correspondence from Dr. Petit.

We would like to have that read into the record, and for the purpose of doing so, I'd like to acknowledge Representative Adinolfi to read that into the record.

REP. ADINOLFI: Thank you, Chairman Lawlor, Chairman McDonald. I received a letter from Dr. Petit, in the, basically in the wee hours of the morning requesting that I read a statement from him to all of the Members of the Judiciary Committee, and the people in this room, and I guess everyone in the State of Connecticut, and I would like to do so at this time.

As you know, Dr. Petit is within my district, and aside from that, he only lives six doors away from me, and the neighborhood is still coping with this tragic event that happened. So let me get on with Dr. Petit's note.

Dear Members of the Leadership of the Judiciary Committee. My life changed profoundly 126 days ago.

From the thousands of communications I have received, and so many people in and outside of Connecticut, I understand that others lives have also been changed.

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Dear Members of the Leadership of the Judiciary Committee. My life changed profoundly 126 days ago.

From the thousands of communications I have received, and so many people in and outside of Connecticut, I understand that others lives have also been changed.

Those horrible events not only took the lives of my beautiful and wonderful wife and daughters, but they also exposed some glaring defects in our laws, and their inability to adequately ensure our public safety.

Every resident of Connecticut deserves to have those glaring deficiencies in our public safety laws corrected fully and promptly.

It is my understanding that you are meeting to review those deficiencies and to address how best to deal with them. I know that the legislative process and the political processes are closely intertwined.

I firmly believe that political considerations should have no place in this debate. From my perspective, the sole issue and the only legitimate focus should be public safety and the protection of the citizens of Connecticut from those who do not respect our laws.

Words cannot express how sad I am that nothing you will do can undo what happened to my family. I write this letter because it is so urgently important that you, as our legislative body, learn from these awful events and take full advantage of this opportunity to comprehensively change our laws and better protect other innocent members of our society.

History has shown that reputations are made and legacies are established by how the needs of the people are addressed by those responsible for shaping our government's response to tragic events and the crises that follow them.

That opportunity exists now for you and our Legislature. I strongly urge you to recognize your potential to do significant good, and to seize the opportunity to put aside political differences in order to make our state safer.

I have been told by many, including some elected officials, that our system failed me and my family. You have the responsibility to correct those failures.

I respectfully ask that you do everything you can to work cooperatively together to make full use of your collective talents and energies and to bring forward the meaningful legislative changes that will better protect the safety of our citizens, and ensure that past failures are never repeated.

Thank you for your attention to this letter and your intention to these critically important responsibilities. Sincerely, William E. Petit, Jr.

And I've got to say, God Bless Dr. Petit.

SEN. MCDONALD: Thank you very much, Representative Adinolfi. I want to recognize Representative Lawlor, and then I know Senator Kissel had a couple of procedural questions he wanted to ask. Representative Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman, and you know, I think it's probably fair to say a number of the Members of the Committee have had the opportunity to meet with Dr. Petit, and other

members of his family and understand the true personal dimension of this extraordinary tragedy that leads us to be here today.

And I think each and every Member of the Committee that's had that opportunity has made a solemn promise to Dr. Petit that we will do everything in our power to rectify whatever flaws in our system exist today that may have contributed to this tragedy.

People have often said that not every tragedy is preventable, and who knows, maybe this was not preventable. But to the extent it was, to the extent that there are flaws, to the extent there are people in our system not following the existing rules.

To the extent there are not enough resources to get this done, to the extent people don't understand the importance of identifying these types of offenders, then we have an obligation to set the policy and provide the resources to ensure that this happens.

And I think I speak for every Member of this Committee when I say that that is our goal, that we will close these loopholes, and we will solve these problems, and we will do what Dr. Petit has asked us to do.

SEN. MCDONALD: Senator Kissel.

SEN. KISSEL: Thank you very much, Mr. Chairman. Just some housekeeping questions in that sort of bipartisan spirit.

I have read and heard, and I don't know if incorrectly or correctly, probably Representative Lawlor quoted as that there probably would be a January Special Session to act on some of these proposals.

My first question to the Co-Chairs is, whether that's accurate and whether that's a target, or we just don't know yet.

SEN. MCDONALD: Well, I can speak for myself, and Representative Lawlor can obviously speak for himself.

It has been our goal since this tragedy to solicit input from as many people as possible, to solicit these proposals, and we are moving on an aggressive path to try to craft a piece of legislation, hopefully, that has consensus from all quarters.

If that is possible, then I think there's an opportunity to have a Special Session. But of course, I want to be very clear that that is not our choice, whether to have a Special Session or not.

The leadership of the House and Senate would have to be consulted. It's really more appropriately a question for the leadership to answer.

I think our goal is to make sure that we have moved as aggressively as possible to fashion the legislation that would allow for that type of opportunity to exist.

Whether that is something that can happen in December or January remains to be seen. I think after this process, we are going to have to obviously involve members of the Governor's Task Force to make sure that what we are trying to do is in keeping with what the Governor's goals are, or what her objectives are, so that we can reconcile any differences we may have.

And then, obviously, we're going to have to broaden this debate beyond just this Committee so that other Members of the Legislature, and in particular, Members of the Appropriations Committee will have an opportunity to become a participant in this dialogue.

Anything further, Representative Lawlor?

REP. LAWLOR: Sure. And I would add that I think, as everyone knows, the Governor has appointed a Special Task Force to conduct a top to bottom review of the criminal justice system, and she has set January 1st as a goal for that group to complete its work.

The Governor has also written to Senator McDonald and myself a few weeks asking that our Committee work directly with her Task Force in attempting to formulate a comprehensive solution to this problem, and I think that's where the January date comes from.

And I think it seems, for practical reasons, if we can, I mean, this is going to be a lot of work, but if we can get this out of the way before the beginning of the Regular Session, I think that would allow us to devote the limited

time we have in the Regular Session to the variety of other issues, which are very important that we deal with.

But so, I think that is the goal, at least as far as I can tell, to get this completed so that we can take action on it prior to the beginning of next year's Session.

But as Senator McDonald said, that's a decision not up to us, but others, and I think it relies on some consensus emerging about what's the right way to do this, and if that happens, I'm sure it wouldn't take long at all to pass the bill.

SEN. KISSEL: Okay, and a couple of quick follow ups again in the nature of housekeeping.

With that as a goal, and having testified before the Governor's Task Force yesterday and knowing how hard you're all working on this issue as well, is it, have you thought about, or would you contemplate that the Judiciary Committee would have an informational hearing where, I believe it's Judge West and Miss Holden and maybe whoever they might recommend, whether they would actually make a presentation to the Judiciary Committee?

Or is it anticipated that we would just receive their report and probably, we wouldn't be quicker to do it with a formal presentation, but it might be more helpful to have them come in and chat with us?

SEN. MCDONALD: Well, let me just say that again, after the conclusion of this public hearing, we anticipate reaching out not only Representative Lawlor and myself, but yourself and Representative O'Neill to the Chairman of the Governor's Task Force, and then we can frankly, sit down and try to coordinate many of these logistical issues to see what's the most efficient way to get a package of consensus items together.

SEN. KISSEL: Okay. And I think that sort of answers my third question, which is, it's been the tradition and I think very noble history of this Committee, it tends to be less partisan than other more fiscally oriented committees.

A lot of the issues we grapple with here are not necessarily Republican or Democrat, so my question is, it's contemplated by the Co-Chairs that the leadership of this Committee, the Ranking Members, the Vice-Chairs and the Chairs, that as we've done in the past with other things before us, that we would sit down and try to work on these issues.

SEN. MCDONALD: That's absolutely true.

SEN. KISSEL: Okay. And I guess my last question is, with the notion that was raised that perhaps there might be some financial impact as to any consensus items, and that perhaps this matter might have to be presented before Members of the Appropriations Committee, that's more of a formalized traditional process that we have when we're in Session as opposed to an ECert.

And so, is it contemplated that this Committee as a whole would vote on a set of proposals or that the reference to Appropriations, I guess what I'm saying is, it seems to me that it, that if there's a package put together that this Committee should vote on it first before it being presented to the Appropriations Committee.

And I'm wondering if that's contemplated or if it's more of an informal bouncing off the leadership of the Appropriations folks, and then depending on the leadership of the parties having it ECerted? I just don't know if that's been thought about.

SEN. MCDONALD: Well, let me just go back to the point of beginning, and make mention of the fact that under the Joint Rules there is a specific procedure by which we have to proceed.

And under Joint Rule 34C, anything that happens after October 1, 2007 that requires a public hearing, can be acted upon by a Committee.

And then it goes on to say, but no such bill or resolution shall be reported by any Committee unless a public hearing has been held during the 2008 Session, and goes on.

So I think we need to sit down with our lawyers among the caucuses, and sit down with the leadership of both the House and Senate in both caucuses to try to work through some of the technical aspects of this, so that we make sure

that whatever we do do is according to Hoyle and it's not subject to attack.

SEN. KISSEL: Thank you very much, Mr. Chairman.

SEN. MCDONALD: Is there any other, since we do have a number of people signed up, I'd like to proceed, so unless there's anything further that's urgent or pressing, I'd like to first call up to testify.

Let me say that, by the way, for Members who, for people here who have not participated in this process before, under our Rules, the first hour of a public hearing is reserved for testimony from department heads or liaisons and chief elected municipal officials.

The way we have historically done that is go through that for the first hour, and if that, if the number of elected or state agency heads exceeds that one hour time limit, we would move on to the members of the public and then alternate between members of the public and any remaining state officials who have signed up for the purpose of testifying.

And we also have a Rule that members of the public who are testifying are requested to keep their testimony to three minutes. At the end of the three minutes you will hear a bell notifying you that your three minutes is up.

We would ask you to try to rapidly conclude with your then thought, not moving into any new areas. We don't have the tradition of some committees, which cut you off in mid-sentence,

but we do ask that you acknowledge the fact that there are probably 50 people or more that want to testify, so we appreciate your cooperation.

The first, so let's see, we are a quarter of two, so just in case you weren't aware, we have a lottery system, which is how these individuals have been selected.

The order in which they are going to testify is a result of that lottery system. It is the most fair way that we could conceive of to make sure that people don't camp out overnight, which actually used to happen so that they could testify.

So we'll be going in accordance with the numbers that you drew in the lottery. So I guess the winner of the lottery, the first person to testify is Susan Story from the Chief Public Defender's Office.

CHIEF PUBLIC DEFENDER SUSAN STORY: Good afternoon, Senator McDonald, Representative Lawlor and Members of the Judiciary Committee.

I'm not sure I like the winner of the lottery going first at this particular hearing, but I do appreciate the opportunity to address this Committee about their proposals that have been drafted largely in response to the tragic events in Cheshire.

And it is my understanding that these proposals are really aimed at targeting those individuals that Connecticut and society in general would

consider to be the most dangerous and problematic to society, and lengthen their periods of incarceration for longer periods of time, if not indefinitely.

One consideration I would ask this Committee to take note of would be that when proposals are issued in a more broad sense, that we may be looking to incarcerate more people as a result of some of these proposals than is necessary or warranted, as they may not have a history of violence that is an actual threat to society.

And for more than a decade, this Committee and other state agencies have been discussing prison overcrowding and the wisdom of funding for increased re-entry and monitoring services for people convicted of crimes, to safely reintegrate them into society.

And what I see in these proposals is that that very laudable effort has been relegated to more of a, for less funding when you are funding the more prison beds, more hospital beds for DOC, than there's obviously less money for these re-entry services.

And I think the re-entry and the monitoring services offered to people coming out of prison only serve to enhance public safety.

The other thing is that if judges are going to be mandated to impose lengthier sentences, I think it's only fair to also give judges a wider array of pretrial services or sentencing options for community-based programming than they have at this time.

In that way, you would have non-violent offenders more apt to be in community and not taking up the beds in prisons that you are seeking to fill with the most violent offenders.

The other thing is that, the other thing we've been talking about for many years, is that Connecticut incarcerates more people per capita than any other state, or is usually in the top five, by how many people we incarcerate.

And also that we incarcerate more people of color, and I'm including juveniles and adults than any state in the union. Well, almost. Sometimes we're one, sometimes we're two, sometimes we're three.

SEN. MCDONALD: Let me just interrupt you, Susan for a moment, and perhaps it's my fault, but I should have said that one of the Rules that we have in the General Assembly is that expressions of support or opposition to any testimony is not allowed in our hearing rooms.

It just makes for a much lengthier process, so we would appreciate if you would please refrain from any expressions of support or opposition, and I don't see any, but if anybody has any signs or placards, they are also prohibited from the hearing room. Please proceed, Susan.

CHIEF PUBLIC DEFENDER SUSAN STORY: Thank you. I think that the national research shows that those states that have Three Strikes legislation and increased mandatory minimums,

that sort of structure increases the likelihood that minorities would be targeted and incarcerated more than non-minorities.

The other thing that we've been looking at, especially in Hartford, is that one in six of Hartford's children have an incarcerated parent or parents, and that single fact alone of having an incarcerated parent increases the likelihood that these children will end up in the juvenile and adult criminal justice system.

And I really think that that's important consideration when we're thinking long-term for what kind of a state we really want to have and what opportunities we want children to have.

The other thing is, and I'm sure you'll hear from other agencies about the necessity for increased funding for staff.

If you increase mandatories, if you have Three Strikes, I don't know, I didn't really see anything in here about consideration that any life sentence would necessitate a hearing in probable cause, and any life sentence would not be the kind of case that we would assign new public defenders to.

They need experienced public defenders assigned to these types of cases, and one of the issues that we have is that in all our Part A courts, we are outnumbered two to one by the prosecutor staff.

And I don't say that to take away from anything that criminal justice should have, because they know what they need more than I do.

I'm just saying that with this type of increased penalties and mandatory minimums, you need more experienced lawyers and you need more of them to handle this particular type of caseload.

And most recently, the ABA and the American Council of Chief Defenders reaffirmed the caseloads as set in 1973 by the National Advisory Committee on caseload goals for indigent defense, and those standards are actually lower than we had set in the lawsuit settlement Rivera v. Rowland.

I understand by permitting the OFA analysis that they do plan to increase staff for both criminal justice and public defense, and I'm grateful for that.

The other thing is, that the SHIELD, the new technology system for the SHIELD does not include any representation from the Public Defender's Office in fashioning that type of integrated technology system, and I think that's shortsighted.

As you know, we've been part of the CJIS Committee for, on the governing board of CJIS for years, and that if you're going to have an integrated technology system, then there's certain types of documents as a matter of right that the defense is entitled to, and that we should be included in that.

I'm not saying that we're entitled to everything that would be included in SHIELD, and we are included in everything under CJIS.

But if you want a more integrated system, and a better system, then we need to be included so that the prosecutors don't have to copy police reports for us. I'm sure they don't really like to do that, but so that we have access to the documents that we're entitled to as a matter of right, so I think it would be shortsighted to exclude us.

Some of the things that we would be opposed to that are in a number of the proposals would be Three Strikes legislation for any type of, that includes convictions of any kinds of felonies.

I think the recent Quinnipiac Poll bears out that the public really would prefer that sentences be decided on a case-by-case basis, even for violent felonies and repeat violent offenders.

We are in favor of a workforce discretion by the judges rather than less, and I think it would be difficult for them to make statements about a person's history and character and the nature and circumstances of their criminal conduct without some kind of valid risk assessment, and even those are tricky.

So mandatory minimum sentence legislation, which eliminates all discretion from the court.

Consecutive sentences for certain offenses that arise out of the same incident.

Internet access. Increase Internet access. The one thing about increased Internet access is that re-entry is so difficult now.

I mean, just the fact of a felony has so many collateral consequences for people coming out of jail that I think you have to weigh in on whether you want people to re-enter society and go to work and be productive, or whether you want to develop a separate substrata of people that can't work anywhere or live anywhere or become more educated, and I think that's certainly happening.

We're opposed to habeas time, shorter habeas time lines especially in capital cases that involve death sentences.

And elimination of parole for certain offenses, I think we've seen that elimination of parole, and I'm not talking about capital felony cases where it's life without possibility of release.

But parole is a safety valve for people to be monitored in society. When you have end of sentence people coming out of jail, it doesn't serve them or society in any way not to have some kind of support and monitoring.

The other concerns I have are outlined in your testimony. Of course, we would like to be included if there's anything about building any new prisons, parole registries, or staff secure residential treatment for sex offenders.

SEN. MCDONALD: Thank you very much, and you know, I should, I just wanted to start the process because everybody was so gracious with their patience.

But let me just also say that all of the testimony that has been submitted to the Committee has already been scanned and placed on our website, so all Members of the Committee have either hard copies of your testimony, or can access it on line if you've submitted testimony.

So one of the things you can do if you want, and if it's appropriate, we would appreciate it is to summarize your testimony and hit some of the main points that you want to explore in a little bit more detail, because we do have access to all of that information.

Questions? Representative Lawlor.

REP. LAWLOR: Thanks, Mr. Chairman, and good afternoon, Ms. Story.

CHIEF PUBLIC DEFENDER SUSAN STORY: Good afternoon.

REP. LAWLOR: You know, there's been a lot of discussion in the last month or so about the option of freeing up space for violent offenders by earlier release of nonviolent offenders, and apparently that hasn't been happening quite a bit in the last month because apparently it's more complicated than it seems.

And since I believe your office is involved with offenders as they leave prison as well as while their cases are pending, I guess the question is, what is it about, what lack of resources in the community, in terms of whether it's halfway house beds or other types of solutions is getting in the way of releasing more nonviolent offenders, from your perspective, from the reports you're hearing.

Because if that's the, one of the solutions of the problem we need to know what is it that's missing that's sort of getting in the way of releasing these nonviolent offenders a little bit earlier?

CHIEF PUBLIC DEFENDER SUSAN STORY: Okay. Re-entry is really difficult, and I'm not just talking about people who have been in for a long time.

Even if you're in for you know, a couple of weeks, you could lose your apartment, you could lose your job, you could lose your kids, you lose all your belongings, because if you're taken off the street, you have to start all over again.

So I'm not talking about just long-term types of things. It's really difficult, and the types of things that we see, the collateral consequences of being in jail or having a felony is your reduced chance to be educated, to have public housing, to have the money if you're not going to get public housing, for housing and a security deposit. Very difficult.

Transportation is huge, because if you're going to try to find a job, you have to get around to look for one, and then if you get a job, you have to get there on time to keep the job.

And these are just every day difficulties that people, you know, go through, and then they have to. I mean, the housing, the employment, the education, the fact of the conviction itself.

REP. LAWLOR: Well, you may have misunderstood my question. My question--

CHIEF PUBLIC DEFENDER SUSAN STORY: Maybe I did.

REP. LAWLOR: We're being told by the Department of Corrections, because first there was the issue about releasing more nonviolent offenders earlier to free up space for the violent ones, and apparently that's the plan, at least in the short term.

But we're also told, you know, unfortunately the Department of Corrections chose not to participate in our hearing today for whatever reason, so since you deal with these offenders, what is it, what resources are they claiming are the obstacles to releasing some of these nonviolent offenders?

Because what they're saying is, we would release them. They're eligible to release. They've been approved for release. However, we can't do it because we don't have, whether it's a halfway house bed or whatever. What is it

exactly that's getting in the way, as far as you can tell?

CHIEF PUBLIC DEFENDER SUSAN STORY: Well, sometimes it's halfway house beds. As we know, siting programs in our communities is very difficult, so there are not enough of them.

REP. LAWLOR: So is there a waiting list at the moment, as far as you know?

CHIEF PUBLIC DEFENDER SUSAN STORY: Yes. It's my understanding that there are, I'm not sure of the exact amount, but I thought it was close to 1,000 but I'm not sure, people that need help finding supports in the community to get out.

That, you know, who they're going to live with is a huge thing. They're not going to get out unless they have a place to live.

REP. LAWLOR: So these are people who have been approved for release already--

CHIEF PUBLIC DEFENDER SUSAN STORY: Yes. Yes.

REP. LAWLOR: --but haven't been actually released because there's no place to put them when they get out. Is that what you're saying?

CHIEF PUBLIC DEFENDER SUSAN STORY: Yes. And I've actually, I had spoken with Commissioner Lantz about getting a list of those people to see if among those people we could assist our clients in finding some supports in the community so that they could get out, and that would be our

social workers working with them to try to find some supports within the community.

REP. LAWLOR: Okay, thank you.

SEN. MCDONALD: Senator Kissel.

SEN. KISSEL: Thank you very much, Mr. Chairman. Chief Public Defender Story, so great to see you.

CHIEF PUBLIC DEFENDER SUSAN STORY: Good to see you, too.

SEN. KISSEL: Just a couple questions, and I'll be brief because we have a ton of people that want to speak.

First of all, I was surprised when you said that Connecticut has such a high incarceration rate because I just went to a seminar and the statistics that were provided to me is that the national average for incarceration rates is about 450 per 100,000 folks in the United States.

In Connecticut, it's about 350, so that we're substantially less, on average, as far as incarceration.

We may be higher based upon race or ethnicity and we may be higher than surrounding New England states but my understanding is that as just a statistic regarding incarceration as opposed to other states in the country, that we're actually doing pretty good, and I actually credit it to a lot of the initiatives

that we've created here in this Committee and in working with Corrections, you know, over the last few years.

CHIEF PUBLIC DEFENDER SUSAN STORY: You know, that's not my understanding of the statistics, but if I'm incorrect--

SEN. KISSEL: Tell you what. I'll look for my research if you look for yours.

CHIEF PUBLIC DEFENDER SUSAN STORY: And I'll look for mine, but for many years it's been an issue in a lot of the justice statistics that I've seen.

SEN. KISSEL: Well, I'll dig into mine. And the second part is that, I understand coming from the public defender's perspective that there's not going to be a whole lot in the bill proposals that you're going to think is real positive philosophically.

But is there anything in there, I didn't really hear you saying that you support any of the bill proposals. I'm thinking like maybe burglary second, you know, as a violent offense if it's a residence, occupied residential home. I mean, is there anything in there where we can get a little tougher on some of these violent offenders that you would be supportive of?

CHIEF PUBLIC DEFENDER SUSAN STORY: Well I think that, you know, our office is not opposed to looking at home invasions or nighttime burglaries where people have weapons and there

are people, they're going into people's homes when people are there.

I mean, as a policy decision I think that this Committee and also as Parole has done, can make that assessment that that's a violent offense based on the potential for violence in a home invasion.

SEN. KISSEL: Thank you.

SEN. MCDONALD: Senator Meyer.

SEN. MEYER: Susan, nice to share a quick bite of lunch with you today.

CHIEF PUBLIC DEFENDER SUSAN STORY: Nice to see you, too.

SEN. MEYER: I think the Legislature's prime concern has to be the safety of the public after a person's released on parole.

And that safety depends in part upon what has happened to the offender during the years that he or she has spent in prison, and therefore, as you and I briefly discussed at lunch, we got to look at rehabilitation.
Our recidivist rate is really unacceptable. I'm sure you agree. It's 60% or more.

With respect to rehabilitation we'll be looking at educational programs, vocational counseling, vocational training, psychological counseling, other measures that in effect would bring about a re-entry with a greater likelihood that a person's going to be a good citizen.

From your experience, and I know your experience is extensive as a public defender, what is the status of inmate rehabilitation in the prisons of Connecticut?

CHIEF PUBLIC DEFENDER SUSAN STORY: Well, I think that, I think that for quite a while prior to Commissioner Lantz coming on, that rehabilitation was not a real goal of Corrections.

I think Commissioner Lantz is very much interested in rehabilitation, but she is given a certain amount of resources that she can put toward that, and it's my understanding that people who are in prison that want certain courses or programming or an education, there are long waiting lists for these types of things, and sometimes they don't get these types of programs until they're just about to get out.

I personally think that as much education as you can give a person, you should do it, and I'm not, and in fact, I talked to her not only about a GED, which I think is great that they have a GED program, because that's not easy.

At the same time, there are people in prison who could also get their, get a college degree. Now I know that's probably not a popular idea for some people, but I think that it's important to realize that when somebody gets out of prison if you want them to succeed and you want to enhance public safety, that a

predictor, a real predictor of recidivism is whether or not someone can get a job.

And it's very difficult in Connecticut right now if you're coming out of prison to get a job. I mean, even when we, for years our office participates in a veterans' stand down in Rocky Hill, where we represent homeless veterans.

Now, a number of those homeless veterans have some felonies, whether they're drugs or whatever, and they can't get a job, so I mean, it doesn't even seem to matter if you have that behind you. It's just very hard, once you have a record, to succeed.

SEN. MEYER: Thank you for that, and you're giving us some good motivation to look at another area of new legislation.

SEN. MCDONALD: Representative O'Neill.

REP. O'NEILL: Yes, thank you. I guess in listening to your testimony, and the focus being on the re-entry and helping people succeed and so forth, I mean, it almost sounds like, I mean what I draw as a conclusion is, you don't think anybody should be incarcerated.

CHIEF PUBLIC DEFENDER SUSAN STORY: Well, that's not, absolutely not my testimony.

REP. O'NEILL: Because if we didn't incarcerate them they wouldn't lose their jobs, their homes, their relationships that they have, their cars and all that, which then becomes an impediment

for their re-entry into society after they leave prison.

I mean, and that's the conclusion that I draw is that because we do this to them by putting them in prison, then when they come back out they've got all these problems that we now have to try to cope with.

And wouldn't it be just simpler not to create the problems in the first place?

CHIEF PUBLIC DEFENDER SUSAN STORY: No, I, you know, I'm sorry if you think that's what I'm saying because that's not what I'm saying.

There are certainly people, and having been in the court system for more than 20 years and representing people in capital cases, I certainly understand there are people that are in the court systems that should be incarcerated for long periods of time. Nobody would argue with that.

I would have no credibility if I said that, and I don't feel that way.

But I also feel there are a lot of people in prison who don't need to be there for public safety and could be better served in the community if we had appropriate programs.

REP. O'NEILL: I guess that's the point where there's a disagreement. I mean, in a fundamental sort of way because this Legislature has chosen to do that.

But I guess I'd be curious to know who those, and you don't have to do that this minute, but I mean, is there a classification of prisoners that you have in mind, certain kinds of crimes or age group or something like that, that would, or is it just sort of scattered throughout all the different levels, different types of crimes that we have?

CHIEF PUBLIC DEFENDER SUSAN STORY: I think that people have to be judged on an individual basis. I think that we've seen that as a result of the Cheshire tragedy.

Because if you look at, I mean, if somebody doesn't have a history of violence but has a certain type of history that comes through in a pre-sentence investigation or psychological report, those are all types of things that go into that analysis.

And I think that we've made some good steps since Cheshire to ensure public safety by, you know, making sure that the Parole has the information that they need to make better assessments of who is dangerous and who is not, to the best of their ability, as anybody ever really can know that.

REP. O'NEILL: Well, that's one of the problems. On an individualized basis it's my understanding that the science of this doesn't work to really be able to predict how any individual is going to behave when they reach out into a free society, and that's one of the problems with the screening process.

It gives you aggregates that a certain percentage of the people who are classified low risk will succeed, and it's a higher percentage of a little risk that the folks are ID'd as high risk but you can't tell which of those people individually are going to be successful and which ones are going to be failures and end up having to be re-incarcerated.

So that there is an inherent problem with the screening that it never produces the sort of ideal result where you could have precise knowledge of which ones are going to behave badly and which ones are going to behave well, which then leaves us with the idea that we have to, I guess, have to choose between erring on the side of continuing to incarcerate people or erring on the side of letting more people go.

And that's I think what we're at at this point is the discussion about whether we should be letting more people go who are in this lower risk category where we set the bar for risk and that sort of thing.

So I mean, I think I understand your testimony and I understand your point of view given the nature of the work that you do, but for us, what we're trying to do is ensure public safety. That's our first and foremost consideration.

And I think that's what we're trying, we think, at least I think that if we had kept people, the two that went to Cheshire who are accused of the Cheshire crimes, if they had been in jail then they wouldn't have committed that

crime. That's my assumption. Thank you, Mr. Chairman.

SEN. MCDONALD: Thank you. Let me just, and I don't know, Susan, if you're the right person to ask this. I know there are other folks who do nothing other than re-entry programs who are going to be testifying, but I just want to be clear that the goal of successful re-entry programs is to reduce the recidivism--

CHIEF PUBLIC DEFENDER SUSAN STORY: Absolutely.

SEN. MCDONALD: --for people so that we don't see them back, and so that they actually have the wherewithal and motivation and tools to actually pick themselves up and become law abiding citizens.

CHIEF PUBLIC DEFENDER SUSAN STORY: Absolutely. And my point is that it's a very, people need a lot of support to be able to do that.

SEN. MCDONALD: Thank you. Representative Walker.

REP. WALKER: Thank you, and good afternoon, Susan. Yesterday it was very interesting listening to some of the testimonies that they had. A very wise Legislator said that there was no silver bullet to address this problem, and I agree with that because it's very hard to make a determination on what we have to do

But in looking at some of the issues, you're familiar with the Three Strikes law and what has happened around the country. Has that had a positive effect or a negative effect, or has

it had any effect on reduction of violent crime, do you know?

CHIEF PUBLIC DEFENDER SUSAN STORY: In some states I think the research shows that it has, but that's not necessarily California model.

California model, it turned out to be kind of a disaster for California because people were being incarcerated for crimes that, they just had very bad results and unjust results, and they've since modified that, and Oregon also has a model.

But it did, what the research seems to show is that it did tend to incarcerate more people of color disproportionately than other types of sentencing structure.

REP. WALKER: I believe, according to the statistics, Los Angeles, San Diego and one area outside of Oakland had the highest number of Three Strikes offenders, more so than any of the bedroom communities, which is sort of very true.

But I think that there's a lot of research that says that the things that you were talking about for us to increase, such as re-entry had a higher effect and in reduction of violent crimes, and in petty crimes especially, community crimes than anything else. Do you know anything about that?

CHIEF PUBLIC DEFENDER SUSAN STORY: Well, re-entry, services for re-entry, I recently saw a statistic, and I'm trying to remember where I

saw it, that the people, actually it was a subcommittee for the Criminal Justice Policy Advisory Committee, and the research seems to show that people who are in halfway houses tend to recidivate less.

Now I know in the Cheshire, that's not so, but they seem to have more success, you know, the more monitoring and support that they have.

REP. WALKER: The way the Three Strikes law is written, would the Cheshire, the bad guys that committed the crime in Cheshire, would they have been affected by the Three Strikes law that we have here?

CHIEF PUBLIC DEFENDER SUSAN STORY: You know, I'm not as familiar with their individual history to be able to answer that.

REP. WALKER: Okay. Okay, because--

CHIEF PUBLIC DEFENDER SUSAN STORY: I didn't [inaudible]

REP. WALKER: From what I've read, I understand that the way we've written the proposals would not--

CHIEF PUBLIC DEFENDER SUSAN STORY: Would not have included them.

REP. WALKER: --would not include the Cheshire people, so no matter what, they would have slipped through so that would go back to the idea of what the Legislator said about the silver bullet. It's very hard to determine what the silver bullet is.

And I also just, to remind, to let you know, I looked up the sentencing project and they talked about the incarceration rights and Senator Kissel [Gap in testimony. Changing from Tape 1A to Tape 1B.]

--black and the white ratios, the national ratio for white incarceration is 412 and Connecticut's is 211, so we have the lowest number of incarcerated non-minorities than any other state in the country, so he was accurate in that. It's just a little different.

CHIEF PUBLIC DEFENDER SUSAN STORY: Thank you.

SEN. MCDONALD: Thank you, if there's nothing further, Representative Hamzy and then Senator Cappiello.

REP. HAMZY: Thank you, Mr. Chairman. Turning to the story in your testimony, you write that you'd be opposed to Three Strikes legislation that imposes a life sentence for a violation of any felony.

As I read through these proposals that were made, I didn't see any proposals that went as far as your testimony. Did you read any of the proposals differently than I did?

CHIEF PUBLIC DEFENDER SUSAN STORY: I think that, you know, I wrote that prospectively in case there was any consideration given to that. I think it has to be drawn very narrowly.

And because when you look at what the Quinnipiac Poll, I mean, most of the public supports the stance that even for serious felonies that they think that there should be individualized sentencing.

REP. HAMZY: There are, I don't know how many different versions of Three Strikes--

CHIEF PUBLIC DEFENDER SUSAN STORY: There's a lot.

REP. HAMZY: --right, that it's difficult for me as an attorney and a Legislator to understand. I'm not quite sure that the public would be able to understand all the different variations and versions either, but I thank you for your response.

SEN. MCDONALD: Senator Cappiello.

SEN. CAPPIELLO: Thank you, Mr. Chairman, and thank you for your testimony. Just to follow up on that line of questioning.

Are there any, I want to be clear about this to make sure I understand it. Are there any crimes at all where you would support Three Strikes legislation?

CHIEF PUBLIC DEFENDER SUSAN STORY: Well, I can say that we already have, I mean in the capital felony sense, life without possibility of release. I think that that's, as an alternative to the death penalty. I could support that.

SEN. CAPPIELLO: So you support that in place of a harsher penalty.

CHIEF PUBLIC DEFENDER SUSAN STORY: Yes, I do.

SEN. CAPPIELLO: Okay.

CHIEF PUBLIC DEFENDER SUSAN STORY: But for Three Strikes legislation, I really do think that sentencing should be individualized and the court should have that discretion.

SEN. CAPPIELLO: So the answer is no. You don't support this in any way.

CHIEF PUBLIC DEFENDER SUSAN STORY: The answer would be no.

SEN. CAPPIELLO: So it doesn't matter if it's a violent felony or not.

CHIEF PUBLIC DEFENDER SUSAN STORY: Not just because as a public defender I'm opposed to that, but it has proven to be extremely costly and not a necessarily deterrent in other states.

So I realize that it caused so many problems in California, that from a public policy standpoint I'm also thinking of it in that regard because as a taxpayer I'm also concerned about what we spend our money on, and what Connecticut puts first as a priority.

SEN. CAPPIELLO: So, and I'm not trying to be sarcastic here. Are you speaking as an individual taxpayer or are you speaking as a public defender?

CHIEF PUBLIC DEFENDER SUSAN STORY: Well, I'll speak as a public defender. But I also think that in general that we have to make sound policy decisions that benefit all of Connecticut. There have to be choices about how much money is going into Corrections rather than rehabilitation and re-entry.

SEN. CAPPIELLO: If I can get back to that, first of all, you referred back to California. I know our proposal, the Senate, the Republican proposal, and I think others, do not include crimes or criminals who are committing less than violent felonies.

So we're really focusing on violent felonies here, so we really shouldn't be using the California model, which cast a very broad net, and we all understand that, I think. So let's forget California altogether.

We're looking at criminals who commit kidnapping, arson, manslaughter, home invasions, you know, we're talking about very serious felonies here.

So, just to be clear, you still don't support focusing our efforts on the serious felonies that are a threat to society, you don't support Three Strikes legislation?

CHIEF PUBLIC DEFENDER SUSAN STORY: I think there are other ways to sentence people individually without Three Strikes.

SEN. CAPPIELLO: Okay. And with regard to, you had mentioned before regarding the home invasion, making that change. I think Senator Kissel asked you the question, so you mentioned home invasion at night.

Would you not want to include this, if it was a home invasion during the day?

CHIEF PUBLIC DEFENDER SUSAN STORY: I think that burglary at night with a weapon when people are asleep puts people in a very vulnerable situation, and I think there's more propensity for violence during that time period.

SEN. CAPPIELLO: So if it was burglary during the day, a mother and her two-year-old at home and the burglar had a weapon, that wouldn't have the same standard? You wouldn't have the same standard for that?

CHIEF PUBLIC DEFENDER SUSAN STORY: You know, historically, burglaries at night have always been categorized as more serious than during the day.

I mean, in that particular, I mean, you have an aggravated burglar with a weapon during the day, which carries a significant sentence as it is.

SEN. CAPPIELLO: Aren't we being a little bit silly by talking about when the crime is being committed, if we're talking about a serious threat to someone in their home with a weapon?

Isn't it kind of silly to say well, if it's dusk we're not going to count it, or we will count it, dawn, we might not count it, if it's at noon, we don't count it. Isn't that kind of silly for us to pass legislation that deals with the time of day the crime is being committed?

CHIEF PUBLIC DEFENDER SUSAN STORY: Well, that's really a policy decision for you to make, and it may make sense after some deliberation that you think that's the best way to go.

SEN. CAPPIELLO: Thank you. Just one more question because I know we have a lot of people who want to testify.

Out of the five proposals that some of us have introduced, I want to be sure that I understand. You do not support a GPS tracking system for someone who's on parole? Do you support that or you don't support that?

CHIEF PUBLIC DEFENDER SUSAN STORY: I support that.

SEN. CAPPIELLO: You do support that, okay, that's good.

CHIEF PUBLIC DEFENDER SUSAN STORY: That's not just for everybody but I think GPS is a tool--

SEN. CAPPIELLO: Correct.

CHIEF PUBLIC DEFENDER SUSAN STORY: --that enhances public safety and it can be used very well.

SEN. CAPPIELLO: Okay. And I will leave it at that because I know we have a lot of people who want to testify. Thank you.

SEN. MCDONALD: Thank you. If there's nothing further, thank you very much for your testimony, and I appreciate all of the questions. I will appreciate them just as much from Members of the Committee when we're here at midnight.

If everyone would please stick around for the leadership, we'd love to have your attendance then as well.

CHIEF PUBLIC DEFENDER SUSAN STORY: Thank you.

SEN. MCDONALD: But in all seriousness, one of the ways we can, while that was all very important testimony, just so you know, that was about 40 minutes, and we do need to be cognizant of everybody else's time here.

So to the extent Miss Story or anybody who has testified before you has covered an area that you agree with, please just reference that and move on to other areas of your testimony so that we can get the greatest range of opinion and input from people who are testifying. Thank you very much.

CHIEF PUBLIC DEFENDER SUSAN STORY: Thank you.

SEN. MCDONALD: Next from the public list, I'm sorry, from the public officials list is Senator Sam Caligiuri.

SEN. CALIGIURI: Senator McDonald, Representative Lawlor, Senator Kissel, Representative O'Neill and Members of the Committee, thank you very, very much for holding this hearing today.

I'm State Senator Sam Caligiuri. I represent the Sixteenth District, which includes Cheshire, Southington, Waterbury and Wolcott. I'd like to begin by thanking the leadership of this Committee's leadership in holding this hearing.

The reality is that we need to make a number of very important reforms, and we can't do it without starting here, with the kind of hearing that you're holding today, so I'd like to thank you for that.

I'm here primarily to urge the Committee to approve a comprehensive set of reforms along the lines of what's been submitted and will be discussed further by Senator McKinney, Representative Cafero and frankly, Representative Lawlor, Senator McDonald, your proposal has a lot in it that I think is important and that we need to consider, and which frankly, I would support.

So we must, I think, at the end of the day, and I hope in Special Session before we come back in February, adopt a comprehensive set of reforms.

These reforms have to include issues such as improving the sharing of information, which we know is a disaster, strengthening the Board of Parole, making home invasion a violent crime,

fixing the persistent offender statute to deal with the problems the Connecticut Supreme Court has identified, and which the prosecutors talk about in terms of their ability to work with it.

Increasing the use of GPS and, I think, implementing a true Three Strikes and You're Out law in Connecticut.

Given the time constraints, and I want to try to do this within the three minutes that most people will have, and my personal involvement in the issue, I'd like to focus the rest of my comments on the issue of Three Strikes.

I believe that we need a real Three Strikes and You're Out law in Connecticut because prosecutors need to have a tool that will enable them to prosecute the most serious, violent repeat criminals under a statute that will put these criminals away for a long, mandatory minimum sentence.

Because doing so is important, at least in my opinion, to protecting the public from this group, the small group, but disproportionately harmful group of hardened criminals.

A reasonable Three Strikes law in my opinion, and is reflected in what we've submitted, will focus only on the most serious and violent repeat criminals.

When we did our research, we looked at states, including California, and frankly, I agree with the commentary of Attorney Story and others,

that California is overly broad, where if you have two strikes against you, any third felony is going to be enough to lock you away for a minimum of 25 years. That's too broad.

And that's why we modeled our law after Washington State, for example, and states like it, where the focus is really on the commission of three serious, violent crimes.

Only under those circumstances should the harshest mandatory minimum penalty, in my opinion, for that group of individuals, a minimum penalty of life without the possibility of parole.

But whatever the mandatory minimum should be, it should be applied in a three strikes context to that subset of the most hardened, violent, repeat criminals.

I also would recommend for the sake of your consideration, that we do it in a separate statute, rather than within the context of the persistent offender law, primarily because I've heard so much anecdotally from the prosecutors about how difficult the persistent offender law statute, set of statutes is to work with.

Now I recognize that the Chief State's Attorney has submitted proposals to try to improve the application and the use of that. Maybe that will solve it.

But I would commend to your consideration, having Three Strikes in a separate statute,

rather than embedded within the persistent offender statutes.

With respect to your proposal, Senator McDonald and Representative Lawlor as I read it, for the section that starts to move towards the Three Strikes, I'm reading the current language as having a mandatory maximum sentence rather than a mandatory minimum sentence, and that is in lines 167 and 181.

If I'm reading that correctly, I would urge you to consider using that section to impose a mandatory minimum sentence rather than the current construct in the persistent offender statute, which really sets a maximum, a cap, on the sentence to which an individual with two prior strikes would be eligible.

On a different note, and as I prepare to close, I've also submitted, along with my colleagues from the Waterbury delegation, legislation that would adopt the so-called Castle Doctrine in Connecticut, Senator, and I would encourage us to do that.

SEN. MCDONALD: Can I interrupt you?

SEN. CALIGIURI: Yes.

SEN. MCDONALD: Again, I probably should have a list of running rules. One of the rules we have is that your cell phones need to be turned off or set to vibrate so that it doesn't interrupt the testimony of people who have waited patiently. Please continue.

SEN. CALIGIURI: Thank you. And I was just getting ready to close, but just in addition to Three Strikes, my colleagues from the Waterbury delegation and I have submitted a proposal before you, which would provide for Connecticut adopting the so-called Castle Doctrine in Connecticut, which will help protect homeowners who are trying to defend themselves when someone is intruding in their homes, and they're trying to use what they think is reasonable force under the circumstances.

I would commend that for your consideration, and I hope for your approval.

And with that, I want to thank you for the opportunity to be here today to testify and I'd be delighted to answer any questions that you might have.

SEN. MCDONALD: Thank you very much, Senator. Let me just ask, and part of the difficulty here is that everybody has used the term Three Strikes and You're Out, and it means something different to anybody that you talk to.

But under your consideration, or viewpoint on the issue, can you foresee any circumstance where having that type of legislation in place would actually hinder the ability of prosecutors rather than enhance their ability to put violent offenders away?

SEN. CALIGIURI: No. And the reason for that is because I'm a firm believer, and this came out of my discussions with prosecutors as we were putting our proposal together, that ultimately

prosecutors have to have the discretion whether to charge under that statute in the first instance.

And so, and I'm a firm believer that given the types of hearings that have to be conducted whenever the possibility of a life sentence exists, that prosecutors should have Three Strikes as a, for lack of a better term, a menu option that they can utilize when they're trying to go after the hardest repeat criminals.

This ought to be a tool that they can utilize. If it's a tool, if it's an option that they can utilize when going after the worst of the worst, I don't see how that could ever hurt the system.

Where I could see it hurting is if it ends up being embedded in what is already a very complicated set of statutes, that is the persistent offender statutes.

So that's where I think if it's not done just right, it could actually create more harm than good. But if it's a freestanding statute, and as a concept, I don't see any harm that could come as a result of that.

SEN. MCDONALD: I appreciate the answer because frankly, that illustrates one of the issues that I have been struggling with this, and that is the false promise that if a Three Strikes and You're Out law is passed, and your view of it, that anybody who actually committed a third violent felony would, in fact, be charged with

a violent felony under that Three Strikes proposal.

That appears from your answer to be a false promise, that there would be no requirement that the prosecutor would charge on that level, and in fact, the prosecutor might charge down to a lesser crime to avoid that statutory scheme altogether. Is that correct?

SEN. CALIGIURI: That's correct, Senator McDonald. And to be clear, I'm speaking for myself. Other Members of my caucus, including my leaders may have a different view.

But again, speaking just for myself--

SEN. MCDONALD: Oh, don't worry about the--

SEN. CALIGIURI: No, no, really, I do. But to be perfectly honest, and that's why in any public commentary I've ever made, I've tried to be clear that it is not a foregone conclusion that if and when we adopt a Three Strikes law that it will be used in every single instance because the reality is there will be times when prosecutors decide that it's not the best thing to do.

The issue, it's about discretion, but it's about who has the discretion. Is it going to be a judge having the discretion to sentence within a range, if any exists at all?

Or should it be the discretion of prosecutors in terms of what they charge under, but if charged under that statute and convicted under

that statute, the public will know what the penalty will be.

SEN. MCDONALD: Why is it, in your viewpoint, why is it more desirable to repose the discussion in a prosecutor who isn't subject to any accountability to the Legislature, at least, as opposed to judges who would have heard the entirety of cases and had the benefit of a jury verdict before a sentence is imposed?

Why is the discretion better placed with prosecutors than opposed to jurists?

SEN. CALIGIURI: Well, there's two parts to that. The first is that one thing we have to go back to is the first principle, is the institution of strong mandatory minimum sentences for the individuals who are the focus of this. Okay?

So one of the things that we achieve even before we go to the issue of who exercises the discretion is the achievement of a mandatory minimum sentence, which we don't have in many respects now, that are targeted after the most serious violent repeat offenders. Okay?

That's something we can't lose sight of because we don't have that now, and that's something that Three Strikes allows us to achieve.

Once you get past that point, and you've achieved that good, for me personally, one of the reasons why I think if discretion has to reside anywhere, it's better in the hands of the prosecutor is because I view the prosecutors as really pursuing the public good

in terms of law enforcement, not that judges aren't.

But that as a practical matter, judges don't seem to be utilizing the discretion they have to increase sentences under the persistent offenders statute, for example.

And given my sense of the lack of use of the power they do have when it comes to sentencing, I think if you continue to give them power that they haven't been exercising up to this point, my sense is, perhaps give it to individuals who might be able and willing to use it more readily.

SEN. MCDONALD: Representative Lawlor.

REP. LAWLOR: Thanks, Mr. Chairman. So, I just want to make sure I understand the proposal clearly, I think it's Proposal Number 7 that's.

I noticed the--

SEN. CALIGIURI: It's the one under Senator McKinney's name.

REP. LAWLOR: Right. There's significant differences between that proposal, I mean, there's five separate Three Strikes and You're Out proposals, right, and they're all different from one another, and we're going to hear different testimony on different ones. I just want to make sure I understand this one correctly.

It does contain the provision you just mentioned, but it appears that you gain rewrites of the existing persistent offender law, right?

SEN. CALIGIURI: Yes, but as part of a comprehensive set of solutions to the problems we're facing.

In other words, we need to fix the persistent offender statute to make it workable again, given what the courts have said, but we view that as being a separate and distinct issue from the institution of a Three Strikes and You're Out law.

REP. LAWLOR: Because like you, I've talked to a lot of prosecutors about why is it that the current persistent offender law is so confusing, and the portion they single out is the necessity of findings, which is, the Supreme Court addressed that issue.

But it appears in your proposal that you retain the necessity of making those findings, except now you have a jury decision. Is that correct?

SEN. CALIGIURI: Yes, but that's just one way of dealing with what the Connecticut Supreme Court has proposed, and frankly, I mean, as you recall in that decision the Court said that if you're going to make additional findings, it ought to be the jury making those findings and not the judge.

One way to solve the problem is to take that power away from the judge. Another way to solve the problem is to eliminate the need for

findings at all. There are a lot of different ways to get there. Our proposal was just one way of doing it.

REP. LAWLOR: Because you know, Senator McDonald and I made a proposal where we just eliminate the necessity of findings--

SEN. CALIGIURI: Yes.

REP. LAWLOR: --which, in talking to the prosecutors what they told me is, that's the problem. That's the confusing part.

SEN. CALIGIURI: And again, speaking only for myself, when I read that aspect of your proposal, I thought it was an excellent idea.

REP. LAWLOR: Okay, thank you.

SEN. CALIGIURI: I didn't mean to surprise you by that.

SEN. MCDONALD: Left him speechless.

SEN. CALIGIURI: That was the impression I got. No, but I thought there was a lot in it that was quite good and I thought that was part of--

SEN. MCDONALD: We're glad this is being recorded. Senator Kissel.

SEN. KISSEL: Thank you very much, and again, Senator Caligiuri, I just have to commend your leadership, especially in drafting the Three Strikes proposal, as well as Senator McKinney's leadership and Senator Fasano in our caucus.

And I enjoyed listening to the colloquy between you and Representative, Chairman Lawlor because I do believe when you fundamentally get down to it, that the Senate Republican, and nothing against the Senate, the other Three Strikes proposals, but the drafting of this was really thoughtful and very narrowly drawn.

And a couple of things. When you said that the discretion is with the State's Attorney, well, let's face it. In Connecticut, over 90% of the cases are handled through plea bargaining, and so that's wholly within the State's Attorney working with defense counsel, whether it's public defender or private defense counsel to work out a solution.

And many, if not most of those cases, the agreement is presented to the judge, and unless the judge, he or she finds that it's outrageous, they're typically going to go along with it, so that's where the discretion already lies in most of these situations.

The other thing that I think is important to note, why people should not be afraid of the Three Strikes proposal that you've put forward, is very similar to the agreement that was reached regarding Jessica's Law last year that passed the Senate and the House unanimously to my best recollection, was that it was narrowly tailored and perfect for the State of Connecticut.

The point that I wanted to, the question that I have specifically for you, Senator, is that

addressing the issue of prison overcrowding, I have six correctional facilities. I talked to Deputy Commissioner Murphy this morning and as of right now, I have over 8,000 inmates in north central Connecticut. So that's a real concern for my COs and everybody else.

In speaking to you, and learning how you really rationally approached this, and that you predicated it on the research that you conducted with the Department of Corrections and the fact that I guess my recollection is it's about 435 individuals out there with two strikes.

Can you elaborate on that and tell us why, in your opinion, that should this Legislature adopt the Three Strikes proposal that you've put forward along with our leadership, that that will not have a deleterious impact on the Corrections population, and that ultimately it will be in the best interest of public safety with a fairly nominal impact on prison population numbers.

SEN. CALIGIURI: Thank you. I'd be happy to. When we drafted the proposal, we tried to be very thoughtful, very careful, and very deliberate.

One of the issues we needed to contend with was the impact of the Three Strikes law would have on our already crowded prisons, and the reality is, many, if not most of them are near capacity, and that's something we have to take into consideration.

We asked the Department of Corrections how many individuals, that is individuals who are walking our streets right now, according to their records have two strikes against them as defined under our proposal.

And the number that came out was approximately 435 individuals. My recollection from the informational hearing that we held a few months ago, that you held, was that Commissioner Lantz testified about an Eastern Connecticut State University System study in which they concluded that our average recidivism rate was actually 39% according to the Eastern Connecticut State University study.

Assuming that's true, if you apply that to the 435 individuals who are out there, that's about 169 individuals who are going to commit a third crime. Not all of them are going to commit a third strikeable offense.

But even if every one of them did, even if 60% of them did, as Senator Meyer believes our recidivism rate is, we're now going to have a material adverse impact on our prison population, and that was why, one of the reasons why we continue to feel that a proposal along the lines of what we've submitted is reasonable, and will not do harm to what is already a serious issue for us in terms of our prison population.

SEN. KISSEL: And I really appreciate that testimony. We're talking about, and God forbid, any of these 435 individuals commit

another dangerous felony action against the good people of the State of Connecticut.

But while there are serious concerns regarding prison population increases at the lower levels, the nonviolent offenders, and I've got several of those facilities in my district, it's my understanding that at Northern, the super max facility, or McDougal Walker, that while there certainly are population pressures there, that the system could accommodate those individuals if they found themselves convicted under a Three Strikes and You're Out statute.

I have to commend you, and I can't commend you enough because it would be easy to race into this issue following a pattern such as California, which has had such bad ramifications.

But I really do believe that there's some misinformation out there, or just misunderstanding, that there is concern regarding Three Strikes.

But if, for example, the Quinnipiac Poll or other polls are taken, people are explained exactly what that narrowly tailored proposal does, I don't think that people would be opposed to it, and I think you'd find the majority of citizens supporting it.

So thank you for your hard work.

SEN. MCDONALD: Representative Walker.

REP. WALKER: Good afternoon, Senator.

SEN. CALIGIURI: Good afternoon.

REP. WALKER: Thank you. First of all, I just want to say for the record that I think the prosecutors have been doing a good job without this, so, and I think Mr. Kane and all of his crew really work hard at trying to do the job.

But question. Your Three Strikes law, proposal, would that have affected the people in Cheshire?

SEN. CALIGIURI: I tried intentionally not to draft it that way because I really struggled with, well, I don't know whether it would or not. And what we were really trying to do was use the Cheshire incident to highlight ways that we can improve our system overall, and not to try to undo what was a horrific act.

And so, I did not go back and draft it exactly with that in mind. I struggled with that. But what we tried to do was to look at the broader situation, which is that clearly some individuals who are being let out who shouldn't be let out and find one way to try to solve that problem.

And we think that a properly constructed Three Strikes law would do that.

REP. WALKER: But the purpose of this, the proposals, and the reason why there's such an outcry right now is because of the horrific situation that happened in Cheshire.

SEN. CALIGIURI: Oh, absolutely.

REP. WALKER: So if we are proposing laws that aren't affecting it, then I'm confused.

SEN. CALIGIURI: Well, no. I think what Cheshire did is, it caused us to look at our entire criminal justice system and identify ways that it can be improved.

And one of the ways that I, and I know others believe it can be improved is to make sure that we have a way of keeping the most serious violent repeat offenders off our streets.

And it was with that mindset and that objective that those of us who are pursuing the Three Strikes law are doing so.

REP. WALKER: In drafting, in tailoring your proposal with the Washington State Three Strikes law, did you look at the statistics and everything about what the effects have been with their Three Strikes law?

SEN. CALIGIURI: Yes. And I don't recall them exactly, but my recollection is, and Senator McKinney I know will have better recall of this than I, but that the increase was only about 200 inmates over a period of time--

REP. WALKER: Oh yeah, I--

SEN. CALIGIURI: --in that Washington State--

REP. WALKER: But did it affect, did it reduce the violent crime?

SEN. CALIGIURI: I don't recall that statistic in Washington, but I do recall when the prosecutor from California testified about Three Strikes, that he talked about the improvement that they saw in the types of repeat offenders that they were seeing because they had success over a period of time in putting the most serious repeat criminals--

REP. WALKER: But that was California Three Strikes, correct?

SEN. CALIGIURI: No, that's right. But my point is, while I don't know those exact statistics in Washington, we do know in another jurisdiction that you had someone in that prosecutor who testified before this Committee who was originally an opponent of Three Strikes, who felt that the concept of Three Strikes was helpful to them in the long run in California in terms of putting the really bad guys away.

REP. WALKER: I think the Three Strikes law in California was a little bit more broad as you stated so earlier, and that you had chosen Washington as you said, because it was much more narrow.

But I think also in looking at the federal, what is it, Federal Bureau of Investigation statistics, the Three Strikes law in Washington did not have a major impact in reduction of violent crime in the State of Washington.

So I think, I'm confused because if we're going after, if we were addressing Cheshire, and this

law doesn't affect the Cheshire incident, which is what I thought we were doing, and if this law does not have a major impact on reduction in violent crime, I'm confused as to why this proposal is, except for the fact that it is a Three Strike law.

I'm trying to figure out why we are proposing this other than just trying to address Three Strikes.

SEN. CALIGIURI: Well, a couple of things. First of all, I resisted throughout, getting into a debate about whether any one proposal would or would not have undone what happened in Cheshire.

I think it's cruel for the family to engage in that debate, and I haven't wanted to participate in it, okay?

REP. WALKER: Okay.

SEN. CALIGIURI: What I've tried to do, this is for me personally, is look at what happened to a highlight weaknesses in the system and to try and fix them.

Now, the reality is that because we're only talking about 435 individuals under, in Connecticut who have two strikes against them as we're talking about, and because we know that the recidivism rate means that about 200 of them, plus or minus, will commit a third offense, and we know that by definition not all of them will commit a third strikeable offense.

The number of people you're going to lock up is never going to be huge. But that's not the goal.

The goal is to try to specifically target the most dangerous among this subset of criminals, and thank God the number isn't huge.

But one of them, or two of them, can do a disproportionate amount of harm and damage to people--

REP. WALKER: Okay.

SEN. CALIGIURI: --and that's why I think if you start to judge this in terms of numbers and magnitude and scale, you may be missing the point.

The point is that thankfully, we only have 435 individuals in Connecticut who are walking our streets--

REP. WALKER: At this moment.

SEN. CALIGIURI: At this moment--

REP. WALKER: At this moment.

SEN. CALIGIURI: --with two strikes the way we've defined them. I hope and pray to God that not a one of them commits a third crime.

But the fact is, we're not talking about an issue of scale and magnitude. We're talking about an attempt to precisely go after, as much as we can, the worst of the worst, which

thankfully are relatively small a number, but who can do a disproportionate amount of harm.

That's why I don't think we should look at this in terms of numbers and scales.

REP. WALKER: Okay. I hear what you're saying. I'm concerned about what we're doing, and how we're going about it, and what is our objective.

My objective is public safety, and my objective is to address ways that are going to make sure that our community, all communities, not just one community or two communities, but all communities are safe.

And violence is wrong. Violence needs to be addressed. But we also need to talk about guns and we also need to talk about violence not only in the suburbs, but also violence in the cities.

So I'm not sure that we're getting it there with this issue, so we'll talk about it.

SEN. CALIGIURI: Yeah. Let me just say, Representative Walker. I'm happy to say we share the same goal, and I don't view Three Strikes as a panacea. I don't view it as a single solution, but it's part of a broad range comprehensive approach to dealing with our criminal justice system.

And if it helps keep one person off the streets who is capable of creating an incredible atrocity or committing an incredible atrocity, we've done something good.

SEN. MCDONALD: Thank you. Representative Hamm.

REP. HAMM: Thank you, Mr. Chairman. Senator, I hope you'll bear with me because since you've introduced Three Strikes and the politics of this have developed and evolved, I've had many sleepless nights.

I've served on this Committee a long time.

SEN. CALIGIURI: Yes.

REP. HAMM: Certainly improving and reforming our system as exposed by the Cheshire tragedy is a primary goal.

But here's what I need to ask you. The reason I couldn't sleep is that we all represent people and families, and what you had to deal with with Cheshire and your constituents and the outcry is just beyond comprehension, quite frankly.

But your response has puzzled me for the following reason. The Three Strikes law as you have proposed it by your own admission, is for the most violent offenders, and it seems to me that that's too easy for what happened in Cheshire because the two parolees who were involved in that incident were petty criminals as far as Three Strikes.

They were not deemed violent. And so it seems to me that what my constituents' response to Cheshire was, was really about the fear that

anybody could walk into anybody's house at any time with an axe to grind and kill them.

SEN. CALIGIURI: Yep.

REP. HAMM: And Three Strikes won't make them feel better. It, you're fixing the wrong remedy. I just, I'm so much struggling with why, I mean, what would you do to fix our system and why isn't it part of your package for petty criminals, all the time criminals, in and out of jail, revolving door criminals, that are really the problem in our system.

SEC. ROBERT GENUARIO: Sure. Let me, first of all--

SEN. MCDONALD: Senator, before you, Sir, let me just please ask members of the audience to refrain from interrupting the testimony or the questions. Thank you. Please proceed.

SEN. CALIGIURI: You're welcome. Representative, I think that's a great question and let me try to address it.

First of all, as I tried to say earlier, I began by saying we need comprehensive reform, and the proposal that my name is on, along with my colleagues, had many different facets to it, including strengthening the Board of Parole, increasing use of GPS, making home invasion a violent crime, fixing the persistent offender statutes.

In other words, and then I also specifically said, that given the limited amount of time we have today, and my desire to be focused, I

would choose to focus most of my testimony on the Three Strikes aspect of the proposal.

So let me begin by being absolutely crystal clear, that I support the broad range of solutions that have been submitted, including Three Strikes, not just Three Strikes. Okay?

Number two, one of the ways you get at the Cheshire incident is to make home invasion a violent offense, which I support.

REP. HAMM: No question.

SEN. CALIGIURI: One of the ways you then go after it is to put home invasion in the list of strikeable offenses for which a Three Strikes law would apply, which we've done in our proposal.

So someone with multiple home invasions in his background--

SEN. MCDONALD: If you are near the doors, I would ask you to turn the lights back on.

REP. HAMM: There's nobody near the doors.

SEN. MCDONALD: All right. Give us a second. Hopefully it doesn't bode that we are in the dark in the Legislature.

SEN. CALIGIURI: I'd be happy to continue in the interest of time.

SEN. MCDONALD: There you go.

REP. HAMM: Beautiful.

SEN. CALIGIURI: So anyways, Representative Hamm, that's one of the ways to do it. That's two of the ways that our proposal seeks to do it, which is to do what everybody else wants to do, which is to make home invasion a violent offense.

And number two, to incorporate home invasion in the list of strikeable offenses--

SEN. MCDONALD: I'm sorry, Senator.

SEN. CALIGIURI: Not at all, Senator.

SEN. MCDONALD: Please, folks, we have a long day ahead of us. Please give your attention to the people who are testifying and if you have a need to have conversations, please take them outside of this room. Please proceed, Sir.

SEN. CALIGIURI: No, not at all. So anyway, I hope I've answered your question, but that's how our proposal and those aspects of our proposal try to get at some of the problems that we saw in Cheshire.

REP. HAMM: So your answer is really making home invasion violent--

SEN. CALIGIURI: Right, which I think just about everyone agrees.

REP. HAMM: And make it strikeable.

SEN. CALIGIURI: And make it strikeable, which is part of what's in our proposal.

REP. HAMM: And do you have anything in there that speaks to substance abuse or persistent theft, not necessarily home invasion.

I guess I'm trying, if we're going to spend the energy and do a Special Session on reforming the system, comprehensive, which I share your goal, I still don't think we can do it one crime at a time, which is what you've done with home invasion.

Well, we're coalescing because of what happened in Cheshire, but the major flaw in what we're all talking about is what we're going to do with everybody else in the system that's in and out all the time, and they're not doing well, which means we've got to spend money on the re-entry part, and it's more than just GPS.

I mean, we have to talk about services and all of those kinds of things.

SEN. CALIGIURI: This is, Representative, this is a massive issue, and I have to tell you, and I've written this in some of the commentaries that I've written.

I mean, first and foremost, we ought to be trying to take individuals who can be rehabilitated and work with them so that they don't repeat, and our system needs to do that.

And I'm glad that Commissioner Lantz as Attorney Story has indicated, is really placing a focus on that, because we ought to do that.

But again, insofar as--

REP. HAMM: We just can't get caught up in how many prison beds we're talking about.

SEN. CALIGIURI: Oh, I agree.

REP. HAMM: So the expense of not spending any resources that we need on the service part of it because that's the whole picture.

SEN. CALIGIURI: I don't disagree and I'm not suggesting that we should go down that road, Representative Hamm.

REP. HAMM: Thank you.

SEN. CALIGIURI: Thank you.

SEN. MCDONALD: Representative Adinolfi.

REP. ADINOLFI: Thank you, Mr. Chairman. Just a question. You brought something to light when you speak about the Three Strikes law and bringing out the point that home invasion would be considered a violent crime.

And then the questions also came up well, how would this work in Cheshire and prevented it? One of the proposals that has been submitted has taken a number of minor crimes, as an example, one of the perpetrators in Cheshire I think broke into cars over 20 times. I think

he had a total, and my numbers might not be correct, but it gives the [inaudible] of maybe five years for that.

Well, one of the proposals is to take three of these minor offenses, breaking into a car or shoplifting. You could shoplift 20 times and never put a day in jail.

So one of the suggestions is that we make three of these minor offenses equal to one major offense and eligible for the Three Strikes law and had we had that in effect, the Three Strikes law alone doesn't work.

There's some backup that has to go with that, and I'm sure, I was just wondering if you were thinking along those lines that would support some of those.

SEN. CALIGIURI: Absolutely. And I have to admit. Again, speaking just for myself, which is the only capacity in which I'm here, you know, I've never presented, excuse me, presumed to have all the answers.

A lot of different people have some great ideas. I know I alluded to some earlier that Senator McDonald and Representative Lawlor have.

I think the idea that you floated is one that we need to look at. But what we've done, and what I've tried to do is contribute to the best of our ability to the discussion on how we can make improvements.

I absolutely, firmly believe that a properly drafted Three Strikes law is a useful tool for prosecutors to have because it could help make people safer, and I believe that it would.

But Representative, what you've suggested makes some sense, and I hope that it gets serious consideration, because it deserves it.

SEN. MCDONALD: And Representative Green.

REP. GREEN: Thank you, Mr. Chair. I'm sure throughout today's hearing we're going to hear a lot about what to do about toughening our laws.

I do, I'm not going to have any questions on this to you, Senator, but I do want to just say that I think that part of a comprehensive reform really should not be about what happens when individuals commit crimes and get sentenced and get convicted and incarcerated, but really trying to do some preventive measures to try to identify patterns that we see in younger people in terms of some of the poor decisions that they made to get involved in the system.

And how we really could try to identify those individuals who may have a propensity for violence versus those who don't, and then try to get the necessary services because in a sense, all the reactions and all of the proposals that talk about what happens when somebody gets convicted is in a lot of ways, I think in terms with interest around public safety, too late.

These individuals are known in the communities. They have various issues as to why they're committing crimes, and I think we have to do a better job to protect the public by trying to help those individuals to be safer while they're in the community. So I just wanted to say that.

However, I did want to ask you a couple of questions around, you mentioned a study for Eastern Connecticut and those individuals who are currently out who might have two strikes against them and might apply to your Three Strikes and You're Out law.

Have you any information on the number of individuals who are currently incarcerated, and whether or not what number out of those folks that are currently incarcerated have more than one felony conviction, and if they were released would actually be considered eligible for your Three Strikes law?

SEN. CALIGIURI: My recollection is, Representative, that there are another 2,000 or so who are currently in our prison system right now who have two strikes against them the way we've defined an eligible offense.

They're not walking our streets. They're currently incarcerated, but my recollection is it's around that number, Representative.

REP. GREEN: Okay. Thank you for that because you know, when you throw out the 400 number and you say we're only talking about this small number,

there may be a number of other individuals that automatically might qualify under your proposal, just simply, and they're currently incarcerated.

You know, it's really unfortunate to me, I recall very recently a couple of what I consider horrific incidents of death and violence against individuals in various communities, and I'm really concerned.

I constantly recall in my mind similar to Representative Hamm when, you know, you lose some sleep over this. There's a mother and her two daughters who were burned in East Hartford and killed because of, I believe a domestic violence situation.

And I think that, you know, our history with domestic violence has shown that people have been killed and hurt over years, and we have really not had this kind of reaction.

And so, I think that what we need to do is really focus on identifying those individuals who may again, I believe, be unsafe to be in our communities, and how do we do that?

And I have to actually agree with Representative Adinolfi that sometimes a pattern of behavior, excuse me for, I'll get it right next time, Adinolfi. There you go, thank you.

A pattern of behavior again may indicate the safety of a community. And just with Representative Walker, as some of the research

that we've been doing on the [inaudible] Task Force is that we've had people try to identify what are safe communities and what are unsafe communities, and how do you determine whether a community is safe.

What would, how would you define a safe community versus an unsafe community if we're trying to address issues of public safety because it seemed to me we would want to try to really look at where our most unsafe communities are, and why is that happening.

What's your opinion on safe and unsafe communities, and whether or not your law would in fact provide the most safety for those communities that are most unsafe?

SEN. CALIGIURI: That's an interesting question and a very difficult one to answer, but I would say, I think it's very difficult to come up with a comprehensive definition, but I think you could at least look at factors.

One of the factors is a community that has a social safety net, and a network of police, social service agencies, families working together to identify individuals who may be going down the wrong road and trying to help them to not go down the wrong road. That's one of the factors that I think makes for a safe community.

Another factor that I think makes for a safe community is whether there are individuals residing in that community who have a

demonstrated propensity to commit [Gap in testimony. Changing from Tape 1B to Tape 2A.]

--Three Strikes law can be helpful because it's designed to identify the most serious among those, and don't put them back in the community because as much as we want to try to rehabilitate individuals, it's a matter of experience, all of us, unfortunately, that some individuals haven't been rehabilitated, and those are the individuals who, if they haven't been able to be rehabilitated and have demonstrated a repeated propensity to commit serious violent crime, who maybe don't, shouldn't be back out on our streets.

And so the other way to make for a safe community is to limit as much as humanly possible the introduction back into the community of individuals who are very likely and prone to harm people, and that's where I think a narrowly tailored Three Strikes law comes in.

So that's how I would at least start to try to answer your question, and just very briefly, if I can go back to two other points you made.

That 2,000 or so number is a very important one for the point that you mentioned, but it was hard for us to get our hands around sorting it out even beyond that, because some of these individuals are going to be in for many, many, many years still to come who won't be out any time soon.

Some will be out sooner than others. Figuring out who among that larger group of individuals was going to soon be walking our streets was very difficult to discern, and that's one of the reasons why I think it is easier and crisper to focus on the people who we know are already out there. But there's clearly a pipeline, Representative Green.

REP. GREEN: Thank you.

SEN. CALIGIURI: You're welcome, Sir.

SEN. MCDONALD: Next is Representative O'Neill, followed by Senator Gomes.

REP. O'NEILL: Thank you, Mr. Chairman. I'm going to take some unfair advantage of Senator Caligiuri at this point, but I would urge for all those who are curious about a proposal in addition to the one referenced by Representative Adinolfi, is my Proposal Number 10.

I don't know if Senator Caligiuri has had an opportunity to take a look at that one, but--

SEN. CALIGIURI: I have not.

REP. O'NEILL: --but it creates a persistent burglary offender approach, which is specifically tailored to address the people, at least one of the people that we believe was involved in Cheshire with his particular record.

To say that once you've committed enough burglaries or been arrested even for a enough burglaries, we start upping the sentences and keeping you locked up for a longer period of time.

The other thing is, I think that with respect to the question just mentioned by Representative Green, I leaned over to Representative Tong and said, in response to the question of what's a safe community, and said Stamford.

And I could just as easily have said Danbury, so I think we know, have a sense, we can find safe communities in Connecticut, and we can tell just by the crime rates and we can figure out which ones they are.

But hard is to figure out how to move communities to that point because Stamford and Danbury have specific advantages perhaps, over Hartford, New Haven, Bridgeport and some other towns as well.

But I think we know what a safe community looks like. The problem is getting there from where we are.

SEN. CALIGIURI: I agree, Representative. I understood Representative Green's question a little differently than that. But you're right, some are very clearly identifiable.

SEN. MCDONALD: Next was Senator Gomes, followed by Representative Morris.

SEN. GOMES: I was going to answer, ask a question but with the comments from Representative O'Neill in relation to Mr. Adinolfi's comments, I was going to ask if you were to take some of these lesser crimes and put them toward an offense like he said, three times that got repeated, and you would use that as one of the offenses for Three Strikes You're Out.

How would you categorize those crimes, because I see that he mentioned a person that likes to break in cars? Now to use that rule to the ridiculous extent, you would say if he broke into nine cars, he'd be gone away for life. So how would you categorize that?

SEN. CALIGIURI: Senator Gomes, the short answer is, I don't know at this point. That's something we'd have to take a look at. That's one of the reasons I haven't focused so much on Representative Adinolfi's proposal, which I think is worthy, but we need to figure out how that all would work, and I don't know the answer to that at this moment.

SEN. GOMES: Well, I don't either, that's why I asked the question.

SEN. CALIGIURI: Yes. Thank you, Senator.

SEN. MCDONALD: And hopefully last is Representative Morris.

REP. MORRIS: Thank you, Senator McDonald. Concerned about unintended consequences. We're talking about public safety, and that certainly is a concern.

Susan Story in her testimony earlier, she cited some statistics and just information about the disparate number of minorities who are incarcerated.

There's enough research and information out there that most Three Strikes laws affect minorities more so than anyone else at the end of the day.

In terms of unintended consequences, the proposal that you have in front of us, what type of consideration was given to prosecutors, because I heard you earlier say that you felt that prosecutors should be the ones that have the discretion, that prosecutors misusing this law, particularly with minimums, and I want you to give me your response in this context.

I'll give you a little backdrop, but I think I see the lady to my left on yesterday. There were two African-American women who testified. One was a mom and one was a daughter, about their brother who was arrested initially for a nonviolent crime, did his time.

Came out, paroled, but now he's a convicted felon and then something happened with a young lady where he was then arrested for, I think it was an assault, alleged assault against the young lady. Something he says he didn't do, didn't do.

And the family has gone to two or three attorneys, had a hard time getting them. They pay for attorneys and the attorneys are telling

them, take the plea bargain. Plea bargain. It's not even a matter of going to trial, understanding if we take a three, if we do this, prosecutors are now going to have to take something to put someone in jail for life.

That's a long trial. Everyone's trying to clear their dockets quickly, so I want you to answer in that context.

Is there a possibility for an unintended consequence, and I'll give you one more situation to help you with.

In my own City of Norwalk we just went through some changes in our judicial system there because we had a large number of African-Americans and Hispanics who were complaining that they were innocent of crimes for which they had been arrested for.

However, prosecutors are giving them plea bargain deals. And listen, either we go to trial for nine years or you take this for 30 months probation or something, so people who were innocent were now really not being given the chance to be properly adjudicated.

SEN. CALIGIURI: Representative Morris, as someone who's not a criminal lawyer, who doesn't work with prosecutors and defense attorneys every day, it's hard for me to address meaningfully and with any real experience, how your situation plays out.

I'm afraid I can't do that responsibly because I lack the experience as a criminal lawyer to

do it because I'm not a criminal lawyer. And I would encourage you if you wouldn't mind, to ask that of the Chief State's Attorney's Office. He's obviously going to be in a much better position to answer that question.

We've tried as much as we can to guard against unintended consequences. We've tried to be as reasonable and as smart as we can in drafting it.

And all I can tell you, Representative Morris is, all we're trying to do with this proposal is to give the State of Connecticut an additional tool to identify the most serious violent repeat criminals, and to give us an opportunity to lock them away for a very long time because they stand the greatest chance of doing a great deal of harm to people.

That's all we're trying to do in this proposal, and we've tried to do it as well and as intelligently as we can.

If you see a weakness in that proposal that we can fix, I know I for one would be very open to hearing your suggestions, but I'm very sorry to say I can't answer your direct situation that you described to me because I lack the experience as a criminal lawyer to really give you some insight as to how that would play out.

REP. MORRIS: Then if I see the weakness, and if I can go back to earlier comments from Representative Green, Walker and many others, because the piece that is missing in your proposal is anything that has to do with

earlier interventions, and that's the concern here.

Because we do know, the largest portion of people who are incarcerated and are subjected to all the stiffer penalties are persons of color, more often than not, persons of economic means that are less than the average person, under-educated. All right? We know the different things that will help make a change.

My concern is, we look at judicial reform today and after today, is that I've been seeing proposals with numbers like $200 million, mega millions of dollars that from my perspective, all the other earlier interventions and all the ways that we can quickly make sure we're providing the proper halfway houses and things, cost less and we'd have a less likely chance of having someone do the types of crimes that we're concerned about.

So, and particularly, if we cannot adequately answer the question, whether an unintended consequence will be, that persons who are disadvantaged for whatever reasons, are those who are more likely will not receive proper justice under this type of proposal or any like it.

SEN. CALIGIURI: Representative Morris, I agree with the comments that you make and others on intervention, treatment prevention, but I believe that none of the proposals before you include those components in it, not just ours. Okay?

REP. MORRIS: My concerns.

SEN. CALIGIURI: I may be mistaken, but the reason for that is because we're focused on the penalty side of the equation right now, on the information sharing side of the equation right now.

And I think that, you know, we're all focused on one side of the equation right now. That's not because the other side of the equation doesn't deserve attention. It's just sort of where we've been focusing right now.

But ours is, I don't believe, the only one that doesn't include issues like that.

REP. MORRIS: Well, if I can, there are some other proposals I think that have to do with parole and additional resources provided to parole and probation.

SEN. CALIGIURI: Right.

REP. MORRIS: There's enough research to show that if you have an individual who's been incarcerated, been out on parole, probation, I think it's like three years, it's like 80%, you know, chance, that that person is not going to re-offend.

SEN. CALIGIURI: Yeah.

REP. MORRIS: All right? So, I mean, that's fewer dollars and less likelihood that you're not going to deal with a person having a violent crime.

I don't want to wait for the third time for them to perform a violent crime. I'd rather have them the first time, they are properly paroled, properly given the services that they need, employment, whatever it is that they need so that we don't have a second offense.

SEN. CALIGIURI: So would I, Representative Morris.

SEN. MCDONALD: Thank you very much for your testimony, Senator. I appreciate--

SEN. CALIGIURI: Thank you all very much. I appreciate the opportunity to be before you.

SEN. MCDONALD: And I apologize to members of the audience that this is going so slowly, but we are going to suspend the department head portion of the public hearing now and move on to the members of the public.

The first person is David Cruz-Uribe. And again, it may seem particularly unfair after those lengthy testimonies, but there is going to be a three-minute clock, and we would appreciate you trying to keep to it, and then if any Members of the Committee have questions they'll follow up.

DAVID CRUZ-URIBE: I understand.

SEN. MCDONALD: Thank you.

DAVID CRUZ-URIBE: Chairman Lawlor, Chairman McDonald, ladies and gentlemen of the

Committee, my name is, you heard is David Cruz-Uribe and I'm a resident of West Hartford.

I'm here today as a member of the Connecticut Network to Abolish the Death Penalty and I'm here to speak about one portion of one of the fourteen bills which you're currently considering, Raised Bill Number 5, an act concerning reform of, among other things, death penalty appeal procedures.

The essence of these provisions is to tighten and speed up the appeals process in death penalty cases. I believe that such changes are not improvements to the system and will ultimately do more harm than good to our system of justice in Connecticut.

Justice is not gotten by observing artificial timetables but by allowing courts the time they need to do their work.

In particular, death penalty appeals are among the most arcane and difficult parts of criminal law. Any attempt to force the process to move more quickly can only result in more mistakes and more problems.

This in turn will inevitably lead to more appeals on the federal level that will result in successful constitutional challenges to our laws.

And I want to stress that this assertion is, in and of itself, has nothing to do with the fact that I oppose the death penalty, and to make this point clear I want to quote from an

editorial written by Bob Barr, a Republican, a former Congressman from Georgia, and a death penalty supporter.

Some background. In July of this year a Mr. Troy Davis, a man on death row, came within 24 hours of being executed despite factual claims of innocence.

Shortly before his scheduled execution he was granted a temporary reprieve and the Georgia Supreme Court then granted an extraordinary review of his case, even though he had exhausted all of his statutory appeals.

This decision by the Court was harshly criticized in some corridors. Bob Barr, however, prodded this decision. He wrote in a Georgia paper, as a proponent of our Constitution and its attendant Bill of Rights, I believe strongly in the fundamental fairness that lies at the heart, or should lie at the heart of our criminal justice system.

Because of its obvious finality, the death penalty must be employed with as close to absolute fairness and certainty as humanly possible.

Several recent cases, including that of Troy Davis here in Georgia, have raised a legitimate question about that proposition. True conservatives, as much as the most bleeding heart liberals, should be unafraid to look carefully at such cases.

Now here in Connecticut we've never been confronted with a case like that of Troy Davis, though I think the recent exoneration of James Tillman for a rape he did not commit should be a cause for concern. It could happen here.

And I believe that the changes proposed in this bill make it more likely that some day we will end up with an innocent man on death row. Therefore, I urge the Committee to reject this portion of Proposed Bill Number 5.

Beyond that, as you consider changes to the criminal justice system here in Connecticut, I would urge you to not simply accept the status quo with regards to the death penalty.

Instead, you should actually consider its abolition. By its very nature, the death penalty is poor public policy, time consuming, capricious, racially biased, inefficient, and expensive.

It comes up at times like these as an emotional response to horrific crimes, but it does nothing to contribute to the solution of the problem of crime and violence in our state.

A rational examination of the question shows that the only real solution is the abolition of the death penalty, and in this regard I would hold up the example of New Jersey, which is on the verge of abolishing its death penalty.

The time, the effort and the resources that are invested in a relatively small handful of capital cases could be used in other ways, ways

that would promote justice and keep the citizens of Connecticut safe.

Thank you, and I'd be glad to answer any questions that you have.

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

DAVID CRUZ-URIBE: Thank you.

SEN. MCDONALD: Next is Franklin Sykes, followed by Sarah Morrill. Is Mr. Sykes here? Then Sarah Morrill followed by James McGaughey.

SARAH MORRILL: Hello. Good afternoon. My name is Sarah Morrill. I'm a resident of the Town of Hamden. I come to you as a citizen and a taxpayer here in Connecticut.

I believe you've already received a written copy of my proposal and my statement for the House Bill Judiciary Proposal Number 8, so I'll spare you reading it aloud to you and just make a few comments and just highlight some of the things in my proposal.

I'm pleased that the Republican leadership has at least put together a proposal that has critically looked at our flawed system. If there's any good that could have come out of the horrific events in Cheshire it's that we're here today looking at our flawed system and critically taking a look at what's going on with our criminals.

We can't just simply throw our hands up and say because we don't have a cure all fix that we do nothing. We need to start someplace and I believe this proposal is just the place to start.

Whether the Cheshire criminals would or would not have been affected by this new proposal is not the point. What the Cheshire crime did was bring to light our flawed system, and if we strengthen our laws that then makes the criminals think twice about committing their next or first crime, or if it takes repeat violent offenders off the streets, then we've accomplished something.

As I stated in my written proposal, Connecticut's message should be clear, that we will not stand for perpetual offenders who commit serious crimes.

And I just wanted to highlight one piece in my written proposal, that this bill, whereas I understand it, will classify someone who commits first and second degree and third degree burglaries, regardless of the lack of weapon, as a violent offense and increases the mandatory sentence for each offense.

Once in a home, someone could have access to any sort of weapons that could be classified as a deadly weapon, whether it's a knife, a blunt object, whatever.

This still also specifies all burglaries as a violent offense and should be amended to do so

regardless of whether someone is in the home at the time of the burglary or not.

The reason is simple. If the burglar had the audacity to break into someone's home, he assumes the potential for someone to be at home in bed, in the shower or somewhere else that is not visible to the burglar prior to breaking in.

If he continues, despite that chance, he is recklessly endangering himself and others and assumes the same consequences as those who break in to an unoccupied home.

Furthermore, to safeguard homeowners who are present at home during the time of burglary, a Castle Doctrine is included to provide homeowners the ability to protect themselves if they feel they're endangered, without fear of prosecution.

Why should a criminal have the right to sue for bodily harm incurred when he is breaking the law and jeopardizing someone else?

I appreciate the Committee's consideration for this proposal. I know the Committee has a lot to review and process, and I ask the Committee to vote favorably on House Bill Judiciary Proposal Number 8, and allow for a full debate and discussion on the House and Senate floors. Thank you.

SEN. MCDONALD: Thank you very much. Are there any questions for Miss Morrill? If not, thank you

for your time. James McGaughey followed by Sally Schenk. Good afternoon.

JAMES D. MCGAUGHEY: Good afternoon, Senator McDonald, Representative Lawlor, Members of the Committee. My name is Jim McGaughey. I'm the Executive Director of the Office of Protection and Advocacy for Persons With Disabilities, and I very much appreciate the opportunity to address you today about the bills that you're considering, proposed bills.

I have submitted written testimony. In the name of mercy I will not read it. But there are a few points that I did want to make, the first of which is that although as civil rights advocates we tend to avoid generalizing about people with disabilities. It's sort of a flaw that we try to avoid.

There are a few generalities that probably are relevant to your discussions today, one of which is that folks with disabilities and particularly mental disabilities are quite likely, are much more likely to be victims of crimes than perpetrators.

And I think it's important to keep that in mind as you proceed with your discussions because the experiences of people with disabilities often they are dependent on caregivers or they live in marginal areas and so forth is that they are much more likely to be victims of crime than people, typical people.

So there is a lot of interest in disability community and making sure that our criminal

justice system in fact affords the kind of safety and security that I think everyone expects from it and certainly I think your efforts today are being appreciated by a lot of folks.

Having said that, I will say that I come forward primarily because our office represents individuals and has experience advocating for folks who wind up on the other end of the criminal justice system.

People who are arrested or incarcerated, arrested and incarcerated, largely because, not because they commit serious crimes, necessarily, but because the mix of services and supports that they need are not available to them, or not readily available to them.

And it is with those folks in mind that I wanted to make some comments. I think most of the material in my written testimony relates to teasing out the numbers of people that are incarcerated today who have psychiatric disabilities.

I think most of the Members of the Committee are pretty familiar with the statistics that came out fairly recently from the Office of Legislative Research that indicate that approximately 20% of the prison population in Connecticut today are folks with psychiatric disabilities who have significant mental health needs.

The Department of Correction is trying hard, I think, to tease out from that number, the kind

of people, the number of folks who could reasonably be supported in alternatives to incarceration and is making strides in actually developing programs through the parole system that can serve them.

But there are still a lot of people there. They are taking up beds that could be used to house individuals who have, who present real risks to public safety.

And I think to the extent that there's been a lot of discussion about you know, constructing prisons and so forth, you really need to look at whether or not all the people who are in prison today need to be there.

And the first group you can look at are people who have psychiatric disabilities, and to some extent also developmental disabilities who could be adequately served in community settings if the right mix of services were available to them.

So that's a lot of the first three or four pages of my written testimony. There are some specific things I did want to comment on.

One is, our office is concerned about the proposal contained in Section 15 of Proposed Bill Number 4 to build a 1,200 bed medical and mental health facility, and part of our concern lies with the phenomenon of, you know, if you build it they will come.

If you're going to spend $100 million and something of bond money and then $88.9 million

a year of general fund money to maintain a facility like that, you're going to, it's going to be around for a long time, and it can serve to create the impression that there is a good place in the correction system for folks with psychiatric disabilities.

The reality is, and I think the experience with the Department of Correction's facility at Garner is that it's a problematic business to try and retrofit the correction system to serve people with psychiatric disabilities.

And it's, you know, I can get into a little bit more detail if people are interested as to some of the issues that we have seen at Garner, but by and large, that kind of investment would be better made, in my view, and I think the view of many advocates in community services, including support and supervision for people.

Because I think we're talking about folks who have gotten into trouble, so it's not like there's, you know, just, you know, great community services and the world will be great, but that that's really where we need to make that investment of public dollars more than in creating a facility that I, you know, very likely will serve as the justification for sending people to jail so that they can get services that are not otherwise available to them.

I mean, I've heard that justification being offered since Corrections has in fact begun to operate Garner, and I don't, it's one of those unintended consequences of trying to do the

right thing for people is sometimes you create incentives that actually wind up working against the policy goals that you've identified.

There are a number of good and promising initiatives that the Department of Correction, the Court Support Services Division and the Department of Mental Health and Addiction Services have been pursuing.

They are very recent in their development. There are specialized probations, special parole, a lot of coordination and training that had not existed.

Much of this initiative, many of these initiatives are less than a year old, and they are being pursued on a pilot basis.

It is worthwhile looking at expanding them. I know the experience hasn't been long, but it's something that I think is, you know, another good investment of public resources.

Absent from this discussion, however, and absent from this mix is representation from the Department of Developmental Services, the agency formerly known as DMR.

And it is our experience representing a number of individuals who have the diagnosis of mental retardation, that just because they have that diagnosis, and just because they are eligible for services from DDS, doesn't mean they're going to get them.

And in fact, it's been pretty sad business to watch some of these folks wind up incarcerated when in fact everyone involved, the prosecutor, the public defender and probably the judge as well, would be happy to have some kind of alternative arrangement.

But DDS is not able to develop one, and in fact it's even sadder to see these folks discharged, end their sentences, and then go back out into the community without supports.

It's not widely known. It's pretty much assumed that they would be getting supports from the mental retardation service system but they're not.

So that's something that DDS explains as being a resource issue for them. Unless somebody is committed to their custody, in other words, they've been adjudicated incompetent to stand trial and committed to the Commissioner under, through a probate proceeding under 54-56d, or is it the other way around.

They will not provide services. They do not consider themselves legally responsible to do that, so I think you need to look at that. It's not a great, it's not a huge percentage of the population in prison but it is some percentage, and it's people who are unnecessarily getting rearrested because they don't have services.

The last thing I would urge you to consider is that for some folks with psychiatric disabilities there is a steep learning curve to

recovery, and that means that there has to be some flexibility in the systems that are established to allow for lapses, lapses under supervision so that there's no jeopardy to the public safety.

But I'm speaking specifically of a proposal that is floating around. It is not in the package that you're considering today. It's for a modified form of accelerated rehabilitation that would allow people to, it wouldn't be a one strike or zero tolerance issue if you turned up with a dirty urine or something like that.

You might still, if you were part of the program, still be able to maintain the alternative resolution under accelerated rehabilitation and not acquire the bad paper that goes with being convicted.

Similarly, I know that the special parole people in DOC had been considering, I don't know that it's still going on because there's been a lot of retrenchment from positions.

But that there are some people who it's pretty predictable when they're out on parole, they may initially also come up with small violations that if they have to go back into prison, the idea would be that they would be able to still have a place in a halfway house held for them rather than having to go back into prison and complete, you know, months and months of paperwork and so forth before they get released again.

The rationale for that is, folks with psychiatric disabilities, if the general offender population benefits from transitions, from some kind of re-entry strategy and transition, folks with psychiatric disabilities need longer periods of time to do that.

SEN. MCDONALD: Thank you. Thank you very much. Representative Lawlor.

REP. LAWLOR: Thank you. I have a question for you. You know the Commissioner of Corrections was here on September 11 testifying on our first hearing on this topic.

We were just asking people for a briefing really, on what the exact situation was and ideas about what we could propose to deal with it, and the Commissioner actually said, and the [inaudible] of it is something you just testified about.

She said, I'm going to throw this out to you. We need a medical mental health facility. We have too long in Corrections been using prisons that were not designed to deal with medical mental health population.

It would be $150 million to construct it, construct a 1,200-bed medical mental health facility, and that's what we're going to need. We have about 1,000 now that would fit into this category.

And so, you just testified you thought that was a bad idea, and I think I understood you to say that your concern is that as bad as the problem

is now, they'd have even more persons with mental illness be sent to the Department of Corrections because they would have the facility for them. Right?

And so, if that's your concern, and the Commissioner says she has 1,000 more inmates with mental illness than she can accommodate at Garner, plus Garner's only for men, so she has all the women at York.

JAMES D. MCGAUGHEY: Right.

REP. LAWLOR: What's our other option? If we're not going to build the facility the Commissioner says she needs, what would our other option be?

JAMES D. MCGAUGHEY: Well, I'm not sure that, I think a significant number of people who have psychiatric disabilities are in the pre-sentence arena. There's, they are, many of those folks do not have equal access yet to alternative to incarceration centers or to other sort of pre-disposition remedies.

REP. LAWLOR: Can I just pin you down. What do you mean by equal access? What's the issue here that we need to address?

JAMES D. MCGAUGHEY: The issue is making sure that alternative to incarceration centers will accept people with psychiatric disabilities.

Many times they refuse to do so because the people take medication and the AIC is a clean house, doesn't want anybody on medication.

There are other issues with respect to halfway houses as well for folks who are, our suspicion is a fair number of people with psych disabilities end their sentences or come close to ending their sentences in lockup rather than in the transitional kinds of housing that's available.

There's 1,000-person waiting list for halfway houses now.

REP. LAWLOR: Well, how many beds are there now for offenders who are incarcerated, waiting to get out, who have a psychiatric disability? I mean, what is the, do you have any idea?

JAMES D. MCGAUGHEY: I don't. I don't. We have looked at that, and we've asked for those statistics, and in fact DOC is now producing statistics for the group that used to be called the Prison and Jail Overcrowding Group, whatever that is, but there's a mental health part of that, and they are producing statistics for it on a monthly basis.

REP. LAWLOR: Well, you said there's 1,000 persons--

JAMES D. MCGAUGHEY: But it's not a complete, it's not a complete listing. It's the mental health fives and the mental health fours that are listed. The mental health threes are too broad a category, and they're trying to break out the sub-category to that.

REP. LAWLOR: You said a moment ago that there's a 1,000-person waiting list to get into halfway houses.

JAMES D. MCGAUGHEY: Yeah, but I wasn't, I just referred to testimony I had heard earlier today, that it was 1,000-person waiting list to get into halfway houses or other kinds of parole support locations.

If you are a provider of halfway house services, and you've got like a lot of inmates to choose from, and then there's somebody who's got some behavioral issues or got some psychiatric history, there's not a lot of incentive to take that person, so those folks wind up staying in lockup longer. That's been our experience and that's our concern.

REP. LAWLOR: Because our problem is trying to figure out ways to free up cells for the truly violent offenders.

JAMES D. MCGAUGHEY: Right.

REP. LAWLOR: And obviously you're pointing out that there may be some low-level offenders or homeless getting arrested for minor charges--

JAMES D. MCGAUGHEY: That's right.

REP. LAWLOR: --and so I guess we need to know, and you obviously would be an ideal person because it's your responsibility to sort of keep track of how the state's doing in this regard.

We need to know how much is truly needed in order to have those low-level, non-violent offenders with a psychiatric disability adequately supervised in the community so that

we can free up as many cells as possible for the violent offenders.

JAMES D. MCGAUGHEY: I understand. I'm just [inaudible]. I'm not a statistician and we don't have a staff of statisticians in my office.

We have requested information and received some information from DOC to get some of that information. In the written testimony I have a few statistics that may indicate the percentages, but not the raw numbers.

I'd be happy to work with the Committee to try and come up with some of that, though, because I think it's an important issue.

REP. LAWLOR: If you could figure it out, you're the advocate right?

JAMES D. MCGAUGHEY: I am.

REP. LAWLOR: If you can figure it out, that would be very helpful.

JAMES D. MCGAUGHEY: I'm in hunt of those numbers. I'm hunting for them.

SEN. MCDONALD: Senator Kissel.

SEN. KISSEL: Thank you very much, Mr. Chairman. Mr. McGaughey, I'm, I actually share your concern, and I'm a little foggy about what happened decades ago with the de-institutionalization.

It's sort of a notion that I have, and some of my colleagues share is that when we de-institutionalized people with mental disabilities we promised that we would create a safety net.

Housing, assistance, and so many other things, and that we did the release portion of the equation, but we didn't do the catching portion of the equation, and therefore we sent these folks without that support structure out into society, and now they've become a large cohort within our correction facility.

And so, my concern is that, and I've been to Garner and recently I toured Willard Cybulski, which actually has lower risk level folks with certain medical mental disability needs as well, and what I'm hearing from you is that creating a model that is a correctional model with a mental health overlay is not the way to go.

I agree with you, and I agree with Chairman Lawlor. We need to get the statistics. My understanding is Corrections is the number one user of halfway houses, and that's all part of the catching of the people that we let go.

But, and I don't support, necessarily, the proposal for the 1,000-bed unit at all. I don't think that's an appropriate use of limited state resources.

I think again, I don't think that we're looking for bricks and mortar solutions in Connecticut. We've gone around that corner now, and we're

trying to be creative with our solutions and re-integrate as many people back into society as possible.

Take those precious tax dollars and use them for programmatic needs, helping people directly either before they get into the system or as they're about to leave the system.

But if we went forward with the proposal as was offered that maybe had more of a medical component than a correctional component, even though it's under the umbrella of Correction wouldn't that still be vulnerable to an attack based upon its institutionalizing, you know, the same grounds that were launched against that kind of construct 20, 30 years ago when people were let go out of those major institutions?

JAMES D. MCGAUGHEY: Well, I think if you could establish, and looking, putting on my hat as like a civil rights lawyer, if you could establish that there was some kind of discrepant treatment for these folks.

In other words, that these people with disabilities were being incarcerated for longer periods of time than people without disabilities who were charged with the same level of criminal activity, yes, you could wind up with some kind of a civil rights case on that.

I wasn't thinking about that. I was thinking more in terms of what's the best approach, what's the best policy, and you know, it is so

wounding for people to go through the criminal justice system.

There are folks with psych disabilities who truly in a situation where there's a lot of rules, and they can violate those rules and the Correction system is not geared to trying to look behind the violation of rules to see what underlies it.

They're sort of, they look objectively at your behavior. Did you or did you not follow the rule? Did you obey the order? And if you didn't, you're in trouble. You pick up the disciplinary ticket.

So then you wind up getting disciplinary tickets. You wind up being an increasing restriction--

SEN. KISSEL: Okay, I'm just going to jump in, not to be rude. I don't want to be rude at all, but we have so many people, but I'm in direct agreement.

And again, when we're talking about limited state resources, I think the best way that we could utilize them, especially with individuals with psychiatric disabilities that tend to be disproportionately filling up our correctional system, and at, I don't know, $50,000 a year per bed within our facilities, that's just not the best utilization.

On a program yesterday on public radio, chatting with the Secretary of Corrections out of Kansas, and, you know, one of the things is,

you know, we have halfway houses. Maybe we need halfway employers, employers that are going to take risk with people that are transferred out of the correctional situation. Maybe we need to look at tax, some kind of tax benefit to employers that take a chance.

He actually said that there's a company that bond for this such that if you take a risk with someone who is released out of corrections that maybe has a conviction, that there's a way to actually ensure them if something goes wrong on the job.

And what you're telling us is that use, the limited state resources that we have to maybe, instead of having programs that are completely drug-free, which for a certain group of individuals that's the way they should be treated.

JAMES D. MCGAUGHEY: That's right.

SEN. KISSEL: What you're saying is that hey, the people that I represent, so many of them need their meds, that kind of construct is going to actually undermine them and with their inability to follow rules on a very precise manner, not only do we need latitude for those folks, but we need better alternative sanctions for those folks.

And so I think there's a lot of grist for the mill there that we could look into. I think that's the solution.

It's all these other support services are going to be way our state helps to lead the nation, not just the giant bricks and mortar, the steel bars, and just chuck everybody in there.

There should be folks in there, but I think it's those violent offenders that deserve to be there and not all, everybody else. So I appreciate your testimony.

JAMES D. MCGAUGHEY: I certainly agree with that, and I will just add one point. And that is that I didn't, it's in my written testimony, and that is that the critical difference for the success of those community programs is the availability of housing, number one, and employment, number two.

And we do have in Connecticut a system like that for bonding through the Labor Department for individuals who have been released from prison. It's not widely known, but there is a similar program in Connecticut, so.

REP. LAWLOR: Yes.

REP. O'NEILL: You indicated that there were folks with developmental disabilities who are in the system that you didn't seem, you thought there were not too many. Do you have any sense of how many you're talking about?

JAMES D. MCGAUGHEY: I'm sorry, what, the folks--

REP. O'NEILL: Okay. Earlier on, you indicated--

JAMES D. MCGAUGHEY: --with developmental disabilities? We don't, and that's because they are currently categorized under the broad umbrella of mental health three by the Correction Department, which includes people with certain types of psychiatric disabilities and brain injury and so forth.

Correction is working on breaking out those numbers. They have not, they haven't given them to us yet.

REP. O'NEILL: Okay, because I think that would be helpful to know that, because that's a different category from the folks with mental illness issues.

JAMES D. MCGAUGHEY: It is. It is.

REP. O'NEILL: And you said you weren't sure how many folks there were, I mean the Commissioner is saying 1,000 is her current count, but that would include people perhaps who have diabetes or some other kind of serious medical conditions that she would be looking at.

JAMES D. MCGAUGHEY: I think actually the numbers of people with psychiatric disabilities are larger than that, and I would encourage you to, Sheila Ander from, has just, I don't know if Sheila's going to testify later or not, but she has done some research.

Quickly, in response to Representative Lawlor's question, that indicates that 741 out of 3,897 inmates who are not convicted of or on a bond for a violent serious offense are incarcerated

right now, so that's like 1,700 people who it's not a violent offense and their bond is relatively low, and they were people with psychiatric disabilities, I believe.

So that's the kind of number you're talking about if you're looking at freeing up bed space. There's a great potential there for that. I'm sorry, I didn't respond to your question.

REP. O'NEILL: Oh, actually, that's the kind of number that I think both I and Representative Lawlor were thinking in terms of what kind of a number are we talking about if we were to do the kind of programming that you're talking about to get folks out who really don't belong in prison but belong in some kind of a program because they have mental illness or developmental difficulties of some sort. Okay, thank you.

SEN. MCDONALD: Senator Meyer.

SEN. MEYER: Thanks, Mr. Chairman. Jim, I've appreciated your advocacy over the time that I've been here in Hartford, and appreciate your advocacy today.

I do want to question you a little bit about your concern with a new institution for mentally ill criminal offenders.

My experience has been that there is a fair number of mentally ill criminal offenders generally with schizophrenia or bipolar condition who are a danger to the public.

I'm not talking about the homeless. I'm not talking about you know, mild retardation or mild mental health problems. I'm talking about problems, which lead a mentally ill person to commit a violent crime.

And your proposal appears to be, as I heard it and as I read it on Page 3, that we would do better with specific, your words are with specific community-based support systems.

And I agree with that philosophically, but I do have a concern that there is a percentage of our mentally ill offenders who are a danger to the public, and that they will need a secure facility, plus programs. Secure facility plus program.

And I don't think your proposal about community-based support systems with housing models really would meet that group of offenders, and I just wondered if you had thought about that, and how you analyze the mentally ill and criminal offense?

JAMES D. MCGAUGHEY: Right. It's deep waters, but you're quite correct. There will be some percentage of people, even people with very significant mental illness in the correction system, people who commit very serious crimes.

If they are, if their mental illness is such that they're experiencing a real, you know, exacerbation of it or something, they are eligible for transfer, actually, to a hospital, Whiting Forensic Hospital.

There's usually a reluctance, and there's bed space issues in Whiting. But, you know, if in fact you need a secure facility and you need hospital level care, there is something there that could be built on.

If, in fact though, you're talking about the type of treatment programs that are available at Garner right now, I will say that there's just, there are some people there who have significant mental illness whose behavior was such that even Garner couldn't deal with them.

And the sad thing is that they wound up back in the super max facility at Northern because of the safety issues that they presented, or at least that was the interpretation given to their behaviors, and the response and recommendations from the clinicians [Gap in testimony. Changing from Tape 2A to Tape 2B.]

--problematic to serve necessarily. And I also think that the correction system will have to maintain some capacity to house those individuals, to do it safely and to do it in as humane a way as possible.

But there's just limited flexibility within their structure and there's also questions about well, at what point does a person stay there as opposed to being sent back to general population, and you know, is the goal to help the person to recover their life, or to help them to become a good inmate in a general population prison and so forth.

And so there's just ambiguities to it. I think they will have to have some capacity, they have some capacity now. I think just building a bigger facility invites more people to be sent there, especially given the universe of, you know, restricted resources that we're dealing with and the courts don't have a lot of options.

I'd like to give those judges more options. That's my thinking.

SEN. MEYER: Thanks.

REP. LAWLOR: Representative Adinolfi.

REP. ADINOLFI: Thank you. I just have a brief question. The secure psychiatric institution, wouldn't it serve two purposes? To take care of those that can be cured, but also there are some pedophiles, as an example, I'll use that as an example, that will never be cured. Not all of them, but some of them.

And if a judge had the ability rather than sentencing somebody to five years, sentenced them to a secure mental institution such as I know New York has one. I think they call it Bellevue, or they used to when I lived there. I don't know what it's called now.

That you do two, you serve, you accomplish two things. One thing that happens now, if a person receives fives years as a pedophile, we know he's going to do it again through the psychiatric treatment, but his sentence is five years. We have to let him out.

Now if a judge sentenced someone to a secure mental institution, he sentenced them to the institution until either he's cured or he stays there. We don't put him out on the street to go out and commit the crime again. That's a decision that would be made right up front.

And I think a secure psychiatric institution would basically accomplish two things. Help those that can be helped, but also keep the habitual offender off the street perhaps forever.

JAMES D. MCGAUGHEY: The, well, I think there's a mixing of the sort of the criminal domain and the civil commitment domain in that concept.

The people who are arrested, convicted and sent to the custody of the Commissioner of Correction have had their due process through the criminal justice system.

What you're referring to, I think, is a system where somebody would be committed under a civil commitment proceeding to, and our current law allows that to happen if the individual is, because of a mental illness, a danger to himself or others, or gravely disabled.

So it's possible, and in fact it sometimes does happen that somebody serves their sentence in a correctional facility, and as they are being released they are still, the various reviews occur and it's determined that because of their mental illness they still constitute a danger to themselves or others or are gravely

disabled, and then a referral is made for a civil commitment to a state psychiatric facility.

You know, that mechanism currently exists, but we do not have, I worry about proposals that would vastly expand that or reduce the criteria that requires a finding of serious mental illness before civil commitment.

Because I think if you turn those folks over to the Department of Mental Health and Addiction Services that's already a department that's strapped for resources and serving people with identified psychiatric disabilities.

They also have to be careful about who, what we, who we call mentally ill. There are diagnostic criteria that, you know, for persistent and serious mental illness, that are pretty much the eligibility criteria for mental health services.

There are other individuals who engage in behavior that is simply depraved, and we term it in the vernacular, sick, and we think, well, therefore they must be. And that's different.

That's not, those are not the folks that are amenable to treatment or I think can legitimately be turned over to the Department of Mental Health and Addiction Services and say, okay, make sure that they never hurt anybody.

It's not, that's really a criminal issue and it's properly addressed, I think, through the criminal justice system.

So I just want to make sure that we're clear about those different categories, I guess. That's my only concern.

REP. LAWLOR: Other questions? If not, thank you very much. Next is Sally Schenk. Is Sally here? And as Ms. Schenk comes up, she'll be followed by Judge Quinn. So I know you're not Sally.

STEVE LANZA: Good afternoon, thank you.

REP. LAWLOR: Can you explain something, because we found in prior hearings that it gets us through the process more quickly if, in fact, you are here as part of a group but you're individually signed up and therefore on different parts of the list.

If the first member of the group's name is called, if you all want to come together as they have done, we find that it gets us through the process more quickly because in effect if you're all agreeing on the same message, that's a more efficient way of getting through, which I believe is what you're doing.

STEVE LANZA: Yes.

REP. LAWLOR: And so if others who are here with other people, you'd like when the first person is called, you get those other people with you and just do it all in one shot. It gets you

out of here more quickly, and it gets us through our process more quickly, and I think it magnifies the message you're giving anyway.

So in any event, please go ahead, I'm sorry.

STEVE LANZA: Thank you. Thanks for this opportunity and for your hard work on these complex issues.

As you know, I'll be giving the testimony for Sally Schenk. My name is Steve Lanza. I'm the Executive Director for Family Re-Entry. With me today is Kenny R. Jackson, Director of the Beacon Mentoring Program, successful ex-offender and community leader.

Also with us are Dr. Derrick Gordon, Principal Investigator from Yale University and of course Sally Schenk, President of the Board of Family Re-Entry. They're here to answer some of your questions should you have them.

Family Re-Entry launched one of the three prisoner re-entry pilot projects initiated by the Building Bridges efforts. Our Bridgeport program entitled Fresh Start is now in its second year of a three-year project. Early results from Yale's research are very promising.

It's clear from the research and from others earlier today that effective re-entry programs increase public safety, break the cycle of recidivism and reduce the human and financial cost of criminal justice and incarceration.

We have two principal recommendations for any proposal that you adopt. Section 29 of Proposal 4 covers this in part.

Recommendation One. Ensure adequate three-year funding of all the re-entry pilot projects in the state.

Unlike the New Haven and Hartford projects, Fresh Start in Bridgeport is not fully funded for this fiscal year. The current gap of $225,000 must be filled immediately to ensure the state's investment of $775,000 to date will not be wasted. Without immediate funding the program will be compromised, and valuable resources will be lost.

Recommendation Two. Coordinate all stakeholders to a statewide commission on re-entry. All stakeholders must be represented, including the nonprofit and the private sectors.

Fresh Start is an innovative program and part of a larger vision for community change. We are starting ex-offender entrepreneurial businesses without public money.

We are changing neighborhood norms by creating positive role models, and the program inspires the grass roots community leadership of ex-offenders like Kenny Jackson.

And now I'll turn it over to Kenny for the rest of our time.

KENNETH R. JACKSON: Thank you. I want to thank you for this opportunity. As he said, my name is Kenneth R. Jackson. I'm an ex-offender. I'm not only an ex-offender, I'm a successful ex-offender.

I'm a two-striker that in no way is going to be a three-striker, and I'm part of Fresh Start, and what I do there is, I mentor ex-offenders because I'm good at what I do.

And like I said, I'm a very successful ex-offender so who can help an ex-offender be a success than an already successful ex-offender.

I'm part of Fresh Start to make sure that the two-strikers don't become a three-striker. The one-strikers don't become a two-striker, and the zero strikers don't become a one-striker.

And we're going to take it to another level as well. We're taking it down to youth services. We're going to break this cycle, because the cycle is the sons of some of these same guys that I mentor, and Fresh Start has a systematic formula.

We have to get into the hearts of these men, okay, and when we get into the hearts of these men, they're the empathy that brings on a feeling of understanding, and we give these guys a vision.

The system isn't going to reform these guys. These guys have to reform themselves because they make bad choices, and the system punishes them for those bad choices that they do make.

So at Fresh Start, we let them know that whatever choices you do make, you have to be responsible for, and those choices not only affect you, they affect your family who you want to reunite with.

They affect you as a man. They affect you as what we want you to be as a taxpayer, a homeowner, a productive citizen in the City of Bridgeport.

And we, I mean, we do support groups where me and the guys, we cry together, you know, because there's feelings inside of us as men that we hold up inside that we need to get out.

So Fresh Start has a Thursday support group where, over some Kentucky Fried Chicken because you know when you break bread you can be real. So we say grace and we break bread and we talk as men.

We talk as fathers. We talk as productive citizens over society that we are sincerely sorry for making bad choices.

But the thing about it is, the guys that I deal with, they're looking forward to going into the school system. And on that venue, because one of my contracts is with Bridgeport Board of Ed, okay. One of my contracts is with DCF.

So I'm an ex-offender who has an opportunity for other ex-offenders to go reach the youth in the city, to go reach the gang bangers in the

city, and let them know that there's a better way.

And some of these guys are ex-gang bangers, and like I said, who better can kind of deter that behavior than somebody who has already deterred their behavior.

And we have to be responsible. But we just want an opportunity to save the taxpayers some money because I know, I know for a fact that the Three Strikes law, I can deal with that.

I can save the taxpayers some money because for one, I'm not going back, and I can help others not go back. I guess that's my bell.

REP. LAWLOR: Don't go anywhere. There may be questions. That's great, you know, and it means a lot, I think, for people because you know, aside from the Members of the Committee here and the people in the audience, people are also watching this on CT-N, and I think by watching these hearings they get an insight into not just the tragic stories, but some of the success stories, and you certainly are one of those.

And I think it's very important to see both sides of the argument because there is such promise in people who are prepared to straighten themselves out, and at the same time we do have to make accommodation for the people who are going to be the repeat offenders as you describe.

So we're trying to accomplish both goals today, not just one goal.

And so my question is, you heard some discussion earlier on, you guys are all centered in Fairfield County area, Bridgeport, Norwalk, Stamford.

One of the questions that's come up recently is, if we're trying to find a way to free up prison beds by taking the less serious nonviolent offenders and get them into the community with supervision in the hopes that they can straighten themselves out, how much additional capacity is there out there that can be brought on line quickly, assuming state funding would be available for that type of thing.

Because we have to make these tough choices about how we want to manage the population situation.

So if one option is expanding more of the re-entry options for nonviolent offenders, how much more could come on line very quickly?

So in other words, the programs you speak on behalf of, how many more offenders do you think you could absorb in the near future if that was something that the Legislature was prepared to underwrite?

STEVE LANZA: I obviously can't speak for the other cities, but I know for our program in Bridgeport, we can clearly increase our capacity very significantly.

There are some aspects of the program that we can increase capacity just by adding staff and getting space.

There are other aspects, we can't duplicate Kenny as quickly as we would like, so that may come a little bit more over time.

There's some of our business development, our entrepreneurial businesses, those concepts take a little bit more time to develop.

But in terms of actual numbers, we could probably double our capacity immediately and with state funding probably get close to the majority of people that are in that middle of the bell curve that could be treated safely in the community with proper supervision both from the DOC and through an effective re-entry program.

And that number might be five times what we're doing currently.

REP. LAWLOR: I think the current number that you guys are doing about--

STEVE LANZA: In our study, we're studying 100. Our capacity is 200, and we can double that relatively quickly, and we could probably go even higher than that with additional staffing and adding physical capacity to the program.

REP. LAWLOR: And are there parole officers that work directly with you?

STEVE LANZA: Yes. We're working directly with Parole. We actually have one sole parole office assigned to the clients that are in the research study that works directly with our staff.

There are also a number of other providers in communities like Bridgeport that are working together. We have a re-entry round table in Bridgeport for the community providers that are working with ex-offenders coming out of prison and we coordinate all of our services.

So the capacity of that whole group would be able to handle large numbers of people coming out of prison if funding was available, and [inaudible].

REP. LAWLOR: And do you get your funding principally from the Department of Corrections? Is that right, or from?

STEVE LANZA: The funding for our pilot project, Fresh Start, comes partly from the Department of Corrections. It's not fully funded by the Department of Corrections.

We, our operational costs, which should, in our view should be covered fully by the Department of Corrections is not.

We bring a lot of, we bring private money to the table for innovative aspects of the program like building entrepreneurial ex-offender businesses, like funding the Yale research.

But we do think very strongly that the state should be responsible for paying for the operational cost of the program equal in amounts to what Hartford and New Haven are getting, and that is not currently the case.

So that is something that is particularly important to the, you know, to the integrity of the program at the moment.

REP. LAWLOR: And just one final question, and you've got Dr. Gordon here with you--

STEVE LANZA: Yes.

REP. LAWLOR: --and one question that we always have is about recidivism. What is the rate of recidivism for your program compared to others, compared to inmates serving out their whole sentence?

STEVE LANZA: Well, since Dr. Gordon traveled all this way, and has waited, I'd like to let him answer that question if that's okay.

REP. LAWLOR: Great.

STEVE LANZA: Where did Dr. Gordon go? Oh, there you are.

DR. DERRICK GORDON: I'll just be quick. That's an easy number. It's 28%.

REP. LAWLOR: So 28% are re-offending, is that right?

DR. DERRICK GORDON: Yes.

REP. LAWLOR: So the success rate is 72%, is another way of saying it? And just since we get caught up on how different people measure rates of recidivism, when you say your rate--

DR. DERRICK GORDON: [inaudible-microphone not on]

REP. LAWLOR: You've got to get near the microphone because we're doing a transcript.

DR. DERRICK GORDON: Well, just simple. Just re-arrest. You know, re-arrest.

REP. LAWLOR: Over what period of time?

DR. DERRICK GORDON: Over the last calendar year.

REP. LAWLOR: Okay, thank you.

STEVE LANZA: One of the things that's very clear from the preliminary data is that the level of engagement of the men in the program correlates very highly with their likelihood to recidivate.

So the more they are engaged in the program from pre-release, which, or three to six months prior to release, through extensive time in the community, the more contact they have with staff the less likely they are to recidivate, so it's very important to engage men in the program through things like using Kenny and his contact with the men, and how he can compel them to participate in a meaningful way, by any kind of stipulation through parole, and by other incentives, both carrot and stick to get

them to comply with the program, that's a critical piece.

So we know it works. We know that number could be even better if we can continue to increase engagement of men in the program.

REP. LAWLOR: So you reach out to them while they're still in the facility, is that right? You're recruiting before they're released.

STEVE LANZA: We start recruiting six months. Yeah. We have a very good working relationship with the Department of Corrections in one particular facility.

REP. LAWLOR: Do you get to say who you get, who you don't get?

STEVE LANZA: At the moment the program is voluntary for men that are voted to parole.

REP. LAWLOR: So can you refuse to take a particular individual because they don't meet your criteria?

STEVE LANZA: We haven't done that yet because most of the vetting process has been done by the Department of Correction prior to even coming to us.

So if they're voted for parole, some of that vetting has been done, but we do have exclusionary criteria for people with arson histories, very, very serious and violent predatory offenders and predatory sexual offenders.

We would, not appropriate for us. Nor are people with very, very serious mental illnesses. So that's a very small percentage as you well know, of the total population.

KENNETH R. JACKSON: You know, and the key, too, a number of those guys who are institutionalized, they know me from back in the day, and they also know another facilitator who just got through doing 17 years, they know him from back in the day.

So it's the type of who you know type thing and of reputation that you did have back in the day that you turned your life around, okay, and they're letting you come up in this institution to kick it with us?

It's a real trade-off, you know, because a number of them, they knew how negative I was. Now, they know that I'm a prime example that you can turn your life around, so I give them that fruit of hope, because they was kind of worshiping me when I was in the negative, and now let's do it on the positive.

So therefore, I'm not bringing no bull, you know. I'm not bringing the programmatic stuff that they're tired of. I'm bringing that realness. And that's what Fresh Start has, it has a serious degree of realness.

Especially when we can relate to the clients because certain clients they walk a certain way. Just in their swagger, I know there's

something on their mind because I've been there, okay?

Just because their conversation and the tone of their voice, I know they're going through emotional problems because I've been there.

So therefore, it's time for me to pull them out of the group and kick it with them one on one and get into their head so I can find out what's in their heart, you know, and that's when tears will flow because he can go through some trauma and hold it inside, and just because I've done the same thing, I can pull that trauma up out of him, and tomorrow he'll have a better day.

And that's why I'm also, we're also creating an alumni association because there's a lot of very successful ex-offenders.

So we need to pull them into what we do, and so that way with this alumni association, we can help, we can start smothering in a positive way, these guys who need us.

You know, a lot of them are up under the radar, okay, but I'm getting ready to bring them out because they've got to be responsible to their brothers.

REP. LAWLOR: Thanks for doing that.

SEN. MCDONALD: Let me just thank you for your testimony today and let you know that the inclusion of this language in the bill offered by Representative Lawlor and myself is actually

the direct result of the success of your program, and it's been interesting over the last few days really, that we've been having a discussion amongst ourselves where some Legislators have said that we need to think about public safety and not about the dollars.

And it's very interesting because whether you think about the public safety or the dollars, this program is a tremendous success, and whether it's for public safety or bang for the taxpayers' buck, your program and the outreach you do is really tremendous.

And Mr. Jackson, I haven't had the pleasure of meeting you before, but I did have the pleasure of watching the video taped that Family Re-Entry had shown you in action in your groups.

And I have to say that what you do probably doesn't always meet with success, but if you're reaching out to 72% of the population that you work with and achieve success, that's not only a personal success for those individuals, but it's a success for the State of Connecticut.

And frankly, that you've been able to do that much as a group with a relatively small number of dollars is very impressive.

I was encouraged yesterday to hear that the Governor is also looking anew at the importance of re-entry programs because we can do a lot on the front end of the process in terms of making things, crimes, and dealing with the incoming population into our correctional facilities.

But if we don't pay enough attention to the end of that process in probation, in parole, and in re-entry programs, we're destined to see those people come back and so whether it's from a public safety perspective or a fiscal prudence perspective, you guys are a great investment for the State of Connecticut, and I just want to thank you for that.

KENNETH R. JACKSON: Thank you.

SEN. MCDONALD: Senator Kissel.

SEN. KISSEL: You know, I really do want to echo the comments made by the Co-Chairs and I'm just delighted to see you here, Mr. Jackson. It's an age-old story. The prodigal son, and like you just turned your life around, and I just, it makes me so happy.

Because as I have stated to earlier folks testifying, I have six correctional institutions in my Senate District. I have over, actually this morning it was 8,021 individuals are incarcerated in my District.

And if we can start turning that around, public safety is going to be enhanced, the quality of life is going to be enhanced. You said we've got to create taxpayers and homeowners. I love all of that. That is fantastic information.

What really excites me, and I have a question for somebody out there in the group as a whole, and one specific question for you, Mr. Jackson.

To the group as a whole, the numbers are really exciting to me, and I applaud the Co-Chairs for having this as part of their proposal. It gives me encouragement, and a lot of the folks in the media and the journalists are saying, it doesn't seem like anybody's on the same page.

I look at this completely different this afternoon. I think we are way on the same page on so many issues, and it's sort of exciting to see that all coming together this afternoon.

How much money are you looking for to turn a program that's serving 200 individuals into a program that has the potentiality to serve 1,000 individuals?

And the reason, you said that you could go up to maybe 500, it would take a while, but I'm someone that's moving away from the bricks and mortar.

I don't really want the facilities. My host towns don't want the facilities, and I think it's a wrong-minded approach, and when I look at other states in this nation as to how they address these issues.

But what kind of dollars are you looking for? Just hard concrete dollars?

STEVE LANZA: Obviously, the cost per client is going to vary, depending on the amount of services that they need, and we do pride ourselves on trying to tailor what we do to the needs of the particular individual. On

average, a slot costs between $2,500 and $3,000 per slot.

SEN. KISSEL: Okay. Because in my District, to have a prison bed for a year, that slot is $50,000 or thereabouts, so I think big difference. And so to the extent that we can pull those folks out, this is the right way to go.

Also exciting information. I know you're probably drawing from one correctional facility is what you seem to indicate?

STEVE LANZA: We're in collaboration with the Department of Corrections we're able to move people voted for parole destined for Bridgeport to Webster Correctional Facility in Cheshire, which is a Level Two facility with a lot of pre-release programming.

So they're getting a lot of programming in prison from the Department of Correction in addition to our staff and Kenny going into the prison prior to release.

SEN. KISSEL: Okay. And one of the reasons I think this is an important piece of the puzzle, and I understand there's people with like medication issues and things like that, that aren't appropriate for this program.

But when I testified before the Governor's Task Force yesterday, after doing that colloquy, Commissioner Lantz informed me that they are, the Department of Corrections is embarking upon getting a new research tool, an assessment, a risk assessment.

Right now, Corrections for the most part does an assessment that would determine the housing needs, the level of dangerousness, but it's for internal use.

And where they're going is a risk assessment for people in that six month timeframe before they get released, and it's a recidivism risk assessment tool much better tuned to accurately predict which would be good individuals to try to focus on these additional resources to break that chain of recidivism.

To you, Mr. Jackson, my specific question to you, Sir, and I think that you have a great story and I don't know how we can replicate more folks with your command.

I mean, you could be like a PhD from the way you're articulate and you've focused your whole life.

KENNETH R. JACKSON: I'm a streetologist.

SEN. KISSEL: Okay. I like that. I like that. I wish we had more streetologists.

But is each individual different, and I know there's, and I agree with Chairman Lawlor. There's no silver bullet to these issues.

But perhaps, what was it that helped you, and you said you had some bad, bad things that you had done when you were young.

KENNETH R. JACKSON: Yeah.

SEN. KISSEL: And what I've learned over the years is that one of the key factors is that when a key predictor is age, that actually young men 18 to 24, much more incorrigible than individuals that may be married, maybe have a job, maybe are older.

But what was it that helped you to turn your life around, above and beyond investing in the program? How else should we be thinking about these issues as far as individuals?

KENNETH R. JACKSON: Well, it's like, and that's the key thing, okay. We throw these men into a systematic basket that doesn't do them any good.

Because if you throw them in a systematic basket you know, you're not going to rehabilitate them, and the thing about it is, each individual is responsible for rehabilitating themselves. That's what I did.

When I was locked up, and it would come over the speaker, lockup and count, okay, I'm already locked up. Okay. So now, it's a psyche that I have to put myself through an educational process to prepare myself so when I do hit the streets I have a Plan A, B, C, D, E and F, so on and so forth that's going to keep me from recidivating.

Because if you don't come out with a plan, okay, you're just going to fall into the traps, and my old crew that I left, when I came back,

there were more of them because of my reputation.

You see, there's a lot of guys that's locked up who have serious reputations that once they do get back out, you know, guys who have access to big drugs, they'll make sure that you've got the same access because they know when you was in the street you was a serious soldier and you made serious money.

When I was in the streets in Bridgeport, I pulled money from New Haven. I pulled money from Stowe Village here in Hartford. I pulled money from [inaudible] Court in Norwalk. Okay?

So I did my time then because I was serious about what I did. But before I got out, I was tired of the status quo. I was tired of not being able to sleep with both eyes closed.

But most of all, I was sorry for setting a negative example for my son. My son, I've got two sons with a prison number. I've got one son doing 25 years right now.

I've got a younger brother who has a prison number, so I tell these guys, it's not about you. If you've got a son, a son for the most part wants to be like his father.

So if you're out there thugging, don't get mad when your son calls you from lockup. Don't get mad when you call home from the penitentiary and the mother is telling you that your son either got arrested, got his head blown off,

blown off somebody's head, or is failing in school.

How are you going to tell her to put him on the telephone and tell him what he better do, who he better listen to, how he better act?

Hypocrite. You cannot raise your son from the penitentiary, and those are the deterrents that were introduced to me because now I lead by example.

My brother hasn't been back. My son hasn't been back, you know, and there's other guys who know me who I know isn't going to go back because of me.

Because like I said, before you guys is a successful ex-offender.

SEN. KISSEL: Well, I just think you're a tremendous inspiration. I was really moved, and I'd like to learn more about your program, and I think that--

KENNETH R. JACKSON: Come on down. Come on down.

SEN. KISSEL: You know, I just might. Just might. I always like to visit Bridgeport now and again.

KENNETH R. JACKSON: Come on down. Come on down. Open invitation.

SEN. KISSEL: Thank you, Mr. Chairman. I think I'm going to go visiting with the parole officer, so I may as well add it to my list of--

SEN. MCDONALD: Mr. Jackson, I've been trying to get Legislators to come down to Fairfield County for a long time.

KENNETH R. JACKSON: [inaudible] Come on down. Come on down.

SEN. MCDONALD: Thank you very much, Senator Kissel. Representative O'Neill.

REP. O'NEILL: Yes. In terms of talking about scaling the program up from, I make sure I understand it. Is it currently 100 or 200?

STEVE LANZA: We're currently serving 100 clients, actually about 130 in the pilot project. They're going through the very intensive Yale research.

We have the capacity to add more to that and we're adding more clients daily that are not in the research project.

We have the capacity to scale up to a total of 200 under current staffing. With additional staffing, and of course additional funding, we could double that number and perhaps, I think we could do 500 without compromising any program integrity, just by adding staff and physical space.

REP. O'NEILL: Okay, because somebody earlier had multiplied 5 times 200 to come up with 1,000, and I thought that was probably a little excessive.

STEVE LANZA: That would be a little, and that's more than probably would be appropriate for this kind of a program in Bridgeport.

REP. O'NEILL: Right, and that was the other thing I was going to say is that you seem to be somewhat selective in your clients. So not everybody, because we have a number of different programs.

I guess they don't want everybody to get too excited here that we're going to solve all of our problems by simply--

STEVE LANZA: Right.

REP. O'NEILL: --expanding the three programs to 1,000 of each and so forth in the three major cities.

When is the Yale Project going to be done? Because this is a pilot and we're supposed to wait until we see what the results are before we expand them.

STEVE LANZA: Well, we have preliminary results that are very encouraging, and also I think we all could speak to this as well. The risk level of the men that are going through this program are moderate to high risk, so we're not selectively taking clients that are very low risk.

We're getting clients that are moderate to high risk based on a risk assessment scale. So the guys are doing well considering their risk level.

The research was intended to go three years. The project was intended to run three years so that we can have 100 guys out in the community for approximately a year, so we have comparable data to the state data, which shows a year of post-release of recidivism rate of about 40% plus.

So we really want to look at, you know, a year out of prison for the whole, everybody in the pipeline, and that would be three years of the project.

But by virtue of doing that, we're going to be serving additional men because we're not going to just serve that 100. We'll keep filling the front end of the pipeline. They just won't be in the research.

REP. O'NEILL: Because I think I've seen you here before, but over in the Appropriations Committee process, if I'm not mistaken.

STEVE LANZA: Probably once before, at least, yeah.

REP. O'NEILL: And the thing I'm wondering about is if we do scale it up, and it seems like it's highly dependent on Mister, I'm sorry, Jackson.

KENNETH R. JACKSON: Yes.

REP. O'NEILL: And you mentioned one other person, I don't know. Is it really dependent on a kind of charismatic individual, or is there some more kind of routine programming that goes here?

STEVE LANZA: There's a lot of routine, there's pretty much your best practices standard programming, mental health, substance abuse, parenting education, life skills, the cognitive behavioral anti-social attitudes programs that are standard out there in the best practices.

So all those are part of the program. What makes it uniquely different is we're starting in the prison early, with early engagement. We're working with Kenny and men like Kenny in developing more men through the pipeline to be leaders like Kenny.

We're going in with those folks into the school systems to prevent the youth at risk from going into the system. We're developing these entrepreneurial businesses because, as you know, employment is, as many people have already said, particularly difficult for ex-offenders and employment, meaningful, livable ways of sustainable employment is highly correlated with success upon release.

So we're building new and innovative tracks for employment because not everybody's going to get jobs in the traditional open up the newspaper, look for a job opening way.

We already have a business started with ex-offenders in that business that is making a profit, that's paying their salary, that's paying a supervisor. Those businesses can expand.

There's models out in the country that are doing that. John Jay College of Criminal

Justice, their Prisoner Re-Entry Institute is sponsoring programs on entrepreneurial ex-offender businesses as a model for success upon release.

This is a bit of a national trend that is being highlighted at some of the major universities around the country like John Jay and we're part of that process as well, so we're doing a parallel thing.

It will succeed. It can succeed. There's no doubt about it.

REP. O'NEILL: And the 40% I think someplace I heard, your, the recidivism rate as defined by re-arrest for your program is 28%. Somewhere I heard a number of 40% for the general population.

Is that paroled people, because there is a difference between people on parole and people who are just released at end of sentence.

Does your, how does your percentage compare with people on parole but who are not in your program for the re-arrest?

KENNETH R. JACKSON: All we know about is what we do.

STEVE LANZA: Our comparison data, this data was produced by state reports. I don't recall at the moment, which report. There are a number of reports.

REP. O'NEILL: Yeah, it's confusing because there are different on parole, at end of sentence, re-arrest versus re-incarceration versus re-conviction.

STEVE LANZA: Right.

REP. O'NEILL: They've got about six different possible ways of explaining this thing.

STEVE LANZA: Right.

REP. O'NEILL: Okay, thank you.

KENNETH R. JACKSON: We are successful. We are going to be successful. Our number is going to dictate our success because, with programs, as an ex-offender, you know. With programming, that's just what it is unless you buy into it, okay?

Programs are just what they are. Just like systems. They're flawed if you don't buy into them.

Our guys at Fresh Start, they buy into our program. They buy into our system. They buy into our formula, and that's what's going to make us successful.

SEN. MCDONALD: Thank you. If you could, and just to follow up on Representative O'Neill's question, if you can get information to us that sort of does that side by side, apples to apples comparison, that would be very helpful.

If you don't have it now, that's fine, but if you could get it to Members of the, to our Committee staff, we will make sure it's distributed to other Members of the Committee.

Let me just follow up briefly, though, because I think we hit it a little too quickly. Could you just explain a little bit more the partnerships that Family Re-Entry enters into because I want to be clear that the government funding here is not the only source of your revenue?

This is not a wholly funded governmental program but that you are working in partnership with members of the community to fund your operations.

STEVE LANZA: Yes, that's very true. We are raising and trying to raise, extensive amounts of private dollars.

Again, it's our contention that the state should pay for the operating cost of the program equal to what the other pilot projects have, which are roughly $500,000 a year, which we were short as I mentioned, $225,000 for this fiscal year alone.

We are also raising private money to pay for the research over three years, and we're raising private money to invest in the development of new business opportunities, and those two numbers together, and I won't bore you with the details unless you'd like them. Those are two rather large numbers that we have to raise privately.

Our hope with the businesses, and it's already beginning to happen is that they will become eventually self-sustaining much like the Delancey Street model in San Francisco and replicated in Brewster, New York as well, where their revenues come solely from, generated solely from the operations of their own businesses run by their own clients.

So our hope is to be able to produce that as well. Also, then, shifting part of the burden of the state paying for those kinds of programs onto the community, because the community then, those programs will be self-sustaining.

SEN. MCDONALD: Thank you. Representative Fox.

REP. FOX: Thank you, Mr. Chairman. I've had the opportunity over the past year to meet several times with Steve and Sally about the importance and the merits of your program, and I've also had an opportunity to listen to them discuss the inspirational story of Mr. Jackson, and it is an opportunity to meet you today. It's terrific, and it is good that the rest of the Committee gets to see your story, and your testimony.

I'd like to ask you about something that you touched on somewhat, and while it may not directly deal with some of the legislation here today, you did mention that you're doing work in the schools, in the public schools, and I think that that would be an important part of any kind of work that we can do here, so if you can elaborate further.

KENNETH R. JACKSON: Well, I'm under, I was under contract with Bridgeport Board of Ed to bring a conflict resolution program into one of the City's high schools, Harding High School.

And when I first got there, I set aside like 20 something students in peer mediation. My peer mediation captains said, woo, woo. My peer mediation captains, I brought them with me.

And so what I do, peer mediation, gang intervention, all certain tools of the trade that I learned by going to the school of hard knocks. That's why I'm good at what I do, you know, because there's things that I can do that PhDs can't do.

There's things that I can do that master's degrees can't do. There's places that I can go to that they won't go to, and I still live in the community. I'm not going nowhere else.

And so that's one of my things at the high school is conflict resolution, and another is gang intervention and mentoring and things like that.

So I'm at the high school, and I also do things with mentoring for DCF.

REP. FOX: When you're dealing, though with the high schools, do you use the same kind of principles?

I mean, there, there may be some people there who are repeat offenders or have offended

previously, but there's also people that you're trying to prevent from ever going to prison in the first place.

And I would think that that could be an important part as well of reducing our prison population.

KENNETH R. JACKSON: You, you see, I got, and that's the thing when I say there's places that I can go and things that I can pick up that the so-called scholars can't, you know.

I've been there and done that, and with a lot of the kids that I deal with, I know their parents. A lot of the kids that I deal with, you know, I've done things with their parents, whether negative or positive, so there's a trust factor there where parents let me know all the time.

Where do I need to sign for you to spank my child's behind, because I know you ain't going to hurt my child. Okay? I said, no, we ain't going to do no spanking, you know, but I get in his face because I'm no nonsense.

And I'm out to save the life of not just all children, but one child at a time. So whatever I have to do without breaking the law or getting physical or anything like that, you know, I will do.

So if I've got to take a kid for a walk and try to talk him to death, I'll do that. You know, if I've got to get another peer that I've

trained to talk to those students, I'll do that, you know.

But these students, you know, they want consistency, and that's why the gang thing is so uprising now because our gangs are consistent, you know. And the kids are, the kids are running to the gangs because there's that family setting, you know.

And so me being into the schools and dealing with the youth, and bringing other men who've been there, done that, can sort of speak, kind of predict the future of this child if this child doesn't get his act together.

REP. FOX: Thank you. Thank you, Mr. Chairman.

SEN. MCDONALD: Thank you. Is there anything further from Members of the Committee? Representative Klarides.

REP. KLARIDES: Thank you, Mr. Chairman. I think everybody said almost everything I wanted to say. I hate going last, but I'm just as impressed as my colleagues have been.

I just have a few questions. You said, and I'm sure you said this already. I just want to clarify it. That everybody who has been voted for parole can be in this program? Is that correct?

STEVE LANZA: We've taken people that are end of sentence as well as people that are on transitional supervision and people that are on probation.

Our target population for the purposes of consistency in the research was to take people voted to parole. That gave us access to them while they were still incarcerated, because they're voted for parole, you know, a considerable time before they're released, and it allowed the Department of Correction to move them to one facility where we had easy access to work with them prior to release.

And it gave us one dedicated parole officer in our community to work with them, so the consistency and the smooth system was really very important to us.

It doesn't exclude other people from being in the program.

REP. KLARIDES: And of all the people that would be eligible for your program, what would you say the percentage is that actually takes advantage of it?

STEVE LANZA: Well, because it's a pilot project, we've been very careful about not opening the floodgates. I mean, clearly we are, if we went to Probation and told them we had this program, if we, you know, opened it up to people that were coming out in other facilities, I think we would end up being so overwhelmed that the quality of the program would diminish before we had a chance to increase our capacity.

So I guess the answer is that we wouldn't exclude anybody if we had the capacity to take them into the program.

KENNETH R. JACKSON: And a quick note. There's guys who are mad because they can't get in this program. During the lockdown at the halfway houses at Maple Street, myself and one of our other facilitators that I have doing my groups with me, we felt compelled to go into the halfway house and do a group [Gap in testimony. Changing from Tape 2B to Tape 3A.]

--because of the lockdown, because of what happened in Cheshire, and so we went in there and we did a group, and you know, we empathetically, you know, felt where they were coming from because they didn't do it, but at the same time we got a look at the bigger picture.

If you didn't break the law in the first place, you wouldn't be part of the ugliness that comes down that doesn't affect you, okay?

So we wanted to have cooler minds prevail, so to speak, based on the lockdown and guys not being able to go on furloughs, guys not being able to go on passes. So we went and we did a please be patient workshop with them, and it was a good thing.

STEVE LANZA: Just to answer your question, Dr. Gordon informed me, which I forgot to mention, that of the men that are attracted to our program that get oriented in prison, 90% of them enroll in the program, so we get a lot of people that hear about it through the formal channels do enroll.

REP. KLARIDES: And then of the 90% that enroll, and that you're saying there's a, there's only 28% of those, percentage of recidivism from the people that enroll in it?

STEVE LANZA: That's correct. That's correct.

REP. KLARIDES: And you define that as re-arrest within one year?

STEVE LANZA: Yes.

REP. KLARIDES: And is that the normal way of defining recidivism, I mean, do we have, everybody has their own--

STEVE LANZA: As long as we're consistent, we're comparing as someone said earlier, apples to apples. I mean, there's remanding. There's re-arrest for a new crime, you know. There's re-conviction and then re-incarceration, so as long as we're clear about what the definition is, which we are, in comparing apples to apples, it's comparable numbers.

REP. KLARIDES: And everybody, do you have any numbers of people that are recidivist after the one year period? I don't mean to be negative or anything, I'm just curios.

STEVE LANZA: We don't have anybody out that long because we start, you know, we're 16 months into the program at this point and we started off in prison, so we haven't had anybody out over a year at this point.

REP. KLARIDES: I mean, is that typically how it works? Instead of going to, if they're going to commit another crime it would typically be within the first year? I mean, I don't know, I'm just.

STEVE LANZA: The time of highest risk is usually the first, I mean, it decreases over time but the first 90 days is sort of the peak, and then it decreases slightly after that, but it's usually within the first year, the first 90 days are the most high risk time, which is where we concentrate our services the most. It makes sense.

REP. KLARIDES: Okay. One last question. I don't know if anybody's asked this or you addressed it. I know we always talk about the men that are involved in the program, but are there some, is there a similar program for women?

STEVE LANZA: Yes, there are. Because this is a pilot we focused only on the men just because of capacity issues, but there's no reason that using gender-specific programming, you're really sensitive to the different issues for women that this program could not include women. The same model could also include women.

REP. KLARIDES: Well, you seem like you've done a great job so far and I would hope that we can all support you going forward.

STEVE LANZA: Thank you. We hope so, too.

SEN. MCDONALD: Representative Walker.

REP. WALKER: Good afternoon, and I know you guys. You guys do a great job. I applaud you for all the stuff you do.

One of the things that I didn't hear you talk about, and just a quick question. Do you know, do you have any end of the sentence offenders in your program or are all of them parole and probation?

STEVE LANZA: We do have some end of sentence. I don't know off the top of my head without looking at the data how many of them are end of sentence. No, we don't have that data with us.

REP. WALKER: No? Okay. Because we had a Program and Review report on recidivism and one of the things they talked about was the fact that people that had end of year sentences had a higher rate of recidivism than people who go through the step down program, which is what I think your program is, and I was just curious if you have any data on the end of sentence that go through your program.

STEVE LANZA: No, but based on what you've learned and also national data, end of sentence people are at more risk of recidivating, which would speak to the recommendation you want people to be on supervision upon release of prison so you want to invest in community supervision like parole.

REP. WALKER: Exactly. I think that's the whole objective is to try, not to make people complete the sentence and just release them.

The whole idea is to work them back into the community, which is what you guys do and I thank you for your services.

STEVE LANZA: Right. And as Commissioner Lantz has said a number of times, releasing, even under community supervision and parole without a good program in the community is only half of it.

SEN. MCDONALD: Is there anything further from Members of the Committee? If not, thank you very much for your testimony and your service.

STEVE LANZA: Thank you.

SEN. MCDONALD: Just is Judge Barbara Quinn, followed by Wally Lamb. And I understand that Judge Quinn is going to be accompanied by her cohorts from the Judicial Branch. Judge Clifford, I suspect, has never been called a cohort before. Good afternoon, Your Honor.

JUDGE BARBARA QUINN: Good afternoon, Senator.

SEN. MCDONALD: And just for the record, would you identify not only yourself but the other members of the panel who will be testifying.

JUDGE BARBARA QUINN: Yes. My name is Barbara Quinn and I'm the Chief Court Administrator, and with me is Judge Patrick Carroll, who is the Deputy Chief Court Administrator, and one of the cohorts.

And in addition, Judge Patrick Clifford, who is the Chief Administrative Judge for Criminal

Matters, and they are with me here today because they both have a depth of experience on the criminal side and hopefully when you get to the question and answer part they will assist me in that regard.

I'm not going to talk about the Branch's position about each proposal individually, but I'm going to talk, rather, about threads that run through the various proposals that are before you.

One of the areas of concern highlighted by the tragedy in Cheshire was the inadequacy of communication between the key players in the criminal justice.

We have, since that time, established a computer link with the Connecticut Department of Correction and the Board of Pardons and Parole that allows information on offenders who are on probation to be shared electronically. That will go live in January of 2008.

We are calling this system, the Judicial Electronic Bridge, JEB for short, and it will replace the time-consuming existing system of transmitting information manually by fax or by phone.

Judge Carroll and I recently watched a demonstration of the system, and it is really quite awe inspiring, and a great deal of information will be available to the agencies.

We also plan on exploring how to expand access to this electronic bridge with state and local

law enforcement agencies in early next year so that public safety may be further enhanced.

And I know that it's understandable that many of you are concerned about what was revealed about the poor state of access to criminal justice information, and I think that the Branch appreciates the proposal that Senator McDonald and Representative Lawlor have set forth in Section 12 of Proposal 4 for the creation of a comprehensive statewide information technology system called the SHIELD Criminal Justice Information System.

And we support the purposes of this system, but we also think perhaps it might be wise to take another look at the offender-based tracking system OBTS that's operated by the Department of Information Technology that began in 1995.

Since that time the state has invested a good deal of time, energy and about $30 million in developing an integrated repository of criminal information.

But if you were to move forward and the Assembly enacted SHIELD, we would like the Public Defender's Office, respectfully request that a representative of the Judicial Branch be included on the Commission because the data that we have is, of course, critical to the success of such a system.

There are obviously also considerable resource implications in some of the provisions of SHIELD.

There are two other provisions of Proposal Number 4 that we wish to address. Section 19 we support, which would require us to make available on the Internet, all violation of probation warrants, and we could move forward to do that relatively soon.

In addition, Section 17 discusses a mandate, a study that would require the Board of Pardons and Parole, CSSD, to examine the feasibility of making additional information available on line and we support that.

One of the topics I wanted to talk about was sentencing. Many of the proposals before the Committee today relate to the sentencing of a criminal defendant.

New mandatory minimum sentences appear in most of the proposals, and before commenting on them, I think we should take a step back and speak generally about sentencing.

Sentencing a defendant is a difficult and complex responsibility for a criminal judge. Many factors come into play and an open mind is required.

The Branch has not supported mandatory minimums in the past because it takes away the discretion of the judge to tailor each sentence to most justly fit the crime, and as you heard in the colloquy earlier, reposits that discretion in the hands of the prosecutor, and we would hope that you would refrain from adding additional mandatory minimum sentences to the statute.

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Court Support Services Division to contract for an additional 100 beds.

There are not any such beds now in our state, and they are, indeed, needed. Nonetheless, we do not believe that we are the most appropriate agency to undertake this task, and would request that the responsibility reside with an Executive Branch agency.

We remain very willing to work cooperatively to find a solution to these difficult problems within our community, to have the best and most appropriate settings for such offenders.

You've heard mention about the various GPS proposals. We would ask you to take a careful look at it, because while the technology is useful, it does have some limitations, and the information that it provides us does little good if there's no one to receive it and to act upon it, so it has, again, significant resource implications.

We also would ask you not to provide in Proposal 4 for the Court Support Services Division to file for sentence modification. It is an administrative division within our Branch, and if it were to petition for sentence modification, the Division would be in the untenable position of advocating against the findings of the sentencing judge, who is also part of the Judicial Branch.

We believe that the current law does provide adequate sentence review provisions, and to be handled basically, primarily, by defense,

defendants and their counsel and we also note that it is very rarely granted.

Nearly every proposed section talks about effective on passage. Some of the provisions, if adopted, would take some time to implement, and we just ask you to be sensitive to that as these proposals move forward.

There is one piece of information that doesn't directly address what's before you, but has been the subject of some discussion, and that is the perception that there are fewer criminal trials taking place in our courts because of an increased reliance upon plea bargaining.

The data available do not demonstrate an increased reliance on plea bargaining to the detriment of cases taken to trial.

In the last six years, the number of cases added and disposed of in criminal trials in our GA Courts has remained consistent with some fluctuation year to year.

In our Judicial Districts, the more serious crimes, there is a decrease in the actual number of trials between let us say, 1985 and now, but it is also the case that approximately 1,000 less cases are being brought when you compare them year to year, and if you do the percentages, we are actually trying an increased percentage of the caseload that we have.

And I think that's important to mention because of the statements that many of you may have heard with respect to plea bargaining.

Trials will always take place, as will plea bargaining, and it is an integral tool in resolving cases. Sometimes the prosecution's case isn't as strong as perhaps the prosecutor would wish, and sometimes a crime victim refuses to testify at trial.

And as you've also heard today, even if a matter is plea bargained, the judge still retains the ultimate responsibility to determine whether the proposed agreement serves the causes of justice.

Briefly, there is one proposal, which we are presenting ourselves, and it is a technical but important one to us, and that is Proposal 1, AN ACT CONCERNING THE PARTICIPATION OF PROBATION OFFICERS IN WARRANT SQUADS.

We are requesting this legislation because we wish to allow specially trained probation officers to participate in existing Federal Marshal's Services Ad Hoc Fugitive Task Force.

And the mission of the force is to seek out and arrest persons who have unexecuted state or federal warrants lodged against them, and we have agreed to participate in this effort because we believe it to be an important public safety measure that facilitates the removal of serious offenders from the community.

We believe that our probation staff if they participate, it's not clear that they would be acting within their scope of their state employment, and so we've drafted the legislation and also an amendment, because we think we didn't perhaps draft it fully, articulately enough in the first instance, which we would ask you to look at and to move forward.

We have some suggested amendments, which are in my testimony that you have. They primarily are designed to allow probation staff to work more closely with law enforcement.

So, for example, to give them statutory authority to detain probationers when they are caught in an act of probation violation until the police can show up and take them into custody. That's just one of the three examples of that proposal.

And as you've heard earlier, it goes without saying that many of these proposals require significant resources for our agency as well as others, and we believe that the OFA has, in fact, prepared very detailed fiscal impact statements and have done a good job at that.

Thank you very much for your patience, and we'll be happy to try to answer any questions you may have. Thank you.

SEN. MCDONALD: Thank you, Your Honor, and you know, there's been a great dialogue going on between the Legislative Branch and Members of the Executive Branch about a lot of these

proposals, but all of us fully understand that there's a third Branch that is absolutely indispensable to anything that the other two Branches may conceive of, and your participation is very important in that process.

And to that end, I wanted to ask you a couple of questions. And you spoke about, we have entirely too many acronyms in this world, but JEB, Judicial, what is it?

JUDGE BARBARA QUINN: Electronic Bridge.

SEN. MCDONALD: There you go. And you know, I don't think it's anybody's goal to reinvent the wheel. My concern in many aspects of this issue is that we don't have a wheel, we have a square and we're trying to roll around on a square and it's not working terribly well.

JUDGE BARBARA QUINN: Right.

SEN. MCDONALD: And so what I, I guess my question to you is, has the Judicial Branch undertaken any kind of analysis of what other states have done in terms of the coordination and integration of electronic information between branches and between agencies of state government?

JUDGE PATRICK CARROLL: I don't think we've done a lengthy analysis of it, Senator McDonald, but I know that--

SEN. MCDONALD: Just identify yourself.

JUDGE PATRICK CARROLL: I'm sorry. I'm Judge Pat Carroll, the Deputy Chief Court Administrator.

I know that it's an issue that all states are confronting at this point because so many of the information systems utilized by criminal justice systems are so outdated they're what's commonly referred to as legacy systems, systems that are 20 or 30 years old.

So it's an issue that's confronting all states. I know that our Chief Justice wants us to address it.

I know that the Branch has been actively involved in the CJIS, the Criminal Justice Information Sharing governing board, and is eager to see that perhaps a new initiative is undertaken that can result in a very effective system that integrates all the law enforcement agencies that would be utilizing it.

I'm told that there are 96 separate municipal law enforcement agencies in the State of Connecticut, the Department of Public Safety, the Department of Environmental Protection, various state college law enforcement systems, all of which could conceivably be using different information technology systems.

So the goal has to be to integrate and standardize all those systems so that they can effectively route the information into a central hub and then once that information is received by the central hub, it can be distributed out to the end users, Corrections, Department of, I'm sorry, Board of Pardons and

Paroles, FBI, State Police Bureau of Identification.

There has to be an integrated system that serves the purposes that have not been served well by the existing systems.

SEN. MCDONALD: You and I get it, and I think a lot of people are beginning to also understand it, but I guess my concern is, while I hear that the Branch is continuing to expand its information technology system, I'm wondering if that's not what we need right now, that we actually have to take a moment and step back and look at a macro level about re-engineering our entire information infrastructure.

And rather than, it's very charitable of you to call it a legacy system. They are more likely jerry-rigged systems that have grown and morphed into systems nobody can understand that are proprietary and not integrated into anybody else's system.

And so that's where we have, you know, all this great information technology that in the final analysis is completely useless because it's only been engineered for very specific reasons without anybody actually stepping back and doing the analysis to understand all of the different agencies that might have to interact, how to engineer that, how to provide the safeguards for it so people only have access to what they should have.

It's extraordinarily complex. So I just wondered if there's, what the utility is to the

Branch continuing to expand on its legacy system, while we are contemplating trying to perhaps re-invent the entire system in a way that may be more costly in the short run but in the long term could save everybody a lot of money.

JUDGE PATRICK CARROLL: I don't think we disagree with that at all.

SEN. MCDONALD: Okay, I'm glad to hear that.

JUDGE BARBARA QUINN: I would just say, if I could just interject for a moment.

SEN. MCDONALD: Sure.

JUDGE BARBARA QUINN: The thing I just described, JEB, is a web-based searchable tool. So it is more accessible and it is not based on a restricted method of getting access as some of our earlier programs would have been. I don't know if that helps any.

The idea is not to get locked in, in the ways that you suggest.

SEN. MCDONALD: I appreciate that. And certainly none of this is written in stone yet, so I fully concur that somebody from the Judicial Branch needs to be intimately involved in it.

It frankly, won't be successful unless you are involved in it, and so we will certainly take care of that.

The other thing I wanted to just mention briefly is the Branch's support of providing information on line to the violation of probation, and you know, that was frankly, we have been talking a great deal as a result of the tragedy in Cheshire about parole violations.

But we also know from very sad experience that the breadth and depth of the probation violations are far greater and the number of warrants that are out there that are going unserved is far more vast than most people I suspect know.

And frankly, in my own community we had a very tragic circumstance of somebody who is in probation, had violated his probation, and then not many people knew that apparently, and the police weren't able to locate him because he didn't have a reportable address, and he's alleged to have stalked and killed his girlfriend when she tried to break up with him, and that was just about a month ago.

So my question for you is, how difficult do you, would you consider that to be, to get all of that information on line and do you need, and do we need legislation to achieve that?

JUDGE BARBARA QUINN: I don't believe we do. Our problem is, who are the end users going to be, and if it is more public information as opposed to law enforcement, we need to remove confidential things such as social security numbers.

But I don't know that we need a legislative change.

SEN. MCDONALD: Well, you know, one of my frustrations is that sometimes we end up having to legislate the obvious--

JUDGE BARBARA QUINN: Yes.

SEN. MCDONALD: --and in my estimation, this is already in theory, public information, if you have the wherewithal, the knowledge, the interest to go seek it out, and certainly we have the rudimentary infrastructure to get information such as this on line.

So I guess I'm trying to explore with you how quickly that type of information could be manipulated into a form that would be publicly available.

JUDGE BARBARA QUINN: Early next year we could do that.

SEN. MCDONALD: Thank you. Representative Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman, and good afternoon, Your Honors, I guess. Judge Clifford as well. Of course, we don't want to leave you out.

But I do have a couple of question. You've heard earlier today there's been a good deal of discussion about the ability to get up and running more community placements for nonviolent less serious offenders who are

taking up prison beds and how that we'd like to instead use for violent offenders.

And of course that is dependent in large part on programs that are operated by the Judicial Branch through the Court Support Services Division, right?

And that includes both the probation system and of course, the bail commissioners and the bail system, and I know that already we have a jail re-interview program where they attempt to identify inmates who are pretrial on low bonds to see maybe if there's a way that they could be released pending charges, while the charges are pending and maybe put into a halfway house or some other type of supervision, freeing up a bed.

And beyond that, there's the Probation. We found out recently how one offender being released from prison with a very serious and violent record, a sex offender, finishing his term, being released on probation.

I think actually a lot of offenders are not released on parole, but instead on probation, so with that in mind, I guess my question is, has the Branch been able to ascertain how many slots or beds could be put up and running within a relatively short period of time, assuming the resources were made available?

So maybe in a month or two, or six months or a year from now, I mean, because we need to make some decisions about numbers, and obviously we can project what the demand is for prison beds

and we're just wondering, can we plan on diverting?

JUDGE PATRICK CARROLL: We have Bill Carbone, the Executive Director of Court Support Services here who is best equipped to handle that.

REP. LAWLOR: That would be great if Bill could answer that.

WILLIAM CARBONE: Good afternoon. We did just recently, in fact, go through a process for the Governor's Task Force on parole and sentencing to look at the different ways in which our current system of programs, both pretrial and post conviction could be expanded as a means of alleviating overcrowding but also with an eye toward assuring public safety.

And we came up with a number of proposals, which have been submitted to OPM that really combine additional probation officers so we can get the appropriate level of community supervision with additional programmatic interventions.

So I'll start on the pretrial side and one of the things we looked at is, of course, the jail re-interview program, Representative Lawlor, the one that you mentioned, and it's probably been one of the most successful vehicles we've had in the state for alleviating overcrowding.

Last year, last calendar year, they conducted 10,000 interviews and 69% of those who they interviewed were released by the courts, based on the plans that they provided.

REP. LAWLOR: Can I just clarify one thing, because I think it's very important? The problem I'm talking about is not so much overcrowding, but instead, freeing up beds so we can use them for violent offenders.

That's really the focus of this because we're trying to zero in on these repeat violent offenders and ensure they're locked up for as long as possible.

So with that in mind, how many beds could we reasonably free up with or without prison overcrowding for that purpose?

WILLIAM CARBONE: Well, I think there's the potential to free up a lot of beds. When I say a lot, I don't have a specific number to give you, but for example, I know that today the jail re-interviewers have a wait list of about 230 or 240 people and it's been even higher at times.

People have been approved by the courts for placement in inpatient treatment programs, but those beds are not available, so as a consequence, the individuals remain incarcerated until the bed is available, which can be several months.

REP. LAWLOR: Can I just ask you to clarify? When you say inpatient treatment, are you talking about a hospital?

WILLIAM CARBONE: No.

REP. LAWLOR: Or are you talking about a drug treatment program?

WILLIAM CARBONE: No. I'm talking about an inpatient treatment program either for substance abuse or alcohol abuse, or perhaps mental health, or a combination co-occurring.

REP. LAWLOR: Who typically runs those types of programs?

WILLIAM CARBONE: They're all run by private nonprofits, all under contract by the Branch, most of it through the Department of Mental Health and Addiction Services.

REP. LAWLOR: And do you have any idea how fast they could scale up if they had the resources to do so? I mean, do they have the capacity to take more? Is it just a money problem?

WILLIAM CARBONE: Well, I think resources drive it, and to the extent that we can provide additional funds I think additional beds can be made available.

But I think even more importantly, it's not beds, because I think if we went back to the court and we gave them an alternative that included intensive outpatient treatment for many of these people, and gave them the assurances that the individuals were also going to be monitored closely in the community, you might get a different response from the court.

They might be agreeable to approving the community release plan rather than allow the

person to continue to be incarcerated perhaps months waiting for a bed.

REP. LAWLOR: Who runs the non-residential programs?

WILLIAM CARBONE: They're all run by private nonprofits. They're all licensed providers, and they do very good work.

And all of the evidence that we have to date suggests that individuals largely do well in them.

So I think that's just one example. I'll give you a second example. Under the Sentencing Task Force we found that there were about 750 or so pretrial offenders who were in a classification that they have significant psychiatric problems.

And there's been a lot of discussion at that Task Force among judges, prosecutors, public defenders, private attorneys, and almost everybody agrees this is a chronic problem every day in the GAs, that you have people who are committing largely nonviolent offenses, but they're committing them chronically, in most instances because they're not taking medication. They're not getting the treatment that they need.

REP. LAWLOR: Now, when I say like the, because we were trying to understand the categories you're really talking about.

So you said there's about 750 pretrial inmates who are--

WILLIAM CARBONE: Who fall within the category of having a, I think the way Department of Corrections has it broken down, it's a one, two, three or four. So they're in the category that they have some significant psychiatric problems.

REP. LAWLOR: And some of those presumably would be violent and dangerous, but some not, right?

WILLIAM CARBONE: Some, for the most part, not, and we did have our staff actually look at this, and we even excluded things like burglaries so that there's not a question, there's a question about that, a legitimate question about a violent crime.

So I think that pool of people as well on the pretrial side offers us an opportunity if we could make the programming available with appropriate levels of supervision to do, to create additional bed space so that others can serve longer sentences.

I'd also say on the post-conviction side, just recently the Department of Corrections provided a report showing the largest category of sentenced individuals continues to be people who violate their probation.

So what have we learned in Connecticut in the last three years about violations of probation and the best ways to reduce it.

Dr. Steven Cox from UConn spoke to the Judiciary Committee and the Appropriations Committee last spring--

REP. LAWLOR: I think he's from Central.

WILLIAM CARBONE: Central.

REP. LAWLOR: And I want to make that distinction because I think they're very proud of their program at Central.

WILLIAM CARBONE: What did I say?

REP. LAWLOR: UConn. And I like UConn, too. That's a good place. Don't get me wrong.

WILLIAM CARBONE: Right. I didn't say he was from the University of New Haven.

REP. LAWLOR: Well, you know, I mean he's good, but he's not that good.

WILLIAM CARBONE: But in any event, Dr. Cox presented to the Joint Committees of Appropriations and Judiciary, the result of his study of people who violated probation, and those who went into special caseloads of only 25 officers and directly connected to community services versus those that did not.

And he said we had 41% decrease in violations and a 70% difference in the incarceration rate for the violation of probation.

So I think there, too, there's a lot of additional things that we can do with the

probation population that's on the verge of violation, or at risk of violation.

For example, when we look at people with significant mental health problems that get into the probation system, and then we look at the re-arrest rates, they have the highest, about 71%.

Yet, we also know that when we put them on lower caseloads, and when we get them connected to appropriate interventions, we get a difference.

And this is not just Connecticut. I mean, you look at the national research out of Washington State where there's been a lot of recidivism reduction research, and there are cognitive behavioral therapies and other kinds of programs that are proven effective.

So really in direct answer to your question, I think there's large populations both pretrial and post-conviction that can be handled safely in the community with appropriate supervision and services that ultimately will create additional bed space that you're looking for, but most importantly, should have the aim of recidivism reduction.

And that should stop those people or a substantial number of them, from coming back into the system.

REP. LAWLOR: Since you're here, I'd like to ask you another question. There's another portion of the bill inspired not by the Cheshire tragedy,

but instead by this recent release of a serial rapist who had completed his sentence but had a probationary term to follow.

And as you know, there's a good deal of concern about, in fact that he was directly released to a neighborhood, a residential neighborhood in Representative O'Neill's district, and one of the provisions in the bill that we introduced would call for 100 additional probation beds devoted exclusively to sex offenders who are leaving prison, and then an additional 100 for paroled to use.

But, how realistic is it that 10, 20, 50, 100 sex offender residential secure beds could be up and running any time in the near future, and what do we need to know to make that a reality?

WILLIAM CARBONE: Well, at the present time we have no inpatient treatment beds for sex offenders. We have no supportive housing program, and we do not have transitional housing for sex offenders.

So when sex offenders come out of prison and onto probation, we have two choices within the Probation Department.

One is to see if they have family that are agreeable to receive them, and to take some responsibility for helping us to get them reintegrated into the community.

Or, a shelter. And the problem with the shelters are, of course, that 9:00 in the morning they have to leave.

REP. LAWLOR: You mean a homeless shelter, right?

WILLIAM CARBONE: A homeless shelter. So it really inhibits our ability to effectively monitor them, and so we have reluctantly had no choice, and there's probably 50 to 75 on any given day that are in shelters because they do not have families that are willing to take them.

So my own sense is that we need several layers, several different levels of housing as it relates to this population.

One is inpatient and Judge Quinn spoke to that. This is not something that we're looking to run or manage. This perhaps more appropriately belongs in the Department of Mental Health and Addiction Services because this is long-term treatment for people.

But we have a lot of sex offenders that don't need that. The vast majority of them do not need that.

They can come out. But the problem is, on the day that they're released, they don't have employment, they don't have assets, so we're unable to get them a place of their own.

So we either need transitional housing so that we can get them stabilized, get them into programs, get them into employment until they have money to be on their own.

Or, once they are on their own, then the question is, where do we put them? I mean,

we've actually, we have some in, including one right now in a motel.

So, you know, you're asking do I, how quickly? I will tell you of all the populations that we deal with, I think this is going to be our greatest challenge because we're overcoming, I think what is a lot of very legitimate community concern about the public safety risk that this group represents.

So I think it involves community education. We have been working collaboratively with the Department of Correction, DMHAS and the Governor's Office, and soon the Branch is going to be issuing an RFP to bring on some expert assistants to help us, people who have had some experience in both finding housing for this population or finding housing in general so that we can take their talents and try to apply it to this group of people.

So I think it would be very difficult in the short run for us to successfully site housing for this population.

REP. LAWLOR: Well, if you could do us a favor, you know, the immediate time, deadline we have is sometime in January we'd like to finalize this particular stage in the process.

But as soon as you could tell us what we need to do in terms of giving you resources or authority to site these facilities, that would be very helpful because I think everyone agrees that the fact that there is zero placement options for these offenders, except family and

homeless shelter, is something that cannot continue.

So I think there's a general consensus that whatever we need to do, whatever we can do, we're prepared to do it, and what we need to know from you is what do you need from us as a Legislature, and I'm sure the Governor feels the same way in order to make this all happen.

So if you could let us know ASAP we'd appreciate it.

WILLIAM CARBONE: I will. And I would also say with sex offenders, the increased use of GPS as noted by Judge Quinn is very labor intensive, and our officers presently have about 40 cases a piece, and in some cases we've actually had to take cases away from them because of some of the high profile cases, including the one that you mentioned.

But when you impose GPS, to me it is valueless unless you are going to have an officer that's going to have the time to respond to what the new technology is telling us.

And the active systems require them to go in regularly to the website to check the whereabouts of people so they are very, very labor intensive.

Our goal is ultimately to get sex offenders down to a much more reasonable level, perhaps 25 cases each in order for--

REP. LAWLOR: Per probation officer.

WILLIAM CARBONE: Per officer because that's the federal standard. It's what parole uses and frankly, to have 25 sex offenders on your caseload is a very, very challenging prospect.

REP. LAWLOR: Can I ask, I just have one more question that I want to ask Judge Quinn, because earlier you mentioned the fact the Branch has made tremendous strides in making information available to other criminal justice agencies so they can do their job.

And I know one issue that's come up recently is access for adult convicted offenders to their juvenile connection information, and I'm wondering, what is the status of that?

I mean, obviously the purpose of the juvenile justice system is that on the theory that some offenders act out at 14, 15, 16 years old, and then learn their lesson and don't repeat it, so therefore should have a clean record. That's one thing.

But other offenders don't learn their lesson, at 18, 19, 20 get arrested again for serious charges, and the diagnosis, the pre-sentence investigations are taking place in the juvenile court level would be very informative.

And as I understand it, although I don't know this for sure, I believe one of the two murderers in the Cheshire case did have a juvenile history that was not available subsequently to the adult officials.

So what is the status of that? Because it seems to me that the adult officials ought to have the right when they're dealing with adult convicted criminals to have access to the juvenile information.

In your opinion, do they have access to that, and technologically do they have access to that? Those are my two questions.

JUDGE BARBARA QUINN: We took a good hard look at the statutes as they are now written. We don't believe that we can properly provide that information, so I think if the policy of the Legislature of the State of Connecticut were to change the balance of confidentiality with respect to juvenile records and pre, they're not called pre-sentence investigations, they're called pre-dispositional studies in juvenile.

If the balance were tilted in the other way and the statutes read to open that up, then clearly we would.

REP. LAWLOR: Well, I think to make it clear what my question is. My question is, not to generally speaking open up juvenile information to everybody but only in the case where someone has now already been now convicted as an adult, and now has acquired an adult record.

JUDGE BARBARA QUINN: As I say, when you read the statute carefully, there's only a limited number of people we can give that to.

REP. LAWLOR: All right. So we're asking you to help us out here. So, if I, I think what we

need some guidance on is how to write a legislative proposal that would allow adult criminal justice agencies to have access to juvenile information once an adult has been convicted, but limited only to their use so that it wouldn't become public.

It's just something that could be factored in. For example, in a pre-sentence investigation on an adult level, which is confidential in and of itself, because that information could be quite useful in determining what is the appropriate disposition of an adult case.

JUDGE BARBARA QUINN: It would not be difficult to do if that were something, that, you know, the way in which you thought you needed to go.

REP. LAWLOR: Well, we can talk about the pros and cons of the proposal, but you've identified what the obstacle is, and if you could just let us know what you think the obstacle is for that so that we can consider whether or not we want to remove that obstacle.

JUDGE BARBARA QUINN: The statute is just very specific, the statutes are very specific about with what agency it may be shared, and what things may be shared.

So, you know, clearly the juvenile advocacy community has a pretty strong position about that, too, but certainly it's not, you know, it's not an overwhelming burden to come up with language that would address that.

REP. LAWLOR: Well, that's come up quite a bit, and I just wanted to do justice to the people who are concerned about it so we can at least understand what exactly the obstacle is and then we can have a policy debate on whether or not it should be changed.

SEN. MCDONALD: Representative Fox.

REP. FOX: Thank you, Mr. Chairman. The discussion on the large number of individuals who are charged with violation of probation raises a question to me.

And it's the circumstance where an individual is on probation and then violates and a warrant is issued by the probation officer, and that person is arrested and then released, you know, facing the violation of probation.

And during that period from the time the individual's out on bond and finally faces the violation of probation charge, there's really no monitoring, nobody to report to, no urine tests.

There's really nothing out there that's going to say what that person's doing, and that can, you know, potentially strain out to about a six-month period or longer.

Is that a problem that you see? Is it something that we should also be looking at because there's really, you have offenders that no one's looking at for a large period of time.

JUDGE BARBARA QUINN: You know, I think in some cases, obviously, judges impose some conditions of release. [Gap in testimony. Changing from Tape 3A to Tape 3B.]

REP. FOX: --incarcerated for violation of probation. I just wondered if that's a problem that we should be looking at?

WILLIAM CARBONE: I think it is. I mentioned earlier in response to Representative Lawlor that we submitted a bunch of proposals to the Governor for consideration, and one of them is in fact to upgrade the whole area of warrant service within the Department.

And the reason is, if we allow people after being given the option of probation, and then the imposition of graduated sanctions so that the violation is not the first thing that the officers do. It's often, it's the last thing that they do, but people are given chances leading up to that.

But once you have someone who's in violation status and the judge has signed the warrant, I think the worst thing that we can do, the worst message is not to have the warrant served, and that is a problem right now, and we have right now about 6,500 warrants unserved, and most of them, the vast majority of them are over a year old.

And so in many, in those instances, those people are not reporting to an officer and they are not getting the urine tested. They are not being held accountable, and in many cases so

long as they don't get re-arrested, they're not found.

And so what we have proposed, and that's one of the things Judge Quinn mentioned, is that we would join the squads that are being put together around the state with the U.S. Marshals and Parole and State Police and other federal agencies, and their whole purpose is to serve various types of warrants on people who are fugitives.

And the reason we need to do that is that most people who violate, either turn themselves in to the Probation Office or to the court, or get re-arrested.

But there's about a third of the people that don't, and they are very difficult to find. It takes a lot of intelligence among law enforcement agencies to figure out where they are.

And police have a lot of responsibilities, and within the probation system, we have less than 20 people who do this, and they have an average of 400 warrants apiece, and that's unacceptable.

So we have proposed that we would reduce the number of warrants per officer from 400 to 200. It would take about 20 or so officers.

In fact, there is a reference in the bill that was filed by Senator McDonald and Representative Lawlor to, I think, appropriate

funds for 25 officers who would have the responsibility for warrant service.

And we support that. We think it's an area of responsibility that needs further attention.

We put a lot of effort into trying to reduce caseload sizes, but with limited resources in the Probation Department there's just so many things that we can do, and we certainly recognize that this is something we need to pay more attention to.

REP. FOX: Thank you.

SEN. MCDONALD: Senator Kissel.

SEN. KISSEL: Thank you very much, Mr. Chairman. You know, as I sat here this afternoon listening to everyone, I can't help but, I'm an eternal optimist.

And I actually think that nobody would wish that tragedy on any family, but I almost believe that the spirits of the Petit Family, the wife and the daughters, maybe they're here with us a little bit, and maybe they're happy about what's going on in the State of Connecticut.

Because I really think, I think that we as a Legislature, Republicans and Democrats, we have more in common on these things than maybe we thought yesterday afternoon before we came in here today.

And I really like the direction this state is going in. I think that Connecticut can be an agile state. It's only about 3.3 million people.

Give yourself a few hours, you can drive from corner to corner, and we're really all focused on this and you know, I think there's a tremendous amount that I just heard in the last half hour.

For example, Chairman Lawlor, I agree with you completely that that juvenile information should be made accessible to other folks in the criminal justice chain.

I don't believe it should be made public, but I think that the people that have concerns with it I think may be a little overly cautious.

I know that in going to seminars and talking to folks in other states, that that information is made available along the chain in many other states.

Clearly, there's going to be policy debates regarding that. But if you solve the statutory reconstruction project there, I, that's one area where I can tell you, Michael, that you and I are in agreement if you're leaning in that direction, as well as the warrants.

I think, I mean, there's lots of stuff in the bill that you put forward, Chairman McDonald and Chairman Lawlor that I completely agree with.

I think the battle between us is how the dollars are spent, and my predilection against the bricks and mortar aspects of the bill, but I think a lot of the other support stuff is very, very important as well.

I'm a CT-N junkie, so I know that I was watching the Governor's Task Force at one point in time, and I believe it was a Ms. Holden, giving her nursing background.

She was analogizing part of the information problem with, in the medical field having an individual that goes in for treatment at one end, and having their medical information track them as they go through whatever procedures they're going through.

And that's why the questions that I want to focus on have to do with the Co-Chairs' proposed bill and your concerns regarding the SHIELD, and I don't have a problem with the SHIELD concept.

And if we have to, we can change around what we already have developed to comport with some of those loose ends, but my first question is, and I don't know if this is the figure, Judge Quinn, that you threw out there, but we've already spent, first of all the SHIELD proposal, the fiscal note I see is $50 million to $100 million. That's a lot of money. A lot of money.

And it says that we've already invested in the criminal justice information system $44.8 million.

Now, is that $44.8 million this legacy system, or is it something new we're developing, or how recently have we invested that?

How can we avoid the $50 million to $100 million and piggyback on the $44.8 million?

JUDGE PATRICK CARROLL: I know that that's not money that's going to the Judicial Branch. I think it's funds that have been invested in the offender-based tracking system through the Department of Information Technology.

So the Judicial Branch has not been a lead agency in the development of a unified criminal justice information technology.

SEN. KISSEL: Can we avoid any of that 50 to 100, because the goals in that part of the proposed bill are laudable, and I'm going to get to that in a little bit as far as the data, because I think the data is the lifeblood here, and there's a couple things.

It's how the data moves, and an assessment of where the data is collected. And so I have some questions regarding that.

But essentially in, the fiscal note is large, $50 million to $100 million and you've initiated some things already, this JEB system, utilizing.

I think part of it is in just the last decade, a lot of it was hardware and software driven and now it's web driven, and if you can have

the security so that people can't tap into the flow of information, you can just jump on that web and use it to facilitate the transfer.

So I just don't think it's anywhere near as cumbersome. It's sort of like going from dirt roads to a steam, to a light rail system, boom, off it goes.

Do you agree that it's going to cost $50 million to $100 million to initiate some kind of SHIELD or however we cant to call it, information data base sharing system, or is there a way to sort of use what may be over at IT with the offender-based tracking system.

I mean, what's your read on all of that?

JUDGE PATRICK CARROLL: I guess the short answer is, we don't know. I think you're going to have to get the technical people in who can give a better response to that.

I can tell you about the system that the Court Support Services Division prepared, the Judicial Electronic Bridge. That was done with existing resources, personnel within the Court Support Services Division. It was done in a six-month period of time.

So I think if people work together on this and the funds are allocated in the appropriate way, I think there certainly can be economies of consolidation and standardization that we don't get if the information is contained in separate silos and separate agencies and there's poor coordination.

So this perhaps is a good starting point. The impetus that this legislative interest is bringing hopefully will bring all the agencies together to understand the need for a coordination and standardization, which hopefully will result in some economies.

SEN. KISSEL: Well, I understand, a lot of my colleagues want to try to solve all of this all at once, and I just, I'm a realist to the extent that I think this is the first few steps on a multi-year process.

JUDGE PATRICK CARROLL: I think that's true.

SEN. KISSEL: And one of the things that I sort of individually, not as a Representative of my Caucus, but I like the whole idea of a sentencing commission, not to supplant the authority of the Legislature, or the ability to create initiatives by the Executive Branch, but similar to how OFA does a fiscal analysis on bill proposals.

Some group of individuals, a stand-alone group, nonpartisan, that can review and do research and make sort of recommendations as to impact of bill proposals and maybe make sure that we continue.

And we have all this heat and fire around this issue right now. Where are we going to be a year from now? I don't want this ball to be dropped because some other issue comes up because all of a sudden gas is $4.50 a gallon

and all of a sudden our focus is on energy issues.

Now, regarding the information and the data. Barb Tooms of the Vera Institute, I know that Mike Lawlor's worked with her on a number of initiatives.

She was kind enough to draw up some, basically an analysis based upon a weekend that we went to in Denver where Alabama, New Jersey, Illinois and Connecticut were selected as states that are actually moving very forward regarding these issues.

And one of the things that, and I shared that with the Co-Chairs and other folks, is that you have the question as to sharing of the data and the mechanism, okay, the vehicle, and getting that all going in a certain direction.

But there's also the assessment as to what is being collected, and I agree that the juvenile data information will be helpful at certain steps of the way. I don't think it should be made public by any stretch.

But how are we as far as, because basically what I was told a couple of weeks ago was that we're not even quite sure just yet, we have the silos, we have the history of the silos, but we're not even quite sure just yet as what is being collected along the way.

In other words, is it electronic? Is it paper? Is it accessible? Is it in a warehouse that's going to take six months to get?

Has there been a comprehensive and whether it's your serving on the Governor's Task Force, Sentencing Task Force, your capacity as Chief Court Administrator, and Court Supportive Services, where are we along that path?

Because clearly, we're not going to be able to solve those issues by January, but I'd like to know what the game plan is going forward.

I know that we have proposals to try to put money into an infrastructure, but I think that we need to do the assessment as to where the silos are, where the data's being collected, what data is being collected, what data is not being collected.

And you know that part of the friction has occurred where Chairman Farr has said well, I wanted to increase the amount of pre-sentence investigation reports, and you've heard me say this spiel a million times.

But the defense bar sort of doesn't want to do it. The State's Attorneys don't want to do it. The judges don't want to do it. Over 90% of cases are plea bargained.

There's no real, there's no real utilization use for that information at the sentencing that's going to be real beneficial even though the Board of Pardons and Parole might find it beneficial.

So where are we in the assessment because as I had indicated earlier this afternoon, Chairman,

Commissioner Lantz had indicated that Corrections is now going down the path of trying to create a risk assessment tool for that one year or prior thereto, to release, which is different than the assessment tool that they use right now for housing.

So where are we generally from the Judicial's point of view regarding the silos and determining what is being gathered at these different pinch points along the way?

JUDGE PATRICK CARROLL: Well, we certainly have the ability to tell you the information that we're gathering. Our Judicial information systems personnel can get you that information in a matter of days, I would think, the types of information that we are gathering.

We know the information that we gather. We know the information that's available to us.

As to how it's being collected, we can tell you that as well. Some of it, the majority of it, in terms of court dispositions, the majority of it is taken down pen and paper in the courtroom.

It's then referred to the Clerk's Office where it is handed to a data terminal operator who enters all the information electronically. That's the primary source of the information that we collect as a Judicial Branch other than the information that's received from the police departments when they bring their paperwork.

Nothing is communicated to the Court Clerk's Office electronically. Paperwork comes in from each law enforcement agency. That has to be entered in electronically in the Clerk's Offices, and when we go into the courtroom it's a paper-based system.

It comes out of the courtroom, back into the Clerk's Office where it's recorded electronically.

SEN. KISSEL: Okay. So it sort of seems to me that we could do a lot better job of trying to get more of this created electronically as opposed to created on paper, so let's go back to the Renaissance and the medieval era.

Now let's move up to the new era. Let's go back to the medieval area. Let's go to the new era.

JUDGE PATRICK CARROLL: And that's where we have to assure that we get standardization amongst all the law enforcement agencies so the same type of information, and the same format is delivered into the Clerk's Office so we can receive it electronically.

SEN. KISSEL: Okay. Now, you within the Judicial Branch sort of have a game plan. I know it's under, the Chief Justice really wants to move forward with this.

My concern is that after we go through our, if there's a Special Session or not, and of course we're going to be back into Regular Session coming in February.

But do you folks have a recommendation as to how we can then move this forward?

In other words, have you thought about a game plan? I know that you know, you sort of know where you want to go, but what about Corrections? What about Pardons and Parole? What about all the other steps from beginning to end to make sure that this is done in a coordinated fashion.

We had this hearing today, and I'm not even sure whether this Committee is going to have another hearing again prior to the start of the next Legislative Session, and we have task forces that have deadlines.

And once those task forces come and they do their reports, they evaporate. And I just, I've been in this Legislature too long to see great ideas then put into paper and gather dust on the shelves and we miss the opportunity that's presented.

And this is a great, you know, nobody would ever want this to happen, and it's not just the Petit family. It's all these other things that are happening in the State of Connecticut.

It's the urban violence, and there's all these solutions that are out there that are just, I can see them, they're within reach, but how, you know, how are we going to get to that next step?

Do you have a recommendation as to how these disparate groups can continue working together, and I see a head nodding by Mr. Carbone as well, and I don't know if that--

JUDGE BARBARA QUINN: Well, I do know that we've been working collaboratively to discuss the details of this with the Department of Corrections and the Board of Pardons and Parole.

And obviously there are other players that we need to get to the table to be able to do it fully starting from the various law enforcement agencies into the court and all of the other pieces that go into it. I mean, I think that part's clear.

SEN. KISSEL: Right. But how can we, before we start shelling out $50 million to $100 million, what is the plan to make this a coordinated effort for the entire criminal justice system from beginning to end.

JUDGE PATRICK CARROLL: I think the concept of a plan is set forth in the Judiciary Committee's proposal for the SHIELD system, which talks about a governing board or I believe there were 12 individual Representatives on the board that would coordinate the planning and development of the system.

We have something similar to that now with the CJIS governing board, which has been meeting, I'm told for years. I've just been up here for two months, but I'm told that that has been

meeting for years in an attempt to try to coordinate all this information.

Clearly, it hasn't been terribly successful in doing so. But again, there's a new impetus. The board had a meeting, I believe last week, recognizing that there's this momentum now that there may be funds allocated to put together a workable and coordinated system.

SEN. KISSEL: I would just, I'm going to conclude by, a lot of you folks are on the Governor's Task Force.

I think as one of your recommendations back to us, and you know, I'm delighted with the SHIELD plan that there's this recommendation, but with all of you folks, because you're sort of what I would envision as similar to a sentencing commission or a criminal justice research and recommendation board.

If you could come up with, in your, before January 1st, in that Task Force report, a concrete recommendation as how we can keep this momentum going, and keep the lines of communication going because the silo is developed for a reason, and the breakdown of communication happened for a reason.

And again, going to these groups, I mean, there's at least within departments it seems to be a free flow of information. Because in other states there's even chiefdoms within departments.

And it's like well, you know, I'd be happy to help you out that way, but it's not coming out of my side of the budget. You figure it out. You get the Legislature to put it in your side of the budget and we'll solve it that way.

I don't want to lose this opportunity. So please, go back to the Co-Chairs of that Task Force and if you could come up with a concrete, this is how we think that we can make this system one of the best in the country.

And there's a reason. There's a reason why Washington State has done well. I mean, I think it's Governor Grenoir, G-r-e-n-o-i-r, and she said, she wanted to tackle recidivism, and she gave that as a major charge, and all of a sudden they assess it almost monthly and figure out where they're going.

Well, there's ways that we can do a lot of this stuff, but six months from now when we're not in Session, and everybody's out campaigning for re-election or retiring, where's it all going to go?

It's all going to be in your hands, and we're not going to be here having these hearings, and I want to make sure that we don't lose that momentum.

So I have a request, and I would hope that you could do that. Thank you, Mr. Chairman.

JUDGE BARBARA QUINN: Thank you.

SEN. MCDONALD: Thank you. Senator Meyer.

SEN. MEYER: Thank you, Mr. Chairman. Your Honors, two eminent lawyers, Connecticut lawyers, one of whom was a former federal prosecutor, have proposed that we abolish parole in Connecticut.

They point out that, and I want to get your reaction to it. They point out that 20 years ago the United States Congress abolished the federal parole system. They're under the federal system, sentencing system. There's real truth in sentencing, and that when the sentence is complete, the ex-offender gets out under supervised release.

The point out that in Connecticut we play a guessing game. At some point in a discretionary sentence an inmate comes before three people called a parole panel, and that panel tries to guess, is this person violent? Is this person a risk to society? Is this person okay, and the guessing game doesn't always work, as we've learned.

And therefore, they're suggesting that the parole system really does not work in Connecticut.

They also point out, as you pointed out in your testimony today, that we have this huge number of people who violate parole, and those parole violators when they're finally found are greatly congesting our prisons.

But most of all they're--

JUDGE PATRICK CARROLL: They're probation violators, not parole violators.

SEN. MEYER: --probation violators. But most of all, they're pointing out that we have a guessing game in Connecticut, that the federal system of truth in sentencing works better. What do you think of this idea?

JUDGE PATRICK CARROLL: Well, if the question is, does the Judicial Branch believe that the parole system should be terminated, abandoned? I think that that clearly, Senator, is a matter of public policy on which the Branch is really not in a good position to offer an opinion and probably should not.

SEN. MEYER: You talked that beautifully. I would think that--

JUDGE PATRICK CARROLL: I always have a hard time.

SEN. MEYER: --you know, a sentencing judge is so key here to the parole issue, and the sentencing judge I shouldn't say so key to the parole issue, the sentencing judge is so key to the original sentence, which if a discretionary sentence between X years and Y years, and then a parole board comes down and makes a guess whether or not the person should be released.

Why not truth in sentencing?

JUDGE PATRICK CARROLL: We don't impose sentences between X years and Y years, Senator. We have determinate sentencing in the State of

Connecticut. There's no indeterminate sentencing in Connecticut.

SEN. MEYER: You sentence up to, say, 20 years. Correct?

JUDGE PATRICK CARROLL: No.

SEN. MEYER: No.

JUDGE PATRICK CARROLL: You give a definite sentence.

SEN. MEYER: A definite sentence in which the person could be released on parole after 50% or 85% or whatever.

JUDGE PATRICK CARROLL: But parole determination is not a Judicial function.

SEN. MEYER: Right.

JUDGE PATRICK CARROLL: It's an Executive Branch function, the Board of Pardons and Parole. It has nothing to do with the Judicial Branch.

SEN. MEYER: Does the sentencing judge, in your experience at the time of sentence, take into effect that there will be a parole consideration at some point, which can release that offender after serving 50% or 85% of his or her sentence?

JUDGE PATRICK CARROLL: I think the criminal judges imposing sentences know which sentences are served at the 85% rate, and which sentences are

served at the 50% rate, so they're aware of that at the time the sentence is imposed.

SEN. MEYER: Okay. They're taking into account the parole system as it works in Connecticut.

JUDGE PATRICK CARROLL: Correct.

SEN. MEYER: Okay, and you feel that this is really a legislative function that we should be looking at as a policy matter and it's not your province?

JUDGE PATRICK CARROLL: Yes.

SEN. MEYER: Thanks. Thank you, Mr. Chairman.

SEN. MCDONALD: Thank you, Senator. I believe there's a very helpful op ed piece written by those attorneys that explains that position more fully.

I believe Representative Adinolfi was next.

REP. ADINOLFI: Thank you, Mr. Chairman. I'll be real quick. One of the things that came up in the discussion was about the release of the juvenile conviction records.

Now, I live in Cheshire. I'm not letting any cats out of the bag, but everybody that lives in Cheshire for a while, knows that one of the perpetrators in the Petit murders at 14 years old set fire to a gas station that was adjacent to a move theater and a funeral home on one side and residential all around it.

Now, had that been available to a judge, do you think it might have affected his sentencing, whether he would give a minimum sentence or a maximum sentence after looking at that record when he was brought in and convicted of burglary?

JUDGE PATRICK CARROLL: Representative, obviously the Judicial Branch is in the midst of handling that matter.

REP. ADINOLFI: Well, I want you to do that is what I'm trying to say.

JUDGE PATRICK CARROLL: It really would be inappropriate to comment upon a particular individual and a particular case pending before the courts of the State of Connecticut right now.

REP. ADINOLFI: Okay. Fine.

JUDGE PATRICK CARROLL: I can tell you this, that at the time of sentencing when a pre-sentence report is made available to a judge and the judge has to make a sentencing decision, juvenile records are contained in that information.

REP. ADINOLFI: Right. I thought they weren't as we spoke before.

JUDGE PATRICK CARROLL: Again, I don't know about the particulars of that case. I wouldn't comment about the particulars of that case. But Judge Clifford is here. He certainly agrees with me that juvenile conviction records

are made available to the judge privately at the time of sentencing.

REP. ADINOLFI: Of a new case, later on, when they're older.

JUDGE PATRICK CARROLL: Yes.

REP. ADINOLFI: Okay, because I thought we said before that they weren't, and it wasn't clear whether they could or not.

JUDGE PATRICK CARROLL: I don't think that that was confined to the sentencing judge. I think Judge Quinn was talking about other individuals to whom disclosure cannot and should not be made under the statute. But at the time of sentencing, those records are available to the sentencing judge.

REP. ADINOLFI: Okay, thank you.

SEN. MCDONALD: Representative Green.

REP. GREEN: Thank you, Mr. Chair. I had a few questions but I'm not going to ask each of them, but just a couple questions.

If a person goes to court and receives a nolle, is that a conviction or not a conviction? I'm trying to understand what a nolle is.

JUDGE PATRICK CARROLL: A nolle is an election by the prosecuting authority not to prosecute the matter. So it is not a conviction.

REP. GREEN: It is not a conviction. I was on this line of thinking because I was similar to the nolles and the juvenile records in terms of what kind of information might a prosecutor or a judge have for individuals as they go through the court in terms of what kinds of previous involvement with the court you can look at.

You just mentioned that judges do have access to juvenile records at the time of sentencing if someone has been convicted and being sentenced as an adult. Is that correct as to your last statement?

JUDGE PATRICK CARROLL: Yes.

REP. GREEN: Okay. Do you believe that the public is aware of that, or do you believe that the public believes that after 16 or 17 or whatever the age is, that juvenile records are not disclosable, and in fact are purged and eradicated, what do you think the public's perception is on whether or not juvenile records are in fact seen by judges if they've been convicted as an adult.

JUDGE PATRICK CARROLL: I don't know, obviously I can't say what the public perception is, Representative Green, but with respect, you mentioned 16 and 17-year-old offenders.

I believe you're probably talking about youthful offenders, and that--

REP. GREEN: No, no. Let's imagine those under 16. Under 16.

JUDGE PATRICK CARROLL: Okay. Okay. I don't know what the public's perception is or what the public's knowledge would be of whether that information is made available to a sentencing judge at the time of a sentencing on a new offense by an adult offender. I don't know what the public's perception would be on that.

REP. GREEN: Would you think that most of the public believes that juvenile records are sealed and that in fact are expunged after they reach age 16? You do not have a sense of what the public thinks the law is around that?

JUDGE PATRICK CARROLL: I don't know how I could have a sense of what the public thinks on that.

REP. GREEN: No, it's not a question of knowing what the public, but in my conversations with individuals, in my conversations with young people and adults, they believe in a sense that once you turn 16, you now have an adult criminal record and all records before that, people would have no access to.

And I would want to believe that if I asked most people in this audience, they would probably feel that they've heard that before throughout their lifetime.

So again, in working with young people and trying to understand what information adult criminal justice system may have privy to once they get a record as an adult, there's, I believe in my community I know, most people believe that those records are sealed and that in fact no one has access to that.

But you're saying that in fact judges do. It makes me wonder whether or not if judges have access to that, does prosecutors have access to that information?

JUDGE PATRICK CARROLL: I can tell you, Representative Green, the context in which it comes up. It comes up primarily in the pre-sentence investigation report, where the information is given to the judge and it's not contained specifically in the pre-sentencing investigation report. At least my experience has been that it's not.

It's handed up to me by the probation officer at the time of sentencing, so it's not a part of the public record, and the extent to which that information is available to the State's Attorney, I honestly do not know.

REP. GREEN: I had a couple of questions for probation, and maybe Mr. Carbone might be able to answer some of these. What is the average caseload of a probation officer currently?

WILLIAM CARBONE: At the present time it's about 100 per officer.

REP. GREEN: You had mentioned that you had found that research had indicated that probation officers with lower caseloads and a more involved relationship with offenders seems to have some positive results around recidivism and other kinds of things.

We have recently, I think, added a number of more probation officers to your Department. Have your, has the average caseload gone down, and how much has it gone down in the past few years with these additional probation officers?

WILLIAM CARBONE: Around 2,000, Representative Green. Connecticut was in the top 5 in the country in terms of highest caseloads at about 252 per officer.

We now have it down to about 100 per officer, so we've made, I think, considerable improvements in that.

We're not where we should be. A hundred cases per officer is far, far more than they should have, but we're moving in the right direction.

REP. GREEN: Will you, you also monitor those who are on probation that are 16 to age 21. Is that correct?

WILLIAM CARBONE: Yes, Sir.

REP. GREEN: And they're considered under adult probation at this time?

WILLIAM CARBONE: They are.

REP. GREEN: Okay. And those specific officers assigned just with juvenile, or could a probation officer have some adults and some, not juveniles, young adults 16 to 21? You don't divide these caseload up by age, do you?

WILLIAM CARBONE: That's exactly the direction in which we are going. As a matter of fact through resources that have been provided to us under the Raise the Age legislation, we're hiring additional officers this year, 20 in fact, who are to be assigned exclusively to the youthful offender caseload, 16 and 17-year-olds.

That will not mean we will have all of them under these caseloads, but next year our hope would be to add additional officers to accomplish that.

All of the research that I'm aware of, both here in state and nationally teaches us that when we have, when we give officers the time to work with clients, and we give them the proper training to both assess needs and connect them in some efficient manner with the correct interventions, we, without question, get lower recidivism rates.

And so, we're trying to borrow from some of the experience that we've had here in Connecticut in pilot programs where we have put small caseloads and proper programs and services together, and have gotten that desirable outcome. We need to do that on a much larger scale.

Again, I will say to you, as I said to Representative Lawlor, we did submit to the Governor at her request, our ideas for how we could improve the system.

And what we said is, one of the first things that should be done is to provide manageable caseloads to both probation and parole because these are very difficult, multi-problem people that they have a responsibility for, and it is absolutely critical to give them the time they need to work with people in order to be effective.

And all of the research that I'm aware of supports the concept that we need to move toward lower caseloads.

And again, not lower caseloads to give people less work, because it's not less work. It's just how we use their time.

We can sit here and decide that they're going to simply process paper and wait for somebody to do something and then violate them, but that's not the whole approach we've taken in Connecticut.

We try to give them the goal of risk reduction. Your job is to try to change behavior, change the way criminal thinking occurs.

We've given them a lot of training and motivational interviewing. We've put a lot of excellent programs in place, but I think the problem is we've got to get the caseloads now across the state down to a manageable level so that when someone comes in the office, they could spend the time necessary with that client to get them on the right track.

Or, visit him in his home. Go to the treatment program. Do all the things necessary to follow up as somebody is showing some signs of relapse.

So I think that definitely has to be a very important objective for the state.

REP. GREEN: Have you seen Proposal Number 15 that we're hearing today that was submitted by myself?

WILLIAM CARBONE: I have.

REP. GREEN: Okay. Was, it speaks specifically on that to look at the younger age, and let me ask Your Honor, have you, and this may be more of a question through somebody from the Department of Correction but do you get the sense that in terms of the prison population, what age group are we either seeing the largest number of people in, and whether or not the 16 to 21-year old, that number of incarcerated individuals.

Has that grown? Not grown? What's your sense of what's happening with the age group?

JUDGE BARBARA QUINN: I don't have the information to tell you that. I know nationally that the younger ages below 30 is when people commit most of the crime that we deal with in our criminal justice system.

Whether in Connecticut that age group has increased or decreased I don't have the answer to that.

REP. GREEN: And my last question, on the violation of probation, that seemed to be a large percentage of those who are now currently incarcerated.

Are most people that are violated for probation and returned back to prison, are those violations from individuals that had original charges of serious violent offenses or nonviolent misdemeanors?

What's the sense of the majority of those people and now back in prison for violation of probation. What's the original charges?

WILLIAM CARBONE: I would have to look at the original charge. I would suggest it probably reflects proportionately the type of offenses that bring people into the probation system, but I would have to check that for you.

REP. GREEN: And also are most of the violations because of a re-arrest and/or because they're not following certain conditions on probation?

WILLIAM CARBONE: The vast majority of them would be for a combination of new arrests as well as technical violations.

One of the important differences we've made, I think in the last couple of years, is to reduce the number of people who are violated based solely for technical reasons.

However, that is often combined with a new offense, and faced with that in the public

safety risk that that represents, those people often get violated.

REP. GREEN: All right, thank you.

REP. LAWLOR: Representative Hamm.

REP. HAMM: Thank you, Mr. Chairman. I would be remiss, we all would, actually, since we've had such a fine discussion this afternoon on Three Strikes, to pass up the opportunity.

Judge Quinn was very careful and very tactful in saying that, you know, Judicial prefers judicial discretion to prosecutorial discretion, so I guess I'd kind of like to ask just your criminal guys here, judges--

JUDGE BARBARA QUINN: My cohorts?

REP. HAMM: Your cohorts, yes, Your Honor, how life in the courtroom will change if we fix persistent offender in accordance with the court, and/or if we add Three Strikes?

JUDGE PATRICK CLIFFORD: What's going to happen in the courtroom?

REP. HAMM: Yeah. I mean, how will it change or won't it change? Kind of show us what your perspective is.

JUDGE PATRICK CLIFFORD: Well, I think as you said in general, and Judge Quinn is probably more tactful than I am.

I mean, I clearly am not in favor of mandatories in general, and I've always been open about that because it takes away a judge's discretion.

I always believe you have to tailor a sentence to an individual. It's not that simple to say if three people get arrested for a robbery that they all get the same, when one person might have gone in to do the robbery, and one sitting in the back seat and claims they had nothing to do with the crime, and which is why we get involved in plea bargaining in general.

So I really believe that mandatories kind of stifle us and give the prosecutor a lot of discretion.

I know one of the speakers earlier indicated that's who should have all the discretion, but obviously I disagree with that as a judge, and I could give you many examples of how it can be used more in plea bargaining against, you know, in a particular situation or maybe it should not.

For example, not that it's a violent crime, but I always use the example of a narcotics case where some kid standing at the corner having five small bags of cocaine on him within 1,500 feet of a school.

Because everything is if you live in New Haven or Hartford, and it's an 8-year mandatory and a new prosecutor who's a year out of law school is going to fix the world, and I've been doing this for 30 years, 13 as a prosecutor, 17 as a

criminal judge and they're telling me I'm going to stay on the 8-year mandatory unless this defendant takes 5 years in prison, and it's a 19-year-old kid with no previous record.

I lose all my authority and discretion there. Not that that happens all the time and the majority of the prosecutors, starting with Kevin Kane all the way down, certainly are reasonable, but that is a situation that can happen.

Some of the Three Strikes bills, how it could affect us depends which ones I guess would go through.

Some of them, I know there has been discussion about including A felony and maybe two A misdemeanors and three Class D misdemeanors.

Well, if someone comes into court in a GA on a breach of peace I don't think their public defender or any private lawyer is going to recommend they plead guilty to a breach of the peace, which might some day make him eligible for life without parole.

I think it can be, have quite an effect on our system on a day-to-day basis. People aren't going to plea bargain on even a felony for a suspended sentence, potentially, if it can lead in the future to life without release. So it's going to have an effect. It's very difficult to put, you know, a number on.

REP. HAMM: Do you have a sense that it would increase the length of sentences that judges

would give, apart from the Three Strikes, so that all of the convictions would be looked at in kind of a tougher lock them up?

Because I think our critical question is about building prison beds and how many, and Senator Caligiuri says it's only 200 Two Strike folks that are, and a whole lot of people I've talked to seem to think that we're looking at a lot more than that because of the ripple that will happen--

JUDGE PATRICK CLIFFORD: Yeah. I think that's too simplistic to look at it that way, that we only have that certain percentage and only a percentage of them.

I think before we get people to have those type of convictions that might qualify them for that it's going to be a lot harder and take a lot longer, and maybe more trials.

One of the reasons we plea bargain many times is that if those cases were tried, half of them might be not guilties, which is many times why you might see a situation where someone gets arrested and there's an article in the paper that, why didn't they go to jail or why didn't they go to jail longer when they had five or six other convictions?

And the reason, quite frankly, is that the state probably couldn't have won a conviction on it. So as a matter of trying to get someone to get a conviction on the record, which is a message to a judge later on, if there is a good case.

There seems to be, in my opinion, a perception that we need to tie judges' hands and prosecutors' hands. Most prosecutors I know want to put bad people in jail for a long time.

Most judges that I know want to put bad people who commit serious cases that are provable cases by the state, in jail for a long time. We are putting people in prison for a long time.

REP. HAMM: Well, I guess that's the other thing that I had read or heard that you had indicated, is that there seems to be a public perception that caused Three Strikes to grow the way it has, that right now our judges are too soft and that we're not locking up violent offenders long enough, short enough, but we're not doing it right.

And I know that the Bar, you know, the Bench feels very differently about that, and I just wondered for the record, if you would put the position of the Branch on the record in this Committee meeting.

JUDGE PATRICK CLIFFORD: Well, I'm speaking as my experience as a criminal judge--

REP. HAMM: That's fine.

JUDGE PATRICK CLIFFORD: --which I've been doing for 17 years and as a chief administrative judge in my experience--

REP. HAMM: So you've sent some people away, I imagine.

JUDGE PATRICK CLIFFORD: Yes.

REP. HAMM: Indeed.

JUDGE PATRICK CLIFFORD: Indeed. And I've been involved most of the time as a presiding judge and spend a lot of time plea bargaining cases, and it's just not that simple a process to say, well, somebody got arrested for this particular D felony, why didn't he go to jail?

There's a lot involved, which is victim's attitude. Are they going to come in and testify? How strong is the state's case? Is this person a cooperator? What is their role in it?

Most of the time persistent offender statutes that we have now that are similar to Three Strikes except it's not life without release, it's been criticized why haven't they been utilized?

Most of the time we don't need them. Besides being very complicated, and complicated more by the recent case that came out, which some of the bills address by deleting some language, but you know, a lot of times prosecutors file persistent offender as a plea bargaining measure.

And if someone was convicted after a trial, the majority of the time the defendant would enter a plea to it or the state would withdraw it

because if you get a case where someone's convicted, as an example, of going into a stranger's house with weapons and terrorizing a family, they get extremely long sentencing that you don't need the persistent offender statute.

There is plenty of room there where you can receive a maximum on a robbery one, burglary one, kidnapping one up to 65 years in prison. There's no reason to have the persistent offender--

REP. HAMM: Which is pretty much life.

JUDGE PATRICK CLIFFORD: Life is defined as 60 years in Connecticut, so I can give somebody life at 60.

So a lot of times the persistent offender statutes didn't need to be utilized because the judges had plenty of exposure.

REP. HAMM: Would it be a fair characterization of your view to say that if we were to pass the Three Strikes the sentences will be about the same on the appropriate crimes if we compare them, but the judges will not have any discretion as far as what happens?

JUDGE PATRICK CLIFFORD: I guess it depends on what we mean by the Three Strikes law. There's been a lot of different proposals--

REP. HAMM: Right.

JUDGE PATRICK CLIFFORD: --and like I said, what may qualify somebody, there's some, which is if

somebody's just charged with a certain crime it can make them eligible for an enhanced sentence, even though it might have been nolled or dismissed.

REP. HAMM: Yeah. No, I'm assuming, I'm assuming convicted. Right.

JUDGE PATRICK CLIFFORD: I mean, I don't think there would be any difference on the original case, a person's first felony. They're going to receive the sentence that the judge thinks is appropriate, considering the seriousness of it.

Did it involve violence, the defendant's background, the victim's attitude, the role they played, etc.

I mean, and the criminal record is the most important thing that a judge certainly would utilize. But I don't think the sentence will have any effect on that felony.

Then the person has another felony and I guess another sentence. I would assume would be a larger sentence, if it's a strong provable case, depending if it involved violence.

And then we get to the so-called third strike, and it depends what that is, and what is actually passed as law. It could be life without release.

REP. HAMM: And your sense is that right now we have the tools to make sure that persistent violent offenders are being locked up for a long time?

JUDGE PATRICK CLIFFORD: We do have the tools because right now on a lot of the persistent dangerous felony offender, if you qualify, I think on the second one it's up to 40 years. On the third one it's up to life.

REP. HAMM: Okay.

JUDGE PATRICK CLIFFORD: If somebody said well, we don't have the minimum, we just have what the maximum is, but as I've indicated, I don't agree with minimum sentences.

Every situation is different. It's not that simple to just say we have one, two felonies, the next one is automatic life.

Like I said, judges put people who commit serious crime, who have serious records, provable cases by the state, in prison for a very long time.

So I think we already have the laws that give these people the exposure, and I think judges are carrying out their duties.

REP. HAMM: Do you have any suggestions about how we're going to shut the revolving door of the [Gap in testimony. Changing from Tape 3B to Tape 4A.]

--[inaudible]

JUDGE PATRICK CLIFFORD: The regulars.

REP. HAMM: Yeah, the regulars.

JUDGE PATRICK CLIFFORD: I mean, I don't know what the answer is to that. You're right. There is a large percentage of people, if you sit in the GA Court, that come all the time.

REP. HAMM: That you see, right.

JUDGE PATRICK CLIFFORD: But they don't commit serious enough crimes to lock them up for the rest of their life, and the problem is when one of those persons commits a serious crime, we look at the record and how much happened to them, but the crimes they had committed before, some of them are quality of life things.

They might have a fight with a drinking buddy or something. It's possession of narcotics. We try not to put people in jail who need treatment, so they build up mainly a misdemeanor type record, you know.

We're looking for an answer to cure all of these problems. You're not. Not everybody is fixable by us just coming out with some laws.

REP. HAMM: It's a challenge to the system.

JUDGE PATRICK CLIFFORD: It sure is.

REP. HAMM: Okay, thank you.

JUDGE PATRICK CLIFFORD: You're welcome.

REP. LAWLOR: Are there any further questions? All right, thank you very much, Your Honor. Appreciate it. Next is Wally Lamb.

WALLY LAMB: We are not, as you may have assumed, Tony Orlando and Dawn plus 40 or 50 years. I'm going to defer to my colleagues and then speak last.

REP. LAWLOR: Are the others signed up?

SUSAN COLE: Yes.

REP. LAWLOR: Could you tell us your name?

SUSAN COLE: Susan Cole. Careen.

CAREEN JENNINGS: Careen Jennings. Chairman Lawlor, Chairman McDonald, Members of the Judiciary Committee, I'm Careen Jennings, resident of Lebanon, retired teacher and three-year volunteer with a writing group at York CI.

I know the women in this group not by their crimes, but for their courage to confront their past. Their past does not have to be their future.

We all need to be safe, and it's horribly clear that some criminals should never be released, but for the majority of inmates, more punishment isn't making us safer.

Longer sentences breed more anger and dysfunction. We must rehabilitate and the system has been doing a terrible job at rehabilitation.

In an informal survey during a recent writing class at York, we recalled only one woman out of maybe 100 who has re-offended after

participating in the group. That woman had mental health issues.

Is there a lesson here? Rehabilitation stops recidivism and makes us all safer.

Point one. Education is a vital part of rehabilitation, both for self-understanding and for job entry. The imprisoned women I work with need and want post-high school education.

There is a GED preparation, but there is almost nothing available at the community college level. Education reduces recidivism. Education reduces tax dollars needed for prisons.

Point two. The women I know want to earn sentence reduction by staying discipline free and working hard at the jobs given them in prison. They are doing both, despite there being no incentives because good time was legislatively ended in October, 1994. It's time to reverse the 1994 legislation that ended credit for good time.

Point three. Near the end of their sentences, a work furlough program will give offenders a head start on both a resume and restitution. Properly administered, this program will have no losers.

These rehabilitative programs used to exist. They worked, but they were ended as society moved toward more punishment. Punishment doesn't teach offenders to become responsible,

job-holding citizens. The women I know have been punished much of their lives.

These proposals have plenty of sticks, 15, but not even the most woebegone of carrots. Offenders need help and hope. It is a moral imperative that we save those who have learned from their mistakes, who have gained strength from the crucible of prison, and who will use whatever years remain to them to live cleanly and productively.

The best way for both liberals and conservatives to be save is to help offenders emerge from prison as better people than they went in. They want this, too. For all our sakes, we must rehabilitate. Thank you.

SUSAN COLE: Members of the Judiciary Committee, my name is Susan Cole and following a 25-year career in substance abuse treatment, I've spent the last 3 years at York volunteering at York Correctional Institution.

I'm here to ask you to consider alternatives to harsher penalties, longer sentences, reduced parole and probation time.

I ask that you not paint all offenders with the same broad brush. They're not all hardened criminals, at least not yet. Three years at York has taught me that.

Representative Lawlor has asked a number of times about ways to reduce the number of prisoners, the number of inmates, in order that

we rightly make room for all of the people who should be there.

And I did a little research and I have one concrete example to give you on how that can be done.

This is a real person in all but name. Jane Doe was convicted of second-degree larceny, a Class C felony and sentenced to 14 years for embezzling $8,600 from her employer.

She probably won't do 14 years. Maybe she spends 9 or 10 at York. Ten years at $42,000 a year, and that apparently is low. The figures I've been seeing lately have been $50,000 a year. But 10 years at $42,000 a year will cost you and me $420,000.

If you consider the 662 other inmates now serving time for larceny of varying degrees, we could be talking about $278 million.

Let's say instead of ten years, Miss Doe spends 18 months to 2 years in prison for what she did. She spends a year at a halfway house, and remains on probation until she's paid back the money that she stole, paid it back with interest.

Total cost to taxpayers, about $100,000 instead of the $420,000. Her victim is paid back, and having returned to a constructive life, Miss Doe is unlikely to re-offend.

Now it's true that not all of the 662 potential scenarios will have such a positive ending, but

how many would it take to make a major dent in prison overcrowding, freeing up prison cells for those violent criminals who belong in them, and that's just larceny. Think about other nonviolent crimes that we can look at and take the same approach.

We can get tougher on offenders or we can get smarter. It depends on what kind of a society we want here in Connecticut. A puritan culture that harshly punishes or an enlightened society that recognizes that we may not be able to rehabilitate them all, but we can do a lot better and save a bundle of taxpayer money along the way. Thank you.

REP. LAWLOR: Thank you very much. Are there any, are you going to have something to say, Wally?

WALLY LAMB: Yes.

REP. LAWLOR: Please go ahead.

WALLY LAMB: I am Wally Lamb, a novelist, a teacher, and an eight-year volunteer facilitator of the writing program at Niantic's York Prison.

I'm also the editor of two internationally published collections of our incarcerated students' personal essays, *Couldn't Keep it to Myself* and the recently published *I'll Fly Away.*

For the past several months you've been hearing a lot of impassioned rhetoric from both sides of the crime and punishment argument, and you've seen a lot of statistics, numbers of

inmates convicted of violence and nonviolent offenses, the number of dollars needed to build more human warehouses that will no doubt be called correctional facilities, although little is apt to be corrected there.

Inside the Connecticut prisons for which we are all responsible, despair and dysfunction prevail. Suicides occur more frequently than they should, and recidivism is the norm, rehabilitation the exception.

Now, as our state in its well-intentioned but perhaps misguided reaction to the tragedy in Cheshire considers forsaking or under-funding the kind of supervised reintegration programs that work, and instead throwing more money and lives into the black hole of a punishment model that has proven over and over again not to work, allow me if you will to put a human face on some of those numbers and percentages you've been talking about today.

Sixty-year-old Bonnie Foreshaw is a soft-spoken woman of strong faith and dignified bearing. Incarcerated since 1986, she was neglected and sexually abused as a child and savagely beaten by two husbands, one of whom cracked her skull with a baseball bat.

When that husband began stalking her and making threats on her life, Miss Foreshaw made the crucial error of buying a gun for self-protection and hiding it in her bra.

Following the accidental shooting death of a bystander during an altercation with a man who

was frightening and harassing her, Miss Foreshaw was convicted of a first degree homicide, although legal experts concur that the charge for this unpremeditated act should have been manslaughter, and that her prosecutor played the race card for all it was worth, and that her public defender failed to reach a minimum level of competency.

Miss Foreshaw's judge sentenced her to 45 years at Niantic. At the time it was the lengthiest sentence ever given at this facility. She's been in prison longer than any other woman serving time at York.

Before her incarceration, Bonnie Foreshaw was a homeowner in Bloomfield, a machinist who served as her union's shop steward and a JC President.

At York she had served as a Big Sister and surrogate mother and grandmother to generations of inmates, and she was one of the first graduates of York's Hospice Program.

Long-term incarceration is hard on the body as well as the soul, and DOC medical care is hit or miss. Miss Foreshaw suffers from a diabetic condition, macular degeneration and a painful arthritis of the spine.

She puts on a brave face but her hope dwindles in the face of what is now being advocated by those who would lump her because of her violent offense with the alleged murderers of Jennifer Hawke Petit and her daughters.

And so I come here today to implore you all on behalf of Bonnie Foreshow and hundreds of other warehoused inmates who pose no real threat to public safety, to be the architects of a prison reform package that is nuanced and wise and above all else, merciful. Thank you.

REP. LAWLOR: Thank you very much, Mr. Lamb. Are there questions? Representative Adinolfi.

REP. ADINOLFI: Yes, just, thank you, Mr. Chairman. Miss Foreshaw, you mentioned that her husband beat her with a baseball bat and she went out and bought a gun and put it in her bra.

What happened to her husband? Did she press charges or do anything about that, or was she going to take care of it herself?

WALLY LAMB: I don't know. I can't answer that. I don't know what--

REP. ADINOLFI: It sounds like there's something missing there. She had other intentions, and maybe the good judge saw that when he sentenced her that she would be dangerous, because I would expect, God forbid if I even touched my wife, I know where I'd be.

I mean, she would make a 911 call immediately. That's the way it should be.

WALLY LAMB: Yeah, I don't think it was--

REP. ADINOLFI: So I mean we're going ahead and we're talking about her and we sympathize with

her. Meanwhile her husband hit her with a baseball bat and he's off free.

WALLY LAMB: Well, Representative Adinolfi, first of all, I don't think it's funny, and secondly, I believe that you know, that you have to, when you work with incarcerated women for eight years, you begin to understand how prevalent post-traumatic stress disorder is, and how it leeches into women who then later become incarcerated, and Bonnie Foreshaw was suffering from post-traumatic stress disorder and still is.

REP. LAWLOR: Further questions? Representative Green.

REP. GREEN: Good evening. A couple of questions. We've talked a little bit about, not so much the serious violent offender, but the nonviolent repeat offender and just, what are your thoughts on communities trying to grapple with constantly seeing individuals who go in and out, in and out in the sense of whether or not that community feels safe.

So not making any decisions on a person's character, but you just see that kind of routine.

At what point, how do we try to have a community feel comfortable that one, the community is safe, and two, what are we doing for those individuals if we don't in a sense make the consequences more severe as, if they continue to get arrested.

WALLY LAMB: Well, I think we addressed both issues. If we up the ante in terms of education that's available within the prison.

Also, addiction services. Currently there are waiting lists to get into NA and AA at York. That should not be the case. There should be more and better rehabilitative services, and certainly more job training.

There is a lack there, and I think that addresses both the public safety and also the rehabilitation of prisoners.

REP. GREEN: Maybe if you could comment, then, on the sort of feelings of a community by seeing a repeat offender, male or female repeat offender.

How do you think the community perceives whether or not the criminal justice system is providing the kinds of, well not, that the communities are feeling safe if they see these individuals in and out of the community.

WALLY LAMB: I believe that the people who are in and out and in and out lots of times are the individuals who have addiction problems, not necessarily violent people.

And so the safety element I think is addressed with longer sentences.

REP. GREEN: Do you have a sense of whether or not, what the average stay of a female in our Connecticut prisons versus males in the prisons?

I'm just trying to get a sense. We have less number of females, and I'm trying to figure out, do they do less number of years, do they do less on the average than males?

WALLY LAMB: I don't have statistics to back this up, but as I say, I've been working at York for eight years and I'm sort of confounded by the length of sentences, particularly the length of sentences that are given to women of color, which seem to be longer, and more harsh than white women.

REP. GREEN: And probably based on similar type of crimes that they've been convicted of?

WALLY LAMB: Yes, I guess probably.

REP. GREEN: There is a proposal that I made that talks about reducing caseload and really focusing on the 16 to 21 to identify early on, behaviors that might involve somebody in the criminal justice system.

Do you have any thought on preventative and/or early intervention and how we might identify those individuals or would we be stretching it a little bit to try to go at a younger age and say these individuals may have potential to get involved in the criminal justice system, and should we do anything different?

WALLY LAMB: Yeah, I work with a woman who is now 23 years old. She was convicted when she was 15, she entered prison. She was one of the first

youthful offenders who was incarcerated at York.

She tried to commit suicide a couple of times. She has had a long history of discipline problems within the system, and now she is starting to come around. She is rehabilitating herself with the writing.

But I don't feel that the answer is to grow more and harder criminals by putting youthful offenders within the adult prison system, and again, it's education that is the key.

REP. GREEN: Okay, thank you.

REP. LAWLOR: Representative Walker.

REP. WALKER: Yes, thank you. You mentioned in your testimony that the healthcare was woefully inadequate. Can you just expand on that a little bit?

WALLY LAMB: Yeah.

REP. WALKER: We spend a lot of money on our healthcare for the state for the correctional system. I'm just curious about that.

WALLY LAMB: Right. One of the women that I work with has waited for several months to get a mammogram, and in order to get that, she has to go up to Farmington and in order to go to Farmington she is woken up somewhere around 3:30, 4:00 o'clock in the morning and put in the ice cream wagon, and then she travels

around the state where, to other institutions where people are picked up.

She may or may not be looked at on that day, and she may have waited for weeks for that appointment, and she may wait for several more weeks for the results.

And then mental health is a whole other issue, and there is understaffing of the mental health people there.

And you know, I think there are some good people who are administering mental health and also medical health but I do feel that it is more hit and miss than not.

REP. WALKER: Thank you.

REP. LAWLOR: Further questions? If not, thank you very much.

WALLY LAMB: Thank you.

REP. LAWLOR: Next is Attorney Mary Anne O'Neill from the Governor's Office, and she'll be followed by Joanne Cathey.

MARY ANNE O'NEILL: Hi, Senator McDonald, Representative Lawlor, Members of the Committee. I'm Mary Anne O'Neill, counsel to Governor Rell and I am here to deliver the Governor's testimony on the bills that are pending before the Committee.

And if it's okay with you, I'm just going to read her testimony for the record.

Dear Senator McDonald, Representative Lawlor and Honorable Members of the Judiciary Committee. I appreciate this opportunity to communicate with you about the need for reform in our criminal justice system.

As you know, after the tragic events in Cheshire last July, I created the Sentencing and Parole Review Task Force to conduct a top to bottom review of our criminal justice system from arrest to release to ensure that we do everything in our power to prevent the horrific crimes that occurred in Cheshire from ever happening again.

I charged the Task Force with examining all aspects of our criminal justice system, identifying entities and processes that should be changed, and making recommendations to me to affect such change.

The Task Force has examined the processes and procedures by which the state charges, sentences and releases offenders, has conducted a public hearing, and will shortly begin drafting their recommendations.

I know that you have been engaged in a similar endeavor, and have followed the work of the Task Force.

My staff and I have reviewed all of the proposals currently pending before your Committee. I support the following concepts contained within these proposals.

I believe that we need a full-time Board of Pardons and Paroles. Offenders must only be released into the community after a thorough review of the complete record by a panel of professionals.

The Board of Pardons and Paroles should not hold a hearing on the suitability of parole release for an offender unless the Board has reviewed the complete file on the offender.

We must ensure that all components of the criminal justice system, including prosecutors, judges, the Department of Correction and parole and probation officers have prompt access to all relevant information.

We must redesign our current information technology systems to accomplish this goal as soon as possible.

Residential burglary of an occupied dwelling has the potential to escalate into serious violence. I support the strengthening of the penalties for residential burglary, or alternatively, the creation of a separate crime of home invasion with a higher penalty.

In addition, persons convicted of residential burglary or home invasion should not be parole eligible until they have completed 85% of their sentence.

We have all heard from constituents across the state who have urged us to be tough on career criminals. To ensure the safety of our

citizens, I support increased penalties for persistent offenders.

As you know, I have directed the Department of Correction to increase the number of offenders in the community being electronically monitored. I support increased use of global positioning systems for this purpose.

I believe we need to provide additional re-entry services for offenders released into the community, particularly in Hartford, Bridgeport and New Haven. These programs are critical to ensuring that offenders do not recidivate.

In short, we must examine all components of the criminal justice system to ensure that the public is protected from violent individuals, that victims' rights are respected, and that offenders are treated fairly and even-handedly.

To achieve these goals, I urge you to listen to the citizens of Connecticut who have come to testify before you. I believe that the different perspectives and ideals they present will assist you in your duties and ultimately help in creating an improved criminal justice system.

As you can see, we have much common ground. I urge you to work cooperatively with my Sentencing and Parole Review Task Force to develop a comprehensive set of proposals that addresses the many challenges our criminal justice system faces, while maintaining the integrity of our constitutional spending cap.

If you are able to achieve that goal, I would welcome a Special Legislative Session to enact real and meaningful criminal justice reform in the New Year.

Thank you once again for listening to my voice and the voices of the people of Connecticut and I look forward to working with you on these complex and critically important issues in the coming weeks, and to restoring the public's trust and confidence in our criminal justice system. Thank you.

REP. LAWLOR: Well, thank you, Attorney O'Neill, and it does seem like there's an extraordinary amount of common ground here among everybody involved in the Executive, Judicial and Legislative Branch, and I think that's a good thing.

And I don't know if you were here at the beginning of our meeting, but we were having some brief discussion about what the appropriate next steps would be, and if you were you heard us talk about the importance of working with the Governor's commission and with the Governor's office itself.

Do you have any insights from the Governor about how she would like to handle this next step at all?

MARY ANNE O'NEILL: I think the Governor is planning to wait for the recommendations from the Task Force, and the Task Force will begin developing those recommendations the second week in December.

So I think before the Governor makes a commitment to a specific proposal, she's going to wait for the recommendations of the Task Force.

REP. LAWLOR: And just so we can get our timelines properly calibrated here, do you think the Task Force is expected to finish its work on December, in the second week of December, or are they just going to begin the process of finishing their work in the second week of December?

MARY ANNE O'NEILL: They will begin the process of finishing their work. I think we are still accepting presentations. For example, on December 10th, I believe, we're expecting a presentation from the Department of Information Technology on how to coordinate the various systems, and we want to wait until after that to really begin formulating specific recommendations.

So the report is still due to the Governor by the end of the month of December.

REP. LAWLOR: And you are actually representing the Governor's office on the Task Force, is that correct?

MARY ANNE O'NEILL: Yes, I am.

REP. LAWLOR: The other thing that the Governor specified in the letter you just read to us was raising the issue of the spending cap and the

fact we're at the beginning of a biennial budget at the moment.

And obviously, as we've heard today, a number of these things are going to require either more probation and parole officers or more halfway house beds or a combination of those things and on and on it goes.

Do you know, is that meant to say that the Governor's position is that we can do whatever we want, but we can't spend any additional money on it? Is that, because as I understand it, we're up against the spending cap already.

We're at the beginning of a two-year budget process. We are, I believe the Governor authorized exceeding the spending cap by I think it was $550 million for the biennial budget, so we went above it to get the current budget finalized.

So the question is, what, I mean, how much are we going to be able to do in order to sort of provide the resources that all these various folks have been asking for?

Do you have any, are we really limited by, can we not think, contemplate spending any additional money on this, or how is this going to work?

MARY ANNE O'NEILL: I don't really have a definitive answer to that question. I only know what's in the Governor's testimony.

REP. LAWLOR: Okay, because it would be important for us to understand, because obviously it limits our ability to come up with the comprehensive proposal we're talking about here if at the end of the day we have to do it either by cutting existing programs or, I don't know what else we'd do.

MARY ANNE O'NEILL: I [inaudible]

REP. LAWLOR: That would be something important to get some feedback--

MARY ANNE O'NEILL: Okay.

REP. LAWLOR: --from the Governor's office about what our guidelines are because obviously we're going to have a separate process here in this Committee potentially working with other Committees coming up with something at the same time the Governor's Task Force finishes its work.

So by the end of next month, we're hoping to be in the same place. We just to know what the parameters really are in terms of resources. So, Senator McDonald.

MARY ANNE O'NEILL: I can have that conversation and get back to you.

REP. LAWLOR: That would be great. Thanks.

SEN. MCDONALD: Hi, Attorney O'Neill.

MARY ANNE O'NEILL: Hi.

SEN. MCDONALD: I just want to ask you a couple of questions but let me first ask you, I guess a base line question.

Are you prepared to speak on behalf of the Governor's office on the policy issues that are set forth in this testimony?

MARY ANNE O'NEILL: No.

SEN. MCDONALD: Okay. Well, that sort of short-circuits my questions, and joviality aside, I'm somewhat frustrated because I've looked down the list of department heads who are going to be testifying and you're here on behalf of the Governor.

I understand you're just going to be testifying to what she has written. But there's nobody from the Department of Correction here. There's nobody from the Department of Information Technology here. There's nobody from the Board of Pardons and Parole here.

And yet, all of these are intimately intertwined with their base mission statements.

So I guess my question to you is, do you know why none of these agencies are represented before the Legislature today to testify about their futures?

MARY ANNE O'NEILL: I don't know that. I do believe Chairman Farr has submitted some written testimony.

SEN. MCDONALD: You know, part of the benefit of, I mean there's a drawback of having department heads here, and that's oftentimes because it takes 30 or 40 minutes to delve into their testimony because it's so critical.

So having written testimony is helpful, but it's a limited utility when we're not able to explore this, and we've heard over and over again about the importance of our actions.

But if we don't have that level of cooperation from the people on the front lines it makes our task that much more difficult.

And just in, you know, reading the Governor's testimony as you've relayed it, she said, I support increased use of global positioning and the other comment that caught my eye in her testimony was that she supports increased penalties for persistent offenders.

I have to tell you, I don't know what that means. We have about six different proposals here, many with nuances that are extraordinarily important, not only for public safety but for the budget and for the long-term policy implications of the state.

And I don't know what the Governor's position is four months after we started having this dialogue.

So can you lend some help to us to understand what the administration's purview or perspective is on some of these issues?

MARY ANNE O'NEILL: I think on all of these issues the Governor's going to wait for the recommendations of the Task Force.

I mean, she supports the concepts broadly but does not at this point have specific recommendations.

SEN. MCDONALD: Thank you.

REP. LAWLOR: And I just wanted to follow up with one comment because this comes up a lot, and that is the increasing frustration we have, not with the Governor, but with the idea that we can pass laws in the Legislature, but if the spirit of the law or the intent of the law is not observed in the Executive Branch or the Judicial Branch then we've defeated the whole purpose.

And we saw it at least in this one case, in the Cheshire case, there was one specific state law that in essence had been ignored for ten years.

And so the reason why it's important to have the agency heads here and participating in this dialogue about how we should write the bills is because at the end of the day they're the ones that are going to have to give life to this.

We can write the policy, but if it's ignored or it's inappropriate or we've missed the point or we've written something that can't be done.

For example, the prosecutors had said, well great, you require us to do the transcripts but you didn't give us the money for it, you know.

And it's these kinds of things we don't want to pass along and find out two or three years later that it didn't work because of a technical reason or because we didn't have the adequate funding or whatever it is.

So if we're going to do it, we should do it so it's actually going to happen, not so it sounds great at the bill signing, but it's got to really work this time and that's our frustration now, so if you could convey that that would be great.

MARY ANNE O'NEILL: I will convey that, and I think the Governor made a commitment in this testimony and also in her testimony to the Task Force yesterday about working cooperatively.

So, although I don't have details today, I would expect that we will work cooperatively with you on this in the future.

REP. LAWLOR: That's great.

MARY ANNE O'NEILL: Okay.

REP. LAWLOR: Senator Kissel.

SEN. KISSEL: Attorney O'Neill, nice to see you.

MARY ANNE O'NEILL: Nice to see you, too.

SEN. KISSEL: Please tell the Governor I commend her on her leadership regarding this.

Regarding some of the points, and again, hopeless romantic and optimist that I am, I have no doubt that we will be working cooperatively as we go forward.

When you have the hearing, when the Governor's Task Force meets in December with the Department of Information Technology--

MARY ANNE O'NEILL: Yes.

SEN. KISSEL: --one of the questions that I had, and they're not here today, but on Page 2 of Chief Court Administrator Barbara Quinn's testimony at the bottom, probably the third full paragraph down, there's the question as to the $44 million already invested in the offender-based, they said $30 million but Office of Fiscal Analysis says $44 million, the offender-based tracking system.

And in the bill proposals by Chairman Lawlor and Chairman McDonald, they want to have this SHIELD system set up that has an estimate of $50 million to $100 million, and I just think that you know, every resources is extraordinarily valuable. We need to stay below the spending cap.

So to what, one of the things I'm asking is, when your Task Force meets that the specific question be asked, and I'll probably write to do it myself as well, but how much can we piggyback on what's already been done to try to get to where--

MARY ANNE O'NEILL: That's something that we are aware of and as you probably know, Brian Austin from OPM is on our Task Force, and he is acutely aware of that, and he has talked about making sure that we work off of what we've already built and not reinvent the wheel.

SEN. KISSEL: Okay, that's one thing. Two, in your capacity as a representative on that Task Force, I sort of urged a slew of folks from the Judicial Branch that I don't want this energy and this synergy to stop at the end of January.

I think that this is the first step. I think that this family suffered horrendously, and to try to get some kind of good out of all of this, we've got this huge focus right now, and it needs to have a life that's going to go beyond the next six months.

And so as part of the Task Force's recommendation to us in January, I would just, and I'll talk to the Co-Chairs of that Task Force as well, but for you, a vision for where we go from here, rather than just the Judiciary Committee, you know, we'll be monitoring it.

It needs to have like a next step plan beyond just a potential Special Session. I mean, a long-range plan, a multi-year plan as to how we can maybe make our system the best in the country. I really think that we can do that.

Third, I had sent you a copy of Barbara Tooms recapitulation of some of the things that we gleaned at the Denver conference. I haven't spoken to you personally about it, but you're a

member that Task Force, and again, I would urge the consideration of all members of that Task Force to consider a Sentencing Commission or a Sentencing Policy and Research Board, whatever we want to call it.

Not to supplant the authority of the Legislature, but to act as a sounding board, a research mechanism, a panel of nonpartisan experts that can give us that kind of information going forward, because again, I think a lot of these things are going to be important going forward.

MARY ANNE O'NEILL: I received that summary from your aide, I believe, and I forwarded it to all of the members of the Task Force.

SEN. KISSEL: Thank you very much.

MARY ANNE O'NEILL: So we will look at that.

SEN. KISSEL: And by the way, thank you for your yeoman's service in a multitude of areas, and we don't have any easy choices in front of us, but I think that again, a lot of the reporters and a lot of the media folks I talked to, sort of took the approach that we're all over the place and I told them all.

I said, I think what you're going to find is that we have way more in common than we have in the details that we may be a little different, and I'm hopeful at the end of the day that there's going to be a really good product out of this that's going to enhance public safety

and utilize our resources in the most adroit and effective way possible. So thank you.

MARY ANNE O'NEILL: I think we all do, Senator.

REP. LAWLOR: Are there further questions? Representative Godfrey.

REP. GODFREY: Thank you, Mr. Chairman. Good to see you.

MARY ANNE O'NEILL: Good to see you, too.

REP. GODFREY: I'm delighted the Governor chose you to come over. Just for those who don't know, Mary Anne and I have worked over the years when she was with House Republicans on Bill Review and that kind of thing, so we have a very long professional relationship that we're building on.

I know you can't answer questions for the Governor, but apparently we're making you the messenger to take messages back.

MARY ANNE O'NEILL: That's fine.

REP. GODFREY: So I have a couple.

MARY ANNE O'NEILL: Okay.

REP. GODFREY: We have talked here today a lot about the, we're using the term silos. We have all these agencies that have all this information and it's not shared.

I have an almost genetic frustration with bureaucracies in general. The first rule of bureaucracy is, don't touch my stuff, and it's not just a matter of having the right computer system and the right switch.

It's often decades, if not centuries, of agency inertia that prevents the sharing of information.

Unfortunately, bureaucracies believe information is power and they're not going to share their information with anyone else, and it's going to need someone at the gubernatorial level to be able to cut through this inertia to get things moving again.

And I've heard today, certainly, several, you know, half-baked ideas, which is kind of what we're about today, trying to do a little culling, and I was disappointed to hear that one of the solutions is, we create a new agency composed of agencies in the manner of an agency that we have doing that now that doesn't work.

And I'm going, what? We're using an agency that doesn't work as a model? One of the first things I learned is, if things are going wrong, repeating the same action over and over again is actually a good definition of insanity, not progress.

So I'm hoping that the Task Force, the Legislature, the Governor's office, as all these interested parties continue to work on these over the next weeks, and I hope it's just weeks, that we're not going to throw

bureaucracy that is ineffective at the problem, hoping that oh, they'll come up with a solution pie in the sky by and by.

So I want to share that. I'm especially concerned not only the named agencies that aren't here today also include OPM and the Department of Mental Health and Addiction Services, and I'm hoping the bureaucrats aren't hiding from us and each other to keep those so that we can't touch their stuff.

My particular concern in the sharing of information is, I'm disappointed thus far in the lack of use of the Department of Information Technology, and I'm kind of a geek, and you know that. A lot of people do.

And I just feel that the decision made early on in Governor Rell's administration to decentralize decision makings about hardware, software, that kind of thing has proven to be a bad one in light of the Cheshire incident.

And all the discoveries that we've been making about the lack of the ability to share necessary information to the point of we not even knowing who has electronic information as opposed to on paper information, who's using the snail mail as opposed to email, those kinds of things.

And I would hope that as we develop, certainly statutes and policies over these next few weeks, that we don't decide to create new bureaucracy to start studying the subject, but that we empower the Department of Information

Technology, which has the expertise on the technological side to be the lead agency, not to have a new agency that includes them, but actually start to have them be the lead agency.

When I talked to Committee Members, I was talking to Senator McDonald about how computers are used in private practice, and you need a very strong centralized, well, if one thing you don't need to be centralized is information technology. Let me put it that way.

So I hope this is all borne in mind in the next few weeks as we go forward, and even that, and even the Governor is saying correctly, and I laud her for it, that we must redesign our current information technology system.

But even that's not free. It's going to cost a lot of bucks. This isn't the, you can't go to Staples or Office Max and buy this software off the shelf for $139. This is very complicated technology that a huge amount of which goes into keeping it secure, keeping it unhackable.

We can talk about the policy of sharing juvenile justice and youthful offender records among agencies that rightfully should have that information and the whole process of following the continuity of care, if you will, for an offender.

But if that's hackable, if it's disclosed, if someone takes their laptop on vacation and the whole thing gets stolen, those are problems that I think we need to grapple with in the short term, not the long term.

So I think we're going in the right direction. I'm very optimistic. I share your romantic and optimistic point of view, Senator Kissel, but I think, I just really wanted to emphasize using DoIT, using the expertise we already have rather than creating a new bureaucracy, and moving forward.

So if you'd take that message back, I'd appreciate it, and always good to see you.

MARY ANNE O'NEILL: Thank you, I will. Good to see you, too.

REP. LAWLOR: Are there further questions? Representative O'Brien and then Representative Green.

REP. O'BRIEN: Thank you. Just to piggyback on a couple of the comments before, and as those who know me and as Representative Godfrey knows, I'm also one of the geek Legislators here, and I think I have a similar but different perspective on the computers.

And it's worthy of pointing this out at this time when we're talking about introducing a major new computer system that we tend to, we tend to make things very expensive and convoluted in ways that I think are not necessary.

I find that computer systems in the state as a whole, end up being much bigger deals than they need to be and we end up spending astronomically more than I think any rational

justification can really support. I know that's more of a message to take back than anything.

But I do have a question, and I don't know if you know the answer to this. In the short run, there is with the current policies of the administration, an overcrowding problem that's developing in our prisons. Do you know what the current plans are to address those?

MARY ANNE O'NEILL: I don't. I believe the Governor is waiting for the Task Force recommendations.

REP. O'BRIEN: To address the crowding issues as well as the future legislation?

MARY ANNE O'NEILL: You're talking about lifting the moratorium on the release of violent offenders?

REP. O'BRIEN: Well, in general, how the crowding, what the policy of the administration is to address the crowding that's existing.

MARY ANNE O'NEILL: You'd have to talk to Commissioner Lantz. I don't know.

REP. O'BRIEN: Okay. Well, that was just a question to you because apparently you're the representative of the Executive Branch.

MARY ANNE O'NEILL: Apparently.

REP. O'BRIEN: Thank you, Mr. Chairman.

REP. LAWLOR: Representative Green.

REP. GREEN: Thank you, Mr. Chair. Just a couple questions. Are you a member of the Governor's Task Force on Sentencing and Review? Can you just tell me that committee's name again?

MARY ANNE O'NEILL: It's the Governor's Sentencing and Parole Review Task Force and yes, I am a member.

REP. GREEN: Okay. Based on your membership of that committee, maybe, could you answer some questions as a representative on that committee?

MARY ANNE O'NEILL: I can try.

REP. GREEN: Okay. As you guys have sort of researched some of the issues around the criminal justice system in Connecticut, based on some prior statistics that you had figured out, have you noticed whether or not the number of individuals, the type of crimes, and whether or not crimes are more violent happen in urban areas or suburban rural areas in Connecticut? Has your committee looked into that? What type of clients happen where?

MARY ANNE O'NEILL: We have not looked at that.

REP. GREEN: You have not looked at that.

MARY ANNE O'NEILL: We have not.

REP. GREEN: Okay. I guess you state that December 10th you might be putting together a report with some recommendations from your committee?

MARY ANNE O'NEILL: We will begin talking about recommendations on the 10th, and then we have another meeting scheduled for the 19th as well.

REP. GREEN: Okay. I guess I might be a little concerned as to a lot of the response in terms of what we should do about making communities safe in my opinion has to do with what is the information telling us now in terms of where crimes are committed, what type of crimes, where are the violent [Gap in testimony. Changing from Tape 4A to Tape 4B.]

--preventive measures. But as a committee that's looking at making recommendations on criminal behavior, criminal statistics in Connecticut, you don't have a sense of what type of crimes are committed where, and where are our violent offenders coming from?

MARY ANNE O'NEILL: That is not something we have looked at, but if you think it's important, I can bring it back to the Task Force and we can look at that.

REP. GREEN: I guess I'm a little concerned that no one on the Task Force thought it was important to look at.

Because if I'm going to have some policy recommendations from your committee, to me those policy recommendations come from research as to who are violent criminals, where do they come from, what communities in the sense are more unsafe based on the number of violent criminals that are being convicted.

And then I can have some policy recommendations around prevention, treatment, and identifying who those individuals are so that we can, again, identify them and possibly remove them from the community so the communities are more safe.

And you haven't looked at that? Okay, thank you.

MARY ANNE O'NEILL: You're welcome.

REP. LAWLOR: Are there further questions? If not, thanks again, Mary Anne.

MARY ANNE O'NEILL: Thank you.

REP. LAWLOR: Next is Joanne Cathey and she'll be followed by Senator McKinney. Is Joanne still here? No, if not, let me just go to the, since we're rotating back and forth to the public, next is Dave Moffa. Is Dave still here? No. On behalf of AFSCME, apparently.

BRIAN ANDERSON: Yes. Good evening, Chairman Lawlor. I'm Brian Anderson. David Moffa had to leave for family obligations. I appreciate you folks saying so late, but he had to go take care of some family matters, so I'd just like to quickly testify on behalf, my name is Brian Anderson.

I'm a lobbyist for Council 4 AFSCME, which represents Connecticut's Correction employees and also represents parole officers.

We had a parole officer named Tonya McCallen who was ready to speak, but she also had obligations as we're getting sort of late in the evening, so I'm trying to just compress both of their testimony quickly.

Regarding Corrections, our Council 4 asked for help in alleviating overcrowding. We appreciate Representative O'Brien's question. Recently there have been several legislative tours of correctional facilities in Connecticut. I know Representative Lawlor has been along on those.

And what we see is some really, and Senator Kissel also, we see some really serious overcrowding that our members are concerned about.

Overcrowding in correctional facilities is a bad thing. It increases tension. It makes it a less safe workplace, a less safe place for inmates, a less safe place for the communities that facilities or house them.

I think the recent tour of Willard Cybulski in Enfield showed unsafe hygienic conditions wherein up to 30 inmates are assigned to one toilet. That's not a good thing.

When you have that sort of overcrowding tension definitely builds. You have people waiting in line for the most basic of human needs.

Also, hygiene suffers at a very serious scale when you consider that both the MRSA virus and drug resistant tuberculosis have been found in

Connecticut correctional facilities on all the correctional population is a fairly sick population, more so than the general public.

We would like to see some short-term solutions and long-term solutions to overcrowding. One of the things we'd like to see is say, opening the North Block in Cheshire where there's space available for up to 370 beds for inmates.

There's been millions spent on a rehab. I know it's not completed, but that would allow immediate stress relief from overcrowding in other facilities such as we saw at the New Haven correctional center, a tour Representative Lawlor was at where we saw inmates were sort of put on the floor of the gym almost elbow to elbow when they had to sleep at night.

Another thing is, we need more posts. The nonpartisan Program Review Committee staff report that was put out by the State Legislature's Program Review Committee in a December, 2003 report showed that the front-line correction staff is 20% short.

In other words, we're 700 correction officers short for what we need to adequately man the facilities.

We know we're not going to get 700 officers, but we need some help, and that could be done through more posts or hiring more officers.

Just quickly, to summarize, regarding parole, we need more parole officers. Since the

Cheshire incident our parole officers have been asked to handle cases in a more intensive way, and that makes it incumbent that we get more parole officers.

We also have parole officers doing clerical work. It would help to hire more clerical staff so that parole officers can actually be out in the field doing their jobs rather than answer the phones, filing, processing paperwork.

We would like to see cross training of our parole officers so that the parole officers could work for the hearing division and the field division, and we just think parole is very effective.

There is a recent OPM study showing that parolees have about a twice as likely chance to sort of make it on the outside without getting reconvicted than end of sentence inmates who haven't had parole, so we really think parole is effective and think that is a tribute to the parole officers in the field.

And I'd be happy to answer any questions.

REP. LAWLOR: Thank you, Brian. Representative Adinolfi.

REP. ADINOLFI: Have you ever, thank you, have you ever visited the North Block in Cheshire?

BRIAN ANDERSON: Yes, I have.

REP. ADINOLFI: I have, too. I live in Cheshire and I've been up to the prison a number of times. Sometimes I go up to speak to the 18-year-olds before they leave, and sometime I just go for a tour.

I don't believe that that North Block could ever be made safe. And I receive calls from prison guards and prison workers all the time. They don't identify themselves because they say it's a security risk to their safety and I respect that.

But many of the calls that I get from them is that the North Block is the most unsafe place in the state, and I also think that although I'm an advocate of increasing the penalties and everything, I still think that Cheshire has paid their dues in the way of prisons.

And one of the calls that I get, receive mostly from the prison guards there, is that we just let somebody out today that we know is going to be back in by the time he can turn around and walk around the block.

They should have never left him out. I think he's a violent offender. He did his time, but we know he's going to be back.

And I hear that from the prison guards all the time and I haven't heard anything from them about opening the North Block again to house more prisoners.

My understanding of the North Block and from the Commissioner herself is that that is a

backup in case there is ever an insurrection or a fire or something at one of the other prisons, they need some place to send these prisoners temporarily, and that's what that's reserved for, a real catastrophic type of emergency.

So I would personally oppose expanding anything in Cheshire. We have over three prisons there. Sometimes they switch us from three to four, depending on what they're doing, and to listen to the people of the community there.

Sure, we want to get tough on criminals. Criminals go to get sentenced, they're being punished, and all I've heard here today is what we can do to help them, how can we make their life better?

These guys committed these brazen, they committed crimes. They should be in jail. I'd do away with parole as far as I'm concerned. Thank you.

BRIAN ANDERSON: Just to address that, I have been to the North Block and I know the state has spent millions of dollars rehabbing the North Block. I know the rehab isn't completed.

I had been authorized to speak on behalf of Connecticut's 4,000 Correction officers and 5,000 total correctional employees in our union, that they'd like to see the North Block open.

Luke Leone also was here earlier today but unable to speak and he's President of Local

1565 has, he testified yesterday in front of the Governor's Task Force that he would like to see the North Block opened.

I agree, the last thing that we want is an incident. That would be catastrophic. And what our folks feel is, that by taking some of the inmates from the seriously overcrowded facilities and moving them into the North Block, that things are made much safer, and I've heard that repeatedly from our members.

And I don't think there's anybody tougher on crime than the correctional employees of Connecticut. But I can also tell you this, our parole officers and our members feel that parole works, and the data is there in the OPM Office of Policy and Management report, which is Governor Rell's budget wing stating, in fact, I submitted a page.

Page 6 of the report shows that it's almost twice as likely that a parolee does not get reconvicted than someone who serves the end of their sentence.

REP. LAWLOR: Thank you, Brian. Are there any other questions? If not, thanks again.

BRIAN ANDERSON: Thank you.

REP. LAWLOR: Our next is Senator McKinney, and Senator McKinney will be followed by Louise Pyers. Is Louise still here? Louise? How about Ed Gavin. Okay, then Ed you'll be next, okay? Good afternoon.

SEN. MCKINNEY: Good afternoon or good evening. Thank you, Chairman Lawlor and Ranking Member Kissel and Members of the Judiciary. For the record, my name is John McKinney, State Senator from the 28th District.

I think, I come here today to testify on behalf of the Senate Republican Caucus proposal that we submitted, and I do want to thank you for asking everyone to submit proposals.

And I am heartened, happily so, that there is so much common ground in this some 14 different proposals before this Committee, and I hope we can use that common ground to act upon the things where we all agree.

I am not going to run through the Senate Republican Caucus proposal because I think Senator Caligiuri in the questions and answers gave that proposal a pretty good vetting.

I would like to say, and perhaps let me just say, Dr. Petit's testimony today was very powerful, and in trying to think of what the theme should be today, I don't think I could say it better than what he said.

And he said in the letter that Representative Adinolfi read, that the sole issue and the only legitimate focus should be public safety and the protection of the citizens in Connecticut, and that's what I believe we are all here to do, to determine what are the best laws, what are the best fixes to our parole and probation system to best protect the people of the State of Connecticut.

Once we reach a conclusion on that, we should adopt those laws, adopt those changes, and I think we will be able to do all of the rest.

Let me just briefly address some of the questions, though, that were asked of Senator Caligiuri that may need clarification.

First is with respect to the Three Strikes proposal. There was some talk. I know Judge Clifford mentioned it and some others about small crimes, petty crimes equaling, or someone gave the example of nine petty felonies being, subjecting someone to life imprisonment.

That is not the proposal before you by the Senate Republican Caucus. We do not believe, I personally do not believe that someone who commits those levels of crimes should be put in jail for life.

We are talking about the most serious violent repeat felony offenders in our Three Strikes legislation.

Second, there were some questions, I think Representative Walker asked about the statistics in Washington State, about whether or not the Three Strikes law in Washington State had a reduction in violent crime, and the FBI statistics said that violent crimes remain the same.

I don't think anyone could argue that having 209 people who have been convicted under the Washington State Three Strikes law under the

last ten years, having them behind bars for life has no impact on violent crime.

We know that eventually these people without life imprisonment would get out of jail. We know, we've heard recidivism rates as low as 30%, as high as 60%, I think Senator Meyer said.

We know that one of these, at least, individuals, would have recidivated and created and caused another violent crime.

So clearly, the Washington State Three Strikes law has had a positive benefit and protected the people of Washington State. At the same time it has not exploded the prison population. That's why I think this is an important step for us to take. I support it as a separate statute as well.

Let me just close with that, and I certainly would be happy to answer any questions you have.

REP. LAWLOR: Well, thank you, Senator, and I think you're quite right, that everyone seems to be in agreement today that we have an obligation to change the policy and provide the resources and get this done as soon as possible so that the people on the front lines will be able to do the kinds of things we're asking them to do, which is identify the truly violent offenders and lock them up for as long as possible, and I think that's everyone's goal here.

And on the Washington State proposal, I don't know, because the proposal, I mean there's five separate Three Strikes proposals today, but yours seems to be a bit different from the Washington State one.

I don't know if you've had a chance to talk to the people out in Washington State. Like for example, the Washington State one doesn't cover burglars at all or home invaders or anything. That's not part of the Washington State Three Strikes law.

And so I didn't know if, because as we're trying to project the impact of different bills that's a huge difference because there's a lot more people doing time for home invasions than there are for the other crimes, and so I didn't know if you factored that into your analysis at all.

SEN. MCKINNEY: Well, clearly, one of the things, Chairman Lawlor, that I think has been consistent and almost unanimous since the Cheshire incident, Democrats, Republicans, the Governor, etc., is that home invasions should be considered a violent crime.

So we absolutely think that's necessary and that is a difference from Washington State.

Do I think that will lead to an explosion in prison population over what they've seen in Washington State? No, I don't.

Do I think we'll see identical results in Washington State? No. Our population is

different. Their prison population is roughly the same, but I think we have a smaller population, so percentage-wise we're a little bit higher.

But I think the key to Washington State is that unlike California, they focused on the fact that the third strike, the third felony needs to be a violent felony, not any felony, which I don't know that anyone in our Legislature has been talking about going the route of California.

But narrowly tailoring it toward the more violent felonies, and I would believe that home invasion is. There are some differences in the different home invasion proposals.

Our proposal is not just an occupied dwelling but either an occupied dwelling or at night because some of the things I've heard from people on the front lines is that there's a different criminal mindset for the person who enters a home at night because there's a much higher likelihood that they may confront someone at the home and that's a much more dangerous criminal intent, which is why we included that.

But there may be, we don't expect it to be identical to Washington, but we think it's a good example.

REP. LAWLOR: We were just trying to figure out the impact of different proposals, and that's why it came up. We called the head prosecutor in Washington State. He was explaining the way

the law works and it was quite a bit different than any of the proposals we have, and the most important difference to me, at least, because I agree with you.

The home invasion is a very different category and it should be treated as a violent crime and there are a lot of [inaudible] those that have serious or violent crimes out there in Washington State, so I thought that was a big difference.

Are there any other questions?

SEN. MCKINNEY: Can I just, if I could, Mr. Chairman, one more thing. And I spoke to Judge Clifford after he testified, and I think one of the benefits of this hearing, and hopefully what we will continue and engage in is a dialogue with the Judicial Branch.

And I wanted to introduce myself to Judge Clifford because he, not surprisingly as a judge, talked against mandatory minimums and having discretion on the Bench.

And one of the things I explained to Judge Clifford is that I don't think any of us came up here to automatically say, well, let's take all discretion away from the judges. We have to do that, mandatory minimums for every type of crime.

But one of the things, and we've talked about this in the past. One of the things that caused me and others to support mandatory minimums for sexual offenders and the Jessica's

Law, is the fact that there were far too many cases where judges did not impose a significant penalty at all.

And the best example is perhaps the gentleman in Avon who had hundreds and hundreds of pictures of child pornography, you know, videos of prepubescent teens being sexually molested, and the judge in that case gave him not one day in jail.

So there are times when some of the judges don't get it, and that's where I think we need to step in and as public policy makers say to the Judicial Branch, we are in charge of what the crime and punishment is.

We represent the people and represent public opinion. Their job is to enforce it in respect. And so that's why, I think it's an important debate and discussion to have with the Judicial Branch. That's why I appreciated his testimony, the questions that he had and the questions he was asked.

REP. LAWLOR: But you agree, I guess Senator Caligiuri was clear earlier, about the idea that there ought to be a lot of discretion, even in Three Strikes situation vested in the prosecutors because I think the prosecutors were being clear that they're not going, they'll do this not very frequently.

So that you're okay with people who have the two previous serious violent convictions not getting the life sentence if that's the decision of the prosecutor, even though they're

getting convicted of a third qualifying crime, right?

SEN. MCKINNEY: Absolutely. There has to be discretion, and I think the prosecutor who is charging and obviously, the statistics are that 90% plus of the cases end up in plea bargains. That's where we need to trust our prosecutors. I completely agree with that.

But I do also believe that there are certain level of offenses and number of offenses, and it seems to be three, and I agree with that, that are so violent and so heinous that if someone is convicted of those three, that they should go to jail for life.

REP. LAWLOR: But your proposal doesn't actually say that, though. My point is, only if you get charged--

SEN. MCKINNEY: Correct. Absolutely.

REP. LAWLOR: So the prosecutor, because I think a lot of people watching are trying to understand in their heads, do they think it's right for every single time, no matter what, that an offender who commits this third serious violent felony, will they definitely go to jail for life?

REP. MCKINNEY: Only if they're charged with, sorry, only if they're charged with something under the persistent felony offender laws or in our case, a separate statutory Three Strikes and You're Out statute as well, and that's always going to be a prosecutorial discretion.

REP. LAWLOR: So just to relate it, under your proposal it wouldn't actually happen every time. It would only happen whenever the prosecutors chose to pursue it.

SEN. MCKINNEY: That's correct. And I would hope it would be an extra tool to a prosecutor perhaps to get criminal defendants to plead to a tougher sentence rather than face the threat of being charged with the Three Strikes penalty.

REP. LAWLOR: I just say it because I think a lot of people think that what we're talking about is making it clear that all the time, no matter what, if you get this third qualifying serious violent commission you will go to jail for life, and that's not at all what we're talking about.

We're just talking about only if a prosecutor chooses to do that.

SEN. MCKINNEY: I agree, and I think that's why the Quinnipiac Poll is not a realistic snapshot of what the public's opinion is because I think the public interpreted it as, you'd think they do that in all cases automatically life imprisonment, and that's not what we're saying.

REP. LAWLOR: Yeah, because I think some of the advocates [inaudible] they think it should actually happen every time no matter what if it's your third conviction.

I just wanted to be clear that that's not really what we're talking about here.

SEN. MCKINNEY: Correct.

REP. LAWLOR: Okay. Are there further questions?

SEN. MCKINNEY: Surprisingly, we're in complete agreement.

REP. LAWLOR: Just, because people watch these things and I think it's important to understand because I think it's important not to mislead people and to say that these are the public policies and this is what will actually happen.

So that two or three years ago, two or three years from now if this becomes the law and people find out that a guy who's got a third home invasion is not getting sentenced to life in prison, they'll say, well, I thought the Legislature required that, and say no, it's up to the prosecutor.

SEN. MCKINNEY: And that's also why another one of our proposals, which, you know, I think we need to talk to the Judicial Branch about as well is to require more to be put on the record at the time of sentencing when a plea deal is struck, the reasons for the plea agreement and the reasons for the proposed sentence by the prosecutor and by the judge.

So that if someone becomes eligible for parole or later is released, that will be on the record as to why that was done the way it was done.

REP. LAWLOR: Representative Geragosian's been quiet all day, and than Representative Hamm.

REP. GERAGOSIAN: Yeah. Do I get a gold star for that, Mr. Chairman?

REP. LAWLOR: Yeah.

REP. GERAGOSIAN: Good afternoon, Senator, or good evening, Senator, I should say.

I haven't looked at all the nuances of your proposal, but as a 13-year Member of the Appropriations Committee, I'm concerned.

The Governor just testified through her counsel that we're going to achieve all these things without going over the spending cap.

And as I see it, we're going to be increasing incarceration rates, supervision, education and technology. Do the Senate Republicans share that, the Governor's position, that we're going to be able to do all these things without increasing our bottom line?

SEN. MCKINNEY: We believe, and I believe, that the only issue we should be addressing is what we need to do to ensure the safety of the public through changing our criminal statutes, through fixing our system of parole and probation.

We recently went through a much longer than necessary debate over the budget and the bond package, as you know.

We saw what happened in Minnesota with the bridge collapse, and automatically we talked about the need to put $150 million in bonding to bridge and road repair.

We did that because we had to as a state to protect the people in public safety on our roads and highways.

We will do what is necessary to protect the people of the State of Connecticut. That's our obligation. This should be a priority.

REP. GERAGOSIAN: So if we have to raise revenue for us to do this, would that be something your caucus would support?

REP. MCKINNEY: We believe we should make decisions based on protecting the people of the State of Connecticut and providing public safety and the rest will follow very easily.

REP. GERAGOSIAN: Thank you.

REP. LAWLOR: Representative Hamm.

REP. HAMM: Thank you, Mr. Chairman. Senator McKinney, we are all elected knowing that public safety is our first priority. I don't think there's any higher ground or gamesmanship or anything appropriate like that.

We have different views of how best to do that, and actually, we're pretty close, it looks to me like, after the afternoon.

I guess my question to you is the same one I asked Senator Caligiuri. I am enormously concerned, now that we have raised as a state, the level of conversation and expectation among the public, that they will be safe if we pass no strikes, Three Strikes.

And yet, now for those who are spending their time all afternoon and evening on CT-N, they're learning that that's not true, that the law that we're proposing, even under the most conservative proposal of the Senate Caucus, is going to entirely leave it up to prosecutors, and what we're leading the public to believe isn't true.

So I guess then, when we add to that the other issue, that the thing that will make us most safe, based on Cheshire, trying to respond and change our system, is making home invasion a violent crime.

It's not Three Strikes. We've raised the level of debate, and the expectation that we're going to fix a problem to solve Cheshire, which isn't going to be what does it, and that bothers me, because we're not being honest with people.

Our constituents aren't safer because of Three Strikes, because prosecutors may not go ahead and prosecute.

They're safer because we're making home invasion a violent crime. Now, I just would like to get your reaction to that. That's the fix--

REP. MCKINNEY: Sure, well--

REP. HAMM: --so why are we doing this other thing? They want violent persistent offenders--

REP. MCKINNEY: I think you raise a lot of issues.

REP. HAMM: We have Judge Clifford who says that he believes under persistent offenders judges, criminal judges, with discretion, are sending the bad guys away for a long time.

And we're changing home invasion to make it violent so people occupied daytime, nighttime, it's a violent crime. So why did you do that?

SEN. MCKINNEY: Well, you've raised a lot of issues. First, when I sit here and say that our first priority and only priority should be public safety in determining what policies are best to improve public safety, I don't say that on some higher ground than anyone else in this Committee.

I say that understanding that you may be opposed to Three Strikes. I may be for it. Both of us have legitimate policy reasons for those positions and we should debate them.

I say that because I don't think we should use cost or other issues as a reason not to do something that a majority of us may believe is in the best interest of public safety.

If you oppose Three Strikes on the grounds that it's not going to make the public safer, that's legitimate public policy.

REP. HAMM: I want you to speak to the expectations we've raised.

REP. MCKINNEY: Sure. You've raised a lot of issues. I'm going to hopefully get to all of them, but your first issue was that I was somehow having a higher moral ground of public safety. Absolutely not. Absolutely not.

Second, with respect to, let me get your last point [inaudible] with respect to Judge Clifford. With all due respect, the evidence is that not every judge in the State of Connecticut is putting the really bad guys away, and the best example is this Legislature, I think, almost unanimously supported mandatory minimum sentences for sexual predators because judges were not, judges were not taking that seriously.

REP. HAMM: And not all the prosecutors are going to prosecute, either.

SEN. MCKINNEY: You're right. But let me say something. Our state is a lot safer and our children are a lot safer because of what we all did, Republicans and Democrats together, on that Jessica's Law.

Secondly, with respect to the Three Strikes and You're Out legislation. I completely disagree. If someone, you know, Alex Kelly who was convicted of rape in Darien just got out of jail. He's younger than I am.

It's very possible that someone in that situation might commit another violent felony, be sentenced to a prison term and get out and be a very young person, and hopefully they would be rehabilitated and never commit another crime.

In my opinion, if that person were to commit a third violent crime, if that person were to be charged and convicted with raping a woman, sentenced to jail, do the prison time, come out, do it again, go to prison, come out and do it a third time?

That is a person who will do it a fourth time or a fifth time, and they should be charged with, under a Three Strikes or a persistent felony offender law and put in jail for life, and that absolutely will make the public safer. You cannot deny that.

The recidivism rate suggests that violent repeat offenders if they're out will offend again.

REP. HAMM: Only if they're charged by the prosecutor.

SEN. MCKINNEY: Well, look, there has to be some discretion in the system. Nobody denies that. No one in my Caucus, nor have I ever said take all discretion away.

The argument, I think the debate we've seen here is that discretion better with judges in sentencing, or with the prosecutors in charging. I prefer the latter, not the former.

That's a legitimate public policy debate and we should have that. It's not, it's not right or wrong, good versus evil. It's different public policy debates that we should have.

REP. HAMM: And what about raising the public's expectation to deliver something they think is going to make them safer--

SEN. MCKINNEY: Right.

REP. HAMM: And then prosecutors are going to do it at the third strike, and that's just not true.

SEN. MCKINNEY: And I forgot that last point. Thank you. I don't believe the public in general believes that what we're doing here is going to protect them forever, and going to protect them from everything.

We can't, we'll never lock up the first-time offender before they've offended, and we know crime is going to continue to exist.

What I believe our role should be after Cheshire, after the Supreme Court, by the way, has determined that part of our persistent felony law is unconstitutional, our role is to say to the public, we're listening.

We see what's happening. We get it. We're going to try to improve. We're going to try to fix laws and make it safer as best we can.

I don't believe the public has an expectation that we are going to stop and prevent all

crime. But they do demand of us, and we should demand of ourselves that we do the best we can with the information we have to protect them as much as possible.

REP. HAMM: Can we agree that what the public's primary concern across this state, after what happened in Cheshire to the Petit family, is they want to have some assurance from us as public policy makers that they're not going to have criminals in their neighborhoods coming into their homes, demanding money from them, burning down their houses, and killing their family, because that's their home. That's what they want us to do.

REP. MCKINNEY: I think that's one of the things they want us to do. I think the public to the extent that they've been following it, and this really has been a national issue, is scratching a head thing, how in the heck did you not get sentencing reports to the parole board members?

REP. HAMM: Yeah.

REP. MCKINNEY: How is that possible? That's what the public wants to know, and they want to hear us as a Legislature address that.

REP. HAMM: [inaudible]

REP. MCKINNEY: They want to know how this, the younger of the two criminals was described by Judge Bentivegna as a dangerous criminal, as a predator, was let out of jail.

So I think there's a lot that the public expects but most importantly, they expect us to understand how they feel and to do our best to address it.

REP. HAMM: I agree.

REP. LAWLOR: Are there further questions? If not, thanks very much.

SEN. MCKINNEY: Thank you, Mr. Chairman.

REP. LAWLOR: Earlier I had said that Ed Gavin would be next, but apparently there's someone who is pinch-hitting for Louise Pyers who apparently has left, and who is that person, and he come up and, is Colonel Davoren still here?

Colonel Davoren? He is, okay. He'll be next and then Ed Gavin. I apologize.

ELISA WOODSBY: Good evening. Louise Pyers waited as long as she possibly could and has asked that I read her testimony on behalf of the National Alliance on Mental Illness Connecticut.

Louise is a criminal justice projects director for NAMI Connecticut.

REP. LAWLOR: Could you just identify yourself, please.

ELISA WOODSBY: Oh, sure, my name is Elisa Woodsby. I'm the Policy Director for the National Alliance of Mental Illness.

Louise is also the President of the Connecticut Alliance to Benefit Law Enforcement, CABLE. They are the state's sole source provider of crisis intervention team training for law enforcement officers.

At NAMI Connecticut we are concerned about segments of Proposal Number 4 and Number 8, as they will have a significant and detrimental impact on persons of mental illness.

We are also concerned about the lack of separation in the public discussion between illness and criminality.

There has been little to no distinction between people who are suffering from serious and persistent psychiatric disabilities, neuro-biological brain disorders and those who are truly predators and criminals.

And I'm just going to, I want to give Karen Zimmer to my left, who is a family member and a member of NAMI Connecticut for several years. I can't really talk, so I'm not going to go through all of this.

You have the testimony in front of you. I just want to highlight the fact that down the list, Robert Weatherington was not able to stay, either or to make it, and I would really urge and encourage the Committee to read his testimony.

He's in the front lines. He's on the ground level working in an alternative to

incarceration center program. I think that's an important testimony.

And in that, he notes that he will be providing to the Committee a DVD that explains what that program did and what the outcomes were. So just to let you know that Chrysalis Center will be following up with that DVD, and the testimony you should have or will be getting later on tonight.

REP. LAWLOR: And I think [inaudible] on that point. There's a lot of people watching at home on CT-N. It will be rebroadcast later on.

There's a couple of things you should bear in mind. Although obviously it's late and Members of the Committee have left, although there's still quite a few here, that all of the testimony being referenced as having been submitted to the Committee is actually available online.

And if people watching on TV go to the General Assembly's website you can look for the Judiciary Committee and you'll see for today's public hearing date, there's a scanned version of all the testimony, so you can watch it from home and there are Legislators in their offices right now who can access it that way as well.

ELISA WOODSBY: Oh, terrific.

REP. LAWLOR: And in addition everyone should know, because many of you still have yet to testify, that when you do testify there's a transcript made of all of your testimony, and that is kept

with all these proposals for as long as they're before the Legislature.

This is an official public hearing, and your comments will be part of the official record as people in the future try and figure out what the Legislature did, and what our reasons were as they try and interpret the various laws.

So it does have legal significance. So just because Legislators have come and gone, don't assume that they're not hearing what you're saying. There are people watching live. They can read it later online, and it's an important part of the process. So that testimony can be readable now, I assume by people at home.

ELISA WOODSBY: Wonderful. Thank you.

REP. LAWLOR: Please go ahead.

ELISA WOODSBY: And we provide some data in here about mental illness and violence, and you can look that over and that you know, they're erroneously linked, often linked.

But Proposal Number 4, that 1,200 bed medical and mental health correctional prison facility, prison is not the appropriate place to provide treatment for people with psychiatric illnesses.

And a more fiscally sensible alternative would to be, take half of the $150 million building costs and half of the nearly $90 million operating costs being proposed for the new facility and invest it in the community mental

health system, the expansion of jail diversion programs, crisis intervention teams, residential alternative to incarceration program, and intensive 24-hour psychiatric treatment options.

This would relieve prison overcrowding, saving millions of dollars in the long term, and allow people who are sick to receive treatment in the appropriate settings.

We have concerns about Proposal Number 8, which is one of the proposals of the Three Strikes law. This proposal includes misdemeanors under the definition of predicate offense.

I believe four Class B or three Class A misdemeanors are within that definition. This could be highly problematic for people with mental illness who often, as you've heard all day, revolve in and out of the criminal justice system and can get three or four misdemeanors from one public incident that have been related to their symptoms. So we're very opposed to that proposal.

Instead, you know, we think the focus, again, should be on community integration and services, treatment, supportive housing and employment, which would reverse the trend of re-incarceration related to low-level offenses.

We also want to point out, and we actually distributed to Committee Members, the Clerk did, at the beginning, a folder, and that includes national models for evidence-based programs that can help to divert or discharge

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people from the criminal justice system with psychiatric disabilities back into the community that have been successful.

So I know there's been a lot of questions about well, what models are there out there, and I think that, you could look at some of those for some innovative ideas.

I want to just touch upon when James McGaughey testified earlier, the number that he spoke of. I think he said 741 individuals. Well, the number is actually 1,741, 1,741.

He was speaking to the number of people who are inmates out of all the individuals with mental illness of the 3,897 who have not been convicted of a violent or serious offense, and it's about 46%.

I know that, I believe the Chairs had asked for that data, so it's 1,741, just to make that clear.

Just to close, NAMI Connecticut supports long-term solutions such as the recent proposal set forth by the Court Support Services Division.

These proposals include a mental health diversionary program that would institute and accelerate the rehabilitation option for nonviolent offenders, and intensive pre-trial supervision program for defendants with psychiatric disabilities, to expand pretrial release options, and the expansion of the mental health probation program to reduce the

number of technical violations for this population.

We urge you to consider innovative solutions that are not only more humane, but more cost-effective for the state. Please do not take us down an old and tragic path. Thank you for your time.

KAREN ZIMMER: Okay. Good afternoon, good evening. My name is Karen Zimmer, and I have concerns about two of the proposals by your Committee, if I understand them.

Proposal Number 4 includes a 1,200-bed medical and mental health correctional facility and Proposal 8 suggests the Three Strikes law.

I have a close family member with a serious history of mental illness who has spent a number of months in prison, including twice, two different occasions had gone to correctional because of symptoms of his mental illness.

When Steven, which is not his real name, was arrested for assault of a healthcare worker, he was homeless, paranoid, and refusing to take medication because he thinks it's poison.

He has been hospitalized more than 20 times in 13 years. I was hoping that he would improve while he was at Garner because I thought he had received treatment and had a chance to stabilize. How disappointed I was.

I have worked as a psychiatric nurse since 1983 and I can tell you that Garner is still a prison, not a psychiatric hospital.

His medication regime was not adequate and he did not stabilize. Communication with mental health professionals is spotty and there are not enough of them.

I was told for a former employee at Garner that inmates cheek their medications and trade them for other goods and services.

She also told me that if an inmate was in clear psychiatric crisis, even with a social worker's referral, it took several weeks before a psychiatrist would have time to evaluate the inmate.

I asked Steven about this, and he told me that although his medications were supposed to be crushed, this was not always done, and he was, in fact, able to cheek them, and agreed that sometimes inmates do trade meds for goods.

Sometimes when he called us collect he was clearly decompensating and manic. I was unable to reach anyone for days to express my concerns. Voice mail is not available and messages were not returned.

Basically, Steven was not much different after several months of prison then when he went in, and he was hospitalized soon afterwards. Lots of money spent, but for what?

A 1,200 medical prison will be exorbitantly expensive. Connecticut's resources would be much wiser spent on community treatment and housing, not thick walls, razor wire and prison guards.

I believe that assault on a medical person is considered a violent felony, and I'm not trying to excuse what Steven did, and he needs consequences for his behavior, even though he was ill at the time.

But I wonder, I worry that if Connecticut implements a Three Strikes law that he will be in danger of being in prison for life. He's not a bad person. He's an ill person.

I don't have enough information to figure out the cost of putting a person away in prison for the rest of his life, but providing intensive community treatment and supportive housing has got to be much more cost-effective and is certainly more humane than that.

The Governor's Blue Ribbon Commission on Mental Health in 2000 included a vision for the future that included these three recommendations.

One, people who use services are treated with dignity and respect, and their legal rights are protected. Two, access to appropriate care is timely and easy to obtain. And three, best practices and the latest scientific knowledge guide service delivery.

I do not believe that building a 1,200-bed medical correctional facility to warehouse

people with mental illness or mandatory incarceration for life for three violent felonies are best practices for people with mental illness.

I urge you to rationally consider what is really best for Connecticut's citizens, and to refrain from a just lock them all up mentality. Thank you.

REP. LAWLOR: Thank you very much. Are there questions? If not, thanks very much. Thanks for waiting. Next is Colonel Davoren and following the Colonel will be Ed Gavin and then is Representative Cafero here to testify? Okay.

COL. THOMAS DAVOREN: Good evening, Representative Lawlor, Senator Kissel and Members of the Judiciary Committee. My name is Thomas Davoren and I'm with the Department of Public Safety.

My written testimony was previously submitted, so I hope this will be an abbreviated version.

The Department of Public Safety would like to comment on several of the proposals where the agency agrees that a change is appropriate, and to provide some commentary on the SHIELD proposal and the public registry of parolees' proposal.

In regard to the front end of the criminal justice process, or the charging aspect, existing burglary statutes should be revised in regard to home invasions that take place when

the home is occupied or when the burglar is armed.

With regard to the persistent dangerous offender statutes, we should ensure that we are responding appropriately to the career criminal, deciding what changes are appropriate. It's critical to ask whether the changes in actual practice will enhance public safety.

Any discussion of a Three Strikes law, for example, must include a consideration of whether the public safety value of a policy that's intended to assure incarceration of repeat offenders might be negated by the increase of violence against police officers, and the engagement in vehicle pursuit by second offenders who feel they have nothing left to lose.

Communications among all criminal justice entities is something we can do better. In order to make good decisions at the time of sentencing, and at the time that release is considered, all essential and available information should be readily available to the decision maker.

While there may be justifiable debate about the factors that most impact risk assessment and how to accurately ever predict future human behavior, a public safety data network with the capability of connecting all public safety providers for information sharing is an essential tool to carry out what the Governor and many Members of the Legislature correctly

identified as the number one priority of government.

The Connecticut Sentencing Task Force created by PA06-193 is charged with reviewing sentencing statutes in Connecticut, and the work of that Task Force should be considered so that prison beds available in Connecticut are used first by those who show the greatest potential for violence.

With respect to Proposal 4, which calls for the design and implementation of a SHIELD criminal justice system, it's extremely important, there is an extremely important threshold question to be considered, and that is whether it should be Internet based.

We offer a preferable procedure that would include [Gap in testimony. Changing from Tape 4B to Tape 5A.]

--dash 161, enable the Office of Statewide Emergency Telecommunications to initiate a planning process for the creation of an integrated police, fire, EMS, homeland security data network.

A survey and study found that effective and improved data transport can be achieved with the implementation of a fiber-optic based network.

We're planning for the implementation of the fiber-optic connectivity for all public safety answering points in the state, and it's recommended the Committee review this

feasibility study report prepared as a result of this public act in January of this year.

DoIT as a hub of fiber-optic based public safety data network would eliminate any security issue associated with having it on an Internet based system.

The SHIELD proposal as written raises a number of immediate procedural concerns. The proposal for immediate, and in most cases extremely broad-based access to the data base, including, for example, police reports, creates the following concerns.

The reports include names of victims, juveniles, and sometimes individuals who are or will become confidential informants, and the names of subjects of parallel or otherwise related independent investigation.

This proposal if enacted in this form, could put victims and criminal investigators at risk and could derail other investigations.

We propose a more workable procedure where police reports would be electronically transmittable to the State's Attorney or Chief State's Attorney who is handling the case.

At that point, the State's Attorney will be responsible for redacting some of the problematic information summarized above, and that thereafter the State's Attorney would approve the police report's entry into a database, which could be accessed by parole,

probation, Corrections, and others as warranted.

The SHIELD proposal I point out is aligned with many current criminal justice initiatives that are in different developmental stages within the criminal justice community.

I won't go into all the descriptions but they include the online booking system, which tracks people from arrest and through court.

The CIDRIS or Connecticut Impaired Driving System, which tracks people from arrest through the administrative process at DMV.

The offender-based tracking system, which tracks from arrest through the Department of Corrections.

And the Connecticut Law Enforcement Telecommunication System known as COLLECT, which is our window to the rest of the world for police information sharing.

Unfortunately, we cannot associate a cost with the SHIELD system, but we do ask that from the beginning there be sufficient staff allocated to the project within each of the involved agencies, and a commitment to fully fund not only the associated personnel costs, but equipment refresh and software upgrade costs.

There will also be a need to examine business rules, such as who owns the data, how will it be submitted, modified, canceled, erased or called back, and the various subcommittees on

policy procedures, policy privacy sanctions and public access.

If the program is implemented immediately on an interim basis, the cost of data bandwidth needed would be rather significant prior to implementation of a fiber-optic system, which has capacity.

And with respect to Proposal Number 8 that would establish the public registry of parolees prior to considering such a legislative mandate, the Committee should be aware that the current sex offender registry database is outdated, and has very limited capabilities.

The cost to replace this system could be $1.5 million. Obtaining a database to support the additional registration and community notification process envisioned by the proposal would add to these existing information technology needs, both in personnel, space and equipment costs.

Thank you for your time.

REP. LAWLOR: Well, thank you very much Colonel, and I think it's worth noting that in the bonding package recently enacted by the Legislature there was $1 million set aside for the new sex offender registry technology, and then an additional $1 million for the beginning of this SHIELD process, the beginning of crafting the new network.

And I don't know when the Governor's intending to authorize expenditure of that, but I think

the goal is to get it into your hands as soon as possible so you can begin this important work.

And you know, one thing that's been discussed quite a bit in the last year or two is whether or not we can put the entire criminal conviction information database on line, and I don't know what the status of that is.

I know Judicial is going to put their similar database on line. Is that something that Public Safety's figured out when you can actually accomplish that so that people don't have to pay the $35 to get access to that.

COL. THOMAS DAVOREN: Indeed, Sir, the faster for us the better. I can defer to answer that.

CHERYL MALLOY: We would like to move forward on that as quickly as possible as well, but we do have other technological issues that we're still trying to fix in order to do that, so it's coming, but we're just not quite there yet.

REP. LAWLOR: In a general, because people ask us this all the time. There's requests for access so that people can check to see if their prospective babysitter is a convicted criminal or whatever.

Is that something that's maybe a year or two away or how far away are we really talking at?

CHERYL MALLOY: I would say at least that, yes.

REP. LAWLOR: Okay. Was that a realistic estimate or is that sort of a--

CHERYL MALLOY: I really don't want to say because there are certain aspects that we're currently working on that I hate to put timelines on because, you know, we'd love to see the first phase in six months, but I don't know that that's realistic at this point.

REP. LAWLOR: All right. Well, thank you then. Thanks. Senator Kissel.

SEN. KISSEL: Thank you very much, Chairman Lawlor. Colonel, great to see you again. It's only been a couple of weeks since we had a meeting on some unrelated matters.

COL. THOMAS DAVOREN: Yes, Sir.

SEN. KISSEL: I'm a little confounded, though, because so much really important personal information, your bank statement, your credit accounts, all sorts of transactions are all conducted on the web.

There's so many institutions that have software provisions that make these transfers of information secure, and it just strikes me that trying, it sounds great.

We're all going to link up through fiber optics, but just the process of having a separate, independent infrastructure fiber-optic network that's going to be strung throughout the State of Connecticut, and to whatever buildings or departments.

To me, that seems to be a step backwards. I understand the feeling that you want the information secure and you're worried about hackers, but we have a network out there already, and if we can find out a way to make that the accessibility as protected as other groups out there, corporations, which have millions and millions of dollars at stake.

I mean, I know that we don't want to know the personal information of someone who's been convicted of a crime. We want to make that secure.

But I have to believe that multi-national corporations that have millions if not billions of dollars, you know, the transfer of funds and everything like that, if they can use the worldwide web, why are we reinventing the wheel?

COL. THOMAS DAVOREN: I just want to perhaps clarify, Sir, the Public Safety data network is a project that's under way. It's going to occur anyway, and because they are using fiber-optic, which is such a large pipe for data transmission, it could easily accommodate this data as well.

And we do have concerns about, from talking to our experts that the Internet is, the level of protection on the Internet within state government, for example, is much easier than when we open it up to a wide variety of municipal agencies and the number of entities that are being proposed with this proposal.

So, because then we are no longer dependent on a state entity such as DoIT to monitor the firewall. There's many other access points and the Public Safety data network is, of course, funded by telephone surcharges, so we think that that would be not only a cost-effective approach, but provide us the bandwidth we need.

SEN. KISSEL: Okay, okay. Are you working with DoIT as far as creating this network?

COL. THOMAS DAVOREN: Yes, Sir.

SEN. KISSEL: Okay. And I know that Representative Godfrey is not with us right at the moment, but he had indicated that he was hopeful that the Department of Information Technology would be a lead agency in trying to get our, we as a state, our arms around all of this.

And again, one of my big concerns has been, you know, institutionally we have silos and we have to come up with the statutory mechanism of the sharing and the juvenile reports within certain context.

It should follow the individual but not have access, the public shouldn't have access to that information.

But I get concerned, though, when we're creating, you know, infrastructure that's different than what's out there and if you're telling me that it's cost-effective, I'm looking forward to learning more about how, and

are you saying this is piggybacking on millions of dollars we've already spent?

COL. THOMAS DAVOREN: I will say, Sir, that the current COLLECT frame relay network, which is the current system that collects most criminal justice agencies in the state, relies on the essentially copper wire T-1 lines.

Our preliminary estimates for a SHIELD system show that we would be at about 150% capacity. There are 200 agencies. We pay $421 a month for each agency now, so we would have to upgrade that bandwidth on the conventional T-1 line system.

So we only offer that this system, this fiber-optic system, which is very cheap to put in large bandwidth and not use it than to put it in later and need it.

It's just an option that we would like the Committee to consider to transport this information, not the least of which is, it is rather confidential information.

And again, when we open it outside of actual state service, we do create a lot of holes in the firewall so to speak, and the potential for data dissemination is much greater.

SEN. KISSEL: Clearly, I have my work cut out for me to try to get my arms around this information technology issue and hopefully the Governor's Task Force will get more information from the Department of Information Technology.

One other point, and I know that there's about five different proposals for Three Strikes. I know that, you know, Senate Republican version has been narrowly tailored. We've talked a lot about that today, and I'm partial to it.

I'm delighted that House Minority Leader Cafero is here. I know the House Republicans have their version of Three Strikes, and I'm just a little concerned with, from what I sort of heard, was that you have apprehension regarding a Three Strikes proposal.

Senator McKinney, my Minority Leader, indicated that it's just another arrow in the quiver for the State's Attorneys, the prosecutors to use, and so maybe this characterization, for better or worse, may have looked more Draconian than actually it is.

But I think, I look at the whole Three Strikes as more along the lines of a Jessica's Law, just another tool to, and maybe, you know, again, if we're able to reach a compromise and get something like that through, maybe we want to sunset it, see if we want to revisit it in three or five years, however we want to do it.

You know, my wish would be that it's one of those arrows that the State's Attorneys never have to use, that no one's out there perpetrating these kinds of horrific crimes and time after time after time after time.

By the way, you don't have to use the Third Strike law for the third strike. Maybe they'd

want to use the Third Strike law for the sixth strike, I don't know.

But I was surprised to hear in your testimony, it seemed like you had some apprehension about that approach, and knowing that there's some latitude involved with this debate, I'm wondering where that's coming from.

COL. THOMAS DAVOREN: I think, Sir, that, well, we did hear in previous testimony that there is latitude here. This testimony was prepared with the idea that some of the, one or more of the proposals might be more restrictive, severe, with an absolute finding necessary and that is what we're concerned about.

Obviously, we think that there is room for a certain degree of latitude and that is the testimony that we have heard today. So perhaps my testimony was, is a little outdated.

SEN. KISSEL: I'll take that as half way. Okay, thank you, Mr. Chairman.

REP. LAWLOR: You know, just on the, I'm not a technology guy at all, believe me, but I do know that a number of states have come up with good systems for linking up on the [inaudible] the various criminal justice agencies, and I'm just wondering the extent to which you've checked out other states.

Like I know Pennsylvania has what's held up as one of the national models. They call it J-Net. You can look on the Internet for those people watching at home.

You just Google Pennsylvania, J-Net and you'll see the whole thing explained and it links up local county and state law enforcement agencies, all the various agencies through the Internet access to all the various records in a way that they claim is secure, and I don't know if you've looked at what other states have done in this [inaudible].

COL. THOMAS DAVOREN: Yes, Sir. We, of course we work very closely with respect to securing information technology.

The way it's explained to me, though, security is both expensive and inconvenient, and we are finding as we open it out, certain technology functions out to more and more entities, that we don't have as much policy control over.

There are people who look for shortcuts, and the, with the number of data breaches that have been occurring around the country, in the UK last week there was a major data breach of personal information.

We don't think we can really afford to have a data breach criminal justice information, and no one can guarantee us 100% security with IP based, token-based security networks, especially when there's people who are perhaps a little too enthusiastic with respect to log on, sign on procedures.

And we're just trying to avoid the possibility of, that our integrity of our criminal justice

data would be compromised when an option, which is in the works is possibly available.

REP. LAWLOR: Have they had those problems in these other states that do it?

COL. THOMAS DAVOREN: We are told that, I can't tell you, speak to criminal justice data per se, but the type of security that we do use, they are both in the corporate, is very similar to what's being used in the corporate world and there has been issues.

And from what DoIT, DoIT for example hand monitors the COLLECT firewall, with physical people 24 hours a day. It's that important a thing to not leave to software control, hardware control.

REP. LAWLOR: Well, whatever DOIT says, I mean these states have actually done it, right, and so it's worth looking at their models. Because like in Pennsylvania, for example, it's much larger than Connecticut with many more layers of government, county law enforcement for example, and county jails and the State Departments of Correction, all these things that we don't have.

But they've figured out a way to link all this stuff up, apparently, so that prosecutors can read Corrections files and vice-versa as need be and then I think that's what we're hoping for here, so.

COL. THOMAS DAVOREN: As we are, too, Sir.

REP. LAWLOR: Are there any other questions? If not, oh, I'm sorry, Representative Adinolfi.

REP. ADINOLFI: Speaking about the technology, I retired in 1999 as an engineer, an engineering firm, but basically my specialty was, you might have heard the terminology, tempest engineering, which basically, I would say that every piece of classified information that the federal government passes on, I probably had my hands on the designs of the modems, the multiplexes, even to a point of shielding printers and crypto auxiliary units, and crypto units.

And that's basically the type of system, not looking to the commercial world, but looking to the more or less the military world and Defense Department world if this is that important that we do protect this information.

It is doable. They're doing it every day. It is easier with fiber optics than it is with. I was able to put it an antenna on a power line and pick it up on your printer. But we came up with ways to prevent that.

So it is out there, but I think when you're looking in a commercial world, you should be looking more at the federal world or federal government, what they're doing with cryptos, multiplexes, modems and so on.

Just a suggestion. If you want to talk to me about it, I'd be happy.

COL. THOMAS DAVOREN: Indeed, Sir, thank you.

REP. LAWLOR: Sorry. It's dinner time [inaudible]. I apologize. I thought you could talk for longer than that.

And I guess one final point that occurs to me on this. I guess there's a risk if you have a technology and there's a breach, right, there's a risk associated with that.

But there's also a risk associated with not being able to get the information when you need it, and we learned that the hard way in the Cheshire situation.

And so, either way there's risks and I think probably we're better off having lots of information with the possibility, maybe there's a leak once in a while, would make it almost impossible to get your hands on information in a timely fashion, which is certainly the case here in Connecticut at the moment, so that's our problem we're trying to solve.

COL. THOMAS DAVOREN: We concur, Sir.

REP. LAWLOR: Thank you. Any further questions? If not, thanks again.

COL THOMAS DAVOREN: Thank you, Sir.

REP. LAWLOR: Ed Gavin. And Ed will be followed by Representative Cafero.

EDWARD GAVIN: Thank you. Good evening, Chairman Lawlor and distinguished Members of the Committee. My name is Edward Gavin, and I'm

here on behalf of the Connecticut Criminal Defense Lawyers Association.

The CCDLA is an organization of 300 plus lawyers, both private and public lawyers that practice criminal law in the courts of the State of Connecticut.

We have submitted written testimony prior to the commencement of today's proceedings, and we welcome this Committee's review and applaud your good work in criminal justice reform.

We believe that the Legislature would be making a significant mistake in allowing an extreme case such as Cheshire to drive sentencing policy.

We believe that the true issue that the Cheshire case exposes is not the need for new prisons, longer sentences, or the imposition of mandatory minimum sentences, but rather illuminates the problems that parole and probation face in re-integrating released prisoners back into society.

What we see in our client populations, and what drives prison population rates are not the extremely violent offenders that bring us here today, but rather pretrial and sentenced clients who suffer from mental illness, dual diagnosis, drug and alcohol addiction.

We believe the appropriate response of this Commission is not to build new prisons to house the mentally ill, but rather use the funds to build a new state psychiatric facility with

varied degrees of security, and to provide funding to localized communities for mental health treatment.

In the past, the state's answer has been to incarcerate mentally ill people rather than provide appropriate treatment. Those are the regulars that Judge Clifford described to this Commission earlier today.

In regard to the proposals before the Committee we believe that the sentencing policy changes would best be addressed before a Sentencing Research and Policy Board.

The Sentencing Task Force is reviewing the creation of such a body. Don't let the Cheshire case set policy on sentencing. To do so, we are doomed for failure.

We agree with Senator Meyers and Representative Walker and others' earlier comments that the safety of the citizens of the State of Connecticut is paramount.

That is achieved through rehabilitation, which does not currently exist. It's last on the list. Prisons warehouse people to watch TV and learn how to commit other crimes. The recidivism rates show that.

We need to direct funds to rehabilitation, and towards providing re-entry housing, re-entry mental health treatment, and providing increased support for our parole and probation officers.

As Representative Lawlor has repeatedly said, we need to free up prison beds and release nonviolent, less serious offenders with re-entry support.

We ask the Committee to consider the following. Mandatory sentences are not the answer. They handcuff judges, prosecutors and defense lawyers in resolving cases. It clogs trial dockets and results in charge bargaining, not plea bargaining.

We agree with the position of Judge Quinn and Judge Carroll who previously testified.

The Three Strikes laws are unnecessary. We have statutory enhancements for persistent felony offenders. They are complicated. Judges are uniquely qualified to impose fair, just and reasonable sentences.

Three Strike laws do not have the deterrent effect on crime rates that society wishes. Mandatory minimum sentences create disparities based on race.

The Commission on Racial and Ethnic Disparity in criminal justice shows that African-Americans and Latinos and Hispanic defendants are more likely to be charged with felonies and charges are more likely to be associated with mandatory minimums.

Some of the proposals that have been submitted are supported by CCDLA. The proposal submitted by the Judicial Department regarding the

participation of probation officers in warrant squads is completely appropriate.

Proposal 11, which was submitted by Representative Fox concerning information provided to the Board of Pardons is well thought out and well reasoned. We support this proposal.

One of our strongest concerns is Proposal Number 5, which is submitted by Representative Cafero and the House Republicans regarding the expedited death penalty appeal process.

We strongly oppose this. We'd ask the panel to consider the tortured history of James Tillman and his wrongful conviction. The potential for wrongful execution counsels against expedited Appellate Review process.

Finally, Proposal Number 10, which was submitted by Representative O'Neill regarding persistent burglary offenders, is the perfect example of a knee-jerk proposal based on the Cheshire case.

This proposal calls for the classification of an individual as a persistent burglary offender if the individual had merely been charged in the past with the commission of a burglary, not convicted. CCDLA opposes this proposal as unconstitutional and ill conceived.

Again, we applaud the efforts of the Committee and look forward to providing useful testimony to this Committee as our criminal justice system is reformed.

CCDLA will provide written and oral testimony to the Committee once the proposals are crafted as proposed legislation. We thank you very much.

REP. LAWLOR: Thanks very much, Ed. You know, it's interesting in doing some of the research to start, work out way through the potential problems that we might be able to solve.

One thing seemed very apparent, and that is that the number of actual trials, which are taking place in the last 20 years in criminal cases has continuously gone down, and I would have thought, my first reaction was, if that's true it must be because there's more cases and the system's becoming more overwhelmed and so they have no choice but to do plea bargaining.

But in fact the opposite is happening. There's actually fewer cases coming into court today than have been the case 10 years ago and 20 years ago, and there's a lot more judges and a lot more prosecutors and a lot more courtrooms.

So why is it that there's so much plea bargaining and so few trials? What's causing that? Because, and the reason I ask this is there's a bunch of reasons for it, because obviously people are concerned about plea bargaining.

And at the same time I think people are concerned about the potential of convicting innocent persons, and obviously it's in the plea bargaining process that it's much easier

to do that than an actual trial where you don't really have to present evidence.

You just have to threaten somebody with a longer sentence and say, but plead guilty now and take probation or whatever.

So why is that happening?

EDWARD GAVIN: Well, there's a few reasons. Obviously, the crime rates are down. They're down about 30% across the board, so that's going to impact the number of trials.

But the most important thing, I think Chairman Lawlor, is what Judge Clifford told this Committee today, and from personal experience, having had clients sentenced by Judge Carroll and by Judge Clifford, judges in Connecticut are not afraid to impose very strict, high-level multiple decade sentences in cases that they deem it's appropriate. That's what happens.

So in representing somebody in a criminal case, if I know that a plea proposal is for 15 years, and I know that it's a loser of a case, and the technology is there to support a conviction, and I go forward with a trial, trust me, my client is going to get 40 years when they're convicted, and that's what we see in the everyday affairs of the operation of the court system. We're not going to go walk ourselves into a trial.

When I came out of law school back in '88, I was in the State's Attorney's office in

Bridgeport. I think we had about 60 cases that were murder cases on the pending trial docket, limited amount of prosecutors, limited amount of investigators.

That's not the case any more. I recently put a case on the trial list in Bridgeport. I put it on in May. I had my trial in July. There is no trial list backup throughout the state. I practice statewide.

I remember going on, putting a case on trial in New London and before I drove back to Bridgeport, the court clerk had called to schedule a jury selection.

So if you want a trial in this state, you're going to get it. But if the plea bargain is reasonable, and the evidence supports a plea, you should go ahead and do it because if you don't do that, your client is going to be substantially penalized for going to trial, wasting everybody's time.

REP. LAWLOR: Do you, because, I mean, it's interesting because citizens call all the time with concerns about the way the criminal justice system works, and it seems like all the focus is on judges, and the sentences that judges impose.

And from what I know about the court system, it seems like it's really the prosecutors deciding the sentences all the time because everything is an agreed recommendation.

So your guy pleads guilty, the prosecutor says if he pleads guilty, I'll recommend the following sentence. So how often is it your experience that judges are actually making a decision about what the sentence should be as opposed to prosecutors?

EDWARD GAVIN: Well, the art of the practice now is often in regard to what the operative charges are, which is solely controlled by the prosecutor.

So when you have situations with mandatory minimums, there's no latitude for a judge, so your discussion with the prosecutor is to try to fashion a plea agreement where there's not a mandatory minimum.

I would say in probably the vast majority of the cases, you're correct. In other words, I come to an agreement with a prosecutor and I say, okay, it's five years to serve or it's eight after four with five years probation. We have that agreement, we go to the judge and it's worked out.

But what you see more and more is, you see judges turning around and saying, and it's specifically in burglar cases, for example, where they'll turn around and say, look, I'm going to give you a sentencing range, which is going to depend on what the pre-sentence report has to say.

Because I'm not going to go ahead and automatically give a kid that's broken into the house next door to steal some beer because the

people are in Florida a suspended sentence any longer, even though it's a first offense.

They want to see a probation report. They want to see, was there mental health treatment. Are there substance abuse issues? Is there proper care in the house?

So what you see now is, you see judges turn around and say, look, I'll give you a sentencing range with a maximum of three years and a floor of probation, depending on what the probation report says, and what the client can actually bring to the table.

Do they do into rehab? Do they do community service? Do they accept responsibility for their conduct? And that all plays a part in how cases are really ultimately resolved.

REP. LAWLOR: Is that regardless of the position of the prosecutor in those cases, or how does that work?

EDWARD GAVIN: Well, sometimes what happens is, you have a disagreement with the prosecutor and the prosecutor says, this is your jail case and you say it's not a jail case, and that's where judges come in.

And I can tell you any number of situations with the judges that were here today where you know, a prosecutor is looking for a term of five years, and you're looking for a term of one year and a judge winds up maybe giving you two years, or four years, or five years, depending on what the history is.

So the judges play such an important role, and you know, a lot of times they're voiceless. I was with Justice Katz and Joe DeLessi on a Commission where they were doing a focus group around with the criminal defense lawyers and I think about 80 other groups in regard to the criminal justice system.

And one of the things that I found was, that judges are not able to defend themselves in the public. So you have somebody turn around and take a pot shot at a judge and say, this judge imposed a sentence that was unfair.

They don't know all the facts and circumstances of the case, but the judge does. But then they criticize the judge and the judge doesn't have an ability to stand up and say, this is why I did it. This is why I did it.

My organization, for example, in the Pollock case where the Attorney General came in to seek to have Mr. Pollock continue to be incarcerated even thought he had discharged his operative sentence, we came out and spoke in favor of Judge Handy.

Judge Handy said there's not a lawful basis for me to detain the gentleman. I don't know what you're going to do with him. I don't know where you're going to put him. That's a whole other issue, but nobody protects the judges in regard to how they go ahead and impose fair, just and reasonable sentences.

And in my experience, they do a heck of a good job.

REP. LAWLOR: Are there other questions? Representative Hamzy.

REP. HAMZY: Thank you, Mr. Chairman. Thank you, Attorney Gavin, and I do bear in mind the fact that you're a defense attorney and the opinions that you express are rooted in that background.

A couple of things that you said that led me to want to ask you a question. Your emphasis on rehabilitation.

EDWARD GAVIN: Yes.

REP. HAMZY: Do you believe that all convicts can be rehabilitated?

EDWARD GAVIN: I don't believe there's absolutes of anything in life, so I don't think you can say all convicts can be rehabilitated. I don't think so, no.

REP. HAMZY: And with regard to those repeat offenders that have received treatment, you know, I'm not sure to what extent. What do you propose happens to those people when they offend again?

EDWARD GAVIN: It's a great question, and it depends on the severity of the case and what their past history is.

My experience in almost 20 years of practicing criminal law is that a high percentage,

probably 60% to 70% of the clients that I see in the court systems have some underlying substance abuse problem or mental health problem.

So you could have somebody, I'll give you an example. You could have somebody that's a persistent shoplifter because they're homeless, and the appropriate remedy is not to go back and look at that person as a persistent shoplifter and say, well, they have a series of shoplifting convictions so let's go lock them up for 10 or 15 years at a cost of $50,000 a year. It's just simply not appropriate.

Somebody comes out and robs the bank twice, and goes ahead and shoots the guard and some innocent person is injured and in that case, trust me, the judges in this state are not going to give anybody a pass on that.

You're going to be looking at sentences of 30, 40, 50 years. That's what the currency, that's what the value of the crime is on a currency basis here in the criminal justice system.

So I don't think that judges are lenient in cases like that. I think that they really do go ahead and act appropriately.

You guys have passed a victims' right bill. When I come into court I always see the victims in there expressing their input to the judge and I've got to tell you, it makes a big difference in regard to what sentences are ultimately imposed.

REP. HAMZY: With regard to some of the specific changes that have been proposed, specifically with regard to burglary, are those changes that you or your organization supports, or are those things that you don't think should be enacted, either.

EDWARD GAVIN: I do not support any revision to the statute that has a mandatory minimum provision with it because I think it handcuffs prosecutors, judges, and criminal defense lawyers in how cases are disposed.

I believe that there's a basis to look into the fact that home invasion or aggravated burglaries where guns or weapons are used or injuries occur are serious crimes.

We all agree with that. We all live here in Connecticut and we should be treated appropriately.

But what is before the panel here today is 15 or so different proposals with varying degrees in regard to what an aggravated burglary is, including some of the conditions on predicate burglaries, whether or not they had a series of misdemeanors or whether or not they were even charged in the cases.

So I would say to you, I think it's appropriate to look into the charge of a home invasion or a burglary in regard to the classification of that crime, but I think that we need to see sort of pen to paper with regard to an ultimate drafted legislation.

REP. HAMZY: And with regard to the proposal to reform the death penalty.

EDWARD GAVIN: Yes.

REP. HAMZY: Do you support the death penalty?

EDWARD GAVIN: No. Absolutely not. Absolutely not.

REP. HAMZY: Okay. So any reform of that penalty would be something that you or your organization would be opposed to.

EDWARD GAVIN: Unilaterally, my organization and I personally are opposed to the death penalty. We've testified. I was the one that wrote the amicus brief in State v. Michael Ross, the only person that has been executed since Mr. Taborsky back in 1963, so I'm very familiar with it as an organization.

Our policy is that we are opposed to the death penalty.

REP. LAWLOR: Other questions? Representative Green.

REP. GREEN: Thank you, Mr. Chair, just a couple of questions just to clear up some things that you stated. Did I hear you mention a term called charge bargaining versus plea bargaining?

EDWARD GAVIN: Yes, Sir.

REP. GREEN: Okay, can you explain that a little bit to me? What did you mean by that?

EDWARD GAVIN: Sure. If an individual is charged with a crime that carries a mandatory minimum sentence, say a minimum sentence of 10 years to a maximum of 25, well, what I need to do is when I'm representing my client, is to convince the prosecutor to change the charge from a situation where there is an aggravated, where there is a minimum sentence and a maximum sentence into another charge, which gives some more discretion in regard to what sentence is ultimately imposed by the judge and that's what happens when you have mandatory minimum sentences.

REP. GREEN: So you would describe that as sort of a charge bargaining, and then plea bargaining is?

EDWARD GAVIN: Well, let's say for example that there was a situation where an individual was charged with a crime, and the prosecutor thought that the appropriate sentence would be five years, the defense lawyer thought it should be five years, and the judge thought it should be five years.

But he was charged with a crime that had a mandatory minimum of ten years. So what you have to do is, first of all you have to plea bargain to figure what the value of the case is, which in this case would be five years.

And then, if you're charged with a mandatory minimum, you have to convince the prosecutor that there's a reason to file a substitute information to perhaps a lesser charge that you would reach the level of the plea bargain, Sir.

REP. GREEN: Okay. And if 90% of our cases, those folks who have been convicted, I understand are convicted usually through a plea bargain or a charge bargain, whatever term.

You had also mentioned something about that there has to be evidence that supports a plea, otherwise somebody might go, say, to a jury trial and get a harsher sentence.

It seems to me that if you have the evidence to convict a person on a charge they've been charged with, why would you not, as an attorney, instruct your client to go for the jury trial and prove the evidence instead of plea bargaining down if the prosecutor is willing to plead out, and that's one question.

The second question would be, it seems to me that the prosecutors have a major role in actually the conviction of that individual versus the judges, and I'm trying to get a sense of who runs the court, the prosecutors or the judges?

EDWARD GAVIN: The, if I address the second question and answer that first. The second question is, who controls the charges? Solely the prosecutor.

They're the ones that control what your client's been charged with, whether or not there's latitude to come off of that charge, and then they make a recommendation to the judge in regard to what they feel an appropriate sentence is.

They have impact from the voices of the victims in the case, so the prosecutors really have the significant authority in the case.
In the first question you had, if somebody comes to me, I'll give you a real-life example.

I represented a young man, was about 19-years-old in a Waterbury murder case. It was a broad daylight shooting. It was a drug involved shooting where a young woman was killed.

And the young man, there was DNA evidence, and it was clear to me that the young man was going to wind up being convicted.

But what wound up happening was, during the course of the plea negotiations, the prosecutor turned around and said, look, here's the offer on the table. Plea to 55 years. Plea to 55 years.

And if you plea to 55 years we'll recommend 55 years. The maximum penalty in this state, life imprisonment is 60 years. This young man turned around to me and said to me, what do you think is going to happen, and I said I think you're going to be convicted.

He said to me, what's the difference if I get 55 years or 60 years? We tried the case for four weeks in Waterbury because there was no down side, and I don't mean to be cute because this is too important here.

But sometimes you play for the fumble. Sometimes you try a case. The client turns around and says, I'm not taking the deal. I'm

going to go ahead and go forward with the trial.

And you say look, if you lose, you're going to receive such a large amount of time and they say well, what's the difference in this case between 55 and 60. I hope that there's some juror on there that has sympathy for me, and I'll go ahead and do it. That young man was convicted and given the 60 years.

REP. GREEN: Yeah, and you know, most times when we give examples, they tend to be sort of the extreme, and especially even with your example, talk about a murder case.

And I guess I don't want to talk about those cases--

EDWARD GAVIN: Okay.

REP. GREEN: --because you know, violent offenders, I do not want on the street. I think we have to do a better job--

EDWARD GAVIN: Sure.

REP. GREEN: --of identifying them, and removing them from the street.

EDWARD GAVIN: Sure.

REP. GREEN: But the discussions we're having today talked about all crimes, and I want to just try to understand how we're categorizing crimes, how we're understanding who's violent and not violent, and so not the murderers, not the

rapists, in a sense, but most of the clients when people are in possession of narcotics, violation of probations, the shoplifter that repeats--

EDWARD GAVIN: Right.

REP. GREEN: --these individuals who get offers from prosecutors that say, you can go to jury trial or you can take a plea.

If we were to go to a Three Strikes You're Out kind of concept, I'm really worried not about the extreme cases that should be clear and should get maximum penalties, but I think the majority of the individuals who plea, and I'm not sure if we, the prosecutors have the evidence and the information to convict.

And I'm just wondering, are you finding that most, not the extreme cases, most cases that you deal with are the cases and the prosecutor's information enough to convict on a jury, or do you find that they're not strong to convict, and so the plea is just a more convenient way to move the system along?

EDWARD GAVIN: In the majority of the cases where they have established probable cause to arrest, especially in cases where a warrant is issued, there's a good face basis to go forward and prosecute, and they probably have a high likelihood of conviction.

But what winds up happening is, let's say you have some, I'm in the middle of representing a young man now. He's probably been arrested a

dozen times. He's a heroin addict. He's a heroin addict.

So he gets cleaned up and he goes for about six months and then he falls off the rehabilitation trail, and he gets caught slumped over on a bench someplace, and he has paraphernalia or he has drug residue on him.

So the prosecutor turns around and says, look, am I going to go ahead and try this case where I can prove the guy had a needle and it was loaded with heroin and he had prior convictions, and go ahead and try a case for two or three weeks on something like this, where even if he was convicted maybe the judge is only going to wind up giving him six months or so.

It's really a rehabilitation case, or can we agree right off the get-go that this guy needs help and put him in a long-term treatment program, put him in a rehab facility.

So that's where the resources are. On those cases where there's smaller cases, which is the majority of the cases, exactly what you're talking about, there may be a basis for them to go ahead and proceed with the prosecutions and ultimately obtain convictions.

But, the better remedy is to deal with the underlying problem. Is it a substance abuse problem? Is it a mental health problem? And try to deal with that, rather than wasting the limited resources on a trial, even on a provable case.

REP. GREEN: In that case that you just described, are there options for the court, and do you find that they might require a more treatment sort of a consequence than jail?

EDWARD GAVIN: Absolutely. Absolutely. That's what my point and my voice is to this Commission today.

I'm on the Executive Board of the homeless shelter in Bridgeport, Prospect House, Regional Network of Programs. I have clients that come out of jail that are in, they have, they're dual diagnosed. They have bipolar, so they hear voices and they treat themselves with alcohol or drug abuse.

That individual comes out, they have no place to go. They have literally no place to go. We develop single-room occupancy rooms at the homeless shelter for these people to wind up going into.

So rehabilitation is the answer. That's where the dollars and cents should be spent. Again, if you look at the every day docket, pick any courthouse in the state, Hartford, Stamford, New Haven, and you talk to the prosecutors on line.

They're going to turn around to you and say, more than half of the cases are related to some type of mental health or substance abuse issue, and if you can treat the underlying problem, then that person's not going to go come back

six months or twelve months and eighteen months again.

REP. GREEN: Just the last question or comment. But I guess I've heard some different opinions on whether or not when we do have treatment facilities and other alternatives to prison for those types of individuals that you're describing, and two, I thought Corrections did not discharge people to shelters.

So, which I think we found out that does happen, but--

EDWARD GAVIN: Corrections is discharging people to motels.

REP. GREEN: Do you believe that we have the resources and opportunities and the programs available for alternatives to incarceration--

EDWARD GAVIN: No.

REP. GREEN: --for those kinds of individuals?

EDWARD GAVIN: No. Absolutely not. And that is, that's where the focus should be on the front end of things, alternative to incarceration, free up the beds for the violent criminals that need to be incarcerated, and on the back end, what do we do with the people that come out that still have mental illness?

You've heard testimony from multiple people with mental illness issues here. I think somebody testified earlier. I think it was Bill Carbone testified that somebody actually

came out, a sex offender, and I think the state is paying for him to live in a motel right now. There's no place to put them.

REP. GREEN: You made a statement, I guess had me to ask the following question.

How would you describe a violent offender, and how do we know the difference? Because if someone is, abuse of substances and may, what we hear a lot is, may have to commit other crimes to support that habit, which may involve a car jacking. It may involve a home invasion.

How do we separate, and how do we identify a violent from a nonviolent offender?

EDWARD GAVIN: It's so difficult. And I don't know the answer to that other than to say this. Predictive behavior is the most difficult concept. That's what I've been told.

So if you have somebody that's a junkie, somebody may always be a junkie or an alcoholic and commit petty offenses, and there could be the occasion where they turn violent.

Certainly, that can happen. I think that the answer to the problem is, dedicate the resources to the probation officers that are on the lines that have to monitor these people.

When you have caseloads of 250 probationers reporting to you, there is no way on God's great earth you could supervise them effectively.

Now they say the rate's down to 100, but the 100 may be particularly violent offenders, and so what happens with probation is, somebody comes in and reports, they have to come in the first week, they report twice a week.

Then the following is once a week. Then it's once every two weeks. Then it's once a month. Then it's once every two months. Then they start to call, and they get lost in the supervision.

And once they get lost in the supervision, that's when the real risk occurs. So if you have the resources dedicated to the probation officers that can make these people come in, they have lesser caseloads, they can show up and do home visits, random urinalysis, you know, random [Gap in testimony. Changing from Tape 5A to Tape 5B.]

--I sure will, Representative Green. Thank you so much.

REP. LAWLOR: Are there other questions? If not, thanks. Oh, I'm sorry. Senator Coleman.

SEN. COLEMAN: How are you?

EDWARD GAVIN: Good evening, Senator.

SEN. COLEMAN: It's sort of interesting to me where we've come. About three decades ago I started some work as a public defender and I guess there was a concept of Three Strikes and you're in.

I worked in the GA Court, and for most of the cases that I handled, probably not so violent offensive misdemeanors, and minor felonies, and for most of the judges that I worked with, their approach was on a first conviction you might get a fine.

Second conviction, probation. Third conviction, there's a great likelihood that you're going to jail, so it's sort of interesting where we are today with Three Strikes and You're Out as opposed to Three Strikes and You're In, a concept that existed back then.

What I also wanted to ask you is your opinion regarding the advent of the judicial pretrial and the accept or reject approach almost immediately after the judicial pretrial, which puts, I think a great deal of pressure on the defendant.

And in my view, I think there's some likelihood that innocent people will, there's a greater likelihood innocent people will accept the plea agreement after a judicial pretrial because of the consequences of the much more severe result if there's a conviction after a trial.

I think the judicial pretrial probably increases the likelihood of increasing disparities in the system.

I just want to know, since you're here and you obviously have extensive experience with criminal defense work, I just wanted to hear your opinion regarding that, and how it may or

may not impact what we're talking about today in terms of sentences being imposed that may fill up jail space with, I think more properly would be better reserved for the more violent offenders.

EDWARD GAVIN: I hate the accept and reject concept. I think that it is impractical. It is not a concept that is done statewide. It depends what judicial district you're in, and the reason why it's unfair is this, and it's exactly what you just said.

Somebody gets arrested. Let's say it's a mid-level crime, and they're presented in court and they're held without bond. And what happens is, you go through a number of court appearances, two or three court appearances, preliminary court appearances until the case is actually assigned to a dedicated prosecutor.

At that point, the dedicated prosecutor, who really doesn't know anything about the file, turns over the discovery in the case that they have at that point.

And then you look at the discovery and you say, well, I'm missing the DNA evidence. I'm missing the fingerprint evidence. I need the tape recordings. I need the written statements of the other witnesses, and the prosecutors then have to go back to the arresting agency and obtain that evidence. They have a limited amount of inspectors.

In the meantime, on the other side of the fence, there's a judge watching how many days a

case has been put on the arraignment docket and then on the pretrial docket, so what happens is, they come in and they say, okay, well, your guy is charged with this offense, and I believe that the appropriate sentence is ten years.

And I say to the judge, well, Your Honor, that sentence may be appropriate, but I haven't received all the discovery yet, and I certainly am not in a position to go ahead and make a recommendation on this gentleman's life and until I have all that information, I don't want to accept or reject anything.

And you really have to challenge the judges because what happens is, they try to take the cases and say, well, this is the crime and this is the guy's record and whether they're guilty or not is really secondary, depending on what the strength or weaknesses of the case, is really secondary.

So I think it's a terrible, terrible idea. Most of the judges, if you sit down with them and you try to get them out of the mold of you have 100 cases you have to move on your docket today and say, look, this is why we can't do accept or reject.

I need to see the recording. I need to see the videotape. I promise you, once I see that, I'll come immediately back and report to you. If you can grab their attention they'll go ahead and let you do that.

But if you try to fit all these cases in cookie-cutter molds, which is what accept and

reject is, it just doesn't work. People will turn around and say, well, gee, I've got to take these three years today, even though I don't have all the evidence in the case because I'm afraid that my next offer is going to be five years whether I'm guilty or not.

So I share your concern.

SEN. COLEMAN: Thank you, Mr. Chairman.

REP. LAWLOR: Representative Hamzy, I'm sorry.

REP. HAMZY: Thanks, Mr. Chairman for a second time. You know, the issue of rehabilitation and the programs available just struck a chord, and I happen to have a laptop computer here, went on the computer system and looked up the number of programs that the Department of Correction has available currently to inmates.

And I was actually very surprised, because the list was 182 pages long of services available to inmates, and I just wanted to put that into the record you know, for purposes of consideration as we go further. Thank you.

REP. LAWLOR: Are there further questions? If not, thanks again.

EDWARD GAVIN: Thank you very much. And again, thank you for the good work this Committee is doing.

REP. LAWLOR: Representative Cafero, and Representative Cafero will be followed by, is Jamie Bissonnett still here? If not, is Julia

Wilcox still here? Okay, then you'll be next, Julia. Good evening.

REP. CAFERO: Thank you, Representative Lawlor, good evening. Senator Kissel and Members of the Committee, good evening. I know it's been a long day for you and I thank you for your patience and indulgence and the opportunity to address you.

When the hearing first started about 1:00 o'clock, 1:30, Representative Lawlor indicated that so many people of the Committee, himself and others had paid a visit to Dr. Petit since the tragedies in July. I did as well.

I visited Dr. Petit last Tuesday, as a matter of fact, was invited to his dad's home to share with him the proposals that I made on behalf of my caucus and that are before you today.

And I was so struck, as I'm sure everyone who met Dr. Petit was and who had that visit. It was a very emotional and humbling visit. I looked at this incredible man and wondered, frankly, how he would have the strength and the ability and the courage to get up and get dressed in the morning.

There were certain things that struck me in my visit. Throughout the home, obviously, there was pictures and albums of his family, and my eye kept focusing on his wedding band, which he still wore.

Just an amazing, amazing man who went through the most horrific experience I think any of us

could imagine, and he did not indicate one way or the other what he felt about the proposals that I shared with him that are before you.

But what he did say is, upon leaving, please make sure that whatever you folks do up there is focused on public safety. I think he repeated that in his remarks today, and I take that very seriously as I come before you. I know you do as well.

So again, I thank you, and with that, and in that spirit, we have offered as House Republicans, a series of suggestions, proposals, call them what you will.

They are not the be all and end all. They do not have the effect of righting the wrongs of Cheshire. They do not probably have the effect of preventing a Cheshire, God forbid, from ever happening again.

They are put forth in good faith. They are certainly not completely original. There are many of which have been shared by other people who have made proposals before this Committee.

They are certainly not so rigid in being presented to you that we hope they're not changed at all, and I'll get to why I believe that. But certainly, we offer them to you for your consideration.

I'll go over them in general if I may, and I'll certainly be glad to take any questions.

The first and foremost is the constitutional fix. As we know in September, the State Supreme Court ruled in the State v. Bell decision that our persistent felony offender law was in part, unconstitutional and flawed.

And we have put forth a proposal to fix it. It's nothing earth-shakingly original. Frankly, it was one of the fixes that were proposed right within the State v. Bell decision, which is basically to give the jury the providence of determining whether or not it's in the public's best interest to have an enhanced sentence.

I'll tell you what, though, and one of the benefits of this kind of meeting, in studying the proposal in that regard, with regard to the persistent felony offender law, I happen to like the one put forth by Representative Lawlor and Senator McDonald better.

I think that when Chairman Lawlor indicated that on the conversations with prosecutors the biggest problem they had with our current law was that finding section, and in their proposal they've eliminated it. I think that's an excellent suggestion.

I will add this, however. I do think that that's an excellent suggestion on how to fix that law. However, I think it does need to be coupled with a, and I hate this term, that Three Strikes and You're Out provision that we also propose as did the Senate Republicans with a slight change, which I'll get to in a moment.

We join many of you and many of the proposals, in wanting to increase the penalties with regard to burglary, categorizing it as a violent felony.

Call it home invasion. We do not but that's fine. We can tinker with some of the years with regard to the increased penalties. Again, I think that is the bipartisan collaborative effort we're all here to do, but we certainly think that that will go a long way in addressing some of the things that happened in Cheshire, recognizing that home invasion burglary, if you will, is a violent crime.

It's a serious crime and the penalty should be commensurate with that crime.

With regard to the Three Strikes and You're Out, once again, I hate that. I hate that baseball analogy when we're talking about such serious things. We're talking about things such as a murder, kidnapping, rape, sexual assault, aggravated sexual assault, arson.

We're talking about these horrific crimes that have real victims, and yet I guess for convenience we reference them as strikes. I fall, you know, prey to that trap and I've used that term, but I don't think it really does justice to exactly what we're talking about.

The proposal we put before you is almost identical to that put forth by the Senate Republicans as well, which we commend them for putting forth.

The only slight difference is, we add murder, murder that is not punishable by death. There are some murders, obviously, that do not rise to the level of capital felonies, therefore, are not punishable by death.

We add them to the list of Three Strikes You're Out to be considered, obviously a serious, a violent felony. And we'll be glad to go into detail if we need to talk about that.

Another proposal you might not have heard much about is the Castle Doctrine. Again, I frankly don't know, I guess that comes from the term your home is your castle.

We put that forth, and it is something, again, not earth shattering. It's a slight, subtle fix. Currently, right now you have a right to use deadly force if someone comes into your house and you have reason to believe that they are going to harm somebody in your home to protect yourself and your family.

The problem is, under our current law the burden that that force was reasonable is on the person using that force, and what we're saying is, the presumption should be that it is reasonable to use that force.

Obviously, it's a rebuttable presumption so that if somebody was sitting on his porch with a shotgun waiting for the first SOB to cross the property line and God forbid, took his head off, that person is not going to be able to rely on the Castle Doctrine as a defense.

But we do think that we should put that, flip that burden and give the presumption that a person put in that situation is certainly protecting their home and their loved ones.

With regard to the death penalty, I know it was touched upon by Attorney Gavin, whose expertise I couldn't come close to, even competing with, with regard to matters such as this, but I was very glad that he was very candid to say that he was opposed to the death penalty and everyone in the organization he represents is opposed to the death penalty.

And it was no surprise to me of course that he would be opposed to any fix of a penalty that he does not believe in.

And whether or not you do believe in it or not, as we sit here today, we do have a death penalty, and it is a penalty that has been so rarely used, and I think, thank God, in many respects, I always say I'm supportive of the Connecticut death penalty because I think it is so different from other death penalties out there.

But one of the things that we don't have is, we properly give defendants who are charged and have been convicted of a crime that is punishable by death, an opportunity for various appeals to do everything they can to prevent themselves from that penalty being carried out.

But we do think that both justice requires closure, that if we do have a crime on the books as we do, if we do have an expectation

that once convicted after every possible defense, that you are convicted of that, that you should have very reasonable and generous periods of time to make every appeal you possibly can.

But once those appeals are over, that the sentence should be carried out, and the time period for those appeals should be reasonable, but should be finite, and that's what we've proposed, and that's what's before you.

We're also coupled with another nuance in the death penalty law. Right now a DNA testing, which has become thank God, so prevalent and available in our criminal justice system, right now a court must give notice to the prosecutorial office and hold a hearing before DNA is tested.

It seemed like a cumbersome, ridiculous requirement. If somebody's charged with a capital felony and is facing the possibility of death, a DNA testing should automatically be ordered for that individual, and we think that would go a long way, again, to try to serve justice. Forgive my voice.

Finally, administratively, and one of the other byproducts, I guess you could say of making a burglary, rising burglary to a level of a serious violent felony is not only the fact that you would have to perform 85% of your sentence, but also administratively with regard to the parole process.

It would also require that you, any parole decisions would have to be made before a full parole board hearing, and that is an administrative hearing. Obviously, that's been ordered by the Governor since the Cheshire murders. This would obviously put it in statute.

Ladies and gentlemen of the Committee, some of the suggestions, and they are just that, could be talked about, debated with, worked on with you, looked forward to. We learn from each other.

I mean, I'm sitting here making a proposal, one of which is a constitutional fix, and I say off the bat I like the Chairman, the Co-Chairman's fix better than the one we proposed, and I guess that's what this is all about, and that's democracy.

I guess the only thing I would have to say, and I'll be glad, again, to answer some questions, is that we do keep the focus on public safety, that people need to know, and we as public officials need to set, we need to answer questions like, what is our public policy with regard to the crime of burglary.

People need to know what that is, and we need to set that. People need to know what is our public policy if someone has been convicted by a jury of their peers beyond a reasonable doubt, not once, but three times, of a crime such as rape or murder or kidnapping or arson, we need to let them know what we feel.

We might disagree with that, but I think at very least we owe them to set that policy and set it loud and clear. And with that, I thank you for listening and your indulgence, and if you have any questions, I'll be glad to try to answer for you.

REP. LAWLOR: Well, thanks very much, and just a couple of technical points on the Castle Doctrine, the self-defense inside your house issue.

I was just reading it, and I'm sure it's not the intended consequence, but it seems like it actually changes what is currently a pretty strong protection for the homeowner and sort of what is that [inaudible] because of the current law.

As I understand it, the Chief State's Attorney himself is here, that if you use deadly force in self-defense inside your house, if you're charged with a crime in connection with that, and you claim self-defense, that immediately puts the burden on the state to disprove beyond a reasonable doubt, your allegation of reasonable belief that you were about to be hurt.

So in other words, the current law, as I understand it, is that once you claim self-defense, it's not a rebuttable presumption. It's a requirement that the state disprove your claim beyond a reasonable doubt.

So I think lowering it to a rebuttable presumption makes it easier to overcome a claim

of self-defense under the current law. That's the way I understand it because we had this big debate a number of years ago.

We were trying to deal with the problem and the former State's Attorney Mary Galvin brought this to our attention, that you know, a lot of clear, like road rage kind of situation, someone would shoot another person, claim self-defense, and it makes it almost impossible to overcome that claim of self-defense because you have to disprove it beyond a reasonable doubt.

You don't even have to prove the actual assault or disprove it, and I just think this might have that unintended consequence. Right now the law is very strong in that regard.

REP. CAFERO: Well, if it does, Mr. Chairman, obviously that's not our intent, and there are so many subtleties, but I guess the basic message, and again, that's why we're here, to sort of work these details out, the basic message with regard to what we're proposing is, we believe that the benefit of the doubt, if you will.

And certainly that is not a legal term, but should be in favor of the homeowner, that the burden must be to prove that using deadly force in those instances was unreasonable, and that the burden not be on the homeowner to prove that what he did or she did was reasonable.

So there might be various nuances. That is our overall goal and I certainly would defer to your expertise with regard to wording it, to

capture the true spirit, I think, of what probably most of us would like to do, I would hope.

REP. LAWLOR: Right. Well, I think the current law is clear. All you need to do if you're the homeowner is say, I acted in self-defense and then the burden is on the state to prove beyond a reasonable doubt that you are being unreasonable.

REP. CAFERO: And I would hope we could verify that, because I think it might be clear to you. There are a lot of people that aren't so clear about it, and if it is clear and unequivocal, it wouldn't hurt to make sure that everyone knows that.

REP. LAWLOR: Now, on the thing that you and I agree that the bumper sticker Three Strikes and You're Out thing is unfortunate, because it's so complex, the issue, that it could be misleading to people and that's what we're trying to get at today.

I don't know if you heard earlier, back and forth, because you know, there's five different persistent offender statutes for this serious violent felony offender situation, but is it your position as well as Senator McKinney's position that the prosecutors should retain complete jurisdiction to either seek the life sentence or not seek it as they decide [inaudible].

REP. CAFERO: Well, you put it in a certain way and I say this with, and maybe I'm not understanding your question.

Prosecutors in every instance, as I think even Attorney Gavin admitted, have discretion when it comes to the charge.

So with the Three Strikes, your law, proposal would be doesn't change that one iota. They have discretion now. They would have discretion then. They have discretion under the persistent felony offender law.

They have discretion under every law. They have the discretion to put forth a charge, so that doesn't change at all.

What would change is, and a very limited thing, and you and I, Chairman Lawlor, I think over the years have agreed that with regard to non-serious offenses, sometimes, and I'm speaking for myself and not my Caucus at this particular point, the mandatory minimum wave, if you will, is sometimes troublesome to me.

I don't want to see a system where we have a computer at the judge's bench and you know, you find him guilty of a crime and just press the button and it spits out a sentence.

I think there needs to be discretion. That's why we have good judges. That's why we put them through the scrutiny that we put them in.

In certain instances, I don't think that's appropriate. Very limited ones, but certain

ones I don't, and that does come in the area of three serious violent felonies.

And again, I don't even think that description does it justice. I'm talking about rape and arson and murder and kidnapping. Somebody has been convicted beyond a reasonable doubt by a jury of their peers, not once, not twice, but three times for one of those crimes.

I do believe that the discretion with regard to the sentencing should not be there, that that individual should serve a life sentence without possibility of parole.

That is the basis, obviously, of our proposal and I understand that many people, including yourself possibly, disagree with that, and that's why we're here to debate that, and to put those things forward and discuss them.

REP. LAWLOR: I guess the point I'm trying to make is that I think some people who have been talking about this proposal think that, as you've said, that if in fact you've got two previous convictions for these serious, most serious crimes, and you get a third conviction, that absolutely you will be locked up in jail for the rest of your life, no questions asked. And that's not what it actually says.

It says that only if the prosecutor seeks that third conviction under that special provision. But if they don't allege that it's under the so-called Three Strikes and You're Out thing, then you'll get that third conviction of a third serious violent offense, and you will not

be locked up for life because the prosecutors haven't charged it under that thing.

REP. CAFERO: Right.

REP. LAWLOR: Because what I'm trying to say is, what I'm concerned about is, if this becomes law and two or three years from now it will turn out some guy did have two such previous convictions, picked up a third one and didn't get sentenced to life, and people say, well, I thought the law was changed to say he had to be sentenced to life, and then we'd be in the position of explaining well, no, that's up to the prosecutor.

Even though he had two previous qualifying convictions, and even though he picked up a third one, he didn't get life sentence because it was a plea deal where they didn't pursue it under the persistent thing.

So you may have thought that the three convictions would get a life automatically, no discretion, no questions asked, but that's not exactly what the law says, and I just want to make sure.

REP. CAFERO: Well, I think you and I agree with that, and I think that's frankly, isn't that true for everything, and that's why I think you and I both dislike the wording, Three Strikes and You're Out. It seems to simplify it, and it might be misleading.

But most of our laws, and unfortunately some that we've had these little cute tag lines to,

most of our laws do have those nuances and those differences.

But I also have a lot of faith, as I'm sure you do, Chairman Lawlor, in the prosecutors. I believe when appropriate, knowing these differences, that they will have discretion.

I believe when appropriate, they will charge under what we will call, I wish we'd change the name right here and now, but what we are unfortunately now referring to as Three Strikes You're Out, and they will not charge when they don't believe it's appropriate.

And I think that that is clear. That happens in a lot of instances. I don't want to mislead anybody, but I think that we are being as clear as possible with your certain, your appropriate warning.

If in fact this were to become law, that for the most part our goal is that where appropriate when somebody is convicted of three serious violent felonies and charged accordingly, they would be sentenced to life imprisonment without possibility of parole, with the understandings and the caveats that you mentioned.

REP. LAWLOR: Yeah, I think it's important to be clear, that as it relates to the prosecutors, this would be permissive, not mandatory.

REP. CAFERO: That's correct.

REP. LAWLOR: Are there further questions? Senator Kissel.

SEN. KISSEL: Thank you very much, Chairman Lawlor. I'm so delighted to have you here, and I've got to tell you that I really do miss serving with you on this Committee, and House Republicans are the beneficiaries of your progress here in the Legislature, but certainly your acumen and insights, I miss them, and you were always a pleasure to serve with here on this Committee.

REP. CAFERO: Thank you. Appreciate it, Senator.

SEN. KISSEL: Absolutely. It's heartfelt. And I think that the dialogue that just took place between you and Chairman Lawlor is extremely important, and you know, basically, the media drives a lot of the discussion, and sometimes you need those tag lines.

Otherwise, if you have a two-page explanation of what you're proposing, it's never going to even get in the papers or on television or on the radio.

But I think what I heard take place is, a couple of weeks ago, Governor Rell said that she expressed an interest in the Three Strikes proposal, but that there would have to be some latitude.

And in the Quinnipiac Poll, the public said, well, we're hesitant unless there's some safety valve or latitude. And what I just heard take place was in both the Senate Republican proposal regarding Three Strikes and in the

House Republican proposal regarding Three Strikes, there is indeed, that latitude.

That latitude rests with the State's Attorney, and it's really not that much different than the latitude given to the State's Attorneys with the persistent dangerous felony offender statutes right now.

And what I try to tell people is, don't be afraid of the Three Strikes, no matter how it's been characterized by detractors if they disagree with it on policy. That's okay.

But don't let it be mischaracterized, because even under the persistent dangerous felony offender statutes, which are on the books right now, on a second offense, not your third strike, but your second strike, you can get tacked on up to an additional 40 years, depending on what the underlying conviction is, that B felony bumped up to the penalty for an A felony.

And so, 40 years out of anybody's life is going to, under any actuarial charge is going to take them halfway there.

I think what I've said all along, all afternoon, and what your testimony has really laid the groundwork for is that we in this Legislature, Republicans and Democrats alike, have far more in agreement going forward than we have disagreements of.

And that doesn't sell newspapers or make for great things on television. Sometimes they

like to point out the differences and the disagreements between Democrats and Republicans, or this faction or that faction.

But at the end of the day, I hear exactly what you're saying about Mr. Petit. I don't know if I could even go on day to day, and he's showing such courage by charging us to take what we can out of this horrific tragedy that occurred to his family.

I had stated that if the loss of these lives have any meaning whatsoever, is that we're going to come up with some common ground at the end of the day, and that somebody, and they won't even know it, the things that we do.

It's a crazy kind of thing, but if we're good at what we do, the potential victim will not be a victim, and they won't know that they weren't a victim because we'll have reduced the number of victims out there.

But I'm hoping to give meaning to this horrific act that took place over the summer, and I really commend you for coming up here this evening and making these proposals. There's a lot of good food for thought here, and I really commend you and your Caucus for putting so much thought into these proposals.

Thank you, Mr. Chairman.

REP. CAFERO: Thank you, Sir.

REP. LAWLOR: Representative Hamzy, and then Representative Labriola.

REP. HAMZY: Thank you, Mr. Chairman. I just want to go through the mechanics, if you will, of a person who has committed three violent crimes.

Someone is charged with rape or sexual assault in the first degree. The prosecutor retains the discretion with the crime, with what to charge this person with.

That person, if he doesn't accept a plea bargain or pleads to rape or sexual assault in the first degree is then convicted, and that's his first offense. Is that accurate?

REP. CAFERO: That's my understanding, yes.

REP. HAMZY: Okay. A person serves time or doesn't serve time, whatever the penalty is under that offense, leaves prison and is then charged with kidnapping.

Again, the prosecutor retains the discretion to charge an offender, based on the facts of the case, that person is either, takes a plea to kidnapping or goes to a jury trial, is found guilty by a jury of his peers, and that's his second conviction. Is that your understanding?

REP. CAFERO: That would be my understanding, yes.

REP. HAMZY: And then that person leaves prison and now commits manslaughter, okay? The prosecutor in that case, it's a third offense now, has the discretion based on the facts of the case, what to charge that person with.

Is that your understanding of our current process?

REP. CAFERO: Our current process? Yes.

REP. HAMZY: Okay. That person now, for the third violent crime that he has been charged with, using the same process that he's already been convicted twice for, is now charged and convicted, either by a jury of his peers or a plea bargain to manslaughter.

Under the proposal that you're testifying about, that person would now serve a life sentence. Is that accurate?

REP. CAFERO: Yes, based on the charges you indicated that the prosecutor in his discretion chose, yes.

REP. HAMZY: So there's no special program, there's nothing that will require any prosecutor to do any different than the prosecutor did with the first two offenses that he was charged with.

It merely states that if someone is depraved enough to commit three violent felonies and is convicted of those three violent felonies, that there is no discretion with regard to the penalty, upon a third conviction.

REP. CAFERO: That's correct.

REP. HAMZY: That's basically the gist of the proposal?

REP. CAFERO: That is absolutely correct. And I guess to Representative Lawlor's point, and I guess the point that I made in retort to that is, right now prosecutors, and have since time immemorial, have discretion as to the charge of any defendant for any crime.

You know, Attorney Gavin testified to that, and again, he knows far better than I ever will of that very fact. He lives it every day.

That is a discretion that does not change under our proposal. So when the, based upon the prosecutorial charge in the examples that you set, upon conviction, that individual would be convicted and sentenced rather to life imprisonment without the possibility of parole.

REP. LAWLOR: That's a little different than what you said before, so let's just clarify this.

You know, if you're going to charge, the way it works, and there's nothing we can do to change this is, if you're going to sentence someone based on prior convictions, you have to prove beyond a reasonable doubt the fact of the prior conviction.

REP. CAFERO: That's correct.

REP. LAWLOR: And you can't, you don't do that in the actual trial. You'd have to have a second trial where you allege the previous conviction, and then once convicted of that, then the enhanced sentence can be imposed.

REP. CAFERO: That's correct.

REP. LAWLOR: Right. So the prosecutor has the authority to either not seek the enhanced sentence and just leave it be the normal sentence for that particular crime, so there is discretion.

The question is, do you or do you not charge the persistent offender status, and if you don't, even if it might be your third actual conviction for a particular crime, you would, the maximum you would get would be the normal sentence for that crime, not the mandatory life sentence.

So that--

REP. CAFERO: Well, under our current law, and I agree with, and I don't know if I said something different to Representative Hamzy, and if I did, I apologize.

But you do, if you are seeking to convict someone based on multiple crimes because of an enhanced sentence, you have to prove that they're convicted of those prior crimes.

REP. LAWLOR: Right.

REP. CAFERO: You don't just say, you know, pluck that out of the air. I mean, that's part of what you must prove and therefore it must be charged with, so that's where the, I think what I addressed Representative Hamzy was, assuming under his example that the prosecutor appropriately charged the defendant in the examples he gave, upon conviction, they would

serve life imprisonment without possibility of parole.

And I say appropriately charged, following the criteria that you just laid out, which is that you have to seek and prove that this individual not only is guilty of the crime at hand, but also had previously been convicted of the other two serious crimes.

I mean, which is a separate whole trial. Actually bring in witnesses, have a jury, have to decide guilty or not guilty of the previous convictions.

REP. LAWLOR: But that's the way it is now.

REP. CAFERO: Correct. We're not changing that.

REP. LAWLOR: Right. But people are watching, and I think the question that was asked by Representative Hamzy was, is it not the case that upon the third conviction the only possible sentence is life without possibility of release, and you said yes.

REP. CAFERO: I said if appropriately charged, and maybe I didn't expand it the way you've just done. But I mean, our law is the law.

REP. LAWLOR: Right.

REP. CAFERO: And as we speak right now, what the law says is, you're going to have the trial with regard to the crime at hand, and then the issue is, almost like a sentencing trial, if

you will, that this individual happened to have been convicted previously twice.

And therefore, to get to that point, which triggers the enhanced sentence, he or she has to be appropriately charged by the prosecutor, which is prosecutorial discretion, which is no different than what we have always, and have had since time immemorial.

REP. LAWLOR: And the thing I'm trying to clarify because people are watching, and they're not lawyers and understand this, that even under any of these proposals, if someone is actually convicted for a third, serious violent crime, you know, convicted for the third time.

If a prosecutor chooses not to seek the enhanced penalty, there will not be a life sentence even though they have just gotten convicted for their third offense.

REP. CAFERO: That's true, but that, and forgive me, and I am a lawyer. I'm certainly not a criminal attorney, but that seems somewhat obvious.

And frankly, and the difference, though is with regard to our current persistent felony law, is even after the same criteria applies for the persistent felony, you have to prove not only the crime at hand, but the fact that this individual was previously convicted of other crimes for him or her to qualify for it.

Once that's done, there is under, if all we have on the books is what we have now, there's

still discretion as to whether or not, once you've proven all those things, and charged with all those things, there's still discretion in the sentencing portion as to how long that person stays. It's not automatic.

This takes that discretion with regard to the sentence out of it, Three Strikes You're Out.

REP. LAWLOR: Right, and I just want to, the only thing I'm trying to emphasize, because it sounded like Representative Hamzy said, upon the third conviction you automatically get the life sentence, and that's not the proposal.

The proposal is if then the prosecutor takes it to the next step, then it would be automatic. But if the prosecutor, because like most of the cases are resolved as a plea bargain, so if a guy says, okay, it's my third sexual assault first degree, and the deal is, I'm pleading guilty and going to get sentenced to ten years, that would be a legal sentence. There would be no requirement that he serve life if the prosecutor agreed to the ten-year sentence.

REP. CAFERO: If the prosecutor agreed, and I have enough faith that in the case, the prosecutor where appropriate, he would use his or her, he or she would use their discretion with the appropriate charge.

REP. LAWLOR: And I agree. But I'm just concerned a few years from now someone will look back and say, wait a minute, I thought the Judiciary Committee passed a bill that said in this situation the guy had to get a life sentence,

and then we'd all be explaining, well, it's only if the prosecutor decides to do and--

REP. CAFERO: Well--

REP. LAWLOR: --persistent offender law and on and on.

REP. CAFERO: I guess that's where I want to see people.

REP. LAWLOR: I guess--

REP. CAFERO: I heard what you said. That's part of our job. There's a lot of people that think we solved the energy crisis last May, and they're learning we didn't.

REP. LAWLOR: There you go.

REP. CAFERO: There's a lot of people thought we solved the healthcare crisis and we didn't. And there's a lot of people who think we did a lot of things and we didn't.

And unfortunately, it's up to us to describe it. That's our responsibility. And that's why I think these short little fixes and little quips and sayings and whatever, don't do anybody any justice.

But it won't be the first time we're explaining to our constituents that what you thought we did, we didn't do.

REP. LAWLOR: Not to mention solving talking on the cell phone while you're driving problem, right?

REP. CAFERO: Exactly.

REP. LAWLOR: Anyway, Representative Labriola's next, and Representative Klarides.

REP. LABRIOLA: Thank you, Mr. Chairman. For more than eight hours now, we've heard important testimony about such things as reforming our parole process and reforming our information sharing process, and reforming persistent offender statute, reforming home invasion statute.

But I would like to applaud you because you're the first speaker to talk about reforming what I think is the most important, and most relevant point, given the Cheshire murders.

And let's remember it's a murder case. The two defendants in the Cheshire case are charged with capital, a capital crime each.

But you're the first speaker to talk about reforming our capital punishment law, our death penalty, and I believe that there are certain crimes that are so heinous that the only just sentence is the death penalty.

A majority of the people of Connecticut, and this country, believe the same thing.

Now, I of course have respect, and really can't argue with somebody who for philosophic or religious grounds disagrees with the death penalty.

But a majority of the people support the death penalty. We have a death penalty. But I would submit that we have a death penalty in name only.

Because the Appellate process is essentially limitless, a person who is on death row can literally appeal their case for decades without any actual expectation of the death penalty ever being carried out.

So in that sense, it really is a fake death penalty. It's not a real death penalty currently.

You, in your proposal, have proposed a reasonable limit to the appeal process. As you correctly point out, we have very stringent constitutional protections in our death penalty cases in Connecticut.

It's very hard to get a conviction in a death penalty case in Connecticut. Of course, all Appellate rights should be preserved under your proposal. You have even included special and important constitutional DNA protections in the proposal.

But it can't go on forever. There must be some limit to the appeal process. It's such a crucial part of what needs to happen in reforming the death penalty.

This is why we're here in response to this Cheshire case, which is a gruesome murder case. That's what it is, and the people of Connecticut, if these people are, these two

people are convicted after having a trial before their peers with all the safeguards and the bill of rights, both federally, our United States Bill of Rights, and in Connecticut Constitution.

If they are convicted of these heinous crimes, the people of Connecticut cry out for a death penalty, the real death penalty, one that's not fake, one that won't allow these people to appeal their conviction for decades and decades and decades.

So I do want to applaud you for that, and could you comment?

REP. CAFERO: Well, I appreciate the applause, and you're being very kind, because obviously certainly you, Representative Labriola, were very much supportive and instrumental in drafting this piece of legislation.

But you're right. I mean, we do, let's face it. If Michael Ross did not decide that he wanted to die, he would still be alive with regard to our current system and his ability for endless, limitless appeals.

And it's a little different, you know. Representative Lawlor and I had a little back and forth, with regarding an agreement, frankly, with regard to what people and the public think and assume, hey, what do you mean, didn't you guys pass that Three Strikes and You're Out law?

This is the guy's third, how come he's not out? And while that is a little nuance there because actually he needed to be charged with that, etc. etc. etc.

And though that is sometimes tough to explain, sometimes tough for lay people to understand, it is not, it is the enforcement of the law as it's written.

I feel a little differently about the death penalty, because we say we have it, and as you said, by its very operation, unless the defendant, he or she, says I don't want to appeal any more, they will never die. They will never have their sentence, they will never be executed.

Now there's a lot of people, like you, respect and applaud them who are against the death penalty say bravo. In fact, when Michael Ross said, I'm done, I don't want to appeal any more, there are people who said, no, you've got to appeal. We're going to make you appeal. We're going to say that you're nuts for not appealing, and we're going to make you appeal.

He said, I don't want to appeal. And that's what the fight went on, and we know the history of that.

But that's where the public, as angry as they are in the circumstances Representative Lawlor and I discussed, when they say, hey, I thought you guys fixed that.

This one they have a right to be real angry, because it's almost fraudulent. Now, if we abolish the death penalty, that's another issue. That's for a debate, and that's what this democratic institution will do or not do.

But right now as we sit here, we have a death penalty, and it is a timely issue with regard to what took place in Cheshire.

And all we're saying is, give everybody [Gap in testimony. Changing from Tape 5B to Tape 6A.]

--to only those most serious, heinous crimes, give that person every defense, every opportunity, every scientific methodology to prove their innocence or to find justice.

But when that is done, and reasonable times are given for appeals and defenses, the sentence has to be carried out, and that's what this proposal says, and that's the basis of it. It's not genius or some intellectual, it's common sense.

REP. LAWLOR: Representative Klarides.

REP. KLARIDES: Thank you, Mr. Chairman. I hate to go back to this conversation that the two of you had earlier, but I'm just very confused about it, and it's about the Castle Doctrine.

Let's say I'm in my house. Somebody tries to break in. I go to the door, they get in my, they get into my house and they're clearly coming after me.

So I grab my Louisville slugger that I have in my living room and I smash them over the head and I kill them. So is that, the Castle Doctrine kicks in at that point? Is that correct?

REP. CAFERO: Well, this is my understanding, okay, and again, I don't, and I started off by saying I don't profess to be an expert in this, and I know Representative Lawlor has far more experience and expertise in this, and he's indicated that there has been some confusion with regard to this.

It is my understanding that the current law says that force may only be used to the extent that it is reasonable under the circumstances.

Deadly force may only be used in defense of a person to prevent a crime of violence or arson by a trespasser or to the extent that such a reasonable, excuse me, that a person reasonably believes that such force is necessary to prevent or terminate unlawful entry by force into his dwelling or place of work.

That is my understanding of the current law. From that, I understand that to mean that in your hypothetical under current law, you would have to prove that what you did was reasonable.

And the proposal we have made is to say the law will assume what you did is reasonable, and if it is believed to be unreasonable, the burden would be to prove that what you did was unreasonable.

But the benefit of the doubt goes to you first. Representative Lawlor has indicated that a closer reading of the law would indicate that in doing what I hope to do, and the way our proposal may be written, might actually do the opposite.

Representative Lawlor is indicating that our current law says, once you assert the defense, the self-defense defense, that the law is on your side, and the prosecution would have to disprove that what you did is unreasonable.

And as I indicated before, I think we want the same result, and that is to give the homeowner, the person who's lying in bed and has his or her home broken into, and is in fear of their life or the life of their loved one, the benefit of the doubt that the force they took that might have resulted in death was reasonable, and that somebody else has to prove it wasn't.

And I'm using layman's terms here, but that is the goal of our legislation, and that was the back and forth Representative Lawlor had, and I said, as I said, he's far more knowledgeable about that than I am.

I think he understands the goal or what they were trying to do, and if he and this Committee can come up with better language that would achieve that goal, hurray.

REP. KLARIDES: Well, I just wanted, and I agree with that, I just wanted to clarify one point.

I know Chairman Lawlor had mentioned that once, say we're in my hypothetical, so then I would be charged with murder, is that how that would go, Chairman Lawlor, or anybody?

I mean, and then I would say, and then according to Chairman Lawlor, and please correct me if I got this wrong. It is up to the state to disprove that I said I used, is it self-defense?

REP. LAWLOR: Well, I think, to use your example, if you were in your home and someone broke in and you use your Louisville slugger, a baseball bat, and you ended up killing them, I can't imagine the prosecutors would charge you with murder.

But if they did, you would claim self-defense, and once you, that's an affirmative event, so once you claim self-defense, so in other words if they want to go to trial they'd put on their evidence that you're guilty of this crime.

You would then claim self-defense, and then the burden shifts back to the state to disprove your claim of self-defense beyond a reasonable doubt.

So you claim, I killed him because I was in fear of my life, they have to prove that you could not have reasonably been in fear of your life. That's the way it works as I understand it.

And by the way, I think it's worth noting, if you use a baseball bat, you probably are even

safer because deadly force usually is limited to guns and knives and stuff, so that may not even be considered deadly force, even if the person did actually end up dying.

It may be considered ordinary force, in which case it's easier to disprove.

REP. KLARIDES: Okay, well, make believe is a nice thing.

REP. LAWLOR: Okay. [inaudible] it's safer under the circumstances.

REP. KLARIDES: Exactly, if I had a gun.

REP. LAWLOR: Yeah.

REP. KLARIDES: Because I was looking at some information that we had in our packets, and I was looking at an OLR report, and what it says is, under current law the actor must prove by a preponderance of the evidence that his or her belief was reasonable.

So that would mean that it would be, the burden would initially be on me, and then it would shift to the state, which isn't exactly the way I understood your explanation to be.

REP. LAWLOR: You just claim, in other words, all you need to say is, I did it because I feared for my life, and then once you do that, then the burden shifts back to the prosecutors to disprove it, and the burden is beyond a reasonable doubt, not rebuttable presumption.

So I think pretty clearly, all you need to do is claim self-defense. It puts the prosecutor in a very difficult position, assuming you've got a plausible claim, which is, I thought he was going to kill me.

REP. KLARIDES: Right. So back to Representative Cafero's proposal, so are you saying in your proposal that the way it stands now, that's still too much of a burden on the person who's claiming self-defense?

REP. CAFERO: Well, you know what I'm saying, is that in the wisdom and deliberation of this body, that they should make sure that the burden of proof is not on the homeowner, but on the prosecution to prove that the homeowner acted unreasonably when they used deadly force when someone broke into their home.

The way it was just described by you, and Representative Lawlor seemed to agree, it seems to still put the burden on you, and that was our initial assumption when we made our proposal that the benefit of the doubt, the burden should not be on the homeowner, that you have to presume the homeowner was acting in self-defense off the bat, and if they want to prove otherwise, the burden is on the prosecution to do so.

Now, there are nuances. There are, I think we're, I hope we all agree on the basic premise, and if we do agree on the basic premise, I'm sure in the wisdom of the staff and this Committee, we'll get the language just right to make sure that what we want is,

becomes the law, but that was the intent of our proposal.

REP. KLARIDES: Okay, and if I may, just one more question. I know we talked a lot about, today, about different states and different Three Strikes laws, and California's law kept, seemed to, kept popping up as far as on their Third Strike it's not necessarily the dangerous felony as with what seems to be our proposal on our third strike. Is that correct?

REP. CAFERO: That's correct. It's my understanding that on the third strike in California it could be any felony. It could be forging a check. It could be anything that is considered a felony whether or not it is violent.

That is not the case in our proposal. Our proposal is specific to being a serious violent felony.

As Representative Lawlor pointed out and some previous speakers, it's what we define as serious violent felony. Also, the Washington law was brought into discussion.

Representative Lawlor indicated that in Washington, for instance, burglary is not considered a serious violent felony.

As we sit here today, burglary is not considered a serious violent felony in Connecticut, and in light of Cheshire, and I think our number one job is to set public policy with regard to public safety and answer the question, what do we in Connecticut believe

should be the public policy with regard to burglary?

It seems like most of us, if not all of us, believe that burglary home invasion should be categorized as a serious violent felony, and therefore part of the mix that we discussed that would be applied in the, and again, I hate using the term, but Three Strikes and You're Out, far different from California law.

REP. KLARIDES: And just so people who are, whoever is actually still awake at this point who may be watching, we know all you guys are awake in here, but you know, the way we define it, and it's certainly within our purview to define it any way we'd like in the future.

But when we talk about those violent crimes, I know we're talking about murder, manslaughter, arson, sexual assault, aggravated sexual assault, robbery, things like that, crimes that people look at and say, those are the worst of the worst as far as crimes go.

REP. CAFERO: Pretty violent stuff, yes.

REP. KLARIDES: Great. Thank you.

REP. LAWLOR: Representative Green.

REP. GREEN: Thank you, Mr. Chair. A couple of comments. I've heard some of my colleagues describe why we're here.

I guess my main concern and my thought is that I'm here so that I can try to get information

and think about how do I as a Legislator try to strengthen, change, modify laws that in the end have the public have a greater sense of safety, a better feeling of safety, a real sense of safety, than some of the other proposals that other people made, not that we should not change some things to try to understand the violence of some crimes.

I guess I would have to say that criminal behavior to me is a real concern, and it would be hard for me sometimes to distinguish how to identify a violent offender versus a nonviolent offender because I think all of us may have propensity to be violent. So that is something I'm struggling with.

And so I would say that although I think we all agree, there's no doubt the horrific, heinous crime that happened in Cheshire, but to me, for any family member, any individual that lost a loved one through a murder, manslaughter death is a heinous crime to them.

I can't imagine any family member whether what happened in Cheshire, or getting news that their son or daughter got shot on the street or regular, or whatever. To me it's heinous. All those are heinous acts.

And so I'm not going to try to rise to a level of what's more heinous. Individuals that I know, in fact, my personal loss of relatives, young relatives through murder to me was heinous. I don't know why somebody would do that.

They're washing their car and get shot. To me, that's a heinous crime, to my family members. I feel that. That happens in a number of our communities. It's been happening for a long time, and I think the communities have said, how do we not just have the perception of safety, how do we really provide safety in our communities.

Some of that, I believe, is not necessarily the kind of laws that we make here, because I think sometimes it gives a false sense.

And as we have heard through some of the recent dialogue with you and the Chairperson, I don't want the public to believe that these kind of changes are going to make communities necessarily that much more safer.

I have to believe, and I don't know about anybody else, but I have to believe that at least the media is reporting more home invasions since the Cheshire incident than I've ever heard before.

And it is amazing the sort of level of response that we get from communities and my colleagues in the public on the type of home invasions, whether, whatever it is.

I think all of them are horrible. I've, my home has been burglarized four times, more recently in January. To me, that's a violent crime, and I'm not want one who wants to necessarily make more crimes, more felons and categorize individuals who do that as serious violent offenders.

However, for me and that feeling, that was a violent act. Nobody was there. In fact, the alarm system worked that time, so they, I think got scared away.

But to me, that's a violent, and my insurance is going to go up and all that other stuff, but that, I think is what I would like to try to understand what we're trying to do.

It is fine with me if we try to identify violent offenders. They get the kind of sentences that I think provide a real safety concern for the communities.

But I also believe that there's a lot of things that we have to recognize as to why individuals turn to crime, and that the kind of investment that we make in the criminal justice system with some better communication of systems, whether that's information sharing, whether it's reducing caseloads of probation officers, provide real opportunities for people to get out of some of this poverty and income issues that they have to address.

And they get real alternatives to individuals to not go into the system, to me says that the laws won't do that as much as identify a violent offender through some mental health assessment, give us some real opportunities for some economic development early on as we identify those individuals.

If we're going to make a comprehensive change, it seems to me that there's some patterns and

some information that we can glean from some of the research to try to identify those who are violent and nonviolent. So I just had to say that, but I have a couple of specific questions for your and your proposal.

REP. CAFERO: If I may comment on that, though, Representative Green, you know, sometimes we get a little bit too smart for our own good, and sometimes the answers are pretty obvious.

You know, you mentioned in your comments that manslaughter to you is a heinous crime, and would be to a family member. That burglary, when you were burglarized as recently as January, that was a serious, violent crime to you.

I agree. I think 90% of the people in this room and in this state agree. In fact, they are currently, with the exception of burglary, which we hope to make, categorized as a violent crime.

And again, you said, you professed I'm not an expert, and I don't know how to do it, you did it. You feel it. I mean sometimes it's just, it's so common sense that you don't have to over-think these things.

Burglary is a violent, you're violated, you felt violated. You weren't even home. When you came home, it's happened to me three times. You come home, a window is broken, stuff's overturned and taken, is one of the most terrible, horrific feelings in the world, and it is as violent as it gets.

Manslaughter, murder, that's violent. If somebody, God forbid backs over a young child and happens to kill them, that is as horrific as it gets but that's not a crime. That's an accident, unless you prove otherwise, obviously. When you talk about somebody washing their car and getting shot, that's a crime.

With regard to the other things you said, again, we should take a little more credit than maybe we do or given. We constantly, and Representative Green, to your credit, you are constantly, I think the conscience of the House of Representatives in pointing out those things.

You know, it's like healthcare. We have all these great methods of treating, hopefully successfully, cancer, and various diseases, but our real goal is to prevent it from ever happening.

And we could have various programs and penalties to make sure that violent criminals are properly incarcerated or dealt with. But what we really would hope is that they never became violent to begin with.

And we do a lot and maybe we could do more. We probably should do more. We'll continue to do more in different things. But we do do a lot and recognize the fact that there are, for instance, I was co-sponsor with the Speaker about gang violence, gang education.

What do you do to prevent a kid from even getting into a gang? So you nip it in the bud early.

What do you do about affording opportunities for kids to earn a buck, to understand the value of working early on so they don't say, man, I've got nothing to do but turn to crime.

REP. GREEN: Let me ask you, Representative, in your proposal, did you have any strategy for preventive measures in terms of looking at some of the things.

But as you said, some things to identify individuals that may develop, have already developed a pattern and we may consider to be violent. Do you have anything in your proposal for that?

REP. CAFERO: The answer to that is no, and let me explain. The answer to that is no because in no way, shape or form did we, and I'll speak for the House Republicans because that's all I can speak for, wanted to put forth to this Committee what we considered a package that was the complete deal, that dealt with prevention, that dealt with education, that dealt with housing issues, economic issues, etc.

We did not do that. We did not think it's our charge. We put forth some suggestions that address the problem.

Now that being said, there are Members of my Caucus, myself included, that work each and every year to make sure, you know, I often bore

the General Assembly with one of my favorite things that I do, and that is as the expulsion officer and deal with kids at risk every single day in the sixth largest city in the State of Connecticut, every single day.

And I see the, where a lot of the problems develop, and how you could, God willing, nip it in the bud at an early age with maybe a program, maybe a sense of belonging, maybe a sense of work ethic or something that we, as a Legislature, should provide those opportunities to people.

We will never stop doing that, and as long as people, and I don't say this to falsely praise you, as long as people like yourself and others sit there and remind us that we must, as well as we address these things, must also address those, we'll continue to do all we can in that regard.

So please don't ever interpret anything we put forth as well, if that was your package, why did it not include X or Y or Z. We'll work on that all day long.

REP. GREEN: And I didn't want to imply that my colleagues don't do that, and particularly my colleagues on your side.

I think that our discussions, and I know the discussions that I've had with my colleagues based on certain interests and stuff, we really, I think, are really conscious about trying to put together services for all

individuals throughout all ages for a number of issues.

So I'm not saying that in situations like this sometimes you've got to be more narrowly focused. I have a proposal that's very narrowly focused so I understand that.

A couple of questions around, you know, again, I'm trying to deal with identifying violent offenders.

In your opinion, would you think that most individuals that are currently incarcerated, are incarcerated and have been convicted of what we may consider violent crimes or nonviolent crimes?

REP. CAFERO: I have absolutely no idea. I think most people that are incarcerated are in for nonviolent crimes. I think there is a smaller population, prison population that would fall into the category as we define what is violent in our proposal.

And frankly, even today under the persistent offender felony law, that the percentage of people that are in jail for those crimes categorized as violent are smaller than the part of the prison population that is in for nonviolent crimes.

REP. GREEN: The, I had read somewhere recently, and I just wonder if you had heard this, is that those individuals that might have been convicted of manslaughter and/or murder, and may complete their sentence and actually get

returned to the community, are less likely to recidivate than other individuals.

Have you heard anything about that or read anything--

REP. CAFERO: I have not.

REP. GREEN: --to determine whether or not in fact, those folks who have committed murders are the least likely to recidivate than others?

REP. CAFERO: The least likely?

REP. GREEN: To return back to jail for any crime than other individuals who have committed crimes.

REP. CAFERO: I have not read that to be the case. I have not read it not to be the case. So I'm not knowledgeable about that statistic.

REP. GREEN: Or the last question that I have to address individuals with burglary convictions. I did attend, I think it was the Judiciary Committee Sentencing Task Force review, and we were talking about specifically those individuals in Connecticut, I think in the past couple of years that have been convicted of burglary one, two or three, their time and then their return to the community and whether or not they re-offended with another burglary, with a conviction of another burglary.

Do you know what might be the percentage of those individuals who have been convicted of burglaries, their time, got returned to the

community, their reconviction rate of another burglary, do you know in Connecticut what that percentage might be?

REP. CAFERO: Again, I'm sorry to say, I'm not an expert in that regard and I don't know that. I presume we could try to attain that, all of us could.

REP. GREEN: Yeah, we have it.

REP. CAFERO: And you should, I guess you should in your deliberations. But you know, I think Attorney Gavin who spoke before me talked about you know, maybe the junkie who is a perpetual junkie who burglarizes to support his habit, you know.

There's a couple of issues you have there. One is, you know, from the eyes of the victim you have a repeat burglar who based, maybe upon what we might do here in this Legislature, will not be a repeat serious, violent felon.

And yet, you have, one might argue, one could say, well, the only reason he's burglarizing is he's trying to, you know, support his habit. He's a junkie for life, and we should be treating that, and not the fact that this guy's a repeated felon.

So we've got a challenge, because I think the trick is that we have to recognize, and you know, it's funny. Attorney Gavin also recognized that there's a lot of prosecutors that see that distinction sometimes, and that is reflected in the charge that they give.

Yes, they could sentence a guy to the minimum, but he said himself, that he's seen prosecutors, and these are the good prosecutors that we have, say you know what? That's not the issue here. Let's address the issue.

This person needs help. They need, you know, some intervention with regard, and some treatment with regard to their drug habit, and I think that's the good part of our system.

But you also have to look at it from the eyes of the victim. I mean, you know, one might say, my house is the one broken into three times.

I wish that the burglar, you know, all good health and happiness and he kicks his habit. But in the meantime, I've got to have my house broken into three times? Somebody's got to do something about this guy.

So you have to look at it not only from the eyes of the victim, but that's the challenge we have, and are we going to do it perfectly? No. Have we? Absolutely not. We keep trying, and that's all we can do.

REP. GREEN: Thank you.

REP. LAWLOR: Thanks again.

REP. CAFERO: Thank you very much.

REP. LAWLOR: Next I think is, I did call Jamie Bissonnett before. They're not here, right?

So then, Julia Wilcox, correct? And Kevin Kane will be next. I see him sitting in the back. I did a minute ago if he's still there.

And then he'll be followed by, and maybe it would just be useful for people to get a sense of who's still here to testify, so let me just run through some names, and if you're here please say something so I can mark you as still being present.

So, Martha Gould, is Martha still here? Yeah, okay. Linda Blosie. Is Linda Blosie here? Robert Weatherington. John Watson.

JOHN WATSON: Yes.

REP. LAWLOR: Christine Pawlik.

CHRISTINE PAWLIK: Yes.

REP. LAWLOR: Joe Bartoli.

JOE BARTOLI: Yes.

REP. LAWLOR: Lou Paturzo.

LOU PATURZO: Yes.

REP. LAWLOR: Khalil Iskarous? Amy Stegal? Michael Rocci.

MICHAEL ROCCI: Rocci.

REP. LAWLOR: Rocci, sorry. Valarie Shultz Wilson? Dr. Richard Gordon? Jennifer Jasenski?

Okay, those are just the names on this page, so I just wanted to go through those people, so it looks like we have about five or six more people on this page, so you'll be coming up shortly. I'm sorry, Julia, go ahead.

JULIA WILCOX: Good evening, Chairman Lawlor and distinguished and very patient Members of the Judiciary Committee. My name is Julia Wilcox, and I'm a Policy Specialist for the Connecticut Association of Nonprofits.

Connecticut nonprofits is a membership association of over 500 nonprofit organizations. Approximately 300 of our member agencies contract with the State of Connecticut for a variety of health and human services.

This evening I'm proud to represent our Community Justice Provider Division. Nonprofit community justice providers afford the State of Connecticut with a broad scope of extremely effective services at an ongoing cost-savings to the state with relation specifically to the criminal justice system.

Programs include both residential and non-residential services, alternatives to incarceration, halfway house programs, substance abuse and behavioral health treatment programs, assistance in the areas of domestic abuse, and behavioral health treatment programs and education and vocation to name just a few.

In addition, programs also provide assistance to children and families of individuals

involved in this very complicated cycle, including victims of crime.

These are extremely challenging times for those involved in the provision of community justice services.

However, along with these challenges come many opportunities for positive changes for the individuals, families and communities who will be impacted by the impending revisions to the statewide system.

Any system that provides a closer study and in turn underscores the significance of the re-entry system of services is a positive move toward a better world for those involved in this complicated process.

The fifteen proposals presented for consideration this evening certainly illustrate the ongoing commitment and expertise of the Judiciary Committee, and your considerable efforts and are tremendously appreciated by all.

I join you this evening to provide overarching commentary on behalf of the community justice network as opposed to recommendations specific to each of the proposals.

And you have my written testimony before you. I realize it's extremely late. I would like to take just a few minutes to highlight just some of our recommendations, if I might.

The first, we are looking to coordinate efforts to assure the inclusion of the perspective input and expertise of the nonprofit community justice provider network.

This is particularly critical in relation to the prevention and understanding of any unintended consequences moving forward.

We look to, second, we look to continue efforts to assure the stability of the nonprofit provider network as we partner with the state to address the critical issues at hand and develop a strengthened system of services and supports.

As each proposal is reviewed, we also ask that you include the nonprofit sector in each of these decisions, again, along with those fifteen proposals.

Third, with all due respect to all victims of crime in attendance, we look to develop ways to educate the public and address the misconceptions of the general population with regard to public safety as it relates to the criminal justice system.

We look to develop an understanding of the demonstrated correlation between the provision of intensive quality community supervision and an overarching reduction in recidivism.

In the words of Representative Dyson, the tug of war between rehabilitation and punishment is never easy. It is essential that we assist the communities of Connecticut to understand this

very difficult balance, and to understand than an approach that supports community supervision is not soft on crime, but an effective and essential part of a successful solution.

Our fourth recommendation is to increase communication and information sharing among all stakeholders, and assure the support necessary to implement such systems moving forward.

And we do believe that certainly DOC and the Court Support Services Division are focused on this as well.

Finally, in an effort to build upon the efforts of the Governor's Sentencing and Parole Review Task Force, and the multitude of additional committees and subcommittees dedicated to this area, we ask that you explore the development of a statewide commission on re-entry to include all stakeholders with the capacity to make recommendations, link agencies within and across the public, private and nonprofit sectors and implement change.

Again, you have the remainder of my written testimony. I would like to point out just a few key points.

Included within my testimony are links to several reports, which I believe have been reviewed at different times or presented to the Judiciary Committee.

But most importantly, included within those links are probably, I believe, one of the best resources in terms of the studies, in terms of

comparative rates of recidivism and many of the questions that have been asked this afternoon, I believe would be answered within many of these reports.

But specifically, if I may just quote from the Department of Criminal Justice, the Central Connecticut State University study of 2006, they ran a report based on 9,500 inmates released between January and December of 2000.

And just very briefly, the recidivism rates for those end of release, end of sentence is 47%. This goes down to 24% for those released through halfway house programs.

And the other stats are included in that report as well, so I would encourage a revisit of those reports I've listed in my testimony.

There has also been quite a bit of discussion this afternoon, if I may, regarding the capacity of services within the nonprofit community, and I would like to offer to you, I'd be very pleased to provide those statistics to you.

Each year during the Legislative Session, we work very closely with the General Assembly, and with OFA in terms of providing projections in terms of anticipated capacity within each of our member services, and I'd be happy to provide that to you and any additional information you're looking for as well.

REP. LAWLOR: Well, that would be great, and I'm sure you were here earlier and heard those

discussions about. Of course, there's one issue of paying for it, right, so we have to deal with that.

But the other issue is, if we had the money available to put up and running whatever is the most we could accomplish in terms of residential and nonresidential programs for the nonviolent, less serious offenders who are taking up these prison beds today, how much could we get up and running in like six months if money was available to do so?

So I guess that would mean taking advantage of existing facilities that could potentially add another bed here or there or be expanded slightly.

Do you have any idea what kind of numbers might be available in the short term like that?

JULIA WILCOX: Well, we'd be happy to do, the last time around I believe, and I apologize that I did not bring this information with me, but I believe that last time around we asked our community justice providers for projections in terms of anticipated capacity for 2007 and 2008.

And what I could do would be to ask them to revisit those figures that they provided for the 2008, for that timeframe.

I apologize that offhand I do not recall the exact numbers. They were, I believe, several hundred and basically the last time around, again for 2007, the figures that we provided to

OFA, to this General Assembly translated directly into that line item for beds that were available, that became available in the community.

REP. LAWLOR: Well, that would be great, because for obvious reasons, the prison beds are at a premium right now--

JULIA WILCOX: Absolutely.

REP. LAWLOR: --so we'd have to free up as many as possible.

And the other thing is, I lost my train of thought, oh, what, there's been a lot of discussion about waiting lists for different types of programs that both Parole and Probation have identified people who could safely be placed, and you know, taken out of facilities and placed in these, these programs run by the not for profits that you represent.

So it would be very interesting to find out, even if it's just a survey of, like a sampling of the program--

JULIA WILCOX: Right.

REP. LAWLOR: --what is the waiting time for a bed in a particular facility, giving some examples, because I think it would help inform the Legislature about how serious the problem is, and what is causing this backlog of inmates in the prisons.

JULIA WILCOX: And we have had a great deal of discussion, and another sort of tool that I would like to provide to you.

On a monthly basis we meet with each of our divisions, which includes the Community Justice Division, so on a monthly basis we sit down with anywhere from 30 to 50 providers in a room, and I would welcome any one of you at any time.

I'd be more than happy to bring you together with that group of providers for discussion purposes.

To answer your question specifically, we've had discussions in this area, but I'd be remiss to sort of make a projection without really sort of taking a look--

REP. LAWLOR: Okay, but as soon as it's doable, that information would be really helpful.

JULIA WILCOX: The private sector, basically, for all intents and purposes, are very willing and pleased to provide services.

You heard from Family Re-Entry this morning. They are just one of the many programs that are operated through, to our provider members, but they are very willing and pleased to provide services in any area that the state chooses to fund, and it always does come down to that appropriate level of funding for the level of care that's needed.

REP. LAWLOR: And we're told, however, that the biggest obstacle is siting, so that's what I'm trying to deal with here.

JULIA WILCOX: Very much so. Very much so.

REP. LAWLOR: But my question really is, how much could actually be sited, how much could actually get up and running if the money was available, not in an ideal world, but in the real world that we're dealing with.

JULIA WILCOX: And I'd be happy to get that information to you. I wouldn't want to make a, I think it would be inappropriate for me to make a guess right now, so.

REP. LAWLOR: And it's very important because I'm just reading now, there's some press reports coming on line at the moment that the federal lawsuit about prison overcrowding in Connecticut is a week or two away, so we're going to have to deal with this very quickly.

JULIA WILCOX: I'd be happy to respond even tomorrow. And actually, there are a few providers who thank you so much for still being here, are still among your audience here, who can also speak directly to some of these questions, Representative Lawlor.

REP. LAWLOR: That would be great. Well, thank you very much. Are there any other questions? Thanks.

JULIA WILCOX: Thank you very much.

REP. LAWLOR: Next is, Kevin Kane is next, and then Kevin will be followed, so let's just confirm, Martha Gould is not here, right? She is here, okay, you'll be next, and Linda Blosie I think is not here. Robert Weatherington is not here, and then John Watson is still here. You'll be following Ms. Gould.

KEVIN KANE: Thank you, Mr. Chairman, and thank you Members of the Committee who are still here listening to this testimony.

My name is Kevin Kane. I'm here on behalf of the Division of Criminal Justice, and I'm not going to give the same speech I was ready to give six hours ago. Hopefully, I'll answer some questions if you have any questions, and I think you do.

One thing I'd like to say before, just because of the debate that went on a few minutes ago, and maybe it was an hour ago now, about the use of deadly force in defense of premises.

Many of you were talking about it being in terms of self-defense, but it's not. There's a specific statute, Section 53a-20 that provides that a person may use deadly force under circumstances to prevent or terminate forcible entry into a residence.

It's not self-defense. It's defense of premises. The statute sets it forth specifically.

Just ahead of that, and I can't remember the number now, it's somewhere, it may be 53a-12,

I'm not too sure, it provides that the burden is on the state to disprove that type of a defense beyond a reasonable doubt.

If the defense is not specifically named as an affirmative defense, it's another justification and that statute I just mentioned, you'd have to flip through the sections, but it's somewhere between 53a-10 and 53a-18.

I don't know the number, but it puts the burden on the state to disprove that beyond a reasonable doubt, so I think that's there.

We oppose this anyway. There was a hearing, and thank you for inviting us here. Thank you for inviting our proposals, us to make proposals.

What we did was attempted to do in our proposal, in the Division's proposal was to make some changes in the burglary statute. We've always recognized, I think prosecutors, that burglary is a very serious crime.

It's a crime that even though most burglars hope to get in and get out without ever being seen, hope not to find anybody, hope to break in to steal whatever they want to do, and leave without being caught as a) it does have the potential for violence.

But also it has a very real impact, especially in a home, of being a traumatic experience as a homeowner. The privacy is intruded. Somebody's gone into their house. Somebody's

breached their security. It's a crime that causes serious impact on people.

What we did when we approached that is to take what was [inaudible] as to suggest that the Legislature take what is now burglary in the second degree, a Class C felony and make it burglary in the first degree, breaking and entering, or it's not breaking and entering, wrongfully entering and remaining in a dwelling with intent to commit a crime there, and then make aggravated burglary a burglary one.

I don't remember all of the details. I can't remember them at this point, but we made a fix of the burglary statutes in that way that we suggested.

We also recommended or submitted a bill recommending changes in the persistent felony, in the persistent offender statute to make them more usable, more understandable in the first place, more usable, and to deal appropriately with what the Connecticut Supreme Court found and ruled in State v. Bell by leaving that one issue, the prior conviction, to be a question for the jury, whether or not the defendant had the prior conviction.

And it was, the state would have to prove that beyond a reasonable doubt, but not have to prove the second issue, the public interest and the character nature. It has to be the defense.

The reason for that is, it would turn a persistent offender trial, which it would be a

trial, into the same kind of trial we have to now have on the penalty phase of a death penalty case where the defense could bring in all sorts of information about the nature and history and background and psychiatric information, psychological information.

The state would have to disprove it beyond a reasonable doubt, or prove beyond a reasonable doubt that's a public interest issue.

That would allow the court to allow a sentence up to whatever the maximum was, 40 years, but it would still be within the discretion of the court what sentence to impose within that, and the court would have to reconsider the same issues as to what was appropriate and what was in the best interest of the public.

So our proposal was to have that issue removed from, as an element, and allow the court just to consider it appropriately in the sentencing structure as it would do. That was basically our suggestion.

The bill that has been submitted with regard to the SHIELD and the information is a critical issue, and a critical issue we have to address.

Back in the springtime, Bob Farr had approached me and told me, he came to me and said, look, we have to get a better way of getting information to the Parole Board.

The Parole Board's making decisions without information. It can't get police reports from the police departments as it was trying to do.

We first of all sat down and said, okay, let's prioritize the information you need. At that time, police reports, we thought, had the most important information, gave the most detailed information about the nature of the crime, and about the circumstances of the crime and would be most beneficial.

We started making arrangements to have prosecutors copy those reports and mail them, and send them to Parole. Things speeded up when Cheshire happened, as tragic and horrible as it is, and it couldn't be worse what it is. It's increased the intensity to look at what's done and we've tried to make changes.

We are providing sentencing transcripts now. We're spending, I don't know how much money it's going to cost. It doesn't matter how much it's going to cost. We're going to get the sentencing transcripts to the Board of Parole and to Correction so that they can use them.

I've been a prosecutor for a long time. Nobody ever asked for a sentencing transcript until, at least nobody ever asked me in New London for sentencing transcripts at any time. We never had this discussion that Parole needed it until Bob Farr asked me about it in the springtime.

We tried to prioritize the information because it was needed as I said. We're now providing it. We're providing it as best we can. However much it costs, it costs. We'll tell Appropriations how much it costs when we have to do it.

But what this brought clear, made clear is something that we've been concerned about, we prosecutors have been concerned about for years.

Our internal information technology system in the Division is inadequate. We don't have a case management system. We don't have the information technology experts, the expertise.

I see managers there, even to help tell us what we need in the Division to manage the Division, to be able to prioritize our work, to be able to assign people, to be able to determine caseloads, to be able to determine what types of cases are taking long and how we're dealing with them so we can assign employees and resources to the appropriate offices.

We don't have those tools we need to internally manage decisions. We should be able to electronically receive police reports, and this is, I testified about this last time. I don't want to start it because everybody knows it.

We do need something like the SHIELD system. How much we can build on CJIS and what CJIS has done and what the OBTS has done is up to the experts to help us, help decide what to do it.

I'm sure DOIT needs some more resources and technical people to help them carry out the tasks they have to do, but this certainly seems doable.

Whether it should be by fiber optics or whether it can be done under the Internet, that's a question for the experts to decide. That's way over my head, I know, and I don't know if the Legislature has to get in the middle of it other than to say it's taking too long to do and let's get this job done, and do it the appropriate way and then come back with some estimates as to how much it will cost.

There are security issues, obviously. We do need to protect information. We do need to protect the information and police reports, because that could lead, if it's exposed, that witnesses, victims or informants being killed.

It's not something that we can just assume will be taken care of like business and banks do. We have to be very careful because we certainly don't want to have witnesses or informants be killed or cases compromised because we don't have adequate security, but that's technical and that can all be done.

We've been talking about, I did talk about the burglaries in our proposal. I think it's reasonable in our proposal. There are other good bills that other Legislators have submitted that have good ideas, some probably better than our ideas.

I would hope that we can talk about and discuss these. I saw, though, I learned a little bit about the legislative process, and I saw how the process can work very well when people put their heads together and compromise on a bill.

Different people have good ideas and listen to each other's ideas and each, together, we can come up with a package or I'm sure this Committee will come up with a package that works well and does protect the public.

The public wants protection. It needs protection and we have to do our best to provide the public with protection.

The public also wants a system that is fair and just, as well as providing protection. That requires individualized decisions. That requires judges to make individual sentencing, individual decisions of what is the appropriate sentence to be on a given case within certain parameters set by the Legislature, taking into consideration the arguments the state makes and the defense makes.

We have an adversary system that's worked for 200 years. It's not perfect, but it's good and it's getting better, and we can make it better if we work at it.

The adversary system depends on both sides being adequate [Gap in testimony. Changing from Tape 6A to Tape 6B.]

--I agree with Judge Clifford and the Judicial Branch's position that judges should have discretion in the sentencing.

I am not, I don't want to say I'm thrilled by mandatory sentence, minimum sentences. I have had situations where I've been glad it's been there because just as Judge Clifford said,

occasionally there will be prosecutors who may get carried away and seek a sentence that's a little bit too high.

I have see situations where occasionally there are judges that I think are a little on the lenient side, and it's nice to have the mandatory sentence there to be able to bring about what I think would be a fair sentence in a case, and on occasion I have used them.

I don't think, they are subject to abuse if we're not careful, but sometimes it's important to have that tool available.

That's enough for now, I think. I don't want to talk to you any longer. Any questions?

REP. LAWLOR: I think, obviously people are, there's a whole assortment of proposals here, but one that's complicated in the way it might actually work in reality is this whole idea of what to do with the offenders getting convicted for the third time of one of these most serious felonies.

And so what are the pros and cons of, sort of one size fits all sentence option? What does the Legislature really need to know about whether or not to have a mandatory sentence of life without possibility of release versus a little bit of flexibility, even on the, and the prosecutor's discretion has already been clearly indicated. Everyone seems to agree to that.

What about the judicial, what are the pros and cons of taking away judicial discretion there? I guess that's what I wanted to say.

KEVIN KANE: In that situation if prosecutors have the authority to as we do now, to decide whether or not to use that, to charge that Three Strikes sentence as a second part of the information, which you would have, I think it would be appropriate in the circumstances.

First of all, how often would it be used? I don't know. Somebody who's convicted three times of those kinds of felonies is probably going to be pretty old, at least the first two, is probably going to be pretty old when he commits the third.

If somebody commits assault in the first degree and does a prison sentences and then murder or manslaughter and does a prison sentence, they're not going to be kids when they get out.

So in some cases you may get a situation where a defendant is charged the third time around, that could be used. A mandatory minimum sentence will be life in prison. We say we're going to charge that.

The defense attorney says, comes in and says look, this guy will be 25 years or 30 years if we plead guilty to that. He just wants some hope of getting out before he dies.

We may say, look, in that situation the defendant in 25 or 30 years is going to 70

years old, 75 years old. That person is not going to be much of a threat to the public.

We can save the victim the trauma of a trial. We can save the risk that we'll lose the case, and maybe we'll take the plea on that situation and we won't use it.

REP. LAWLOR: Then correct me if I'm wrong. If there's a plea deal, there's definitely not going to be an appeal, right?

KEVIN KANE: If there's a plea deal there's a) no risk that the defendant will be acquitted and b) there won't be any appeal.

Except we do have, and one of them, I'm glad you asked that question because I wanted to get in, especially after something that Dr. Sam Rieger said yesterday. We should look at habeas reform.

I don't know if any of you heard Dr. Rieger testify about what he's experienced having to go out to Rockville so many times on a new habeas petition, and then another habeas petition and then another, about the pain that he and his wife have had to go through to go back to court.

We need to take a hard look at habeas reform, but that's a very hard thing to strike an appropriate balance.

We need to have a way for people who are actually innocent to be able to challenge their conviction.

We need to have a way for people who have been convicted and deprived of constitutional rights and that in the process to be able to challenge their conviction.

Habeas corpus is a fundamental protection from those types of violations, and we need to find the right balance that doesn't do away with that as a remedy, but prevents repeated repetitive habeas corpus petitions from being filed, and habeas corpus petitions from being filed years and years after the offense.

We have one now we're dealing with where it was a crime that occurred in 1978, and trying to put together what happened then. I mean, it just boggles your mind how we can have that, but we need habeas reform, meaningful habeas reform that doesn't take away the remedy that protects the rights of those people who are actually innocent. We do need that.

I got sidetracked from your question.

REP. LAWLOR: I saw Dr. Rieger's testimony yesterday as well on CT-N, and I agree [inaudible]. What he and his wife had to go through over the years is unbelievable.

KEVIN KANE: And it was pretty dramatic, and he was only one of many, many, many people who have to go through that.

Now, even in the case of guilty pleas, there's no finality because they can file a habeas claiming they were deprived of a constitutional

right and a guilty plea or their lawyer was ineffective or one thing, and they can do it more than once.

They can do it several times, and they can do it with no statute of limitations. They can do it years later after the witnesses have died, after circumstances have changed.

So we need to take a hard look at it, but it needs to be done carefully and right, and strike the right balance.

REP. LAWLOR: Are there other questions? Senator Kissel.

SEN. KISSEL: Thank you very much, Chairman Lawlor. Chief State's Attorney, I'm delighted to see you here this evening and I think I heard something that I thought was very positive.

We've had a debate all afternoon, all day, about Three Strikes, because clearly that's one of the lightening rod proposals. There are five versions, apparently, before us in various iterations.

Clearly, I am partial to the Senate Republican version, which I believe Senator McKinney and Senator Caligiuri and others within our Caucus tried to really finely, narrowly tailor.

It's based essentially on the crimes that are noted in the persistent dangerous felony offender statute, and we've added in the burglary.

And if I heard you right just in the most recent colloquy with Chairman Lawlor, you seem to indicate that that would be a valuable arrow in the prosecutor's quiver, maybe not used an awful lot of times, but certainly there would be situations where it could work to further justice.

It could work to allow for a plea bargain, which would spare the victim the emotional trauma of having to go through a trial, the potential for the state to maybe lose a trial, as we heard the representative from the Defense, Connecticut Defense Council Association.

Sometimes we just want to play for the fumble and hope that something shakes out of the situation so that their person can, not have to face the consequences of their actions.

And so if you could just say that again, did I hear you correct, that you would be supportive of some narrowly tailored specific to the needs of Connecticut, and again, I, you know, for a lack of another way of calling it the Three Strikes and You're Out, am I correct in that?

KEVIN KANE: Yes.

SEN. KISSEL: Okay.

KEVIN KANE: The policy question for the Legislature is something that we could support, that we could use as a tool for, provided we had discretion when to use it and when to not use it, and I think it should be narrowly drawn.

And the burden will be on us, the State's Attorneys, the 13 State's Attorneys and myself to have training and responsibility, and make sure it's not abused.

SEN. KISSEL: Okay. And that's, you know, I've been waiting a long time to hear that from you folks, and I'm glad that I've waited here until quarter past ten to hear it, because there's been a lot of discussion as to whether this would be an effective tool for the State's Attorneys and so now I'm finally hearing that, yes.

Now, I believe that the Senate Republican version is one of the most thoughtful versions. Nothing against the other versions or the good intention.

There is the question, though, as to the murder component that's in the House Republican version, the non-capital felony, the capital charge that sometimes a murder is not a capital charge.

Do you have a feeling on that? Because from the information that I believe Senator Caligiuri received from some State's Attorneys, they sort of indicated to him, and I have this knowledge secondhand.

That they would, some of them would prefer to have murder outside of the particular Three Strikes proposal as there's other things, there's other consideration with pretty much

any murder case, and do you have a view on that?

KEVIN KANE: I did, but I don't now. I mean, I'd have to look at those two proposals and compare them.

I do remember looking at them and in fact, looking pretty seriously at it and thinking one was better than the other. I can't remember exactly why. I'll get back to you and look at it.

SEN. KISSEL: I would very much appreciate that, and I think that would be very helpful.

On the persistent offender law, my recollection from your package of proposals is that there's different categories as a persistent dangerous felony offender, but there's other things underneath that?

KEVIN KANE: Yes.

SEN. KISSEL: And that in your proposal you have a mechanism, depending upon which level it is to bump it up, so there's like three strata--

KEVIN KANE: Yes.

SEN. KISSEL: --and then each one gets bumped up.

KEVIN KANE: It's similar to the persistent offender, similar to the persistent offender statutes now with the language changes and the penalties change, and dealing with the Bell issue, yes.

SEN. KISSEL: Okay. And we had, the Senate Republicans had a proposal of sort of basically codifying the determination in the Supreme Court in State v. Bell.

In the colloquy between House Minority Leader Cafero and Chairman Lawlor, he seemed to indicate that the Co-Chair's proposal about just eliminating that second kind of determination, that that might even be better and in your proposal, do you do the same thing as Chairman Lawlor's proposal, or is it different?

KEVIN KANE: Yes, we do.

SEN. KISSEL: You both eliminate it, or it's different?

KEVIN KANE: Yes. We eliminate it.

SEN. KISSEL: Okay, so you're both on the, so your proposal regarding that is the same as the Chair's, except you're doing it with all three levels?

KEVIN KANE: Yes.

SEN. KISSEL: Okay. And so if we wanted to really go down the field on that, we would, if that's what we determine, we would embrace that one.

KEVIN KANE: Yes.

SEN. KISSEL: Okay. With the sharing of information, I know that you serve on the

Governor's Task Force and you heard me just screaming to high heaven today that I really feel that we have a golden opportunity to push this state forward.

I do share some of the concerns regarding resources, because I don't believe that we can do this without spending money, but I agree wholeheartedly with what Senator McKinney said earlier this evening by saying, if we get a consensus on where we want to go regarding public safety, public safety and public safety.

I'm sort of starting to hear from the Executive Branch and others that there will be a way to find the resources, but I'm urging you, along with your colleagues on the Governor's Task Force, that if you could think about a recommendation as to how we could follow through so there's not just the Judiciary Committee sort of keeping an eye on this going forward.

Because I do believe that this is just a first step in a multi-month, multi-year kind of process that could really put Connecticut ahead of the curve versus many, if not most of the other states in the United States.

Because when you see the projections about incarcerations, some states are just grappling with it by building, building, building.

Other states are farming out all their inmates to other states that are actually coming to terms with the fact that they can't even accommodate them.

I certainly have never supported privatizing corrections. I think that's just absolutely a wrong-headed way to go.

But if we can do a good job of thoughtfully reintegrating the nonviolent offenders, while freeing up the space.

And actually, as much as we want to tackle this early on, I think if we're tacking on time, in other words, if someone would have done ten years and we're going to give them twenty, I think the pressure on the system doesn't really hit until the eleventh year.

I think we need to plan for that as early as possible, but I think the pressures on the system aren't going to come from the sentencing aspect.

The pressures on the system in the immediate future are going to come from that chilling effect that bail is going to be set high because nobody wants a mistake, and the State's Attorneys are going to be a little stricter in how they view the cases because they don't want to make a mistake.

And you know, Probation's going to be stricter, and every step along the way, the pinch points, they've been ratcheted up because people are very sensitive to what took place in Cheshire.

And so that's the immediate need as I see it, not necessarily the sentencing reform proposals, but again, I'm urging you to try to

come up with, and I don't know, do you have a notion as to how we can follow through on this in the years ahead, fast, because we have these wonderful, these task forces but their mission's going to end shortly.

How do you keep the ball rolling?

KEVIN KANE: Well, I think next week the Governor's Task Force is going to hear from DOIT, the Department of Information Technology about their thoughts.

I think this problem is recognized intensively right now. The dollars, how much it's going to cost, the technology, what's there, I don't know. I think DOIT is going to explain to the Governor's Task Force, and maybe will to the Sentencing Task Force at some time. They're two overlapping statutes.

And it's just not a matter of protection. If you listened to Ed Gavin when he spoke before, I don't think Susie Story mentioned it, but the state, when the state charges a person with a crime, when we charge a person with a crime, we have an obligation to a) not to convict people who are innocent.

We have an obligation to disclose certain information to the defense. We have an obligation to disclose exculpatory information to the defense.

If we can do this electronically, a) if we can get police reports electronically and be sure that we have all of the police reports and b)

to use that to disclose and speed up our disclosure to the defense.

You heard Ed Gavin talk about what it's like to get a disclosure at the last minute when a case is coming up on the trial list and the judges are concerned with how long the case has been pending, which are legitimate concerns for the judge to have, and in order to prevent cases from getting old, we have an obligation to disclose things.

If he can go through reports and electronically go through them and disclose them early to the defense, we won't get in a situation where either the state or the defense, or both of us, are being pressured at the last minute to make decisions that might more appropriately be made with a little more time.

But it's the whole system that's critical. It's not solely a matter of being able to get information for the Parole Board. It's a matter to make the justice system fair and work properly.

SEN. KISSEL: And one last question, because I know we still have a large number of people that want to speak.

And I want to commend you for your leadership. I commended Governor Rell and you know, my Caucus leaders and the leaders of this Committee, but you've done a brilliant job in keeping the focus on the sharing of information.

I think it's really important that you brought up the point, first of all as to the two folks that were, you know, the parolees that did the Cheshire horrible homicide. Their parole was granted prior to Chairman Farr coming on board.

As soon as he came on board, he ordered a new computer, and it was delivered to his office. They had to dummy it down because they said it couldn't talk to the other computers in his office.

And within weeks of him taking charge of the Board of Pardons and Parole, he was in conversations with you saying we need that information, we need the sentencing transcripts, how can we work on it, and I think it's important to note that your conversations and trying to get that ball rolling with Chairman Farr took place many months prior to the Cheshire homicides and the destruction that occurred to the Petit family. Correct?

KEVIN KANE: Yes.

SEN. KISSEL: And so I think that's important for the public to know, too, that this isn't all just necessarily in reaction. It's certainly focused everybody's attention on these issues.

But there was certain, there was a certain movement in this direction prior thereto, I think in some of the legislation that we passed here through this Committee, you know, for getting the sentencing study group together by statute.

And I know that, I believe that Chairman Lawlor is very supportive of the Sentencing Commission and kicking the Legislators off and letting the experts take over and make their suggestions to us.

So I think there's an awful lot of good that's taken place. I want to thank you for your testimony. There's probably a bunch of things that I've forgotten to ask you or follow through on, but you've always been available.

But I think that we're moving in the right direction, and I really appreciate your candor regarding the Three Strikes proposals that are here before us.

KEVIN KANE: Thank you.

REP. LAWLOR: Representative Hamzy.

REP. HAMZY: Thank you, Mr. Chairman, and thank you Attorney Kane for your testimony. Just a couple questions.

With regard to the Castle Doctrine if you will, it's my understanding that the homeowner gets the benefit of the presumption, if you will, only when they prove by a preponderance of the evidence that the force used was justified. Is that accurate or is that not accurate?

KEVIN KANE: That's not the way I read the statute, and I think 53a-20 and the other statute lays it out pretty clearly that no, that's not what's labeled by statute.

There's two types of situations. There are some defenses that the statute specifically says is an affirmative defense.

Those statutes that are labeled affirmative defenses that say those words, the defendant has the burden of proving them, I think by a preponderance of the evidence, if I recall, right.

Those justification type defenses that are set forth in 53a-20, the state has the burden of disproving beyond a reasonable doubt.

Now, there's a statute, I think it's 53a-12 that's in my mind. If you had the volume, we could look at it and read it right now, and it's pretty clear.

These statutes were enacted in 1969. They're pretty good. I've had cases where I've had a homeowner who shot somebody, shot the person and went through the statutes, decided not to charge the homeowner, that it wouldn't be appropriate under the circumstances. It was years ago. We've had a few of those.

And I haven't been aware of any problems that we've had with that statute as long as I've been a prosecutor, and I started in '72.

Now, I know the problem Mary Galvin had when we were talking about road rage incidents, and I forget how we worked that out. But that presented a problem in a different context, that that was a self-dense issue and I've forgotten how we shake it out.

But if you look at 53a-20 and whatever that other statute is, around 11, 12, I think it answers the question that you have.

REP. HAMZY: And with regard to the proposals that were made, with regard to the reform of the death penalty, I don't know if you've had a chance to read through our proposal. It's listed Number 5.

But with regard to putting time limits, offering DNA testing as a right as opposed to holding a hearing on whether it's appropriate, can you share with us your thoughts on that proposal?

KEVIN KANE: I think that's something that needs to be debated and discussed in some more detail. I think those time limits may be too short, not possible to carry out.

We don't want to be executing people when they have legitimate appeal issues that should be raised.

We don't want to be executing people when they have legitimate issues concerning the constitutional propriety of their convictions and death sentence, so we need some leeway there.

But we don't want situations where people can file repetitively habeas corpus petitions and repetitive challenges and do so years later.

I think we need habeas reform both with, not just with regard to death penalty cases, but more importantly with habeas reform in general.

I think it's something that we have to work very hard at. We haven't been, we've submitted bills over the years and they haven't gotten anywhere.

We need to address this issue and we need to do it right and do it fairly. I think those requirements are a little too stringent.

REP. HAMZY: With regard to the proposals that you submitted, I'm not familiar with them off the top of my head, but in general, do they set out timeframes? Do they set out limits on a number of habeas that people can bring? Just as a general proposal.

KEVIN KANE: I don't know that we've set out a time limit yet. We have worked at drafting a proposal that I think we want to discuss. I don't know if this Session is the appropriate Session to introduce it at.

But yes, we've been concerned about repetitive petitions, raising slightly different issues, but one that could have and should have been raised earlier. We're concerned about the difficulty we have in dealing with those repetitive petitions.

We're concerned with petitions that are filed years after the conviction, where they, if they were going to be raised, they should have been

raised very soon, and there's no reason for waiting later on.

We do recognize the need for people to be able to, if they have newly discovered evidence, or if they have a legitimate claim of actual innocence to litigate that claim, but that's a proposal we have, and we'll be prepared to submit a draft, be prepared to submit a bill if that was desired this Session.

But it's something that really needs a hard look at. It's a terrible problem, the impact on the families and the lack of finality in judgments is wrong, and there's much too much of a delay.

But there's a balance that has to be struck to protect the legitimate constitutional interests of the people.

Now, I think we can strike a fair balance. Other jurisdictions have done it. The federal government has done it, and I think the State of Connecticut could do it well, too, but it's going to take a concerted effort to do.

We have submitted it. The defense bar has been very effective in either derailing it or not getting it out of Committee, but I think the need is clear.

There's a great burden on the court system. There's a great burden on prosecutors, and there's a heavy weight on, as I said, with the way Dr. Rieger just described it in a few

minutes yesterday and victims having to go through that.

I think that a fix is needed but I think it's not an easy fix that we can talk about right now about how many days is enough or how many times.

I'd like to work on it, and we could submit a bill. I don't know that this Session is the one to do it in. I think there's going to be a great deal of opposition from the defense bar about it, and some of the opposition is legitimate and needs to be considered.

Some of it, I don't know that it is legitimate, but I know some of the issues that the defense will raise are concerns that have to be addressed by policymakers, and that would mean you people to address it conscientiously and do it right.

And me, I'd like to make a pitch for real habeas reform, very much so. I'd like to have a situation where it can be argued out properly and people who recognize we need to make a decision in this area, we need to do it soon and we'll do it conscientiously.

I'd like to have that happen, and if that would happen, and if this Committee could do it this year, I think it might be too much, but if they could, I'd love to try it.

REP. HAMZY: And then finally, with regard to, there was a discussion earlier about discretion, prosecutorial discretion, and under our current

system the prosecutor has the authority to decide what charges will be pursued against an offender. Is that an accurate statement?

KEVIN KANE: That's accurate. And it's one that causes some misunderstanding but yes, it's accurate.

REP. HAMZY: And with regard to that discretion, the process is that the prosecutor reviews the facts as presented and then decides what charges to bring against an offender. Is that true as well?

KEVIN KANE: Yes, based on the evidence and our reasonable belief as to whether or not we have sufficient evidence to support the charge.

REP. LAWLOR: And as you mentioned earlier, Kevin, a couple of years ago we were able to work together to figure out the appropriate solution to the Jessica's Law issue, to take into consideration all the various points of view and end up with something that would actually work in practice.

And I think what you said earlier here today is that you'd like to do that on the topics that have been mentioned here, especially the sentencing related topics--

KEVIN KANE: Yes.

REP. LAWLOR: --because coming up with something that looks good on paper and something that actually works in the courthouse are two different things--

KEVIN KANE: Yes.

REP. LAWLOR: --and we want to extend, I'm sure I speak for everybody when I extend that invitation again to try and accomplish what we did the last time and come up with a solution that solves, or accomplishes our goals and makes it workable for you at the same time.

KEVIN KANE: Thank you. We'll try hard to do it.

REP. LAWLOR: Okay. Yeah, it seems that way. Okay, any further questions? Representative Green.

REP. GREEN: Thank you, Mr. Chair. A couple of questions just to clarify. I've got to tell you that I have some serious concerns about some of your proposals in the State's Attorney bill, and I think part of my concern comes from, I think what I've heard throughout the afternoon and evening.

That the discretion that prosecutors have in the charge, the plea bargain, the recommendations, what is shared, what is not shared, it appears to me that there's quite a bit of discretion on the prosecutor's part in terms of what happens to people that come in the court system.

And I've got to believe that part of what I think the reaction and the concern here today is, is that a number of individuals who have gone through the court system, based on prosecutorial discretion, had numerous offenses

and the idea is, well, why do they get all these breaks.

They got all these breaks in a sense because prosecutors had discretion and possibly did not, based on evidence, convict people with more proper and appropriate charges that they were made, and given possibly the kind of sentences, maybe longer, that removed individuals that were unsafe to be in our communities.

That in fact the discretion of the prosecutors creates the idea that a number of individuals go through our court system, being convicted on a number of charges, and in fact, do very little time.

So I'm concerned when folks say prosecutors need more power to have more discretion, and then that's going to make communities safer.

Because to me, the bottom line is the public has to feel that you're making communities safe. To me, public safety is the key here.

So let me ask you a couple of questions. Could you maybe tell me on your jury trials that the prosecutors conduct, do you have any information on your conviction rate on jury trials?

KEVIN KANE: Me personally?

REP. GREEN: From the State's Attorney's point of view, the state prosecutes offenses. What is the state's conviction rate in a jury trial. I

mean prosecutors win what percentage of the cases?

KEVIN KANE: We, I have a guess, and it's a guess, because as I said, we don't have the information system that enables us to keep those statistics.

REP. LAWLOR: If you don't mind, if I could interrupt, because I actually have the statistics. [inaudible] believe it or not.

REP. GREEN: The prosecutor doesn't have it, but you have it. I mean that's the kind of stuff that I think the public were concerned about, is that when you ask questions of the officials, a number of officials that I've been presented with here today, who don't seen to have certain kinds of information, and there's other individuals could have the information, those are the kinds of things that maybe there's an information sharing problem.

But do me, those are the kinds of things that I'm looking for from the individuals that head agencies so that I can make these kinds of decisions, because I have to rely on the information that you give me.

But, Mr. Chairman, if you have that, you may share that with us.

REP. LAWLOR: Just to be clear, we got it from the Judicial Branch, and in the, it looks like it covers a six-year, seven-year period, and statewide and a jury trial, this is statewide

over eight years, 838 convictions after a jury trial, 249 acquittals. So it looks like--

REP. GREEN: Eighty percent?

REP. LAWLOR: A little less than 80%, yeah, something like that.

KEVIN KANE: That's about what I would have guessed.

REP. GREEN: Okay.

KEVIN KANE: I would have guessed about 80%.

REP. GREEN: Okay, but of course, you don't want to be on record guessing something like that?

KEVIN KANE: No, I don't. I will say, Judicial does keep statistics. How accurate those statistics are at times I've wondered, but those are the best statistics we have.

REP. GREEN: Okay.

KEVIN KANE: And if they say about 80%, I'm not surprised at that.

REP. LAWLOR: And I should add, that's in the higher courts, the JD courts. In the lower courts statewide over that same period, jury trials, 553 convictions, 246 acquittals, so a slightly higher acquittal rate in the GA court.

KEVIN KANE: In the GA.

REP. LAWLOR: Yeah, the lesser crimes.

REP. GREEN: It seems to be a higher acquittal rate in the lower, nonviolent crimes?

REP. LAWLOR: Correct.

REP. GREEN: Okay, which makes sense. And I think for the public, again, listening this evening says that for possibly what Part A more violent crimes we have a higher conviction rate.

So in a sense in Connecticut, we may actually be able to identify those violent offenders, and in fact, convict more of them.

Now, however, most of the cases that come through the judicial system and the court system, most of them are not by jury trial. They're mostly plea bargain or charge bargain, most cases, right?

KEVIN KANE: That I would--

REP. GREEN: In comparison of those that were jury trial versus plea bargaining, what percentage of cases that come through the courts do you think are plea bargained?

KEVIN KANE: Probably around 93%, somewhere in the low 90s, low to mid-90s are resolved without trial.

REP. GREEN: So about 7% then of the cases go through trial, and 80% of those cases, 7% there's a conviction, the state basically wins and the person is found guilty, based on my quick analysis of this.

So this says to me, is that we do convict a number of individuals whether by jury or by plea bargaining, and in fact, then the prosecutors have probably some discretion again to recommend the consequence, what sentence will be imposed.

And I have to tell you that in 99% of the cases that I've sat in court and observed, the judge always went along with whatever the prosecutor recommended. I just never saw anything different.

KEVIN KANE: Judge Clifford didn't always go along with my recommendation when he sat in New London.

REP. GREEN: Okay. I didn't sit in your court, though. I wasn't there. So it seems like to me, that the prosecutors have a lot of discretion.

So if, in your proposed bill here today, if you want to, I think in response to Senator Kissel, you thought that you would favor cutting out some of those discretions after repeated serious offenders, and that you in fact, from your point of view, would be able to just make mandatory sentence recommendations and cut out sort of the wiggle room of plea bargain and that. Is that correct?

KEVIN KANE: I think what you mean, if what I said to Senator Kissel was, if that statute, if a statute were passed providing for a mandatory life sentence for three prior, after, for a

third prior conviction, what I said is, yes, that could be useful in certain situations.

REP. GREEN: Now, and any changes in the persistent offender law, whether it's persistent serious offender or any, whatever we call it, some of the discretion that the prosecutor has, and I get a sense some of the difficulty in trying to apply the persistent offender law currently, that you believe some of those difficulties can apply in that law.

In your proposal, some of those difficulties could be eliminated if the prosecutors did not have to prove certain things.

KEVIN KANE: Yes.

REP. GREEN: Okay. The persistent offender law that we currently have, the prosecutors have the discretion to use that now?

KEVIN KANE: Yes.

REP. GREEN: In your opinion, how often does the State's Attorneys use that?

KEVIN KANE: Not very often.

REP. GREEN: Why?

KEVIN KANE: Not very often, number one, because most of the time, as Judge Clifford said, there is enough sentencing discretion. The court has enough sentencing discretion so that it is not necessary to use.

There are most cases where we have consecutive sentences. It can add to the maximum, but the court still has a lot of leeway as to what sentence to impose.

The, [inaudible] the results, using it would not cause the court to add that much more time, if any, to the sentence that would be imposed when it was not used.

REP. GREEN: So based on possibly the type of crime if a person, whatever they are charged with, and what again, whatever discretion the prosecutor used, it's possible that you can give as much time in a sentence for a persistent offender whether we change the law to make it easier to do or not.

It sounds like to me that you have a lot of, currently you have a lot discretion to add, based on either repeated offenses, regardless of the offense, and/or the number of charges that you decide to either bargain or try, that if for example, someone is charged with two or three crimes, if by consecutive sentences, you can add, you can enhance sentencing currently without changes in the law.

KEVIN KANE: A lot of times, yes. I said that is an important tool to have, the persistent offender statutes. They're important to have. They're important to have in certain situations. We've all used them in certain situations.

The ones that get used most are the least serious cases. For instance, the most effective cases are these persistent larceny

offenders, persistent petty thieves that commit misdemeanors.

The persistent larceny offenders enable us to charge that, raise the offense to a felony, which gives the court more sentencing discretion.

Other cases, many of the more serious cases where the court already has discretion to impose sentences of 20 years or 30 years or 40 years if consecutive sentences are imposed on multiple crimes, which is frequent, there's no real need to use the persistent offender statutes.

It's there. The knowledge that it's there, the knowledge that a defense is exposed to it, may end up with a defense saying, I might as well plead guilty or if I do go to, an incentive, it's something that's important to have defendants to have an incentive to plead guilty and not be in a situation as Gavin described, where a defendant says, what do I have to lose if I go to trial? I'm going to get that anyway.

If a defendant could be exposed appropriately and properly and ethically to a higher sentence under the persistent offender statute, it's good to have there. It's important to have there, and that results in oftentimes as many times in satisfactory sentences, which might not be able to be achieved otherwise.

REP. GREEN: A couple of, just a couple more questions. In the last couple of years has

Connecticut's crime rate gone up or down, and if we could separate violent, say from non-violent offenses, and have they gone up or down?

KEVIN KANE: I think it's gone both. I think it went down and I think it's going up recently. I think it's been an up and down trend.

REP. GREEN: Are you on the Governor's Task Force on Sentencing that I think Attorney O'Neill talked about earlier?

KEVIN KANE: Yes.

REP. GREEN: I had asked a question about recommendations that your Committee may have, and I had asked, had you guys done any research on crime statistics in Connecticut so that we know what type of crimes are being committee, in what kind of communities where individuals are.

She seemed to indicate that the Committee had not talked about that. Do you recall whether or not the Committee talked about that, to try to understand what is the crime scene atmosphere out here in Connecticut?

Do you recall whether or not the Committee discussed that so that we can get a sense of, you know, whether murders are happening in a particular community, whether break-ins and car jackings that happen along highways versus other kind of things.

I mean, any discussions about what is some of the information that we're gathering about what's happening with crime and criminal statistics in Connecticut.

Do you recall any discussions on that?

KEVIN KANE: I know the Sentencing Task Force has. That's the one that Chairman Farr is the Commission of. I know we talked specifically about it and been concerned about the accuracy of some of the statistics that we have.

I think we may have mentioned it in the Governor's Task Force but those statistics should be, the arrest statistics at least, and the crime reporting statistics should be available pretty readily.

The State Police keep crime reporting statistics for the state where they have jurisdiction, and the towns and municipalities keep statistics, too, for reported crimes. So that shouldn't be hard to identify.

REP. GREEN: As a member of the Governor's Task Force are you comfortable or uncomfortable in making recommendations on sentencing, some modifications to the criminal justice system without having had that discussion on that committee?

KEVIN KANE: Oh, I'm uncomfortable. I think we need some more facts and I've said that at both committees, that we need to get better statistics.

For instance, determining what percentage of our people in prison now should be there, are violent. How do you determine who is a violent person?

Not only statistics in numbers, but how we define and who we consider violent. Is a drug dealer, police executed a search warrant in a drug dealer's home and find drugs, but a bunch of guns, too. Is that person, should we consider that person violent or potentially violent?

You know, there's a whole bunch of issues that I don't think we can look at simply, just be based on the charge for which somebody's convicted.

We have statistics that say how many people are in prison for violation of probation. Well, that's meaningless in determining whether or not those people are violent unless you look at why they were on probation in the first place, what the crime was they were convicted for, and what the activity was that caused them to be violated, and also what their history and background was like.

Those are individual things, so the statistics can a) I'm concerned about the accuracy of some of the statistics we have, b) I'm concerned that the statistics don't go in depth enough to make the decisions we need to make and c) we need to make decisions that are not just based on statistics, because even if we have good statistics sometimes the conclusions they might lead us to might be too simple.

REP. GREEN: All right. Thank you.

REP. LAWLOR: Are there further questions? Well, thanks again, Kevin. And I think it's worth noting, like many ordinary citizens here, you stayed here until the very late hours and we appreciate hours.

KEVIN KANE: Well, thank you, I learned a lot.

REP. LAWLOR: Not all of your colleagues did that.

KEVIN KANE: I learned a lot listening. I know you all did, too.

REP. LAWLOR: There you go.

KEVIN KANE: Thank you.

REP. LAWLOR: Thank you very much. Next is, Martha Gould, right, and then she'll be followed by, Linda Blosie not here? Robert Weatherington's not here. John Watson will be next. John still here? There you are, okay.

BARBARA FAIR: Good evening. I want to thank the Members of the Judiciary Committee for once again allowing members of the community to come before you, especially today relative to the parole ban and any new changes since they are, and will likely disproportionately and negatively impact our lives.

My name is Barbara Fair, and I've been here many times in the past. I'm here today and will continue to be here until I begin to see

policy changes that will ignite a decrease in our reliance on incarcerating people as job security.

I'm a member of People Against Injustice, a grass roots organization. I'm also a parent, an aunt, a sister and a cousin of incarcerated individuals, and one who just simply cannot sit by and watch this continue, this prison industrial complex to continue to grow.

I once read a quote by the late Robert F. Kennedy. He said that each time someone stands up for an ideal or asks to improve the conditions of others or strikes out against injustice, he sends forth a tiny ripple of hope.

I sit here today with the intent to send a tiny ripple of hope to thousands of individuals who have served their time, have been made eligible for parole, and yet remain behind bars due to a knee-jerk reaction to horrific acts of violence from a few people.

I also sit here in awe of how quickly legislation is proposed and scheduled for passage within less than six months, with a Special Session being scheduled expressly for that purpose.

While children in New Haven, Hartford and Bridgeport were dying on our streets on a daily basis, it took several years for the same commission to pass legislation that only slapped the wrist of those who provide guns to our communities.

While children from those same cities are being ushered into the adult system, it took several years to pass legislation to return them to the juvenile system where they should have been in the past, although that won't occur until 2010.

And while we as citizens came before this same Committee and asked for citizen oversight over prisons, because we have been aware for several years that human beings were being degraded and dehumanized in deplorable conditions. This Committee felt that current oversight would suffice.

And as, and it took years to change the crack versus cocaine legislation, and it has still been years trying to change the 1,500 feet ruling, which disproportionately impacts our community.

I'm here today because I continue to hope that Legislators of conscience will recognize that prisons no longer serve the purpose of correcting behavior, and they serve solely as warehouses for a certain segment of our community.

Our families are viewed as commodities for the prison industrial complex, which has become a money maker and job security at the expense of the sick, the uneducated, the unskilled and the poor in our society.

The parole ban has caused individuals who have previously been deemed eligible for parole to remain in prison beyond the proposed release

date and returned some of those who were employed and reunited with their families, and could have spent Thanksgiving with their families, but they were back in prison.

It's so grossly unfair that thousands of prisoners and their families have to pay the painful price for the unspeakable acts of two individuals, and that real, oh, okay, sorry, who should have been incarcerated for more than three years.

Most of those whom I live around, spend three years and more in prison for nonviolent drug offense.

Connecticut prisons are overflowing with black and Latino drug law violators. White males are less likely to spend time in prison in Connecticut than the average, national average, while black males are more likely to spend time in prison than the national average. I ask why is that?

Legislators are responsible for a legal system that allows this kind of disparity in arrest, charging, sentencing [Gap in testimony. Changing from Tape 6B to Tape 7A.]

--in this state so that all the citizens can enjoy the pursuit of happiness.

SHELTON TUCKER: Good evening, or should I say good night? Good evening, Committee, my name is Shelton Tucker from New Haven.

I'm a member of People Against Injustice, and I've been here since 12:30 this afternoon, and I've heard the word public safety get thrown around a lot, almost like Islamafascism and all those other terms that they made up to push the war.

Public safety, it's a funny term because I think when we talk about public safety, I want to know whose safety are we talking about, and whose public are we talking about?

As another stated earlier, I've been a community activist for many years, and I've also attended hearings in this room several times.

And I remember when we were trying to push the law that would punish people that were putting the guns in the hands of our kids that were, in turn, using them against each other.

And we were met with so much opposition that it just, to see how fast this Committee came together to make these sweeping changes, it just angers me.

And it hurts me on the inside because what it shows myself and those, the citizens of Connecticut, especially those that live in poor inner cities, is that a white Cheshire life has more value on it than a black New Haven or a black Hartford or a black Bridgeport life, because our kids have been dying in our cities for years.

And all we've been doing is trying to get laws passed to help these people to stop these killings, and nothing has happened.

And I've heard a lot of, I've read over the proposals, and I think that the proposals themselves don't speak to public safety.

I think they speak to an answer. I think they are the side taken in this situation. I think sides were taken. There was the side that made the most noise, and they were the people that were answered.

And one of the things that I saw today, the way that this Committee, the way they run the public hearings, I can't fully blame my people for not being here tonight.

I did blame them, but after sitting here for ten hours, I can't fully blame my people for not wanting to come up here and sit here and hear a bunch of professionals speak towards proposals that are going to affect the lives of the public and not the lives of the people.

I'm probably the first person that's come up here today that's going to be affected by any of these laws, and I've had people coming up here, and I've, Representative here [inaudible] throw them all away. I don't think that that's going to solve it.

I haven't heard too many people come up here and say, let's put some money into jobs. You cannot determine what a person is going to do

when they come out of prison. You cannot predict that, but I can predict this.

Jobs will keep a lot of people from going back. I put my gun and my drugs down because of a job. I don't care, I could care less about any laws that they passed when I was on the street, just like any of the other kids.

The kids that are selling drugs, they're not watching this tonight. They probably don't even know that these laws are going to be passed, so these laws are not going to affect them.

They're not going to say, oh, let me not shoot that guy because Governor Rell passed a law, and I just may never get out. No one is going to do that. They're going to do what they have to do.

If someone breaks in your house, you're not going to say, well, maybe I can't beat this. You're going to protect your family. So changing all these [inaudible] is not going to affect crime.

It's going to give people a false sense of safetyness and a false sense of security, and it's not going to change anything until we change this whole system, until we overturn this whole system and recognize that it's a biased system.

Until we recognize that, we can have all the Committees here we want. We're just doing

nothing but blowing smoke you know where. See, that's all we've been doing here all day.

I haven't heard anybody say, I did hear you mention offering tax incentives to employers to hire ex-offenders, but I remember testifying on that in this very room about four or five years ago, you know what I mean?

So I just, I'm just disheartened by everything that's going on because I know that the people that are going to be locked up are going to be my friends and my family and not because they're bad.

It's because of the conditions and where we live. It's the conditions. Thank goodness that I have a good job. Thank goodness that I made it out of the condition that I was in, but a lot of my friends didn't.

And I lost a very good friend of mine this weekend, in New Haven, to gun violence, and I'm still hurting. I'm still hurting. My house was broken into a couple of months ago. I've been a victim of violence.

I had a young brother I had to watch, at 14 years old, with tubes in him because some idiot decided that he wanted to rob him and shoot him. I had to watch my brother holding onto life like this.

So if anybody should be up here saying let's lock them all up, and throw the keys, it should be me. It should be my family, but I'm not

saying that. The guy that broke into my house was a drug addict. He needed help.

Yes, when I came home from work and seen my house ransacked and my rent money gone, I was pissed, excuse my language. I was very mad, I'm sorry. I was very mad. I'm not going to say I felt victimized, I was afraid for my life.

I'm not going to say all that because I wasn't. I think the guy needed a foot in his rear, but I don't think he needed to be charged with first-degree home invasion and sent to jail for the rest of his life because if he was getting the proper treatment, he probably wouldn't have broke in my house because by then, he probably kicked his drug habit or had been getting help for it.

And we're not putting the money into the treatment. We can lock up a million people today. Drug addicts are still there.

Without treatment, they're going to be drug addicts for the rest of their life. I've been in the system where people have waited.

I've seen guys on a waiting list for six, seven months just to get drug treatment. By the time the sentence was finished, their name never came up. So they sat in jail that whole time and didn't get any treatment.

So when they get home, and the drugs are there, what do you expect them to do? If a guy comes home, and he has kids to take care of, a wife

and kids, and he's been going out three, four months, trying to find a job, and everybody is saying, oh, you have a felony, man, oh, well, we'll call you, and the bills are coming in, what do you expect that guy to do?

He's going to go back to what he knows, and he's going to end up back in prison. His job opportunities, I left the streets when I got opportunity.

I have an opportunity now to take care of my family. I don't have to sell drugs. I don't want to sell drugs.

I don't need a gun. I go to work every day. But it's the opportunity that stops me from doing that. Take my job away from me today, I don't know what I would do. And that's the same situation for a lot of the kids out there.

We have to put money into jobs. We have to put money into education. Everybody says it, and we're beating a dead horse, but until we face that, until we take that action, we're going to find ourselves here time and time again.

And I promise you, you pass that law, within a few years, I guarantee you, there's going to be a prison riot. I guarantee you because all these laws that are passed, their prison is on a form.

So the day that that paper gets put on that wall in the record room that says there is no more parole, and you've got 400 guys standing there, saying, there's no parole?

So what's going to stop me from stabbing that guy that I wasn't going to stab because I was going home? Now I'm going, what's going to stop me from fighting, from knocking that guard over the head, because I have no hope?

What you guys are doing now is taking away the hope. You may be giving people on this side a false sense of security, but on this side, you're taking away the hope.

You have people in prison now that will have no hope of having anything when they get out. It's going to lead to more prison violence, I'm telling you. I promise you this. I've seen it. I promise you.

BARBARA FAIR: And then Mr. Kissel talked about doing, getting these proposals together, and they'd be like paper collecting dust.

Well, I think that's, when I heard you say that, I thought about when the people came here and gave recommendations for how to relieve prison overcrowding, like three or four years ago. I was here when they did that.

And that, to me, turned to be just words on paper because the prisons are still full. As a matter of fact, they went down for a short period of time, and then they just flew back up to where they were, and now they're even worse.

So when people give you the recommendations, they are for you to use. And if you use them, prisons wouldn't be overcrowded now. We have

almost 5,000 people in prison right now only because they don't have bail.

They don't have the money so they can afford to get out. The young man who brought forth the information about the prisons, the horrible conditions they were in, that was a white man who went to prison.

He said three days was the worst three days of his life. Yet some of you Legislators can sit here, and other people in the community can sit here, and say, well, if they did the crime, then they do the time.

But you know what, I wouldn't mind hearing that if everybody who did the time did the crime. Like when we have Legislators who sit here and plot out how to beat up somebody, if that had been me, I would have a conspiracy to assault charge, a felony.

And I would be in jail. That person didn't have to worry about that. There's a police officer [inaudible] who was providing guns to kids in New Haven, and those kids got prosecuted for having the guns and shooting them.

But that police officer, never heard what happened to him. So when you talk about criminal, we need to talk about all the criminals.

I just moved from West Haven where the Mayor's brother assaulted someone and beat him

viciously in front of a bunch of kids at a game.

Never spent a day, he walked the streets. So when we talk about criminals, I think we need to define, okay, what is a criminal? Does a criminal depend on where you come from, your economic status, how much clout you have?

Does that determine who's the criminal? Because we got a lot of criminals out here that never seen any bars.

And so I just think it's so hypocritical to get so tough on certain segments of our society, while the other part of our society knows that they got it made.

And a lot of people will say, oh, yeah, just throw them in jail, and throw away the key. But you know what, when their child do something, they got the clout, and they're going to make sure their child never has to suffer the degradation that our family members have to suffer.

And I think until you guys see us African-Americans and Latinos as human beings just like you, we have family just like you, and we're loved and important to people just like you, and when you can see that, that's when you're going to see some real reform.

Because the first reform in this system needs to start with making it just and equal for everybody, and that's where it starts.

REP. LAWLOR: Any questions? Representative Green?

REP. GREEN: Thank you, Mr. Chair. I want to take a phrase from Senator Kissel and just say, I'm glad to see you and for you guys to be here and testify. And I've heard a number of your testimonies before, and I agree.

I really appreciate, one, how you outline, just through some historical perspective, how we've tried to address a number of issues that some of us may have felt, have felt, have a strong kind of impact on communities of color and communities of certain income and how responses from our colleagues have not always been as quick to respond in terms of this.

However, I have to say that some points, I do have some difference of opinions that you have. You know, as a person growing up on public assistance here in the City of Hartford, and again, as I've mentioned, I think, earlier, certain family members that are currently incarcerated and currently have also suffered death at the hands of some violence, gun, firearms, I have to say that I believe it is my job to try to make sure that policy development that we have here at the State Capitol looks at all of our citizens in the State of Connecticut, regardless of race, ethnicity, or class.

And it is a struggle. And I think that we have to do that. And I believe my colleagues struggle with that because all of us want to do what's best for the citizens of Connecticut.

I think are awareness of impact and the disproportionality based on income and race have to be in a more open and honest discussion after we address issues like this.

And I think we do fall short a little bit on ourselves having an honest discussion so that we can figure out how to make sure that whatever we do is fair and just for everybody.

However, I also have to believe that regardless of situations and conditions people come from, that you do not let the system believe that they will determine your outcome in life and that you do have to struggle with the racism and the classism and sexism and all the other -isms that negatively could affect you if you allow that.

And I also believe that a number of individuals, who in my community have been given opportunities to change, did not change. The question is making sure we know who those are that want to change and who not.

So you provide the services, I believe, on the front end in a preventable, with prevention methods in a stronger way.

And that's why I think proposal number 15 is really the one where we have to look for and go. So I continue to encourage people to support proposal number 15.

BARBARA FAIR: Could I just mentioned something about the prosecutorial decision making? I see that, and maybe in my community anyway, I see

that as more as being a negative because if there was a law that said that everybody, no matter who you are, if you commit this crime, you're going to do this time.

Well, if the prosecutor, say, doesn't like certain people or has a little bit of racism that they bring to work with them, they will give other people that discretion that they won't give other people.

So that's why you see the prisons full of us. It isn't because just us is doing all the crime.

REP. GREEN: And I have to agree with you, and I constantly have debates with individuals about analyzing information, specific information on the Connecticut system, that talks about the population of African-American and Latino males and the general population versus the prison population, that the length of sentencing and the type of convictions that happen for people of color and poor people than other people in the general community.

And we have not been able to assert that racism and classism have affected our sentencing structure in Connecticut.

There have not very few people in the judicial system or the state's attorney's office that will admit that there's probably some racism there, and that's where the disproportionality comes from because that's a tough discussion to have.

But I do want to say that I do believe that individuals do need to, especially, and I say this as I represent the City of Hartford, in the Legislative Office Building, the public hearings, whether they're 1:00 p.m., 10:00 a.m., or 12:00 midnight, that our residents should be here to express how they feel.

And they should go through the process to express very eloquently, as how you've expressed, how you feel, and come up here, and be a part of that.

And the frustrations and the disappointments that you see that happens from, you know, because there's always going to be debate as to why the public has to wait so long to speak, as we have department heads and officials speak before them.

And sometimes, I don't feel comfortable with that, but that is the process. And I think that the fortitude that people have when they go through this, and especially folks from the community, shows me the importance of an issue in their hearts, and then that makes me to want to think and consider that.

So I think it's admirable for what you did. So I think that we do need to have more people do that.

But I do believe that you have expressed to us to look at more than just a reactive measure to what happened there and that, yes, all lives are important.

And hopefully, we will look at some preventive measures on the front end and really address some issues of the disparity and disproportionate impact of the criminal justice system of folks of color and on folks of certain economic classes.

And I hope that we do allow ourselves to have some serious discussions about that. So thank you for your testimony.

BARBARA FAIR: I just wanted to take the time to recognize the people who did come up here today because they did come up here, and they stayed for as long as they could.

They had to go back and get their kids out of school, things like that, so they really did try. And some of them are probably watching right now. But everybody can't stay up here until 11:00 at night.

REP. GREEN: I agree. And that's why I encourage my friends in Hartford, who don't have as far to drive and might can adjust their things, that this is very convenient for them to be here.

And I will express that every chance I get and that our community, especially in Hartford, need to be able to do that so folks in New Haven and Bridgeport and stuff don't have to do that because we share similar concerns. So thank you.

REP. LAWLOR: Are there further questions? Representative Hamzy?

REP. HAMZY: I will be very brief. I was going to leave before you spoke, but as you began speaking, I decided to stay and hear what you wanted to say. A couple of things, I'll offer you my opinions. I'm not black. I'm not Latino.

I bring the perspective of my life's experiences to the Legislature as I try to make decisions that I think will be beneficial to people who live in the State of Connecticut as a whole.

Now whether a family gets injured in Cheshire or New Haven or Plymouth, where I live, or Bristol, the city that I represent, or whatever town it is in this state, those people are equal victims in my eyes.

And the proposals, or the penalties, that we discuss here, I think, to a person, we try to do the best job that we can, based on the information that we have and based on the life experiences that we bring to this building.

And, you know, I do appreciate the fact that you stayed here until 11:00 to offer your opinions, and I do agree with what Representative Green said, that if people want to have influence on the process, it's not always going to be convenient. And that's all I wanted to add. Thank you, Mr. Chairman.

SHELTON TUCKER: Before I, I'd like to just add one more thing I didn't get a chance to say. I think with the burglary charge, the burglary situation, I just think it's a little tricky,

the way that we're using the word play, to classify it as a violent offense.

I don't really know, I can't really say that I will classify that as someone breaking into a home where no one was there as a violent offense.

It's kind of hard to classify that as a violent offense, but I do have to think about there is a disproportionate amount of drug addicts that are in our system now.

I know that a lot of people, like has been said earlier, may break into someone's house or commit another crime to feed their habit.

Now if we're just taking all those people and classifying them as violent offenders, and we're locking them up for 25, 50 years, life, whatever it is, all that we're really doing is we're filling the prisons up with more drug addicts, you know what I mean?

Because a lot of those people, they are drug addicts, and they're supporting their habit. And I think that for people that do have the burglary charges, I think they need to look into that a little more to see if these people committed burglaries to feed habits.

Maybe they have another, a possession of narcotics on their record, something that could show that this person, or they have a history of drug abuse.

And I think that that's something that's really important that needs to be looked at because a person that has a drug addiction, they're under subjection of that.

So to break the drug [inaudible] and they need to get it, and they have to break into the closest house they see, they're going to do that. And they may not want to hurt anyone, and no one may even be there.

And I don't think that a person trying to get high that comes into someone's house that's not there, takes some stuff, and leaves should get the rest of their lives behind bars.

I think that they should get some intense treatment so that, I think, they can get off of drugs.

BARBARA FAIR: And I saw Mr. Petit on TV several times, and hearing him speak for those few times that he did, I don't think that he would want thousands and thousands of people to suffer because of what two people did to his family.

I think he wants to see, if anything, those two people suffer. But what's going to end up happening, as always does, when the policy comes through, it's going to disproportionately impact our community, and no one from our community committed these acts.

REP. LAWLOR: Are there further questions? If not, thanks for, oh, I'm sorry, Representative Geragosian.

REP. GERAGOSIAN: Thank you. I heard the beginning of your testimony upstairs in my office, but I think it was the most eloquent testimony we've heard today.

And it's more, I guess more or less a comment I have that, you know, you can't get frustrated because with this process, we have an opportunity to make some fundamental change, I believe.

And I think we have to take a holistic look at how this goes because there is a bias in our system, and it's the scourge of our country, quite frankly.

So we have to realize this is a situation we have, and we have to change it. So thank you for coming here.

And I have to make a comment that, you know, the electoral process has a lot to do with what the policy is that goes on in this building and who gets elected statewide and across the state. So people have to become, are more part of the electoral process too. Thank you.

REP. LAWLOR: Any further questions? If not, thanks again.

BARBARA FAIR: Can I ask one more question?

REP. LAWLOR: Sure.

BARBARA FAIR: For those people that are in prison right now, nonviolent offenders, have been

voted to parole, and they're not getting out, are they going to have to wait until the parole ban is lifted before they can actually come home?

REP. LAWLOR: I don't think so. I think what's going on right now, as far as I understand it, is this thing we've been talking about over and over again today, which is the nonviolent offenders, who the Governor has said should be let out to make room for the violent offenders to stay, the problem is for many of them, they have special needs, like need mental health treatment, that type of thing.

And there's not enough spots in the various programs that deal with the offenders leaving prison.

So one of the things we're talking about today is how do we get more of those available immediately so that we can actually do what the Governor says is the plan, which is to let the nonviolent offenders out?

Because the ones who could survive on their own were let out long ago. It's the ones that have the drug addiction issues and the mental health issues and the housing issues and the employment issues that are getting in the way.

So my understanding is that everybody who can be let out has been let out and that a whole other--

BARBARA FAIR: Maybe you need to check that because the people that were here today were here

because that's the only thing holding their person in. They have a place to come. They could come home. They have their sponsors.

They were already eligible, had been given a date, one in October, one in early November, and yet, they're being told because of the ban, they can't come out.

REP. LAWLOR: Well, it could be that they're being classified as violent. That's possible. They have a burglary or weapons possession, something like that, a domestic violence thing, you know.

All of those people are caught up in the ban, which is the nonviolence you hear people talk about, the purely property crimes, that type of thing.

So I mean, as it stands right now, that's what the Governor has ordered, and she has the authority to do it.

And it will stay that way until she lifts it. And if they're caught up in the ban on parole for violent offenders, then that's the way it is at the moment.

BARBARA FAIR: Okay.

SHELTON TUCKER: The tricky thing about violent offenders though is everyone that believes, when they say violent offenders, everyone believes that that's someone that has just committed a violent offense, that they're there for a violent offense.

Well, a lot of people don't know that in this state, to be classified as a violent offender, you just have to commit a violent offense ever.

I'm considered a violent offender for something I did about 17 years ago. I could get arrested tomorrow for jaywalking, and I'd have to do 85% of the time, even though I've been out of prison over ten years now.

REP. LAWLOR: Right. That is what's going on at the moment.

BARBARA FAIR: Thank you.

REP. LAWLOR: Next is John Watson, and is Christine Pawlik still here? You'll be next. And then Joe Bartoli is still here, right? And Lou Paturzo is still here, right? And so that's the next few.

JOHN WATSON: This Committee just heard some very eloquent, straight talk. It's my misfortune to follow it, wearing a suit and tie and other signs of privilege. I want to thank the speakers. It says good afternoon, good evening, whatever it is.

And thank you, Representative Lawlor, Members of the Judiciary Committee. My name is John Watson. I'm testifying today on behalf of the American Civil Liberties Union of Connecticut.

I've been a criminal defense lawyer for more than 25 years, and I now serve as Chair of the ACLU of Connecticut's legal committee. We

mourn with the rest of our community the recent tragic events in Cheshire.

The ACLU certainly joins this Committee in hoping that today's hearing will help us move toward a more effective justice system, protecting public safety without sacrificing fairness or sound fiscal and social policy.

I've submitted with my written testimony a report produced by the sentencing project, which is called *Changing Direction: State Sentencing Reforms 2004-2006*, giving many examples of innovative justice policies from other states, which we might follow or adapt to our own needs in Connecticut.

The ACLU has concerns with many of the proposals currently before the Committee, particularly those seeking to limit judicial discretion and extend mandatory sentencing.

The Legislature can respond to criminal offenses and authorize appropriate sentences while also preserving the independence of the judiciary and the fairness of the criminal justice process.

Mandatory minimum sentences have been shown to have little impact on rates of crime while compromising the operation and fairness of the criminal justice system.

Connecticut, for example, has one of the worst racial and ethnic disparities in incarceration rates in the United States.

For every 100,000 residents, Connecticut incarcerates 211 whites, 2,532 blacks, and 1,401 Hispanics. Any true reform coming from this Committee would have to include serious efforts to address that disparity.

Increases in incarceration involve enormous outlays of tax money and don't guarantee significant reductions in crime.

The need to reserve finite and expensive prison space for offenders who represent a real threat to public safety is clear.

The present proposal to expedite release to parole for some nonviolent offenders is a good step, but more comprehensive alternatives to incarceration for low-level offenders are also needed.

For example, as you've already heard, mental illness is disproportionately reflected among our inmate population. Most such inmates should be placed in treatment programs and/or hospitals rather than be incarcerated in the first instance.

We also urge the Legislature not to adopt the proposal to impose unrealistic timetables on capitol appeals and habeas petitions and to limit the ability of inmates to bring habeas challenges to capitol sentences.

Such rules would seriously erode the right to due process of law. Cutting off such avenues of review also increases the risk of convicting and executing the innocent.

The ACLU endorses proposals to aid prisoner reentry and rehabilitation, increase health services in prison, and guarantee parole board access to pre-sentence reports and sentencing transcripts.

The ACLU membership and leadership share in the grief and the rage at the tragic and brutal events in Cheshire.

We hope to partner with our Legislature in ensuring, however, that unconsidered responses to those emotions do not compromise our justice system. Thank you.

REP. LAWLOR: Thank you, John. Thanks for staying with us all day. There was a, you know, you might have heard me mention earlier, and this is obviously a factor in any decision we make, is the prospect of litigation regarding prison overcrowding.

And, you know, we've been down this road once before in Connecticut, in the late '80s and early '90s--

JOHN WATSON: Didn't fix it that time either, did we?

REP. LAWLOR: Well, we built a lot of prisons. We built 10,000 prison beds to get out of that particular federal court case.

And I, do you have any information to offer us now on whether or not it's likely that if you will bring an action any time soon?

JOHN WATSON: No decision has been made at this time, but it's an issue that has been raised and is being considered.

REP. LAWLOR: And I believe they were the plaintiffs 20 years ago, the last time we went through this.

JOHN WATSON: We represented the plaintiffs. I don't know who was actually the nominal plaintiffs.

[Simultaneous discussion]

JOHN WATSON: There's a, yeah, there's a consent decree still in effect, which is not being complied with now.

REP. LAWLOR: Which facility does that relate to, do you know? Because as I recall, the consent decrees were facility by facility, and so many—

JOHN WATSON: You're right about that, and I do not remember which, I believe York is one of them, but--

REP. LAWLOR: The women's prison, right.

JOHN WATSON: But there are a couple also of the men's facilities, and I don't remember which they are.

REP. LAWLOR: Yeah, because I think that the lessons of 20 years ago have been lost on some folks, the prospect of federal judges taking over the state prison system as they did in Texas and

ordering a mass release as they are about to do in California and almost did in Kentucky.

I mean, those are all of the prospects that are on the horizon here once litigation commences. And I think it would serve everyone well to go back and read the history of the late 1980s and the Connecticut prison overcrowding crisis and how it got resolved and the kinds of decisions the Legislature had to make then, again, budgeting money to build 10,000 prison cells.

JOHN WATSON: Right. And even before anything that's before you right now is acted upon, the DOC right now is about 2,000 occupancy over its authorized capacity.

REP. LAWLOR: Yeah. So this is, whatever you think about the, I mean, I'm sure people have different views of whether or not they support the idea that the ACLU is going to bring such a lawsuit. The point is the ACLU would probably sooner or later bring such a lawsuit, and we--

JOHN WATSON: If we don't, somebody will.

REP. LAWLOR: Yeah. And we'll have to contend with those consequences, and that sounds like it's weeks, if not months, away, the beginning of that process.

And you can look at the current events in California to see what happens to a State Legislature and a Governor once that gets going.

And it's not something I really look forward to once it happens, but it seems like there's a certain inevitability to that.

And so, in any event, people should know, and you're representing a group that's likely to bring that action. We'll find out.

UNIDENTIFIED SPEAKER: [inaudible - microphone not on]

JOHN WATSON: I wouldn't say inevitable, no.

REP. LAWLOR: It depends on our decisions, I suppose.

JOHN WATSON: Well, no, I think there are concerns, as I said, already with the overcrowding, even before you start to enact all of these multiple mandatory sentencing provisions, which obviously are just going to jack the stakes up much higher and make it, the system, that much more burdened.

REP. LAWLOR: Okay. If there's no other questions, thank you very much.

JOHN WATSON: Thank you.

REP. LAWLOR: Next is Christine Pawlik.

CHRISTINE PAWLIK: Good evening, my name is Christine Pawlik. I supervise the adult criminal justice reentry programs for Catholic charities. They are funded by Court Support Services Division in the Department of Correction.

We have programs in Hartford, New Haven, Waterbury, Torrington, New Britain, Danbury, Ansonia, and soon to be a startup in Milford. Some of these sites have been funded for over 30 years.

Last year, we saw over 4,000 different criminal justice clients, most of these on parole or adult probation. We work closely with a client's parole or probation officer, having at least monthly contact with them.

We have the largest adult behavior health program in Connecticut, funded by CSSD, our Hartford office. We use evidence-based programming, approved by CSSD.

We track outcome measures using two scales, the Modified Global Assessment of Functioning, MGAF for short, and urine testing.

After six sessions, 86% of CSSD and 87% of DOC clients increase their MGAF score by at least 5 points on a scale of 1 to 100, in most cases, entering treatment in the low 60 range.

Eighty-five percent of clients referred for substance abuse had negative urine screens upon discharge. We have a separate program for youths, ages 16 and 17, who are in the adult criminal justice system.

We have recently started receiving referrals from the jail re-interview staff. We also offer mental health with medication management and anger management services.

When we were pre- and post-testing our anger management clients, at least 50% had improved scores on the post test.

Catholic Charities offers clients to stay with our program after their parole or probation ends. Only about 25% choose to do so, but many of these are clients that have served significant prison time.

I currently see a client who has served 22 years for manslaughter. He wants to stay in counseling. Most clients truly want to avoid the behaviors that brought them to prison and find a good counseling program can help them to do that, thereby increasing the public safety.

And I urge you to consider the many success stories of the treatment programs that partner the Court Support Services and the Department of Correction.

REP. LAWLOR: Thank you very much. Are there any questions? If not, thanks very much. Next is Joe Bartoli, followed by Lou Paturzo and Mike Rocci.

JOE BARTOLI: My wife and I are going to testify together.

REP. LAWLOR: Please go ahead, yeah.

JOE BARTOLI: Chairman Lawlor and Ranking Members of the Judiciary Committee, I want to thank you for the opportunity to testify today, this evening actually, here in front of you.

This hearing today, it's not about Democrats, and it's not about Republicans. It's not about socioeconomic standing either. So what is it about? It's about us.

It's about the citizens of Connecticut and our inalienable right to public safety, specifically in our homes. The horrific crime of July 23 brought to light glaring deficiency in our judicial system.

I believe that there are four items that really need to be addressed and addressed immediately, first being the reclassification of home invasion as a violent crime.

When someone enters your home, just the idea that they are coming into your domicile is violating the peace in your mind. The opposite of peace is violence. Henceforth, you have a violent act.

Number two, we need to enact a persistent violent offender law that's going to eliminate the judicial discretion and require life imprisonment for that third violent crime. And again, we stress a violent crime.

Number three, I think we should require that GPS tracking devices be worn at all times by released serious criminals as a condition of their release.

Number four, we need to reform and overhaul the parole system to ensure our public safety, which Governor Rell has taken steps to do, and

we have an oversight committee looking at that currently.

There's no way any of us can undo the events that occurred on January 23 in Cheshire. We're not here today to place blame or to go back in time. We must look forward.

It is my sincere belief that the persistent violent offender proposals offered here today will begin the process of mending the flaws in our criminal justice system and make Connecticut families feel safer in their homes.

Our country was founded on the idea that government is for the people and by the people. The people are speaking. Forty two thousand, five hundred and fifty four, to be exact, have signed a petition demanding change.

We all lost something on July 23, one man more than anybody should ever have to. That's Dr. William Petit.

I think as we move forward in this process, we need to keep his words that he sent to us today, through the letter that Al Adinolfi read earlier.

The sole issue and only legitimate focus should be public safety and the protection of the citizens of Connecticut. Thank you.

MARILYN BARTOLI: Good evening, Chairman Lawlor, Senator Kissel, Members of the Judiciary Committee, who have been gracious enough to

stay here tonight. I'm Marilyn Bartoli, and I'm from Cheshire.

In the interest of time, I'll confine my comments just to echo what my husband has said. When we left our house this morning at 6:00 and went to a place where many of our friends go to for coffee every morning, many of them asked us to be a voice for their voices, excuse me.

It's very personal for me what happened in our town and to our friends could have happened anywhere in this state, I believe in this country. And I urge you to do whatever it takes to prevent that from happening in the future.

Our basic needs that we are guaranteed under the Constitution, life and liberty, and that translates to me at this time freedom in our home.

And as Al Adinolfi will tell you, there's people in our town, grown men, that still cry and groan, women that are afraid to stay alone at night when their husbands travel.

And for them and for our children and for the memories of my friend and her daughters, I beg you not to let this moment pass, to do what you can, because I know you're intelligent, caring individuals, and there have been so many good ideas discussed here today. So I beg of you to act on them. Thank you.

REP. LAWLOR: Thank you. Are there any questions? Senator Kissel and then Representative Green.

SEN. KISSEL: I just want to thank both of you. I know it was only this morning that we both formally met, and I know you've been very patient. It's past 11:30 this evening, and you've been here all day.

I can't imagine what Dr. Petit feels like. I also cannot imagine being as close as you obviously were to the family and having this shocking and horrific and diabolical event take place.

I want to commend you for your thoughtful response. Working with individuals that are gathering up signatures, tens of thousands of signatures is not a small thing. It certainly represents a considerable portion of our society that has a concern.

And as you know, one of the things that I feel is most important is as much as we can come together and possibly do in a special session, I'm still very hopeful we can do that.

I'd like to see the process move even beyond that. I think we have an opportunity, in the midst of this horrific tragedy, to take these lives that were so senselessly lost but turn it into something positive for the people of the State of Connecticut so that we can minimize these things from occurring in the future. And I really thank you for your patience and diligence today in coming to testify.

MARILYN BARTOLI: Thank you.

JOE BARTOLI: Thank you.

REP. LAWLOR: Representative Green?

REP. GREEN: Thank you, Mr. Chairman. And let me first express my sympathies and concern just meeting and hearing this evening, and obviously the emotional toll that this incident caused to you and your family.

I would like though, based on some of the comments I heard you make, Sir, that we might want to expand and think about that, to me, it probably is more than just coming here to address the issue of home invasions, burglaries, and the safetyness of people in their own homes.

I do agree with the statement that you made that this is really about trying to make a safer community for all of our citizens in the State of Connecticut, whether they're in their home or not in their home.

So I would just home that it would, in respect, that for us, it has to be bigger than that because it is about putting away those individuals who might be prone to violent that may harm other people in a number of different scenarios and than also with, I think, with some balance that our criminal justice system provides for those individuals that need help get the help, and those individuals that need to be away are away.

And that's a tough balance for us. What I do believe, that some of the folks have commented

on, is that we would just like the system to make sure that it is consistent and fair.

And some of the questioning that I've asked of some of the state's attorneys and other officers is that could we identify violent offenders and put them away for the time they need to be away, and could we do that now?

And I have to say that I'm sometimes disappointed that we can make certain kinds of decisions today without changes in the law.

And so I think when we all go through grief and pain, the ideas may be something needs to be changed. And sometimes, I think it's that we have tried to think of these things, the legislative body previously, to give the tools to our criminal justice system for them to do that.

I think a number of our systems failed on this particular case, and so I think that we want to try to make sure that we have less failures of that for the safety of all of our citizens in the future.

So I would just hope that we all understand that all of us need to be safe. There are a number of women tonight, whether their husband is working or not working, that are alone and need to feel safe in their own homes.

And I would want to make sure that all citizens in the State of Connecticut could feel that safety.

And I think that I would really like to encourage us to be able to identify those individuals who do not need to be in our communities and that we do a better tracking.

So I like some of the proposals. I would be concerned about some of the cost, and I will always want to make sure that we make sure we identify the individuals that we need to identify that's violent and that we also try to help those who really, truly want to change and want help. So again, thank you for your comments, and thank you for your patience.

REP. ADINOLFI: Joe, Marilyn, thank you for being here. Joe and Marilyn, I've watched you both in action at different events and carnivals and festivals in the towns, gathering the thousands of signatures that have been gathered in favor of the Three Strikes Law.

And I was just wondering, Joe, I'll ask you, I noticed that when you were doing this, people didn't just come and sign a piece of paper.

They asked a lot of questions and expressed their concerns. And I'd say based on [Gap in testimony. Changing from Tape 7A to Tape 7B.]

--over 40,000 people who signed a petition for it. Do you have an opinion on that?

JOE BARTOLI: Well, yes, I do, Al. When I [inaudible] the Quinnipiac poll, they polled roughly 1,200 people. We have 42,000 people who signed the petition.

We all know that when polling is done, you can pose questions in a way to get a desired response.

That's Sales 101. Call it poll, and call it sales. When I was at the different festivals, speaking with people, this issue went across, when I said across socioeconomic boundaries, I had every conceivable walk of life talk to me about this.

And it is about people wanting to be safe. Representative Green, you're absolutely right, it's not just our homes. You listen to the news every night.

We hear horrific things, repeat offenders, you know, child molesters molesting again, you know, burglaries, people, 10, 20 burglaries. We need, as a body, to make changes so this doesn't continue to occur. Is it easy? No. This is complex.

And it's going to take real thought and work by all of us to accomplish these goals. So, Al, I guess in summation, my opinion on that is it goes across all walks.

And there were people that would ask me about, oh, Three Strikes, we would constantly get that California example. Well, a shoplifter went, we're not talking about that.

We're talking about crafting a law that works for the State of Connecticut. It's just that simple. And I think we have an intelligent group of people sitting here that can do that.

REP. ADINOLFI: Thank you.

MARILYN BARTOLI: If I might just add, for the record, Al, we want to thank you for your unwavering support, and not just in this instance but throughout the years. You've been such a wonderful Representative to all the people of Cheshire.

REP. ADINOLFI: Thank you.

REP. LAWLOR: Thanks very much.

JOE BARTOLI: Thank you.

MARILYN BARTOLI: Thank you.

REP. GREEN: Next is Lou Paturzo. And Mike Rocci, you'll be next. And then I believe, just to make sure, Valerie Shultz-Wilson is not here?

Dr. Gordon is not here, Jennifer Jasenski. Then is David Firestone still here? Oh, he's gone, okay. Steven Clark?

Jan VanTassel? Ramona Rivera? Okay. You'll be coming up third. Nick Coscia? Barbara Fair already spoke. Cherri Bragg, she's left? Steve Lanza? Ann Fransisco?

UNIDENTIFIED SPEAKER: Ann's already left.

REP. LAWLOR: Okay. Marilyn Bartoli. Kim Sundquist is still here. I see Kimberly. Gary Holder Winfield?

UNIDENTIFIED SPEAKER: Gone.

REP. LAWLOR: Catherine Osten? Cathy is here. Alicia Tremper is here. Sally Joughin? Karen Zimmer?

UNIDENTIFIED SPEAKER: She already spoke.

REP. LAWLOR: Okay. All right. Is there anyone else here that--

UNIDENTIFIED SPEAKER: Yeah. You didn't call my friend's name.

REP. LAWLOR: Maybe that's on the handwritten list. Is Shelton Tucker still here?

UNIDENTIFIED SPEAKER: No. He's the guy--

REP. LAWLOR: Vorcelia Oliphant? Okay. Geraldine Fair? Jessie White? Carl Milner? Patricia Nelson? Virginia Corbiere? Veronica Matos? Tom Burr? Okay. Mary Johnson? Charlet Mardis?

CHARLET MARDIS: Here.

REP. LAWLOR: Charlet is here, okay. Is there anyone else whose name I didn't call?

UNIDENTIFIED SPEAKER: Is Charlet Mardis--

REP. LAWLOR: Charlet Mardis, right. Oh, that's you, okay, I'm sorry. All right. I apologize, go ahead.

LOU PATURZO: Good evening, my name is Lou Paturzo. I coordinate the New Day Program, which is part of the Building Bridges Initiative you heard from the Bridgeport program Fresh Start earlier, and there's also a New Haven Building Bridges program.

The Building Bridges program and the New Day Program in Hartford is a program of transition support.

We operate the program as a pilot out of the Carl Robinson Correctional Institution in Enfield, where we typically meet with inmates anywhere from three to six or seven months prior to their release.

We meet with them to help them plan a strategy for reentering the Hartford community that makes sense. We build a rapport with them. We help them to identify issues that will be of a special difficulty for them.

And we build a community within the prison, a community of mutual support. And then post release, we begin to help them to implement that transition plan.

Probably the carrot that we offer that is most important in the eyes of most of the inmates who apply for the program, and it is voluntary.

They apply through the deputy warden, and if they are Hartford residents and if they are within anywhere from three to six or seven months of release, they're brought into the program.

But the carrot that we offer is housing. We rent two houses in Hartford so they remain on the tax rolls, six apartments, and have room for 20 men. They live three or four in an apartment.

They're responsible for keeping their place clean, cooking their own meals. There are rules. We work very closely with Hartford Parole and Probation on daily contact, especially with parole.

There are curfews. We add an extra layer of supervision but also an extra layer of support. We're the ones who do the spot checks to make sure they're in by curfew.

We inspect the rooms. We help them also with supportive services, connecting them with other agencies but also providing them case management support, employment services.

What we try to do is help them become productive citizens. We help them become good neighbors. Especially with our housing, we teach them how they need to be good neighbors.

So we have actually very good relationships with our neighbors in both of our houses. We make it clear that if there are any problems, they need to contact us immediately. But there haven't been in over two and a half years in either place.

Our landlord, who has maybe 30 properties between Hartford and New Britain, claims that

we are his best tenants. He's never had a complaint from any neighbor about us.

We've gone out of our way to teach those who are in our house of what they need to do to be better husbands, to be better boyfriends, to be better neighbors.

And for many of them, it's the first time they've had to take responsibility for an apartment, take out the garbage, wash the kitchen floor, clean the toilet, do all of the things that they are hopefully going to have to do once they leave us.

So what we hope to do is to enhance the safety of our community by helping inmates receive the support that they need to become productive citizens and good neighbors.

Two of the questions, Representative Lawlor, that you asked, beginning with Sue's story about ten and a half hours and then to Julia Wilcox too, one was what seems to be getting in the way of guys who have been pre-approved for release coming out?

And because we do work in the prison, and we work typically with men who have been approved for parole and transition and had that suspended, pending a re-review of their files, the biggest thing that hampers, and I think the Commissioner has mentioned this over the years, on a couple of occasions, is the lack of suitable transitional housing, supportive housing for men, not only halfway houses because our is not a halfway house.

Ours is described as a parole house or a TS house, a transitional supervision house. But [inaudible] in the community were men who have nowhere to go.

If a person is approved for parole, that just indicates they can leave if they have a place that parole approves them to go to.

So if they don't have a sponsor in the community, or they don't have a home in the community to go to, they remain in prison until they complete their sentence.

So what we provide is that housing in the community, that place to go. And I think we've more housing available a good number of inmates, and the Commissioner sometimes talks between 1,000 and 1,500 could be released into the community if they had a safe and secure place to go.

And the other question that you asked about more resources coming online quickly, we have two houses now that we operate with a total of 20 beds.

Because of the success of the program, in terms of the stability of that housing and the relationships that we've made with neighbors, we've had landlords come to us and say that they would be willing to rent apartment space to us, including the landlord that we now have, because we had talked to some people from DMHAS about the possibility of housing beds for those

coming out of prison who will need the supportive services of DMHAS.

And our landlord actually went as far as saying that if that became a reality, he would actually buy another house and rent it to us if he didn't have a house that he could clear.

So I think that what has happened in Hartford is that landlords are seeing that ex-offenders can be good neighbors.

And I think that's maybe a perception that the community, because of the horrible events that have happened in Cheshire, that they think that the prisons are filled with violent offenders, waiting to come out and recommit crimes. And it's just the opposite.

At Carl Robinson, there was one day when we had to cancel our, we go up twice a week to meet with the inmates, we had to cancel it because every available space in that area, the school area, the library, the periodical room, was taken up with men taking their GED exam.

And these are inmates who get up every day and go to school. There are inmates who get up every day and meet with their transition counselors and their transition teachers to prepare for their release.

There are men who come to us twice a week, week in and week out, so that we can get to know them better, they can get to know us, and that they can prepare with us a plan for their successful transition back into the community.

And out in the community, there are hundreds of men and women on parole who get up every morning and go to work.

In our house, we have one man who gets up, he's up by 5:00, and he's out, you know, going to the bus to get to work. And he works, and he doesn't come home until 9:00 in the evening.

We've had, you know, others with similar successes. So there are many out there on parole who don't make the newspapers negatively but who are working very hard to change their lives and become productive citizens and who are going to work each and every day.

And what I would offer to anyone here, because I know Mr. Lanza and others from Bridgeport said come on down, and Bridgeport is a long ride. We're here right in Hartford only about five minutes from here.

So if anyone would like to see our housing facility, the two houses that we rent, what it's like, to meet with the residents, to meet with my staff, I have three caseworkers. We're just bringing on a third caseworker.

Two of them are retired police officers in Hartford, and the one that has been working with the program for over a year has developed a unique relationship, sometimes with men that he arrested and sent to prison, and now is working hard to see them move in a positive direction.

But you are more than welcome to meet with us at any time to see our facility. And then, Senator Kissel, we're up in your district, up in Enfield, more than welcome to come and sit down, you know, with us at Carl Robinson and meet with our group and talk about some of the concerns that you have and see that they share a lot of those concerns.

And because of the program's, I think, success in helping inmates, we can't rehabilitate anyone, but we can provide them the support and tools that they need to rehabilitate themselves.

And we get letters almost every day from inmates all over the State of Connecticut. We went to Bergin because the deputy warden there knew of the program, and we had a couple of our participants who were violated on technical violations and went back into prison.

And they spread the word about how they had an opportunity, and they blew it. But we were going there to talk to them, to try to encourage them.

You know, this was maybe a discipline that they needed, but we're in this with them for the long haul.

And we had made arrangements to go up and see about three or four. Then we got a call from the deputy warden's secretary, saying, can we add two more names to the list? Some inmates heard that you were coming up.

And then we got a couple of phone calls from family members of inmates from Hartford who were at Bergin.

By the time we got there the following week, there were 17 inmates from Hartford that met with us and talked about the kinds of supports that we can offer.

So I think that what the prison system is full of is men and women who are desperate to turn their lives around.

We got a letter from one young man who said that he knows if he continues down the same path, he'll spend the rest of his life in prison or be dead. But he's afraid that he can't do it by himself.

And he said he hopes that we can continue to support him and work with him so that he continues to have the hope that, you know, he might move in a new and positive direction. So I think there are, you know, we sometimes--

REP. LAWLOR: I don't want to cut you off, but we just want to, in case there's any questions. Are there any questions? I think the bell disappeared.

LOU PATURZO: Where'd the bell go?

REP. LAWLOR: Representative Green?

UNIDENTIFIED SPEAKER: I just have to comment. Thank you, Mr. Chairman. We want you to stay, working with Carl Robinson. Clearly, there's

some population experiences going on there with the expansion of one of the units.

What you're doing is exactly what we need to replicate in so many ways, the fact that your landlord thinks you're wonderful tenants.

We need to transition out the nonviolent offenders, get them into the community. We need to explore other strategies. We have halfway houses, maybe halfway employers, maybe tax incentives for employers to take a chance.

When I said bonding for employers, I meant like, you know, with insurance policy. Apparently, that's being utilized in Kansas. There's all different ways to get our arms around this.

You know, the intention is not to fill up the correctional facilities. The intention is to try to create an environment where people that are of danger to the public safety are incarcerated for an appropriate period of time.

But I agree with you, there are so many individuals that just really want to turn their lives around, and I applaud you for all the hard work that you're doing.

And we will do our best to make sure that you have adequate resources, not only to continue but to try to expand.

LOU PATURZO: Thank you.

REP. LAWLOR: Representative Green?

REP. GREEN: Thank you, Mr. Chair. You talked about 20 individuals that you have in your home. Are your neighbors aware of the type of housing that you provide?

LOU PATURZO: Yes.

REP. GREEN: What was some of the reactions? It sounds like you're saying there was no negative reaction to those homes being in the community.

LOU PATURZO: There really wasn't any negative reaction. Our first house is on Bond Street on the south end of town. And we've had good relations with the neighbors on either side of the house.

Our second house is on Hillside, near New Britain Avenue, and I made it a point to talk to the neighbors next door and to explain who we were and to let them know that if there were any issues or any problems at all, gave them my card, call me any time, day or night.

And they indicated to me that it was very quiet, that they were surprised in both cases that these were ex-offenders living in the house because they were impressed with them doing things, like sweeping out in front and picking up their garbage, and putting out the garbage. So we've had no negative response at all.

REP. GREEN: Did you have to have any kind of special zoning, or did you have to go through the city to create this house? Is this

different, just a specialized kind of zoning that's required?

LOU PATURZO: No. What we did, Representative Green, is we met with zoning beforehand, and we had to comply with certain conditions.

We don't have onsite staff 24 hours a day because that would have created like a halfway house designation, and then we would not be zoned.

They consider us just residences. We do spot checks, as I said, but we don't conduct any, like any classes. We do have house meetings, but we try to keep it so it's not considered a rehab house but rather a residence.

REP. GREEN: Are the probation officers or parole officers, do they have total access to that house?

LOU PATURZO: Yes.

REP. GREEN: It sounds like all those individuals are on probation or parole?

LOU PATURZO: Yes. They have to be under some kind of supervision. The parole officer assigned to monitor the men in the house has a master key that would get him into the house and all of the apartments.

Probation hasn't asked for that, but their supervision is a little bit different than parole's. We do have those in the house who

are on probation. They would be mostly on intensive probation.

REP. GREEN: Let me ask you a question because this is one thing that I think has somewhat not been under discussion in relation to the Cheshire incidence.

Apparently, those two individuals that committed this horrific crime spent some time in some kind of halfway house or transitional house in the community.

Would those individuals, based on their charges, would they have been eligible to be in your home?

LOU PATURZO: My understanding, based on their charges that they had, you know, prior to this incident probably would have been. There were no like disqualifying charges. What we look for inside the prison is motivation to change.

To give you an example, we had no contact with either of those men, but we did have with Mr. Biggs, the man who highjacked the car in Hartford.

And that actually was the straw that broke the camel's back, as far as the Governor putting a freeze on parole.

He applied for our program at Carl Robinson and was accepted into the program. He came to just one session.

When he heard about the level of motivation that's needed and commitment that's needed, he dropped out of the program after one session and indicated that he would find some other way to get out of prison.

REP. GREEN: Let me just ask you, based on that, because you seem to know a little bit about that case, when that gentleman, Mr. Biggs, was released, was he released on end of his sentence, or was he released under supervision?

LOU PATURZO: I don't think he was on parole, so it was either end of sentence or, you know, I'm not positive of that because we had no contact with him once he left our program.

REP. GREEN: It sounded like he might have been on some kind of supervision if he applied for your program.

LOU PATURZO: Some of those, if he had probation--

REP. GREEN: Unless he stayed so much longer that he was not eligible. But I'd actually rather come and visit and talk to you more, since you're in Hartford, and I want to visit because I guess my concern is the type of individuals that you take in those houses.

And what are we doing, and again, I'm really, a sense of offering people opportunities to avoid prison instead of so much housing, some of the other issues around jobs that individuals need to avoid prison than to be able to get that once they go to prison, because I really am

trying to balance that out in terms of where do we put our emphasis.

So I'd rather just come and talk to you about it because, you know, knowing [inaudible] and him being in Hartford. So I do have a lot more questions, but actually, if you could just give me the addresses of those homes, I might want to just pop in.

LOU PATURZO: Sure. You're welcome to come.

REP. GREEN: Okay, yeah.

REP. LAWLOR: Any further questions? If not, thanks very much.

LOU PATURZO: Thank you.

REP. LAWLOR: Mike Rocci? And Mr. Rocci will be followed by Ramona Rivera.

MICHAEL ROCCI: Here's a photograph of my children. I just hope they're home safe with their mother at the moment, sleeping.

I'd like to take just a moment, if I can, to ask if we could just have a moment of silence, like we did ten hours ago, for the lost Petit family. And then I'd like to read something from the Bible, if that's okay with the commission.

For the record, my name is Mike Rocci, one of three Cheshire guests that have stayed here all day. I'm a little tired, a little groggy, so just bear with me.

This is from Luke 23. It's the scene where Christ is on the cross, and there are two criminals, one to his right and one to his left. Some of you may recall, some of you may not.

One of those robbers who were hanged was abusing him, saying, if thou art the Christ, save thyself and us. But the other, in answer, rebuked him and said, dost not even thou fear God?

Seeing that thou art under the same sentence, and we are indeed justly, for we are receiving what our deeds deserved. But this man has done nothing wrong.

And he said to Jesus, Lord, remember me when thou comest to thy kingdom, and Jesus said to him, Amen, I say to thee, this day you shalt be with me in Paradise.

And for the record, I say that for the Petit family. I'm sorry, I took a lot of notes. First, again, I'd like to thank Chairman Lawlor, McDonald, who's, I'm sure, still watching, as well as the Ranking Members of the Judiciary Committee, for this opportunity to share my thoughts with you at this time.

What is the most important issue of today in this work we live in? You all understand that without stiff crime laws, they will win. We will lose.

As some of you may or may not know, I lived in New York City, or as I put it, I did time in New York City, for 40 years.

In the year 2000, I moved my family to Cheshire because I could not let my two children, Nicole and Jonathon, grow up in the Bronx any longer.

My wife Jean and I could not let them out of our sight even for a minute. Unless you lived in my shoes, you have no idea what is headed north towards Connecticut.

In the Bronx, where I lived, my daughter was almost kidnapped by two career felons. She was about two seconds away from being kidnapped. My wife had her purse stolen. I was mugged once.

I had a 45 pistol gouged into the side of my temple at a gas station that I was running, where a person demanded me to open up the safe. I had my wallet stolen twice.

My 70-year-old father was jumped while he was on his way to jury duty. My wife and I were shot at once by our neighbor behind us. Thankfully, he missed. There were gang fights in the park just a few houses down from us.

Gunfire on the weekends was very common in my neighborhood. They sounded so close sometimes, we often dropped to the floor, thinking that we were being shot at.

We had drug dealers on our street, just two doors down. I lived at 1271. They occupied the apartment building at 1275.

It was common to have eight to ten murders per day in my city when I was growing up. That's why I took the opportunity in 2000 to move away.

I felt helpless because I didn't have this type of forum in New York City to address, so I put my hands up, and I honestly gave up and moved away.

If you don't think this can happen here, you're mistaken. It's already started. It won't get any better.

If this Judiciary Committee doesn't take the necessary corrective steps now, excuse me, I lost my train of thought, nothing is going to change.

But I don't believe that because I'm pretty darn proud to see all of you still here, hopefully a lot of people watching. And I call Cheshire my home, and I'm not going to move again.

I honestly love the State of Connecticut, and I thank you all for what you do and what you are about to do. July, in Cheshire, was supposed to be another beautiful summer month.

Unfortunately, we were all terrorized for life, obviously some of us more than others. Since then, home invasions have been on the rise.

If you do nothing, which I don't believe you will, it will get worse. As residents, we can install all the dead bolts, alarm systems we want, and that won't change the evilness of a career criminal.

I know this. I've been there. We should spare no time nor expense to secure the safety of ourselves and our loved ones, my daughter Nicole, my son Jonathon, and my wife Jean.

And I strongly urge you to please pass a compromised, bipartisan, fair version of the mandatory persistent felony offensive law, as we so categorized as the Three Strikes and You're Out Law.

We should also classify Burglary I and II as a violent felony crime, as they truly are, and I think we're all in agreement of that.

Classify any type of home invasion, someone brought up that it should only be at night. Well, for 17 years, I worked for a small, little company called United Parcel Service, and I worked nights. I was home during the day.

So if they broke into my house during the day, I would have done everything I possibly can to make sure that my family was safe.

So that law, that little loophole where it says, you know, at night means nothing to me and thousands of other people who work nights.

Or whether the house is occupied or not, how does the home invader know that the house is occupied or not?

When that person enters someone else's domain, as some of you have been through, there are weapons in the house, as has been said before, that can be used against the occupants that can do much harm.

So there is the potential there for great harm, as we all know. Again, that home invasion should be classified as a violent crime.

And lastly, I honestly think we should abolish the pardons and parole departments. If we sentence a criminal justly to ten years in prison, and we set some rule that he or she needs to spend 50% of the time in jail and then eligible for parole, or 85% and then parole, then why won't we just sentence them to 8.5 years or 5 years and do away with the parole system and save some taxpayer money?

Again, that's just my opinion. A couple of notes that I took over the last 10 hours was somebody along the line, I don't remember who, I'm sure it was a very intelligent, qualified individual that said at one given time, that we had 1 probation officer for every 252 case loads.

I tell you right now, I've got two kids that I can hardly find out where they are every day. It's almost, I don't want to belittle this problem, but it's so silly. How can one person

track 252 ex-felons? It just doesn't jive. It doesn't work.

And then I heard that it was dropped considerably to 100. Once again, I don't think that's feasible. Someone else said that we have 3,500 outstanding warrants because we can't find these people.

REP. GREEN: Mr. Rocci, in fairness to the people, it's 20 after midnight. I just want to get everyone—

MICHAEL ROCCI: I'll speed it up for you. I'll read it really quickly. Working for UPS, I could tell you that 120,000 of their delivery drivers have GPS on them all the time.

And at any time during the day, their immediate front-line supervisor can tell you where that person is and probably what he's doing, or she is doing. There's also low jack.

I'm not trying to be funny. It's just that we can find these people. We can find these people. When we say that there's no jail space, from what I recall, there's actually 49 other states in this country. Let's find some jail space for them.

And lastly, and this is the whole gist of the whole thing, the whole meaning of the whole thing, I'm a Libra, and Libras like to balance things out. You got your family on one side and cost on another side. Obviously, we all know what's more important.

It's our children and our family and our loved ones and our neighbors and our friends and our coworkers. That's what's most important. That's why we're here.

That's why we have to stiffen these laws. That's why we have to go with the proposals as soon as possible.

REP. LAWLOR: If I could just ask if anyone has any questions? Representative Adinolfi.

REP. ADINOLFI: Mike, I've sat here all day and watched you sitting there all day.

MICHAEL ROCCI: I nodded off a few times, Al.

REP. ADINOLFI: Well, maybe I walked out more than you did. Just knowing that you're originally from New York, and I was originally from New York, but I moved to Connecticut many more years before you did, what did you think of this whole process here today?

Who made the most impact on you, of all the speakers here? What really affected you? I'd like to hear that.

MICHAEL ROCCI: There was one gentleman that was a black gentleman. I think the company that he was from was called, was it Fresh Start? He had, Al, he had the most affect on me.

He said that he was a two-time felony, two striker, that's right. That's what he called himself. He was a two striker.

And what was interesting to me, and I hope everybody caught it, he said that, and I can paraphrase, and I'm not trying to be disrespectful of him because I admire that man. I don't know who he is, but I admire than man.

He said, I ain't going to be a three striker, that's what he said. So for all of you that are inconclusive on whether the Three Strike Law will work or not, here sat living proof that it will deter the two strikers from becoming a three striker. You heard it here, right here.

REP. LAWLOR: Are there any other questions? If not, thanks very much. Next is Ramona Rivera, and she'll be followed by Kim Sundquist and then Cathy Osten and then Alicia Tremper.

UNIDENTIFIED SPEAKER: [inaudible - microphone not on]

REP. LAWLOR: He didn't answer before. Steven is still here? Oh, okay, all right, sorry about that. You'll be next, Steven.

UNIDENTIFIED SPEAKER: [inaudible - microphone not on]

REP. LAWLOR: Right after Ramona.

RAMONA RIVERA: Can I start?

REP. LAWLOR: Hi.

RAMONA RIVERA: Hi, I've been here since early this morning, so I can say good morning, good afternoon, and good evening.

REP. LAWLOR: And good morning again.

RAMONA RIVERA: Senator McDonald that's not here, Representative Lawlor, and all Distinguished Committee, and I'm extra thankful for Members that have stayed, my name is Ramona Rivera, and I currently live in Danbury, Connecticut.

I'm a former resident of Waterbury. I want to thank you for the opportunity to share my story as a victim with you here today.

On the 14th of July, in 2006, at approximately 7:00 p.m., my son, Royel Messiah, was run down and killed by someone that was operating a vehicle under the influence of PSP, PCP, excuse me.

He was chased out of his yard by this woman that was driving, crashed through our fence. My son laid dying in his 11-year-old brother's arms as the community, the rest of the kids, and the people living in the neighborhood watched him bleed to death.

His skull was cracked in four places. You're probably asking why am I here? I'm here today to tell you the story about a habitual convicted felon, the criminal courts in Connecticut, and how they have crossed paths with my innocent eight-year-old boy.

It's a brief account of how a habitual felon, who receives numerous probation sentences and never serves any prison time, just walks around, I might say drives around, in the community and killed my innocent eight-year-old boy.

Some of her numerous charges started since '92. She committed robbery in the second degree, which I heard today these things are like considered minor offenses.

I've even heard at points today where how do we determine what a violent or a potential nonviolent criminal is, you know, capable of doing? You know, I think that all of these things are there, and the pieces are not put together.

There's underlying stories. I've known Natasha Kinion prior to her killing my son. She's had a wrecked life. All these chances that were given to her, unbeknownst to me, I don't understand, without getting any kind of treatment.

It's like the system said, well, we'll just give her felonies, and we'll just let her get out of jail. But what's she going to do with her life? This was ultimate for her to become violent.

Even though she was violent as a youth, I mean, she was a youthful offender. I know that because she was committing lots of assaults. She ran with gangs.

She's terrorized the community as a youngster but never was committed, you know, convicted, excuse me, for it. There's many people running around in our communities like that, especially in the inner city, where I'm originally from.

Now I don't live in the inner city. I kind of did what the gentleman earlier did. I ran from the middle of the inner city, somewhere where I felt comfortable because I felt like I'm around my own people, and I'm terrorized by my own people.

I'm a hardworking citizen here in Connecticut. I'm a state employee for 11 years. I have a college degree, and right now, I've reentered school because I have a passion to make change.

I believe in prevention. I don't understand where, in all of this, prevention has gotten lost. It's disturbing to me because I've watched, my whole life, people go down the tubes.

I mean, I want to be adamant that I definitely am for the Three Strikes Law, and I am interested in seeing what's going to go on with these people that get these first-time felonies.

I mean, can there be an incentive out there where you're saying, listen, if you go into this probation, and it's a strict probation [Gap in testimony. Changing from Tape 7B to Tape 8A.]

--your felony so that we won't keep hearing this cry for, well, I can't get a job because I'm a felon. I mean, this is just my opinion. I'm not saying that this is something that has to be done.

But I think it's something that needs to be looked at because people like Natasha Kinion have no chance in society, and my son now has no chance in society.

And he was a straight-A student. He was an awesome kid. He made a difference. The community in Waterbury that I left suffers. His school, the children, they're all in counseling. It's been a very horrific situation.

There's a website for the school. They have things with Royel's name constantly. I'm like at a loss for words.

I just don't understand in all this how the power has gotten to the prosecutors, where I heard earlier when you were talking about how we need minimum sentences or whatever.

I think maybe that will stop some of this racial disparity where some people are getting certain sentences, and other people aren't getting certain sentences because when I look at this, I'm like, we need a revamping of a whole lot of issues. I mean, the major thing at point right now is this Three Strikes Law, but it's just--

REP. LAWLOR: I could tell you, you know, I was one of many people. I watched your testimony yesterday in front of the Governor's Commission—

RAMONA RIVERA: Yeah. I really didn't want to read. I just--

REP. LAWLOR: No. I think it was very moving. I think everyone there was moved. And those are the, you know, we're the Legislators. They're the Executive Branch decision makers, and I think your story has had an impact on a lot of people.

So I just want to thank you for sharing it with us here tonight and for staying here all day like that. You had a long day yesterday too, I know.

RAMONA RIVERA: Yes. Well, this is a passion of mine, you know. This is how, as a mother, I'm going to progress and move on and make change for others, and even within myself, you know.

I still have a son that I have to watch grow up, and I don't want him to become a product of society and feel pessimistic about society and feel that, well, she's gotten away with it, because, I mean, they've only, she's gotten seven different felony convictions and never spent a day in jail.

And they have the audacity, the prosecutor, to offer a plea with concrete evidence? We're only going to trial because she thought, unbeknownst to me, I don't know what her

intelligence level is, that 12 years was too much for what she did, on top of carrying 9.8 grams of crack, trying to run from the scene. I mean, this is, we have depraved society, and we just need to fix it.

REP. LAWLOR: Well, you're involved with Kimberly over there in Survivors of Homicide, are you?

KIMBERLY SUNDQUIST: Unofficially, yes.

REP. LAWLOR: Unofficially, okay, good. Well, that's a good group. Does anyone have any questions? Representative McMahon?

REP. MCMAHON: Thank you for coming. I've heard all day that, you know, when someone is convicted of a felony, all of a sudden, a lot of doors close to them, housing, jobs, and it's very difficult for them to get back on track.

And I think what I heard you say is that if there were some way of erasing that felony, if they observed so many, or if they adhered to a strict regimen or something, I'm not sure what--

RAMONA RIVERA: Yup, absolutely, it's basically where I was coming from.

REP. MCMAHON: I like that because, you know, and I also heard today a lot of people saying that it depends upon a particular prosecutor or a judge, or whatever, whether it's going to be plea bargained, a felony, or a lesser charge.

RAMONA RIVERA: Right.

REP. MCMAHON: And possibly for certain people, even certain groups of people, it might be the felony rather than a lesser charge.

And this might be a way for everybody to look at exactly what the original case is and that possibly, a felony could be erased. I like that. Thank you.

RAMONA RIVERA: Thank you. Well, that's my primary goal. That's why I'm in school because I hope to open that one day in the name of my son.

REP. LAWLOR: I'm sure you will. Thanks very much. Next is Steven Clark. Mr. Clark? And then will be Kim Sundquist.

STEVEN CLARK: I'd like to say good evening to all of the Committee and all of the people that are presently in the house this evening.

My name is Steven Clark, and I would first like to preface my statements by offering my condolences and deepest sympathies to the Petit family and the community in Cheshire and all of the people, citizens of this country, as well as throughout the world, that have suffered at the hands of egregious violent acts.

But I would like to speak regarding what this Committee is purportedly doing. I think it's really disingenuous on the part of this Committee, as well as the Legislature, to try to persuade people that what will be done here will in any way, shape, or form make them safer in their communities.

I think any sociologist worth his or her salt would tell you that crimes are very complex, and no matter how many laws are on the books, they will not solve our crime issue because crime is, hold on, I kind of lost my train of thought here.

The reasons for crime transcend legislation. They have more to do with what people as individuals are inculcated with within their families and communities.

And if these people are not inculcated with, or instilled with, the values of respect for others and others' properties, then these crimes will continue.

And I think that unless the crucible, or the matrix, is destroyed, for creating these types of criminals, I think what is supposedly to be done here in this Committee and other Committees is nothing but an exercise in futility.

And one of my main concerns is with the Three Strikes rule is that if this measure is passed, it will do nothing but, in my opinion, put in the hands of an already corrupt and racist system another tool to implement a very draconian synthesis and consequences for various citizens.

In 2000, I was arrested in Coventry for growing marijuana. I consider myself a first-time nonviolent offender. Coventry is in Tolland

County and falls under the jurisdiction of Rockville.

That day, my children were taken away from my home, and I regard this as state-sponsored terrorism, especially in regard to my children. I was the one that committed the act.

My children are, at the time, were two and a half and eight years old, and their rights were completely violated, as well as mine.

Subsequently, I retained a lawyer out of Vernon, by the name of Arthur Meisler. And we had discussions regarding what would transpire in my case. And he was very candid with me, not that I needed his candor because I'm well aware of what goes on in society.

I'm somewhat a student of history, so I understand how government works and so forth. So he explained to me, and I was explaining to him how my rights were violated. And he was saying, and I, you know, I said, well, my Fourth Amendment right was violated.

And he said that it's BS, you know. You don't really have any constitutional rights. And this is a lawyer that has practiced law in that jurisdiction for 30 years.

And he said that if I were to take my case to trial, I mean, the first offer that I got, and I, this was the first time I was ever run afoul of the law.

I was 34 years old, and I had maintained my residence in Coventry for 28 years, and I had never been convicted of a crime or arrested for any crime.

And he said that if I were to take my case, well, the first plea bargain, sorry, that I was offered was five years, suspended after two. And I said that's ridiculous.

I mean, shouldn't I get some type of accelerated rehabilitation, suspended sentence, or something of that nature?

And he said no because the prosecutor is tough on drugs. So he went back to the prosecutor and asked for a flat sentence of three years.

Once again, I declined because once again, I think it was a very unfair sentence to offer someone who is a nonviolent offender, drug offender.

The only option was to be incarcerated, especially considering that I had no prior record in my ties with community. So I decided to take my case to trial against the advice of my attorney, Arthur Meisler.

And he told me that if I took my case to trial, the police would lie because the State Legislature has basically made it legal for them to lie in court.

I would not receive a fair trial, and I would get a much harsher sentence. All three of those things came to fruition.

I was sentenced to six counts, possession with intent to sell marijuana, possession of over four ounces of marijuana, operating a drug factory, criminal mischief, assault on a police officer, and interfering with a police officer.

I would say that I'm guilty in a sense, in terms of the marijuana possession and stuff like that, but I have harmed no one in my adult life, and it was a female officer that claims that I harmed her.

And I never put my hands on her. I heard Kevin Kane speak. It's important that all the documents be passed to the different, I guess, organizations or bodies, and I agree that's true.

But if the documents are they themselves falsified, okay, and there's no oversight to ensure that these documents represent the truth 100%, really, what difference does it make? And in my case, these documents were deliberately falsified.

Now my attorney, Arthur Meisler, ended up committing suicide four months prior to my case going to trial.

The officer that accused me of assaulting her did not go to the emergency room. She did not file a worker's compensation, and she never missed a day of work.

The only injury that she sustained was a small abrasion to her shin, but in court, she told

the jury that I slammed her into a wall face first. Now the pictures that were taken were of her shin, okay.

Now if she sustained any injury to her face, and I'm a pretty decent-sized man, relatively powerful man.

I've been hit in the face numerous times, and one thing I notice is there's always some type of welting or bruising.

There were no welts, no bruises on her face. Because, why? I never assaulted this woman. Now I spent five years in prison for something that I did not do.

That assault was my controlling charge. I spent 85% of my time doing hard time in jail for something that I didn't even do.

And that's why I'm really concerned about what is done here in these forums because I believe that the state, there are a myriad of laws on the books, and that's not what keeps us safe.

What keeps us safe is respect for one another and values that we've learned through our community and society. And it's not the laws that will keep us safe.

I would like to speak to the issue of disparity, in terms of incarceration of minorities, especially blacks and Hispanics, within this country.

And I would just like to read some statistics, since this Committee and the various Committees seem to be somewhat enamored of statistics.

I would just like to read something from the *Human Rights Watch*. And it says, it starts out by saying, our research shows that blacks comprise 62.7% and whites 36.7% of all drug offenders admitted to state prison, even though federal surveys and other data detailed in this report show clearly that this racial disparity bears scant relation to racial differences in drug offending.

There are, for example, five times more white drug users than black. Relative to population, black men are admitted to state prison on drug charges at a rate that is 3.4 times greater than that of white men.

In large part because of the extraordinary racial disparities in incarceration for drug offenses, blacks are incarcerated for all offenses at 8.2 times the rate of whites.

One in every 20 black men over the age of 18 in the United States is in state or federal prison, compared to one in 180 white men.

The imprisonment of blacks for drug offenses is part of a larger crisis of over-incarceration in the United States.

Although prison should be used as a last resort to protect society from violent or dangerous individuals, more people are sent to prison in the United States for nonviolent drug offenses

than for crimes of violence. Throughout the 1990s, more than 100,000--

REP. LAWLOR: Mr. Clark, I don't mean to, I mean, do you have a long article, I mean, because--

STEVEN CLARK: Well, no. I just wanted to make that point. There's just one other thing that I would like to read.

REP. LAWLOR: Because I was going to suggest you can give those to the Committee, and they'll put them online.

STEVEN CLARK: Okay. I mean, you can get them online anyhow, but I would like to make some other comments.

While I was incarcerated in 2002, I was sent down to Virginia on an interstate compact commission. Virginia practices a mandatory grooming policy. Prior to me going to Virginia, I was housed in Cheshire.

I signed a religious affiliation form stating that I'm a Rastafarian, and I also signed a common-fare food form, which is, I don't know if you're familiar with it, but common fare is a diet plan that adheres to certain religious beliefs and also vegetarians' lifestyle.

And so the Department of Corrections was well aware that I was a Rastafarian, and one of the tenets of Rastafari is that we take a vow of a Nazarite, which is in the Book of Numbers, chapter six, verse five.

And as long as we vow our separation, there shall no razor come to our face and our hair. That's why we grow our beards, and we grow our dreadlocks.

Now the DOC knew that if I were sent down to Virginia, that I would be persecuted for my religious practices.

And subsequently, once I arrived in Virginia on April 4, 2002, I was brought to the receiving room, and I was told that I would have to cut my hair in order to be in compliance with the grooming policy. I refused.

I was committed to the segregation unit, housing unit, I believe it was 10, for approximately 65 days. I petitioned to come back.

Fred Laveck and Lynn Milling, even though I expressed to them that my constitutional rights were being violated, told me that I had to comply.

I refused. I kept petitioning, and my mother and a few friends of mine petitioned as well. I was brought back.

Once remanded to the State of Connecticut, I was then placed in Walker Segregation Unit for 11 days, pending a chronic discipline hearing.

After my hearing, which was basically a foregone conclusion and a formality, I was sentence to a 90-day chronic discipline program because I received 3 tickets, Class B tickets

as they're called, for failure to comply with the Department of DOP mandatory grooming policy.

And these are a complete violation of my constitutional rights [inaudible] and I spoke to Warden Murphy while I was in segregation, waiting my hearing, and I told him that, you know, it was in complete violation of my constitutional rights.

And he said he did not want to hear that. So I went on to spend 90 days plus in the chronic discipline program. I was involved in a small-scale demonstration, nonviolent, and I flooded my cell.

Now Ward Murphy, based on my complaint to him, said that he could do nothing, even though I know that he's endowed with the power to move me out of that situation.

Well, as soon as I flooded my cell, I was sent to Northern for six months, all right. And I'd never been in prison before in my life, and I'm in a super maximum security prison, more or less, because I refused to announce my religious practices and my spiritual beliefs, okay.

I did six months at Northern, and then I was sent back to the chronic discipline program for ten months, and then I was finally sent to McDougal, okay.

Presently, I am on parole now, and I heard, what was it, Mr. Kane say that the state bends

over backwards to keep first-time nonviolent offenders out of prison, but that was not the case in my case.

They bent over backwards to put me in jail, and I think that speaks volumes to the level of corruption and racism that is inherent within what I call our criminal injustice system because it metes out so much of the time, as you've heard through various testimonies and in cases that you've seen, you know, injustice time after time.

Now you're looking ways to alleviate your overcrowding, and you might think that this is ridiculous, but it's an absolute truth.

Scientifically, socially speaking, this country has a diabolical drug policy. It's an extremely racist drug policy, and I cannot understand how this Committee in this establishment as a state can countenance the proportionality of black men that are incarcerated in a system, largely for drug offenses.

This country needs to realize that its drug laws are antiquated and draconian, all right. Now I've smoked marijuana since I was eight years old. I have never had a problem with it.

REP. LAWLOR: I don't mean to cut you off, but, because we've got a few other people, and it's almost 1:00 in the morning, and I think we understand because, and we have extensively discussed this particular issue as well. So I just--

STEVEN CLARK: All right. I mean, I've heard you in other Committees bring up the war on drugs, okay. I mean, in order to alleviate overcrowding, all you have to do is create a general amnesty for all nonviolent drug offenders.

Every case needs to be reviewed on the merits of the case, okay, as well as all the cases that come before the judge. Mandatory minimums are a farce. Three-strike laws are a farce. They don't work. I mean, it's well documented in the public record.

And if you want to alleviate and diminish crime, you need to legalize marijuana and decriminalize all substances because I want to say this one thing, because all you have to do is ask yourself this one question about the war on drugs, okay.

Now if the war on drugs were to work, get rid of all the illicit drugs, what would you have in our country or throughout the world? You would have a drug problem. It's not an issue of substance. It's not an issue of incarceration.

It's an issue of health and humanity. And until it is addressed in that nature, the essence of the problem will never go away. And I don't really think that there's anything that can be done.

REP. LAWLOR: I gotcha. Here's the thing. It's ten of 1:00. We've got some more people to go.

STEVEN CLARK: I understand. Can I just, I just would like to read this one--

REP. LAWLOR: If you don't mind--

STEVEN CLARK: It's very short.

REP. LAWLOR: There's people that have to go to work in the morning, and--

STEVEN CLARK: I know. But it's very short. I mean, it's just a small paragraph, and it's from Henry David Thoreau. And I think it's very compelling.

REP. LAWLOR: All right. Listen, we've all read Henry David Thoreau. There's four or five more people. It's ten of 1:00 in the morning, okay. Thank you very much.

STEVEN CLARK: I understand. Thank you.

REP. LAWLOR: Next is Kim Sundquist.

KIMBERLY SUNDQUIST: Good morning, Representative Lawlor, Distinguished Members of the Judiciary Committee who have stayed this late. My name is Kimberly Sundquist from Manchester, Connecticut.

I am the current president for Survivors of Homicide, Incorporated. I thank you for allowing myself, as well as the other general members of the public, to express our concern and advice regarding the current Connecticut laws that allowed two dangerous criminals to be

paroled and jointly commit one of the worst crimes imaginable to an innocent family in Cheshire, Connecticut.

First of all, it's obvious to me, as well as to so many others, that these two individuals should never have been paroled.

When a person has 27 prior felony convictions, some of which include a previous home invasion, where he admittedly watched a victim sleep, that's a red flag that this is not the most attractive candidate for parole.

From what we understand, the DA, the Chairman of Pardons and Paroles, and the Commissioner of the DOC don't have access to each other's files.

The files of each criminal should be following them from department to department. If all these offices had a simple computer program that allowed them to look at these offenders' files, they would have seen that they were at risk to re-offend.

I believe that the state needs this program. After the terrorist attacks on September 11, 2001, it was found that the contributing factor in the attacks was due to the lack of communication between the FBI and CIA.

It was then that the lawmakers ordered that they connect their computers so they will be able to communicate with each other and possibly prevent other attacks in the future.

If the federal government can do this, so should Connecticut. We have had a law requiring prosecutors to provide transcripts to the Board of Pardons and Paroles on the books for the last 20 years.

And only now is it brought in front of the Legislature with concerns that it doesn't work. Well, I can understand this concern, since up until recently, it wasn't being executed at all while record inmates were still being released into the general public without the parole board having access to these transcripts.

The SOH Board of Directors completely supports strengthening all laws to protect the safety of our families. As you know, Connecticut already has a three-strikes law.

But unfortunately, it's not only underused, but we've found it to be unused. The data shows that 30% of the prisoners released, whether to be halfway houses, via parole, or any other way, re-offend within the one-and-a-half year period of January, 2006 to June, 2007, creating a revolving-door system.

And this data shows only those who are caught and re-incarcerated. This percentage is unacceptable.

California has a much clearer three-strikes law in effect, and although the initial prison population rose, it soon leveled off since most criminals on their second strike would simply stop committing felonies, or the criminal would move to another state that he or she felt was

more criminal friendly, such as our State of Connecticut.

When someone is paroled in good faith, then the system needs to hire a better staff, made up of qualified individuals, rather than former criminals themselves, and I do mean that in the halfway houses that we provide, so that they may be properly supervised and be held accountable for their actions.

Better programs should be implemented to give these individuals the help they need to give them a better chance at leading a crime-free life.

We also support any sort of devices to help keep better tabs on these individuals on parole or in halfway houses so if they re-offend, they're quickly re-apprehended.

Public safety must be our number one priority. We cannot parole criminals who are not worthy of such rewards so that Connecticut can manage prison overcrowding and taxes.

You have my written testimony. We also do support the Petit Home Invasion Act, which we kind of created that name, but this law would make sure that all home invasions were treated as a violent offense.

Second, anyone enters my home uninvited, we must assume deadly force will be used if confronted. We would like to see a line drawn in front of our front door that's not to be crossed.

The safety I should feel inside my own home should be considered sacred. No one entering a home uninvited has a good intention, whether it be for stalking, stealing, or physical harm.

Therefore, I see no reason not to name any and all home invasions as violent. The persistent online registry we support.

It's not, I don't believe that's part of any current proposal, but this is where basically, if you choose a career in crime, we want to provide you with the advertising is how a few of my colleagues have put it.

If Sierra Giorgi who was a frequent visitor to the sex offender registry, had a persistent offender registry to visit, she might not have been stalked and her throat not slashed.

My uncle was killed by a persistent offender in North Carolina on September 11, 2003. This is a man who was in prison and paroled repeatedly in 15 years by the time he took my uncle's life.

My uncle was a handicapped man who lost his leg two years earlier due to a blood clot. He was minding his own business, and in the middle of the night, while my uncle was leaving his place of business, he was shot so this monster could take the few dollars that he had.

After three years, it was noticed that the DA violated the rights of this offender and his

stepson, and the pair were released with no trial, and all charges were dropped.

History says this man will be back in prison by now, but I only hope it's not because he committed another violent act. I know all too well what it's like for technicalities to occur, leaving the public safety at risk, and it's unacceptable.

And I urge this Committee to fill the holes that allowed two promising young women and their wonderful mothers violent and tortured death.

One just last comment, we do, we would love to help with the Judiciary Committee and the taskforce, help any way we can.

We wish we were included to be on the taskforce. That's just the last comment I would like to make. We're not represented on that.

REP. LAWLOR: Thank you, Kim. Any questions?

KIMBERLY SUNDQUIST: Thank you. I tried to be quick.

REP. LAWLOR: Appreciate it, thank you. Next is Cathy Osten.

CATHERINE OSTEN: Good morning. How are you all today? Tired, probably. My name is Cathy Osten, and I am a correctional lieutenant in the Department of Corrections.

I have 18-plus years in the department, inching closer and closer to the magic 20, at which time I assure you, I will probably retire.

I'm also the elected president for the Correctional Supervisors Council, and I provided written testimony for you. Also, I would like to touch on three key points.

I think that we need to look at appropriate staffing levels to maintain safe and secure facilities. I included exact numbers.

I actually did an analysis of every facility to determine where I would need additional staff, and I have that available for you if you would like it. I did not attach it to the testimony, but I can provide it if you would like it.

And I would also like to revisit the issue of mental health services because I think that we have done a disservice to those people who suffer from mental illness by incarcerating them at large number and not providing them with any supportive housing, either pre-incarceration or post-incarceration.

And this population is clearly a population that could be removed from corrections, and we could provide beds for those people that we all seem to consider need to stay there at longer lengths.

Also, in addition, I would like you to look at the communication between the state's criminal justice system and the public safety agencies

because it is completely inadequate as it is now formed.

And we need to have the ability to talk amongst each other in order to prevent situations from happening that put the public safety at risk. And I would entertain any questions.

REP. LAWLOR: Thanks very much, Cathy. You've been a frequent visitor here, so we appreciate your input over the years. Any questions? If not, thanks again.

CATHERINE OSTEN: Okay. Have a nice night, morning. I always try to pick one of those early numbers, but I've never been lucky enough to do it.

REP. LAWLOR: Alicia Tremper? And Alicia will be followed by Vorcelia Oliphant, Thomas Burr, and Charlet Mardis.

ALICIA TREMPER: Good morning, Folks, I am Alicia Tremper. My testimony is an abbreviation of a letter that I had written to Governor Rell in response to her parole ban.

Before I get into my testimony, I just wanted to make a note that there is clearly a large gap between what is sentenced and the time that is actually served.

I hope the judges who sat here earlier today are not so naïve to think that just because they sentence the bad guys means that they actually serve whatever it is that they're sentencing.

To my letter to Governor Rell, on May 9, 1979, I was studying for a final exam in my first year of college. The phone rang, and being a typical 19-year-old, I was there in a flash.

It was my dad, and he sounded horrible. I could barely understand what he was saying, first, because he was so upset and then because of my own shock.

He was telling me that something had happened to my mother, and the police were at our house in Bantam.

As it turns out, she had been murdered, not just murdered, according to the autopsy, there was attempted rape, which she reportedly fought off, leaving her with multiple blunt-force injuries, numerous stab wounds, chop wounds to the head and neck, a broken cheek bone, broken ribs, and severed vertebrae.

The entire community was in shock because nothing like that happens around here. The Connecticut State Police, along with the Major Crime Squad, quickly and efficiently gathered evidence, pieced together my mother's last days and hours leading up to her death, questioned and arrested their suspect.

On July 6, 1979, the arrested William H. Stepney of Morris and charged him with murder, setting a $100,000 cash bond.

That was reduced to $500 because his lawyers convinced the judge at the time that their client was harmless.

On August 16 of 1979, a grand jury, with a vote of 16 to 2, indicted Stepney after 20 minutes of deliberation.

On November 11, 1980, he was convicted of murder. The sentencing came in January of 1981. Judge George Stoughton ruled that 22 years to life were to be served.

And by the way, the prosecutor hadn't asked for that amount. They had asked for less, and the judge said they wanted more.

There was to be no parole until 1994, given the violence of the crime. There was a collective sigh of relief, not just from my family but from the community as a whole.

State's Attorney Dennis Santore and Assistant DA Anne Dranginis had done their jobs. Unfortunately, because of appeals to the state and U.S. Supreme Courts, Mr. Stepney was not imprisoned until May of 1984.

Five years after having committed this wretched crime, the convict finally took up residence in Somers. But not to worry, this was a convicted felon, a murderer, one who committed an especially heinous crime.

And we all know, once someone is sentenced, all is done and over. Fast forward six years to November 29, 1990, another terrible phone call.

This time it was my mother's sister, telling me that Stepney was being released.

She'd read it in the paper. I'm thinking she's gone off the deep end because it couldn't be happening. There isn't even eligibility for parole until 1994, and I'm pretty sure she said something about pardons.

I started making phone calls. Ultimately, I reached Berton Yaffie from the Parole and Pardons Board. This board is not just parole. It is pardons also. He informed me that this was a done deal.

The decision had been made before the state's attorney had even entered the room for the review, based on the fact that this particular inmate was costing the Department of Corrections too much money due to his various maladies.

He went on to say to say that there's nothing that can be done about this because the board answers to no one. No one has the jurisdiction to question their decisions.

And he then asked me why I can't just let this man go home and enjoy the holidays with his family.

Since that autumn day in 1990, I have crossed paths with Mr. Stepney and his family members on numerous occasions, in the grocery store, at the movies, and even once on Mother's Day.

These are a few of the chance encounters I've had over the years. I believe that this murderer is still alive at 91 years of age in my community. I wonder how many happy holidays he and Mr. Yaffie have enjoyed at my expense.

At this point, I'm not nearly as concerned for the safety of myself and the community as I am outraged at the affront to my mother, my family, the police who gathered the evidence and supplied the important data, the Office of State's Attorney who illustrated the events of May 9, 1979, the jury, the jurors involved, and the judge.

Why did these people waste their time doing their jobs, having to witness this atrocity, and try to make sense of it, only to have the almighty Pardons Board crush their efforts and my heart?

Five years of appeal and legal balderdash, serving any time, 6 years served on a 22-years-to-life sentence, and 1990 to present day equals 17 years of absolute and complete freedom.

Another kicker of pardons, there's no follow up on the released prisoner any more than there is on the board itself.

I hold these facts in one hand and my mother's life in the other. It does not feel balanced, and I don't feel like Lady Justice is doing very well.

Maybe you're already aware that the pardon's escape route is available to Connecticut convicts. The fact remains it needs to be changed.

I've read the proposals here and seen nothing with respect to pardons. I feel that it is an escape route. And I also feel that with the recent occurrence in Cheshire, this is begging to be changed. I think you.

REP. LAWLOR: Thank you very much for your testimony. Are there any questions? If not, thank you very much.

ALICIA TREMPER: You have my full letter to the Governor and supporting documentation, including statistics on Pardons Board.

REP. LAWLOR: Thank you.

ALICIA TREMPER: Thank you.

REP. LAWLOR: Vorcelia Oliphant?

VORCELIA OLIPHANT: Good morning. I'll try not to go with my original testimony and be brief and not sleep talk while I'm here.

But good morning, Chairman Lawlor, Members of the Judiciary Committee, my name is Vorcelia Oliphant, and I'd like to comment on Raised Senate Bill 12 and the Three Strikes You're Out law, from a personal position, and just some recommendations that I would like to ask about being made to the Raised Senate Bill 12.

I would like to relate these to my personal experience concerning involving my brother who is now an inmate at the Northern Correctional Facility in Somers, Connecticut.

He was violated for his probation back last year, October. He was approximately four years into his original five years of probation.

And I'd just like to bring you up to speed. What happened when he was violated, and we're talking about home invasions, and this is to take nothing away from the people who have been victims of violent crimes, and my sympathy goes out to them and the Petit family.

But it was actually our home that was being invaded. The police, particularly Office Villano, I don't know his full name, I do know his badge number is 79 at the Hamden Police Department, was somehow encountered, I don't know how to explain it because my property is in New Haven, by a woman my brother was dating.

I'm going to try to be brief, but my brother was dating a woman, and not really knowing her or her history or her background, she, this particular night, accused him of assaulting her.

And he, being on probation, had much at risk here because this woman left the house, and two hours later showed up with the Hamden police.

And this particular officer, Villano, basically violated my property. He came there outside of

his jurisdiction, kicking my door to the point that there's a large crack in there.

He also called my brother names, cursed, swore, threatened him, had her family accompany him there to the house, towed away a vehicle.

To make a long story short, my brother, after this, was two days later, well, this officer did that for like three nights, and about two days later, two other officers came out and arrested him.

I'd just like to add that at my brother's trial, this particular officer stated to my brother at the trial that he, I'm trying to get it right, he stated that he wanted to see my brother go to jail and that because my brother committed a crime.

He stated this openly in court, and this is before my brother was ever on trial. This officer made himself judge and jury.

And like I said, two days later, the officers came out to arrest my brother. The documents will show that the warrant that they had two days later was changed from a misdemeanor to a felony.

So it's more involved here than I can, not to try my brother's case before you, but I would just hope to bring you, make you aware of some of what is going on because the police are the front line of these people who are on probation.

And the heightened stigma for ex-felons in this predicament will cause, you know, today, I heard much about recidivism and how you keep people out of prison.

Well, I think one of the things that this situation brings to the forefront is that many times, the people they encounter are the first line.

And if they're innocent, these police officers are seemingly set on once they know that they are ex-convict or on probation, they seem to be, in this situation specifically, and I know of others, seem to be set on seeing to it that these people are returned to jail.

I don't know if they get brownie points for this type of thing, but in this particular situation, this is what happened.

Another thing I'd like to mention is, so it's the front line, it's the police abusing their authority and their power.

And I would hope that when this Committee considers what it should do or what could be done about anything having to do with recidivism or these types of things, that it would consider some oversight of the police departments or the police officers and that sort of thing.

The next thing I want to comment on is that Senate Bill 12, Lines 10 through 19, in this bill, it proposes that a person convicted of possession of controlled substance, before that

they're released, it's along with other offenses, but before this person is released, or individual is released, that they're submitted to a psychiatric examination.

And I would like to mention that I have heard a lot today about what could help people. I've heard of people, when they're out of prison, they're receiving sort of like therapy.

The gentleman from the Family Reentry Program out of Bridgeport spoke about his involvement and that sort of thing and how effective it is, but that's after he comes out of prison.

This bill proposes that before someone is released, that they submit to a psychiatric evaluation, and I think I read somewhere else that, but what I haven't seen is anywhere where the courts commit such a person, when they're being sentenced, that there's anything mandatory for them to receive any therapy during the time that they're incarcerated, which would seem the most effective use of the time for incarceration.

And I don't know why the courts don't have that or don't use that or if that's not their, they don't have that authority, I don't know.

But that seems to be that therapy is very much needed and in all the testimonies today, that it's been the most effective, especially for individuals with substance abuse problems.

And I'd like to draw this on a personal level and put a face to this. My brother, as a kid,

he grew up, he was diagnosed as an infant, and I'm going to try to be sweet and short, with a hereditary illness that's very painful at times.

And many times, during the holidays and birthdays, he was always in the hospital. And as an adolescent, and going into adulthood, this didn't go away.

However, he grew up making model plane engines, gas plane engines, flying electric, playing electric guitar. At 14, he was a Navy [inaudible] Cadet. At 18, he went into the Navy.

At no time during those years was he ever a problem. I do believe when he went into the Navy, he never had substance, he didn't smoke. He didn't drink. He was involved with community and all these good sort of things.

When he became 18, I believe that he, in the Navy, the culture there, and he learned how to cope with the pain of his illness, and I believe that alcohol or substance, what have you, became a problem for him at that point.

And this bill, Senate Bill 12, it doesn't offer or suggest anything for anyone going into a corrections facility to receive substance treatment or therapy.

And I think this would have helped my brother in his early adult life because of the fact that many times, he was faced with the courts during those years, there were times when I did

go to court just to try to ask the judges if they could do something to that effect, and nothing was ever done.

He served a sentence of seven years. He came out. He was doing very well. He went to college. He started taking classes. He was working sporadically, but he managed to support himself.

And what happened after that is what you already know. He was violated, and right now, he's in Northern Correctional.

The last thing I want to mention is the Three Strikes Law, I think, would impact my family tremendously because my brother is not a violent offender.

I don't think, of all his years of whatever problems he may have had, that he's ever been [Gap in testimony. Changing from Tape 8A to Tape 8B.]

--the last thing I would like to say, in closing, is that it seems as if my observations have been where the Petit family had, I'm sorry for the experience that the Petit family had, for this tremendous grief and loss.

But my observation has been that whatever happens in an inner city is just a matter of time until it happens in the suburbs or in our nation as a whole.

Gun violence in the inner city isn't a problem, but then we have Columbine, and here it is. We need to do something about it.

Teen pregnancy, inner city, you know, not much being done, but then once it starts affecting the suburban people or middle class, then it's something that's considered an epidemic in our nation.

Police brutality, they're abusing their authority. It's not an issue, as long as it's in the inner city. But when we come down to, when we begin to see it nationwide, happening in middle-class America, then it's something of a problem.

And when we see our President proposing things like the Patriot Act and our liberties and our freedoms being trampled on, although in the inner cities, it's usually the issue, but nothing seems to happen or is done until we see something like the Patriot Act.

And then we cry outrage. That's not a criticism here or there, but what I would hope is that we would start taking more notice of what happens in the inner city and try to make these things, home invasions always happen in the inner city.

It's sad to see that it had to happen on this scale before it's gotten our attention to do something about it.

But I would hope that we would take notice of what's happening in the inner city, some

oversight for our police, because I think they're going to mock the pressures of dealing with just hard-core criminals all the time.

I can't imagine the impact and effect it has on them, but in this situation, I think there's much oversight needed for the police.

And if there's anything this Committee could do to ensure that people who have come into this system, or the court system, and have evidence of some sort of substance abuse problems, that they would mandatorily be required, while they're incarcerated, to submit to not only psychiatric evaluation but to drug therapy.

REP. LAWLOR: Thank you very much. Are there any questions? Representative Green?

REP. GREEN: I just want to suggest to the speaker that she reads Proposed Senate Bill 15.

VORCELIA OLIPHANT: Oh, I'd like to support that as well. That was one of my top proposals. Can I just add one thing, that you mention that, and it was on Senate Bill 12, and it was one comment on Senate Bill 15.

And that is the Examining Board of Physicians. There were two things I wanted to mention here, and I'm going to be very quick.

It seems like one examining physician would not seem to be, if you've ever gone to a doctor, each doctor looks at what you have, and they have different opinions.

I would like to recommend that maybe the examining physician could be a panel of at least three physicians.

And I question the Commission of Correction, the Panel Board of Pardons and Paroles, and other designated releasing authorities having the releasing authority solely without, if their release is based on their psychiatric evaluation, the expertise these people have, I don't know from what angle people are released on and how it all comes into play.

But if it's based on their psychiatric evaluation, it just seems as if, I question whether these people have the expertise to evaluate a physician's examination report.

And the last thing about Proposed Senate Bill 15 I would like to add is that it suggests that each offender is given mental health evaluations.

And I would like to again propose that it involves therapy and not just an evaluation, intensive therapy while they're placed in, incarcerated, or what have you.

REP. LAWLOR: Thank you very much.

VORCELIA OLIPHANT: Thank you.

REP. LAWLOR: Thomas Burr?

THOMAS BURR: Good morning. I want to say again good morning to Chairman Lawlor and the

Esteemed Members of the Judiciary Committee. I will try to be brief.

My name is Thomas Burr. I'm from Glastonbury, Connecticut. I am currently the President of the Manchester Affiliate of the National Alliance on Mental Illness, also known as NAMI.

I am also the parent of an adult child who is in recovery from bipolar disorder after eight years of repeated hospitalizations, incarcerations, and homelessness.

Currently, he is living on his own. He's working, and he's doing very well. Note, I want to just, for the record, say I'm speaking tonight not as a member of any group, per se, but simply as a taxpayer of the great State of Connecticut.

Having said that, I am an advocate for supportive housing. Recently, a State of Tennessee program showed that providing crisis services and/or incarceration costs two to three times more than the cost of the supportive housing that they later implemented.

They realized significant money savings by the lower utilization of such things as nursing homes, emergency rooms, and jail, and prisons.

Supportive housing provides for better services for less money. In other words, rather than have people who are leaving our jails and prisons and hospitals left to fend for themselves out on the streets, they enter

supportive housing, which includes medial monitoring, as well as other services.

This scenario eliminates the revolving door of repeated trips to the emergency rooms and/or Connecticut's jails and prisons.

And it gets better. People with mental illness who have a stable home environment through supportive housing will be able to enter recovery, eventually getting jobs in their communities and therefore providing tax revenue to the State of the Connecticut.

They transform themselves from being an expensive burden under the current system and become instead an asset to their state and their community.

In summary, I am asking the Legislature to redirect any funding targeted toward expanding our jails and prisons, and put it instead towards supportive housing.

Keep the promise, and enable people with mental illness to become productive members of our society. Keep them out of our jail and prisons and our nursing homes and emergency rooms.

Increase their chances for recovery, and ultimately save our taxpayers money. Thank you.

And before I open myself up to any questions, I just want to clarify something that I believe had been misstated by some of the previous people tonight.

By definition, mental illness is a diagnosable brain disorder, you know, along the lines of schizophrenia, bipolar disorder, depression, and it's treatable via medication and therapy.

And people with these disorders can get better and be productive members of their society, as opposed to some people that were described as pedophiles or arsonists or rapists.

These people are not suffering from mental illness. These people are predators, and I just want to make sure that's a distinction you all are very aware of. Thank you. Now I'm available for questions if you have any.

REP. LAWLOR: Thanks, Mr. Burr, I appreciate your patience all day. Is there any questions? If not, thanks very much for staying here. And finally, Charlet Mardis.

CHARLET MARDIS: Good morning to all of you. I came here by myself, and I'm not representing any organizations or anything. I do have a son that is incarcerated.

He's been shipped from one prison to the other, and I would like to know why they ship them from one place to another and why people like me, that have people that are in these prisons, don't have any way to get up to see them, and they don't provide transportation for us people to get up to see the inmates, when you don't have a way of your own.

I think that they should provide some type of transportation for the family members to get up to these prisons to visit them. And they should have legal hours on the legal holidays as well.

We can go out on the legal holidays, Thanksgiving, Christmas, whatnot, and celebrate.

They're in there by themselves, and they have no family to see them on Thanksgiving, Christmas, New Year's, Easter, anything.

Now how do you think they would feel? If you was in a place like that, and you couldn't have nobody come and see you, how would you feel? You would be feel that there's no use of being around.

My son was put in prison for something he didn't do because he had to get a public defender. And public defenders are getting paid by you, me, and everybody in the whole State of Connecticut.

They don't have to worry about where they're getting their paycheck. They don't have to [inaudible] they have to defend these people that are put in prison when they have to get a public defender because they're getting paid.

What the heck do we have to defend them for? We're getting our paycheck. His first lawyer he had in Waterbury, he wanted to have a trial by jury, a jury trial, all right.

REP. LAWLOR: What's your son's name, Charlet? Is it okay to ask? Just curious.

CHARLET MARDIS: I don't know whether he, he doesn't even know I'm here, so I don't know whether he would want me--

REP. LAWLOR: I understand. That's okay.

UNIDENTIFIED SPEAKER: He might be watching on TV.

CHARLET MARDIS: Well, if he sees me on TV, he knows that I'm here, trying to do my best for him.

REP. LAWLOR: I understand. We could just look him up. I was just going to look some information, but that's okay. You don't have to tell me.

CHARLET MARDIS: Well, as I was saying, the lawyer he had was a public defender. When he was probably supposed to select a jury or so, he told me when they brought his case back downstairs that my son didn't want me in the courtroom.

Well, when I went over to Whalley, before he was sent up to Walker, now he's over at Osborn now because they've been shipping him from one place to another, he told me when he was in Whalley Avenue down here in New Haven, that he was looking for me in the court room.

I told him, I said, your lawyer told me that you didn't want me in the courtroom. So I don't know what his lawyer said when my son pleaded guilty to a crime that he didn't do. I

went by what his lawyer said. He's got another lawyer.

I called this lawyer, another public defender. I called him. I don't get no answer. I don't get no letter.

My son, the one that's incarcerated, he calls him. He don't get no information. He don't call him back, or this or that.

Now I don't care what kind of lawyer, if you're a public defender. If a person writes you or calls you, as a lawyer, you're supposed to answer back. Anyway, I think you are.

If you're a lawyer, and I call you and want information, you're supposed to return my call. Am I right or wrong? And if you don't return it, what are you doing?

His first lawyer, I went from New Haven to Waterbury, and his court case was always held over, held over, held over for a long time. Now what is that saying? That's saying that that public defender isn't doing anything. In my book, it is.

I just want to know why they don't provide transportation for the people to get up to see the inmates.

REP. LAWLOR: What town do you live in, Charlet?

CHARLET MARDIS: New Haven.

REP. LAWLOR: Oh, so you have to go all the way up to Somers.

CHARLET MARDIS: Yeah. Well, he was just transferred to Somers. This Wednesday, it will be a week that he's been up, that they transported him up there.

REP. LAWLOR: How much time does he have to do?

CHARLET MARDIS: He should get out, if he can't get probation, he should be getting out about 2012. But since this has been on the air, I don't want to say exact what he's--

REP. LAWLOR: No. I was just curious because maybe they can transfer him maybe to Cheshire or something, ultimately, so he's a little closer to you, you know.

CHARLET MARDIS: They can transfer the inmates where they want, when they want, and they don't let the parents know where they transfer them, or the family know, and they don't let the inmates know where they're transporting them to.

Now if he didn't have a way of calling me, or I couldn't get any way of writing to him, he could get lost in the system, like any other inmate, because when they transfer him to another prison, and you don't know where they are, they're lost.

They're lost in the system. They are lost. You don't, they don't even tell the inmates where they're transferring them to, and I think they should.

And I think when they transfer them, they should get in contact with the family itself, and write a letter to the families and say, your son is being transferred to Osborn or transferred to this place or that place. But they don't.

The only way you find out is if they call you or if they write a letter, and you see a new address on the letter. That's the only way we find out.

UNIDENTIFIED SPEAKER: Your son should call you more often.

CHARLET MARDIS: He does call me as often as he can. But they're only allowed certain times to call when they can call, and they have to make collect calls.

REP. LAWLOR: Well, thank you for sharing your story. We've heard that from other people as well, so we'll talk to them. Sorry, Representative Green?

REP. GREEN: In terms of the transportation, don't we have community-based programs in some of our major cities that do provide transportation for families?

CHARLET MARDIS: No. I inquired--

REP. GREEN: Women in Crisis?

CHARLET MARDIS: Family in Crisis don't do it. I called Family in Crisis. They don't do it. There is none, period. I tried everything.

There is none, period. I wrote to the Governor. I wrote to all the different types of politicians to get what I can get.

REP. GREEN: Do you know who your State Representative is?

CHARLET MARDIS: I even called Robert Lee Brown, our City Alderman.

REP. GREEN: No, your State Representative, is that Representative Dyson?

CHARLET MARDIS: You give me some of their addresses, and--

REP. LAWLOR: Which part of New Haven do you live?

CHARLET MARDIS: I live at Bella Vista.

REP. LAWLOR: Oh, that's Bob Megna is your State Rep.

CHARLET MARDIS: And Robert Lee Brown.

REP. LAWLOR: I think he's the City Alderman, but this State Rep, the guy who works up here with us is Bob Megna, and your State Senator is Marty Looney.

CHARLET MARDIS: I'm pretty sure I've written letters to him. I've written letters to the Governor, which I can't understand.

Why can't the Governor talk to an individual person to person instead of to, well, I'll use you for an example.

Say you're the secretary for the Governor. I want to talk to the Governor, to her, person to person, and the secretary says, no, you can't. I got to go through the secretary.

REP. LAWLOR: Well, if it makes you feel any better, we get the exact, same treatment. We don't get to talk to her either. She sends her assistants over here to talk to us. That's how we started the day today.

But listen, thanks for coming and sharing your story with us. And I'll talk to the people in the Department of Corrections about that, and maybe they can do something in the future.

CHARLET MARDIS: Well, they, and when they transfer them, if they have a job in one prison, like my son was tutoring in Garner. He was doing kitchen work in Garner. When they transfer you from one prison to the other, you have to start from the bottom up again.

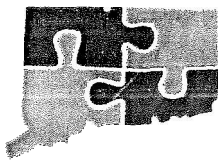
REP. LAWLOR: All right. Well, thank you very much for coming up here and staying so late. Thank you, good night.

CHARLET MARDIS: Thank you.

UNIDENTIFIED SPEAKER: Do you have a ride home?

CHARLET MARDIS: Yeah. I got a ride home. I missed my train, but I got a ride home. And I would have slept here if I had to.

[Whereupon, the hearing was adjourned.]



CONNECTICUT ASSOCIATION of NONPROFITS

...to serve, strengthen and support Connecticut's nonprofit community.

Testimony before the Judiciary Committee: Criminal Justice Reform

Presented by: Julia Wilcox, Policy Specialist, Connecticut Association of Nonprofits (CT Nonprofits)

Public Hearing Date: November 27, 2007

Good afternoon, Senator McDonald, Representative Lawlor and distinguished members of the Judiciary Committee. My name is Julia Wilcox, and I am a Policy Specialist for the Connecticut Association of Nonprofits. CT Nonprofits is a membership association of over 500 nonprofit organizations. Approximately 300 of our member agencies contract with the State of Connecticut for a variety of health and human services. This afternoon, I am proud to represent the member agencies of the Community Justice Division of the Association.

Nonprofit Community Justice Providers afford the State of Connecticut with a broad scope of extremely high quality services, at an ongoing, cost-savings to the state. With relation specifically to the Criminal Justice System, programs include both residential and nonresidential services, Alternatives to Incarceration, Halfway House Programs, Substance Abuse and Behavioral Health Treatment Programs, assistance in the areas of Domestic Violence, adult education and vocation – to name just a few. In addition, and of critical importance, programs also exist to provide assistance to the children and families of individuals involved in this complicated cycle – including victims of crime. Our member agencies create opportunities for positive change by promoting and supporting the full potential of individuals, the strength of families, and the well being of the communities of Connecticut.

We commend members of the Judiciary Committee on your diligence and commitment to examination of the Criminal Justice System of the State. These are extremely challenging times for those involved in the provision of Community Justice Services. However, along with these challenges, come many opportunities for positive changes for the individuals, families and communities who will be impacted by the impending revisions to the statewide system. Any situation that provides a closer study and in turn, underscores the significance of the Re-entry system of services is a positive move toward a better world for those involved in this complicated process.

The fifteen Proposals presented for consideration this afternoon, certainly illustrate the ongoing commitment and expertise of the Judiciary Committee, and your considerable efforts are tremendously appreciated by all. I join you this afternoon to provide overarching commentary, on behalf of the nonprofit Community Justice network – as opposed to recommendations specific to each proposal.

We would concur with the views of many here today, as expressed by Representative Lawlor: "The most important part of these proposals is improving access to information about the people in our criminal justice system." (11/24/2007, Journal Inquirer)

The Community Justice Providers of CT Nonprofits respectfully request your consideration of the following areas of concern, moving forward:

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1. Coordinate efforts to assure the inclusion of the perspective, input and expertise of the Nonprofit, Community Justice Provider Network. This is particularly critical, in relation to the prevention of any unintended consequences moving forward.

2. Continue efforts to assure the stability of the nonprofit provider network, as we partner with the State to address the critical issues at hand, and develop a strengthened system of services and supports. As each proposal is reviewed, we ask that the

3. With all due respect to victims of crime in attendance - develop ways to educate the public, and address the misconceptions of the general population, with regard to Public Safety as it relates to the Criminal Justice System. Develop an understanding of the demonstrated/verified correlation between provision of intensive, quality community supervision, (effective reentry strategies) and an overarching reduction in recidivism. In the words of Representative Dyson: "The tug-of-war between rehabilitation and punishment isn't going to be easy." It is essential that we assist the communities of Connecticut to understand this very difficult balance, and to understand that an approach that supports Community Supervision is not 'soft on crime,' but an effective and essential part of a successful solution.

4. Increase communication and information sharing among all stakeholders – and assure the support necessary to implement such systems moving forward. Certainly, DOC and CSSD are focused in this area as well.

5. Finally – In an effort to build upon the efforts of the Governor's Sentencing and Parole Review Taskforce, and the multitude of additional Committees and subcommittees dedicated to this area - Explore the development of a Statewide Commission on Reentry – to include all stakeholders, with the capacity to make recommendations, link agencies within and across the public, private, and nonprofit sectors and implement change.

The recent development of the many state-wide committees, sub-committees and research related projects, have certainly yielded numerous opportunities to discuss evidence based reports related to the significant impact of the community- based services provided by the nonprofit network. We are encouraged by the testimony presented yesterday by Governor Rell and many state officials (Public Hearing 11/26: Governor's Sentencing and Parole Review Taskforce) which support the position of the Nonprofit Provider network, in favor of intensive, community-based supervision as "… the safest way to return offenders to the community."

Within my written testimony, I have provided links to several of the many reports which you have no doubt reviewed in this process. From the Criminal Justice Policy & Planning Division of the Office of Policy Management (OPM) & the Connecticut Statistical Analysis Center, to the Department of Correction (DOC) to the Court Support Services Division (CSSD) – there are overriding trends and statistics that speak to the critical connection between the provision of intensive, quality community supervision, and an overarching reduction in recidivism.

Individuals with far greater expertise than I have presented these findings – from both a statewide and national perspective. Much worthwhile information has been reported in numerous areas for your consideration. While the Office of Fiscal Analysis (OFA) and others have provided critically important information related to the 'Fiscal Impact of Eliminating Parole and Transitional Supervision' (9/08/07), there is an additional impact in very 'human' terms, that must be included in the equation.

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First: There are any number of unintended consequences to some of the changes that have recently occurred – and those under consideration. Processes that may at once appear to be a 'privilege' that may simply be revoked, may, in fact, provide an extremely critical tool in the development of an incentive - based system, where consequences and accountability are a primary focus.

Second: Beyond the expectations surrounding the ex-offender, it is necessary for there to be an equally supported expectation for the welfare of the families of those involved - both the victims, and innocent family members. The needs of these children and families in crisis, must be addressed, with focus placed upon the stability of the family unit, and to promoting positive change.

To this end, it is critical for the Communities of Connecticut to understand that supervised reentry into their communities – and NOT a system of extended incarceration, is critical to increasing public safety, by ending the cycle of recidivism and strengthening and healing of these families in crisis.

In closing, I would encourage you to utilize the capacity and the willingness of the Private Provider network, and to contact providers within your local communities. I would be pleased to schedule these tours, or to assist in any way moving forward. The ability of the state of CT to adequately meet the needs of its residents is greatly dependent upon the ability of the Private Provider Community to sustain a vibrant network, which will continue to serve as the ultimate safety net for Connecticut's citizens at risk.

I thank you for your time and consideration of these critically important issues. I would be pleased to answer any questions at this time.

For additional information,
Please do not hesitate to contact Julia Wilcox, Policy Specialist, CT Nonprofits:
jwilcox@ctnonprofits.org or 860.525.5080 ext 25

Related Information of Interest:

- For information related to Private Provider Programs available within your community: Directory of Contracted Community Programs: Connecticut Department of Correction - Parole and Community Services, Theresa C. Lantz, Commissioner, Randy Braren, Director of Parole and Community Services, Lawrence P. Mayer, Director of Programs and Services (June 2007) http://www.ct.gov/doc/lib/doc/pdf/contractedcommprogdirectory.pdf

- Recidivism Study: Annual Report: State of Connecticut, Office of Policy & Management, Criminal Justice Policy and Planning Division, Connecticut Statistical Analysis Center, Central Connecticut State University (March 1, 2007) http://www.ct.gov/opm/LIB/opm/CJPPD/CjResearch/RecidivismStudy/RecidivismStudy2007.pdf

- A Study of Reconviction Rates of Discharged Inmates from the Connecticut Department of Correction, Stephen M. Cox, Ph.D., Associate Professor, Department of Criminology and Criminal Justice, Central Connecticut State University (April 2006) http://www.ct.gov/opm/LIB/opm/CJPPD/CjResearch/RecidivismStudy/RecidivismStudy2006.pdf

- 'Connecticut Department of Correction 2006 Annual Report: http://www.ct.gov/doc/lib/doc/PDF/PDFReport/annualreport2006.pdf

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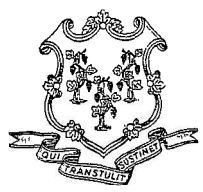

State of Connecticut
HOUSE OF REPRESENTATIVES
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE LAWRENCE F. CAFERO, JR.
ONE HUNDRED FORTY-SECOND DISTRICT

REPUBLICAN LEADER

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November 27, 2007

Good afternoon Chairmen McDonald and Lawlor, Ranking Members O'Neill and Kissel, and Members of the Judiciary Committee.

Thank you for this opportunity to speak with you on behalf of the House Republican Caucus. We are here today for the primary purpose of discussing public safety policy. Connecticut's families are relying on us as a legislature to implement measures that will better protect them. First and foremost, we must work to improve the law to make changes to our flawed criminal justice system, and to put burglars and repeat violent offenders behind bars.

Over the last few weeks there have been a number of reports about how much it will cost to implement important changes in our criminal justice system. Money should not be our focus.

We cannot let costs dictate public safety policy.

The people deserve to know what the State's policy is in regard to their safety. Our duty here is clear- to implement real changes in the laws that protect individuals from harm. Therefore, I ask you to consider the following proposals, which you will find in Proposal Number 5.

CONSTITUTIONAL FIX

Currently our law allows judges to impose enhanced sentences on criminals who have committed multiple felonies. However, this past September, the Connecticut Supreme Court, in *State v. Bell*, found that our current persistent dangerous felony offender law, the very law we rely on to keep repeat offenders off our streets, is partially unconstitutional. The Supreme Court rightfully made the case that our Constitution requires citizen jurors, not judges, to decide the fate of convicted criminals. We agree and propose making that fix.

Home Invasion and Increased Penalties for Violent Crimes

Our proposal seeks to address the flaws in our statutes by increasing mandatory minimums for all burglary crimes, including home invasion. We want to make it clear that Home Invasion is a violent crime, and anyone convicted of this crime should be subject to the same penalties as any other violent criminal.

Persons convicted of first and second degree burglary should be subject to an enhanced penalty under law. Burglars should be required to serve at least 85% of their sentence and be subject to GPS monitoring upon release.

"Three Strikes and You're Out"

If we are serious about getting tough on crime, we need a true "three strikes" law. The proposal is simple: If you commit three violent crimes, you will go to prison for the rest of your life. Let me be clear - this law would be reserved for the worst of the worst—the criminals who have repeatedly committed violent crimes.

"Castle Doctrine"

In the early morning of July 23rd, the Petit family home was violently invaded. We believe people have the right to protect their families against criminals seeking to do them harm. We propose implementing the "Castle Doctrine" which would shift the burden of deciding whether it is reasonable to use deadly force onto the criminal, not the homeowner.

Death Penalty

Prosecutors plan to pursue the death penalty in the Cheshire case. If we want to see justice served, we must make changes to our death penalty process. We propose placing more workable time limits on both defendants and the state once a person is convicted of a capital felony and sentenced to death. In addition, we propose requiring DNA testing immediately upon a defendant's request thereby eliminating the complicated hearing process.

Call to Action

While we could never have predicted the events that took place in Cheshire on July 23rd, it is our duty as a legislature to do everything in our power to prevent such an atrocity from happening again. We must address the flaws in our criminal justice system. It is clear legislators on both sides of the aisle are in agreement on a number of these proposals. Let's do the right thing and get the pieces we agree upon passed now. We stand ready to work with the Committee so that the General Assembly can take action on these proposals before next session.

Thank you.

CCDLA
"Ready in the Defense of Liberty"
Founded in 1988

Connecticut Criminal Defense Lawyers Association
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Judiciary Committee Public Hearing
Criminal Justice Reform
November 27, 2007

TESTIMONY OF EDWARD J. GAVIN, PRESIDENT ELECT, OF THE CONNECTICUT CRIMINAL DEFENSE LAWYERS ASSOCIATION, IN REGARD TO PROPOSALS REGARDING CRIMINAL JUSTICE REFORM

Chairman McDonald, Chairman Lawlor, and Distinguished Committee members:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is a statewide organization of approximately 350 lawyers, in both the public and private sectors, dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA works to improve the criminal justice system by ensuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished. At the same time, CCDLA strives to improve and suggest changes to the laws and procedures that apply to criminal justice.

CCDLA's POSITION ON THE 14 SUBMITTED PROPOSALS ON CRIMINAL JUSTICE REFORM

CCDLA supports intelligent and fair Criminal Justice Reform. It is the position of the Connecticut Criminal Defense Lawyers Association that the Cheshire case shows the glaring problems that Parole and Probation face in reintegrating released prisoners back into society. Rather than increasing funding for new prisons, the money would be better allocated toward providing re-assimilation housing and treatment programs for released prisoners. CCDLA strongly oppose any new prison expansion policy. While it is true that the system is currently in the middle of a crisis,

the appropriate response is not to deny Parole to individuals who had nothing to do with the Cheshire incident.

CCDLA asks the Panel to recognize that Corrections is currently facing a crisis based on the number of prisoners, both pretrial and sentenced who are currently beset with mental health issues. The response should not be to build more prisons to house the mentally ill. The appropriate response should be to build a new state psychiatric facility with differing levels of security and to provide greater funds to the community for mental health treatment. When the state closed down two state psychiatric hospitals in the early 80's, reducing the state psychiatric hospitals to a singular facility, not enough monies were provided to the local communities to deal with the burgeoning mental health problems in the general population. It is a sad commentary that the systemic reaction has been to put those afflicted with mental health problems in jail. It is DMHAS, rather than DOC that should be lobbying for those funds and facilities. This along with mental health diversion in the criminal justice system would substantially reduce the prison population.

It is the further position of CCDLA, that the Legislature would be making a significant mistake in allowing an extreme case such as the Cheshire case to drive sentencing policy. As practicing Criminal Defense lawyers who work in the system each and every day, we feel that Criminal Justice Reform should be approached with

measured and deliberate caution.

Overreaction to the Cheshire case will most severely affect the minority population both in the prisons, on parole or probation and in the court system. Connecticut already has one of the worst racial disparity sentencing percentages in the country.

The imposition of greater mandatory minimum sentences also makes the system more dishonest. Instead of plea bargaining sentences the parties will engage in charge bargaining to get to the plea agreement that everyone thinks is fair.

We have a very comprehensive persistent offender statute on the books right now. Those statutes were not compromised by the recent Connecticut Supreme Court decision requiring a jury finding of fact to enhance the sentencing. The suggested removal of the history and character provision is unnecessary and serves to take away from the individuality of sentencing, which is a bedrock principle of American jurisprudence. This would result in a fundamental change in sentencing policy and should not be taken lightly without further study as to its' current level of use and consequence.

Many of the proposals are the kinds of policy changes that would be perfect for a sentencing commission or sentencing research and policy board review. The legislatively mandated Sentencing Task Force is reviewing the creation of such a body that would have a research and policy oriented focus with accessibility and

representation of all three branches of government. The Sentencing Task Force, which was created prior to the Cheshire event, should be allowed to continue its analysis regarding the creation of such a commission or board. It would also be the repository of all research data such as that recommended by the SHIELD proposal. However it would even be more inclusive and comprehensive. Such an apolitical body could answer the important questions raised by so many of the proposals. How many people would this affect? Is this duplicitous of what we are already doing? What is the financial impact of such legislation? Do we have the money allocated for this proposal? What are the future trends based on the past and current data? What is the racial impact of this shift in policy?

The Connecticut Criminal Defense Lawyers Association would ask the Committee on Criminal Justice Reform to Consider the following Points:

1. There is a Legislatively Mandated 2 Year Sentencing Task Force already impaneled to address the concern raised in these "Proposals" and it is better to work through the existing Committee.

2. We acknowledge that the Cheshire case is a tragedy, but we need to take a through review of any statutory changes before acting in a popular, knee-jerk reaction.

3. The Connecticut Criminal Defense Lawyers Association never has, and never will, support legislative proposals that encompass the imposition of mandatory minimum sentences. The imposition of mandatory minimum sentences will hinder the plea bargaining process which efficiently ensures convictions, clogs the trial dockets of the Connecticut Courts as defendants would rather take their chances at trial in the face of mandatory minimum sentences, and cost the taxpayers of Connecticut considerably more money. In addition, mandatory minimum sentences undermine judicial discretion in sentencing and fail to account for the individual circumstances of each case. Judges are uniquely qualified to fairly and in an unbiased manner impose appropriate sentences in each case.

4. The Imposition of Mandatory "3 Strike Laws" are unnecessary. Our Legislature has already enacted and our Supreme Court has already ruled Constitutional Sentencing enhancement statutes for Persistent Felony Offenders. As we in the Court system are well aware, not all repeat offenders are violent. Many, if not most of the repeat offenders are dual diagnosed as suffering from Psychological impairments coupled with substance abuse problems. By trying to fit square pegs into round holes, we will be limiting the Judges unique abilities to impose fair, just, and reasonable sentences.

5. As recently reported in the Quinnipiac University poll, 63 percent of Connecticut Citizens polled want sentences to be determined on a case by case basis. The system is specifically designed to have sentences fashioned by Judges after input from Prosecutors, Victims, Defense Lawyers, Mental Health Professionals, Probation Officers and other health care professionals that are uniquely qualified to provide sentencing courts with all of the necessary data to impose proper sentences for repeat offenders.

6. As popular as it may be to impose Mandatory Sentences Post-Cheshire, the reality is that there is no corresponding reduction in crime rates as a consequence of the "3 Strike Laws". The Mandatory Sentence provisions do not have the deterrent effect on crime rates. Instead, limited resources that could be used on Mental health and Substance abuse issues that drive crime rates up, are taken away and used to warehouse prisoners who simply are not rehabilitated. A Rand Corporation 1996 study indicates that California's three strike laws requires an increase from 9-18 % of the state budget being allocated to corrections, which in turn requires a massive 40 % reduction in other social service budgets like education and health, if taxes are not to be increased

As any experienced defense lawyer will tell you, the enactment of mandatory minimum sentences in the Federal System has only lead to the prosecution of small scale drug dealers without the anticipated reduction in drug trafficking. Prosecutors, judges, and defense lawyers all are loathe to deal with predetermined sentences that handcuff the process.

7. Mandatory minimum sentences are discriminatory in application. They create sentencing disparities based on race. Studies show that blacks and Hispanics are more likely to receive MMS more often than whites charged for the same crime.

"Racial and ethnic disparity is a complex problem in the criminal justice system. The Commission of Racial and Ethnic Disparity in the Criminal Justice System reported, for example, that African American and Latino/Hispanic defendants were more likely to be charged with felonies and the charges were more likely to be associated with mandatory minimum sentences. The commission reported Caucasian offenders have a lower incarceration rate than African American or Latino/Hispanic offenders. This rate is significantly below the national average for incarceration rates, and Connecticut ranks the highest in the United States in its level of disparity in the incarceration rates of Caucasian, African American, and Latino/Hispanic offenders."

See The Commission of Racial and Ethnic Disparity in the Criminal Justice System . The Commission within the Judicial Branch was statutorily created in 2000 (P.A. 00-154), to compile research about and make recommendations addressing racial and ethnic disparity in Connecticut's adult criminal justice and juvenile justice systems. The commission's first report was published in 2002 and it released its second (covering 2003-2004) in January 2005.

8. Public Act 04-234 directed the Legislative Program Review and Investigations Committee to study mandatory minimum sentencing laws. The committee adopted a scope of study on April 11, 2005. It's report contains the following:

"One underlying principle of mandatory minimum sentencing laws is to reduce crime. Currently, there is no accurate method to draw a correlation between the imposition of mandatory minimum penalties and any change in the state's crime rate. Mandatory minimum sentencing laws are, at best, one of many factors that impact the crime rate."

CCDLA recognizes that the State does not have unlimited assets to dedicate to Criminal Justice Reform. We believe that a large percentage of the clients we represent and those that are currently incarcerated are dual diagnosed with underlying Mental Health issues coupled with Substance Abuse problems. We believe that the focus of the reforms should be directed at providing Mental health treatment through the construction of a new state psychiatric facility with differing levels of security and to provide greater funds to the local communities for establishing outpatient mental health treatment programs.

As reported in the Associated Press, a financial analysis conducted by the Office of Fiscal Analysis shows that more than a dozen proposed changes to Connecticut's criminal justice system could cost tens of millions, if not hundreds of millions of dollars.

A proposal to build two new correctional facilities, including a 1,000-bed medium security prison and a 1,200-bed medical and mental health facility for inmates would cost the state about $400 million over 20 years to build them.

The three strike proposal to impose a mandatory life prison sentence for anyone convicted of a third dangerous felony, is estimated to cost the state's court system about $5 million more a year and the prison system about $4.3 million more a year.

The Associated Press reports the following cost estimates for other proposed changes under consideration:

- Establishing mandatory minimum prison sentences for certain burglary offenses would affect about 230 offenders and cost the state about $9.6 million more a year to keep them in prison longer.

- Changing members of the Board of Pardons and Paroles to a full-time staff would cost about $1.9 million a year.

- Requiring global positioning tracking of any person sentenced to probation or conditional discharge for first- or second-degree burglary would cost about $941,600 a year.

- Establishing a registry of people released from prison to parole would cost of about $1.6 million to $2 million.

- Requiring psychiatric exams for certain offenders eligible for parole would cost annually about $232,000.

- Creating about 200 beds for sex offenders in secure residential treatment facilities would cost the state about $15 million to $20 million a year.

Some of the Proposals submitted are fair and supported by CCDLA. The Proposal submitted by the Judicial Department regarding the Participation of Probation Officers in Warrant Squads is appropriate. Proposal 11 submitted by Representative Fox concerning Information Provided to the Board of Pardons is well thought out and well reasoned. We support this proposal.

Proposal number 5 submitted by Representative Cafaro and the House Republicans regarding expediting the Death Penalty Appeal Process is strongly opposed by CCDLA. We would ask the Panel to consider the tortured history of James Tillman and his wrongful conviction. It should be pointed out that had the complainant in the James Tillman prosecution died during that incident, with the proposed expedited process, James Tillman would have been executed prior to being exonerated. The potential for wrongful execution counsels against expedited Appellate Review Process.

Proposal number 10 submitted by Representative O' Neill regarding Persistent Burglary Offenders is the perfect example of a knee-jerk proposal. This proposals calls for the classification of an individual as a Persistent Burglary Offender if the individual has been ***CHARGED*** in the past with the Commission of a Burglary, not previously ***CONVICTED*** of a burglary. CCDLA opposes this proposal as unconstitutional and ill conceived.

CCDLA applauds the efforts of the Committee and looks forward to providing useful testimony to the Committee as our Criminal Justice System is reformed. CCDLA will provide written and oral testimony to the Committee once the proposals are crafted as proposed legislation. We are uniquely qualified to provide hands-on input as legislation effects the every day affairs of our Criminal Justice System.

Respectfully submitted,

EDWAR J. GAVIN
CCDLA President-Elect
On behalf of the Connecticut Criminal
Defense Lawyers Association

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

John A. Danaher III
Commissioner

Lieutenant Edwin S. Henion
Chief of Staff

November 27, 2007

Rep. Michael P. Lawlor, Co-Chairman
Sen. Andrew J. McDonald, Co-Chairman
Judiciary Committee
Legislative Office Building
Hartford, CT 06106

The fifteen different proposals for criminal justice reform that the Judiciary Committee is considering today include a number which have overlap of content. All of the proposals share a common goal of increasing public safety in Connecticut.

Rather than respond individually to the 15 different criminal justice reform proposals before the Judiciary Committee today, the Department of Public Safety would like to identify some specific changes that are in several of the proposals where the agency agrees that change is appropriate. More detailed commentary is included as to the Shield proposal which is included in proposal #4.

In regard to the front end of the criminal justice process or the "charging" aspect, existing burglary statutes should be revised in regard to home invasions that take place when the home is occupied and in regard to home invasions in which the burglar is armed. The violence that occurred in Cheshire makes it apparent that stronger penalties should accompany home invasions that so greatly threaten the lives of the occupants.

Also in regard to charging aspect of the process, a thorough re-evaluation of the state's persistent dangerous offender statutes must be undertaken to ensure that we are responding appropriately to the career criminal. In deciding what changes are appropriate, it is critical to always be asking whether the changes, in actual practice, will enhance public safety. Any discussion of a 'three strikes' law, for example, must include a consideration of whether the public safety value of a policy that is intended to assure incarceration of repeat offenders might be negated by increased violence against police officers and engaging in pursuit by second offenders who feel they have nothing left to lose.

Communications among all criminal justice entities is something that we can do better. In order to make good decisions at time of sentencing and at the time that release is considered, all essential and available information must be readily available to the decision maker. While there may be justifiable debate about what factors most impact risk assessment and how accurately we might ever predict human behavior, we must at least provide the most up to date technology for sharing of known facts by decision makers. A public safety data network with capability of connecting all public safety providers for information sharing is an essential tool to carry out what Governor Rell has correctly identified as the number one priority of government.

The Connecticut Sentencing Task Force, created by public act 06-193, is charged with reviewing sentencing statutes in Connecticut. The work of that task force should be considered by this committee with a goal of making certain that whatever prison beds are available in Connecticut are used first by those who show the greatest potential for violence.

Proposal #4, An Act Concerning Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources, calls for the design and implementation of a comprehensive, state-wide information technology system, to be known as the SHIELD Criminal Justice Information System

There is an extremely important threshold question to be considered in planning the creation of such a system and that is whether it should be internet based. A preferable procedure would be to include this system in a fiber optic based Public Safety Data Network. Public Act 05-161 enabled The Office of Statewide Emergency Telecommunications to initiate a planning process for the creation of an integrated police, fire, EMS and homeland security data network. After discussions with public safety stakeholders and surveys of current systems and needs, consultants were retained. The findings of the consultants are detailed in the report which concludes that cost effective improved data transport services can be implemented while achieving substantial reduced costs through implementation of a fiber optic based network. The office of statewide Emergency Telecommunications is in the process of planning for implementation of fiber optic connectivity for all of the public safety answering points in the state. It is recommended that the committee review the feasibility study report prepared as a result of public act 05-161 and dated January 2, 2007.

The proposed SHIELD Criminal Justice Information System calls for a central tracking, database and a document repository. The proposal only mentions connectivity in one section (g) subsection (1). That section refers to access via the internet. Many of the issues that internet basing of this system would raise will be eliminated if it is developed as a part of a fiber optic based Public Safety Data Network. DOIT would be a possible hub of the fiber optic network so the location of the central repository would not be an issue for the network. Having the SHIELD application ride on a fiber optic based Public Safety Data Network would eliminate any security issue associated with having it on an Internet based system.

The SHIELD proposal, as written, raises a number of immediate procedural concerns: the proposal for "immediate" and in most cases extremely broad based access to the database including, for example, police reports, creates the following concerns: reports include names of victims, juveniles, sometimes individuals who are, or who will become, confidential informants, and the names of subjects of parallel or otherwise related independent investigations. This proposal, if enacted in this form, could put victims and criminal investigators at risk, and it could derail other investigations. A more workable procedure would be that police reports be electronically transmissible to the state's attorney or chief state's attorney handling the case. At that point, the state's attorney would be responsible for redacting some of the problematic information summarized above. Thereafter, the state's attorney would enter the police report into a database which could be accessed by parole, probation, DOC, and others (if warranted).

The following considerations must also be included in regard to potential development of SHIELD proposal:

1. The SHIELD proposal is aligned with many current concepts and initiatives that are in different developmental stages within the Criminal Justice Community.
    a. ON-Line Booking – a proposal to have information transferred directly through the AFIS (Automated Fingerprint Identification System) Live Scans and Law Enforcement Records Management Systems into a central repository to then be transmitted to the Court System. This system was originally funded, however, was put on hold because there were no resources available to handle the project.
    b. Data Sharing Initiatives, at least two projects are currently ongoing for the sharing of law enforcement data between law enforcement agencies. An additional project is ongoing; sharing accident data electronically with DMV and DOT.
    c. CIDRIS (Connecticut Impaired Driving Records Information System) An RFP was recently developed for this project. This project is intended to electronically capture and transmit DWI violations from the initial stop, through adjudication in the Courts and through the DMV Administration process.
    d. Offender Based Tracking System (OBTS) – Currently in production, has the ability to track an individual through all aspects (from Court to Corrections).
    e. COLLECT (Connecticut On-Line Law Enforcement Communications Teleprocessing system) The system is currently undergoing a review to assess what is needed for compliance with the latest NCIC requirements and enhancements.
    f. Project should be designed in phases, with Phase I being On-Line booking then utilizing the current data sharing initiatives for Phase II, etc.

2. We cannot associate a cost with this project.
    a. From the beginning, there must be sufficient staff allocated to the project within each agency and a commitment to fully fund not only the associated personnel costs but also equipment refresh and software upgrades

3. There will be considerable policy and procedures to be developed to ensure proper use and avoid any improper disseminations of information.
    a. Who owns the data?
    b. How will the data be submitted, modified, cancelled, erased or called back?
    c. Sub-committee for Policy and Procedures
    d. Sub-committee for Privacy Policy
    e. Sub-committee for Sanctions
    f. Sub-committee to establish guidelines for Public Web Site – (If this is established as a web based system) To protect the SHIELD system, Internet inquiries should not be run directly against the SHIELD database. The committee should evaluate the feasibility of creating a public internet site with data obtained from SHIELD.
    g. Due to cyber attacks, SHIELD should be available to contributing agencies over the state intranet or state network.

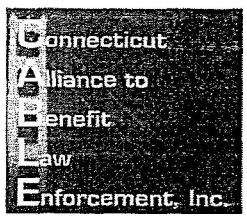
4. Transport Mechanism
    a. A Statewide Public Safety Data Network would be developed in phases. If COLLECT data lines are utilized, on an interim basis, there would need to be increased bandwidth, which would lead to an approximate 150 % increase in costs to the COLLECT system. There are over 200 agencies with access to COLLECT. By state statute Department of Public Safety is required to pay the circuit cost for all local and university police departments. COLLECT has upgraded all users to T1 (large capacity copper communications line) circuits; the cost of a T1 circuit is 421.00 a month.

5. A committee should evaluate each agency's (Judicial, DPS, State Attorneys, etc) readiness to submit and receive the data.

Proposal #8, An Act Strengthening Criminal Laws Concerning Persistent Offenders, Burglary, the Justifiable Use of Deadly Force and Parole Release, would establish a public registry of parolees. Prior to considering such a legislative mandate, the committee should be aware that the current SOR database is outdated and has very limited capabilities. The cost to replace this system is estimated at $1.5 million. Obtaining a database to support the additional registration and community notification process envisioned by this proposal would add to these existing information technology needs. Additional personnel would also be required. Based on a population of 2,700, this proposal would require creation of a unit with a minimum of four troopers in the unit with one sergeant and one civilian clerical person, most probably a processing technician. The committee should also be aware that there is currently a lack of sufficient space at DPS headquarters to house such a unit.

Sincerely,

FOR: John A. Danaher III
COMMISSIONER



A bridge for law enforcement
and community collaboration

Testimony before the Judiciary Committee
November 27, 2007

Criminal Justice Reform Proposals # 4 and # 8

Good afternoon, Senator McDonald, Representative Lawlor and members of the Judiciary Committee.

Thank you for this opportunity to speak with you regarding the criminal justice reform proposals currently under consideration by the state. I am Louise Pyers, the Criminal Justice Project Director for the National Alliance on Mental Illness of Connecticut (NAMI-CT). I am also President of the Connecticut Alliance to Benefit Law Enforcement, (CABLE) the state's sole source provider of Crisis Intervention Team Training for law enforcement officers.

I am concerned about segments of Proposals #4 and #8, as they will have a significant and detrimental impact on persons with mental illness. I am also concerned about lack of separation between illness and criminality. There has been little to no distinction between people who are suffering from serious and persistent psychiatric disabilities - **neurobiological brain disorders** - and those who are truly predators and criminals.

The vast majority violent behavior in our society is caused by people without psychiatric disorders. The U.S. Surgeon General reports that the likelihood of violence by people with mental illness is low. Yet people with mental illnesses are often portrayed negatively and erroneously. According to Otto Wahl, PhD., professor of psychology at George Mason University in Virginia, "mental illness is a poor predictor of violence ranking well after factors such as youth, male gender, history of violence, and poverty."

Proposal #4 recommends the construction of a 1200 bed medical and mental health prison. Prison is not the appropriate place to provide treatment to people with serious psychiatric illnesses. A more fiscally sensible alternative would be to take half of the $150 million building cost and half of the $88.9 million operating cost being proposed for the new facility and invest it in the community mental health system, the expansion of jail diversion programs, crisis intervention teams, residential alternatives to incarceration programs, and intensive twenty-four hour psychiatric treatment options. This would relieve prison overcrowding, saving millions of dollars in the long term and allow people who are sick to receive treatment in the appropriate setting.

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In addition, a three strikes law that includes misdemeanors as recommended in Proposal #8 will disproportionately impact people with mental health and substance use disorders. Often times, when people with mental illness are not linked to the appropriate services, they become highly symptomatic, and end up cycling in and out of the prison system for low level offenses related to their illness. A three strikes law that includes misdemeanors (as defined as a predicate offense within the proposal) will put these people at risk for life imprisonment with one additional felony offense. Alternatively, a focus on community integration and services, including treatment, supportive housing and employment, would reverse the trend of re-incarceration related to low level violations.

Mental illnesses are treatable, yet, only 50% of defendants with serious mental illnesses who are identified and evaluated can be diverted from jail - largely because the judge does not have any community based treatment and supportive housing alternative. A well-known study published in the June 2007 issue of Psychiatric Services asserts that, "a large percentage of persons with severe mental illness received their acute psychiatric inpatient treatment in the criminal justice system rather than in the mental health system...The resources of the mental health system need to be greatly expanded, with priority given to treating persons who are criminalized or who are in danger of becoming criminalized." [1]

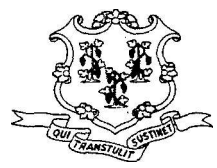
NAMI-CT supports long-term solutions, such as the recent proposals set forth by the Court Support Services Division. These proposals include a Mental Health Diversionary Program that would institute an accelerated rehabilitation option for nonviolent offenders with psychiatric illnesses, an Intensive Pretrial Supervision Program for Defendants with Psychiatric Disabilities to expand pretrial release options, and the expansion of the Mental Health Probation Program to reduce the number of technical violations for this population.

We urge you to consider innovative solutions that are not only more humane, but more cost effective for the state. Please do not take us down an old and tragic path.

Thank you for your time and attention to address this critical issue in our justice system. I am willing to answer any questions you may have.

Louise C. Pyers, MS
Criminal Justice Project Director, NAMI-CT
President, CT Alliance to Benefit Law Enforcement (CABLE)

[1] Lamb, Richard H., M.D., Weinberger, Linda E., Ph.D., Marsh, Jeffrey S., M.D., and Gross, Bruce H., J.D., Ph.D. (2007). Treatment Prospects for Persons With Severe Mental Illness in an Urban County Jail. *Psychiatric Services* .



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Testimony of state Senate Minority Leader John McKinney before the Judiciary Committee of the Connecticut General Assembly

November 27, 2007

Chairmen McDonald and Lawlor, Ranking Members Kissel and O'Neill, and members of the Judiciary Committee: I commend you for your efforts in coordinating this series of hearings, and thank you for the opportunity to testify today in support of legislative proposals I believe will improve our criminal sentencing and parole laws.

Four months have passed since a brutal home invasion and triple homicide destroyed a Cheshire family. As you know, I have not been as patient as some with the speed at which this legislature has moved to address some of the clear deficiencies in our criminal justice system exposed by this tragedy. However, I was heartened to learn, upon reviewing the proposals before this committee today, that there is general agreement in the legislature on many of the important changes we need to make.

I believe this process is moving in a positive direction, and it is my hope that – after this committee concludes its hearings, and after the Governor's sentencing task force concludes its

work – the legislature will move swiftly to convene a special session to enact reforms that will improve our sentencing and parole laws and better protect Connecticut citizens from violent criminals.

As Dr. William Petit wrote in testimony that will be read before the Judiciary Committee earlier today, "the sole issue and the only legitimate focus should be public safety and the protection of the citizens of Connecticut..."

I agree with Dr. Petit. We cannot put a price on public safety and we must do whatever is necessary to correct the failures of our criminal justice system.

To that end, the Senate Republican Caucus has put forward a series of criminal justice reforms for this committee to review.

Our proposals include:

1. **Reclassifying Burglary of a Residence (Home Invasion) as a Violent Crime,** requiring those who commit this crime to serve 85% of their jail sentences before being eligible for parole. Additionally, we are proposing a mandatory minimum 5-year prison sentence for criminals convicted of burglary in the first or second degree.
2. **Requiring Serious Criminals Wear GPS Tracking Devices** on their person at all times as a condition of their release.
3. **Strengthening Connecticut's Persistent Offender Law** by following the state Supreme Court's recommendation to grant juries the power to determine enhanced sentences on dangerous persistent offenders.
4. **Enacting a Strong Three Strikes Law** that eliminates judicial discretion and requires life imprisonment for a third serious felony conviction.

Despite initial resistance, I am pleased that several of the proposals before this committee today include a three strikes provision. The three strikes law proposed by the Senate Republican Caucus is designed to effectively incarcerate dangerous repeat criminals and deters serious violent crime, without resulting in explosive prison growth. It requires mandatory life imprisonment for a third felony conviction of only the most serious crimes, including manslaughter, sexual assault, arson, kidnapping and home invasion.

Our proposal was modeled after an effective law currently on the books in the state of Washington, which has roughly the same prison population as Connecticut (19,000). There the law has proven to be an effective way to remove dangerous career criminals from society without straining the state prison system. In fact, ten years after the enactment of Washington state's three strikes law, the Justice Policy Institute – an advocacy group opposed to the law – reported that just 209 criminals were incarcerated under the law. That isn't explosive prison growth by anyone's standards, but it is an effective way to keep the most dangerous career criminals in jail and out of our neighborhoods.

In addition to our legislative proposals aimed at strengthening criminal sentencing laws, the Senate Republican Caucus has put forward a number of proposals designed to help the Parole Board more effectively execute its responsibilities. We are proposing that judges and prosecutors be required to place more information on the court record at the time of sentencing, so that all pertinent background and/or opinions regarding a criminal are available to the parole board during their review process. We are also proposing that this information, along with court transcripts, be provided to Board of Parole members for review at least three business days prior to a parole hearing. Furthermore, we believe paroled offenders should be required to report to their local police station to be photographed and documented within one week of their release. Finally, we recommend an increasing membership on the Board of

Parole, and transferring responsibility and funding for the board from the Department of Corrections to the Department of Public Safety.

I believe the reforms I've outlined will bring the result we are all striving for – a safer Connecticut. It is my hope that these proposals will be met with broad bipartisan support and passed in special session this year.

I want to again thank the committee for its work and for the opportunity to testify today.

Testimony to the Judiciary Committee
November 27, 2007
David V. Cruz-Uribe, SFO

Mr. Chairman, ladies and gentlemen of the Committee. My name is David Cruz-Uribe, and I am a resident of West Hartford. I am here today as a member of the Connecticut Network to Abolish the Death Penalty, and I am here to speak against the provisions on the death penalty in the proposed bill entitled

AN ACT CONCERNING REFORM OF CRIMINAL SENTENCING, PAROLE RELEASE, COMMUNITY SUPERVISION AND DEATH PENALTY APPEAL PROCEDURES

The essence of these provisions is to tighten and speed up the appeals process in death penalty cases. I believe that such changes are not improvements and will ultimately do more harm than good to the justice system in Connecticut. Justice is not gotten by observing artificial timetables, but by allowing courts to do their work. In particular, death penalty appeals are among the most arcane and difficult parts of criminal law. Any attempt to force the process to move more quickly can only result in more mistakes and more problems. This in turn will inevitably lead to more appeals on the Federal level and will result in successful constitutional challenges to the law.

This assertion, in and off itself, has nothing to do with the fact that I oppose the death penalty. I want to quote from an editorial written by Bob Barr, a Republican and former Congressman from Georgia, and a death penalty supporter. In July of this year, Troy Davis, a man on death row who has repeatedly claimed innocence, was granted a temporary reprieve 24 hours before his execution. The Georgia Supreme Court then granted an extraordinary review of his case, despite the fact that Mr. Davis had exhausted his appeals. The court was criticized for this in some quarters. Bob Barr, however, applauded its decision. He wrote:

"[A]s a proponent of our Constitution and its attendant Bill of Rights, I believe… strongly in the fundamental fairness that lies at the heart or should lie at the heart of our criminal justice system. Because of its obvious finality, the death penalty must be employed with as close to absolute fairness and certainty as humanly possible. Several recent cases, including that of Troy Davis here in Georgia, have raised legitimate questions about just that proposition. True conservatives, as much as the most bleeding heart liberals, should be unafraid to look carefully at such cases."

Here in Connecticut we have never been confronted with a case such as that of Troy Davis, though the recent exoneration of James Tillman for a rape he did not commit should be a cause for concern: It could happen here. And I believe that the changes proposed in this bill make it more likely that someday we will end up with an innocent man on death row. Therefore, I urge the Committee to reject this portion of the proposed bill.

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Beyond that, as this committee considers changes to the criminal justice system here in Connecticut, I would urge you to not simply accept the status quo with regards to the death penalty. Instead, you should consider its abolition. Just as the changes proposed in this bill will not do any good, the record across the United States shows that no amount of "tinkering with the machinery of death," to quote Supreme Court Justice Blackmun, will produce a system of capital punishment that is fundamentally fair.

By its very nature the death penalty is poor public policy: time consuming, capricious, inefficient and expensive. It comes up at times like these as an emotional response to horrific crimes, but contributes nothing to the solution of the problem of crime and violence in our state. The only rational solution is to abolish the death penalty, as New Jersey is on the verge of doing. The time, effort and resources that are invested in a relatively small handful of capital cases could then be used in other ways, ways that would promote justice and keep the citizens of Connecticut safe.

M. JODI RELL
GOVERNOR

STATE OF CONNECTICUT
EXECUTIVE CHAMBERS

Testimony
Of
Governor M. Jodi Rell
Judiciary Committee
Tuesday, November 27, 2007

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

I appreciate this opportunity to communicate with members of the Judiciary Committee about the need for reform in our criminal justice system.

As you know, after the tragic events in Cheshire last July, I created the Sentencing and Parole Review Task Force to conduct a top-to-bottom review of our criminal justice system, from arrest to release, to ensure that we do everything in our power to prevent the horrific crimes that occurred in Cheshire from ever happening again. I charged the Task Force with examining all aspects of our criminal justice system, identifying entities and processes that should be changed, and making recommendations to me to effect such change. The Task Force has examined the processes and procedures by which the state charges, sentences and releases offenders, has conducted a public hearing and will shortly begin drafting their recommendations. I know that you have been engaged in a similar endeavor and have followed the work of the Task Force.

My staff and I have reviewed all of the proposals currently pending before your Committee. I support the following concepts contained within these proposals:

- I believe that we need a full-time Board of Pardons and Paroles. Offenders must only be released into the community after a thorough review of the complete record by a panel of professionals.
- The Board of Pardons and Paroles should not hold a hearing on the suitability of parole release for an offender unless the Board has reviewed the complete file on the offender.
- We must ensure that all components of the criminal justice system, including prosecutors, judges, the Department of Correction and parole and probation officers, have prompt access to all relevant information. We must redesign our current information technology systems to accomplish this goal as soon as possible.

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- Residential burglary of an occupied dwelling has the potential to escalate into serious violence. I support the strengthening of the penalties for residential burglary, or, alternatively, the creation of a separate crime of home invasion with a higher penalty.
- Persons convicted of residential burglary or home invasion should not be parole eligible until they have completed eighty-five percent of their sentence.
- We have all heard from constituents across the state who have urged us to be tough on career criminals. To ensure the safety of our citizens, I support increased penalties for persistent offenders.
- As you know, I have directed the Department of Correction to increase the number of offenders in the community being electronically monitored. I support increased use of global positioning systems for this purpose.
- I believe we need to provide additional re-entry services for offenders released into the community, particularly in Hartford, Bridgeport and New Haven. These programs are critical to ensuring that offenders do not recidivate.

In short, we must examine all components of the criminal justice system to ensure that the public is protected from violent individuals, that victims' rights are respected and that offenders are treated fairly and even-handedly. To achieve these goals, I encourage you to listen to the citizens of Connecticut who have come to testify before you. I believe that the different perspectives and ideas they present will assist you in your duties and ultimately help in creating an improved criminal justice system.

As you can see, we have much common ground. I urge you to work cooperatively with my Sentencing and Parole Review Task Force to develop a comprehensive set of proposals that addresses the many challenges our criminal justice system faces, while maintaining the integrity of our Constitutional spending cap. If you are able to achieve that goal, I would welcome a special legislative session to enact real and meaningful criminal justice reforms in the new year.

Thank you once again for listening to my voice and the voices of the people of Connecticut. I look forward to working with you on these complex and critically important issues in the coming weeks, and to restoring the public's trust and confidence in our criminal justice system.

Good morning. I'm Wally Lamb, a novelist, a teacher, and an eight-year volunteer facilitator of a writing program at Niantic's York Prison. I'm also the editor of two collections of our incarcerated students' personal essays, *Couldn't Keep It To Myself* and *I'll Fly Away.*

For the past several months, you've been hearing a lot of impassioned rhetoric from both sides of the crime and punishment argument, and you've seen a lot of statistics: numbers of inmates convicted of violent and non-violent offenses, the number of dollars needed to build more human warehouses that will, no doubt, be called "correctional facilities" although little is apt to be corrected there. Inside the Connecticut prisons for which we're all responsible, despair and dysfunction reign, suicides occur more often than they should, and recidivism is the norm, rehabilitation the exception. Now, as our state, in its well-intentioned but misguided overreaction to the tragedy in Cheshire, readies itself to abandon the kinds of supervised reintegration programs that work and, instead, throw more money and lives into the black hole of a punishment model that has proven, over and over again, not work, allow me, if you will, to put a human face on some of those statistics you've been studying.

Sixty year old **Bonnie Foreshaw** is a soft-spoken woman of strong faith and dignified bearing. Incarcerated since 1986, she was neglected and sexually abused as a child and savagely beaten by two husbands, one of whom cracked her skull with a baseball bat. When that husband began stalking her and making

threats on her life, Ms. Foreshaw made the crucial error of buying a gun for self-protection and hiding it in her bra. Following the accidental shooting death of a bystander during an altercation with a man who was frightening and harassing her, Ms. Foreshaw was convicted of first-degree homicide, though legal experts concur that the charge for this unpremeditated act should have been manslaughter, that her prosecutor played the race card for all it was worth, and that her public defender failed to reach a minimum level of competency. Ms. Foreshaw's judge sentenced her to forty-five years at Niantic. She has been imprisoned longer than any other woman serving time at York.

Before her incarceration, Bonnie Foreshaw was a homeowner in Bloomfield, a machinist who served as her union's shop steward, and a Jaycees president. At York, she has served as a big sister and surrogate mother and grandmother to generations of inmates, and she was one of the first graduates of York's hospice program. Long-term incarceration is hard on the body as well as the soul and DOC medical care is hit-or-miss. Ms. Foreshaw suffers from a diabetic condition, macular degeneration, and a painful arthritis of the spine. She puts on a brave face, but her hope dwindles in the face of what's now being planned by those who would lump her with the likes of Stephen Hayes and Joshua Komisarjevsky, the alleged murderers of Jennifer Hawke-Pettit and her daughters.

And so I come here today to implore you, on behalf of Bonnie Foreshaw and hundreds of other warehoused inmates who pose no threat to public safety, to be the architects of a prison reform package that is nuanced, wise, and above all else, merciful.

Testimony of Susan Budlong Cole
November 27, 2007

Public Hearing: Judiciary Committee
RE: Criminal Justice Reform Proposals 1-15

Chairman Lawler, Chairman McDonald, Members of the Judiciary Committee: My name is Susan Cole and following a 25 year career in substance abuse treatment, I have spent the last three years volunteering at York Correctional Institution.

In the current climate of outrage, it's easy to get tougher on crime -- I'm here today asking you to have the courage to get smarter, more creative. I'm here to ask you to consider alternatives to harsher penalties, longer sentences, reduced parole and probation time. I ask that you to not paint all offenders with the same broad brush. They are not all hardened criminals -- at least not yet. Three years at York have taught me that.

Here's just one example of a rehabilitation paradigm rather than a punishment one:

Jane Doe was convicted of Second degree larceny -- a Class C Felony -- and sentenced to 14 years for embezzling $8,600 from her employer. She probably won't do fourteen years; maybe she spends ten years at York. Ten years at $42,000 a year will cost you and me $420,000. If you consider the 662 other inmates now serving time for larceny of varying degrees, we could be talking about 278 million dollars. Let's say, instead of ten years, Ms Doe spends 18 months to two years in prison; she spends a year at a half-way house and remains on probation until she has paid back the money she stole -- paid it back with interest. Total cost to taxpayer about $100,000 instead of $420,000, her victim is paid back and having returned to a constructive life Ms Doe is unlikely to re-offend.

It's true not all of 662 potential scenarios will have such a positive ending, but how many would it take to make a major dent in prison overcrowding, redirect corrections funding for rehabilitation programming, reduce recidivism, and free up prison cells for those violent criminals who belong in them. And that's just larceny; think about other non-violent crimes and how we might get creative: treatment alternatives for drug offenses, longer probation and parole rather than shorter -- return to the carrots and sticks of earned good time -- education and job training in prison.

We can get tougher on offenders or we can get smarter -- depends on what kind of a society we want to have here in Connecticut. A puritan culture that harshly punishes or an enlightened society that recognizes that we may not be able to rehabilitate them all but we can do a lot better than what we are doing and save a bundle along the way.

Thank you.

Testimony of Careen Jennings, York Volunteer
November 27, 2007
Public Hearing: Judiciary Committee
RE: Criminal Justice Proposals 1-15

Chairman Lawler, Chairman McDonald, Members of the Judiciary Committee:
I am Careen Jennings, resident of Lebanon, retired teacher and three-year volunteer with the writing group at York Correctional Institution. I know the women in this group not by their crimes but for their courage to confront their past. Their past does not have to be their future.

We all need to be safe, and it's horribly clear that some criminals should never be released. But for the majority of inmates, more punishment isn't making us safer. Longer sentences breed more anger and dysfunction. We must rehabilitate, and the system has been doing a terrible job at rehabilitation. In an informal survey during a recent writing class at York, we recalled only one woman out of maybe 100 who has reoffended after participating in the group. Is there a lesson here?

Rehabilitation stops recidivism and makes us all safer.

Point 1: Education is a vital part of rehabilitation, both for self-understanding and for job entry. The imprisoned women I work with need and want post high school education. There is GED preparation, but there is almost nothing available at the community college level. Education reduces recidivism. Education reduces tax dollars needed for prisons.

Point 2: The women I know want to earn sentence reduction by staying discipline-free and working hard at the jobs given them in prison. They are doing both despite there being no incentive because "Good Time" was legislatively ended in October, 1994. It's time to reverse the 1994 legislation that ended credit for "Good Time."

Point 3: Near the end of their sentences a work-furlough program will give offenders a head start on both a resume and restitution. Properly administered, this program will have no losers.

These rehabilitative programs used to exist. They worked. But they were ended as society moved toward more punishment. Punishment doesn't teach offenders to become responsible, job-holding citizens. The women I know have been punished much of their lives.

These proposals have plenty of sticks but not even the most woebegone of carrots. Offenders need help and hope. It is a moral imperative that we save those who have learned from their mistakes, who have gained strength from the crucible of prison, and who will use whatever years remain to them to live cleanly and productively. The best way for both liberals and conservatives to be safe is to help offenders emerge from prison as better people than they went in. They want this, too. For all our sakes, we must rehabilitate.

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Testimony of
Judge Barbara M. Quinn
Chief Court Administrator

Judiciary Committee Public Hearing
November 27, 2007

Good afternoon Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Barbara Quinn and I am the Chief Court Administrator of the Connecticut Judicial Branch. I am here with Judge Patrick Carroll, the Deputy Chief Court Administrator, and Judge Patrick Clifford, the Chief Administrative Judge for Criminal Matters, to testify on several of the proposals that you are considering today. I am not going to address each proposal individually, but rather will address the themes that run throughout the proposals, with some references to specific provisions that merit individual attention.

Sharing of Information:

One of the areas of concern highlighted by the tragedy in Cheshire was the inadequacy of communication between the key players in the criminal justice system. Since that time, the Judicial Branch has been working with other criminal justice agencies to ensure that any information we possess and can legally share gets into the hands of those who need it. I would like to take a moment to update you on this effort. We have established a computer link with the Connecticut Department of Correction (DOC) and the Board of Pardons and Parole (BPP) that will allow information on

offenders who are on probation to be shared electronically beginning in January 2008. We are calling this system the Judicial Electronic Bridge (JEB), and it will replace the existing time-consuming system of transmitting information manually, by fax or phone.

The Judicial Electronic Bridge will allow Department of Correction and Board of Pardons and Parole staff to access information from the Court Support Services Division data bank about offenders who are currently on probation, as well as those who were on probation in the past. It will provide a great deal of information about each individual. The other agencies will have access to any pre-sentence investigation reports that were prepared. The Judicial Branch plans to explore expanding access to the Judicial Electronic Bridge to state and local law enforcement agencies in early 2008, so that public safety may be further enhanced.

Turning now to the specific proposals, it is understandable that many of you are very concerned about the poor state of access to criminal justice information. Toward that end, Senator McDonald and Representative Lawlor have proposed in § 12 of Proposal # 4 the creation of a comprehensive, state-wide information technology system to address it, called the SHIELD Criminal Justice Information System. The Judicial Branch strongly supports the purposes of SHIELD. However, we may not need a new information system, because the state has been working on such a system for the past twelve years.

This is the Offender Based Tracking System (OBTS), operated by the Department of Information Technology (DOIT), begun in 1995. Since that time the state has invested a great deal of time, energy, and to date nearly $30 million dollars in developing an integrated repository of criminal information. The Judicial Branch suggests that perhaps it would be more prudent to continue to enhance the existing system than to create an entirely new system.

If the General Assembly decides to enact SHIELD, we would respectfully request that § 12 of the proposal be amended to include a representative of the Judicial Branch on the Criminal Justice Information System Commission, as the inclusion of Judicial Branch data would be critical to the success of SHIELD.

In addition, if enacted as proposed, there would be public access to SHIELD, subject to appropriate privacy protections. In order to implement this provision, the Judicial Branch would require additional staff to review and edit the data entered into SHIELD, to make sure that information that cannot be disclosed pursuant to statute is not included.

There are two other provisions of Proposal # 4 that the Judicial Branch wishes to address. The Branch supports § 19, which would require us to make available on the internet all Violation of Probation warrants. In addition, we are happy to participate in the study mandated by § 17, which would require the Board of Pardons and Parole and the Court Support Services Division to examine the feasibility of making information about persons released into the community on probation and parole available on the internet. We point out one technical change that we request. Both sections should refer to the Judicial Branch, of which the Court Support Services Division is a part. Any effort to make additional information available on the Internet is a multi-faceted exercise that involves several of the Judicial Branch's divisions, not only CSSD.

Sentencing Issues

Many of the proposals before the Committee today relate to the sentencing of a criminal defendant. New mandatory minimum sentences appear in most of the proposals.

Before commenting on these proposals, I would like to take a step back and speak generally about sentencing for a moment. Sentencing a defendant is a difficult, complex responsibility for a criminal judge. Many factors come into play and an open mind is required. This is why the Branch has not supported mandatory minimum sentences in the past; it eviscerates the discretion of the judge to tailor each sentence to most justly fit the crime and reposits all discretion in the prosecutor. We would hope that the legislature would refrain from adding additional mandatory minimum sentences to our statutes and instead rely upon the judgment of our experienced judges who have the defendant in front of them at the time of sentencing.

There are other proposals, which while well-intended, would have a negative practical effect upon our dockets, both during sentencing and at others times. These are the proposals that would require a judge to make a statement of the various facts and circumstances relied upon at sentencing and at bail hearings. Our G.A. courts take in well over 100,000 cases each year. The arraignment docket in a G.A. is perhaps the busiest docket in our entire court system. As anyone who has witnessed the arraignment docket can attest, it is a seemingly infinite procession of criminal defendants, counsel and intake staff. The presiding judge must maintain order in the courtroom, advise the defendant of his or her rights, and set conditions of release pursuant to statutory criteria. Judges do carefully consider all of the factors required by the statutes. But to require them to enunciate each factor relied upon with the attendant finding would have a negative impact on the court system with many longer hearings, and increased backlogs without any increased benefit to public safety. In addition, if such statements are to be noted in the court file, additional resources may be necessary to ensure that all statements are either captured by the clerk, or derived from the court reporter's record of the proceedings. We would therefore respectfully request that such provisions not be codified.

State v. Bell

Several of the proposals deal with the problem presented by the Supreme Court's recent decision in *State v. Bell*, which held the various persistent offender statutes unconstitutional because they require the judge, rather than the jury, to find that imposing a period of extended incarceration would best serve the public interest. According to the Court, that finding, under Connecticut case law, must be determined by a jury. The exact language of a proposed statutory change is clearly a policy decision that must be made by the Legislature. We do wish, nonetheless, to state respectfully that we prefer the language in Proposal # 4, which removes all reference to an opinion that "such person's history and character and the nature and circumstances

of such person's criminal conduct indicate that extended incarceration ad lifetime supervision will best serve the public interest".

Sex Offender Beds

We appreciate and understand the impetus behind § 25 of Proposal # 4, which would require the Judicial Branch's Court Support Services Division to contract for an additional one hundred beds in staff secure residential sex offender treatment facilities. There are not any such beds now in our state and they are needed. Nonetheless, we do not believe that we are the most appropriate entity to undertake the task of providing sex offender treatment beds, and would request that that responsibility reside with an Executive Branch agency. We will certainly cooperate fully with whatever agency is given this responsibility.

We remain more than willing to work collaboratively to find a solution to the difficult problem of ensuring that sex offenders who are living in the community are doing so in the most appropriate settings. To that end, the Judicial Branch, in collaboration with the State Department of Correction (DOC) and the Department of Mental Health and Addiction Services (DMHAS), has issued a Request for Proposals (RFP) from qualified organizations or individuals to provide expert consultation and support in the design, development, and implementation of a statewide RFP for housing, residential treatment and support services for those charged with or convicted of sexual offenses.

GPS

Several of the proposals mandate the use of global positioning systems (GPS) for various categories of offenders who are released into the community. While GPS can be a valuable tool, it is a tool that has significant limitations. It does not provide the 24-hour active surveillance that many people believe it does.

To give some examples, GPS signals can be lost or masked, either purposely or by limitation of the surroundings, much like a cell phone. Even if a GPS signal is

working and the device knows the subject's locations, it relies on cellular coverage to transmit this data to the monitoring center. Most importantly, despite the public impression, a GPS device cannot pinpoint a client's exact location, because it is only capable of tracking to within 300-500 foot range. Someone who is being monitored by GPS could be several houses away and the system would not recognize this as a violation.

Then there remains the added need for additional staff to monitor the information. The information does little good unless there is someone to receive it and act upon it. Providing this intensive level of monitoring can be extremely costly and may not be necessary in many of the cases mandated by some of the proposals. We would respectfully suggest that while GPS can be an effective tool in many cases, it is not a panacea and its use should be limited.

Miscellaneous Provisions:

Sentence Review: Section 11 of Proposal #4 would allow the Commissioner of Correction, the Chairperson of the Board of Pardons and Paroles or the Executive Director of the Judicial Branch's Court Support Services Division to file for a sentence modification on behalf of an inmate. We are opposed to allowing the Executive Director of CSSD to file this application. CSSD is an administrative division within the Judicial Branch. If it petitioned for sentence modification, the division would be in the untenable position of advocating against the findings of the sentencing judge. In addition, since many incarcerated individuals will never be on probation, this would place CSSD in a advocacy position for individuals who will never be under their supervision. For these reasons, we do not believe CSSD should have a role in sentence modification.

We also question whether the proposal will have the results we believe are intended. Under current law, the court may review the sentence of an incarcerated defendant, and if good cause is shown, reduce the sentence, discharge the defendant, or order the defendant discharged on probation or conditional discharge. In instances

where the defendant is serving a definite sentence of more than three years, the state's attorney must agree to a review of the sentence before any reduction may be contemplated by the court. Typically, sentence review applications are filed by the defendant; and very rarely is a reduction in sentence actually granted. Sentences are constructed based on many factors such as the type of offense committed by the defendant, whether the crime was violent, whether he or she had a prior record and the attitude of the victim. Judges weigh these often complex variables to arrive at a just sentence. In addition, an adequate mechanism to review whether an inmate can be suitably supervised in the community is already in place -- namely the Board of Parole.

Effective Date: Nearly every proposed section is "effective upon passage". While we are fully aware, and share, the sense of urgency felt by many to enact meaningful changes to our statutes, many of these proposals will need significant time to implement. We would respectfully request that any final document be carefully reviewed to see which sections can be implemented immediately, and which would require a period of time to implement.

Number of Criminal Trials: I would like to take a moment to address a topic that, while not explicitly before the Committee, has been the subject of some discussion -- the perception that there are fewer criminal trials taking place in our courts because of an increased reliance on plea bargaining. The data available does not demonstrate an increased reliance on plea bargaining to the detriment of cases taken to trial.

I have reviewed data concerning the number of criminal trials taking place in our G.A's and J.D.'s since 1985. This data do not reflect any appreciable decrease in the percentage of cases taken to trial. In our G.A.'s, the number of cases added and disposed and criminal trials has remained fairly consistent over the years, with some fluctuations from year to year. However, in our J.D.'s, one will see a decrease in the number of trials from 1985 to the present. For example, in 1985, 248 cases were disposed of with trial, while in 2006, that number was 165. But for a complete

comparison, one must also look at the number of cases added and disposed of in the J.D.'s each year. This number has dropped from 4,179 cases added and 4,240 disposed in 1985, to 3,136 cases added and 3,049 disposed in 2006 -- a reduction in excess of 1,000 cases when the two years are compared. This explains the decrease in the number of trials. Frankly, with this drop in the number of cases, one might have expected even fewer trials in 2006 as compared to 1985.

Aside from the numbers, I can tell you from my personal experience that I have not seen a steep decline in matters taken to trial. Trials will always take place, as will plea bargaining. Plea bargaining can be an integral tool in resolving cases; sometimes the prosecution's case isn't as strong as the prosecutor would wish, and sometimes the crime victim refuses to testify or trial. However, even if a matter is plea bargained, the judge still retains the ultimate responsibility in determining whether the proposed agreement serves the cause of justice.

Turning to the remaining issues briefly: Among the proposals is a technical, but important one which the Branch has submitted. This is **Proposal #1,** ***An Act Concerning the Participation of Probation Officers in Warrant Squads***. We are requesting this legislation because we wish to allow specially trained probation officers to participate in the Marshal Service's Ad Hoc Fugitive Task Force. The mission of the Task Force is to seek out and arrest persons who have unexecuted state or federal warrants lodged against them. The Judicial Branch has agreed to participate in this effort because it is an important public safety measure that facilitates the removal of some serious offenders from the community, and it will provide us with the assistance of federal, state and local law enforcement officials in reducing our backlog of unserved violation of probation warrants. We have determined that statutory language may be necessary in order to make it clear that the probation officers who participate in the Task Force's apprehension teams are acting within the scope of their state employment.

We did draft the proposal before you; however, after further analysis we believe that it does not quite accomplish our purpose. To correct this, we have attached to our

testimony a proposed amendment to the language and would respectfully request that you incorporate it into any language that may move forward.

Suggested Amendments:

I would like to suggest some additional ideas to address the issues presented, which I believe could be added as an amendment to any of the bills. They address some fiscal issues and areas of interagency cooperation which would enhance public safety, in our opinion. They include:

- Amending C.G.S. § 53a-30(e) to increase the covered cost of electronic monitoring from a limit of $5.00 per day to "the contractually approved cost rate" for electronic monitoring and GPS system equipment, so that more of the actual cost of the equipment can be paid for by the offender. The cost of GPS monitoring exceeds $5.00 a day.
- Providing specific statutory authority for probation officers to detain probationers who are caught in a criminal act as well as probationers for whom an outstanding arrest warrant exists, until the police arrive. Detention would occur only after consultation with and approval by the appropriate Chief Probation Officer.
- Modifying C.G.S. § 53a-32 to allow a probation officer in specific circumstances to notify a police officer, after consultation with and approval by the appropriate Chief Probation Officer, when a probationer is in violation of probation, so that the police officer can make an arrest. This authority currently exists for sex offenders; this provision would expand it to all probationers, but only in the limited circumstance where obtaining a warrant would be impractical.
- Clarifying that probation officers have the authority to possess and store illegal contraband that they obtain in the course of their official duties. This occurs when they encounter contraband such as guns, drugs, drug paraphernalia and child pornography during a visit with a probationer. This would allow them to seize the contraband.

Fiscal Impact:

It goes without saying that many of these proposals will require additional resources for the Judicial Branch. We have reviewed the fiscal impact statements prepared by the Office of Fiscal Analysis and agree with the vast majority of their conclusions. I have to commend them for doing a very thorough job of analyzing the various proposals – I'm sure it was not an easy task. As the process moves forward, we will work closely with OFA to fine-tune the fiscal implications of the various proposals.

Conclusion:

Thank you all very much for your patience. I know that I have taken a lot of your time, but felt it was important to address the major issues presented by the various proposals before you today. I appreciate having had the opportunity to testify, and welcome any questions you may have.

Connecticut Legislature
Judiciary Committee Public Hearing
November 27, 2007

Family ReEntry's Testimony
Cover Page

Abstract: Family ReEntry is interested in assisting the State develop effective sustainable solutions to the challenges of reentry thereby **decreasing recidivism** and **ensuring public safety**. Together, reliable offender assessment, comprehensive community supervision and effective reentry programs **increase public safety**. The most effective response to the complexity of prisoner reentry is a coordinated response. Three critical components of developing, implementing, and maintaining effective reentry strategies are: (1) adequate investment in the evolution of reentry program models; (2) application of the research findings and recommendations from these reentry pilot programs to inform policy and practice; and (3) supporting collaborative linkages among all stakeholders including State agencies, private funders, nonprofit providers, community groups, municipal governments, academic and research institutions, and victim advocates.

Urgent Request: Family ReEntry requests that the Legislature approve funding this fiscal year to complete the three-reentry pilot projects in Bridgeport (**Fresh Start: Community Reentry Program** ***"Coming Home for Good"***). The full operational cost of the program is $500,000 per year. **$225,000 is needed this fiscal year** with assurances of $500,000 in the 2008/2009 fiscal year. Without these funds drastic cuts will need to be made immediately, prior state investment of $775,000 will be wasted, and the project will not afford the State any useful data. Allocation of these funds will equalize funding among the three State reentry pilot projects in Hartford, New Haven, and Bridgeport with each program receiving approximately 1.5 million dollars over three years to develop and implement effective reentry program.

Participants:
1. Steve Lanza, Executive Director of Family ReEntry
2. Kenneth R. Jackson, Director of the Beacon Program and Ex-Offender Community Leader
3. Dr. Derrick Gordon, Principal Investigator, Yale University, School of Medical Department of Psychiatry
4. Sally Schenk, President, Board of Directors Family ReEntry

Outline of Testimony:
Steve Lanza will speak on the importance of completing all three reentry pilot projects and on supporting collaborative linkages among all stakeholders. Efforts to date will be mentioned and urgent needs will be stressed.

Kenneth R. Jackson will speak on the importance of utilizing successful ex-offenders in the reentry process and supporting successful ex-offenders as positive role models for at-risk youth and as community leaders.

Dr. Gordon will be available to answer questions on the research findings and trends to date for both the Bridgeport and New Haven reentry pilot projects.

Sally Schenk will be available to address questions on the value of a public-private sector partnership, on the importance of adequate State funding to leverage significant private dollars, and on the Delancey Street model.

Connecticut Legislature
Judiciary Committee Public Hearing
November 27, 2007
Family ReEntry's Testimony

First Speaker: Steve Lanza
Good afternoon and thank you for this opportunity and your hard work on these complex issues. I am Steve Lanza, Executive Director of Family ReEntry. With me today are: Kenneth R. Jackson, Director of the Beacon Mentoring Program, successful ex-offender, and community leader; Dr. Derrick Gordon Principal Investigator, from Yale University; and Sally Schenk, President of the Board of Family ReEntry.

Family ReEntry launched one of the three prisoner reentry pilot projects initiated as a result of the Building Bridges efforts. Our Bridgeport program, titled **Fresh Start** is now in its second year of a three year project. Preliminary results from the Yale University research are very promising.

It is clear that effective reentry programs:
1. **Increase public safety**
2. **Break the cycle of recidivism**
3. **Reduce the cost of criminal justice and incarceration**

We have two principal recommendations:

Recommendation # 1
Ensure Adequate Three-Year Funding of all the Reentry Pilot Projects in the State
Unlike the New Haven and Hartford projects, **Fresh Start** in Bridgeport is not fully funded this fiscal year. The current gap of **$225,000** must be filled immediately to ensure that the State's investment of $775,000 will not be wasted. Without immediate funding the program will be compromised.

Recommendation # 2
Coordinate All Stakeholders through a Statewide Commission on Reentry
All stakeholders must be represented, including the non-profit and private sectors.

Fresh Start is an innovative program and part of a bigger vision for community change:
- We are starting ex-offender entrepreneurial businesses – without public money
- We are changing neighborhood norms by creating positive role-models
- The program inspires the grass-root community leadership of ex-offenders – like Kenny Jackson…..

Second Speaker: Kenny R. Jackson (summary)
I am Kenneth Jackson, former offender and now leading the ex-offender community in efforts to break the cycle incarceration. Together with the **Fresh Start** Program we are creating a community of successful ex-offenders and helping them to become community leaders and positive role models and mentors for those reentering from prison and for the at-risk youth in their communities. We are working to reach a tipping-point when enough successful ex-offenders can create enough momentum to stop the negative cycle and set new positive goals for their communities. Ex-offenders must be at the table. No one know better than an ex-offender what the challenges of reentry are and how to best overcome these challenges.

I urge you to support the continued funding of **Fresh Start** and give ex-offenders a second chance and an opportunity to help break the cycle.

Family ReEntry *Empowering Individuals and Communities for Change*

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Williar
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Program Sites
Bridgeport
Cheshire
New Haven
Niantic
Norwalk
Stamford

This is an editorial from the November 7th NY Times that really speaks to the value of our **Fresh Start Reentry Pro_ram** in Brid_eport. Take a close look at the highli_hted text. We are ahead of the curve in providing a dynamic, high-quality reentry program that improves public safety and increases offender success at the same time. We are already known on the national front with "insiders" through our involvement with John Jay College and their Reentry Roundtable efforts. The Yale research and the quality of our program will keep us there and should broaden the interest.

The New York Times EDITORIAL

A Second Chance for Ex-Offenders

Published: November 7, 2007

If past patterns hold true, more than half of the 650,000 prisoners released this year will be back behind bars by 2010. With the prison population exploding and the price of incarceration now topping $60 billion a year, states are rightly focusing on ways to reduce recidivism. Congress can give these efforts a boost by passing the Second Chance Act, which would provide crucial help to people who have paid their debts to society.

Newly released inmates are often driven right back to prison by difficulty in obtaining jobs, education and housing, as well as by the social stigma that comes from having been in prison. In addition, many of these people suffer from mental illnesses but have no access to treatment. Some states have begun offering assistance in these areas, but much more needs to be done.

The Second Chance Act would add to what the country knows about the re-entry process by establishing a federal re-entry task force, along with a national resource center to collect and disseminate information about proven programs.

(Fresh Start is one of the proven programs.)

The bill would broaden access to high-quality drug treatment, which is in scarce supply almost everywhere. It would also encourage states to work harder at reuniting families, which are often torn apart when a parent goes to prison.

The country worsened the recidivism crisis when it killed off many of the in-prison education programs that have a strong track record of helping released inmates live crime-free lives. The bill would begin to reverse that destructive trend by providing grants to improve academic and vocational education behind bars.

The programs necessary to help former prisoners find a place in society do not exist in most communities. The Second Chance Act would help to create those programs by providing money, training, technical assistance — and a Congressional stamp of approval.

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Fresh Start

An Innovative Demo stration Model from Family ReEntry Breaks the Cycle of Incarceration To Create a Cycle of Success

"Coming Home for Good"

November 2007

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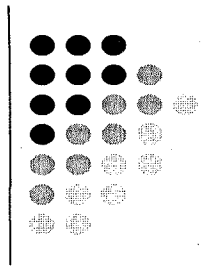

Family ReEntry's Fresh Start: *Coming Home for Good*

The Fresh Start *Vision*

Family ReEntry's **Fresh Start** is a compelling model for any community:

- Bringing men home from prison for good by breaking the incarceration cycle
- Reducing crime, **increasing safety**, rejuvenating families and neighborhoods
- Delivering an ROI of over 200%, saving the state millions of dollars

Fresh Start is over 1 year into a 3 year research effort by Yale University. Preliminary results are highly positive and show that further investment is merited.

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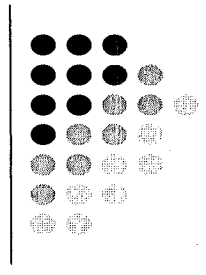
Fresh Start is based on:



- **The Latest Research**
  - U. of Cincinnati, U. of Maryland, Open Society
- **National Conferences and Experts**
  - International Community Corrections Association, John Jay College, Urban Institute, U CA Irvine, other successful programs
- **Adapting the Delancey St. Model to a non-residential model with a larger target population**
  - Ex-offender run businesses in San Francisco: $6 million moving company, $2 million food business and others
- **Family ReEntry's experience with local experts**:
  - The Department of Correction
  - Other local social service agencies
  - Successful former offenders
  - Co-sponsored formation of Bridgeport reentry round table

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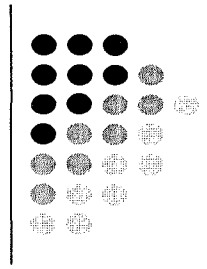
Fresh Start – Key Elements of the Model:



- **Early and long-term engagement**
  - Builds a strong bond
  - Creates a personal commitment to a new life direction
- **Tailor all services to the individual**
- **Involve the entire family**
  - Supports and strengthens family systems
  - Reduces the risk that children will end up in prison
- **Grassroots leadership and mentoring from successful ex-offenders**
  - Builds engagement, community support
  - Encourages giving back to the community to break the cycle with youth
  - The result is positive feedback loops that rejuvenate neighborhoods

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Fresh Start – Key Elements of the Model (continued):

- **3 Employment tracks include adapting the Delancey Street Model**
  - Creates economic viability, self-worth and a framework for learning
- **Public/Private Funding**
  - Basic Services through public funding at $2,500/client (= cost/month of prison)
  - Start-up for business development through private funding. Move towards self-sustaining economics.

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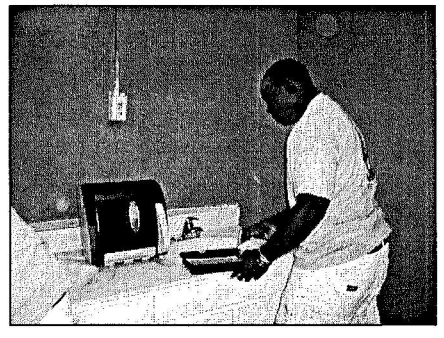
Fresh Start - Employment Plan: 3 Tracks

- **Track 1 - Building Traditional employment**
  - Partnership with businesses such as Bridgeport Hospital, Subway
  - Traditional employment search
- **Track 2 - Building Partnerships and Expansions with already successful former offenders.**
  - Successful example: catering business expansion
- **Track 3 - Fresh Start Enterprises**: Start up businesses adapting the Delancey St. Model to a non-residential model. Entrepreneurial businesses run by former offenders are more than a job.



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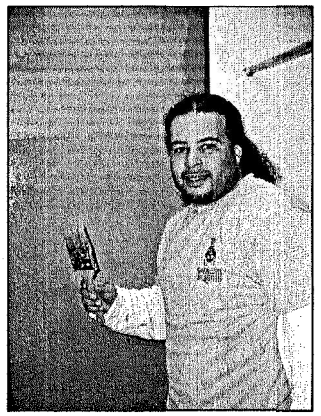
Fresh Start Enterprises: Keys to the Vision
Ex-Offender Entrepreneurship: Work and learn

- Start-up commercially viable businesses. Fresh Coat painting underway. Other examples: small motor repair, construction, valet parking.*
- No Public funding. Start-up costs funded privately. Eventually self-sustaining.
- Provide a livable wage
- Fulfill key training and social goals
  - Hard and soft job skills
  - Create crews with family-like work groups
  - Provide mentoring and peer support



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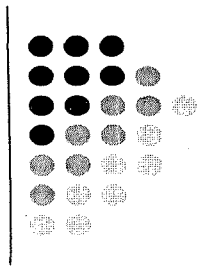
Fresh Start Enterprises
Employment is Much More than a Paycheck



- Business success is owned by the former offender: Not a hand-out. The work is real, the success is real. Success is also altruistic: it creates jobs for others, rejuvenates their neighborhoods.
- Work is a powerful medium for learning missing life and social skills in a naturally inspiring setting. High standards for work and customer service are set from the start. Skills such as politeness, timeliness, leadership, budgeting and many more are constantly practiced and reinforced.
- Mentoring from successful offenders and peers encourages positive behavior and challenges negative attitudes. Self-esteem and confidence grow.
- Training is both a deliberate process and an integral part of the daily experience. The work crew functions as the key training unit. Success results in opportunities for advancement.

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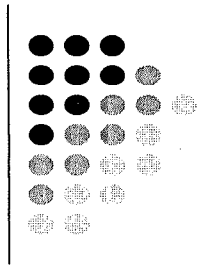
The Time is Right – CT Should Take The Lead



- CT's problems are smaller, our disparities greater, our resources larger
- CT legislature and DOC are looking for solutions
- Fresh Start is a comprehensive blend of proven components:
  - Macro scale potential
  - Economic empowerment
  - Comprehensive counseling services
  - Self-sustaining revenue
  - Ex-offender mentoring
  - Community enriching
- Emerging track record of success

000894

References

The information contained in this presentation is derived from the following sources:

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- The work of Dr. Fenton Earls, Harvard School of Public Health
- The work of Dr. James Austin, George Washington University
- The work of Dr. Michael Jacobson, John Jay School of Criminal Justice
- The San Francisco Partnership for Incarcerated Parents

Data and conclusions were complied by Family ReEntry, Inc.
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STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR
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Testimony of the Office of Protection and Advocacy for Persons with Disabilities
Before
The Judiciary Committee
Hearing on Criminal Justice Reform Proposals

Presented by James D. McGaughey
Executive Director
November 27, 2007

Good afternoon. I am Jim McGaughey, Executive Director of the Office of Protection and Advocacy for Persons with Disabilities. Thank you for this opportunity to present our Office's views on the various proposals you are considering today.

As most of you know, OPA is a small, independent State agency that operates pursuant to both State and federal mandates to protect and advocate for the civil rights of people with disabilities. Part of our role involves investigating and advocating in situations where people with disabilities are victims of abuse and neglect. This means that we often must make referrals to law enforcement agencies, and sometimes assist victims of abuse or exploitation to understand and exercise their rights to file reports about things that have happened to them with police agencies. Because people with disabilities are, as a group, frequent victims of crimes involving exploitation, coercion and violence, it is clear that our justice system must be capable of effectively protecting them and other particularly vulnerable people. So we very much appreciate the serious attention being paid to how well our system is working, and what can be done to correct any gaps or "holes" that may exist.

However, my principal reason for testifying today arises from experiences we have advocating for a number of individuals with disabilities – primarily psychiatric disabilities, but some with cognitive and developmental disabilities as well – who wind up on the other side of the criminal justice system. I am not speaking of people who commit truly serious crimes, but rather of individuals who are arrested and incarcerated because they are engaging in some sort of problematic behavior that indicates a need for more support services, or different kinds of support services than are available to them. In prison, these individuals often run afoul of the disciplinary rules, become easy victims of others, and they often emerge traumatized, with even greater levels of anger and frustration than before they entered. At a minimum they acquire additional stigmatizing labels and experiences that make the road to recovery more difficult.

Given adequate, relevant supports, which in some cases would include some form of supportive housing, many of those individuals would not be incarcerated, and, in fact, could become contributing members of their communities. It would be more cost effective, and, from a humanitarian perspective, much more appropriate to expand community-based support programs targeted to this population than to continue to send them to prison, where they occupy space that would be better used to house individuals who represent real threats to public safety. I am hoping that you will consider making some recommendations that would help this respect.

I realize that the fate of this group is not the primary focus of this hearing. In fact, like other advocates I have spoken with, I was initially concerned that even testifying here today might contribute to some confusion about the identities and needs of the people I am speaking about, or be misconstrued as an effort to excuse criminal conduct. There are a lot of lingering misperceptions about mental disability and, despite considerable progress in treatment and support approaches over the past 30 years, there remains a great deal of social stigma associated with psychiatric and developmental disabilities. Part of what perpetuates this stigma is the quite inaccurate perception that people with psychiatric and developmental disabilities are likely to be violent or dangerous. And, as the concerns that gave rise to this hearing involve our ability to protect society from genuinely dangerous individuals, there is some risk that saying anything about psychiatric or cognitive disability in the context of your discussion will fuel further confusion as to the identities and needs of people that we, as advocates, are concerned with. Nevertheless, there are so many people with psychiatric disabilities and developmental disabilities and brain injuries who are on the incarceration merry-go-round – often for relatively minor offenses - that I feel compelled to raise this issue.

How many people are we talking about? It depends on which study or set of statistics you refer to. The Office of Legislative Research recently released a report indicating that approximately 20 % of the incarcerated population in Connecticut has significant mental illness. Based on data gathered in the 1990s, earlier studies had estimated that between 8% to 16% of the prison population had significant mental illnesses. Nationally, the estimates appear to be a quite a bit higher – up to 50% of the jail population according to the Department of Justice's numbers – but most states maintain separate jail and prison systems, so that figure is not especially meaningful in Connecticut where the Department of Correction operates a unified system. The important point is that these raw numbers point to an alarming trend: as the total number of incarcerated individuals has risen over the past decades, so has the relative percentage of those individuals who have serious and persistent metal illnesses. Across the country, prison systems have become the single largest provider of residential services to people with psychiatric disabilities.

Given the vagaries of correctional classification schemes, it is difficult to get a handle on how many of those incarcerated individuals with mental disabilities were arrested for minor offenses and are being held in jail largely because the supports they need to make it in the community aren't available. However, using measures involving length of sentence, charged offenses and the relative amount of bond assigned, our Department of Correction is now attempting to do that. Their reports indicate that somewhere between one-third to one-half of "unsentenced" (accused) inmates with Mental Health screening scores of 4 or 5 (indicating a significant mental illness) are being held on relatively low bonds, charged with offenses like possession, harassment, disorderly conduct, criminal trespass, criminal mischief, failure to appear, etc. Based on their data, a similar picture emerges with respect to the sentenced population – approximately 15% - 20% of sentenced inmates with high mental health scores (MH 4 & 5) were charged with relatively low level offenses and have low security screening scores (Security Level 2).

At some point in the near future, DOC expects to be able to expand its ability to produce data to include specific information about inmates with mental retardation and brain injury – most of whom are currently lumped into the MH 3 category. Given the scarcity of services for people with those types of disabilities, I would expect a similar picture to emerge.

While the data are preliminary and imperfect, their implications are clear: from the perspective of public safety, a significant percentage of people with mental disabilities who are in prison in Connecticut do not

need to be there. In the course of advocating for a number of these individuals, our Office had numerous discussions with State's Attorneys and Public Defenders, and with mental health service system staff who work with jail diversion and jail re-interview programs. Based on what we have learned, I believe it is safe to say that most courts would happily decide not to incarcerate people who fall into these categories if they were reasonably assured whatever problems that resulted in their arrests would be adequately addressed through provision of services, supports and supervision.

It is also clear that DOC is feeling stressed both by raw numbers and by its growing awareness of the treatment needs these individuals present. However, while it has attempted to respond by dedicating a particular facility to housing some of these inmates, the experience at Garner has proven somewhat problematic. In fact, it is difficult to imagine how any attempt to retrofit a correctional facility as a mental health program could be anything other than problematic. Prison systems must operate according to tight rules and procedures in order to protect the safety of all involved. They are geared to looking at a person's behavior, not at what might underlie that behavior. Did the inmate comply with an order or not? Did the inmate commit an infraction or not? The presumption is that people need to be held accountable for their behavior, and the fact that some people's behavior is a manifestation of a mental disability sounds suspiciously like an excuse to evade accountability. Prison environments generally do not afford the kind of flexibility, individuality and relationship building needed to provide real treatment. Further, in prison culture, seeking mental health treatment is often interpreted as a sign or weakness, or even as evidence of "malingering". Creating specialized units and facilities may sound progressive, but, in the context of an overall system established for quite different purposes, these units bring their own problems: Who does and does not deserve to be there, and for how long? What happens to the commitment to therapeutic goals when there are serious violations of the rules and safety is compromised? Given that only a small percentage of inmates needing mental health care can be housed in specialized units, will moving staff with mental health expertise and other resources to the specialized facility take away from what is needed in other jails and prisons where the majority of prisoners with psychiatric histories still live, and where symptoms are most likely to first appear amongst newly admitted individuals. And what about the "if you build it, they will come" phenomenon? There is a real risk that establishing such a facility tends to create the impression that there is a "good place" in the prison system for people with mental illness or other mental disabilities, making it seem more acceptable to send them to jail.

So, as I guess you may have gathered, along with other advocates you will hear from, we cannot support the proposal in Section 15 of Draft Bill No. 4 to build a 1200 bed medical and mental health correctional facility. Rather than investing in such an expensive facility in the correction system, it would be more cost effective and decidedly better social policy to invest in specific community-based support systems, including various supported housing models.

There are, however a number of other initiatives that have recently commenced that help address the problem of people with mental disabilities in prison. These are very worthy of expanded support. Special parole and probation officers have been hired and trained, and DMHAS has some promising pilot programs such as the Community Re-entry Program and Transitional Case Management program. In addition to the established jail diversion and re-interview programs, DOC is moving to ensure that people with mental health needs are considered eligibility for space in Half-Way Houses, and CSSD (Court Support Services Division) is making similar attempts to ensure access to Alternative to Incarceration Centers.

These approaches are hopeful, but they are small, tentative and underfunded. And, there are several critical components still missing: housing, active involvement by the Department of Developmental Services (formerly DMR), and some modifications to the general rules for compliance that would allow for the sometimes steep learning curve that accompanies the process of recovery.

With respect to housing, I would just point out that while having a case manager, a specially trained probation or parole officer, and ready referrals to nursing and psychiatric services are really good things, if a person is essentially homeless, without a permanent and legitimate place to call his or her own, surrounding that person with vigilant services remains a limited strategy. Housing, and in many cases supportive housing is desperately needed. By "supportive housing" I am not talking about creating congregate residences, except perhaps for some "sobering" or "sober houses", which seem to have real value. I am talking about the type of supportive housing where people get frequent checking and help to maintain their homes and their places in the world. Finding permanent homes – individual apartments - for people who would otherwise be sent to prison is one of the core strategies being successfully employed by the "Nathaniel Project" in New York City, which is considered a national model for alternatives to incarceration for people with significant mental illnesses. To have a home – a place that is really yours - is fundamental to mental health, to personal recovery, to having a stake in your community and to any successful policy strategy that purports to address this problem. We need to invest considerably more in this area.

The policy gaps confronting people with intellectual disabilities who run afoul of the criminal justice system is lesser known, but equally compelling to that affecting people with psychiatric disabilities. Few people realize that simply having a diagnosis of mental retardation does not entitle a person to public services through the Department of Developmental Services. In fact, unless a defendant has been found incompetent to stand trial and is subsequently committed to DDS, it is highly unlikely that he or she will receive any services. Our Office has advocated for a number of defendants with intellectual disabilities for whom alternatives to incarceration would have been readily accepted by all parties in the criminal justice system, but for whom DDS would not provide any services. Even sadder than seeing these people go to jail unnecessarily, is seeing them released at the end of their sentences without supports. Predictably, some reoffend, and face even stiffer penalties. DDS explains that it only has sufficient resources to serve people for whom it has legal responsibility. If, like the supportive housing issue, this is a resource issue, we need to resolve it.

Regarding the need for some mechanisms to allow for the steep learning curve sometimes associated with efforts by people with psychiatric disabilities to recover their lives, especially when they experience a co-occurring substance abuse problem, I would point out that a proposal is currently being discussed for a form of Accelerated Rehabilitation that would anticipate and allow for predictable lapses by an individual without automatically escalating penalties. At the back end of the system, a similar concept is being explored by the specialized parole program. These ideas may require some adjustments to our usual "zero tolerance" expectations, and to our statutes, but they probably represent more realistic thinking than rigidly adhering to traditional patterns of consequences, and offer greater hope that we can keep greater numbers of people out of the criminal justice system. I would urge you to seriously consider these types of proposals as you proceed.

Thank you for your attention. If there are any questions, I will try to answer them.

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Testimony in Support of House Bill Judiciary proposal # 8
Presented November 27, 2007 before the Judiciary Committee

Dear Chairman Lawlor and McDonald and distinguished members of the Judiciary Committee,

The horrific murders of Hayley, Michaela and Jennifer Petit and the assault of William Petit have brought to light the innate problems within our current sentencing and parole laws.

House Bill Judiciary proposal # 8 addresses many of the problems that exist. H.B Judiciary proposal # 8 makes a number of changes to the existing law. The changes proposed by this bill will strengthen laws regarding home invasions, correct and strengthen the three strikes law, institute a "Castle Doctrine", and establish a parolee registry.

The bill will remedy the constitutional flaw identified by the Connecticut Supreme Court that will grant juries the power to decide on enhanced sentences for criminals instead of judges. This simple fix requires little discussion and should have been corrected months ago. The bill would strengthen our crime laws by making Connecticut's three-strikes law a **true** three-strike law by requiring every third conviction to result in life sentences without the possibility of parole. The message coming from the General Assembly should be clear; Connecticut will not stand for perpetual offenders who commit serious crimes.

We need to increase penalties for burglars and define burglary as a "violent crime" and therefore be subject to the state's sentencing statues. The bill will classify someone who commits first, second and third degree burglary, regardless of the lack of a weapon, as a violent offender and increases the mandatory sentence for each offense (Once in the home a reserve of weapons is available; knives, blunt instruments etc., anything could be used as "deadly weapon".). The bill also specifies all burglaries as a violent offense or should be amended to do so, regardless of whether someone is in the home or not at the time of the burglary. The reason is simple; if the burglar has the audacity to break into someone's home he assumes the potential for someone to be home in bed, in the shower, or anywhere else, that is not visible to the burglar prior to break-in. If he continues, despite that chance, he is recklessly endangering himself and others and assumes the same consequences as those who break into an occupied home. Furthermore, to safeguard homeowners who are present at home during a burglary, a "castle doctrine" is included to provide homeowners the ability to protect themselves if they feel they are in danger without fear of prosecution. Why should a criminal have the right to sue for bodily harm incurred when he is breaking the law and jeopardizing someone else?

Finally, the bill establishes a Parolee Registry of all violent offenders who are released from prison and subjects all burglars to mandatory electronic monitoring, including the use of global positioning systems. The registry would be similar to that of the Sex Offenders list and would allow concerned citizens to take proper precautions around those on the registry. The electronic monitoring would allow us to ensure that parolees stay within the boundaries of the law and if not, provide immediate feedback to their whereabouts.

The only thing more tragic than the crime itself would be the legislature's failure to act responsibly and swiftly to eliminate the lax laws that allowed these murders to take place. The legislature has a fundamental responsibility to ensure and protect the safety and well-being of every citizen. It would be unconscionable for us to do nothing on this issue or do just the bare minimum.

Some of the items I feel are common sense. I appreciate the Committees consideration of this proposal. I know the committee has a lot to review and process. I ask the committee to vote favorably on HB Judiciary proposal # 8 and allow for a full debate and discussion on the House and Senate Floors.

William A. Petit, Jr.
PO Box 310
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Plainville, CT 06062

November 26, 2007

Senator Andrew J. McDonald, Chair
Judiciary Committee
Room 2500
Legislative Office Building
Hartford, Connecticut 06106

Representative Michael Lawlor, Chair
Judiciary Committee
Room 2500
Legislative Office Building
Hartford, Connecticut 06106

Senator John A. Kissel, Ranking Member
Judiciary Committee
Room 2500
Legislative Office Building
Hartford, Connecticut 06106

Representative Arthur J. O'Neill, Ranking Member
Judiciary Committee
Room 2500
Legislative Office Building
Hartford, Connecticut 06106

Dear Members of the Leadership of the Judiciary Committee:

My life changed profoundly 126 days ago. From the thousands of communications I have received from so many people in and outside of Connecticut, I understand that others' lives have also been changed. Those horrible events not only took the lives of my beautiful and wonderful wife and daughters, but they also exposed some glaring defects in our laws and their inability to adequately ensure our public safety. Every resident of Connecticut deserves to have those glaring deficiencies in our public safety laws corrected fully and promptly.

It is my understanding that you are meeting to review those deficiencies, and to address how best to deal with them. I know that the legislative process and the political process are closely intertwined. I firmly believe that political considerations should have no place in this debate. From my perspective, the sole issue and the only legitimate focus should be public safety and the protection of the citizens of Connecticut from those who do not respect them or our laws.

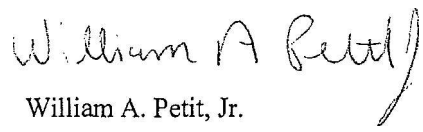
Words cannot express how sad I am that nothing you will do can undo what happened to my family. I write this letter, because it is so urgently important that you, as our legislative body, learn from these awful events and take full advantage of this opportunity to comprehensively change our laws to better protect other innocent members of our society.

History has shown us that reputations are made and legacies are established by how the needs of the people are addressed by those responsible for shaping our government's response to tragic events and the crises that follow them. That opportunity exists now for you and our legislature. I strongly urge you to recognize your potential to do significant good, and to seize the opportunity to put aside political differences in order to make our State safer.

I have been told by many, including some elected officials, that our system failed me and my family. You have the responsibility to correct those failures. I respectfully ask that you do everything you can to work cooperatively together, to make full use of your collective talents and energies, and to bring forward meaningful legislative changes that will better protect the safety of our citizens and ensure that past failures are never repeated.

Thank you for your attention to this letter and for your attention to these critically important responsibilities.

Sincerely,



William A. Petit, Jr.

cc: Governor M. Jodi Rell
Senator Donald Williams
Representative James A. Amann
Senator John McKinney
Representative Lawrence F. Cafero, Jr.

Office of Chief Public Defender
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CHIEF PUBLIC DEFENDER

TESTIMONY OF
SUSAN O. STOREY, CHIEF PUBLIC DEFENDER

JUDICIARY COMMITTEE PUBLIC HEARING
CRIMINAL JUSTICE REFORMS
NOVEMBER 27, 2007

The Office of Chief Public Defender appreciates the opportunity to testify on the various Judiciary Committee proposals which have been drafted in response to the tragic events in Cheshire. It is my understanding that these proposals have been drafted principally for the purpose of targeting those individuals who are considered to be the most dangerous to society and to segregate them from society for lengthy periods of time if not indefinitely. While the protection of society is certainly a consideration for this Committee, these proposals are drafted in the broadest sense and will also result in the incarceration of people who may not have a history of violence or be an actual threat to society.

For more than a decade, Connecticut criminal justice agencies and this Committee have been discussing prison overcrowding and the wisdom of funding for increased re-entry services for non-violent inmates to safely reintegrate into their communities. However, these proposals relegate re-entry and pre-trial alternatives to incarceration to a minimal role due to the enormous costs of building more prisons and incarcerating people for longer periods of time. If judges will be mandated to sentence violent offenders to longer terms of incarceration, then they also must be provided with a wider array of community programs to choose from and they must have the support of this Committee to sentence non-violent offenders to them. Community service, mental health and substance abuse programs are still under-utilized for non-violent offenders, who take up prison bed space that should be reserved for the most dangerous offenders.

It is also true Connecticut incarcerates more people per capita and more children and adults of color than almost any other state. Our own experience and that in other

states has shown us that mandatory minimums and 3-strikes legislation increases the likelihood that more minorities will be targeted and incarcerated, and family structure destroyed. Such facts should concern all of us when additional statistics show that one in six of Hartford's children has a parent or parents in prison and research shows that this single fact puts children at increased risk of entering the criminal justice system.

The proposals also provide for large increases of financial resources to DOC, CSSD and Parole for the purpose of monitoring people on probation and parole. The Office of Chief Public Defender requests that this Committee also consider that these changes in legislation would necessitate increased resources, staff, and funding for public defender offices representing persons charged with persistent offender and 3-strikes offenses, and domestic violence crimes. This request is made in anticipation of the increased caseloads and trials which the Office of Chief Public Defender believes would result from legislative proposals carrying increased mandatory minimum and life sentences which under Connecticut law will necessitate a hearing in probable cause. Currently prosecutor staff in the Part A Judicial Districts outnumber public defender staff at a ratio of two to one. Furthermore, while not opposed to more funding for victim services, our Office has received no funding for additional staff comparable to that provided to Criminal Justice for the rapidly growing domestic violence dockets in New London, Norwalk, and New Britain. Recently, both the American Bar Association and the American Council of Chief Defenders re-affirmed the caseload limits as established by the National Advisory Commission on Criminal Justice Standards and Goals in 1973 which are lower than those established by the settlement agreement in Rivera v. Rowland.

The Office of Chief Public Defender also requests that it be included in the list of state agencies designated to create the ***SHIELD Criminal Justice Information System***. The intent of the system is to facilitate information sharing between "all state agencies". The Office of Chief Public Defender requires access to much of this information in carrying out its state and federal constitutional obligation to provide effective assistance of counsel to indigent persons accused of crimes. To further this obligation, The Office of Chief Public Defender is included on the Governing Board of CJIS. The Connecticut Practice Book and Connecticut Statutes require that defense counsel have access to copies of warrants, police reports utilized by the court to establish probable cause, copies of documents and exculpatory evidence through the discovery process, and pre-sentence investigation reports. Exclusion of the Office of Chief Public Defender now, in the planning stage of a new and advanced technology system, would be shortsighted and would require prosecutors and clerks to supply paper documents to the defense rather than electronic copies of evidence that the defense is entitled to as a matter of right.

Testimony of Susan O. Storey, Chief Public Defender
Judiciary Committee Public Hearing, Criminal Justice Reforms, November 27, 2007

The Office of Chief Public Defender would be **opposed** to certain proposed legislation as follows:

- ***Three Strikes*** legislation which requires the imposition of a life sentence upon persons convicted of **any** felony, including less serious non-violent felonies and drug possession offenses; a recent Quinnipiac Poll noted that only 35% of voters support a "third strike" law where a person convicted of three violent felonies automatically is sentenced to life in prison and 63% said that the sentences should be decided on a case-by-case basis;

- ***Elimination of court discretion*** to determine whether "such person's history and character and the nature and circumstances of such person's criminal conduct indicate that extended incarceration will best serve the public interest. . ." when a person is charged with violating any of the persistent felony offender statutes;

- ***Requiring a statement on the record*** by the prosecutor and judge "concerning such person's history and character and the nature and circumstances of such person's criminal conduct" whenever a person is convicted of a felony as the legislation appears to substitute such statements for the exercise of discretion by the court pursuant to current law;

- ***Mandatory Minimum Sentence*** legislation which eliminates all discretion from the court to consider any mitigating information pertaining to the defendant and requires that the court impose a mandatory sentence regardless;

- ***Consecutive sentences*** for convictions of certain offenses which arise from the same incident for the same reasons as articulated in regard to mandatory minimum sentences;

- ***Internet Access*** to certain information pertaining to a person on parole and probation as such impacts negatively upon the re-entry efforts of the person in obtaining housing including public housing, employment, and education;

- ***Appellate and Habeas Corpus*** time constraints in capital felony cases where a person is sentenced to death in regard to the filing and/or briefing deadlines of such; and

- ***Elimination of Parole*** legislation for offenses other than Capital Felony, as lack of parole oversight does not enhance public safety upon a person's release.

Testimony of Susan O. Storey, Chief Public Defender
Judiciary Committee Public Hearing, Criminal Justice Reforms, November 27, 2007

The Office of Chief Public Defender has **concerns** and requests inclusion in the discussions pertaining to the following proposals as drafted which would:

- Allocate substantially more financial resources for ***construction of new prisons*** (1000 bed medium security and 1200 bed medical and mental health unit) while allocating substantially less financial resources for ***re-entry services*** and for only 3 Connecticut cities;

- Allocate financial resources for ***staff secure residential sex offender treatment*** facilities which are undefined under the proposal;

- ***Create a Parole Registry*** and a ***new Felony*** for failure to register with the Commissioner of Public Safety and maintain current information while on parole; and,

- ***Require a mandatory psychiatric examination*** of a person prior to release from incarceration on parole and other release programs if convicted of sale or possession of controlled substances, even if a non-violent offender.

Thank you for the opportunity to address the proposed legislation.

State of Connecticut
DIVISION OF CRIMINAL JUSTICE

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Testimony of the Division of Criminal Justice

Joint Committee on Judiciary

November 27, 2007

The Division of Criminal Justice commends the Judiciary Committee for holding today's hearing and we thank you for inviting the Division to submit proposals for your consideration. It is incumbent upon all who serve in the criminal justice system to address the very serious issues that were brought to light by the terrible tragedy this past summer in Cheshire. The Division joins with all of the people of this state in extending our deepest sympathy to Doctor Petit and his family for their loss.

The Division also commends all of the legislators and agencies that have offered the various proposals that appear on today's agenda. You have before you an impressive list of ideas and concepts that provide an excellent starting point from which to craft comprehensive legislation. It is our hope that this situation develops in the same fashion as the debate in the last session over what became known as "Jessica's Law." All of the various parties worked together in a unified effort to do the best job possible, and the quality of the final legislation speaks to the success of those efforts. The Division of Criminal Justice stands ready to work with all legislators, all agencies and all other involved parties to craft the same type of comprehensive response to the issues at hand today.

In response to the Judiciary Committee's invitation, the Division of Criminal Justice has submitted An Act Concerning Burglary and Persistent Offenders, which is listed as Item Number 2 on today's agenda. We would strongly urge the Committee to incorporate the basic concepts of this bill in any comprehensive plan to reform the criminal justice system. This proposal is the result of a painstaking review undertaken by veteran prosecutors to examine the shortcomings of the existing laws and to address those shortcomings in a fashion that meets constitutional muster and the interests of justice.

Specifically, we believe that we have properly dealt with the finding of our Supreme Court this year in the case of *State v. Bell*. Additionally, the bill revises both the definition of and penalties for burglary to more appropriately address what is commonly referred to as a "home invasion." It would create a new offense of Aggravated Burglary in the First Degree and classify

both this new offense and the existing crime of Burglary in the First Degree as violent offenses for the purposes of parole. As such, an individual convicted of either of these crimes would have to serve 85 percent of his or her sentence before being eligible for parole. This is the same "truth in sentencing" provision that now applies to other crimes classified as violent offenses. Finally, the bill revises the definition of and penalty for individuals convicted as a persistent dangerous felony offender, persistent serious felony offender and persistent felony offender. Again, we would respectfully and strongly urge that any final bill incorporate the provisions dealing with the *Bell* decision and other constitutional and legal issues that have arisen in the interpretation and application of the persistent offender statutes.

With regard to the other bills on the agenda today:

1. An Act Concerning the Participation of Probation Officers in Warrant Squads. The bill appears to be technical in nature and as such the Division would take no position on the bill.

2. An Act Concerning Burglary and Persistent Offenders. This Division of Criminal Justice bill is addressed above.

3. An Act Concerning Home Invasion Protection. This proposal was drafted by the previous Victim Advocate. The Division believes the concepts raised in this proposal are more effectively addressed in the language we have presented in Agenda Item No. 2, An Act Concerning Burglary and Persistent Offenders. We would also publicly extend our congratulations to the new Victim Advocate, Michelle Cruz, Esq., on her appointment and we extend our willingness to work with her on this and other issues.

4. An Act Concerning Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources. The Division commends the Co-Chairs of the Judiciary Committee for this proposal, which sets a strong foundation for what we hope will eventually become a comprehensive package. In particular, the Division cannot overstate its strongest support for the proposal to address the serious problems with Information Technology and Information Management that exist not only within the Division of Criminal Justice, but throughout the criminal justice system. We simply cannot communicate or manage information with ourselves and with other agencies. It is not a question of improving an existing system, but rather the lack at this time of any system whatsoever. If you were to ask a State's Attorney today how many murder cases were pending his or her Judicial District, they could not tell you. To get the answer they would have to literally thumb through paper files. This is but one example of the inadequate tracking ability that we have and why we so strongly support the concept of the "SHIELD" system proposed in the Judiciary Co-Chairs' bill.

However, we would add an important caveat – we do not need to start from scratch and re-invent the wheel. As the Committee is aware, there is an existing Criminal Justice Information System project and the associated Offender Based Tracking System, or OBTS. We believe the I.T. system should build upon the many years of effort and the substantial resources already invested in CJIS and OBTS. We would also urge the Committee to approach this particular matter with extreme caution and learn from the recent negative experience with the COLLECT

(Connecticut On Line Law Enforcement Communications Teleprocessing) upgrade. All agencies must be involved in this process so that a truly comprehensive system results. We would also call to the Committee's attention the need for Section 30 of the bill, which deals with costs, to apply to the maintenance of the SHIELD or similar system.

Speaking to other points of this proposed bill:

- The new offense of "home invasion" would be a class B felony. The Division believes our proposal for the new class A felony of Aggravated Burglary in the First Degree is a better approach with a more appropriate penalty.
- The bill makes Burglary in the Second Degree apply only to the entry of a "dwelling," eliminates the element "at night" and has moved the occupied dwelling section to the Burglary in the First Degree statute. The Division's proposal would make entry into an occupied dwelling Burglary in the First Degree, a class B felony.
- With regard to the persistent offender statutes, the Division supports the provisions to remove the offending *Bell* language from the statutes and to add the crime of Burglary to the persistent dangerous felony offender section. The bill does not, however, remove all of the obfuscating language in the persistent offender statutes, which the Division believes is imperative and which the Division's bill addresses.
- The Division also supports the proposal to provide a domestic violence victim advocate in every courthouse and the provision of adequate facilities and services for inmates with mental health issues and for the treatment of sex offenders. Finally, the Division also would strongly support Section 28 of the bill, which corrects a problem with the existing DUI statutes to allow the use in court of blood alcohol reports obtained at a hospital.

5. An Act Concerning Reform of Criminal Sentencing, Parole Release, Community Supervision and Death Penalty Appeal Procedures.

- The bill would leave the determination of character and public interest determination to the jury/factfinder. The Division does not see this as an effective way to address the Bell decision. It would not facilitate the use of the persistent offender laws and, in fact, would likely make them more difficult to impose.
- The bill creates a new definition of "dangerous felony," and imposes a penalty of life imprisonment without the possibility of release for a third dangerous felony. This is a modified "three strikes and you're out" proposal. A better approach might be to add a "two-strikes" provision, such as a mandatory minimum sentence of twenty-five years for a second dangerous felony conviction.
- With regard to the provisions for increasing mandatory minimum sentences for Burglary, the Division believes the revisions that we have submitted are more comprehensive and include a 10-year mandatory minimum for entering an occupied dwelling when armed, or entering with intent to commit a felony against a non-participant in the dwelling. For Burglary in the Second Degree and

Burglary in the Third Degree, the Division would elevate a second offense to the next higher degree of felony.

- The Division has reservations about Section 16 of the bill, which would give a presumption of reasonable belief to use deadly physical force in defense against home invasion. We certainly can understand the reasoning behind this proposal, but we would urge the Committee to examine all ramifications very carefully and to proceed with extreme caution in this area. Section 53a-20 of the General Statutes provides for the use of physical force and deadly physical force in defense of premises and seems to have worked well for many years.
- The Division supports the underlying reasoning behind Sections 17 and 18 of the bill. The never-ending series of appeals in criminal cases, particularly capital cases, amount nothing less than punishment for the innocent victims of crime and their survivors. While we strongly support the concept of setting time frames in capital cases and bringing an end to the never-ending flood of totally unfounded petitions for writs of habeas corpus, we do have concerns that the time frames as currently included in the bill are unrealistic. We would stand ready to assist in addressing this issue and working with the Committee to develop more reasonable time frames. The Division also has proposed comprehensive habeas reform and would encourage the Committee to facilitate discussions among all of the concerned parties to bring about effective action on this important issue.

6. An Act Concerning Home Invasion. This bill would make a burglary into an occupied dwelling, whether or not the offender knew it was occupied, a class A felony.

7. An Act Concerning Criminal Sentencing and the Parole Process.

- The bill would establish a "three strikes" system without a significant "two strikes" predecessor. Whether a third conviction for Burglary in the Second Degree or Stalking should result in life imprisonment is a policy decision for the legislature to make. However, the Division believes that should the legislature deem that appropriate, it also provide for a strong "second strike," i.e., mandatory minimum sentences for a second conviction.
- The bill retains special parole as part of the sentence the court can impose on a persistent dangerous sexual offender. A better approach would be to make a period of probation part of the sentence in that it would not run out the sentence that is hanging over the offender, as special parole does.
- The Division supports the expansion of the Board of Pardons and Paroles. The bill would increase number of members on the board. The Division believes the Committee should proceed with caution on any proposal to shift the administration of the Board from one agency to another, taking into account the overall mission and focus of the agencies involved.
- Section 14 of the bill would require the prosecutor and court at any sentencing hearing to make a statement on the record regarding the offender's history, character and nature of the criminal conduct involved. From a practical point of view, we would recommend that if this step were taken it be limited to cases

where the sentence is more than two years since they are the only ones that qualify for parole eligibility.

8. An Act Strengthening Criminal Laws Concerning Persistent Offenders, Burglary, the Justifiable Use of Deadly Force and Parole Release:

- The Division has presented a comprehensive proposal (Agenda Item No. 2) concerning the changes to the Burglary statutes proposed in this bill.
- The Division has reservations about Section 12 of the bill that provides for a presumption of reasonable belief to use deadly physical force. Again, we can understand the reasoning behind this idea, but we would urge the Committee to examine all ramifications very carefully and to proceed with extreme caution in this area. We would also note, as stated above, the existing provisions of Section 53a-20 of the General Statutes.
- The Division also would recommend that the establishment of any new or expanded offender registry, such as that envisioned in Section 13 of this proposal, be accompanied by sufficient resources. This is especially important given the expanded responsibilities placed upon the Department of Public Safety concerning the Sex Offender Registry. both as a result of actions taken by this Legislature and the Federal government.

9. An Act Concerning the Board of Pardons and Paroles and Reentry Furloughs. The Division of Criminal Justice takes no position on this bill.

10. An Act Concerning Persistent Burglary Offenders. This bill would create a new category of persistent burglary offender that would include those who are charged but not convicted of subsequent offenses. The Division of Criminal Justice believes the comprehensive proposal we have submitted (Agenda Item No. 2) is the preferable approach.

11. An Act Concerning Information Provided to the Board of Pardons and Paroles. The Division of Criminal Justice supports the concepts incorporated in this bill and, in fact, has been working with the Board of Pardons and Paroles, the Connecticut State Police and municipal police departments and other appropriate agencies to address what is proposed.

12. An Act Concerning the Release of a Person on Parole or Other Supervised Community Release. The Division of Criminal Justice has submitted (Agenda Item No. 2) a comprehensive revision of the Burglary statutes incorporating what is proposed in Section 3 of this bill. The Division supports the concept of Section 1 and is, in fact, in the process of implementing with the appropriate agencies what is proposed.

13. An Act Concerning Nursing and Mental Health Staff at Correctional Facilities and Other State-Operated Institutions. The Division supports the provisions of the bill to provide adequate mental health staffing in the Department of Correction.

14. An Act Concerning the Justifiable Use of Deadly Force in the Defense of Premises. The Division has reservations about this bill, although we can certainly understand the

reasoning behind it. We would urge the Committee to examine all ramifications very carefully and to proceed with extreme caution in this area. We would also note, as stated previously, the existing provisions of Section 53a-20 of the General Statutes.

15. An Act Concerning the Supervision of Certain Offenders. The Division supports the concept of this bill and recognizes the need to provide rehabilitative services to appropriate offenders, particularly younger offenders.

The Division thanks the Committee for this opportunity to provide our input into this process and we stand ready to answer any questions or provide any additional information the Committee might desire.

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Testimony of Connecticut Sexual Assault Crisis Services, Inc.
Nancy Kushins, Executive Director
Connecticut Sexual Assault Crisis Services, Inc.

Regarding Criminal Justice Reform Proposals 1-15
Submitted to the Judiciary Committee
Public Hearing, November 27, 2007

Senator McDonald, Representative Lawlor, and members of the Judiciary Committee, my name is Nancy Kushins and I am the Executive Director of Connecticut Sexual Assault Crisis Services, Inc. (CONNSACS). Founded in 1983, CONNSACS is the statewide association of nine community-based rape crisis centers in Connecticut. Our mission is to end sexual violence and ensure high quality, comprehensive and culturally competent sexual assault victim services.

During fiscal year 2006-2007, CONNSACS' community-based program staff and volunteers provided services to 4,326 sexual assault victims and their families. Our member centers also provided risk reduction and prevention education to nearly 34,000 children and youth and to over 5,000 members of the general public and training for close to 2,500 professionals, including law enforcement personnel.

The Judiciary Committee is to be commended for their concerns related to victim and community safety, as well as for their commitment to holding offenders accountable. CONNSACS supports these efforts. We appreciate the opportunity to provide input. Our primary recommendation is to continue to proceed carefully while considering changes in order examine and avoid unintended consequences that could have a negative impact on victims.

I am submitting specific testimony on behalf of CONNSACS with respect to the following: *Proposal 4, An Act Concerning Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources.*

CONNSACS strongly supports Section 12 of Proposal 4. It has been clearly demonstrated that technology deficits have severely limited the ability of various state agencies to

(over)

communicate with one another. The development of a system of communication among agencies, departments, boards and commissions will not only enhance the criminal justice system's efficiency, it will also benefit victims. As CONNSACS has learned in our

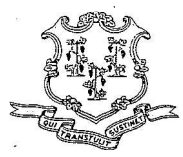
longstanding and recently expanded role in the Sex Offender Supervision Units, the collaboration and exchange of information between and among Probation Officers, Sex Offender Treatment Providers and Victim Advocates has improved each of our operations and our effectiveness with the clients we serve.

Section 12 also references the development of a Criminal Justice Information System Commission and defines its membership. We would recommend that consideration be given to having a victim services/advocacy organization also serve as a member, such as the Office of Victim Services or the Office of the State Victim Advocate.

Thank you.

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH



J. Robert Galvin, M.D., M.P.H.
Commissioner

M. Jodi Rell
Governor

TESTIMONY PRESENTED BEFORE THE JOINT COMMITTEE ON JUDICIARY
November 27, 2007

Dick Edmonds, Public Health Initiatives Branch, (860) 509-7655

Criminal Justice Reform Proposal #13 - An Act Concerning Nursing Staff at Correctional Facilities and Other State-Operated Institutions.

The Department of Public Health provides the following information with regard to Proposal #13, An Act Concerning Nursing Staff at Correctional Facilities and Other State-Operated Institutions.

This legislation would provide funding for the Department of Public Health to establish and administer a loan forgiveness program for registered nurse; provides funding for the purposes of accelerated re-licensure of nurses who have left the workforce and whose licenses have expired; and funding for developing and implementing an advertising campaign to recruit to work at state-operated institutions.

Should the Department of Public Health be appropriated the sum of one million five hundred thousand dollars to establish this a loan forgiveness program for registered nurses, funding will be utilized to adopt regulations to establish procedures to administer this program; and develop, negotiate and monitor an estimated 30 contracts associated with the loan forgiveness program annually for a period of five years. In addition, should the Department be appropriated the sum of two hundred thousand for the purposes of developing and implementing an advertising campaign to recruit nurses to work at state operated institutions. The Department will utilize the funding to create media promotional campaigns, which will highlight the program along with coordinating recruitment efforts with Schools of Medicine, Nursing Programs, Community College programs, academia leadership, state agencies, and national accreditation programs. There will be an administrative impact to the department that is not budgeted for either initiative, particularly in the area of staff time to implement the requirements.

Should the Department of Public Health be appropriated the sum of two hundred fifty thousand dollars for the purposes of accelerated re-licensure of nurses who have left the workforce and whose licenses have expired. The Department has outlined two potential options for the use of this funding as follows:

- The regulations of Connecticut State Agencies outline the process for reinstatement of a lapsed license. Nurses who have been out of the active clinical practice of nursing for more than three years are required to take a refresher program. Nurses who have been out of the active clinical practice of nursing for more than five years are required to re-take the licensure examination in addition to the refresher course. The cost of a refresher program is approximately $2,200.00, including uniforms and equipment. The cost of retaking the licensure examination is $200.00. If this funding were to be used to assist nurses in completing a refresher course and the examination, the $250,000.00 would provide funding to assist approximately 100 nurses to get re-licensed.
- The second option is to provide funding to educational institutions to offer additional refresher courses.

The department supports efforts to enhance the availability of nurses in the workforce, including at state facilities. The nursing shortage is an issue that has generated much discussion among the members of the Governor's Hospital Task Force, and is the focus of several draft recommendations by the Workforce Subcommittee. While the final recommendations will not be provided to the Governor before the end of 2007, the draft recommendations are available on the OHCA website at the following URL: http://www.ct.gov/ohca/cwp/view.asp?a=3192&q=393022

It is also important to note that in many of the areas above, there are other state agencies that may have similar programs already in place, specifically in the areas of loan repayment and recruitment. Thank you for your consideration of the Department's views on this bill.

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November 20, 2007

TO: Senator Andrew McDonald and Representative Michael Lawlor

FROM: Lead staff: Michael Murphy and Sarah Bourne;
Contributing staff: Joan Soulsby, Linda Miller, Spencer Cain, and Felix Planas;
Contributing/Review: Alan Calandro

SUBJECT: Fiscal Estimates for proposals regarding Criminal Justice

You wanted to know the fiscal impact of fourteen proposals submitted to the Judiciary Committee in response to its informational hearing held on September 11, 2007.

A fiscal analysis of each proposal is provided in the following pages, along with a summary comparison of the proposals. Note that several of the proposals expand the scope of crimes that subject offenders to mandatory minimum prison sentences and/or lengthen the mandatory minimum prison sentence terms in place under current law. The fiscal analyses of these provisions assume that the mandatory minimum prison terms imposed under the proposals are served in full.

Please don't hesitate to contact us if you have any further questions in this regard.

Summary Comparison of the Proposals

Proposal #1 enhances the service of warrants for violations of probation, which could increase the cost of incarceration.

Proposal #2 establishes mandatory minimum prison sentences for certain burglary offenses, which extends the period of incarceration for about 230 offenders. The average annual cost of incarceration is $9.6 million during the extended lengths of sentence.

Proposal #3 establishes mandatory minimum prison sentences for burglary offenses involving dwellings, which extends the period of incarceration for about 874 offenders. The average annual cost of incarceration is $36.3 million over the extended lengths of sentence. In addition, this proposal subjects 224 offenders who burglarize buildings other than dwellings to lengthier periods of incarceration and probation by reclassifying this offense. The associated, average annual cost of incarceration is $9.3 million.

Proposal #4 reclassifies certain burglary offenses and expands the use of mandatory minimum prison sentences, thereby subjecting about 702 offenders to lengthier periods of incarceration. The average annual cost of incarceration is $27 million over the extended lengths of sentence. This proposal expands the state's criminal justice information technology system at an estimated, one-time cost of $50 million - $100 million. The proposal authorizes bond funds to build two correctional facilities; the total debt service to build these facilities is about $400 million over twenty years and about $130.5 million to operate them. This proposal requires the establishment of 200 residential treatment beds for sex offenders at an annual cost of $15 - $20 million. It expands the resources of the Judicial Department's Court Support Services Division to enforce warrants for violations of probation, which costs about $10.8 million annually. The proposal has several other initiatives that, in aggregate, cost about $5 million each year.

Proposal #5 increases or establishes mandatory minimum prison sentences for certain burglary offenses, thereby subjecting about 50 offenders to lengthier periods of incarceration. The average annual cost of incarceration is about $1.6 million over the extended lengths of sentence. This proposal expands the use of GPS devices to track certain offenders on probation, which costs about $950,000 each year. This proposal establishes a "three strikes and you're out" law for certain offenses that would increase the prison population by an estimated 5,356 inmates over the next 52 years: this provision would cost the court system about $5 million annually upon passage and beginning nine years from passage, cost the prison system an additional $4.28 million (FY 08 $s) each year.

Proposal #6 establishes a mandatory minimum prison sentence for certain burglary offenses involving dwellings, which extends the period of incarceration for about 702 offenders. The average annual cost of incarceration is $29.2 million during the extended lengths of sentence.

Proposal #7 establishes a mandatory minimum prison sentence for any person convicted of burglary in the second degree, which extends the period of incarceration for about 180 offenders. The average annual cost of incarceration is $7.5 million during the extended lengths of sentence. It also expands the mandatory minimum prison sentence for burglary in the first degree, which extends the period of incarceration for about 30 offenders. The average annual cost of incarceration is $773,760 during the extended lengths of sentence. This proposal costs about $20 million annually to expand the use of GPS devices to monitor offenders on probation or parole. This proposal establishes a "three strikes and you're out" law for certain offenses that would increase the prison population by an estimated 5,262 inmates over the next 52 years: this provision would cost the court system about $5 million annually upon passage and beginning nine years from passage, cost the prison system an additional $4.28 million (FY 08 $s) each year.

Proposal #8 increases or establishes mandatory minimum prison sentences for certain burglary offenses, thereby subjecting about 50 offenders to lengthier periods of incarceration. The average annual cost of incarceration is about $1.6 million over the extended lengths of sentence. This proposal expands the use of GPS devices to track certain offenders on probation, which costs about $950,000 each year. This proposal would also cost about $2 million to establish a parole registry. This proposal establishes a "three strikes and you're out" law for certain offenses that would increase the prison population by an estimated 9,828 inmates over the next 52 years: this provision would cost the court system about $5 million annually upon passage and beginning nine years from passage, cost the prison system an additional $7.9 million (FY 08 $s) each year.

Proposal #9 changes members of the Board of Pardons and Paroles to full-time staff (annual cost of $1.9 million) and restricts the use of re-entry furloughs (annual cost of $2.3 million).

Proposal #10 establishes a persistent burglary offender law that would subject 206 offenders to lengthier periods of incarceration. The average annual cost of incarceration is $8.6 million over the lengths of sentence.

Proposal #11 requires copies of pre-sentence investigations and police reports to be sent to the Board of Pardons and Paroles, at an annual cost of less than $50,000.

Proposal #12 requires psychiatric exams to be conducted for certain offenders eligible for parole release, at an annual cost estimated to be $232,000.

Proposal #13 appropriates (FY 09) $1.95 million to enhance the training and recruitment of registered nurses.

Proposal #14 makes changes that have no fiscal impact.

Proposal #1, AAC the Participation of Probation Officers in Warrant Squads

The bill makes clear that the state indemnifies probation officers under certain conditions, thereby permitting probation officers to join warrant squads around the state with U.S. Marshals, Parole Officers, State Police, and others. These agencies would in turn assist probation officers in the service of their warrants. Probation officers already assigned exclusively to serve warrants could accommodate any workload increase under the bill within the normal course of their duties and at no additional cost. To the extent that the bill increases the number of warrants served and subsequent readmissions to prison, a potential cost for incarceration exists.

Proposal #2, AAC Burglary and Persistent Offenders

Mandatory Minimum Prison Sentences / Offense Reclassification

Section 1 expands the crime of burglary in the first degree, which is a class "B" felony, to include criminal actions that current law classifies as burglary in the second degree, which is a class "C" felony. It also establishes a mandatory minimum prison term of five years for these offenders.

In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section[1]. The average time served for this category of inmates is 2.08 years[2]. Increasing the penalty and establishing a 5 year mandatory minimum (2.92 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $7.5 million annually, over the length of sentence[3].

Reclassification of these offenses increases the potential term of probation supervision that may be imposed on these offenders in addition to imprisonment. On average, the probation term for burglary in the first degree is 20% longer than burglary in the second degree. There are currently 251 offenders under direct probation supervision in the community who have been found guilty of burglary in the second degree. An 18% increase in their probation terms results in 45 additional probation clients. In order to provide a high level of supervision for these offenders, one additional Adult Probation Officer would be needed at an annual cost of about $150,000, including salary, fringe benefits, expenses, and contracted services (e.g., drug abuse treatment).

Section 2 establishes the crime of aggravated burglary in the first degree, which includes armed burglary. It makes this crime a class "A" felony, punishable by 20 years to life imprisonment, and provides for a mandatory minimum prison sentence of 10 years.

In FY 07 there were approximately 50 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years[4]. Increasing the penalty and establishing a 10 year mandatory minimum (5.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $2.08 million annually, over the length of sentence[5].

There are 25 offenders under active probation supervision who are guilty of burglary in the first degree involving bodily injury or deadly weapon. Given this relatively low

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[1] This estimate does not include additional offenders under 1(a)(5) for which an accomplice is specified. The number of burglaries with accomplices is unknown, but would potentially increase the cost of this estimate.
[2] Note that average time served reflects parole eligibility at 50% rather than 85%.
[3] 180 inmates * 2.92 years * $41,600 (average cost of incarceration) / 2.92.
[4] Note that average time served reflects parole eligibility at 50% rather than 85%.
[5] 50 inmates * 5.62 years * $41,600 (average cost of incarceration) / 5.62.

figure, any cost to adult probation for extended probation terms is anticipated to be minimal under this provision.

Graduated Penalties

Sections 3 and 4 establish graduated penalties for repeat offenders of burglary in the second and third degrees.

In FY 07 there were approximately 3 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years[6]. Increasing the penalty and establishing a 3 year mandatory minimum (1.8 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $124,800 annually, over the length of sentence[7]. Any cost to adult probation under this provision is anticipated to be minimal given the relatively few offenders involved.

Of the offenders sentenced for burglary in FY 07, 206 (21%) had at least 2 prior sentences of burglary[8]. The repeat offenders would be eligible for increased sentences, and each additional year an inmate is incarcerated the cost to the state increases by $41,600. To the extent that enhanced penalties result in lengthier probation terms for future offenders, the cost to the state increases by roughly $3,700 each year.

Parole Eligibility

Section 5 makes any person convicted of burglary in the first degree (as amended by the bill) or the bill's crime of aggravated burglary in the first degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Persistent Offenders

Sections 7 – 13 expand the crimes that trigger the persistent offender laws. Currently there are approximately 40 offenders in DOC custody classified as persistent offenders. It is unknown how many of the 40 persistent offenders are a persistent dangerous felony offender, a persistent serious felony offender, or a persistent felony offender. It is estimated that expanding the persistent offender laws could impact up to 50 individuals per year. Data on the average time served for the offenders is not readily available; however, these individuals could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately $2.08 million annually.

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[6] Note that average time served reflects parole eligibility at 50% rather than 85%, and average time served for burglary in the third degree is not broken out into 53a-103 and 53a-103a.
[7] 3 inmates * 1.8 years * $41,600 (average cost of incarceration).
[8] Information on the length of sentence for these individuals is not readily available.

Proposal #3, AAC Home Invasion Protection

Mandatory Minimum Prison Sentences

Section 1 enhances the criminal penalty for armed burglary of a dwelling. Current law provides for a mandatory prison sentence of 5 years for these convicted offenders; this section increases the mandatory minimum prison sentence to 25 years.

In FY 07 there were approximately 50 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years. Establishing a mandatory minimum sentence of 25 years (20.62 years longer than the current average time served) for similar offenders in the future could cost the state up to $2.08 million annually, over the length of sentence[9].

Section 2 enhances the criminal penalty for burglary of a dwelling that involves the use or threatened use of physical force by a perpetrator against any person lawfully present in the building. Current law provides no mandatory minimum prison sentence for this crime; this section establishes a mandatory minimum prison sentence of 20 years.

In FY 07 there were approximately 122 individuals with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 3.23 years. Establishing a mandatory minimum of 20 years (16.77 years longer than the current average time served) for similar offenders in the future could cost the state up to $5.07 million annually, over the length of sentence[10].

Section 3 enhances the criminal penalty for burglary of an occupied dwelling that does not involve either weapons or physical violence. Current law does not provide for a mandatory minimum prison sentence; this section of the bill establishes a mandatory minimum prison sentence of 10 years.

In FY 07 there were approximately 90 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.65 years. Establishing a mandatory minimum of 10 years (8.35 years longer than the current average time served) for similar offenders in the future could cost the state up to $3.74 million annually, over the length of sentence[11].

Section 4 enhances the criminal penalty for burglary of an unoccupied dwelling. Current law provides for no mandatory minimum prison sentence; this section establishes a mandatory minimum prison sentence of 5 years.

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[9] 50 inmates * 20.62 years * $41,600 (average cost of incarceration) / 20.62. Note that average time served reflects parole eligibility at 50%, rather than 85%.
[10] 122 inmates * 16.77 years * $41,600 (average cost of incarceration) / 16.77. Note that average time served reflects parole eligibility at 50%, rather than 85%.
[11] 90 inmates * 8.35 years * $41,600 (average cost of incarceration) / 8.35. Note that average time served reflects parole eligibility at 50%, rather than 85%.

In FY 07 there were approximately 612 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years. Establishing a mandatory minimum of 5 years (3.8 years longer than the current average time served) for similar offenders in the future could cost the state up to $25.4 million annually, over the length of sentence.[12]

Section 10 increases from 1 to 2 years the mandatory minimum sentence for an offender who commits burglary in the second degree with a firearm. In FY 07 there was only 1 individual convicted of this crime, therefore the cost to the state to increase the penalty is estimated at about $41,600 per year.

Parole Eligibility

Section 5 makes any person convicted of the new crime of home invasion ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Section 6 prohibits offenders convicted of home invasion from eligibility for any credit that would reduce their mandatory minimum prison sentences. It also prohibits these offenders from being eligible for any temporary leave, furlough or any other early release program.

It is unknown how many offenders annually would not be released across early release mechanisms as a result of the change. By not releasing a single offender (and assuming that on average each offender would be released approximately 25 days early) it is estimated that the cost to the state would be approximately $2,849[13], annually.

Offense Reclassification

Sections 9-10 enhance the penalty for burglary of any building other than a dwelling. These sections effectively raise the maximum prison sentence (from 5 to 10 years) that may be imposed on any person convicted of unlawfully entering or remaining in such a building with the intent to commit a crime.

In FY 07 there were approximately 224 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of individuals is 1.2 years (or 24% of the current maximum penalty). The estimated increased time served would be approximately 2.4 years (1.2 years longer than the current average time served) for these individuals. Increasing the sentence for similar offenders in the future could cost the state approximately $9.3 million annually, over the length of the sentence.[14]

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[12] 612 inmates * 3.8 years * $41,600 (average cost of incarceration) / 3.8. Note that average time served reflects parole eligibility at 50%, rather than 85%.
[13] 1 offender*25 days*$114 per day
[14] 224 * 1.2 * $41,600 / 1.2

Reclassification (from "D" to "C") of offenses involving burglaries of buildings (other than dwellings) increases the potential term of probation supervision that may be imposed on these offenders in addition to imprisonment. On average, the probation term for burglary in the second degree is 6% longer than burglary in the second degree. There are currently 1,289 offenders under direct probation supervision in the community who have been found guilty of burglary in the third degree. A 6% increase in their probation terms results in 76 additional probation clients. In order to provide a high level of supervision for these offenders, 1.5 (Full Time Equivalent) Adult Probation Officers would need to be added at an annual cost of about $250,000, including salary, fringe benefits, expenses, and contracted services (e.g., drug abuse treatment).

Proposal #4, AAC Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources

Mandatory Minimum Prison Sentences / Offense Reclassification

Section 1 expands the scope of burglary in the first degree to include certain offenses that current law classifies as burglary in the second degree, and provides for a mandatory term of imprisonment for any person convicted. In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 2.08 years[15]. Increasing the penalty and establishing a longer sentence (2.32 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $7.5 million annually, over the length of sentence[16].

Section 3 expands the scope of burglary in the second degree to include certain offenses that current law classifies as burglary in the third degree. In FY 07 there were approximately 522 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years[17]. Increasing the penalty and establishing a longer sentence (.9 years longer than the current average time served) for these offenders could cost the state an estimated $19.5 million annually, over the length of sentence[18].

Parole Eligibility

Section 4 makes any person convicted of the new crime of home invasion ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Persistent Offenders

Section 5 includes first degree burglary in the persistent offender statutes. **Sections 6 - 9** eliminate the factual finding currently required to trigger enhanced penalties under persistent offender laws. It is estimated that these changes will impact less than 50 individuals per year. Data on the average time served for this category of inmates is not readily available; however, these individuals could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately $2.08 million annually.

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[15] Note that average time served reflect parole eligibility at 50% rather than 85%.
[16] 180 inmates * 2.32 years * $41,600 (average cost of incarceration)/2.32.
[17] Note that average time served reflect parole eligibility at 50% rather than 85%.
[18] 522 inmates * .9 years * $41,600 (average cost of incarceration).

Nonviolent Offender Release Program

Section 11 allows the Commissioner of Correction, the chairperson of the Board of Pardons and Paroles, or the executive director of the Court Support Services Division of the Judicial Branch to apply to the sentencing court or judge for review of the sentence of any non-violent offense if said commissioner, chairperson or executive director believes that such offender could be more suitably supervised in the community. Any workload to apply to the sentencing court could be accommodated within budgeted resources.

Criminal Justice Information Technology

Section 12 requires OPM to develop SHIELD, a Criminal Justice Information System, to facilitate the immediate, seamless and comprehensive sharing of information between state entities involved in law enforcement and criminal justice. The cost to develop this new system is estimated at $50 million to $100 million.

The state currently operates an integrated criminal justice information system (CJIS)[19] that contains many of the requirements of SHIELD (see comparison in Appendix). The cost of CJIS development to date totals $44.8 million (not including operational costs). Although the manner of implementation of SHIELD is unclear at this time, it appears that CJIS would be expanded to accommodate the new requirements of SHIELD rather than developed as a new standalone system.

Bond Authorizations for New Prisons

Sections 13 and 15 authorize the issuance of up to $260 million in General Obligation (GO) bonds for the planning and construction of two correctional facility projects: (1) Section 13 authorizes up to $110 million for a 1,000 bed medium security correctional institution and (2) Section 15 authorizes up to $150 million for a 1,200 medical and mental health facility for persons committed to the custody of the Commissioner of Correction. The debt service cost to bond $260.0 million over 20 years, assuming a 5.0% interest rate, is $396.5 million.

The annual operating cost for these two facilities is estimated to be $130.5 million in total ($41.6 million for the 1,000 bed medium security prison and $88.9 million[20] for the 1,200 bed medical and mental health facility).

Agency Studies

Sections 17 and 18 require certain state agencies to conduct research on the feasibility of making information concerning parolees and probationers available to the public over the Internet and determine the number of persons released into the community on probation, parole or any other supervised release program who should be subject to electronic monitoring by the use of a global positioning system. The agencies would incur a

[19] CJIS is the organizational structure and umbrella administration for statewide criminal information system efforts. It is not a specific data system.

[20] The $88.9 million estimate is based upon the average cost of incarceration at Garner, which is $74,095 annually. If the new facility were to offer expanded services from that of Garner, the operational costs would be higher.

minimal (less than $50,000), one-time cost to conduct these studies and report to the Judiciary Committee by February 6, 2008, in accordance with the bill.

Violations of Probation

Section 19 requires the Court Support Services Division to prepare a quarterly report, and make available on the Internet information concerning all outstanding arrest warrants for violation of probation. The agency presently has this information available in electronic format. It is anticipated that the agency would incur a one-time cost of less than $10,000 to develop the necessary website. It would incur an annual cost, estimated to be less than $5,000, to maintain the website and program software needed to comply with this provision.

Section 20 requires the Judicial Branch to hire an additional twenty-five probation officers for purposes of executing arrest warrants for violation of probation. The annual budgetary cost of this requirement is $2.5 million, including salaries, fringe benefits and expenses. In addition, an initial cost of $400,000 would be incurred to pay for equipment, including the purchase of automobiles. This budget change would more than double the resources of the Court Support Services Division devoted exclusively to the service of warrants for violations of probation. As a result of this expansion, the prison population is anticipated to increase by more than 200 inmates on an annualized basis. The estimated, annual cost to the DOC is $8.32 million.

Domestic Violence Victim Advocacy

Section 21 requires the Judicial Branch to ensure that there is a domestic violence victim advocate available in each geographical area and judicial district courthouse (33 courts in total) to provide assistance to victims of domestic violence at court proceedings. At present, there are domestic violence victim advocates under contract, at an annual rate of $50,000 per court, in five of the eight geographical area courts that have domestic violence dockets. In order to expand coverage to every courthouse, the state would incur an annual contractual cost estimated to be $1.35 million (27 courts * $50,000).

Resources for the Board of Pardons and Paroles

Section 22 requires the Office of Victim Services (a Division within the Judicial Department) to assign two victim advocates to provide full-time assistance to victims who appear before a panel of the Board of Pardons and Paroles, including the submission of written statements to the panel in accordance with CGS 54-126a. The annual cost of this provision is estimated to be $165,000, including salaries, fringe benefits and other expenses. In addition, an initial cost of $7,000 would be incurred to pay for equipment.

Section 23 requires the Board of Pardons and Paroles to employ at least one forensic psychologist. It is estimated that the annual cost of employing a forensic psychologist is $112,140-$150,588 annually, including fringe benefits.

Sex Offender Treatment

Sections 24-25 require the Department of Correction and Court Support Services Division of the Judicial Department to contract for a total of two hundred beds in staff

secure residential sex offender treatment facilities. The annual contractual cost for these residential facilities is estimated to be $15 - $20 million.[21]

Nursing and Mental Health Staff Resources for DOC

Section 26 requires the Department of Correction to establish a special overtime staffing program for nurses and mental health staff to reduce the use of mandatory overtime. The information required to complete this analysis is not readily available at this time.

Section 27 requires the Department of Correction to fill all authorized positions for mental health staff that are currently vacant. The Department of Correction does not have any vacancies for mental health staff. However, the current contract with UCONN Health Center has 13 vacancies for mental health staff. The 10 positions are funded positions, and the annual salary for the 10 positions totals approximately $953,000.

Offender Re-Entry Programs

Section 29 appropriates (FY 09) funds, in the amount of $1.75 million, to state agencies to expand re-entry programs for offenders entering the community. At present, programs in New Haven and Hartford each receive about $500,000 annually from an appropriation to the Judicial Department; a program in Bridgeport receives $275,000 from an appropriation to the Department of Correction. The appropriations in this section would increase the amounts that each of the three programs receives to about $1 million in FY 09.

The FY 09 budget is currently $28.2 million under the statutory spending cap. This appropriation would put the budget within $26.45 of the spending cap limit. Exceeding the cap would require a declaration from the governor and a three-fifths vote of the legislature.

Spending Cap

Section 30 restates the Constitutional and statutory procedure for exceeding the state's spending cap on appropriations.

[21] On average, it is estimated that residential treatment facilities for sex offenders would cost $75,000 to $100,000 per slot. This cost is more than the average $25,000 cost for residential substance abuse treatment facilities primarily because of the following: (1) higher levels of clinical staff and services would be made available; (2) higher levels of security (hardware and staffing) would be used; and (3) medical services would be provided on site.

Proposal # 5, AAC Reform of Criminal Sentencing, Parole Release, Community Supervision and Death Penalty Appeal Procedures

Persistent Offenders

Section 2 expands the persistent dangerous felony offender statute to include burglary in the first or second degrees.

It is estimated that expanding the persistent dangerous felony statute to include burglary in the first or second degree will impact less than 50 individuals per year. Data on the average time served for this category of inmates is not readily available; however, similar individuals in the future could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately $2.08 million annually.

"Three Strikes"

Section 3 establishes a "three strikes and you're out" law that provides for a mandatory sentence of life imprisonment for any person who is convicted of a dangerous felony[22] after having been twice convicted and imprisoned for committing or attempting to commit dangerous felonies.

Over the past 5 years, of all inmates released from a facility, an average of 103 inmates per year had been convicted of a dangerous felony, and had two prior convictions for a dangerous felony. Assuming a similar trend was to continue, 103 inmates each year would be eligible for a sixty-year sentence under the provisions contained within the bill.

On average, these 103 offenders received a prison sentence of 8 years. The fiscal impact of the new policy would not occur until approximately 8 years after adoption, when the original inmates incarcerated under the bill would have been eligible for release. It is anticipated that on average (after the initial 8 years) the offender population will continue to grow at an estimated rate of 103 additional inmates per year, for 52 years, for a total of 5,356 additional inmates at the end of that time.[23] Each 103 additional offenders would cost approximately $4.28 million annually, over the increased length of sentence.[24]

These costs do not include additional facility space requirements. A new 1,000 bed high security prison facility costs approximately $110 million for construction.

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[22] Under the bill, "dangerous felony" means: (1) murder other than a capital felony; (2) manslaughter; (3) arson; (4) kidnapping; (5) robbery in the first or second degree; (6) robbery involving an occupied motor vehicle; (7) assault constituting a felony; (8) sexual assault in the first or third degree; (9) aggravated sexual assault in the first degree; (10) sexual assault in the third degree with a firearm; (11) burglary in the first or second degree; (12) stalking in the first degree; or (13) stealing a firearm.

[23] The average additional inmates per year does not take into account plea-bargaining changes, offenders living the entire 60 year period, or offenders who would qualify based on offenses committed in other jurisdictions.

[24] 103 offenders * $41,600 (average cost of incarceration).

An average of 103 inmates admitted to a correctional facility each year would be subject to life imprisonment under the bill. Based on this figure, it is estimated that 84 to 169 felony trials could be conducted each year under the bill.[25] In order to accommodate this increase in trials and subsequent habeas motions and appeals, it is estimated that 38 positions would need to be added to the Division of Criminal Justice and Public Defender Services Commission, at a total annual state cost of $5 million, including salaries, expenses, fringe benefits and other litigation costs. An initial cost of about $200,000 would also be incurred to purchase necessary equipment, including automobiles. The Judicial Department would incur annual costs, estimated to be less than $100,000, to provide services (e.g., jury fees, staff overtime, etc.) in support of the additional felony trials that are expected to take place under the bill.

Mandatory Minimum Prison Sentences

Section 4 increases the mandatory minimum prison sentence (from five to six years) for any person convicted of armed burglary in the first degree. It also establishes a mandatory minimum prison sentence of five years for any person convicted of burglary in the first degree involving the actual or attempted infliction of bodily injury on anyone.

In FY 07 there were approximately 20 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years[26]. Increasing the penalty for armed burglary in the 1st, and establishing a 6 year mandatory minimum (1.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $832,000 annually, over the length of sentence[27].

Additionally, there were approximately 30 individuals who would eligible for a mandatory minimum of 5 years. The average time served for this category of inmates is 4.38 years[28]. Increasing the penalty for unarmed burglary in the 1st (.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $773,760 over the portion of the years that the offenders would be incarcerated longer.

Section 5 establishes a mandatory minimum prison sentence of two years for any person convicted of burglary in the second degree.

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[25] This range assumes that 50% to 100% of the 103 additional inmates are sentenced to prison after a trial. In order to estimate the total number of trials (involving not only the 103 sentenced inmates but also any defendants found not guilty or whose cases are nolled prior to verdict), the conviction rate of Judicial District trials tried to conclusion, which is 61%, is used. The estimate of additional felony trials under the bill is thus calculated as follows: 51/0.61 = 84; 103/0.61 = 169. Note that the extent to which "three strikes" charges would ultimately be enforced through trial is uncertain. In practice, the use of plea bargaining could diminish the projected annual increase in the number of trials.
[26] Note that average time served reflects parole eligibility at 50% rather than 85%.
[27] 20 inmates * 1.62 years * $41,600 (average cost of incarceration).
[28] Average time served for 53a-101 and 53a-101a is not broken out separately.

In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 2.08 years[29]. Since the average time served is longer than the mandatory minimum, increasing the mandatory minimum will not impact the sentence length for a portion of the offenders. To the extent that certain offenders are not serving at least 2 years, it would cost the state an additional $41,600 per year, per offender.

Section 6 increases the mandatory minimum prison sentence (from one to three years) for any person convicted of burglary in the second degree with a firearm.

In FY 07 there was only 1 individual sentenced with a burglary offense who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.64 years[30]. Increasing the penalty (1.36 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $56,576 annually, over the length of the sentence[31].

Section 7 establishes a mandatory minimum prison sentence of one year for any person convicted of burglary in the third degree.

In FY 07 there were approximately 746 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years[32]. Since the average time served is longer than the mandatory minimum, increasing the mandatory minimum will not impact the sentence length for a portion of the offenders. To the extent that certain offenders are not serving at least 1 year, it would cost the state an additional $41,600 per year, per offender.

Section 8 increases the mandatory minimum prison sentence (from one to two years) for any person convicted of burglary in the third degree with a firearm.

In FY 07 there were approximately 3 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years[33]. Increasing the penalty (.8 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $99,840 annually, over the length of the sentence[34].

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[29] Note that average time served reflects parole eligibility at 50% rather than 85%.
[30] Note that average time served reflects parole eligibility at 50% rather than 85%.
[31] 1 inmate*1.36*$41,600 (average cost of incarceration).
[32] Note that average time served reflects parole eligibility at 50% rather than 85%.
[33] Note that average time served reflects parole eligibility at 50% rather than 85%, and the average time served for 53a-103 and 53a-103a are not reflected separately.
[34] 1 inmate*1.36*$41,600 (average cost of incarceration).

Parole Eligibility

Section 9 makes any person convicted of burglary in the second and third degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

GPS

Section 11 requires use of the global positioning system (GPS) for any person sentenced to probation or conditional discharge for first or second degree burglary.

As of October 2, 2007, there were 392 offenders under probation supervision in the community who were convicted of either first degree (39 offenders) or second degree (353 offenders) burglary; seven of these offenders are presently under electronic monitoring via Radio Frequency devices, which cost $1,168 annually per offender.

Each year on average, there are no offenders charged with first degree burglary and less than five offenders charged with second degree burglary who receive a sentence of conditional discharge. Assuming that these offenders are placed under supervision for the same period of time as those offenders sentenced to probation, this provision in the bill would increase by about 30 (4 sentenced offenders * 6 years supervision) the number of clients under supervision of the Court Support Services Division and subject to monitoring by GPS.

This section would extend electronic monitoring through the use of GPS devices to about 400 more offenders (approximately 390 probationers + 30 offenders under conditional discharge) under community supervision by the Court Support Services Division. The annual, contractual cost to provide passive GPS monitoring is $2,354 per client. In total, the contractual cost is estimated to be $941,600 per year (400 offenders * $2,354) under the bill. This provision could also result in a cost for additional staffing to handle the workload associated with monitoring offenders via GPS.

Death Penalty

Sections 13-15 place stricter timelines on the imposition of the death penalty. By reducing the period of time from imposition of the death penalty sentence to actual administration of it, this bill could yield state savings by decreasing costs associated with protracted litigation and lengthier periods of incarceration.

Proposal # 6, AAC Occupied Home Invasion

Mandatory Minimum Prison Sentences

The bill establishes a new crime of occupied home invasion and makes it a class "A" felony, which carries a mandatory minimum prison sentence of 10 years[35] rather than 1-10 years, as provided for under current law (current law designates such an offense as burglary in the second degree, which is a class "C" felony). The bill also requires any person convicted of the new crime of occupied home invasion to serve 85% of the prison sentence before the offender is eligible for parole.

In FY 07 there were approximately 702 inmates sentenced with burglary offenses that could have been eligible for an increased sentence under the new crime. The average time served for this category of inmates is 1.65 years[36]. Assuming a similar number of burglary offenses occur in the future, the cost of creating a new crime of occupied home invasion, with a mandatory minimum of 10 years (8.35 years longer than the current average time served) is estimated to be $29.2 million annually[37].

Parole Eligibility

The bill makes any person convicted of the bill's crime of occupied home invasion ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Persistent Offenders

Additionally, the bill subjects any person convicted of occupied home invasion to enhanced criminal penalties for persistent dangerous felony offenders.

It is estimated that expanding the persistent dangerous felony statute to include occupied home invasion will impact less than 50 individuals per year. Data on the average time served for this category of inmates is not readily available; however, similar individuals in the future could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately $2.08 million annually.

The bill limits the enhanced penalty for persistent dangerous felony offenders to any person convicted of two (rather than one) predicate crime. It also allows a judge to strike a previous offense when sentencing any persistent dangerous felony offender. The

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[35] The minimum statutory term of imprisonment for a class "A" felony is ten years. CGS 53a-29 prohibits the court from imposing a sentence of conditional discharge (suspended sentence) or probation upon conviction of any class "A" felony, which effectively establishes a mandatory minimum prison sentence of ten years.

[36] The average time served reflects eligibility of parole at 50%, rather than 85%.

[37] 702 inmates * 8.35 * $41,600 (average cost of incarceration) / 8.35.

manner and extent to which judges will exercise this discretion, and the associated fiscal impact, are unknown.

Proposal # 7, AAC Criminal Sentencing and the Parole Process

"Three Strikes"

Section 1 establishes a "three strikes and you're out" law that provides for a mandatory sentence of life imprisonment for any person who is convicted of certain offenses[38] after having been twice convicted and imprisoned for committing or attempting to commit the offenses listed in this section.

Over the past 5 years, of all inmates released from a facility, an average of 101 inmates per year had been convicted of a dangerous felony, and had two prior convictions for a dangerous felony. Assuming a similar trend was to continue, the 101 inmates would be eligible for a sixty-year sentence under the provisions contained within the bill.

On average, these past 101 offenders received a prison sentence of 7.9 years. The fiscal impact of the new policy would not occur until approximately 7.9 years after adoption, when the original inmates incarcerated under the bill would have been eligible for release. It is anticipated that on average (after the initial 7.9 years) the offender population will continue to grow at a rate of 101 additional inmates per year, for 52.1 years, for a total of 5,262 additional inmates[39]. Each 101 additional offenders would cost approximately $4.2 million annually, over the increased length of sentence[40].

These costs do not include additional facility space requirements. A new 1,000 bed high security prison facility costs approximately $110 million for construction.

An average of 101 inmates admitted to a correctional facility each year would be subject to life imprisonment under the bill. Based on this figure, it is estimated that 82 to 164 felony trials would be conducted each year under the bill.[41] In order to accommodate this increase in trials and subsequent habeas motions and appeals, it is estimated that 38 positions would need to be added to the Division of Criminal Justice and Public Defender

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[38] These offenses include: (1) manslaughter; (2) arson; (3) kidnapping; (4) robbery in the first or second degree; (5) robbery involving an occupied motor vehicle; (6) assault constituting a felony; (7) sexual assault in the first or third degree; (8) aggravated sexual assault in the first degree; (9) sexual assault in the third degree with a firearm; (10) burglary in the first or second degree; (11) stalking in the first degree; and (12) stealing a firearm.

[39] The average additional inmates per year does not take into account plea-bargaining changes, offenders living the entire 60 year period, or offenders who would qualify based on offenses committed in other jurisdictions.

[40] 101 offenders * $41,600 (average cost of incarceration).

[41] This range assumes that 50% to 100% of the 101 additional inmates are sentenced to prison after a trial. In order to estimate the total number of trials (involving not only the 101 sentenced inmates but also any defendants found not guilty or whose cases are nolled prior to verdict), the conviction rate of Judicial District trials tried to conclusion, which is 61%, is used. The estimate of additional felony trials under the bill is thus calculated as follows: 50/0.61 = 82; 101/0.61 = 164. Note that the extent to which "three strikes" charges would ultimately be enforced through trial is uncertain. In practice, the use of plea bargaining could diminish the projected annual increase in the number of trials.

Services Commission, at a total annual state cost of $5 million, including salaries, expenses, fringe benefits and other litigation costs. An initial cost of about $200,000 would also be incurred to purchase necessary equipment, including automobiles. The Judicial Department would incur annual costs, estimated to be less than $100,000, to provide services (e.g., jury fees, staff overtime, etc.) in support of the additional felony trials that are expected to take place under the bill.

Mandatory Minimum Prison Sentences

Section 7 expands the mandatory minimum prison sentence of five years for burglary in the first degree to include any such offenses that involve the actual or attempted infliction of bodily injury on anyone.

In FY 07 there were approximately 30 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years[42]. Increasing the penalty and establishing a 5 year mandatory minimum (.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $773,760 annually, over the length of sentence[43].

Section 8 establishes a mandatory minimum prison sentence of five years for any person convicted of burglary in the second degree.

In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 2.08 years[44]. Increasing the penalty and establishing a 5 year mandatory minimum (2.92 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $7.5 million annually, over the length of sentence[45].

Section 9 increases the mandatory minimum prison sentence (from one to five years) for any person convicted of burglary in the second degree with a firearm.

In FY 07 there was approximately 1 individual sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.64 years[46]. Increasing the penalty and establishing a 5 year mandatory minimum (3.36 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $139,776 annually, over the length of sentence[47].

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[42] Note that average time served reflect parole eligibility at 50% rather than 85%.
[43] 30 inmates * .62 years * $41,600 (average cost of incarceration).
[44] Note that average time served reflect parole eligibility at 50% rather than 85%.
[45] 180 inmates * 2.92 years * $41,600 (average cost of incarceration) / 2.92.
[46] Note that average time served reflect parole eligibility at 50% rather than 85%.
[47] 1 inmate * 3.36 years * $41,600 (average cost of incarceration).

Parole Eligibility

Section 10 makes any person convicted of burglary in the first degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

Board of Pardons and Paroles: Administration & Membership

Sections 11 and 12 move the Board of Pardons and Paroles from the Department of Correction to the Department of Public Safety. The FY 08 appropriation for the Board of Pardons and Paroles is approximately $5.0 million. It is estimated that transferring the parole function to DPS would cost between $5.0 and $6.0 million (up to a $1 million increase as a result of transfer, which would necessitate additional staffing and space).

Section 11 also increases (from thirteen to twenty) the number of members of the Board of Pardons and Paroles. In FY 07 the cost for the 13 board members was approximately $69,100, or $5,314 per member. Increasing the number of board members would cost approximately $106,280[48] (an increase of $37,180 over current costs).

Board of Pardons and Paroles: Offender Files

Section 13 prohibits the Board of Pardons and Paroles from conducting any parole hearing for a convicted offender until it possesses a complete file on the prisoner. The section specifies that a complete file must include, but is not limited to, copies of sentencing hearing transcripts and pre-sentence investigation reports. Any cost to provide documents under this section is anticipated to be less than $50,000 annually.

Local Police Authorities

Section 15 requires a person convicted of any crime listed in Section 1 of this bill, upon release from the custody of the Commissioner of Correction, to report to the local police authority (the municipal police department or state police troop having jurisdiction for the town) in the town in which the offender resides and submit to the taking of a photograph by the police authority. This provision would result in a minimal cost to municipalities.

GPS

Section 16 requires a person convicted of any crime listed in Section 1 of this bill, who is released into the community on probation, parole or any other community release program, to be subject to electronic monitoring via the global positioning system (GPS).

Probation Impact

As of October 2, 2007, there were 8,181 offenders under probation supervision in the community who were convicted of at least one of the statutes listed in this proposal; 130 of these offenders are presently under electronic monitoring via Radio Frequency devices, which cost $1,168 annually per offender. The annual, contractual cost to provide passive GPS monitoring is $2,354 per client. In total, the contractual cost to the

[48] $5,314*20

Court Support Services Division of the Judicial Department, which administers probation, is estimated to be $19 million per year.[49] In addition, this provision could result in a cost for additional staffing to handle the workload associated with monitoring offenders via GPS.

Parole Impact

Approximately 792 additional offenders would qualify for enhanced supervision under the bill,[50] at an estimated annual contractual cost of $1.63 million annually to supervise them.[51] The Board of Pardons and Paroles is expected to implement lower caseload standards for offenders subject to GPS monitoring. As such, it would require additional parole officers at an estimated, annual cost of $1 million, including salaries, fringe benefits and expenses.

[49] Calculated as follows: (8,051 * $2,354) + (($2,354 - $1,168) * (130))

[50] Currently there are 95 offenders being supervised with GPS, and an additional 80 with electronic monitoring bracelets.

[51] The average daily cost for passive GPS is $5.95 ($4,712 total daily cost).

Proposal # 8, AA Strengthening Criminal Laws Concerning Persistent Offenders, Burglary, the Justifiable use of Deadly Force and Parole Release

"Three Strikes"

Section 1 establishes a "three strikes and you're out" law that provides for a mandatory sentence of life imprisonment for any person who is convicted of a dangerous felony[52] after having been twice convicted and imprisoned for committing or attempting to commit either dangerous felonies or other predicate offenses.[53]

During calendar year 2006 an average of 189 sentenced inmates met the criteria of the bill to be eligible for a life sentence. Assuming a similar trend was to continue in the future, the 189 inmates would be eligible for a sixty-year sentence under the provisions contained within the bill.

Assuming an average length of sentence of 8 years[54], the fiscal impact of the new policy would not occur until approximately 8 years after adoption, when the original inmates incarcerated under the bill would have been eligible for release. It is anticipated that on average (after the initial 8 years) the offender population will continue to grow at a rate of 189 additional inmates per year, for 52 years, for a total of 9,828 additional inmates. Each 189 additional offenders would cost approximately $7.9 million annually, over the increased length of sentence[55].

These costs do not include additional facility space requirements. A new 1,000 bed high security prison facility costs approximately $110 million for construction.

An average of 189 inmates admitted to a correctional facility each year would be subject to life imprisonment under the bill. Based on this figure, it is estimated that 156 to 310 felony trials would be conducted each year under the bill.[56] In order to accommodate this

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[52] Under the bill, "dangerous felony" means: (1) murder other than a capital felony; (2) manslaughter; (3) arson; (4) kidnapping; (5) robbery in the first or second degree; (6) robbery involving an occupied motor vehicle; (7) assault constituting a felony; (8) sexual assault in the first or third degree; (9) aggravated sexual assault in the first degree; (10) sexual assault in the third degree with a firearm; (11) burglary in the first or second degree; (12) stalking in the first degree; or (13) stealing a firearm.

[53] Under this bill, "predicate offense" means two Class A misdemeanors or three Class B misdemeanors.

[54] Averaging the length of sentences, including misdemeanors, would not provide an accurate base for comparison. Therefore, the average length of sentence used is that of other similar offenders with multiple sentences (8 years).

[55] 189 offenders * $41,600 (average cost of incarceration).

[56] This range assumes that 50% to 100% of the 189 additional inmates are sentenced to prison after a trial. In order to estimate the total number of trials (involving not only the 189 sentenced inmates but also any defendants found not guilty or whose cases are nolled prior to verdict), the conviction rate of Judicial District trials tried to conclusion, which is 61%, is used. The estimate of additional felony trials under the bill is thus calculated as follows: 95/0.61 = 156; 189/0.61 = 310. Note that the extent to which "three strikes" charges would ultimately be enforced through trial is uncertain. In practice, the use of plea bargaining could diminish the projected annual increase in the number of trials.

increase in trials and subsequent habeas motions and appeals, it is estimated that 38 positions would need to be added to the Division of Criminal Justice and Public Defender Services Commission, at a total annual state cost of $5 million, including salaries, expenses, fringe benefits and other litigation costs. An initial cost of about $200,000 would also be incurred to purchase necessary equipment, including automobiles. The Judicial Department could incur annual costs, estimated to be less than $100,000, to provide services (e.g., jury fees, staff overtime, etc.) in support of the additional felony trials that are expected to take place under the bill.

Persistent Offenders

Section 3 expands the persistent dangerous felony offender statute to include burglary in the first or second degree, which subjects these offenders to enhanced criminal penalties.

It is estimated that expanding the persistent dangerous felony statute to include burglary in the first or second degree will impact less than 50 individuals per year. Data on the average time served for this category of inmates is not readily available; however, these individuals could be subject to significantly longer sentences. If all 50 individuals were to receive an increased sentence, the cost to the state would be approximately $2.08 million annually.

Mandatory Minimum Prison Sentences

Section 4 increases the mandatory minimum prison sentence (from five to six years) for any person convicted of armed burglary in the first degree. It also establishes a mandatory minimum prison sentence of five years for any person convicted of burglary in the first degree involving the actual or attempted infliction of bodily injury on anyone.

In FY 07 there were approximately 20 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 4.38 years[57]. Increasing the penalty for armed burglary in the first degree, and establishing a 6 year mandatory minimum (1.62 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $832,000 annually, over the length of sentence[58].

Additionally, there were approximately 30 individuals who would be eligible for a mandatory minimum of 5 years. The average time served for this category of inmates is 4.38 years[59]. Increasing the penalty for unarmed burglary in the first degree (.62 years longer that the current average time served) for similar offenders in the future could cost the state an estimated $773,760 over the portion of the years that the offenders would be incarcerated longer.

Section 5 establishes a mandatory minimum prison sentence of two years for any person convicted of burglary in the second degree.

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[57] Note that average time served reflects parole eligibility at 50% rather than 85%.
[58] 20 inmates * 1.62 years * $41,600 (average cost of incarceration) / 1.62.
[59] Average time served for 53a-101 and 53a-101a is not broken out separately.

In FY 07 there were approximately 180 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 2.08 years[60]. Since the average time served is longer than the mandatory minimum, increasing the mandatory minimum will not impact the sentence length for a portion of similar offenders in the future. To the extent that certain offenders are not serving at least 2 years, it would cost the state an additional $41,600 per year, per offender.

Section 6 increases the mandatory minimum prison sentence (from one to three years) for any person convicted of burglary in the second degree with a firearm.

In FY 07 there was only 1 individual sentenced with a burglary offense who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.64 years[61]. Increasing the penalty (1.36 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $56,576 annually, over the length of the sentence[62].

Section 7 establishes a mandatory minimum prison sentence of one year for any person convicted of burglary in the third degree.

In FY 07 there were approximately 746 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years[63]. Since the average time served is longer than the mandatory minimum, increasing the mandatory minimum will not impact the sentence length for a portion of similar offenders in the future. To the extent that certain offenders are not serving at least 1 year, it would cost the state an additional $41,600 per year, per offender.

Section 8 increases the mandatory minimum prison sentence (from one to two years) for any person convicted of burglary in the third degree with a firearm.

In FY 07 there were approximately 3 individuals sentenced with burglary offenses who could have been eligible for increased sentences under this section. The average time served for this category of inmates is 1.2 years[64]. Increasing the penalty (.8 years longer than the current average time served) for similar offenders in the future could cost the state an estimated $99,840 annually, over the length of the sentence[65].

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[60] Note that average time served reflects parole eligibility at 50% rather than 85%.
[61] Note that average time served reflects parole eligibility at 50% rather than 85%.
[62] 1 inmate*1.36*$41,600 (average cost of incarceration) / 1.36.
[63] Note that average time served reflects parole eligibility at 50% rather than 85%.
[64] Note that average time served reflects parole eligibility at 50% rather than 85%, and the average time served for 53a-103 and 53a-103a are not reflected separately.
[65] 1 inmate*1.36*$41,600 (average cost of incarceration).

Parole Eligibility

Section 9 makes any person convicted of burglary in the second and third degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

GPS

Section 11 requires use of the global positioning system (GPS) for any person sentenced to probation or conditional discharge for first or second degree burglary.

As of October 2, 2007, there were 392 offenders under probation supervision in the community who were convicted of either first degree (39 offenders) or second degree (353 offenders) burglary; seven of these offenders are presently under electronic monitoring via Radio Frequency devices, which cost $1,168 annually per offender.

Each year on average, there are no offenders charged with first degree burglary and less than five offenders charged with second degree burglary who receive a sentence of conditional discharge. Assuming that these offenders are placed under supervision for the same period of time as those offenders sentenced to probation, this provision in the bill would increase by about 30 (4 sentenced offenders * 6 years supervision) the number of clients under supervision of the Court Support Services Division and subject to monitoring by GPS.

This section would extend electronic monitoring through the use of GPS devices to about 400 more offenders (approximately 390 probationers + 30 offenders under conditional discharge) under community supervision by the Court Support Services Division. The annual, contractual cost to provide passive GPS monitoring is $2,354 per client. In total, the contractual cost is estimated to be $941,600 per year (400 offenders * $2,354) under the bill. This provision could also result in a cost for additional staffing to handle the workload associated with monitoring offenders via GPS.

Parole Registry

Sections 13-15 require the Department of Public Safety (DPS) to establish a registry for any person released from confinement on parole.

It is estimated that establishing a parole registry would cost between $1.58 million and $2.08 million. DPS would require 6 additional positions to establish and operate a registry for any person released from confinement on parole. The 6 additional positions include: 4 troopers (average salary of $78,101[66]), 1 Sergeant (average salary of $86,331), and 1 Processing Technician (average salary of $40,497). The total cost would be approximately $704,000, including fringe benefits.

[66] The average trooper salary is for top-step troopers only, since those are troopers are selected for specialized units.

DPS would also require funding for other expenses, including: computers, office supplies, uniforms, transportation, and equipment. The average dollar amount for outfitting a new trooper is approximately $56,000. It is unknown if DPS would be able to accommodate additional staff within the current facility. If additional office space was required the potential cost could be significant.

Additionally, the DPS would be responsible for purchasing a database to establish the parole registry. It is estimated that a new registry would cost $500,000 - $1.0 million, and up to $100,000 annually for maintenance.

Proposal # 9, AAC the Board of Pardons and Paroles and Reentry Furloughs

Board of Pardons and Paroles: Staffing

Section 2 requires that all BPP members become full-time staff. Assuming the full-time board members were in a similar bargaining unit as Parole Officers, they would receive an annual salary of approximately $90,671 (depending on the number of years served) plus fringe benefits (at a rate of 60.2%, or $54,584 per board member, per year).

If all 13 members of the Board of Pardons and Paroles (BPP) were converted to full-time staff, the total cost would be approximately $1.9 million annually.[67] Currently, the members are reimbursed $110 per day for attending hearings (plus mileage). The FY 07 total for reimbursement was $58,300 (for stipends) and $10,800 (for mileage).

Board of Pardons and Paroles: Offender Files

Section 3 prohibits the Board of Pardons and Paroles from conducting any parole hearing for a convicted offender until its members have reviewed the complete file on the prisoner. The section specifies that a complete file must include, but is not limited to, copies of sentencing hearing transcripts, pre-sentence investigation reports, and criminal records. Any cost to provide documents under this section is anticipated to be less than $50,000 annually.

Re-entry Furloughs

Section 4 restricts the use of re-entry furloughs that the Commissioner of Correction may grant. It also requires that any offender serving a split sentence (a period of incarceration followed by a period of probation) who is released on a re-entry furlough must be subject to the same conditions and level of supervision that will apply once that offender is serving a sentence of probation supervision.

It is estimated that approximately 794 offenders annually would not be released on furlough as a result of the change. By not releasing the 794 offenders (and assuming that on average each offender would be released approximately 25 days early) it is estimated that the cost to the state would be approximately $2.26 million[68], annually.

On average there are approximately 180 offenders on furlough at one time. Approximately half of the offenders granted furloughs are serving a split sentence, which could require specific supervision of 90 offenders. The additional supervision of up to 90 offenders could result in the need for one additional Parole Officer with an average salary of approximately $64,024 (plus fringe benefits of 60.2% or $38,542).

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[67] This does not include potential costs associated with additional space requirements or support staff.
[68] 794 offenders*25days*$114 per day

Proposal #10, AAC Persistent Burglary Offenders

This bill establishes a persistent burglary offender law, which would subject repeat offenders to enhanced criminal penalties. Of the 980 burglary offenders sentenced in FY 07, 206 had at least two prior burglary sentences. Offenders with at least two prior burglary sentences would be eligible for an increased sentence equal to the next degree of felony. Assuming that 206 offenders in the future would be eligible for at least one additional year of incarceration, the cost to the state would be approximately $8.6 million[69] annually.

[69] 206*$41,600

Proposal #11, AAC Information Provided to the Board of Pardons and Paroles

The Division of Criminal Justice will incur annual costs of less than $50,000 under the bill to provide copies of documents not previously required by law: police reports and pre-sentence investigations.

Proposal #12, AAC the Release of a Person on Parole or Other Supervised Community Release

Board of Pardons and Paroles: Offender Files

Section 1 prohibits the Board of Pardons and Paroles from conducting any parole hearing for a convicted offender until its members have reviewed the complete file on the prisoner. The section specifies that a complete file must include, but is not limited to, copies of sentencing hearing transcripts, pre-sentence investigation reports, and criminal records. Any cost to provide documents under this section is anticipated to be less than $50,000 annually.

Psychiatric Exams for Parole Applicants

Section 2 makes certain offenders[70] ineligible for release on parole unless they have submitted to a psychiatric examination and a written report of the examining physician has been filed with, and reviewed by, the Commissioner of Correction or a panel of the Board of Pardons and Paroles.

It is estimated that psychiatric exams, costing about $75 per exam, would need to be conducted for 3,101 offenders annually under the bill. The annual cost of this provision is $232,575. Alternatively, if these exams aren't conducted for every offender, fewer offenders would be eligible for parole release and thus the cost of incarceration would increase.

Parole Eligibility

Section 3 makes any person convicted of burglary in the second degree ineligible for parole release until that person has served 85% of his/her prison sentence. Increasing parole eligibility to 85% would increase the average time served, which could result in additional costs, depending on the length of sentences actually imposed beyond the mandatory minimum.

[70] This provision applies to offenders convicted of the following: (1) sexual assault; (2) the illegal sale or possession of controlled substances; or (3) an offense involving the use, attempted use or threatened use of physical force against another person.

Proposal #13, AAC Nursing Staff at Correctional Facilities and Other State-Operated Institutions

Initiatives to Promote Nursing

The bill appropriates $1.95 million in FY 09 to the Department of Public Health to:

- Implement a nursing student loan forgiveness program for registered nurses practicing in a state-operated facility for up to five years after receiving a degree ($1.5 million);
- Establish a program to accomplish the accelerated re-licensure of nurses having expired licenses ($250,000); and
- Develop and implement an advertising campaign to recruit nurses to work at state-operated institutions ($200,000).

It is anticipated that the agency will incur associated administrative costs of approximately $150,000 in FY 09. It is unclear to what extent such costs would be supported from appropriations made within the bill. Should the $1.95 million appropriation be one-time in nature, administrative costs of approximately $75,000 would be incurred in each of the next four fiscal years related to continued oversight of the loan forgiveness program.

This bill appropriates $1.95 million in FY 09. The FY 09 budget is currently $28.2 million under the statutory spending cap. This appropriation would put the budget within $26.25 million of the spending cap limit. Exceeding the cap would require a declaration from the governor and a three-fifths vote of the legislature.

Nursing Overtime in State-Operated Facilities

Section 5 prohibits any state agency from mandating that a nurse in a state-operated institution work overtime and states that refusal by a nurse to work overtime cannot be the basis for discrimination, dismissal, discharge, penalty or adverse employment decision, unless specified conditions are met. No resulting fiscal impact is anticipated.

At present, non-managerial nurses employed by state agencies are subject to a collective bargaining agreement having provisions addressing mandatory overtime, and are thus exempt from this section's provisions, per Section 5(b)(5) of the bill.

Managerial level nurses are not covered by a similar agreement. However, they are rarely subjected to mandatory overtime, and it is further assumed that any such instance would likely be considered either a public health or institutional emergency, and thus exempted by Section 5(b)(3) or (4).

Finally, in practice state agencies do not authorize overtime work by nurses retained from contracted temporary staffing agencies.

Special Overtime Staffing Program in DOC

Section 7 requires the Department of Correction to establish a special overtime staffing program for nurses and mental health staff to reduce the use of mandatory overtime. The information required to complete this analysis is not readily available at this time.

Proposal #14, AAC the Justifiable Use of Deadly Force in Defense of Premises

The bill expands the justifiable use of physical force by a person in possession or control of a premise to include the prevention or termination of the unlawful removal of another person against his or her will from such person's dwelling or occupied vehicle. The bill makes immune from civil liability any person who uses deadly physical force that is justified under this section of the statute. These provisions have no fiscal impact.

Appendix

SHIELD Requirement	Included in OBTS ?
internet based,	Yes
integrated with: state agencies, local police, and	Yes, by having security based access
community providers.	No
accessible to the public w/controls	No. OBTS includes a web-based interface but users must have secure, approved devices and must be security certified
Complete biographical info. and vital statistics on offenders and	OBTS contains age, race, gender, fingerprint status, and residence information for each arrest.
former living offenders	OBTS does not include information on offenders after they are released from state custody or supervision. Such information, however, is maintained by OBTS.
tracking info. on offenders from investigation through release, and seamless integration with electronic monitoring, offender registries and GPSs, global positioning systems (GPS) and any offender registries.	OBTS does not include investigation, or incident based information. Data on offenders begins when a Uniform Arrest Report or a Misdemeanor Summons is prepared and entered in the system (which starts the adjudication process). It includes information up to the point of release from state custody or supervision (end of sentence) but not beyond. It does not include electronic monitoring information. It is integrated with the protective order registry. It is not integrated with the sex offender registry.
central, integrated electronic repository of criminal justice records and documents	Yes, OBTS receives selected data[1] from the independently operating agency information systems (legacy systems) and stores/maintains it in a data repository.
Access to all: state and local police reports,	No, OBTS only includes information entered from uniform arrest reports and misdemeanor summons which is the culmination of the investigation process.
presentence investigations and reports,	No[2]
psychological and medical reports,	No
criminal records,	Yes
incarceration and parole records,	Yes
and court records	Yes
and transcripts	No
Scanning and processing facilities to ensure that such records and documents are integrated into the system and updated immediately	No. OBTS does not include any imaging or scanning technology. This would be a significant cost item.
Analytical tools: case assessment, sentencing, plea bargain,	Minimal at present[3]

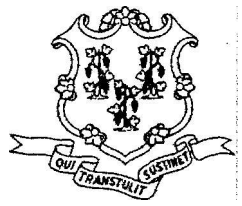
[1] associated with 61 different offender events

[2] Note: separately, the Judicial Branch has recently implemented a process in a web based environment for access to pre-sentence investigation reports through the Department of Correction.

[3] OBTS is to contain an ad hoc reporting database that would allow the user to pull and print information on a range of user selected information and variables. It does not contain other analytical tools.

pardon, parole, probation and release decisions; forecasting recidivism and future offenses for each offender cross-department	
communication, information exchange,	Yes
central note-taking and comment capabilities for each offender.	No
State-of-the-art relational database technology that is	OBTS is ORACLE-based
Completely accessible by an authorized criminal justice user via the internet;	Yes
Indexed and cross-referenced by offender name, residence, community, criminal offense and other critical data points;	Yes
Fully text searchable for all records;	Not to the extent that a search can be done across the entire data repository. OBTS can, however, search on a range of key offender records [Name and/or date of birth; Docket (court case) #; State Police Bureau of Identification #; Uniform Arrest Report #; Arresting Agency Case #; Arresting Agency; Inmate #; Court Support Services Division Client #; Case Management Information System #; Driver's License #/State ID; FBI #; Ticket (Misdemeanor Summons) #; Social Security #;Alien Registration #]
Secure and protected by high-level security and controls.	Yes

Connecticut General Assembly



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LEGISLATIVE OFFICE BUILDING
ROOM 5200
HARTFORD, CONNECTICUT 06106-1591

November 27, 2007

TO: Senator Andrew McDonald and Representative Michael Lawlor

FROM: Michael Murphy and Emily Shepard

SUBJECT: Fiscal Estimate for Proposal #15

You wanted to know the fiscal impact of the fifteenth proposal submitted to the Judiciary Committee in response to its informational hearing held on September 11, 2007. Please see below for an analysis of this proposal, and don't hesitate to contact us if you have any further questions in this regard.

Proposal #15, AAC the Supervision of Certain Offenders

Summary

The bill would result in an annual cost estimated to be $9.6 million - $23.4 million to enhance supervision and expand services for certain offenders under probation supervision.

Probation Caseload

The bill requires adult probation officers supervising offenders under age 21 to maintain caseloads of no more than 30 clients. At present, there are 5,203 clients between the ages of 16 and 20 years old under active probation supervision (excluding 3,019 clients under administrative supervision or with outstanding warrants). Approximately 50 more probation officer positions would be needed, in addition to existing and budgeted positions, to maintain the caseload limits under the bill. The estimated annual cost of these additional positions is $3.6 million including salaries, fringe benefits and expenses. An initial cost of about $165,000 would be incurred to purchase equipment for these probation officers.

Mental Health Evaluations

The bill requires the Court Support Services Division (CSSD) of the Judicial Department to give each offender between the ages of 16 and 20 a mental health evaluation. The contractual cost for a juvenile mental health evaluation is $616 per evaluation. The net annual increase in evaluations under the bill is estimated to be 2,602.[1] The annual cost to perform mental health evaluations under the bill is estimated to be $1.6 million. In addition to the annualized cost of $1.6 million, the CSSD would incur an initial year cost of $3.2 million to provide mental health evaluations for each of the approximate 5,203 offenders under probation supervision currently.

Employment Program

In addition, the bill requires the Department of Labor to develop and fund an employment program for this same group of offenders. Of the 5,203 eligible offenders, assuming 50 percent are enrolled in accredited secondary or post-secondary educational programs, the cost for 2,600 offenders would range from $4.4 million to $18.2 million. Based on the cost of existing programs that provide life skills, social skills, and job training skills (which are currently limited in number)[2], the cost per offender is estimated between $1,700 and $7,000.

Reviewer: Alan Calandro

[1] This assumes that clients in this age group serve an average of two years on probation: 5,203 / 2 = 2,602.
[2] There are currently two vocational programs utilized by the CSSD servicing younger offenders on probation.

DR. SAMUEL L. RIEGER
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Good Morning. My name is Dr. Samuel Rieger. Most of you know me. For those of you who don't, I am currently President of the Melanie Ilene Rieger Memorial Foundation and Chairman of the Melanie Ilene Rieger Memorial Conference Against Violence, the most definitive conference of its kind in the United States. The 12th Annual Conference will be held on April 23rd & 24th at the Department of Correction Maloney Center for Training & Staff Development in Cheshire. The theme will be "Youth Violence: School & Community Tragedies". I also served as President of Survivors of Homicide for 6 years.

On May 24th, 1994, our beautiful 19 year old daughter was strangled to death in our home by her ex-boyfriend, inmate #230602. She had already begun to help those less fortunate than herself and was a college student studying social work/psychology so that she could continue her efforts. Wanda and I have dedicated our lives to continue Melanie's work, to help homicide survivors who have come after us and to advocate for victims' rights.

Having been involved intimately with the criminal justice system for 13 years, I can tell you that the problems regarding the CT criminal justice system revealed by the Petit Family tragedy, are simply the tip of the iceberg. I would hope that your efforts will result in a complete overhaul of the criminal justice system. I would characterize it as one of expediency, financial considerations over public safety, and a total lack of accountability.

It would seem that there has been a tremendous concentration on a more effective "3 strikes law" which is extremely important. But, how many violent perpetrators never get to that point. Expedient justice causes many perpetrators to be released without any charges being brought or on bail, never to be seen again, unless they are arrested for another crime. How many criminals progress from non-violent to more violent crimes to homicide because they are given the impression that they can "beat the system"? Plea bargains may be a necessary evil when evidence is minimal. However, why plea bargain a case when there is a preponderance of evidence? In our case, the administrative judge wanted a plea bargain. We objected vehemently. Only because the defendant's attorney advised him not to take the plea bargain did our case go to trial. Expedient justice. Inmate #230602 was convicted and sentenced to 60 years(not the 40 year plea bargain deal) although he is eligible for good time which could reduce his sentence by about 1/3.

Often to make a plea deal more attractive, the charges are lessened and the sentence reduced. Violent criminals are sentenced for lesser felonies and made to serve minimal sentences. How often do we hear about child predators given miniscule sentences and victimizing young children when they are released. We are constantly recycling violent felons to the street, knowing full well that they will victimize again.

Further, as highlighted by the Petit Case, violent criminals released on parole are required to list their addresses on the sex

offender website, often slip through the cracks and eventually return to prison after committing new felonies. The major fear of homicide survivors is that the murderers will be released back into society only to destroy the lives of other innocent victims. They have all the rights and we have none. We must protect our citizens no matter what the cost(average cost of incarceration is $41,000/year). It is better to spend the money prior to a tragedy than after. It would seem to me that $41,000 is a small price to pay to protect human life.

About one month ago, we had to sit through the 6th appeal in our case. The fact that Melanie was violently murdered seems to have been lost by the criminal justice system. It is only the rights of inmate #230602 that are important. He is currently incarcerated at Northern C.I., CT's super max prison. He has been there for 1 ½ years. Only the most violent criminals go to Northern and it usually takes about 9-10 months for them to complete the program for return to a level 4 prison. And, this is his 3rd time at Northern. What does this say about inmate #230602? But he still has his rights. How about the safety of those who must transport him and those in the Rockville Courthouse? He is represented by a special public defender, his second, for which the state has to pay an additional fee. This person has been particularly rude and obnoxious in the courtroom and to us in particular. The prosecutor, new to our case, has consistently resisted speaking with us when we have requested such and arrived at the courthouse 5 minutes before the scheduled appeal. She appeared to be unprepared and ineffective in her presentation. It would appear that only the rights of victims are subject to financial constraints.

Which brings me to my final point involving accountability. Those in the criminal justice system must be held accountable when they fail to carry out their responsibilities properly. Certainly, this was highlighted in the Petit Case where those who paroled the two perpetrators had no paperwork to examine before making their decision. Certainly, again expedient justice. Have these people been held accountable? When a violent felon is wrongly released back into society, shouldn't those responsible be held accountable? When a defense attorney goes well beyond presenting factual evidence, in order to get his client that he know is guilty, off on a technicality or a lighter sentence, shouldn't he/she be held accountable? When so called "expert witnesses present inconclusive or incorrect information just to collect a fee, shouldn't they be held accountable? In our case, the psychiatrist who testified that inmate #230602 had some kind of mental illness so that he should get a lighter sentence, and then told our friends in the courthouse elevator, that inmate #230602 was very dangerous and should never be released, shouldn't he be held accountable?

Likewise, the Governor, Legislator and everyone in the criminal justice system should be held accountable when expediency, financial considerations and lack of accountability come before public safety. It is incumbent upon all of us to make sure that the criminal justice system serves the good and welfare of the public and not those in the system itself. It used to be said that if you don't live in the inner city, are not a minority and are not involved with drugs, you and your family will not be visited by violent crime. Statistics no longer show this to be valid.

Many still believe this to be true. They think if they live in a fancy house in the suburbs, send their children to private schools and participate in many social, politic and civic groups, violent crime will not visit them. They are like the ostrich who, when threatened, hides its head in the sand only to leave its big body exposed. We can no longer be ostriches. Violent crime is spreading and affecting everyone.

It is incumbent on each of us to make sure those in the criminal justice system do everything possible to protect the good and welfare of our citizens. They must be held accountable for their actions when they fail to do their mobs to protect us. The horrific crimes which took the lives of Jennifer, Hayley & Michaela Petit, may have been prevented if those in the system had diligently done their jobs. The horrible deaths of those in the Petit Family, our Melanie, Elizabeth Carlson, Molly Bish, Megan Kanka, and the many others show that violent crime is blind.

Now is the time to hold the Governor, Legislature and those paid to protect our safety and our way of life, as guaranteed by our Constitution, accountable. Now is the time for all of us to come together to effect changes in the system so that we can feel reasonably safe in our homes. We must work together to make sure that the laws of this state are appropriate to protect our safety and, if not, work with the legislature to put valid ones in place. We need to hold those in the system accountable for their failures. Our society cannot afford to lose any more Jennifers, Hayleys, Michaelas, Melanies, Elizabeths, Mollys, Megans and all the rest of the young victims lost to violent crime. What is the value of a young life? They were our future. The time to act is now!! Thank you.

TESTIMONY OF KIMBERLY SUNDQUIST
PRESIDENT OF SURVIVORS OF HOMICIDE, INC
Judiciary Committee Public Hearing
RE: HRO Caucus Package Proposal No. 5
November 25, 2007

Good Morning Senator McDonald, Representative Lawlor and distinguished members of the Judiciary committee. My name is Kimberly Sundquist and I am the president for Survivors Of Homicide, Inc.

I thank you for allowing myself as well as other general members of the public whether they be victims or not to express our concern and advice regarding the current CT laws that allowed 2 dangerous criminals to be paroled, and jointly commit one of the worst crimes imaginable to an innocent family in Cheshire, CT.

First of all, it is obvious to me as well as to so many others, that these 2 individuals should never have been paroled. When a person has 27 prior felony convictions, some of which include a previous home invasion where he admittedly watched a victim sleep, that is a red flag that this is not the most attractive candidate for parole. From what we understand, the DA, the Chairman of pardons and Paroles and The Commissioner of the DOC don't have access to each others files. The file of each criminal should be following them from department to department. This is a serious problem. If all these offices had a simple computer program that allows them to look into these offenders files, they would have seen that they were at risk to re offend. I believe the state needs this program. After the terrorist attacks on Sept 11, 2001, it was found that a contributing factor in the attacks was due to the lack of communication between the FBI and CIA. It was then that the lawmakers ordered that they connect their computers so they will be able to communicate to each other and possibly prevent other attacks in the future. If the Federal government can do this, so should CT. If we do not spend this money on this computer software, than we must spend it on the prisons so either way we will be spending the money. We have had a law requiring the Prosecutors to provide transcripts to the board of pardons and paroles on the books for the last 20 years and only now is it brought in front of the legislature with concerns it doesn't work. Well, I can understand this concern since it is not being executed at all while record inmates are still being released into the general public without the parole board having access to those transcripts.

The SOH board of Directors completely supports strengthening all laws to protect the safety of our families. As you know, CT already has a 3 strikes law but unfortunately it is not only underused, but we found it to be unused. The data shows that 30% of all prisoners released, weather it be to a half way house, via parole or any other way, re offended with in the one and a half year period of January 2006 and June 2007 creating a "**REVOLVING DOOR**" system. And this data shows only those who are caught and re in incarcerated. This percentage is unacceptable. California has a much clearer 3 strikes law in effect and although the initial prison population rose, it soon leveled off since most criminals on their "**2nd strike**" would simply stop committing felonies or the criminal

would move to another state that he or she felt was more criminal friendly such as Connecticut. When someone is paroled in good faith, then the system needs to hire better staff, made up of qualified individuals rather than former criminals themselves, so that they may be properly supervised and be held accountable for their actions. Better programs should be implemented to give these individual the help they need to give them a better chance at leading a crime free life. We also support any sort of devise to keep better tabs on individuals on parole or to half way houses so if they re offend, they are quickly apprehended. Public safety must be our number one priority. We can not parole criminals who are not worthy of such reward so that CT can manage prison over crowding and taxes.

We would like to see the "Petit Home Invasion Act" made law. This law would make sure **ALL** home invasions are treated as a violent offense. The second any one enters a home uninvited, we must assume deadly force will be used if confronted. We would like to see a line drawn in front of our door that is not to be crossed. The safety I should feel inside my own home should be considered sacred. No one entering a home un invited has a good intention weather it be stalking, stealing or physical harm, therefore I see no reason not to name any and **ALL** home invasions as violent.

We also support a persistent offender on line registry although this idea is not part of the current proposal. This is where all persistent offenders will register their residence so people in the surrounding area will know that they live near someone less than desirable. I have heard many use the expression that "If you chose a career in crime, we will provide you with the advertising." If Sierra Giorgi, who was a frequent visitor to the sex offender registry, had a persistent offender registry to visit, she would not have been stalked and her throat not slashed by someone who was previously in prison for prior violent acts.

My uncle was killed by a persistent offender in North Carolina on September 11, 2003. This is a man who was imprisoned and paroled repeatedly in 15 years by the time he took my uncle's life. My uncle was a handicapped man who lost his leg 2 years earlier due to a blood clot. He was minding his own business and in the middle of the night, while my uncle was leaving his place of business, he was shot so this monster could take the few dollars he had. After 3 years, it was noticed that the DA violated the rights of this offender and his step son and the pair were released with no trial and the charges dropped. History says this man would be back in prison by now, but I only hope it isn't because he committed another violent act. I know all too well what it is like for technicalities to occur leaving the public's safety at risk. It is unacceptable and I urge this committee to fill the holes that allowed 2 promising young women and their wonderful mother's violent and tortured death.

I appreciate your time and attention and would be happy to answer any questions you may have.

Kimberly Lindy

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Keep the Promise Judiciary Hearing Testimony
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Criminal Justice Reform Proposals #4 & #8

Good afternoon Senator McDonald, Representative Lawlor and distinguished members of the Judiciary Committee. My name is Cheri Bragg and I am the Keep the Promise Coalition Coordinator. I appreciate the opportunity to testify today regarding the criminal justice proposals currently being considered by the State of Connecticut.

Keep the Promise was formed in the wake of the closing of two large State psychiatric hospitals: Fairfield Hills and Norwich Hospital. People living with mental illness, their families, and the public were promised that the money sustaining these hospitals would be transferred to community services to cost-effectively and humanely support people in their own communities. That promise has not been kept!

We are concerned that many of the proposals before you today are neither cost-effective for taxpayers nor in the best interests of people living with mental illness and their families. Keep the Promise is against Proposal #4 which includes using "up to **$150million** to plan and construct a 1,200 bed medical & mental health facility for people under DOC custody." This does not include the millions of dollars needed to sustain such a facility. In contrast, Proposal #4 allocates less than **$2million** for re-entry programs. We feel that the State is clearly putting an emphasis on funding **costly institutionalization** as opposed to **proven, cost-effective community services**. We need to invest in solutions such as diversion, C.I.T. and other programs aimed at reducing the number of people being needlessly warehoused in prisons for low-level offenses due to untreated mental illness. **Prison is not the place to deliver effective mental health treatment!**

We also urge you to reconsider Proposal #8, the "3 strikes" proposal. Most people with mental illness who are imprisoned are there due to non-violent offenses. We feel that the proposed 3 strikes legislation, which includes many misdemeanors, would disproportionately affect people with mental illness and substance use challenges. We should be treating people who are ill in their communities, not warehousing them.

After the hospital closings in the mid-1990's, Coalition members asked for solutions to address the ensuing mental health crisis: namely housing and community services. Sadly, the situation is the same or even worse for many people today. We closed many long-term institutions for the right reasons: Treatment works given individualized, appropriate supports and services. Without needed services in place, many people slid right through their communities into revolving door emergency room visits, nursing homes, jails and prisons. Nationwide, jails and prisons have become our largest 'de facto' mental health treatment centers. The name of the institutions may have changed, but they are institutions nonetheless. This is not progress! This is the result of broken promises.

Keep the Promise urges you to fund fiscally sound, proven, humane solutions: Community services and housing, NOT expensive, ineffective, inhumane reinstitutionalization. We urge you to "Keep the Promise" to ALL citizens of Connecticut TODAY!

Thank you for listening and I would be happy to answer any questions you might have.

Cheri Bragg
Keep the Promise Coordinator

Good afternoon and thank you Rep Lawlor, Sen. McDonald and members of the Judiciary Committee. My name is John Watson and I am testifying today on behalf of the American Civil Liberties Union of Connecticut. I have been a criminal defense attorney for more than 25 years and I currently serve as Chair of the ACLU of Connecticut's legal committee. We mourn with our community the recent tragic events in Cheshire. The ACLU certainly joins the Judiciary Committee in hoping that today's hearing will help us move toward a more effective justice system – protecting public safety without sacrificing fairness or sound fiscal and social policy.

The ACLU recognizes the need for effective criminal sanctions that punish offenders, reduce recidivism and encourage rehabilitation. Many examples of innovative justice policies enacted in other states can serve as a model for us to follow in Connecticut. More details are available in a report produced by The Sentencing Project, *Changing Direction? State Sentencing Reforms 2004-2006*, which I have provided the Committee along with my testimony.

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The ACLU has concerns, however, with many of the proposals currently before the Committee, particularly those that seek to limit judicial discretion and extend mandatory sentencing terms. Most scientific studies have shown that states that increase incarceration rates the least are just as likely to experience decreases in crime as those that increased them the most.* US Supreme Court Justice Anthony Kennedy said it well at the Annual Meeting of the American Bar Association in August, 2003, "Our resources are misspent, our punishments too severe, our sentences too long....I can accept neither the necessity nor the wisdom of federal mandatory minimum sentences. In too many cases, mandatory minimum sentences are unwise and unjust."

The legislature can respond to criminal offenses and authorize appropriate sentences while also preserving the independence of the judiciary and the fairness of the criminal justice process. Legislatively mandated sentences undermine the independence of the judiciary and shift the authority of crafting appropriate sentences from judges to legislators. An experienced judge considers all the facts and circumstances of a criminal offense along with the characteristics of the defendant to craft a suitable sentence. The tragic events that led to today's hearing were not the result of inappropriate action by any sentencing judge. Efforts to reduce judges to automata, reciting sentencing formulas, are unwise and unnecessary and would result in over-incarceration, dangerous overcrowding and litigation. Humane conditions in our jails and prisons, including real treatment and rehabilitation programs, are not only required by law, they are essential to the fairness on which the United States was founded.

Mandatory minimum sentences have been demonstrated to have little impact on rates of crime, while compromising the operation and fairness of the criminal justice system. Connecticut has one of the worst racial and ethnic disparities in rates of incarceration in the country. For every 100,000 residents Connecticut incarcerates 211 whites; 2,532 blacks and 1,401 Hispanics.* * Any true reform coming from this committee would have to include serious efforts to address that disparity.

Indeed, Senator McDonald and Rep. Lawlor, recognizing the likelihood of increased rates of incarceration if Connecticut goes down this path, have proposed building over 2,000 new prison beds to accommodate the influx. If adopted, their proposal will cost taxpayers over $260 million and require an already burdened Department of Corrections to recruit hundreds more medical professionals, correctional officers and other staff to oversee the growing population. Worse, this costly investment doesn't guarantee significant payoff in crime reduction.

The need to reserve finite (and expensive) prison space for those offenders who represent a real threat to public safety is clear. Senator McDonald and Rep. Lawlor have also proposed expediting release to parole for some non-violent offenders. This proposal is a good step but more comprehensive alternatives to incarceration for low-level offenders are also warranted. For example, mental illness is disproportionately reflected among inmates. While well-intended, the proposal to build a prison facility devoted to housing the substantial fraction of our prison population with serious mental illness is misdirected. It is quite clear that most such inmates should be placed in treatment programs and/or hospitals rather than incarcerated in the first instance.

Connecticut would be wise to expand access to community-based mental health services for the homeless and other vulnerable populations and fund more pre-arrest and post-arrest diversion programs for people with mental illness so that they are not inappropriately incarcerated at great expense and with little or no benefit to them or our society.

Enacting diversion programs for drug users is also a sound justice policy. By offering drug offenders treatment instead of time in prison, defendants can get the help they need and avoid a criminal record.

We believe suggestions to create on-line offender registries raise serious privacy concerns and will harm the re-entry process for men and women trying to get back on their feet after incarceration. We also urge the Legislature not to adopt the proposal to impose unrealistic timetables on capital appeals and habeas petitions and to limit the ability of inmates to bring habeas challenges to capital sentences. Such rules would seriously erode the right to due process and curtail the ability of the courts to review these sentences for constitutional error. Cutting off such avenues of review increases the risk of convicting and executing the innocent. The ACLU endorses proposals to aid prisoner re-entry and rehabilitation, increase health services in prison and guarantee parole board access to pre-sentencing reports and sentencing transcripts.

The ACLU membership and leadership shares in the grief and rage at the tragic and brutal events in Cheshire. We hope to partner with our legislature in insuring, however, that unconsidered responses to such emotions do not compromise our justice system.

*Unlocking America, The JFA Institute, Washington, DC, November 2007.
** State By State Statistics, The Sentencing Project, Washington, DC, 2004.

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PROPOSAL 8
Public Hearing: 11-27-07

TO: MEMBERS OF THE JUDICIARY COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: NOVEMBER 27, 2007

RE: OPPOSITION TO IMMUNITY PROVISION IN PROPOSAL 8 – AN ACT STRENGTHENING CRIMINAL LAWS CONCERNING PERSISTENT OFFENDERS, BURGLARY, THE JUSTIFIABLE USE OF DEADLY FORCE AND PAROLE RELEASE

The CTLA **opposes section 15(4)(b) of Proposal 8** in today's public hearing regarding criminal justice reform, and respectfully contends that this immunity provision be removed.

This section attempts to grant immunity to the state, its political subdivisions and employees from civil liability for disclosing information in relation to the persistent offender registry created in an earlier section of the proposal. The immunity granted is unnecessary as the state is already precluded from being the subject of lawsuits. In addition, although wanton, reckless and malicious conduct is excluded from the immunity in the case of employees or officers, the state and its political subdivisions would remain immune, even when it acted wantonly, recklessly or maliciously!

The CTLA respectfully contends that immunity for liability should be reserved for those well trained and certified to perform the tasks required in emergency situations. This fundamental idea is evidenced by the need for certification presently included in C.G.S. 28-13 and in the good Samaritan law found at C.G.S. 52-557b. In both instances immunity is afforded to trained individuals who can reasonably be expected to successfully perform an emergency task. Immunity from suit should be reserved for such rare occasions.

The CTLA also contends that such immunity should be reserved for instances where there is more than a theoretical or imaginary threat of liability.

WE RESPECTFULLY URGE YOU TO REMOVE THE IMMUNITY PROVISION FROM PROPOSAL 8. Thank you.

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PROPOSAL 14
Public Hearing: 11-27-07

TO: MEMBERS OF THE JUDICIARY COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: NOVEMBER 27, 2007

RE: **OPPOSITION TO IMMUNITY PROVISION IN PROPOSAL 14 – AN ACT CONCERNING THE JUSTIFIABLE USE OF DEADLY FORCE IN DEFENSE OF PREMISES**

The CTLA **opposes section 1(b) of Proposal 14** in today's public hearing regarding criminal justice reform, and respectfully contends that this civil immunity provision be removed.

This section attempts to grant not only criminal immunity to those who use justifiable deadly force as defined in section 1(a) of the proposal, but also ***civil*** immunity from liability.

The CTLA respectfully contends that immunity from civil liability is not properly placed in this context, as criminal and civil liability are very different, from the possible penalties and restitutions given out as a result of them to the very different components of proving them.

The idea of justifiable homicide, codified in all fifty states, provides for immunity from *criminal* prosecution when deadly force is used in certain instances, generally involving danger to life or limb or intrusion into a dwelling. This statute is meant to allow for a last resort for a person in imminent danger of being harmed or having their dwelling invaded. Self defense is also already a common law defense in civil matters, without the presence of the proposed language.

The difficulty with such a broad civil immunity in this context is who will decide what does or does not constitute justifiable force? Will immunity be granted simply because a prosecutor decides not to press charges? The burden of proof is different in civil and criminal contexts, and to allow for a dismissal without any burden from a civil viewpoint might preclude legitimate claims.

No other immunity for civil liability is provided for in Title 53 of the General Statutes, and the CTLA respectfully believes that to provide for it here would be a poor precedent to set.

WE RESPECTFULLY URGE YOU TO REMOVE THE CIVIL IMMUNITY PROVISION FROM PROPOSAL 14. Thank you.

Urban League of
Southern Connecticut

Empowering Communities. Changing Lives.

Testimony for November 27, 2007 Hearing of the Judiciary Committee
Regarding *An Act Concerning Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources, Section 29.*

I am Valarie Shultz-Wilson, President of the Urban League of Southern Connecticut.

I am here to communicate the urgent priority that the Urban League places on effective Reentry work and to support section 29 of ***An Act Concerning Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources.*** The Urban League firmly believes that the state needs to invest in and expand the reentry work initiated after the Building Bridges Conferences. The key justifications for our recommendation are as follows:

1. **It is our conviction that Reentry work in no way contradicts the high priority that all of us place on public safety**, in fact, effective reentry work **increases** public safety because it improves former offender success and increases post-release scrutiny at the same time.
2. **We believe the State must be mindful of all its objectives, not only public safety.** The murders in Cheshire were deeply tragic, but we all know that the vast majority of offenders are not serious violent offenders. **Youth lost to prison is also a tragedy. Surely we cannot be complacent about the fact that boys of color from at-risk neighborhoods face a 40% chance of spending time in prison.**
3. **The sad statistics on the plight of African American boys and men are intimately connected with massive incarceration rates and the resulting "Catch 22" that makes finding a job and leading a productive life so difficult.**
4. **Effective Reentry work returns desperately needed successful men to their neighborhoods.**
5. **The Urban League is collaborating with Family ReEntry's Fresh Start Reentry Program in Bridgeport.**
6. **We urge the State to fully fund this and all reentry projects, to share the results of successes and plan for expansion.**
7. It would be a serious economic and social mistake to invest in prison building prior to investigating the results of the serious reentry efforts that the state had the great foresight to begin after the Building Bridges initiative. Investing in reentry efforts yields high economic and social returns and should be a high priority. This is a good investment for the state.

Thank you so much for your time and attention.
November 20, 2007

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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: Judiciary Committee

From: Linda Blozie
Connecticut Coalition Against Domestic Violence

Date: November 27, 2007

Re: An Act Concerning Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources

Good afternoon Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Linda Blozie and I am the Director of Public Affairs for the Connecticut Coalition Against Domestic Violence. Today I am here to speak in support of an Act Concerning Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources. In particular, CCADV is supporting Section 21 which relates to the provision of domestic violence advocates in both criminal and civil courts across Connecticut.

Each time there is an act of violence in this state, there is a victim. And more often than not, the victimization of one person also affects many others who live with, work with and care about that person. Over the next few months, I imagine that sweeping changes will be made about the way offenders are sentenced, paroled and incarcerated. When making these changes, I would ask you to give equal attention to the needs of victims.

Each year, the Connecticut Coalition Against Domestic Violence houses approximately 2,000 women and children who are seeking safety from their abusive partners. Last year alone, CCADV's member programs responded to 24,288 crisis calls, met with 13,700 adults and 928 children, and received 36,658 referrals from the criminal courts to assist victims. And each year, between twenty and twenty five individuals are killed by their intimate partner.

When victims go to court, they generally do not have an idea of what will happen. They find the process to be extremely intimidating. They need someone there to advocate for them, to express their concerns to the court. They do not know that they have the option of addressing the court at sentencing or that the advocate can address the court on their behalf. Advocates can help to explain the court process, advocate for a victim's wishes, assist them in preparing a victim impact statement, notify them of the outcome of the court date, and address any concerns that come up for them between court dates. Family Violence Victims Advocates are in place in the criminal courts but the same level of attention is needed for domestic violence victims seeking civil remedies and for those specialized docket courts in New Britain, New London and Norwalk.

For the past five years, CCADV and its members programs have also been working to increase access to emergency shelter and support services for victims of domestic violence. Presently, all domestic violence programs only have on site staff from 9:00 am-5:00 pm, Monday through Friday and limited evening and weekend hours. The remaining time, there is one person who is "on call" to respond to the 24 hour hotline and to go to the shelter if any extraordinary emergencies arise. Yet, each and every day, those of us who work with victims of domestic

understand that there are large blocks of time when we are not providing support and safety for women and children residing at our shelters. Our worst nightmare is that an abuser will find one of our shelters and assault if not kill his partner.

Victims of domestic violence deserve an immediate response when they are seeking help. There is often a small window of opportunity for them to leave an abusive relationship. The longer the response time, the greater their safety risk. Victims of domestic violence should have instant access to emergency shelter and support services and never should there be a time when an emergency shelter in this state is left unattended.

Last year alone, 54,641 victims of domestic violence received some type of assistance from their local program. We know that there are other victims who need our help, yet due to limited resources, we are unable to assist them.

When you make your recommendations, please consider helping victims to access not only an advocate in the courts but also support services 24 hours each and every day by allocating an additional funding to support the work that is needed for all victims of domestic violence in Connecticut.

Thank you.

Today our family would be celebrating my deceased daughter, Mia, 45th birthday. Instead we're here today to help and guide you to reach the right decisions.

Thank you for affording me the opportunity to speak to this committee today. Our family, like many others, realizes you are facing very difficult challenges set before you with regards to the prison system reforms.

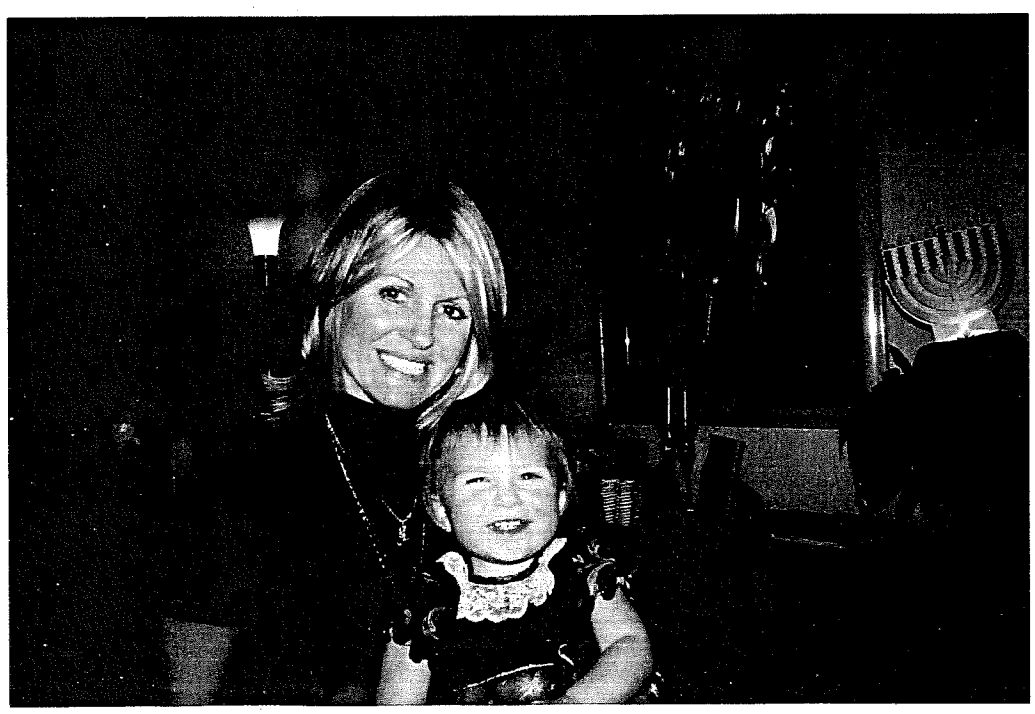
I'm here today to share a message with all of you. My message speaks to all of you about the lack of proper medical treatment and facilities needed for the bi-polar prisoners. Many of these prisoners have been previously diagnosed with this disease prior to their incarceration.

As we all know, the need for these prisoners' correct medications is of vital importance for their survival. In most cases the state has cut back on providing the prescribed medications and substitutions given to them, which do not work as effectively.

My appeal to you is to seek out financial resources to provide the proper medical facilities and correct medications for all the bi-polar prisoners.

Also to better educate the administration and staff to carefully review each prisoner's psychiatric history upon admission to the prison system.

My message is to look closely at the situation within the walls of the prison system, so that no other family has to endure the horrific tragedy and pain and suffering our family is experiencing.



ACHIEVING BETTER OUTCOMES

The benefits resulting from using alternatives to incarceration—at the time of the study—would be very significant. In 2001, CCEA completed the attached analysis, using two different scenarios. The range of potential benefits flowing to Connecticut would be:

- ***Creation of 989-3,958 new jobs***
- ***Increase gross state output $77,000,000 to $311,060,000***
- ***Increase personal income to Connecticut resident $54,170,000 to $214,660,000***
- ***Increase net state tax revenues $11,190,000 to $47,710,000***
- ***Increase net local tax revenue $6,330,000 to $27,400,000***

000974

CCEA
University of Connecticut

A Dynamic Economic Impact Analysis of Alternatives to Incarceration in Connecticut as proposed by SB 1083 and SB 1428

A REMI Analysis

By:

Fred V. Carstensen, Director
Stan McMillen, Manager, Research Projects
Nandika Weerasinghe, Senior Research Assistant
Anasua Bhattacharya, Research Assistant
Fabio Maldonado, Research Assistant
Madhuri Saripalle, Research Assistant
Sadik Yildirim, Research Assistant

May 25, 2001

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Executive Summary

A Better Way Foundation commissioned the Connecticut Center for Economic Analysis (CCEA) at the University of Connecticut to analyze the economic impact that shifting to alternatives to incarceration would have for the economy of the State of Connecticut. A broad array of research and statistical findings argue that incarceration by itself is both expensive and largely ineffective in modifying behavior. As a result, states and localities have been developing a wide variety of supplemental programs or alternatives to incarceration. A broad array of research argues that these approaches are in general more effective in modifying behavior, reducing recidivism, while also reducing public sector expenditures. The economic and social benefits multiply over time, as those who receive treatment do not impose future costs on society.

This report first presents the methodology and data upon which CCEA developed its economic impact analysis. It then presents the results of that analysis. The following two sections present, first, a broad review of the research and literature nationally that both helped shape the approach taken in making the analysis and confirms the level of economic benefit that the analysis finds, and, second, a review of the experience in Connecticut.

CCEA completed two analytical scenarios, one assuming a low rate of utilization of alternatives to incarceration, a second assuming a high rate of utilization. The analysis found that the benefits from utilizing alternatives to incarceration would fall in the following range:

- Creation of 989 to 3,958 new jobs;
- An increase in Gross Regional (State) Product of $77,000,000 to $311,060,000;
- An increase in Personal Income of $54,170,000 to $215,660,000;
- A net increase in State tax revenues of $11,190,000 to $47,710,000; and
- A net increase in Local tax revenues of $6,330,000 to $27,400.000.

These results are the sum of the annual increases due to the new policies compared to no new policies divided by 20, the length of the study period (state bond maturation period). They are therefore the annual average increases (not cumulative) in

employment and so on above the status quo forecast of the Connecticut economy. The permanent increases in the above variables are reflected in their terminal year (2022) values as follows:

- Creation of 1,136 to 4,526 new jobs;
- An increase in Gross Regional (State) Product of $131,380,000 to $526,760,000;
- An increase in Personal Income of $87,950,000 to $347,500,000;
- A net increase in State tax revenues of $5,900,000 to $31,660,000; and
- A net increase in Local tax revenues of $3,730,000 to $20,720.000.

The values of terminal net state and local taxes are smaller than the averages above because the negative expenditures (savings) turn positive in the out years decreasing net tax revenues.

The CCEA analysis thus shows that increasing use of alternatives to incarceration would have significant economic benefits for the State and its citizens.

Modeling Assumptions

The proposed bills reduce the burden on the prison system in Connecticut by reducing the number of people incarcerated as well as recidivism rates. To examine the economic effect on the state, we first look at the direct costs of alternative programs. The most recent data available suggests that it costs the state $25,000 per year to incarcerate an offender (Legislative Program Review and Investigations Committee report entitled: *Factors Impacting Prison Overcrowding*, December 2000, page 20). Debt service and depreciation on existing facilities should not be added to the operational estimate as these expenditures would be required if the prisons were empty. The current Alternative to Incarceration Program in Connecticut on average costs $7000 per year to fund a slot, with an average of four clients per slot per year. There is also a proposal to build, with state bond financing, a $20 million, 500-bed, secure, short-term treatment facility that will incur estimated operating costs of $5 million per year.

Insofar as the current system limits access to substance abuse treatment that many incarcerated offenders need, it increases the probability that these offenders, once released, will continue to commit crimes to support their addictions. Alternative

sentencing programs tackle this problem by providing such treatment and education. Benefits to the state and its residents from such programs include amenity values such as reduced crime and reduced health care costs, and reduced further arrest and prosecution costs. The Center for Addiction and Substance Abuse at Columbia University completed a study from which CCEA drew the following costs to estimate benefits to Connecticut:

- $5000 in reduced crime savings per non-violent offender, assuming that drug-using ex-inmates would commit 100 fewer crimes per year with $50 in property and victimization costs per crime.
- $7300 in reduced arrest and prosecution costs per non-violent offender, assuming that they, absent alternative programs, would be arrested twice per year.
- $4800 in health care and substance abuse treatment cost savings per non-violent offender, the difference in annual health care costs between substance users and non-users.

The CCEA analysis includes the possibility of gainful employment for these offenders upon successful completion of the "alternative" sentence, assuming all of them are employed in the retail sector. This creates a distribution of workers in several wage brackets, including some unemployment.

For the "incarceration alternatives" scenario, CCEA assumed a low and high estimate of offenders that receive the alternative sentence. Based on historical data from the state (from 1990-1995), the analysis assumes a total of 9000 convictions for drug abuse violations per year. The data indicates that the number of offenders incarcerated for these violations hovers around 4000. The objective of the proposed statutes would then be to reduce the number of offenders incarcerated for these violations, as well as recidivism rates, in the future.

Because the ultimate number of offenders that would benefit from the alternative programs depends on judicial discretion, the analysis uses a low and high estimate to look at a range of results. The low scenario assumes that 20% of offenders are diverted to alternative programs; the high scenario assumes that 80% of offenders are diverted to them.

The state finances the treatment center with 20-year bonds with an interest rate of 6.5%. This translates into level interest payments of $1.82 million per year. Connecticut saves on incarceration costs and arrest/prosecution costs, but incurs costs associated with providing offenders alternative treatment. To balance the State budget, the analysis assumes that the personal income rises by 70% of the government spending decrease (this is because on average Connecticut taxpayers receive 70c to every dollar that the state income tax falls because federal tax liability increases). The Input Table below summarizes the costs and spending changes, with the figures in *italics* denoting the estimates entered directly into the REMI model.

Input Table

Description of Cost/Benefit	Amount	
State govt.'s costs of constructing the 500-bed treatment facility over two years, beginning in 2002 (common to both scenarios)	*$10 million per year, through 2003*	
State govt.'s cost of financing construction, with bond payments over 20 years, with an interest rate of 6.5% (common to both scenarios)	*$1.82 million per year, through 2021*	
State govt.'s cost of operating facility (common to both scenarios)	$5 million per year, starting in 2004	
Other Annual Costs and Benefits	**Low Estimate (800 diversions)**	**High Estimate (3200 diversions)**
Reduced crime costs	$4.00 mill.	$16.00 mill.
Reduced healthcare costs	$3.84 mill.	$15.36 mill.
Total Amenity Value	*$7.84 mill.*	*$31.36 mill.*
Jobs created in the Retail Sector	*800*	*3200*
Reduced arrest and prosecution costs	$5.84 mill.	$23.36 mill.
Costs per 4 offenders for alternative programs	$1.40 mill.	$5.60 mill.
Incarceration Cost Savings at $25,000/person	$20 mill.	$80 mill.
Govt. spending from 2002-2003 without debt service	*-$24.44 mill*	*- $97.76 mill.*
Govt. spending from 2004 onwards without debt service (including operation of treatment facility)	*- $19.44 mill*	*- $92.76 mill*
Change in personal taxes from 2002-2003 (70% of govt. spending change)	*- $17.108 mill*	*-$68.432 mill*
Change in personal taxes from 2002-2003 (70% of govt. spending change)	*-$13.608 mill*	*-$64.932 mill*

PART I: METHODOLOGY AND DATA

The Connecticut Center for Economic Analysis (CCEA) at the University of Connecticut conducted this impact analysis using the State Economic Model, (the REMI model), a sophisticated 53-sector replication of the State's economic structure that can project economic impacts out to the year 2035. The analysis presented here looks at the impacts over a period of twenty years, with the year 2002 as the starting point. The objective is to determine the net benefits to the State of Connecticut, by comparing a scenario where the relevant laws are enacted to one where they are not. The status quo scenario where the laws are not enacted is the baseline forecast currently embodied in the REMI model. Comparing the results of the two scenarios allows CCEA to look at the direct, indirect and induced impacts of the laws in question; CCEA does this in terms of employment, gross regional product (GRP), personal income, and fiscal impact in the state as a whole.

The CCEA analysis flows from specific sections of bills that have been raised in the legislature. Table 1 below provides a synopsis of the relevant sections.

Table I

Bill and Section Number	Contents
SB 1083	
Sections 3,6,7,8,9,11,12,13	*Judicial Discretion:* Allows judges the discretion of taking mitigating circumstances into consideration when sentencing under statutes that require mandatory minimums, including Sec. 21a-267, Sec. 21a-268, Sec. 21a-278a, and Sec. 21a-279.
Sections 4,5	Allows suspending prosecution for substance-abuse treatment (diversion) more than once - current law allows offenders to use it only once.
Sec 14	Allows violators of Sec 21a-267 (drug paraphernalia) and Sec. 21a-279 (possession) to be eligible for community service more than once.
Sec 15	Allows violators of Sec 21a-267 (drug paraphernalia) and Sec. 21a-279 (possession) to be eligible for a pre-trial drug education program more than once.
Sec 18	Allows non-violent offenders w/ "dirty urines" (violated their parole by using drugs) to remain in the community.
Sec 10	Makes clear that people charged w/ sale offenses and those who have relapsed from previous treatment programs are eligible for programs under the "drug court".
SB 1428	Allows for the presumption of probation for drug treatment for non-violent drug offenses, and that such probation shall not be violated for possession, non-attendance or "dirty urines" until the third time (also allows pre-sentencing drug screening).

These bills all propose to reduce the burden on the prison system in Connecticut by reducing the number of people incarcerated as well as recidivism rates. To examine the economic effect on the state, we need first to look at the direct costs of alternative programs. The most recent data available suggests that it costs the state $25,000 per year to incarcerate an offender (Legislative Program Review and Investigations Committee report entitled: *Factors Impacting Prison Overcrowding*, December 2000, page 20). Debt service and depreciation on existing facilities should not be added to the operational estimate as these expenditures would be required if the prisons were empty. The current Alternative to Incarceration Program in Connecticut on average costs $7000 per year to fund a slot, with an average of four clients per slot per year. There is also a proposal to build, with state bond financing, a $20 million, 500-bed, secure, short-term treatment facility that will incur estimated operating costs of $5 million per year.

Insofar as the current system limits access to substance abuse treatment that many incarcerated offenders need, it increases the probability that these offenders, once released, will continue to commit crimes to support their addictions. Alternative sentencing programs tackle this problem by providing such treatment and education. Benefits to the state and its residents from such programs include amenity values such as reduced crime and reduced health care costs, and reduced further arrest and prosecution costs. The Center for Addiction and Substance Abuse at Columbia University completed a study from which CCEA drew the following costs to estimate benefits to Connecticut:

- $5000 in reduced crime savings per non-violent offender, assuming that drug-using ex-inmates would commit 100 fewer crimes per year with $50 in property and victimization costs per crime.
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- $4800 in health care and substance abuse treatment cost savings per non-violent offender, the difference in annual health care costs between substance users and non-users.

The CCEA analysis includes the possibility of gainful employment for these offenders upon successful completion of the "alternative" sentence, assuming all of them are employed in the retail sector. This creates a distribution of workers in several wage brackets, including some unemployment.

For the "incarceration alternatives" scenario, CCEA assumed a low and high estimate of offenders that receive the alternative sentence. Based on historical data from the state (from 1990-1995), the analysis assumes a total of 9000 convictions for drug abuse violations per year. The data indicates that the number of offenders incarcerated for these violations hovers around 4000. The objective of the proposed statutes would then be to reduce the number of offenders incarcerated for these violations, as well as recidivism rates, in the future.

Because the ultimate number of offenders that would benefit from the alternative programs depends on judicial discretion, the analysis uses a low and high estimate to look at a range of results. The low scenario assumes that 20% of offenders are diverted to alternative programs; the high scenario assumes that 80% of offenders are diverted to them.

The state finances the treatment center with 20-year bonds with an interest rate of 6.5%. This translates into level interest payments of $1.82 million per year. Connecticut saves on incarceration costs and arrest/prosecution costs, but incurs costs associated with providing offenders alternative treatment. To balance the State budget, the analysis assumes that the personal income rises by 70% of the government spending decrease (this is because on average Connecticut taxpayers receive 70c to every dollar that the state income tax falls because federal tax liability increases). Table II below summarizes the costs and spending changes, with the figures in *italics* denoting the estimates entered directly into the REMI model.

Table II

Description of Cost/Benefit	Amount	
State govt.'s costs of constructing the 500-bed treatment facility over two years, beginning in 2002 (common to both scenarios)	*$10 million per year, through 2003*	
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Change in personal taxes from 2002-2003 (70% of govt. spending change)	*-$13.608 mill*	*-$64.932 mill*

PART II: RESULTS

Table III presents the primary results from the CCEA analysis in terms of key variables. These results are the sum of the annual increases due to the new policies compared to no new policies divided by 20, the length of the study period (state bond maturation period). They are therefore the annual average increases (not cumulative) in employment and so on above the status quo forecast of the Connecticut economy. The permanent increases in the variables are reflected in their terminal year (2022).

Table III – Changes in Key Variables

Average Annual and Terminal Year Changes above the Baseline

Variable	Avg. Low Estimate	Avg. High Estimate	Low Terminal Year	High Terminal Year
Employment (Jobs)	989	3,958	1136	4526
GRP (Mil Nominal $)	$77.00	$311.06	$131.38	$526.76
Personal Income (Mil Nom $)	$54.17	$215.66	$87.95	$347.5
Disposable Personal Income (Mil Nominal $)	$57.63	$239.39	$84.93	$347.2
Population (Individuals)	1,488	6,075	1,908	7,818

The proposed alternatives to incarceration create new jobs in the economy, ranging from 989 jobs to almost 4000 jobs. The additional jobs result from the multiplier effects created by increased production in the economy. The Gross Regional Product (GRP) increase ranges from $77 million to $311 million, and disposable personal income increases more than personal income, reflecting the decrease in personal taxes.

Table IV below shows the fiscal impact of the considered alternatives to incarceration. Because state expenditures on corrections are below the status quo forecast or baseline, CCEA projects a significant fiscal impact. These savings in effect augment state and local tax revenue. These results are the sum of the annual increases due to the new policies compared to no new policies divided by 20, the length of the study period (state bond maturation period). They are therefore the annual average increases (not cumulative) in employment and so on above the status quo forecast of the Connecticut economy. The permanent increases in the fiscal variables are reflected in their terminal year (2022).

Table IV – Fiscal Impact (Millions Nominal $)

Average Annual and Terminal Year Changes above the Baseline

Fiscal Variable	Low Estimate	High Estimate	Low Terminal Year	High Terminal Year
State Revenues at State Average Rates	$7.72	$31.38	$12.5	$50.3
State Expenditures (Savings) at State Average Rates	($3.47)	($16.33)	$6.6	$18.64
Net State Revenues	$11.19	$47.71	$5.9	$31.66
Local Revenues at Adjusted State Average Rates	$1.52	$5.79	$5.1	$19.2
Local Expenditures (Savings) at Adjusted State Average Rates	($4.81)	($21.61)	$1.37	($1.52)
Net Local Revenues	$6.33	$27.40	$3.73	$20.72

State revenues increase from a low estimate of $7.7 million to a high of $31.4 million, and expenditures fall from a low of $3.5 million to a high estimate of $16.3 million. Local revenues increase as well, and local expenditures also fall. Thus both state and local governments see increased revenues in each scenario.

The graphs in the appendix show the dynamic impact of the proposed changes to incarceration policy in the State. The dips in employment and GRP after 2003 reflect the completion of the construction of the treatment facility and the resulting furlough of construction workers. The eventual increases in all these variables reflect the increased workforce and productivity in the economy. Both the low estimate and the high estimate scenarios indicate similar movements in the variables, but the dip in employment in 2003 is not as pronounced in the high impact case as in the low impact one. The graphs depicting the fiscal movements show the decrease in expenditures that occur as the state lowers its spending on corrections and the eventual increase in expenditures over the baseline driven by the increase in population.

PART III: SUMMARY OF RESULTS

The CCEA analysis shows that alternative programs to incarceration are financially beneficial to Connecticut. The results account for the direct, indirect and induced impacts of the proposed alternatives. In addition, we believe the results are quite conservative. They do not fully incorporate many of the social benefits of these programs. For instance, families of these offenders benefit when they are not incarcerated and are treated for their addictions; secondary crime may be reduced through less gang activity and other criminal activity in which ex-inmates may get involved. The analysis also makes a conservative assumption about State expenditures, and does not incorporate the projected costs to the State of building and maintaining additional prison facilities. The analysis makes clear that utilizing alternatives to incarceration for non-violent substance abusers and providing offenders with the skills and training necessary to pursue productive vocations will benefit both the State government and Connecticut residents.

PART IV: NON-VIOLENT DRUG OFFENSES IN CONNECTICUT – PAST AND PRESENT

Drug Use: In Connecticut, state and local government have given significant attention to and devoted considerable resources to controlling the sale and the use of illicit drugs. The Governor's Blue Ribbon Task Force on Substance Abuse estimated that, in 1995, 65,000 Connecticut residents abused illegal drugs, a number that does not include those who merely "use" illegal drugs. An extrapolation, however, of the figures of the National Household Survey suggests that 168,500 Connecticut residents may, in fact, use illegal drugs each month, 129,000 who use marijuana.

The State of Connecticut, as do all states, uses a multi-pronged approach to address illegal drugs: it imposes criminal sanctions for drug possession and sale, provides treatment programs for the drug addict, and develops education, prevention, and intervention programs to prevent or interrupt ongoing use.

Connecticut places primary reliance for addressing illegal drug use on criminal law enforcement and devotes significant law enforcement and criminal justice resources to suppress drug use, possession, and trafficking. That reliance has been increasing. Connecticut courts handled nearly 43,000 criminal cases involving drug in the year ending June 30, 1995, with over 9000 convictions. The courts processed nearly 9000 marijuana drug cases on the misdemeanor charge of possessing less than 4 ounces of marijuana; 1700 of those cases resulted in convictions. As of December 1, 1995, Connecticut had incarcerated 4673 individuals for a violation of drug laws as their primary offense, an increase of 29% in 14 months. The State devotes 31% of its prison beds are devoted to those incarcerated for drug offenses, an increase of 24% in the same 14 months.

Connecticut also directs significant resources to treatment. Admissions of individuals with illegal drug abuse to Connecticut detoxification and treatment programs and aftercare services in 1994-95 totaled 30,000. (Admissions are counted separately and an individual can be admitted more than one time during a reporting period.) The State funded or operated 75% of the programs. In addition, the Connecticut Department of

Correction provided both alcohol and drug treatment services to approximately 2400 of those incarcerated.

Chronology of criminal law drug legislation: As far back as 1882, Connecticut enacted a law regulating the sale of certain drugs and narcotics. In 1918, four years after the federal ban on narcotics, Connecticut enacted its first comprehensive legislation on narcotic drugs that prohibited the sale and possession of cocaine, opium, morphine, heroin, codeine, and other derivatives. The statutory penalties for illegal sale of narcotic drugs was a $1,000 fine or one year imprisonment or both while illegal possession, by anyone other than a licensed medical professional, was subject to a $100 fine or 60 days imprisonment or both. Again following national prohibitions on drugs, a 1939 revision of the state's drug laws included cannabis (marijuana and hashish) as an illegal substance. In 1949, Connecticut enacted the Uniform State Narcotic Drug Act, which increased the penalties for a violation of the law to a $2,000 fine and up to five years' imprisonment or both. In 1967 the Legislature adopted the next major piece of drug legislation; it was the precursor to the state's current drug laws. This law prohibited the sale and possession of drugs and established graduated sanctions for first and second offenses. It defined drug abuse and drug dependency. Throughout the 1970s and 1980s, the legislature continued to increase the criminal penalties for the sale and possession based on the types and amounts of illegal drugs.

Current Criminal Laws: Current Connecticut criminal drug laws, based largely on the 1989 revisions, are designed to suppress use of illegal drugs by punishing those who possess and sell drugs and by discouraging, with the threat of criminal punishment, others from possessing and selling drugs. Sanctions or penalties imposed for violation of the drug laws include incarceration, fines, alternatives to incarceration, and mandatory treatment programs.

Table IV-1 lists the laws prohibiting the sale of drugs, the penalties, and any exceptions to the penalties, and Table IV-2 describes the offense for possession of drugs. As shown, the most serious offense is the sale of heroin, cocaine, or methadone that

directly causes a person's death. The offense is punishable by a sentence of death or by life imprisonment without the possibility of release.

Components of the Criminal Justice System: In Connecticut, the criminal drug laws are enforced through the criminal justice system. That system is represented by four components: law enforcement; prosecutors; courts; and, corrections.

Law enforcement: State and municipal police departments are responsible for the prevention and detection of crime and apprehension of offenders. The federal Drug Enforcement Agency (DEA), a federal law enforcement unit investigating the illegal drug trade, also provides technical and investigative assistance to state and local police. The Division of State Police, within the Department of Public Safety, has statewide law enforcement jurisdiction. Within the state police special investigations bureau are the Statewide Narcotics Task Force and the Gang Unit, both of which have a prominent role in the area of substance abuse. The Department of Consumer Protection also has law enforcement authority over alleged drugs and illegal possession of drugs.

Table IV-1. Connecticut Statutes Prohibiting Drug Sale						
C.G.S. cite	***Offense Description***	***Statutory Penalties***	***Statutory Exceptions***	***Pre-Trial Diversion***		
				AR*	***CSLP****	***Treatment***
53a-54b(6)	Sale of heroin, cocaine, or methadone directly causing the user's death: capital felony	Life imprisonment without possibility of early release or death sentence of jury finds that aggravating factors outweigh mitigating factors (53a-46a)		Yes	No	No

21a-278(a)	Sale by a nonaddict of at least 1 oz. of heroin, cocaine, or methadone; 5 mg. of LSD; or .5 g. of crack	Mandatory minimum 5- to 20-year prison term, possible maximum term of life imprisonment	Youth or mental impairment: sentence can be reduced below mandatory minimum	Yes	No	No
21a-278(b)	Sale by a nonaddict of at least 1 kg. of marijuana, or any amount of narcotics, amphetamines, or other hallucinogens	Minimum 5-year prison term up to a 20-year maximum. Subsequent offenses: mandatory minimum 10-year prison term up to a 25-year maximum	Youth or mental impairment: sentence can be reduced below mandatory minimum	Yes No	No No	No No
21a-278a(b)	Sale of illegal drug by nonaddict within 1,500 feet of an elementary or secondary school, a licensed day care center, or public housing project	Mandatory 3-year prison term running consecutively to prison term imposed for violating other drug sale law		Yes	No	No
21a-277(b)	Sale of any other illegal drug	First offense: up to 7-year prison term, up to a $25,000 fine, or both Subsequent offenses: up to 15-year prison term, up to a $100,000 fine,		Yes No	No No	Yes Yes

		or both Alternative sentence: up to 3-year indeterminate prison term with conditional release by correction commissioner 21a-277(d)				
21a-268	Misrepresentation of substance as an illegal drug	Up to 5-year prison term, up to a $5,000 fine, or both				
*AR = accelerated rehabilitation CSLP = community service labor program Source of Data: Connecticut General Statutes and OLR report 95-R-1332						

Table IV-2. Connecticut Statutes Prohibiting Drug Possession						
C.G.S.	*Offense Description*	*Statutory Penalties*	*Other*	*Pre-Trial Diversion*		
				*AR**	*CSLP**	*Treatment*
21a-279(a)	Illegal possession of narcotics (i.e., heroin, cocaine, crack)	First offense: up to 7-year prison term, up to a $50,000 fine, or both Second offense: up to 15-year prison term, up to a $100,000 fine, or		Yes	Yes	Yes

		both Subsequent offenses: up to 25-year prison term, up to a $250,000 fine, or both Alternative sentence: up to 3-year indeterminate prison term with conditional release by correction commissioner 21a-279(e)		No No	Yes No	Yes Yes
21a-279(b)	Illegal possession of dangerous hallucinogens or at least 4 oz. of marijuana	First offense: up to 5-year prison term, up to a $2,000 fine, or both Subsequent offenses: up to 10-year prison term, up to a $5,000 fine, or both Alternative sentence: up to 3-year indeterminate prison term with conditional release by correction commissioner 21a-		Yes No	Yes Yes	Yes Yes

		279(e)				
21a-279(c)	Illegal possession of any other drug or less than 4 oz. of marijuana	First offense: up to 1-year prison term, up to a $1,000 fine, or both Subsequent offenses: up to 5-year prison term, up to a $3,000 fine, or both Alternative sentence: up to 3-year indeterminate prison term with conditional release by correction commissioner 21a-279(e)		Yes	Yes	Yes
21a-279(d)	Possession of illegal drugs by a nonstudent within 1,500 feet of an elementary or secondary school or a licensed day care center	Mandatory 2-year prison sentence running consecutively to prison term imposed for violating other drug possession laws		Yes	Yes	Yes
21a-267(a)	Possession or use of drug paraphernalia	Up to 3 month jail term, up to $500 fine, or both				

21a-267(b)	Deliver or possess or manufacture with intent to deliver drug paraphernalia	Up to 1-year jail term, up to a $2,000 fine, or both				
21a-267(c)	Possession, use, or delivery of drug paraphernalia within 1,500 feet of an elementary or secondary school by a nonstudent	Additional 1-year mandatory minimum sentence				
* AR = accelerated rehabilitation CSLP = community service labor program Source of Data: Connecticut General Statutes and OLR report 95-R-1332						

Alternative dispositions: Several statutory alternatives to prosecution are currently available to first-time offenders, those charged with minor offenses, or defendants who are drug-dependent. Included among these alternatives are accelerated rehabilitation, alcohol education, community service, and court liaison programs. All such programs are administered by the Office of Adult Probation, which supervises program participants and ensures compliance with court-ordered conditions. All of the programs allow for charges to be dismissed upon the successful completion of the program. Table IV-3 describes the eligibility and exclusionary criteria for each program and the treatment requirements.

Table IV-3. Alternative Sentencing Options for Adult Criminal Defendants

Program	*Status*	*Eligibility*	*Exceptions*	*Availability*	*Requirements*
Accelerated Rehabilitation (AR)	Pre-trial	1st time offenders minor crimes	Class A, B, & C felonies	One time only	Up to 2 yrs probation & conditions
Alcohol Education	Pre-trial	1st time offenders DUI offenses	DUI causing injury	One time only	8 counseling sessions, treatment, license suspension
Community service labor program	Pre-trial	Possession of drug charge	Prior drug convictions	One time only	Community work for 2 to 30 days
Court liaison program	Pre-trial & convict-ed	Class D felonies & class A, B, & C if waived by court; and drug dependent at time of offense and needs treatment	DUI offenders	Not restricted for pre-trial; restricted to one time for convicted	Out-patient or residential treatment for up to 2 yrs

Judicial outcome for successful completion of all alternative sentencing options is dismissal of charges.

Source of Data: C.G.S.

Court dispositions: Table IV-4 presents the type of disposition for criminal cases involving a drug offense. Drug offenses are categorized as: sale, possession, and paraphernalia violations. For each fiscal year under analysis, over 70 percent of case dispositions were not guilty and nolle (dismissed), which are combined in Judicial Department statistical reports. In FY 94/95, 79 percent of all case dispositions were in this category.

Table IV-4. Adult Criminal Court Case Dispositions for Drug Offenses

FY	*90/91*		*91/92*		*92/93*		*93/94*		*94/95*	
Disposition	*Guilty*	*NG & Nolle*	*Guilty*	*NG & Nolle*	*Guilty*	*NG & Nolle*	*Guilty*	*NG & Nolle*	*Guilty*	*NG & Nolle*
Sale	3,653	6,414	2,881	5,417	2,980	6,723	3,085	7,213	3,262	8,294
Possession	5,416	15,542	4,505	10,471	4,388	12,443	4,686	11,712	5,499	19,724
Paraphernalia	739	4,596	597	4,097	368	4,217	433	5,170	428	5,598
Total	9,808	26,552	7,983	19,985	7,736	23,383	8,204	24,095	9,189	33,616

NG = not guilty

Source of Data: Judicial Department

As shown, about one-half of the cases involving the offense of the sale of drugs result in a guilty verdict. Approximately one-third of the drug possession cases result in a guilty verdict.

Connecticut treatment system: During the 1960s, substance abuse treatment developed into a legitimate field of research and practice. Two primary treatment modes, "medical" and "clinical," emerged and remain the basis for most treatment today.

Under the medical model, drug addicts are medically treated by maintenance on a surrogate drug that substitutes for the illegal addicting substance. By the late 1960s, this model produced the methadone clinic for the treatment of heroin addiction. The prescribed treatment substitutes daily doses of methadone for the illegal heroin. The

clinical model developed as community-based treatment to which substance abusers could turn in a crisis situation. In the early 1970s, public opinion and policy directives became less tolerant of persons with substance abuse problems and of the clinical treatment approach. The focus of the drug problem shifted to the effects of substance abuse on society rather than on the individual addict. By the mid-1970s, clinicians developed approaches to prevent substance abuse and associated criminal activity. Prevention strategies ranged from fear tactics to education, particularly for children, about drugs and their effects. Treatment reemerged into national public view in the 1980s with the increased use of cocaine. Treatment programs were necessary to deal with new drug users, particularly the middle-class, women, and adolescents, who were abusing cocaine. Federal and state governments responded to the increased use of cocaine in the 1980s by initiating a "war on drugs" and establishing particularly severe criminal sanctions for drug use. In 1989, federal funds for residential drug treatment were discontinued because substance abuse was reclassified as a mental illness and, therefore, not allowable under Medicaid regulations.

The most recent trend in substance abuse treatment concerns the administration of treatment services rather than the manner of treatment. The managed care model is currently being applied to many treatment systems and Connecticut is currently developing a statewide network of treatment services based on the managed care approach. Managed care is expected to have a significant impact in the future in determining the levels and manner of private treatment that is available to drug abusers.

Substance Abuse Treatment System

Department of Mental Health and Addiction Services: The Department of Mental Health and Addiction Services (DMHAS) is the lead agency in Connecticut's efforts in treating drug abuse. The services include emergency treatment, inpatient and outpatient treatment, intermediate treatment, and follow-up treatment including appropriate rehabilitation services. The department funds a network of community-based programs and services and administers three residential treatment facilities. The department provides treatment services to clients, 18 years and older, who are

unable to obtain private care and treatment due to the severity or duration of their addiction or their lack of financial resources.

The Department's Office of Addiction Services (OAS) provides services to persons who are at risk, exposed to, or currently experiencing problems related to substance abuse. It consists of four divisions: Planning; Program Monitoring; Treatment and Coordination; and Prevention, Intervention, and Training, each headed by a director. Fifteen regional action councils (RAC) assist OAS, were statutorily created to identify substance abuse problems, resources, gaps in services, and changes to the community; to design programs; and to develop and implement substance abuse treatment plans. The councils do not provide direct services to clients.

Department of Children and Families: The Department of Children and Families funds a network of community-based treatment programs and a residential facility for persons under 18 years of age. Children receive treatment either voluntarily (non-committed) or involuntarily by court-ordered commitment to DCF as an adjudicated delinquent or as part of a family with service needs.

DMHAS Treatment Statistics

Admissions to treatment: Since July 1990, the Department of Mental Health and Addiction Services (DMHAS) reported more than 250,000 admissions at either funded or provided substance abuse treatment programs or facilities. It is estimated that over 50 percent of all alcohol and drug patients are expected to relapse, and 6 percent of those who do relapse will do so many times.

As shown in Table IV-5, treatment services are categorized as programs funded or operated by DMHAS, which also includes federal funds, and those funded by other sources, such as private, for-profit clinics. Although each admission category experienced an increase in the number of clients during the past five fiscal years, the sharpest rise has been in the number of admissions to DMHAS-operated facilities. Admissions in this category dramatically increased 1.9% from FY 92 to FY 93, and have continued to increase during the past three fiscal years.

	Table IV-5. Number Admissions to Treatment Programs			
FY	*DMHAS Funded*	*DMHAS Operated*	*Not DMHAS Funded*	*Total*
90/91	30,765	Est. 7,000	11,453	49,218
91/92	31,439	Est. 7,000	12,832	51,271
92/93	32,387	7,133	13,081	52,601
93/94	33,960	7,707	13,371	55,038
94/95	34,438	8,097	13,933	49,178
Total	162,989	33,937	64,670	257,306
Source of Data: DMHAS Client Information Collection System				

Length of treatment: Currently, the average length of stay is about 80 days in a community-based treatment program and 40 days at private facilities.

Primary substances: Table IV-6 summarizes Connecticut data for persons treated for illicit drugs and shows that heroin abuse accounts for almost half (49%) of the persons treated; 36% for cocaine; and 9% for marijuana.

Table IV-6. DMHAS Client's Primary Drug Abuse Problem: FY 95	
Heroin	49%
Cocaine	36%
Marijuana	9%
Other Illicit Drugs	6%
Total	100%

Alternatives to Incarceration in Connecticut

Connecticut's alternative sanctions program has been in place since 1990. A statewide network of more than 50 public and private providers deliver various services such as: Community service, Day Incarceration Center, Restitution Center, Family Counseling, Mediation, Drug Court, Intensive Supervision Probation, and Substance Abuse treatment. Alternative sanctions operate at an average cost of just over $7000 per slot per year, with an average of four clients per slot per year. The average cost for incarcerating an offender is approximately $25,000 per year, not including depreciation and debt service that are sunk costs. The state's Office of Alternative Sanctions estimated in 1998 that, without these alternatives, more than 3,500 additional prison and jail beds would have been needed at a capital cost of $525 million and an additional $94 million per year in operating costs.

PART V: BACKGROUND AND LITERATURE REVIEW

A. Introduction

Imprisonment of drug offenders and other criminals in the United States has grown by 462,006 in the seven decades from July 1,1910 to July 1, 1980, while the population grew by 134,817,681 in the same period (a ratio of 1 to 291.80). In the 1990s (July 1, 1990 to July 1, 1999) however, the number of prison inmates grew by an estimated 816,965, while the population grew by 23,226,417 (a ratio of 1 to 28.4). The prison population has thus been growing *ten times* faster than the historical pattern. The United States has 100,000 more incarcerated persons for drug offenses than the entire European Union (EU), while the EU has 100 million more citizens than the U.S. Between 1980 and 1997, drug arrests tripled in this country. Prisoners sentenced for drug offenses constituted the largest group of Federal inmates (58%) in 1998, up 53% from 1990. In September 1998, Federal prisons held 63,011 sentenced drug offenders, compared to 30,470 at the end of 1990. In 1998, drug law violators comprised 22.1% of all adults serving time in state prisons – 236,800 out of 1,141,700 State inmates. In the year 2000, the federal, state, and local governments spent almost $24 billion to incarcerate non-violent offenders. Such data prompted retired General Barry McCaffrey, former Director of the Office of National Drug Control Policy, to refer to America's prison system as an "American gulag".

The proportion of substance abusers in the criminal justice system is high and has grown larger in recent years. Between 1990 and 1998, the number of total arrests nationwide increased by 40%. One of the largest increases in arrest rates has been for violation of laws prohibiting drug sales, distribution and possession—up 168% during this time period. Arrests for drug violations grew at four times the rate of increase for violent felonies. In the same nine-year period, the number of inmates in the United States more than tripled and the state and federal prison population increased 299% and 417% respectively. Nationally, in 1997, 83% of state prison inmates were substance abuse involved. The percentage of state prison inmates sentenced for a drug law violation increased from 6% in 1980 to 23% in 1996 (Belenko, 2000).

But this dramatic increase in incarceration at every level has been by all accounts ineffective. A recent United States Department of Justice finding concludes "higher rates of arrests, stricter laws, and more aggressive sentencing policies *do not deter many drug users exposed to these penalties*" (Harrell, 2000, emphasis added). Harrell et al believe that this reliance on incarceration leads to a "revolving door scenario in which drug-involved offenders appear repeatedly before the courts" (Harrell, 2000). For instance:

> One study found 60 percent of opiate-dependent Federal parolees were re-incarcerated within 6 months of release—virtually all for narcotics-related crime—at an incarceration cost of more than $27,000 per person, per year. (Metzger, 1996) quoted in (Harrell, 2000).

Harrell et al also argue that drug treatment is effective even with the most hardened addicts:

> Contrary to popular opinion, drug treatment is effective — not everyone and not all the time, but, on average, it works.... The National Treatment Improvement Evaluation Study found 40-50% of regular cocaine and heroin users who spent at least 3 months in treatment were almost drug-free in the year after treatment, regardless of the treatment type (Harrell, 2000, p. 2).

Despite such findings, and despite numerous advances in the last 20 years in mental health treatment and substance abuse interventions, they are used rarely. A 1994 survey of 37 state and federal prison systems by the National Institute of Justice (NIJ) and the Center of Disease Control and Prevention found that only 5% of all inmates received either residential substance abuse treatment or ambulatory substance abuse counseling. A survey conducted in 1992 by National Institute of Justice revealed that only 28% of the nation's jails offered drug abuse treatment, and only 19% funded drug treatment programs (National Institute of Justice, Research Report, 1995). Of the drug treatment programs, 12% were isolated from the general jail population. The average jail drug treatment program focused on white inmates (who constituted 66% of the participants), and the average age of the participant was 26 years. The average number of inmates served in the program was 42, and the staff size was three. More than 80 percent operated without volunteer staff. In the Federal Bureau of Prisons system, 61% of those incarcerated were convicted of drug-related crime. But, according to a 1993 analysis (National Institute of Justice, Research Report, 1995, p. 20), only 21% of the inmates were

"low-level" drug-law violators; that is, they had no current or prior convictions for violence, no record of criminal activity and no prior offenses. This of course reflects the high rate of recidivism.

U.S. Department of Corrections data show that about a fourth of those initially imprisoned for nonviolent crimes are sentenced for a second time for committing a violent offense. Whatever else it reflects, this pattern highlights the possibility that prison serves to transmit violent behavior and values rather than to reduce them. The ONDCP (Office of National Drug Control Policy) in its 2000 annual report detailed administration requests for major increases in funding to the Federal Bureau of Prisons for drug-related prison construction. These include an additional $420 million in fiscal year 2001, and advanced appropriations of $467 million in 2002, and an additional $316 million in 2003—all drug-related. Since the enactment of mandatory minimum sentencing for drug users, the Federal Bureau of Prisons budget has increased by 1,350%. Its budget has jumped from $220 million in 1986 to $3.19 billion in 1997.

Despite abundant research on the relation between drug use and criminal activity, access to treatment appears limited for criminal offenders relative to their need. The adjudication process for arrested drug-involved offenders is complex, involving a number of agencies, personnel, and locations. Although this makes it difficult to plan and coordinate the delivery of treatment services, it also means there are numerous entry points at which services might be provided. Intervention points for criminal justice-based treatments include: pre-arrest diversion, pre-arraignment diversion, pretrial intervention, and post-conviction intervention. One of the methods in use currently is the diversion program, where recent arrestees are offered an opportunity to have their cases held in abeyance while they participate in a court-monitored treatment program.

B. Alternatives and Effectiveness

Because reliance simply on incarceration as a solution to America's drug dilemma has proved both very costly and largely ineffective, states have begun to experiment with approaches that reduce costs of incarceration and, perhaps more important, modify behavior of non-violent offenders to reduce recidivism. A wide range of alternatives exists, such as intensive supervision probation, house arrest, day reporting centers, and

electronic monitoring. Intensive probation supervision programs (Georgia, New Jersey) have been successful in restraining growth of prison populations and associated costs by controlling selected offenders. "Drug Courts" have also emerged; these are dedicated courtrooms that provide judicially monitored treatment, drug testing, and other services to drug-involved offenders. The mission of drug courts is to stop the abuse of alcohol and other drugs and related criminal activity. Approximately 400 drug courts operate nationwide. New York and Chicago initiated the concept of dedicating specified courtrooms solely to drug cases in the early 1950s; in the early 1970s, New York established "Narcotics Courts" in response to the rise heroin abuse. Dade County, Florida began the first treatment-oriented drug court in 1989.

Probation—serving a sentence while under official supervision in the community—is the most popular form of correctional treatment in United States. Courts use probation nearly three times more in sentencing convicted offenders than incarceration (either local jail or state & federal prisons. One recent trend among judges is to use probation as a supplement to a period of incarceration. The combination of prison and probation takes four forms: split sentence (a period of incarceration followed by probation), modification of sentence (reconsider a sentence and modify it to probation), shock probation (released after a period of time in confinement and re-sentenced to probation), and intermittent incarceration (spend weekends or nights in a local jail). Programs now typically differentiate between high risk and low risk offenders (Byrne, 1988).

Data for 20 states reveals that the proportion of adult probationers who successfully completed their term ranged from 66% in Mississippi to 95% in Vermont. The percentage incarcerated for new offenses varied from 5% in Vermont to 23% in Mississippi. States that use a classification system usually identify success and failure rates for offenders receiving minimum, moderate, and maximum supervision. In these states, failure rates (i.e., re-arrest within 1 year) often are as low as 10-15% for minimum supervision cases and as high as 50-60% for maximum intensive supervision cases. Petersilla and Turner (1986) report that prisoners had a significantly higher recidivism rate (72%) than a similar group of felons (63%) on probation. They found no significant

recidivism differences between groups in the seriousness of crimes committed or in the time before re-arrest (6 months for both).

Legislation

Although 36 states currently have mandatory minimums in place for drug offenses, one of the first states to enact such mandatory sentences, Michigan, recently moved to ease some of the more draconian provisions of its so-called "650 Lifer" drug laws. Passed in 1978, the 650 Lifer law meted out mandatory sentences of life without the possibility of parole for persons caught with at least 650 grams of heroin or cocaine. After a heated debate, the Michigan legislature passed, and the governor signed, a law that allowed parole for some 650-lifers after they served 15 or 20 years, depending on their prior record.

Similarly, in 1994, Congress passed a "safety valve" to the federal mandatory drug provisions, which allows judges to sentence offenders below the mandatory minimum if the offender has a minimal prior record, the offense is nonviolent, and the offender cooperates with prosecutors. According to The Sentencing Project, "Since the adoption of this provision, 20% of federal drug cases are now sentenced in this way, providing an indication of the degree to which low-level offenders are being prosecuted."

Judicial Efforts

Recently, a statewide panel convened by New York State's Chief Judge Judith S. Kaye announced what it described as "sweeping new reforms to provide court-mandated substance abuse treatment to nonviolent drug-addicted offenders throughout the state." According to the *New York Times*, the reforms would make New York the "first state to require that nearly all nonviolent criminals who are drug addicts be offered treatment instead of incarceration." The Commission on Drugs and the Courts, convened under the aegis of New York's Unified Court System, developed a plan that would divert 10,000 defendants from prison or jail into treatment at an estimated savings of $500 million a year in incarceration and other taxpayer costs.

In 1998, there were some 22,670 drug offenders in the New York State prison system, about one-third of all prisoners. Over 90% were there because of two mandatory sentencing laws passed in 1973 known as the Rockefeller Drug Laws. It costs New York State over $680 million a year to keep these nonviolent drug offenders in prison.

Adult Arrests – New York

	1996	1997	1998	1999	*2000
Total Arrests	569,721	589,761	595,812	553,444	571,143
Total Felony	199,302	199,233	198,235	181,366	177,496
Violent	64,296	63,911	60,270	54,057	52,402
Drug	56,941	53,316	58,004	51,248	47,435
Other	78,065	82,006	79,961	76,061	77,659
Total Misdemeanor	370,419	390,528	397,577	372,078	393,647
Drug	69,632	79,772	98,266	94,527	117,483
DWI	42,869	42,397	42,656	39,556	39,304
Other	257,918	268,359	256,655	237,995	236,860

Voter Initiatives

In the early 1990s, voters in Arizona approved an initiative that diverted nonviolent defendants convicted of drug possession from prison as well as medicalizing marijuana. Disturbed over the passage of what it considered an irresponsible initiative, the Arizona legislature forced a second vote on the same issue, and, in November 1996, voters again approved the Drug Medicalization, Prevention, and Control Act ("the Act"). In December 1996, the Act established the Drug Treatment and Education Fund to create drug treatment slots for offenders who would be diverted from prison under the Act.

In a March 1999 report from the Arizona Supreme Court found that 2,622 probationers participated in treatment under the program in its first year. There was a 98.2% matching rate between recommended and actual placements and, at the time of the report, there was a success rate of 61.1% for the 932 probationers for whom treatment completion data was available. The Supreme Court researchers estimated that the program achieved a saving of $2,563,032 in incarceration costs during its first year of implementation net of treatment and probation costs. The researchers estimated that

these savings would increase in subsequent years as the initiative achieved full implementation.

The California Campaign for New Drug Policies placed the Substance Abuse and Crime Prevention Act on the ballot for November 2000. As with the Arizona initiative, the California Act would send those convicted of nonviolent drug possession charges to treatment centers instead of prison. Those convicted of selling or manufacturing drugs would be ineligible for diversion, as would those with convictions for violent offenses in the five years previous to sentencing.

Even with these limitations, the non-partisan California Legislative Analyst's Office estimates that the measure will reduce the state's prison population 25,000 and the population in county jails another 12,000, saving the state between $100 million and $150 million a year and counties $50 million a year. There would be additional one-time savings of $500 million in prison construction costs. To pay for the new drug treatment slots, the initiative requires establishment of a $120 million superfund, generated from the savings in prison costs. The state would funnel these monies to counties to provide treatment for offenders diverted from incarceration.

The Sheriff's office in Tennessee's Davidson County began looking into jail alternatives for certain offenders because of overcrowded conditions in the county's jails. When Sheriff Gayle Ray came on board, there were no alternative sanction programs in place. In 1998, the sheriff's office received grants worth close to $1 million from the federal Byrne Memorial Grant Fund to support the day reporting center that was created for non-violent misdemeanor services. The program paid off, according Diane Moore, Director of the Davidson County Sheriff's Office Day Reporting Center.

> First, the per diem cost for participation is much lower than that in the jails. The jail's per diem cost is about $39 whereas the center's per diem cost is around $10. For the right individual who can make it on this program and is also working, they are paying their family bills and taxes and they are not a wholesale drain on the community."

Research suggests that post-incarceration continuation of services improves outcomes, and that the longer treatment continues the more positive the outcomes.[1] One

[1] For example, three years after release from prison, only 27% of clients of California's Amity program who completed aftercare had been re-incarcerated, compared with 75% of similar inmates who received no

element of this is providing probation officers a continuum of sanctions ranging from least severe to most severe to consider when a violation of the special drug aftercare condition occurs. These violations include technical violations such as, failing to report for tests, stalls, attempting to beat the test or contaminating the specimen, flushed specimen, failing to participate in counseling sessions, alcohol use, positive drug test results as well as legal violations. The range of options to use include admonishments (written and verbal) by the probation officer and supervisor, written admonishment by the U.S. parole commission, verbal admonishment by the court (which requires more time and work), lengthen the time in the current phase, increase the phase level, increase the supervision level, community service, alcoholics/narcotics anonymous meetings, outpatient counseling, electronic monitoring, community correctional center participation, reside and participate in sober living program, arrest-shorter term custody-reinstatement to supervision, intermittent incarceration, therapeutic community and finally, arrest, custody and recommendation for revocation (Torres, 1998).

Assignment to a therapeutic community (TC) or residential drug treatment is one of the major methods used when an offender has a positive drug test. This is considered the most severe of all sanctions because it effectively can be considered a form of incapacitation or removal from community. Many probation officers believe this is too harsh, but this strategy has apparently proven to be effective in deterring drug use and preventing new criminal conduct. These sanctions are based on the belief that consequences for drug after care violations, especially drug use, should be swift, certain and predictable. Verification of compliance is critical if the officer is to maintain credibility and. hence, effectiveness. A major tenet of this strategy is that offenders must be held accountable for their decision to use drugs. The supervision strategy is implemented by an approach that provides certain predictable sanctions for drug after care violations. These range from a mild admonishment to an intensive residential drug treatment program, with a last resort to arrest and revocation.

Because prison treatment evaluations have focused on residential programs, more research is needed on the effectiveness of other types of interventions. Further, treatment

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treatment and 79% of inmates who received treatment in prison but no aftercare. Delaware's Key-Crest program has achieved similar results.

alone is not enough. Programs serving inmate populations must deal with the "whole person"—poverty, unemployment, and poor health. Drug-free housing and family support are especially important factors in recovery. Data on jail and prison inmates illustrates the extent of social and multiple health problems from which drug offenders suffer and which need to be addressed simultaneously to improve effectiveness of the program. The complexity and multiple layers of the criminal justice system also impact the delivery of treatment services.

C. Experiences from other States

Several programs have been carried out in various states, including Arizona, New York, Florida, New Jersey, Texas, Wisconsin, California, Oregon and Delaware. These programs show that there is a strong positive relationship between number of months in alternative programs and the percentage of people successfully discharged from the parole for male therapeutic community (TC) group who were in treatment for 12 months. In case of females, inmates for drug offense, TC was effective in reducing recidivism rates, but counseling showed no such effect.

Arizona

In the early 1990s, voters in Arizona approved an initiative that diverted nonviolent defendants convicted of drug possession from prison, as well as medicalizing marijuana. Disturbed over the passage of what it considered an irresponsible initiative, the Arizona legislature forced a second vote on the same issue and, in November 1996, the Drug Medicalization, Prevention, and Control Act ("the Act") was again passed. In December 1996, the Act established the Drug Treatment and Education Fund to create drug treatment slots for offenders who would be diverted from prison under the Act.

A March 1999 Arizona Supreme Court report found that 2,622 probationers participated in treatment under the program in its first year. There was a 98.2% matching rate between recommended and actual placements and, at the time of the report, there was a success rate of 61.1% for the 932 probationers for whom treatment completion data was

available. The Supreme Court researchers estimated that the program achieved a net saving of $2,563,032 in incarceration costs during its first year of implementation after subtracting treatment and probation costs. The researchers estimated that these savings would increase in subsequent years as the initiative achieved full implementation (Sunny Kaplan, May, 1999).

Oregon

According to one study, in Oregon every dollar spent on drug treatment saves $5.60 in costs for prison, welfare, and other expenses (G. Field, 1992).

Texas

The Texas initiative has a program for non-violent drug offenders (Substance Abuse Felony Punishment [SAFP]) where they could receive 6-12 months of long-term treatment, who were then assimilated back into the community through a 15-month continuum of care that incorporated a support system of decreasing intensity and structure. They also had an in-prison therapeutic treatment system where incarcerated offenders were to receive long-term, intensive chemical dependency treatment before returning to the community, where they were given treatment similar to SAFP program. Only 7.2% of those who had completed three or more months had been re-incarcerated, in contrast to 18.5% of those who did not receive treatment. The drop out rate was 42%.

In another Texas program, the New Vision Chemical Dependency Program, of 343 inmates referred during the second half of 1993, 80% completed the program (Simpson and Knight (1995). The progress of graduates was compared to that of a matched sample from the general prison population who also met all treatment eligibility requirements but did not have enough time left to serve to be able to participate. Data from the half the scheduled 6-month follow-ups revealed that 6 months after leaving prison, parolees who received TC treatment were less likely to be arrested than those who did not receive treatment (15 % and 20% respectively) and less likely to have used cocaine or crack (7% and 26% respectively).

The 61% who completed a 3-month residential care program after leaving prison did better on several outcomes – committing crime, being employed, and being arrested – than did parolees who did not complete the aftercare program. See the table below.

Texas New Vision Chemical Dependency Program: Completion of Aftercare

	Completed 3 or more months	Did not complete aftercare
Committed Crimes for income	1%	33%
Used Cocaine/crack	35%	55%
Held legal employment	99%	77%
Arrested or jailed	18%	55%

California

For a justification of alternatives to incarceration, California experience provides the best example to think about a better solution than incarceration.

> During the past two decades California experienced a 25-fold increase in the number of drug offenders sentenced to state prison. As a result of this increase California led the nation in drug offender incarceration with a rate of 115 per 100,000 of the population —2.5 times the national average (45 per 100,000 population for 36 reporting states) ... By 1999, California's drug imprisonment rate rose to 132 per 100,000 (Macallair *et al*, 2000, p. 1).

Macallair *et al.* show that in California there are two kinds of counties with different outcomes. The outcome differences depend upon whether some counties have high rates of imprisonment for drug violations or not. They found counties with two kinds of measures: (1) counties that imposed high rates of imprisonment for drug violations and (2) counties that imposed low rates of imprisonment for drug violations.

They observed that in the high-imprisonment counties there is almost no distinction between the worst and the least drug offenses in terms of punishment. These counties chose to combat their drug abuse and crime problems by making more felony and misdemeanor drug arrests. Therefore, the strict focus here is on both the worst and the least drug offenses. The consequence of this measure is that "counties that imposed high rates of imprisonment for drug violations generally experienced *SLOWER* declines in index felony offenses than low-imprisonment counties" (Macallair, 2000, emphasis in the original).

On the other hand, low-imprisonment counties chose to combat their drug abuse and crime problems by concentrating *only on the worst* (felony) drug offenses (i.e., manufacturing and trafficking). Therefore, the focus here is on a meaningful distinction between the worst and the least drug offenses. They found that these counties had considerably more success in reducing crime regardless of the dimensions of their drug abuse and crime problems. Even though the results were not statistically significant, they discuss three major reasons for these outcome differences.

The first reason they suggest is that the correlation between simple possession drug offenses and high rates of crime or drug abuse is close to zero. So it follows that increasing arrests for low-level drug possession does nothing to control crime. A noteworthy consequence is that increasing nonviolent offenders "may drain resources away from more productive strategies" (Macallair, 2000). In other words, the opportunity cost of incarcerating simple drug offenders is too high for society. It is not efficient. The problem is that not only taxpayers have to pay for incarceration, but also that this measure is taking away resources from the economy.

A second reason is that "felony drug offenses appear to reflect, rather than control, higher rates of drug abuse and crime" (Macallair et al, 2000):

> As shown, counties that stepped up felony drug arrest rates did not show the most impressive improvements in violent and property crime rates (although the San Francisco exception indicates that areas with extremely high rates of drug abuse may benefit from policing of the worst drug offenses). For most jurisdictions, however, increasing felony drug arrests is a very limited strategy to control rising drug abuse and crime (Macallair, 2000).

Finally, "counties that reduced misdemeanor drug arrests and switched to judicious enforcement of felony drug laws enjoyed the healthiest reductions in violent and property crime" (Macallair, 2000).

The lessons that can be learned from the California case suggest that "(a) strong enforcement of drug possession laws is ineffective in reducing crime, and (b) felony drug arrest is a strategy that should be used sparingly and carefully targeted" (Macallair, 2000). According to another study, in California every dollar spent on treatment results in $7 in savings on reduced crime and health care costs.

California's Amity Prison Therapeutic Community: Percentage Re-incarcerated 1 year after parole			
Control group (n=73)	Program drop-outs (n=48)	Completed program (n=108)	Completed program + aftercare (n=61)
63.0%	50.0%	42.6%	26.2%
P<0.01			

Delaware

Delaware's Key-Crest model is a 3-stage model, built around two Therapeutic Communities (TCs): the Key, a prison-based TC for men and the Crest, a residential work release center for both men and women. The evaluation of the program contrasted participants in the Key alone, participants in Crest alone, and participants in the combined program, with inmates who received no treatment other than HIV prevention education. The research found highly positive results as measured by percentage drug-free and arrest-free after 6 months. The robust findings through the two stages of research are: 1) length of time in treatment and 2) the degree of involvement in treatment are important for success. Even controlling for these influences, participation in the

prison TC in combination with the work release TC treatment continuum significantly improves outcomes (Inciardi, 1995, in NIJ research report, 1995).

Delaware's Key-Crest program:

Key crest participants: Drug free and Arrest free longer				
After 6 months	Key-crest	Crest only	Key only	HIV Prevention education only
Drug-Free	94%	84%	54%	38%
Arrest- free	92%	85%	82%	62%
After18months				
Drug-free	75%	46%	34%	17%
Arrest-Free	72%	60%	46%	36%

New York

Another method is the Drug Treatment Alternative Program (DTAP), established by the Kings County, NY district to divert into treatment non-violent felony offenders with one or more prior felony convictions and a documented history of drug abuse. The sentences are deferred while undergoing 16-24 months of intensive residential therapeutic community programs. Since its inception in 1990, 3617 non-violent offenders have been screened of whom, 70% were rejected treatment. Of the 30% accepted, 37% have graduated and 21% are still in treatment. DTAP uses legal coercion to keep participants in treatment and has produced a one-year retention rate of 66% that is two-thirds of those

who were accepted into the program remained in treatment for at least a year. Recidivism data indicates that successful participation lowers re-arrest rates. Re-arrest rates for three years 184 post-DTAP and 215 drug offenders who did not participate in the program were 23% and 47% respectively.

An evaluation of a New York-based program conducted in 1984 showed that male participants had arrest rates of only 26% compared to 40.9% for those having no treatment, and 39.8% for those having only counseling (Margura, Rosenbaum and Joseph, 1992).

Georgia

The target population for Georgia's program was "prison bound" nonviolent offenders of whom 43 percent committed property offenses, 41% drug and alcohol offenses, and 9% violent crimes. Preliminary figures suggest it has been cost- effective. The average annual cost of incarcerating an offender in Georgia is $7760, compared with an average annual cost of $985 per offender for intensive supervision probation (ISP). Probation fees range from $10-50 per month. There was a 10% decrease in the percentage of felons sentenced to incarceration during the period under study, along with a corresponding 10% increase in probation caseloads statewide Edward J. Latissa

Illinois

Offenders in Chicago can spend up to 18 months in jail awaiting trial or sentencing for drug related crimes. While they wait, those with non-violent criminal histories can receive treatment from Treatment Alternatives for Special Clients (TASC), a non-profit agency providing court-approved treatment. The programs, aimed to reduce prison overcrowding, provide substance abuse treatment, education, and job training tailored to specific treatment needs of each offender. Participants remain in the program for an average of 70 days, although some continue as long as 18 months. The participants live at home and are closely monitored; failure to comply with program rules and policies will send them back to jail. According to the Illinois Criminal Justice Information Authority, 99 percent of the participants miss no court appearances, compared to 35 percent in general population. Less than 5 percent of the participants

have been re-incarcerated. TASC costs only $39 per day, compared to $89 per day to keep offenders in jail. [Drug Strategies, Washington, DC]

Washington

In 1995, the Drug Offender Sentencing Alternative was added to provide a sentencing option for drug offenders. Under this law, one-half the normal mid-range sentencing is to be served in confinement with treatment, with the balance of the balance of sentence in a community custody situation, subject to re-imprisonment if community conditions and treatment recommendations are violated. A "boot camp" sentencing alternative was established in 1991 for certain non-violent offenders, who are given credit for three days for each days served in the Work Ethic Camp Program, and then placed in community custody for the remainder of their sentence. [Drug Strategies, Washington, DC]

Minnesota

A 1992 Minnesota study found that providing treatment for drug abusers saved the state $39 million in one year because of hospitalizations, detoxification and arrests. These savings, which begins as soon as the addict enters treatment, offset 80 percent of the program costs (Young, 1994).

D. Cost-Benefit Analyses of Alternatives to Incarceration

The concept of cost-benefit defines the relationship between the resources required to attain certain goals and the benefits derived (Washington, 1976). However, it is not a wholly satisfactory tool for evaluating social programs because it is incapable of accurately measuring "social" costs and benefits (Vito and Latessa, 1979). However, when combined with other measures of program effectiveness and impact, the cost-benefit information can prove a valuable instrument. This section summarizes the work done using this approach.

One of the problems facing ISP is the dilemma of accurately selecting offenders appropriate for higher levels of supervision. What constitutes intensive supervision? The number of cases assigned to an officer as well as the number of required contacts can

have a tremendous impact on the cost of the program. Programs in New Jersey and Georgia where two officers are assigned caseloads of 10 with contacts made on an almost daily basis are different from traditional programs where average caseloads of 25 offenders per officer and an average of four contacts per month. The philosophy of an ISP program has an impact on cost. A program that has control-orientation may require more contacts, but may in fact be cheaper than a program that is treatment-oriented. Such programs will either develop in-house programming or rely upon community resources.

Earlier research did not focus on cost effectiveness, "... since costs do not provide a common denominator in probation evaluation..." (Banks, 1977). In the 1960s and 1970s, offenders were placed into different levels of supervision with little screening or classification. In most cases, all these offenders were already under community supervision. Unlike previous experiments, the new generation programs are specifically designed to reduce prison populations through the diversion of offenders that otherwise would be committed to penal institutions. Effectiveness is related specifically to the length of time an individual remains in treatment, regardless of type of treatment provided. The chronic nature of drug addiction and a high possibility of relapse make the treatment ineffective. Viewed from a health perspective, treatment should be followed by a cure, with no further drug abuse. Viewed from the perspective of a legislator and the lay public, the outcome of the treatment should be reduced recidivism (a reduced tendency to return to criminal behavior), together with elimination of or substantial reduction of drug abuse. In the field of corrections, the health goals and criminal justice goals are not implemented coherently, which often leads to conflicts (National Institute of Justice, 1995).

The effectiveness of Federal Bureau of Prisons (BOP) programs could be measured with respect to short-term as well as long-term outcomes. Short-term outcomes could be rule infractions, positive tests for drugs, and participation in institutional programs. Long-term outcomes could be inmates' drug use and criminal activities, recidivism, social and occupational functioning, and mental/physical health (BOP drug-abuse program, 1993).

In Georgia's 1982 program, two probation officers were assigned caseloads of 10 offenders, with at least 5 contacts per week required. Costs were estimated at $1,375,351, covered by funds derived from collection of probation fees. The cost of supervising a probationer was $4.37 per day, with an average cost of $694.83 per offender during the program. This compared to $29.63 per day for incarceration costs. Daily cost of supervision was estimated at $0.75 per day.

Georgia's benefits included probationers' net earnings, taxes, restitution, court costs and fines, probation fees, and community service hours valued at minimum wage. Overall the dollar value of benefits estimated as $1,456,256.93. In the New Jersey program, offenders were selected for ISP after they had served 3-4 months of their sentence. Here too, the evaluators estimated benefits to exceed costs. All of the above programs are found in states that have centralized probation services that facilitate the development and implementation of intensive supervision projects. To promote such programs (TC, ISP) at the county level, several states have developed probation subsidy grants to local jurisdiction (e.g., Ohio). In general the costs include costs of incarceration, parole supervision, clerical support, public transfer payments, community resources, and recidivism costs. A final assumption of cost benefit analysis is that secondary costs and benefits can be accurately and quantitatively measured, which is not easy. Offenders do not pay taxes, and their families frequently draw welfare benefits. There are psychological effects of alienation/imprisonment, social stigma and other detrimental effects upon the prisoner's marriage and family. On the other hand, they do not draw unemployment benefits, should they otherwise be eligible, and perhaps the most difficult calculation is the cost of new crimes.

The strategy implemented by Central District of California (CDC) in Los Angeles is based on a philosophy of rational choice rather than the traditional disease model of addiction. The policy implications from a choice model lead to total abstinence approach with predictable consequences for drug use and associated aftercare condition violations. In the CDC, the officer retains the discretion to determine appropriate sanctions, but the policy clearly suggests that some consequences follow any incident of drug use. It attempts to balance the goal of community protection through rapid detection and intervention while also holding the individual accountable for the decision to use drugs or

otherwise violate the special drug aftercare condition. Torres (1997) discusses the continuum of sanctions for substance-abusing offenders and focuses on alternatives to incarceration. The Northern District of California and District of Nevada has implemented several other programs along the lines of the CDC approach. Petersilia and Turner (1993) report that recidivism was reduced to 20-30% (from an unreported level) in programs in which offenders both received surveillance (e.g. drug tests) and participated in relevant treatment. They also point out that drug offenders under criminal justice supervision stay in treatment longer, thereby increasing positive treatment outcomes (Petersilia, 1996).

Barriers to treatment reported by the National Center on Addiction and Substance Abuse (CASA) at Columbia University based on a prison survey identifies 71% responses as budgetary limitations. Other problems include few counselors, inadequate space, too few volunteers, frequent inmate transfers, general correctional problems such as security issues, aftercare issues and legislative barriers. Steven Belenko and Jorda Reugh (1998) suggest that there are substantial economic benefits that flow from an investment in treatment. They estimated that the cost per inmate of providing residential treatment in prison for a year is $3500, in addition to existing incarceration costs. Education and voluntary training and aftercare costs are $3000, which is a total of $6500 for a comprehensive treatment and training program. They also estimated that for each inmate who successfully completes a treatment program and returns to the community as a sober parolee with a high school degree and a job, the following economic benefits would accrue just in the first year of release:

(1) $5000 in reduced crime savings per offender, assuming that drug-using ex-inmates would have committee 100 crimes per year with $50 in property and victimization costs per crime.

(2) $7300 in reduced arrest and prosecution costs per offender, assuming that they would have been arrested twice per year.

(3) $19,600 in reduced incarceration costs per offender, assuming that one of those re-arrests would have resulted in a one-year prison sentence.

(4) $4800 in health care and substance abuse treatment cost savings per offender, the difference in annual health care costs between substance users and non-users.

(5) $32,100, in economic benefits per offender ($21,400—the average income for an employed high school graduate—multiplied by the standard economic multiplier of 1.5 for estimating the local economic effects of a wage).

Under these assumptions, the total benefits that would accrue in the first year would be $68,800 for each successful inmate. Such benefits do not include anticipated reductions in welfare, other state or federal entitlement costs, or foster care. Accordingly, the success rate needed to break even on a $6500 per inmate investment in prison treatment is fairly modest: if just 10% of the inmates are successful, the treatment investment is more than returned. Moreover, a RAND study of the relative cost-effectiveness of treatment, domestic enforcement, interdiction, and source country control found that for heavy users of cocaine, treatment interventions would cost one-seventh as much as enforcement to achieve the same reduction in cocaine use (Rydell et al., Operations Research, 1994). A comprehensive study of the economic benefits of drug treatment shows that they were seven times greater than the costs of treatment (Gerstein et al., 1994).

Another study by Knight and Hiller (1997) examines one of the first substance abuse treatment facilities established in Texas as an alternative to incarceration for substance-abusing probationers. Overall one-year follow-up outcomes (lower arrest rates) were highly favorable for graduates of the Dallas county judicial treatment center (DCJTC program), particularly for those who entered the residential aftercare component of the treatment continuum. The study used a logit regression model to predict (i) being arrested within one year after leaving treatment and (ii) being arrested within one year after leaving treatment for DCJTC graduates. Texas had more inmates in county jail backlog (30,574) awaiting transfer to prison than most states had in their entire prison system and at least one third of those sentences to community corrections were specifically for drug offence (Fabelo, 1996a).

A study on Boot camp drug-treatment and its effectiveness (NIJ, 1995), attempted to evaluate the effectiveness of boot camp programs along two dimensions: the competency of drug-treatment paradigm to deal with offender's drug problems, and the role drug treatment plays within the larger boot camp/aftercare effort to change offender behavior. Specific therapeutic strategies and program characteristics have been identified

by researchers, based on which principles of effective treatment have been suggested by researchers (Andrews and Keisling 1980; Pendergast, 1993; Peters, 1993; Andrews and Bonta, 1994; in Boot Camp drug treatment, NIJ research report, 1995).

Drug courts beginning in the mid-1980s provide dedicated courtrooms for drug cases mainly to speed up processing of cases, the first one being in Miami, in 1989. Research on drug courts suggests that these programs are able to engage drug offenders in long-term treatment and other services, which have limited treatment exposure in the past. Other alternatives include Treatment Alternatives to Street Crime (TASC), probation-based treatment and Corrections-based and parole treatment. The Jefferson County drug court program is based upon the Dade County Florida model, which diverts first-time, drug possession offenders into a 12-month community treatment program that includes acupuncture and development of social and educational skills and is monitored directly by a drug court judge. If the judge believes that the offenders are trying to break the pattern of addiction, offenders remain in treatment even after they tested positive for drugs several times. The core of the program is a 1-year (minimum) treatment program divided into three phases: detoxification, stabilization and aftercare. The specialty of the program is that treatment and education programs are combined with direct judicial oversight and involvement. The clients selected for the study include those possessing cocaine, belonging to Jefferson County, but should not possess more than 1-2 ounces of cocaine or having a history of violent offenses or prior drug arrests. Studies on effectiveness of drug court programs show only one instance where drug court clients had a lower re-arrest rate (Miami) and three studies from five sites (Chicago, Maricopa County, Milwaukee, New York City and Philadelphia) where they did no worse than their research counterparts.

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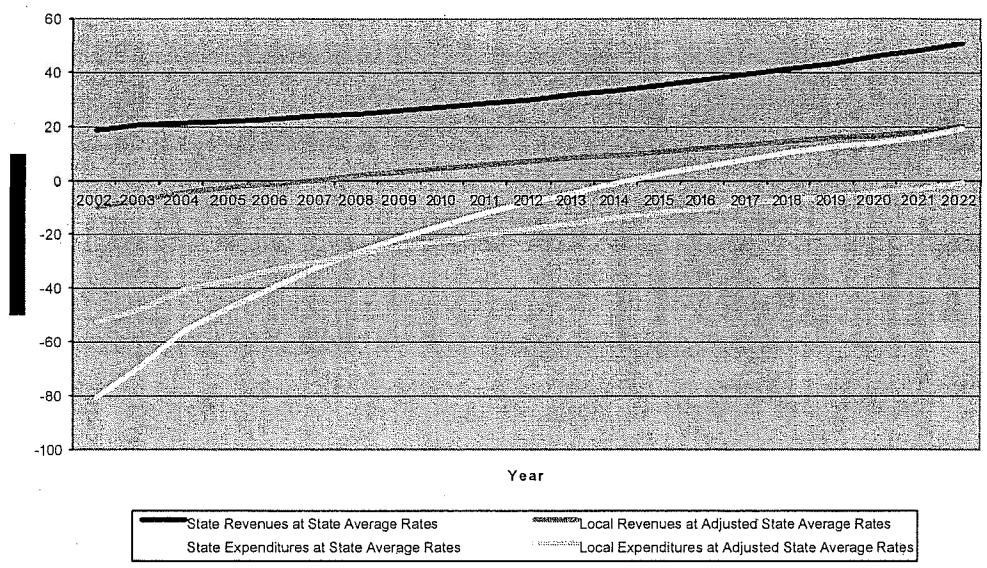
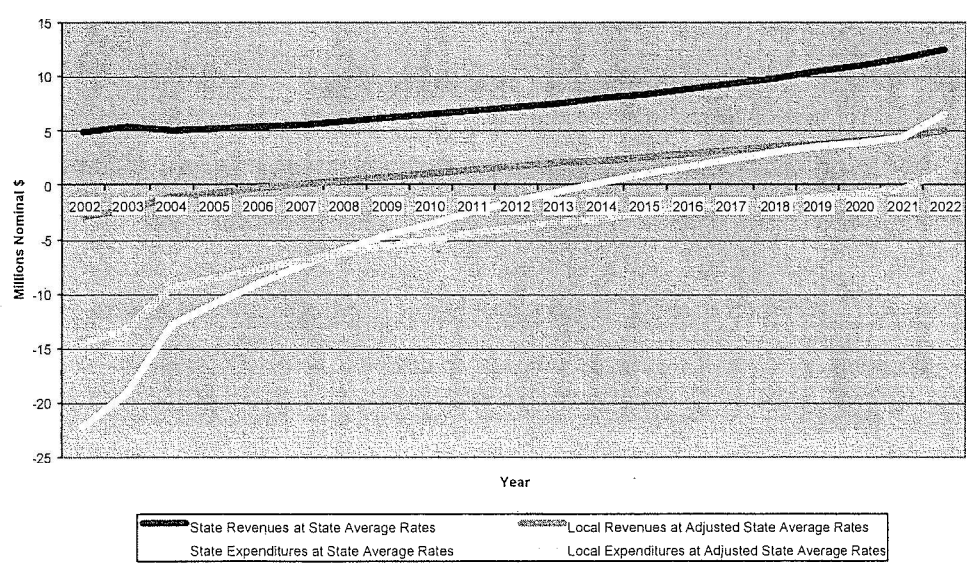
Appendix

Dynamic Response of Connecticut Economy

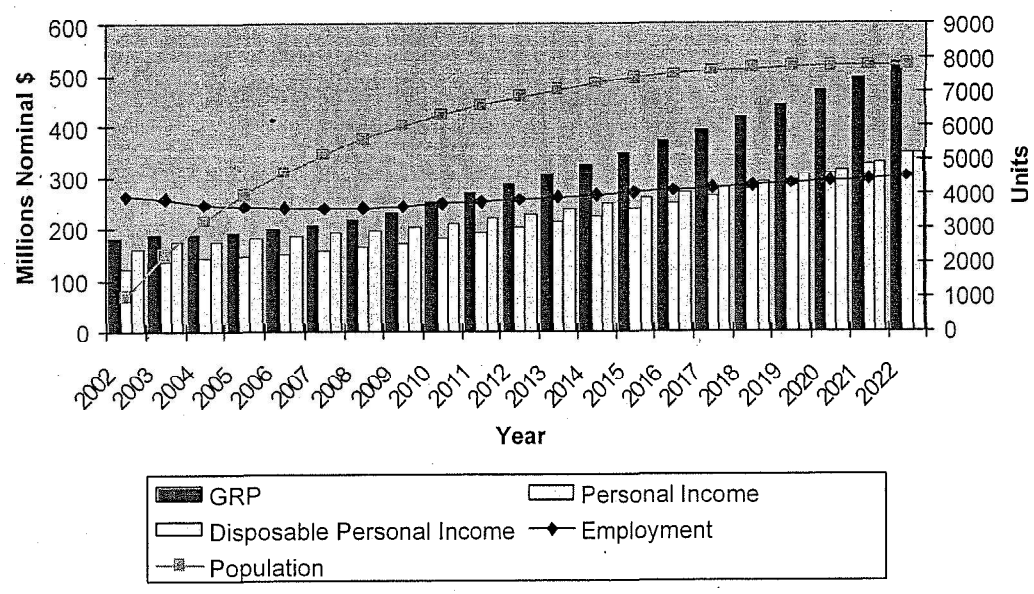
Fiscal Impact - High Estimate



Fiscal Impact - Low Estimate



Key Variables - High Estimate



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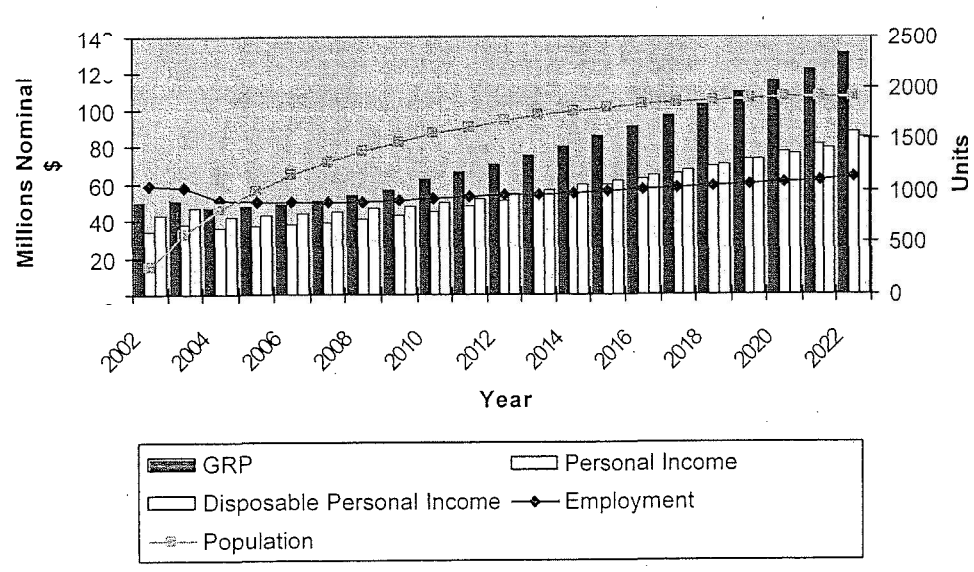

November 27, 2007

Good afternoon Chairmen McDonald and Lawlor, Ranking Members Kissel and O'Neill and distinguished members of the Judiciary Committee. I, along with my wife Bridget, would like to take this opportunity to thank you for holding today's public hearing on strengthening Connecticut's criminal justice laws.

We are submitting testimony today in support of **"Proposal Number 5"** offered by the House Republican Caucus.

The three murders that occurred last July in the Petit's Cheshire home exposed many flaws in our criminal justice system and made many people feel vulnerable in their own homes. As Connecticut citizens, we don't ask a lot of our government, but we all should be able to feel safe and secure in our homes.

Local and state police and other law enforcement officials do a great job protecting Connecticut families. But, all of their hard work is meaningless if we have laws that allow dangerous criminals back on the streets. We are concerned that the focus of some of the work of the legislature is turning to other issues, such as prison overcrowding and the rights of prisoners. What about law-abiding citizens and what about families of the victims? Don't they have rights? We need laws that are going to protect citizens, not criminals.

We believe that the House Republican proposal meets the needs of citizens first. It accomplishes three things:

- Keeps violent criminals in jail for appropriate lengths of time with a true "Three Strikes and You're Out Law". The most hardened criminals will never get out of jail.
- Includes a "Castle Doctrine" provision that allows people to protect themselves in their own homes.
- Monitors criminals after they are released from prison.

In the days following the violent murders in Cheshire, the public learned that those responsible for their deaths had rather lengthy criminal records, but ironically, due to their prior convictions, were considered minimum security offenders and had a fairly minimal history of violent crime. Tragically, because of this, the state did not deem them a risk and they were released from prison granted supervised parole.

We cannot go back and rewrite the past. A mother and her two daughters were murdered by two men deemed nonviolent by Connecticut judicial standards. You cannot allow that

to happen again. You and only you, as elected officials in this state, must take the steps necessary to strengthen our laws to better protect our citizens.

My wife and I strongly urge you to adopt the House Republican proposal to ensure that those likely to commit a violent crime in the future stay in prison never to offend again.

Sincerely,

Allen and Bridget Mossien
Glastonbury, CT

My name is Melissa Saad and I live in the town of Naugatuck. I want to thank you all for allowing me to submit my testimony today.

On March 24, while my family and I were out, our home in Naugatuck was burglarized. The people who broke into our home stole every piece of jewelry we owned, along with some electronics, totalling $11,000. These were family heirlooms and items that just cannot be replaced. We only had $5,000 jewelry coverage and had to pay a $1,000 dedutible. The two people responsible were arrested on other charges a few weeks later, and were then charged with the burglary of my home. Both people have previous felony arrests, both have served time in prison, and one of them has 15 felony arrests. They were also on probation and in violation of that probation when they broke into my home. How could that be?

Fast foward a few weeks. I received a letter in the mail from the Waterbury Superior Court identifing me as a victim. It stated any information in regards to this case would be helpful. So I called, and was told to submit a letter explaining our position, I asked if I would be able to address the court and was told absolutely, it was "MY RIGHT" as a victim. I also asked if sentencing could take place in July, and was told I didn't need to attend, it wasn't on the docket as a dispositon and "these thing take months to resolve, and to call the day after the court date to be given the new court date" So that is what I did, only to be told he was sentenced, and I was not granted any restitution."That because he was given jail time, judges usually do not give restitution also"? Needless to say I lost my mind, I started yelling at the clerk "how could this happen?"

I emailed State's Attorney Kevin Kane expressing my displeasure and demanding answers, which was then followed by a phone call from a Barbara Jean Quinn, victim advocate in Waterbury. I had spoken to Ms. Quinn before, only briefly, she explained to me that burglary victims were not allowed to have an advocate, only victims of violent crime were. This phone call was different, I told her what happened and asked for help, I needed answers, how come I have victim rights, if they aren't going to be honored? How could they have sentenced the defendant knowing I had expressed my wish to speak? How could this court completely disregard me? Is this justice? Ms. Quinn did a wonderful job calming me down, but still stated that she couldn't help me. She did however give the number of the State's Victim Advocate and told me to give them a call.

I did call and I asked for help. My rights as a victim were then explained to me, like they should have been after the crime, I should have known what my rights were well before they were violated. I explained to the OVA that one of the people responsible for the burglary was given a plea deal and was sentenced to only 2 years. This is a persistent offender, someone who can't live by the rules and should have been charged accordingly. He was on probation when he broke into my home, he had served 9 years in prison for an armed robbery does that not mean anything to anyone. Is everyone waiting for someone to get hurt next time? So because I can't have anymore say about the first defendant, I have put my every effort into making sure I am heard in court with the second defendant. This also has not been an easy task. I called Waterbury Court to make sure the court date was still on. I was told to "come to the Sates Attorneys Office and let them know I was

there" I did that. Only when the judge asked if "the victim was notified, and did they have anyhting to say" the prosecutor said " yes they were notified but had nothing to say" to which I stood up in court and said "YES I DO HAVE SOMETHING TO SAY" how could that have happened? how could the note have gone missing? why did I have to stand up in court and yell? Something is terribly wrong here, I am a victim, how come I do not feel like it?

Subsequently, the second defendant has been sentenced. Two of her three charges were dropped. I was able to speak, expressing my wishes for jail time and restitution, to which the judge replied "he saw no reason to impose jail time as the co-defendant, the one who physically broke into my home was only given 2 years, and that her part wasn't as big as that. If she remains free she can give me restitution." I beg to differ, conspiracy is just as big, and she was the one who physically sold our things, she was just as guilty.
I feel like we have laws but nobody wants to enforce them, I feel that defendants rights are given more weight than victims of crimes. How is it that crime victims have to do so much work, just to be diregarded in the end. Does anyone not feel bad about this? who should be held accountable?

I do not think everyone should go to jail, as all of us are human. People make mistakes sometimes, and I am a firm believer in second chances. I do think that after you have been given a second chance you should behave yourself, if not severe consequences should follow. These repeat offenders think this is a joke, they laugh at probation, they know that they won't spend much time in jail, they know it is too much paper work, and they know they have all the rights. This makes me sick. I believe prosecutors and judges alike, pick and choose who and how to prosecute. They know that repeat offenders know the law. They also know that some cases are easier to prosecute than others. What are we teaching our children of Connecticut?

In closing, I think if we just enforce the laws we have, give out the penalties according to the charges and the law, we will have less crime, people will be afraid to commit crimes in Connecticut.

Also, I think that crime victims and their rights should never be forgotten, that they should ALWAYS be number 1, first and foremost. We should not have do all this work, we should be treated as a victim of crime, any crime, regardless if it's violent or not. Being a victim of a crime carries a huge burden, you eat, sleep and breathe everything that has been done wrong to you, it starts to consume your life. You are a VICTIM of a crime, and you shouldn't have to be a victim of your own States Judicial system.

Thank you for considering my comments.

Melissa Saad
Naugatuck, CT

As a concerned citizen I am testifying regarding raised bills Nos. 4, 5, 7, 8, 9, 11, 12, 13, and 15.

I agree that some changes are needed in the criminal justice system but I feel that many of the proposed changes are based on knee jerk emotional reactions as opposed to intelligent decisions based on reason. The emotional reactions of the vocal minority are asking that all convicted persons be punished for the behaviors of a few. Remember when in grade school the entire class was punished because a small number of students misbehaved? When this happened and you were not part of the cause, how did you feel about what was happening to you and to your friends? As stated in the editorial "Sexual Abuse Hysteria" in the Hartford Courant on 9/25/05 "Much of the push for hasher laws is driven by a handful of notorious cases..." Only the most gut-wrenching stories reach the general public creating the belief that all criminals are bad people and will re-offend. Every one of us is a potential criminal and though this statement feels awful none of us knows what we might be capable of and it only takes a few seconds to snap.

First I'd like to address Raised Bill No.12 section 2 beginning with line 10.

On line 15 the term "any other supervised release program" frightens me. This appears to be a reaction to the gentleman who was recently released to the home of his sister in Southbury as a way to keep inmates incarcerated indefinitely. (We often hear and speak of family values, this family demonstrates true family values.) Once an inmate has finished his / her given sentence he / she should be released. Requiring a psychiatric examination of inmates before being granted parole is reasonable as parole is not a right. Being released at the end of one's sentence is a right.

The question this psychiatric examination poses for me is who would be administering the exam. The assurance that the exam administrator would be an independent 3rd party who is not involved with any state agency or offender program needs to be included.

On the table are various proposals known as the "3 Strikes Law." This law has been tried in California and has not proven to reduce crime. At first glance locking up repeat felons for good sounds like a pretty good idea. However, this as law does not allow a judge to look at the whole picture and make a rational decision. Raised Bills Nos. 7 and 8 speak of 40 years confinement to life in prison. Knowing that while incarcerated in the state of Connecticut many inmates do not receive adequate, if any, treatment how can we rightfully lock someone up for 40 or more years who has not honestly been given a chance to succeed. These and other proposals speak of the intent of the convicted person but to honestly know and determine the intent of another person's actions is not possible. How many times have you, in your personal life, been accused of having an intention different from that which you had?

The "3 Strikes Law" in any form to me is not justice, especially to the families and friends of the convicted person.

In the Statement of purpose for Raised Bill No. 8 it is noted that a public registry of all parolees be set up. Since a public registry is already in place for sex offenders I see it as only fair that *all* persons on parole and probation be required to be on a public registry. Having a convicted arsonist live next door to me is much more frightening than someone who may have had "consensual" sex with an older minor.

In Raised Bills Nos. 9, 11, and 12 the Board of Pardons and Paroles will review the complete file of each inmate before the inmate appears in front of the Board.

This is something which should be expected of every board member. The person in charge of the files at each correctional institution needs to be held accountable that the files are handed over in their entirety to the Board of Pardons and Paroles before the hearing takes place. At one parole hearing of which I am familiar the inmate made reference to certain items in his file and as the Board members looked for the items and found them missing they asked the facility Parole Officer where the items were and her response (not quoted exactly) was that she didn't think they were relevant and had removed them from the file. The hearing was recessed and the P.O. was sent to her office to retrieve the missing papers. The missing papers included certificates of program completions and work and behavior reports from the facility which demonstrated the likelihood that the inmate would not re-offend. A close personal friend when he went in front of the Board of Pardons and Paroles noted that many personal papers were missing from his file. From conversations with this friend and others who have been incarcerated, it seems that there may be a persistent culture of with holding information from the Bd. Of Pardons and Paroles both in favor and against inmates.

Requiring that the entire inmate file (including work and behavior reports and certificates of program completions and participation) be made available to the Board of Pardons and Paroles prior to a parole hearing and requiring that the entire file have been read is needed. Raised Bill No. 11 introduced by the Judiciary Committee does just this.

Raised Bill No. 9 line 27 – 37, proposes that members of the board shall devote full time to their duties... What a novel idea.

Raised Bill No. 9 lines 55 - 82 references furloughs for inmates who have a dying relative. By allowing an inmate of any security level to visit a close dying relative or to attend the funeral of said person while accompanied by a guardian of the state can only benefit society in that it will help to prevent the inmate from harboring more anger which can lead to re-offending once the inmate has been released.

Concerning the nursing and mental health staff at correctional facilities, Raised Bill No. 13 is necessary. After hearing the stories from a number of former inmates about the medical care at numerous correctional facilities something needs to be done. Scheduling a time to see someone on the medical staff is difficult at best. The mental health staff was almost completely unavailable to those who I know who have been through the system. As the Department of **Corrections** counseling

by trained counselors should be provided if we expect corrections in behavior to be made.

In conclusion, I am **not** in favor of the "3 Strikes Law" in any form. Secondly, requiring the members of the Board of Pardons and Paroles to be full time employees of the board and requiring that every member be provided with the entire inmate file days prior to the scheduled parole hearing makes good sense for the public. Lastly, creating laws which allow for an inmate to be held beyond the term of his / her sentence is not an option. Inmates, like the rest of us, have family and friends who love them and want them fully back in their lives. Mandating that those under "supervised release" attend specific programs is always a good idea as long as the programs are of value. Most former inmates desire to return to being productive members of the community and their families. All deserve to be given this chance.

Please allow the voice of reason and not the voices and fears of the outspoken minority influence our laws and policies. I am grateful to have my close friend back in a "normal" relationship and not one where our phone calls are limited and monitored and our visits limited and guarded. He is working and living in the community, paying taxes and being a productive non re-offending citizen. This one particular friend is not the only former inmate I know.

Respectfully submitted,

Jennifer L. Jasenski
58 Summer Hill RD
Middletown, CT 06457
November 27, 2007

Good Morning Senator McDonald, Representative Lawlor and distinguished guests of the committee.

My name is Ramona Rivera and I currently live in Danbury, Connecticut.

I want to thank you for the opportunity to share my story as a victim with you here today.

On July 14, 2007, at approximately 7 PM, my little 8 year old son, Royel Messiah Taft was run down and killed by a woman who was operating a vehicle while under the influence of PCP. Royel was in his yard waiting for a pizza delivery when the driver crashed through our fence and killed him as he ran for his life.

As my son lay on the street dying in the arms of his 11 yr old brother, his skull crushed beyond recognition and bleeding, the suspect jumped out of her vehicle and ran into the woods to hide her drugs.

So you are probably asking, why am I here. I am here today to tell the story about a habitual convicted felon, the criminal courts in Connecticut and how they have crossed paths with my innocent 8 yr old baby boy. It is a brief account of how a habitual felon, who receives numerous probation sentences and never serves any prison time, just walks or may I say, drives around the community and killed my innocent 8 yr old boy.

Let me talk about the person charged with killing my son and our criminal justice system.

On **June 06, 1992**, the suspect in my son's death, Natasha Kinion was charged with Robbery in the 2nd degree and Larceny in the 3rd degree.

On **July 08, 1993**, she was allowed to plead guilty **to both felonies**; she was given a **10 yr jail term suspended** and 5 years of probation.

While this case was pending, the suspect, Natasha Kinion was arrested and charged with **3rd degree assault, April 04, 1993**. For this she received another **1 year suspended** prison term.

Even though just two months prior to the assault arrest, she was also charged on **February 23, 1993** with **1 count of Sale of Illegal Drugs, 2 counts of**

Sale of Hallucinogenic drugs and 1 count of possession of narcotics. On **March 16, 1995**, she was given **two - 8 year suspended prison sentences, and 5 years of probation**.

Why is a person convicted of this many felonies handed down so many chances? She has never spent one day in prison, not 1 single day. **Why was her probation not revoked?** She was arrested and charged with felonies while on probation, **February 23, 1993. Someone messed up and needs to be accountable for there bad decisions.**

But t doesn't end here. On **May 06, 1996**, she was charged with **Larceny 6th degree and Failure to Appear in Court. She received a Nolle and $200.00 fine, respectively.....**

The person that is charged with killing my son has received a total of 26 years of suspended sentences in just a 2 year period and she still has not stopped.

On July 14, 2006, a day I will never forget, (Natasha) gets behind the wheel of an SUV; by the investigators account, she was actually smoking PCP at the very moment she crashed through our fence and killed my baby as he stood in our yard waiting for pizza with several other children in the neighborhood. Many other children and families have been damaged beyond understanding because of this. What the neighborhood children and my son Malik L. Taft experienced that day will be relived in there minds continually forever.

She is a former resident of Wtby that came to joy ride with her friends and smoke drugs; the very same jurisdiction (Waterbury) where she has received all the suspended prison terms over the years. She had apparently traveled from her home in NYC to Waterbury, CT.

Why go anywhere else and commit crimes? Go where you know there will be leniency.

Can anyone tell me why so many suspended prison terms for all of these felonies and other arrests were allowed so many times? There aught to be a accountability for misuse of power. Why isn't a person like this prosecuted as a Habitual Offender? Our Criminal Justice System needs to make prosecutors accountable for allowing these repeat offenders to reenter their

doors without handing down a sentence and/or programs with probations to be complete. Also someone in probation should be held accountable for not violating Natasha. Maybe we need a re-vamping of all of our agencies because a lot of our problem lye with mans decision or shall I say ill-decisions. Our state needs a habitual offender, or 3 strikes law, that will be enforced because too many innocent people are being murdered by criminals that have and are still, thumbing their noses at our criminal justice system. I have also heard that there will be specific that will only be considered as a three strikes law. Please don't forget the other repeat offenders need serious discipline as well because if there is not there will be more Royels innocently killed because yet the system has left another gaping hole un-covered. Also, Prosecutors/Courts should be forced to enforce the habitual offender's law.

The Waterbury State's Attorney's Office can't answer my question as to why so may suspended prison terms were given to her, the victims advocates can't.

The only person that can is my dad. Having spent over 20 years working in the prison system here in Connecticut, he said the system is not perfect and it has not learned from its' mistakes and it is all we have and we must work to change it.

He has cited the case where in January 1996, a little boy about Royels age by the name of BJ Brown and his mom Karen (Pieler Case) were killed by an inmate that should not have been out in a Halfway House on early release.

And you know what, I believe my dad, he was in charge of the D.O.C oversight of Halfway Houses at the time and their supervised home release program. My dad said, "like his grandson Royel, he thinks about the BJ Brown/Karen Clarke killing all the time and how flawed our system of justice really is and how fragile life is." He also says, "they are so closely related in terms of the failure of our system to protect the innocent among us the small and innocent children, the elderly, and the decent hardworking among us victimized almost daily by repeat, habitual felons..

He has since retired and is living in North Carolina. He would be here to speak to you all, but he has been hurt by the loss of his grandson beyond words.

So, here I am almost 18 months after my Royel was killed, awaiting for the prosecutor or someone to call and tell me we are ready to go to trial, because, the defendant was offered yet another deal in Waterbury Superior Court - a PLEA DEAL of 12 years and she refused it. Why does a System allow the perpetrators of crimes so many limitless rights and the victims of crimes to be victimized over and over again?

She sits at the York CI on charges of Manslaughter 1st degree, Sale of Hallucinogenic Drugs and Operating Under the Influence. She has not taken advantages of any programs, just sits there showing no remorse, receiving disciplinary reports for misconduct, even while in prison – and this I say as a result of FOI documents my dad requested and received. I heard over and over again yesterday about the state not knowing who will repeat (Recidivism) take a look at conduct, non use of programs, and inmates that get caught with contraband. I want to tell you something about he minds of some of these criminals. They love to hear about a new program since they - are professional liars, career con-artists they give you what you want. I grew up in heart of the Ghetto as a child I have seen the lust they have for this God Awful Life and it's --**disgusting**. While everyone here maybe afraid to enter these streets I am not. I can stop and talk to one of these criminals in an unlocked unprotected facility and get them to tell me there deepest darkest secret and I will guarantee that it will not be the same conversation he had with the jail counselor. For jobs----------There out their. These people if you will call them that don't care and don't want to waste time ---too much effort. They are lazy—Easier to steal; selling drugs makes more money faster. Nothing is stopping these criminals from getting an education but themselves. Education and Job Training should be mandatory when they are released from prison.

I, on the other hand, sit home with just the memories of my little boy and wonder what, can I do to help prevent this from happening to another parent….. That is why I am here… So, I have gone back to college to obtain a Community Health degree because I believe that prevention is the key. After these at risk children have gone a stray it seems to be a down hill struggle. It's time to nip these problems in the bud. Thank you for your time and god bless you all.

November 26, 2007

Members, Judiciary Committee
Legislative Office Building
Hartford, CT 06106

Dear Judiciary Committee Members:

We, the below signed consumer reporting agencies and business trade groups, appreciate the opportunity to bring to the Judiciary Committee's attention an issue of great concern that we feel will have a strong impact on the citizens and businesses of Connecticut. As you may recall, last session the Connecticut Legislature enacted PA 07-243, which significantly altered the process of verifying criminal background checks processed by consumer reporting companies by requiring a real time update from the Connecticut Judicial Department's Internet web site before reporting a criminal record. The result of this change will impact your work in finding a safe, sound and fair process that balances the needs of rehabilitated convicted criminals, with the safety of the general public and the appropriate and accurate safeguards of employers required to search for previous criminal histories for potential employees.

The detrimental effects for criminal background checks are many. Under Connecticut law there are more than 20 occupations that require the collection of criminal history information before hiring. As a result of the action from last session, there is a significant belief that the task of providing accurate and timely information will be curtailed as of February 1, 2008, when the law takes effect.

We understand that one of the laudable goals of the bill was to ensure that up-to-date information is used when searching the criminal records of Connecticut citizens. However, as we will explain below, the provisions of this law will have the unintentional effect of precluding important national employment screenings of Connecticut citizens while achieving no additional accuracy in reporting. Additionally, one of the specific goals of the legislation was to ensure that Connecticut citizens who had received pardons would not have their records continue to be reported. However, this goal would be thwarted because pardon data is not a public record and is not received by the Judicial Department. As a result, one of the primary aims of the legislation will not even be realized by adding the burden of conducting a real time update of a criminal record.

Prior to the passage of PA 07-243, the data updates and accuracy requirements of Connecticut were consistent with every other state and in compliance with the federal Fair Credit Reporting Act. Neither the federal Fair Credit Reporting Act nor any other State law requires a "real time" verification of criminal record data used for background screening purposes from the record provider or any other source. Such an unnecessary requirement to perform manual, real time updates will exponentially drive up costs for

employers and volunteer organizations alike to screen applicants, and dramatically alter the availability and efficiency of accurate background screening services in Connecticut. At this point there is also a legitimate question whether "the [I]nternet web site of the Judicial Department" is capable of handling the volume that would be generated, or whether the Internet format presented is capable or correct to verify criminal records provided by the State in its regular updates. In industry meetings with the Judicial Department, the following was revealed:

- The Internet system currently under construction by the Judicial Department will not be suitable to handle multiple inquires of criminal background checks by large employers and will not be capable of handling automated multi-state searches by companies providing authoritative legal, public records and business information.

- Each of the 13 district court houses manage their record retention with a variety of time tables, making it even more impracticable to search the records conclusively to determine the status of a job applicant.

- The new Internet system as designed by the Judicial Department will not provide specific personal identifiers such as date of birth or social security numbers on the website due to identity theft concerns. This makes it impossible for a person or company conducting a background check to distinguish between people with the same name.

- The Judicial Department has not contemplated the use of the new website by large non-Connecticut national companies. Under the current design, the website will not allow these companies to run multiple searches.

As a result, the only way to conduct background searches in Connecticut would be to have individuals from hundreds of consumer reporting agencies converge on each of thirteen court houses in the state—and the records compilation location in Enfield, Connecticut—to verify this information individually and manually. This costly and time-consuming burden will be felt by businesses around the state, and also by the numerous state agencies that are mandated by law to conduct background checks on individuals before hiring them. (See Attachment).

In addition, this new method of criminal records searching will not prevent discrimination against a candidate with a criminal history, and it may even inadvertently encourage discrimination. For example, if there are two candidates for an open position, and the employer must pay significantly higher costs for the manual background screen that would be allowed in Connecticut (with companies sending runners to the courts to compile information manually), the employer may simply select the candidate with no delays as part of his employment screen. It would be cheaper and quicker. So, while the law attempts to facilitate the rehabilitation of individuals with prior criminal convictions, it may have the opposite effect. Even a candidate with an expunged record may be turned down for more jobs because of the major costs and delays in getting information about them in Connecticut.

Moreover, the delays and increased costs of conducting a background check through a consumer reporting agency may lead the employer to attempt to conduct its own screen through the Judicial Department's website. This will take away many protections currently afforded to Connecticut consumers by the federal Fair Credit Reporting Act. This situation would occur if an employer begins to conduct searches on its own, and the search involves an individual with a common name. The Judicial Department website plans to remove identifiers making it more difficult to distinguish among candidates with common names. Confusion may well lead the employer to take the easier route and make the decision to hire the candidate with no similar or possible match on the website. Thus, the person with the common name may never know what led the employer to turn down the application as all notification procedures required of an employer using a criminal record to reject an applicant are triggered by the employer's use of a consumer reporting agency to obtain the information.

In sum, the requirements of PA 07-243 place the state of background screening in Connecticut in a precarious position. It upsets the balance carefully struck by Congress in the area of employment reporting to achieve a perceived higher level of accuracy in reporting. In reality, it will place Connecticut citizens and businesses at a disadvantage by miring the system in unworkable requirements that cannot address the problem of pardon data as that data will still not be reflected in the real time update. We strongly encourage the Connecticut legislature to return to this issue swiftly and search for an alternative solution and ask that you encourage the legislature to do so also. We thank you for your time and consideration of this issue of vital importance to citizens throughout Connecticut.

Acxiom
Consumer Data Industry Association (CDIA)
ChoicePoint
Connecticut Retail Merchants Association
First Advantage/SafeRent
Kroll Factual Data
LexisNexis
National Association of Professional
Background Screeners (NAPBS)
National Background Data, LLC
USIS

Enclosure

0010100

Background/criminal history checks required by CT law

Who	Requirement	Additional Info.	Failure to Comply	Reference
EMPLOYMENT				
Child day care prospective employees - or group day care home in a position requiring the provision of care to a child	The Commissioner of Public Health will require prospective employees to submit to state and national criminal history records checks.	The commissioner shall also request a check of the state child abuse registry.		Chapter 368a - Sec. 19a-80
Coach - involved in a police-sponsored athletic activity where such coach will be in direct contact with children under eighteen years of age	Department of Public Safety shall perform state and national criminal history records checks at the request of any sworn police officer.			Chapter 529 - Sec. 29-17b
Department of Children and Families – Applicants for positions	The Commissioner will require each applicant to state in writing (A) whether such person has ever been convicted of a crime or whether criminal charges are pending against such person at the time such person submits an application, and (B) require each applicant to submit to state and national criminal history records checks.	The commissioner shall also check the state child abuse registry for the name of such applicant.		Chapter 319 - Sec. 17a-6a
Department of	The Department will require			Chapter 325 -

Correction - applicants for a position that will involve direct contact with inmates	applicants to state (A) whether such person has ever been convicted of a crime or whether criminal charges are pending against such person at the time of such person's application, and (B) require each applicant to submit to state and national criminal history records checks.			Sec. 18-81*l*
Department of Mental Retardation - Employees that provide direct services to persons with mental retardation	Commissioner of Mental Retardation requires each applicant to submit to a check of such applicant's state criminal background.	Commissioner may require private sector service providers under contract with or licensed by the department to provide residential, day or support services to persons with mental retardation, to require each applicant for employment who will have direct and ongoing contact with persons and families receiving such services to submit to a check of such applicant's state criminal background.	No applicant shall be hired by the department or a private sector service provider until the results of such checks are available.	Chapter 319b - Sec. 17a-227a
Gaming Policy Board - The executive director may employ division stewards for thoroughbred racing, division judges for harness racing,	The executive director shall require such persons to submit to state and national criminal history records checks before being employed.			Chapter 226 - Sec. 12-559

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greyhound racing and jai alai, and division veterinarians who shall be exempt from classified service, and may employ clerks, stenographers, inspectors, agents and other employees, as may be necessary to carry out the functions of the board.				
Homemaker-companion agency - any employee of such agency hired on or after October 1, 2006	Each homemaker-companion agency that any employee (A) submit to a comprehensive background check and (B) complete and sign a form which contains questions as to whether the current or prospective employee was convicted of a crime involving violence or dishonesty in a state court or federal court in any state; or was subject to any decision imposing disciplinary action by a licensing agency in any state, the District of Columbia, a United States possession or territory or a foreign jurisdiction.		Any employee who makes a false written statement regarding such prior criminal convictions or disciplinary action shall be guilty of a class A misdemeanor.	Chapter 400o - Sec. 20-678
School nurses and nurse practitioners	School nurses and nurse practitioners appointed by or under contract with			Chapter 169 - Sec. 10-212

	ny local or regional board of education and any nurse provided to a onpublic school under the provisions f section 10-217a shall submit to a criminal history records check.			
Public school employees - each applicant for any position after July 1, 1994	Require each applicant (A) to state if ever been convicted of a crime or whether criminal charges are pending against such person at the time of application, and (B) to submit state and national criminal history record checks (in accordance with sec. 29-17a) within 30 days from the date of employment.	- State and national criminal history records checks (in accordance with sec. 29-17a) also required within 30 days from the date of employment for each worker (A) placed within a school under a public assistance employment program, or (B) employed by a provider of supplemental services pursuant to the No Child Left Behind Act, P.L. 107-110, who performs a service involving direct student contact. - Substitute teachers may submit state and national criminal history checks completed within one year prior to the date of employment. They do not need to submit	If the local or regional board of education receives notice of a conviction of a crime that has not previously been disclosed by such person to the board, the board may (A) terminate the contract of a certified employee, in accordance with the provisions of section 10-151, and (B) dismiss a noncertified employee provided such employee is notified of the reason for such dismissal, is provided the opportunity to file with the board, in writing, any proper answer to such criminal conviction	Chapter 170 - Sec. 10-221d

		multiple times if they are continuously employed by a local or regional school board (at least one day each school year).	and a copy of the notice of such criminal conviction, the answer and the dismissal order are made a part of the records of the board. The Board shall also send notice to the State Board of Education.	
LICENSES				
Bail enforcement agent	The Commissioner of Public Safety shall require that the applicant for licensure also set forth under oath a statement of whether the applicant has been charged with or convicted of crime, and such other information, including fingerprints and photographs, as required by the commissioner. The commissioner shall require the applicant to submit to state and national criminal history records checks.		No person who has been convicted of a felony or any misdemeanor shall be licensed to do business as a bail enforcement agent in this state.	Chapter 533a - Sec. 29-152f
Bondsmen	The application for license submitted to the Commissioner of Public Safety shall include under oath a statement of whether the applicant has been charged with or convicted of crime, and such other information, including fingerprints and photographs, as said		No person who has been convicted of a felony shall be licensed to do business as a professional bondsman in this	Chapter 533 - Sec. 29-145

	commissioner from time to time may require. The commissioner shall also require the applicant to submit to state and national criminal history records checks.		state.	
Casino gaming licenses applicants	The Mashantucket Pequot Tribe executive director shall require each applicant for a casino gaming employee license, casino gaming service license or casino gaming equipment license to submit to state and national criminal history records checks before such license is issued.			Chapter 226c - Sec. 12-586f
Child care provider – anyone, other than a relative, providing child care services to a child in the child's home who receives a child care subsidy from the Department of Social Services	The commissioner shall require the provider receiving a child care subsidy to submit to state and national criminal history records checks.	The commissioner shall also request a check of the state child abuse registry.		Chapter 319rr -Sec. 17b-749k
Credit union - organizer, director and appointed director	In connection with an application to organize and at any other time the commissioner requests, each organizer, director and appointed director of a Connecticut credit union shall provide fingerprints to the commissioner for use in conducting criminal history records checks.			Chapter 667 - Sec. 36a-437a
Department of	In reviewing the application, the	The review by the		Chapter 439 -

Environmental Protection - applicants for a permit, registration, certificate or other license, or, if the applicant is a business entity, any director, officer, partner or owner of more than five per cent of the total outstanding stock of any class of the applicant's business	commissioner may require the applicant to submit to state and national criminal history records checks.	commissioner of the criminal history of each such applicant, director, officer, partner or stockholder shall be limited to information regarding criminal convictions related to activities regulated under the environmental protection laws of this state, any other state or the federal government.		Sec. 22a-6m
Foster parents – and any person sixteen years of age or older living in the household of such applicant	The commissioner shall require each applicant for licensure to provide foster care and any person sixteen years of age or older living in the household of such applicant to submit to state and national criminal history records checks prior to issuing a license to such applicant to accept placement of a child.	The commissioner shall also check the state child abuse registry for the name of such applicant and for the name of any person sixteen years of age or older living in the household of such applicant.		Chapter 319a - Sec. 17a-114
Nursing home - Any person who is licensed to establish, conduct, operate or maintain one	The Commissioner of Public Health shall require each initial applicant to submit to state and national criminal history records checks.	Any person who is licensed to establish, conduct, operate or maintain a nursing home or any nurse or nurse's aide shall (A) notify the Commissioner of Public Health has been convicted of	- Failure to comply with the notification requirement shall subject the licensed person to a civil penalty	Chapter 638v - Sec. 19a-491b

		(1) a felony, (2) cruelty to persons under section 53-20, or (3) assault of a victim sixty or older under section 53a-61a; or has been subject to any decision imposing disciplinary action by the licensing agency in any state, the District of Columbia, a United States possession or territory or a foreign jurisdiction, (B) complete and sign an application form which contains questions as to whether the person has been convicted of any crime specified above.	of not more than one hundred dollars. - Any person seeking employment in a position connected with the provision of care in a nursing home who makes a false written statement regarding such prior criminal convictions or disciplinary action shall be guilty of a Class A misdemeanor.	
School bus drivers – operator's license bearing a school endorsement	The Commissioner of Motor Vehicles shall require each applicant for an operator's license bearing a school endorsement to submit to state and national criminal history records checks.		The Commissioner may refuse to issue an operator's license bearing such endorsement and, in such case, shall immediately notify the applicant, in writing, of such refusal or withdraw the operator's license	Chapter 246 - Sec. 14-44

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			bearing a school endorsement immediately and, in such case, shall immediately notify the holder of such license and the holder's employer, in writing, of such withdrawal.	
Pawnbrokers	The selectmen of any town and the chief of police of any city may grant licenses to suitable persons to be pawnbrokers. No license shall be issued by the selectmen or chief of police to any person who has been convicted of a felony. The selectmen or chief of police may require any applicant for a license under this section to submit to state and national criminal history records checks.			Chapter 409 - Sec. 21-40
Private detective – or agency	- The application for license shall state the applicant's full name, age, date and place of birth, residences and employment within the past five years and the applicant's present occupation with the names and addresses of employers, the date and place of conviction of any crime and such additional information as the	- If the applicant is an association, corporation or partnership, similar information shall be required of each individual composing or intending to compose such association, corporation or partnership.		Chapter 534 - Sec. 29-155

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	Commissioner of Public Safety requires to investigate the qualification, character, competency and integrity of the applicant. - The commissioner shall require any applicant for a license under this section to submit to state and national criminal history records checks.	- Each applicant and, in the case of an association, corporation or partnership, each individual composing such association, corporation or partnership, shall submit with the application two complete sets of fingerprints on forms specified and furnished by the commissioner and two photographs, two inches wide by three inches high, taken within six months prior to the application.		
Purchasers of precious metals and stones - gold or gold-plated ware, silver or silver-plated ware, platinum ware, watches, jewelry, precious stones or coins	A chief of police or first selectman shall refuse to issue a license to a person who has been convicted of a felony. A chief of police or first selectman may require any applicant for a license to submit to state and national criminal history records checks.			Chapter 414 - Sec. 21-100
Taxicab operator - person, association,	A person, association, limited liability company or corporation must obtain a			Chapter 244a - Sec. 13b-97

limited liability company or corporation	certificate from the Department of Transportation to operate a taxicab. The commissioner shall request the state criminal history records check for any person or any officer of any association, limited liability company or corporation applying for such certificate from the State Police Bureau of Identification.			
Use of explosives and blasting agents – including storage and transportation	The Commissioner of Public Safety shall require any applicant for a license to submit to state and national criminal history records checks.			Chapter 541 - Sec. 29-349

Ch. 529 Sec. 29-17a. Criminal history records checks. Procedure. Fees. (a) If a criminal history records check is required pursuant to any provision of the general statutes, such check shall be requested from the State Police Bureau of Identification and shall be applicable to the individual identified in the request. The requesting party shall arrange for the fingerprinting of the individual or for conducting any other method of positive identification required by the State Police Bureau of Identification and, if a national criminal history records check is requested, by the Federal Bureau of Investigation. The fingerprints or other positive identifying information shall be forwarded to the State Police Bureau of Identification which shall conduct a state criminal history records check. If a national criminal history records check is requested, the State Police Bureau of Identification shall submit the fingerprints or other positive identifying information to the Federal Bureau of Investigation for a national criminal history records check, unless the Federal Bureau of Investigation permits direct submission of the fingerprints or other positive identifying information by the requesting party.

(b) The Commissioner of Public Safety may charge fees for conducting criminal history background checks as follows:

(1) Except as provided in subdivision (2) of this subsection, for a person requesting (A) a state criminal history records check, the fee charged by the Department of Public Safety for performing such check, and (B) a national criminal history records check, the fee charged by the Federal Bureau of Investigation for performing such check.

(2) For a state agency requesting a national criminal history records check of a person, the fee charged by the Federal Bureau of

Investigation for performing such check. The state agency shall reimburse the Department of Public Safety for such cost. Unless otherwise provided by the provision of the general statutes requiring the criminal history records check, the state agency may charge the person a fee equal to the amount paid by the state agency under this subdivision.

(c) The Commissioner of Public Safety may provide an expedited service for persons requesting criminal history records checks in accordance with this section. Such expedited service shall include making the results of such records checks available to the requesting party through the Internet. The commissioner may enter into a contract with any person, firm or corporation to establish and administer such expedited service. The commissioner shall charge, in addition to the fees charged pursuant to subsection (b) of this section, a fee of twenty-five dollars for each expedited criminal history record check provided. The fee charged pursuant to subsection (b) of this section and the expedited service fee charged pursuant to this subsection shall be paid by the requesting party in such manner as may be required by the commissioner.

(P.A. 01-175, S. 31, 32; P.A. 05-267, S. 1.)

Testimony before the Judiciary Committee
Concerns Regarding "Three Strikes" and Medical/Mental Health Correctional Facility Proposals
Karen Zimmer, Storrs, CT
November 27, 2007

Good afternoon, Senator McDonald, Representative Lawlor, and members of the Judiciary Committee. My name is Karen Zimmer, and I have concerns about two proposals by your committee that were discussed in a recent Hartford Courant article. Proposal #4 includes a 1200 bed medical/mental health correctional facility, and Proposal #8 suggests a "three strikes" law that includes misdemeanors. I have a close family member with a serious history of mental illness who has spent a number of months in prison, including twice at Garner Correctional, because of symptoms of his mental illness.

When Steven (not his real name) was arrested for assault of a health care worker, he was homeless, paranoid, and refusing to take medication because he thinks it is poison. He has been hospitalized more than 20 times in 13 years. I thought he might improve while at Garner because I thought he would receive treatment and have a chance to stabilize. How disappointed I was. I have worked as a psychiatric nurse since 1983, and I can tell you that Garner is still a prison, not a psychiatric hospital. His medication regime was not adequate and he did not stabilize. Communication with mental health professionals is spotty and there are not enough of them. I was told by a former employee at Garner that inmates cheek their medications and trade them for other goods and services. She also told me that if an inmate was in clear psychiatric crisis, even with a social worker's referral, it took several weeks before a psychiatrist would have time to evaluate the inmate.

Steven told me that although his medications were supposed to be crushed, this was not always done, and he was, in fact, able to cheek them, and agreed that sometimes inmates traded meds for goods. Sometimes when he called us (collect) he was clearly decompensating and manic. I was unable to reach someone for days to express my concerns. Voice mail is not available and messages were not returned. Basically, Steven was not much different after several months of prison than when he went in, and he was hospitalized soon afterward. Lots of money spent, but for what? A 1200 bed medical prison will be exorbitantly expensive; Connecticut's resources would be more wisely spent on community treatment and housing, not thick walls, razor wire, and prison guards.

I believe that assault on a medical person is considered a violent felony. I am not trying to excuse what Steven did, and he needs consequences for his behavior, even though he was ill at the time, but I worry that if Connecticut implements a "three strikes" law that he will be in danger of being imprisoned for life. He is not a bad person. He is an ill person. Unfortunately I don't have enough information to figure out the cost of putting a person away in prison for the rest of their life, but providing intensive community treatment and supportive housing has got to be much more cost-effective and is certainly more humane than that. A three strikes law may create many more problems than it will solve.

The Governor's Blue Ribbon Commission on Mental Health report in 2000 included a "Vision for the Future", that included these recommendations:

- ***People who use services are treated with dignity and respect and their legal rights are protected.***
- ***Access to appropriate care is timely and easy to obtain***
- ***Best practices and the latest scientific knowledge guide service delivery***

I do not believe that building a 1200 bed medical correctional facility to warehouse people with mental illness or mandatory incarceration for life for 3 violent felonies are "best practices". I urge you to rationally consider what is really best for Connecticut citizens, and to refrain from a "just lock them all up" mentality.

Thank you for your time and consideration.

" As a citizen of the state of Ct I have been asked to provide testimonial on the issue being addressed in this hearing on Tuesday, November 27, 2007. I offer the following numbered comments:

1. It is amazing to me that some of these provisions are not already part of the laws in the state of Connecticut. Burglary that either deliberately or inadvertently has human contact is a violent crime. Even if the criminal does not to intend violence they are by their very presence and actions eliciting violence and should be held accountable to the greatest extent possible.

2. Home invasions have become a plague in society. They must be deterred by using all avenues available to us as a citizenry. We are relying on our elected officials to initiate and institute the strongest methods possible.

3. On repeat offenders. Why do we as a society have to accept repeated notices from criminals that they mean us harm? The penalties must be increased on these predators! Three strikes are more than enough for these criminals and they should not be eligible for suspended sentences or any reduction of their sentences.

I hope and pray that this hearing will take into account these comments and the sentiments behind them."

Elizabeth Connolly
447 Peter Court
Fairfield, CT, 06824

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I hope and pray that this hearing will take into account these comments and the sentiments behind them."

Michael Connolly
447 Peter Court
Fairfield, CT, 06824

Judiciary Committee
Legislative Off ice Building
Hartford, CT 06102

Dear Judiciary Committee,

I am writing this letter to voice my concerns and to tell you that I am strongly in favor of the, "three strikes law". I believe that we need to increase the penalties for home invasion and increase the sentences for repeat offenders. We need stricter laws for violet crimes in order to keep our neighborhoods safe.

As a Cheshire resident, I was horrified as to the crimes that took place in my town in July. I moved to Cheshire 17 years ago because I thought the school system was wonderful and that it was a safe, quiet town to raise my family. Never did I think that a crime so horrific could take place in Cheshire, but I was so wrong. It can happen anywhere and it will continue to happen until we change our laws for repeat violent felons.

I urge you to make the laws stricter by imposing longer sentences on repeat offenders, to increase penalties on repeat offenders, and to pass the, "Three Strikes law". Our future safety depends on it.

Thank you.

Sincerely,

Shari L Turner
1199 Cornerstone Court
Cheshire, CT 06410
(203) 271-0110

Judiciary Committee
Legislative Off ice Building
Hartford, CT 06102

Dear Sir or Madam of the Judiciary Committee,

I am writing this letter to let you know how upset I am regarding the present laws in Connecticut for repeat offenders. Unfortunately it takes a horrific event like the crimes that were committed to the Petit family in Cheshire, for the Legislature to realize that we need to reevaluate our laws, and look into making stricter sentences for repeat offenders. I am strongly in favor of the, "three strikes law". I believe that we need to increase the penalties for home invasion and increase the sentences for repeat offenders. We need stricter laws for violet crimes in order to keep our neighborhoods safe.

I am also a Cheshire resident and I thought that this town was a safe place to raise my family. I don't think any town is safe from these criminals that know that they can commit and crime and if they get caught, will only have to serve 50% of their time. We need to fix the system. We need to change the laws to impose stricter penalties for repeat violent felons.

I urge you to pass the, "Three Strikes law", and to impose stricter penalties for burglars and repeat offenders. The safety of our loved ones is at stake.

Thank you.

Sincerely,

Roger W. Turner
1199 Cornerstone Court
Cheshire, CT 06410
(203) 271-0110

TESTIMONY – Judiciary Committee – November 27, 2007

Residents of New Haven are no different from residents of Cheshire. Everyone wants to be safe in his or her home, and we all want to prevent violence in our communities.

What is the right response to murders and other acts of violence, whether they occur in the suburbs or in the cities? A longer sentence—after the crime has already happened—is not the answer. And a 3-strikes law means that we have allowed THREE crimes to happen. Resources should be directed toward stopping violent crimes BEFORE they happen. That means more programs in every community for drug treatment, mental health treatment, psychological services for troubled youth, family counseling, and in the urban areas particularly, it means better education and activities for youth, mentoring, good jobs and affordable housing, and especially for people coming out of prison. It means preventing illegal guns from being sold on our streets. Don't spend more money on locking people up—it doesn't solve the problem of violence. We need a real public safety response.

Commissioner Lantz has spoken on many occasions about the value of releasing people from prison under supervision, rather than having them max out on their sentences. Banning parole is counterproductive. It needs to end NOW. And bringing people back from the community who were already out on parole and doing well—this is completely unfair, if not illegal. I had never heard that Parole was not doing an adequate job of evaluating the prisoners that come before the Board. But if you think they need to look again at some individuals' paperwork, fine—but it's on paper, so it shouldn't be necessary to bring anyone back to prison, causing them to lose a job and sever the ties they had been renewing with family, especially children. If Community Enforcement was not doing a good enough job or didn't have enough staff to properly monitor the parolees, then fix it—but not at the expense of persons who had already been granted parole.

And what happens after someone's sentence is completely finished? He might still be a violent person, but now you have no jurisdiction. The Cheshire murderers, had they not sought parole, would have finished their sentences a short time later, and might have done the same horrible crime. So the real question should be: ARE PEOPLE BEING REHABILITATED IN PRISON OR NOT? Instead of looking at building two new prisons, legislators should look at what kind of rehabilitation is occurring behind those walls. Given the number of people filling our prisons (including many who don't need to be in a prison setting) I don't believe DOC is able to provide proper rehabilitation. I want to know how many people are on waiting lists for programs, how many individuals who need drug treatment are not getting it, if everyone who needs an Alternatives to Violence program is in one, if education beyond a GED is available, and if the conditions in prison help or hinder the reintegration of prisoners back into to our communities. This is a public safety issue. We will be safer when real rehabilitation takes place. Last session our organization in New Haven, People Against Injustice, proposed a citizen/legislator Commission that would have looked together at public safety issues such as these. Former prisoners, family members of prisoners and community leaders would help legislators determine what is needed.

This legislative bill calls for an Online Listing of Parolees and Probationers that would provide a description of those offenders, including their addresses and conviction information. Not only does this suggest that you don't believe any rehabilitation has taken place in the prison system, but it would increase the already very difficult problem of securing a job after imprisonment. Successful employment of former prisoners definitely makes us all safer, so please do not make reentry more difficult.

The provisions in the bill that provide for better information-sharing, increased mental health treatment, review of sentences of non-violent offenders in order to divert those who qualify to community programs, and expansion of re-entry services—these are good ideas, which should be funded. If it is possible to identify "potentially" violent individuals, the result should be to provide extensive therapy, as this would enhance public safety.

We will be safer when money is spent in our communities on services that prevent crimes from happening. Don't spend our money on more and longer sentences AFTER the crimes have already occurred. And don't build new prisons.

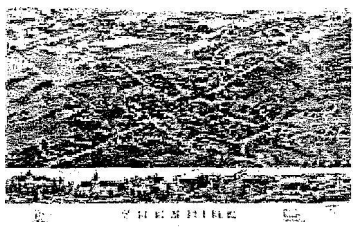
Sally Joughin
member of People Against Injustice

Sally Joughin
14 Everit Street
New Haven 06511

November [illegible], [illegible]7

Tim Slocum
1285 Lilac Court
Cheshire, CT 06410

Tel: Home 272-0652 Bus. 272-3529 Email: tslocum@snet.net



Lawrence Cafero
House Republican Leader
L.O.B. Room 4200
Hartford, Connecticut 06106

RE: Public Hearing on Tougher Sentencing Laws
November 27, 2007
The Judiciary Committee, legislative oversight panel
L.O.B. Room 2500

Dear Representative Cafero,

I am unable to attend the public hearing regarding tougher sentencing laws. I would like to express my grave concerns surrounding the issue and encourage the Republican caucus to restore reason to legislative process that will affect tougher sentencing and strengthen existing state laws.

In the intervening months since the Petit home invasion and triple murders the newspapers have been filled with stories regarding overcrowding in our prisons, increased risks to prison personnel and the threat of huge costs associated with building new prisons. There has been coverage regarding the angst of the families of those incarcerated and stories about the various churches in opposition to the death penalty. I even had to suffer an editorial by Senator Thomas Gaffey in my local paper who blamed the Roland administration for the sorry state of the criminal justice system. I recall the Roland administration governed with a Democratic majority, Governor Roland is gone and Sen. Gaffey is still onboard.

Some twenty four years ago the Mianus River Bridge collapsed. That was Governor Bill O'Neill's fault. A bridge collapsed in Minnesota last summer and that was the president's fault. A discouraged public hears this and knows it is political subterfuge. So many things need fixing where do we begin?

A good friend of mine will sometimes remind me that thunder makes a lot of noise but lightning illuminates. In the thunder that has rumbled… the outcry from of the horrific murders wrought upon the Petit family of Cheshire July 23rd, I hope these hearings will serve to illuminate and enlighten.

November 25, 2007

Tim Slocum
1285 Lilac Court
Cheshire, ^T ^641^

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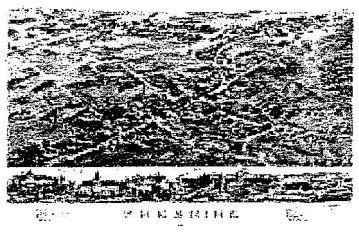


We need change. The time for thunder is passed. Commit today to your sworn obligations to all of the citizens of Connecticut. Commit to your sworn obligations to protect and uphold the laws of our great State.

You must do so by;

Correcting constitutional flaws pointed out by the state Supreme Court in September that *will* eliminate judicial discretion in imposing longer sentences for violent repeat offenders.

Increasing penalties for burglars and defining burglary as a "violent crime'' and therefore subject to the state's sentencing statutes

Increasing penalties for home invasion

Forcing repeat burglars to serve at least 85 percent of their sentences instead of the current 50 percent

Creating a real **"Three Strikes and You Are Out"** law that makes repeat violent felons subject to a lifetime behind bars

Sincerely,

TIM SLOCUM

Tim Slocum
Cheshire, CT

cc Rep. Al Adinolfi
Senator Sam Caligiuri

November 14, 2007

The Judicial Committee of the State of Connecticut
Hartford, Connecticut

I am writing to urge you, on behalf of the residents of Connecticut, to take immediate action to make home invasion a violent felony. We were all horrified by the murders in Cheshire and realize this could have happened to anyone.

There are many things we can do to keep our families safe, however, violent crimes of this nature, must be deterred and stopped through legislation.

Adopting a "3 Strike Law" that carries mandatory sentences for the most violent repeat offenders can only help to reduce and/or minimize these horrific crimes.

Please hear the voices of Connecticut families and schedule a special session to make this happen. These laws need to be changed NOW to protect all of our families, including yours!

Sincerely,

Nancy J. Tine

Nancy J. Tine
Norwalk, Connecticut
Nancy J. Tine-D'Alessandro
WorkPlace Advisory Services, LLC
NancyJTine@wpadvisory.com
(203) 847-3839 (Work)
(203) 984-5704 (Cell)

Alicia L.M. Tremper
34 Roberts Street
Torrington, CT 06790
860-489-3611
rtremper@optonline.net

September 28, 2007

Governor M. Jodi Rell
Executive Office of the Governor
State Capitol
210 Capitol Avenue
Hartford, CT 06106

RE: Board of Pardons & Parole

Dear Ms. Rell:

First, I would like to applaud your recent efforts to reduce public risk from violent offenders. Thank you very much for responding to what feels to me like an endless problem.

Next, I would like to point out a flaw that may hamper your efforts. In order to do so, I'll have to tell you a rather sad story. I apologize in advance for its gravity, but in order to truly understand the concerns I have, it is important to take this route.

On May 9, 1979 I was attending NCCC, and since it was a very hot day and finals were looming large I was studying on the porch of the apartment where my father and I were living. The phone rang, and being a typical 19-year-old I was there in a flash. It was my dad and he sounded horrible. I could barely understand what he was saying, first because he was so upset, then because of my own shock. He was telling me that something had happened to my mother and the police were at our house in Bantam. My parents were estranged, and in the process of selling their house, where my mom was living. As it turns out, my mother had been murdered. Not just murdered; according to the autopsy there was an attempted rape, which she reportedly fought off leaving her with multiple blunt force injuries, numerous stab wounds, chop wounds to the head and neck, broken cheekbone, broken ribs, and severed vertebrae. The entire community was in shock—nothing like that happens around here.

The CT State Police along with the Major Crime Squad quickly and efficiently gathered evidence, pieced together my mothers' last days and hours leading up to her death, questioned and arrested their suspect. On July 6, 1979 they arrested William H. Stepney of Morris & charged him with murder, setting a $100,000. cash bond. That was reduced to $500. because his lawyers (James Wade of Hartford & Louis Erteschik of Litchfield) convinced the judge at the time that their client was harmless. (Despite their defense in the trial focusing on their client's inability to have been with my mother long enough to kill her because he was hauling scrap metal—a physically demanding job for even the most hearty and hale)

On 8/16/1979 a Grand Jury with a vote of 16-2 indicted Stepney after 20 minutes of deliberation. On 11/11/1980, he was convicted of murder. The sentencing came in January of 1981. Judge George Stoughton ruled that 22 years to life were to be served, with no parole until 1994, given the violence of the crime. There was a collective sigh of relief not just from my family but the community as a whole. States Attorney Dennis Santore and Assistant D.A. Anne Dranginis had done their jobs. Unfortunately, because of appeals to the Sate and US Supreme courts he was not imprisoned until May of 1984. Five years after having committed this wretched crime, the convicted criminal finally took up residence in Somers.

But not to worry-this is a convicted murderer—one who committed an especially heinous crime, and we all know that once someone is sentenced, all is done & over. The fat lady had sung. Just to be on the safe side, I gave my married name and contact information to the Somers Prison, State District Attorney's office, Parole & Pardons Board, & Troop L in Litchfield, should there be any parole attempts. Atty. Wade attempted to get medical paroles and even tried for a pardon within the first five years of Stepney's imprisonment. All of which were thwarted by the State District Attorney's office, and considered to be pathetic attempts by lawyers desperate for publicity.

November 29, 1990, another terrible phone call. This time it was my mother's sister, telling me that Stepney was being released—that she'd read it in the paper. Okay, I'm thinking she must have gone off the deep end, because this simply couldn't be happening. There isn't even eligibility for Parole until 1994, and I'm pretty sure she said something about *Pardons*. (Herein lies my concern with your Parole suspension) I actually had to look up the word I was in such a state of disbelief—I was certain this wasn't really happening.

I started making phone calls. Ultimately I reached Burton Yaffie, from the Parole & Pardons Board. He informed me that this was a done deal; the decision had been made before the State's Attorney had even entered the room for the review based on the fact that this particular inmate was costing the Department of Corrections too much money due to his various maladies. He went on to say that there is nothing that can be done about this because the Board answers to no one, and no one has the jurisdiction to question their decisions. He then asked me why I can't just let this man go home and enjoy the holidays with his family. *Go home and enjoy the holidays with his family?!?* I pointed out to Mr. Yaffie that my mother was not afforded the luxury of being able to spend holidays with her family. His response was that I needed to accept this ruling and he hung up.

Since that autumn day in 1990 I have crossed paths with Mr. Stepney and members of his family on numerous occasions; in the grocery store, at the movies, even one *Mother's Day* at a Daffodil farm in Northfield. I have had to make adjustments in my professional positions within the healthcare field. Mr. Stepney was seeking treatment from a physician I was working for, and I had to explain to that physician why I was having an anxiety attack when the new patient walked through the door. Being a good, kind man the doctor offered to not take on this new patient, but I chose to not disrupt his practice and left my job. A few years later I was working at a hospital when I was paged to the Emergency Room, and who did I come face-to-face with? My mother's murderer. After I explained to my co-workers (yet again) why I simply could not assist with this

particular patient I went back to work, but in the end had to leave that position also due to extreme anxiety, depression and what was ultimately diagnosed as post traumatic stress disorder. These are just a few of the chance encounters I've had over the years. Furthermore I believe that this murderer is still alive at 91 years of age. I wonder how many happy holidays he and Mr. Yaffie have enjoyed at my expense.

At this point I am not nearly as concerned for the safety of myself and the community, as I am outraged at the affront to my mother, my family, the police who gathered evidence and supplied important data, the Office of State's Attorney who illustrated the events of May 9, 1979 to the jury, and the jurors involved. Why did these people waste their time doing their jobs, having to witness this atrocity, and try to make some sense of it only to have the almighty Pardons Board crush their efforts and my heart?

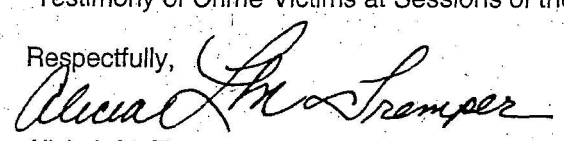
You see, it's not just that a convicted prisoner may or may not be of future danger to the community when released; it comes back to why they were there in the first place. The convicted criminals clearly care not what pain they inflict or to whom, and sadly neither does the Pardons Board. Our system is failing us Ms Rell. I have never been big on math, but I know the follow equation just doesn't work:

Five years of appeals, and legal balderdash before serving any time
Six years served on a 22-years-to-life sentence
1990-present day = 17 years of absolute & complete freedom—another kicker of Pardons; there is no follow up on the released prisoner any more than there is on the Board itself. Now hold those facts in one hand, and my mother's life in the other—does it feel balanced to you? I'm not feeling like Lady Justice is doing very well.

Maybe you are already aware of this escape route available to Connecticut convicts. The fact remains, it needs to be changed. With the recent occurrence in Cheshire, it is begging to be changed.

Please know that I will support your ban on early release of inappropriate prisoners in any way I can. If you need testimony, letters of support, or any other backing please let me know. I don't' want anyone else to live through what my family and I have, or what the folks in Cheshire are enduring after the Petit slayings. You are welcome to contact me at any time, in any manner as (I am sure you noticed) I am rather passionate about these issues. You will also find supporting documentation in reference to the bill on "Testimony of Crime Victims at Sessions of the Board of Pardons".

Respectfully,



Alicia L.M. Tremper

CC: Survivors of Homicide, Honorable Anne C. Dranginis, William Petit, MD,
Burton Yaffie, James Wade, Louis Erteschik, Senator Joseph Lieberman
Senator Christopher Dodd, State Senator Andrew Roraback

001064

STATE OF CONNECTICUT
SENATE
STATE CAPITOL
HARTFORD 06106

SENATOR M. ADELA EADS
SENATE REPUBLICAN LEADER
THIRTIETH DISTRICT

160 MACEDONIA ROAD
KENT, CONNECTICUT 06757
TELEPHONE
HARTFORD: 240-8800
HOME: 927-3553
TOLL FREE: 1-800-842-1421

February 28, 1991

Ms. Alicia Tremper
34 Roberts Street
Torrington, CT 06790

Dear Ms. Tremper:

I just wanted to take a moment to advise you that the bill I introduced concerning crime victims has been incorporated with HB 5091,"An Act Concerning The Testimony Of Crime Victims At Sessions Of The Board of Pardons."

Enclosed you will find a copy of the bill, and as you can see, the context is exactly the same as the bill we proposed. A public hearing has been held, with passage very likely since the Chairman of the Judicial Committee, Representative Tulisano, is a co-sponsor.

Please be assured that I shall continue to monitor the progress of the bill and work towards its passage.

Please feel free to contact my office should you require further information or assistance.

Sincerely,

M. Adela Eads
Senate Republican Leader

MAE/jem

STATE OF CONNECTICUT

Committee Bill No. 5091 Page PPPL
Referred to Committee on JUDICIARY

LCO No. 2250

Introduced by (JUD)

General Assembly
January Session, A.D., 1991

AN ACT CONCERNING THE TESTIMONY OF CRIME VICTIMS AT SESSIONS OF THE BOARD OF PARDONS.

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

(NEW) (a) For the purposes of this section, "victim" includes the legal representative of the victim or a member of a deceased victim's immediate family.

(b) At a session held by the board of pardons to consider whether to grant a commutation of punishment or release, conditioned or absolute, a commutation from the penalty of death or a pardon, conditioned or absolute, to any person convicted of any offense against the state, the board shall permit any victim of the crime for which the person was convicted to appear before the board for the purpose of making a statement for the record concerning whether the convicted person should be granted such commutation, release or pardon. In lieu of such appearance, the victim may submit a written statement to the board and the board shall make such statement a part of the record at the session.

(c) The board of pardons shall notify any victim authorized to appear at a session pursuant to this section of the date, time and place of the session if such victim has requested the board to so notify him and has provided a current address for the mailing of such notice.

STATEMENT OF PURPOSE: To insure that the victim of a crime is given the opportunity to be heard before a pardon, commutation of punishment or release is granted to the offender by the board of pardons.

[Proposed deletions are enclosed in brackets. Proposed additions are all capitalized or underlined where appropriate, except that when the entire text of a bill or resolution or a section thereof is new, it is not capitalized or underlined.]

Co-Sponsors: REP. TULISANO, 29th DIST.; SEN. EADS, 30th DIST.
REP. SAMOWITZ, 129th DIST.; REP. CHASE, 120th DIST.
REP. RAIA, 23rd DIST.; REP. LEBEAU, 11th DIST.
REP. FERRARI, 62nd DIST.; REP. MOYNIHAN, 10th DIST.
REP. IRELAND, 111th DIST.; REP. DEL BIANCO, 71st DIST.
REP. AVITABILE, 65th DIST.; REP. NYSTROM, 46th DIST.
REP. SMITH, 119th DIST.; REP. AMANN, 118th DIST.
REP. FRITZ, 90th DIST.; REP. STOLBERG, 93rd DIST.
SEN. SULLIVAN, 5th DIST.

001066

STATE OF CONNECTICUT
SENATE
STATE CAPITOL
HARTFORD 06106

SENATOR M. ADELA EADS
SENATE REPUBLICAN LEADER
PRO TEMPORE
THIRTIETH DISTRICT

160 MACEDONIA ROAD
KENT, CONNECTICUT 06757
TELEPHONE
HARTFORD: 240-8800
HOME: 927-3553
TOLL FREE: 1-800-842-1421

RANKING MEMBER
EDUCATION COMMITTEE
MEMBER
BANKS COMMITTEE
PROGRAM REVIEW & INVESTIGATIONS

December 18, 1990

Ms. Alcia Tremper
34 Roberts Street
Torrington, CT 06790

Dear Ms. Tremper:

Enclosed you will find a copy of proposed legislation which would insure that the victim of a crime is given the opportunity to be heard before a pardon is granted to an offender.

I would strongly suggest that you contact the co-chairmen of the Judiciary Committee; Senator Anthony Avallone, LOB, Suite 2500, Hartford, CT 06106 and Representative Richard Tulisano, LOB, Suite 2500, Hartford, CT 06106, as this legislation will be referred to the Judiciary Committee.

It is my hope that this legislation will be passed as I do believe many share your sentiments concerning this issue. Please feel free to contact my office while the matter is pending, should the need arise.

Sincerely,

M. Adela Eads
Senate Republican Leader-Elect

001067

STATE OF CONNECTICUT

P[redacted]d Bill No. Page 1

Referred to Committee on

LCO No. 237

Introduced by SEN. EADS, 30th DIST.

General Assembly

January Session, A.D., 1991

AN ACT AUTHORIZING CRIME VICTIMS TO TESTIFY AT HEARINGS OF THE BOARD OF PARDONS.

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

That chapter 321 of the general statutes be amended by requiring the board of pardons to hold a hearing prior to granting a pardon, commutation of punishment or release of any person convicted of an offense in this state, to notify any victim or a family member of the victim of the date, time and place of the hearing if such victim or family member has requested the notice and provided a current address for the mailing of such notice, and to allow such victim or family member to appear at such hearing and address the board.

STATEMENT OF PURPOSE: To insure that the victim of a crime is given the opportunity to be heard before a pardon, commutation of punishment or release is granted to the offender by the board of pardons.

001068

29 October, 1990

Dear Governor O'Neill,

I am writing to you in reference to the recent release of William Stepney, from Somers prison, as a result of the Pardons Board commuting his sentence. There are two basic reasons why I am writing to you in regards to this action taken by the board. First, Barbara McKitis was my mother, and she was savagely murdered by this person. I was under the naive impression that since the court saw fit to imprison Mr. Stepney--for a term of twenty-two years to life, that he would not be back in society for some time. You see, I was there when he was sentenced, and I heard no mention of "This is your sentence; if you can handle it--otherwise we will let you go after serving only six years". My mother was not, and is not deserving of this kind of contemptuous affront, and neither is her family.

Secondly, I am appaled at the disrespectful conduct of the Pardons Board, and since your office appointed the members, I would expect you to be accountable for problems which arise when they act outside of the scope of their authority. The Secretary of the Board told me that even if any of my family had been present at the Board's meeting (we were not notified of its existence) that it would have done no good, since they had already made a decision on the basis that this prisoner was too costly for the Corrections Department to support, and that he would like to spend the remainder of his life at home with his family. Does this sound like appropriate action on the part of the Board to you? They are supposed to consider the nature of the offense--a point which they clearly ignored. They are supposed to listen to the State's Attorney when he explains that this sort of release is a mockery of the Justice System. They are also supposed to consider other pertinent information--that being the lack of time served, the outrage of the family and community, and that ever present fact that this prisoner is a vicious murderer. This Board is clearly acting as an early release mechanism, and must be stopped.

The action taken by the Pardons Board is simply unacceptable, as it will be in any case where a murder has taken place.

Please use your executive power to overturn this decision!!

Yours Truly Heartbroken, and Enraged

Alicia L. M. Tremper

Alicia L. M. Tremper

02 January 1991

Dear Governor-Elect Weiker,

I am writing to you in reference to a letter which I had sent to your predecessor, Governor O'Neill. (There is a copy of his letter enclosed.) The subject of both your letter, and his is the recent (November 20th) release of William Stepney from Somers prison. I am truly amazed that the Governor, and his office have chosen to ignore this issue, in spite of the fact that when I phoned O'Neill's office, attorney Rifkin agreed with me that the Board of Pardons was operating outside of the scope of their authority; with total disregard for the victim, her family, the community, and making a mockery of the judicial system.

While I am fully aware of the fact that you were not in office when this travesty took place, I am turning to you for help, knowing full well that you are the only one who can help.This is not a simple commutation of a 25 years to life sentence; there are a number of complex issues which are in need of immediate attention.

First, and most importantly, this man should never have been released from prison, and should be returned there without any further delay. He brutally beat, stabbed, and ultimatly murdered my mother in May of 1979. Through the appeals process he was able to avoid serving any time for five years, and then only served six years of the sentence which was considered lenient at the time.

Next is the issue of the Pardons Board. This Board was set up some time ago, to relieve the Governor's work load, and provide a more "jury-like" body for the execution of pardons rather than one person having and being burdened with, all that power. The problem now is that the Board has ultimate power, and apparenly has to answer to no one.(According to Mr. Yaffe's boasting) This is definatly wrong, and in need of correction as is the lack of guidelines that the Pardons Board is required to follow: there are none! There are no regulations as to who can go before the Board--Stepney wasn't even eligible for parole. This means that someone imprisoned for stealing food to feed his/her family and a brutal murderer are both eligible to go before the Board, and most likely both walk away from their sentence. There is also no provision for security measures, rehabilitation, or any other follow-up after a prisoner has been released by the Pardons Board.

The lack of follow-up is directly related to who should or should not be allowed a chance to be heard by the Board. A prisoner who has savagely murdered and innocent woman is certainly not high on the priority list of those who should be allowed the privilege of re-entering society. In addition to the whimsical overturn of this particular prisoner's sentence, I feel that you should realize that it was done secretly. A year or so ago, Mr. Stepney's slick lawyers tried this same action; stating the prisoner's poor health, and age as important factors for the State to consider, when reviewing not only this case, but also their budget. I was immediatly in contact with the Pardons Board, the Parole Board, and the records department within the prison itself, leaving word with each that I wanted to be notified if this action should occur again. I also spoke to the State's Attorney's office, who assured me that the Pardons Board would never release Stepney. None of the above mentioned persons or offices gave and indication that they were ignoring me, or that they had no intention of notifying me. It was only after Mr. Yaffe laughed at me for assuming that I had a right to be contacted and told me that even if I had been there, the Board woudn't have listened to me , that I realized how this group of people works. Not only have I learned that they have no obligation to contact victims, and their families, but in this case had no intention to even listen to the State's Attorney, because the decision had already been made--for "budgetary reasons"--according to Mr. Yaffe. I have received some support on the issue of notification from Senator Eads, and Representative Toulisano. This simply not enough. Someone has to stop the use of the Pardons Board as an early release mechanism.

The action taken by the Pardons Board is simply unacceptable, not only by myself, and members of my family, but also the community, and citizens as a whole. I implore you to use your executive power to overturn this outrageous decision, and return this vicious murderer to prison where he belongs.

Yours Truly

Alicia L. M. Tremper

Alicia L. M. Tremper
489-3611

cc:Senator Eads ,Maureen Donald-Litchfield
Representative Toulisano, Enquirer
Senator Avallone, & Diane Blick

001071

A CONNECTICUT PARTY

231 Farmington Avenue

Farmington, CT 06032

(203) 676-9090

May 6, 1991

Mrs. Alicia M. Tremper
34 Roberts Street
Torrington, CT 06790

Dear Alicia:

I acknowledge receipt of your package of documents which was mailed to me regarding the parole of William Stepney. Since I knew your sister, Sue and your brother, Mike, this case was of personal interest to me. Recent spine surgery has prevented me from responding to you sooner.

Although the current legislation which is before the House and Senate will not help your immediate case, it will prevent such an injustice from happening again in the future. You can also rest assured that the Parole Board recently appointed by Governor Weicker will act more responsibly and be more accountable.

My thoughts and prayers continue to be with you and your family. Please have some peace of mind in knowing that it is through your efforts that this Bill has been introduced thereby preventing the families of other victims from experiencing the pain you have had to endure. Best regards.

Sincerely,

Diane

Diane S. Blick
State Chairman

A CONNECTICUT PARTY

202 Oak St.
Winsted, Ct. 06098
December 21, 1990

Mr. Thomas D'Amore
Weicker Transition Office
Room 110
State Capitol
Hartford, Ct. 06115

Dear Mr. D'Amore:

I am writing with two specific requests of you and Governor-elect Weicker. First, I am looking for direction on how to have a pardon revoked.

On Nov. 19, 1990 the Board of Pardons pardoned William Stepney, Jr. and commuted his sentence to time served. Mr. Stepney was in Somers Prison for second degree murder and, due to his exhausting a lengthy appeal process had served only 6 years of his 22 years to life sentence. He was released on Nov. 20, 1990.

When I asked Burton Yaffe of the Board to explain the pardon, he said "it was a budgetary thing". Mr. Stepney is in poor health and has been hospitalized several times. Mr. Yaffe then told me that there is no appeal process to reverse a pardon and that the Board answers to no one, it is an absolute authority. He suggested that I sue the State if I wanted to try and reverse the Board's decision. Howard Rifkin of the Governor's office also told me that the Board's authority is absolute and, while he felt that they had exceeded their scope and authority, the only recourse he could suggest would be a suit.

I was first involved in this situation because I am one of Barbara McKitis' children. My mother was the victim of Stepney's savage murder. As other members of my family and I have pursued the matter, we have become convinced that, even if we weren't so personally involved, we would find the situation a gross and appalling misuse of authority.

The Board is given only brief mention in the General Statutes (Chapter 321) yet has exercised authority to release a prisoner who would not even be eligible for parole until 1994. They have no requirements to notify interested parties of hearings, as does the Parole Board. Frank Maco, our State's Attorney, told us that he felt that the Board did not even listen to his remarks at the hearing, that it was a "done deal".

I feel that it is very important to find a way to reverse the Board's decision in this matter. To release a prisoner convicted of a savage crime because his health care is too costly makes a mockery of the legal system. I have spoken several times with Frank Maco who has described some of the anger and debilitating sense of frustration he, his staff and other prosecutors feel about this release. Many of us are asking why go through the expense and effort to investigate and prosecute, only to have a decision revoked? I don't know if political favors are at work here or extreme pressure due to budgetary concerns but I feel that this release is totally inappropriate.

I have also spoken to Representative Joel Gordes, who promised to look into the situation and brief his successor, Richard Ferrari, on his findings. Senator Reginald Smith advised me to call Atty. Laura Cubanski who reviewed my information and Melissa Farley of Senators Smith's and Eads' office responded with a letter to the Board requesting a reversal of the pardon. Ms. Farley was very careful to advise me that she held no hope for the reversal actually happening because there was no precedent. My question here is, how can there be a precedent when the Board is behaving in an unprecedented manner?

The second request I am making is for support of legislation which would provide the Board of Pardons with specific guidelines under which they may grant pardons and clear procedural requirements, such as notification of hearings to interested parties. After seeing a tape of Lew Brown (of WVIT) interviewing my sister, Alicia Tremper, Representative Tulisano drafted legislation to require the Board to give victims or their survivors notification of hearings so that they may also be heard. I feel that this only addresses part of the problem and I am requesting him to include operational guidelines and requirements which would prohibit the release of prisoners who do not even meet parole requirements. I would very much appreciate an opportunity to speak with you and Governor-elect Weicker on these matters.

As my family and I have spoken with various officials and attorneys we have found that most of them were unaware of the lack of regulation governing the Board and they were astounded by it's actions. Clearly, a terrible mistake has been made which must be corrected and steps should be taken to insure that no further inappropriate actions like this happen again.

We have the right to trust in the judicial system and expect that it's judgements will be adhered to. This trust and these expectations are part of the base of our society. One of the comforts which helped ease our grieving was the knowledge that through a fair and thorough process the murderer would be duly prosecuted and punished. Though mere imprisonment was the worst that could happen to Stepney, we found comfort in relying on our society's due process. Each appeal denial brought more comfort in knowing that the system was working as it should. Now, to have him pardoned and released betrays not only our trust in the system but that of any other citizen who also had every right to believe that our society will not condone crime and will adequately punish those who commit offenses.

Very truly yours,

Suzanne McKitis-Perillo

202 Oak St.
Winsted, Ct. 06098-1232
Jan. 2, 1991

Rep. Richard Tulisano
State Capitol
Hartford, Conn. 06106

Dear Rep. Tulisano:

At your request from several weeks ago, I am writing to present my ideas for legislation regarding the Board of Pardons.

As I am sure that you receive many calls proposing legislation let me briefly refresh your memory as to what we spoke of on the phone.

I called requesting assistance to overturn a Board of Pardons decision. The Board had, on Nov. 19, 1990, pardoned William Stepney and commuted his sentence of 22 years-to-life to time served. Stepney was in Somers Prison after having been found guilty of second degree murder and had exhausted every avenue of appeal. He served only 6 years of his sentence and had been in the hospital several times. My mother was the victim of his especially savage attack.

Lew Brown of WVIT News interviewed my sister, Alicia Tremper, and showed you the tape which, I believe, is when you first became involved. Shortly thereafter I phoned you and you requested that I present my ideas in writing.

Initially, I had thought to create legislation only to require that interested parties be notified of hearings. However, as I have continued to talk with officials and review the matter further, I have come to believe that much more extensive legislation is absolutely necessary. The main points which I feel are a bare minimum follow:

1. Interested parties must be notified of hearings and given an opportunity to speak. "Interested Parties" should be defined as, but not limited to, victims, their families (or survivors), residents of the area the prisoner will be released into, witnesses who testified against the prisoner and the local Prosecutor. The burden of notification should be borne by the petitioner.
2. The Board should not be an absolute authority; there must be some time between when a ruling is made by the Board and when the prisoner is actually released, during which time interested parties can present an appeal.
3. Petitioners must, at the very least, be eligible for parole.
4. Pardons should not be considered for prisoners convicted of violent crimes such as murder, rape or assault.
5. Pardons may not be considered as a remedy for other problems such as prison over-crowding or excessive expenses incurred by an inmate.
6. Pardons should only be considered for those who have shown a great degree of rehabilitation and remorse and have served at least a majority of their sentence.

These items are rather skeletal but I hope they give you a flavor of the legislation I would like you to propose. I find the present situation of an essentially un-governed Board wielding tremendous power unchecked to be frightening and totally out of place in our society. I believe that they have already made a terrible mistake in pardoning William Stepney and must be sensibly restricted by clear and specific legislation. I don't have the political or legal savy to draft the specifics of a bill, but believe that my ideas are a good beginning to provide guidelines for the Board to insure it's acting in concert with the Court's intentions.

Additionally, I would like the opportunity to speak before the Legislature in support of your bill. Please advise me on how to accomplish this. If you have any questions, you can contact me at my home at 379-2393.

Thank you for your interest in this matter.

Very truly yours,

Suzanne C. McKitis-Perillo

scm

001077

Register Citizen
12-1-90

A killer pardoned?

Editor of The Register Citizen:

There was nothing in the original murder sentencing of William Stepney saying "22 years to life *and* poor health or old age will reduce his time."

This unjust pardon is not "a reminder of what happened." We never can forget.

The money it cost the state of Connecticut to hold him can never equal the grief that murder has cost our family. Surely it took its toll on my mother to see the beaten body of her daughter in that casket.

What a fine example: 1 at murder sentence can be reduced to 6 years and yet a sentence of 10 years can hold a young man for burglary. Stealing a life is by far beyond comparison.

My heart still thanks Judge Arm Drangmis and the Connecticut State Police for all their hard work and compassion defending my dead sister.

If we want to relieve the "over crowded" jails why not start with the lesser crimes of stealing, drinking and drugs and hold the murderers?

The Stepney family may smile, but her sister weeps.

Betty Hunter
Canaan

The writer's sister, Barbara McKitis of Bantam, was murdered by William Stepney in 1979.

The Litchfield Enquirer

EDITORIAL & OPINION

Reason for release of Morris man unclear

We believe no agency should be so powerful as to release a convicted murderer without issuing the reason on which the decision was based.

Recently a Morris man convicted of the murder of Barbara McKitis in 1979 was released by the state Pardons Board (see story, Page 1). According to the Pardons Board secretary and acting board member during the deliberations of William Stepney's case, Burton S. Yaffie, no reason needs to be given for the release.

This hardly seems fair to either the victim's family or to the public.

Following a lengthy appeals process between his initial arrest and conviction, Mr. Stepney was sent to prison in 1984 to serve a 22-year-to-life sentence. He has served only six years of that sentence and was not eligible to come before the parole board until 1991.

Mr. Yaffie said that the board was originally set up in Colonial America under the King's order and was vested with discretionary power to excuse a prisoner's sentence. The four-man board is nominated by the governor and approved by the legislature. In this case, the board reduced Mr. Stepney's original sentence to the time he has served, with no reason given.

There has been speculation since Mr. Stepney's release last week that the decision was based on his ill health and that the state regards him as no threat to society. One report suggested that the high cost of keeping him in prison was a factor. The fact remains, however, that the Pardons Board is not required to present a reason for his release. The public is not to question the decision of the board.

We find it difficult to accept that any board, on any level has such all encompassing powers over this country's judicial system.

0010178

Noun 1. pardon - the act of excusing a mistake or offense
Synonyms: forgiveness

2. pardon - a warrant granting release from punishment for an offense
Synonyms: amnesty

3. pardon - the formal act of liberating someone
Synonyms: free pardon, amnesty

Verb 1. pardon - accept an excuse for; "Please excuse my dirty hands"
Synonyms: excuse

2. pardon - grant a **pardon** to; "Ford pardoned Nixon"; "The Thanksgiving turkey was pardoned by the President"

Legal Dictionary

PARDON, crim. law, pleading. A **pardon** is an act of grace, proceeding from the power entrusted with the execution of the laws, which exempts the individual on whom it is bestowed, from the punishment the law inflicts for a crime he has committed. 7 Pet. S. C. Rep. 160.

2. Every **pardon** granted to the guilty is in derogation of the law; if the **pardon** be equitable, the law is, bad; for where legislation and the administration of the law are perfect, pardons must be a violation of the law, But as human actions are necessarily imperfect, the pardoning power must be vested somewhere in order to prevent injustice, when it is ascertained that an error has been committed.

3. The subject will be considered with regard, 1. To the kinds of pardons. 2. By whom they are to be granted. 3. For what offences. 4. How to be taken advantage of 5. Their effect.

4.-Sec. 1, Pardons are general or special. 1. The former are express, when an act of the legislature is passed expressly directing that offences of a certain class; shall be pardoned, as in the case of an act of amnesty. See Amnesty. A general **pardon** is implied by the repeal of a penal statute, because, unless otherwise provided by law, an offence against such statute while it was in force cannot be punished, and the offender goes free. 2 Overt. 423. 2. Special pardons are those which are granted by the pardoning power for particular cases.

5. Pardons are also divided into absolute and conditional. The former are those which free the criminal without any condition whatever; the. fatter are those to which a condition is annexed, which must be performed before the **pardon** can have any effect. Bac. Ab. **Pardon**, E; 2 Caines, R. 57; 1 Bailey, 283; 2 Bailey 516. But see 4 Call, R. 85.

6.-Sec. 2. The constitution of the United States gives to the, president in general terms, "the power to grant reprieves and pardons for offences against the United States." The same power is given generally to the governors of the several states to grant pardons for crimes committed against their respective states, but in some of them the consent of the legislature or one of its branches is required.

7.-Sec. 3. Except in the case of impeachment, for which a **pardon** cannot be granted, the pardoning power may grant a **pardon** of all offences against the government, and for any sentence or judgment. But such a **pardon** does not operate to discharge the interest which third persons may have acquired in the judgment; as, where a penalty was incurred in violation of the embargo laws, and the custom house officers became entitled to one-half of the penalty, the **pardon** did not discharge that. 4 Wash. C.C.R. 64. See 2 Bay, 565; 2 Whart. 440; 7 J. J. Marsh. 131.

8.-Sec. 4. When the **pardon** is general, either by an act of amnesty, or by the repeal of a penal law, it is not necessary to plead it, because the court is bound, ex officio, to take notice of it. And the criminal cannot even waive such **pardon**, because by his admittance, no one can give the court power to punish him, when it judicially appears there is no law to do it. But when the **pardon** is special, to avail the criminal it must judicially appear that it has been accepted, and for this reason it must be specially pleaded. 7 Pet. R. 150, 162.

9.-Sec. 5. The effect of a **pardon** is to protect from punishment the criminal for the offence pardoned, but for no other. 1 Porter, 475. It seems that the **pardon** of an assault and battery, which afterwards becomes murder by the death of the person beaten, would not operate as a **pardon** of the murder. 12 Pick. 496. In general, the effect of a full **pardon** is to restore the convict to all his rights. But to this there are some exceptions: 1st. When the criminal has been guilty of perjury, a **pardon** will not qualify him to be a witness at any time afterwards. 2d. When one was convicted of an offence by which he became civilly dead, a **pardon** did not affect or annul the second marriage of his wife, nor the sale of his property by persons appointed to administer on his estate, nor divest his heirs of the interest acquired in his estate in consequence of his civil death. 10 Johns. R. 232, 483.

10.-Sec. 6. All contracts, made for the buying or procuring a **pardon** for a convict, are void. And such contracts will be declared null by a court of equity, on the ground that they are opposed to public policy. 4 Bouv. Inst. n. 3857. Vide, generally, Bac. Ab. h.t.; Com. Dig. h.t.; Nels. Ab. h.t.; Vin. Ab. h.t.; 13 Petersd. Ab. h.t.; Dane's Ab. h.t.; 3 lust. 233 to 240; Hawk. b. 2, c. 37; 1 Chit. Cr. L. 762 to 778; 2 Russ. on Cr. 595 Arch. Cr. Pl. 92; Stark. Cr. Pl. 368, 380.

Related Words

accept, acquittance, allow, allowance, benevolence, clear, clearance, clearing, clemency, commiseration, compassion, compurgation, condolence, condonation, decontaminate, destigmatization, destigmatize, destigmatizing, discharge, disculpation, dismiss, dismissal, dispense from, exculpate, exculpation, excusal, exempt, exempt from, exemption, exonerate, favor, feeling, forbear, forbearance, forgiving, free, give absolution, give quarter, grace, grant amnesty to, grant forgiveness, grant immunity, grant remission, have mercy upon, have pity, humanity, immunity, indemnification, indemnity, indulge, indulgence, justification, justify, kindness, leniency, let go, let off, let up on, liberate, melt, mercy, mitigation, nonpros, overlooking, pathos, pity, purgation, purge, purging, quarter, quash the charge, quietus, quittance, redemption, relax, release, relent, relief, remission of sin, reprieve, ruth, self-pity, set free, shrift, shrive, small-town, spare, sparing, sympathy, take pity on, thaw, tolerate, verdict of acquittal, vindicate, vindication, whitewash, withdraw the charge

Definition of Pardon

Par´don Pronunciation: pär´d'nd

n. **1.** The act of pardoning; forgiveness, as of an offender, or of an offense; release from penalty; remission of punishment; absolution.

Pardon, *my lord, for me and for my tidings.*

- Shak.

But infinite in **pardon** *was my judge.*

- Milton.

2. An official warrant of remission of penalty.

Sign me a present **pardon** *for my brother.*

- Shak.

3. The state of being forgiven.

4. *(Law)* A release, by a sovereign, or officer having jurisdiction, from the penalties of an offense, being distinguished from amnesty, which is a general obliteration and canceling of a particular line of past offenses.

v. t. 1. To absolve from the consequences of a fault or the punishment of crime; to free from penalty; - applied to the offender.
[imp. & p. p. Pardoned (pär"d'nd); p. pr. & vb. n. Pardoning.]

In this thing the Lord **pardon** *thy servant.*

- 2 Kings v. 18.

I pray you, **pardon** *me; pray heartily,* **pardon** *me.*

- Shak.

2. To remit the penalty of; to suffer to pass without punishment; to forgive; - applied to offenses.

I pray thee, **pardon** *my sin.*

- 1 Sam. xv. 25.

Apollo, **pardon**
My great profaneness 'gainst thine oracle!

- Shak.

3. To refrain from exacting as a penalty.

I **pardon** *thee thy life before thou ask it.*

- Shak.

4. To give leave (of departure) to.

Even now about it! I will **pardon** *you.*

- Shak.

Pardon me
forgive me; excuse me; - a phrase used also to express courteous denial or contradiction, or to request forgiveness for a mild transgression, such as bumping a person while passing.

→ Related Words

accept, acquittance, allow, allowance, benevolence, clear, clearance, clearing, clemency, commiseration, compassion, compurgation, condolence, condonation, decontaminate, destigmatization, destigmatize, destigmatizing, discharge, disculpation, dismiss, dismissal, dispense from, exculpate, exculpation, excusal, exempt, exempt from, exemption, exonerate, favor, feeling, forbear, forbearance, forgiving, free, give absolution, give quarter, grace, grant amnesty to, grant forgiveness, grant immunity, grant remission, have mercy upon, have pity, humanity, immunity, indemnification, indemnity, indulge, indulgence, justification, justify, kindness, leniency, let go, let off, let up on, liberate, melt, mercy, mitigation, nonpros, overlooking, pathos, pity, purgation, purge,

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Parclose

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Parde
Pardine
Pardine lynx
Pardo

Pardon me
Pardonable
Pardonableness
Pardonably
Pardoner
Pardoning
Pare
paregmenon
Paregoric
Parelcon
Parelectronomic
Parelectronomy
Parella
Parembole
parement
paremptosis

arenchyma
parenchymal
Parenchymatous
Parenesis

Merriam Webster Online 2007

Main Entry: ²**pardon**
Function: *transitive verb*
Inflected Form(s): **par·doned; par·don·ing** \ˈpärd-niŋ, ˈpär-dᵊn-iŋ\
Etymology: Middle English, from Anglo-French *parduner*, from Late Latin *perdonare* to grant freely, from Latin *per-* thoroughly + *donare* to give — more at PARBOIL, DONATION
Date: 15th century

1 a : to absolve from the consequences of a fault or crime **b** : to allow (an offense) to pass without punishment : FORGIVE **c** : to relieve of a penalty improperly assessed
2 : TOLERATE

synonyms see EXCUSE

Pardon Statistics

Date	Petitions Reviewed at Pre-Screening	Petitions Denied at Pre-Screening	Petitions Denied at Full Hearing	Granted Pardons
Nov 2004	136	68	9	59
Feb 2005	113	52	13	48
May 2005	61	16	13	32
Aug 2005	74	20	7	47
Nov 2005	99	33	5	61
Feb 2006	69	24	7	38
May 2006	105	41	3	61
Aug 2006	104	33	6	60
Nov 2006	115	46	10	61
Feb 2007	105	42	3	59
May 2007	111	25	2	84

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Inmate Trust Fund
P.O. Box 290800
Wethersfield, CT 06129-0800

CONNECTICUT
DEPARTMENT OF CORRECTION

Parole Statistics
January 1, 2007

CT Parolees Supervised in CT	2,565
Out of State Parolees Supervised in CT	185
CT Parolees Supervised out of state	240
Supervision Total	2,990
Racial Breakdown	
Black	46.0%
White	23.4%
Hispanic	29.9%
Other	0.6%
Parole Violators Confined	482
Granting Rate (last year average)	83%

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Facility Telephone Numbers
Click on Facilities Above

Agency Telephone Numbers
Click on Organization

TO: **General Assembly Judiciary Committee**
RE: **Public Hearing on Criminal Justice Reforms - Investing in the Education & Vocational Workforce**
DATE: **November 27, 2007**

Chairman Lawlor, Chairman McDonald, and members of the Judiciary Committee;

I am Ann Francisco and I am a Pupil Services Specialist with the Department of Correction, where I have invested nearly 15 years of public service. I split my workweek between Garner CI and Manson Youth Institution, and I'm responsible for assessment, counseling and coordinating special education requirements for the inmate student population.

I am also a union steward in CSEA/SEIU Local 2001's P3-B Bargaining Unit, and I am here today to speak on behalf of my fellow members. We believe the solution for safer communities across Connecticut is not just building more facilities, but investing in quality educational and vocational services for the inmates who will eventually be released back into our communities.

Today, only a small fraction of the inmates in our correctional facilities have access to educational opportunities. Up to three-quarters of inmates receive no occupational training or educational development while incarcerated. At Garner, I often see inmates who want and would benefit from job training, developing a skill, or earning their high school diploma. But too many are unable to do so because of a lack of resources and staff to provide the needed services.

Today, we focus on providing training and education primarily to those inmates the DOC is mandated to, such as youth under the age of 21. The opportunities for inmates that are not required to receive services are far more limited.

Today, we are at a crossroads. It appears that public and official opinion has concluded that for the sake of public safety, Connecticut will be facing larger prison populations and longer stays for those incarcerated.

If this is to be the future, I believe it would be wise to improve educational and vocational services to the inmate population. Specifically, to achieve this, I suggest we double our investment in training services.

Today, the DOC has approximately 260 State school teachers and pupil services specialists. We need to double this number for three specific reasons:

1). ***To improve public safety in our communities:***
The vast majority of inmates will be released at some point in time. We believe that one of our goals is to prepare the incarcerated so they can be productive members of society when they return to our communities.

2). ***To improve economic growth in our neighborhoods:***
We believe that with social, educational, and occupational skills developed while incarcerated, inmates can re-assimilate into the workforce more smoothly and can be more productive when they return to society.

3). ***To improve discipline and security in our facilities:***
I believe we can create an environment where the incarcerated see education as a reward for good behavior. The old saying about idle hands being the devil's workshop is never more accurate than in the context of a correctional facility.

I believe that if we are going to make system-wide changes in how we handle our growing inmate population, we cannot ignore the need to invest in the educational and vocational workforce in the DOC.

And I believe the attainment of a real education, the development of critical social skills, and the realization of valuable vocational skills can – and should – be assessed, along with other criteria, before making the critical decision to return an inmate to the community.

That is where your Committee can play a role; by recommending legislation to empower the DOC to achieve the workforce levels needed to implement and assess the kind of performance-based outcome that we hope will make our communities safer.

Thank you for the opportunity to share my values and beliefs on this critical matter.

Ann Francisco
Pupil Services Specialist, CT Department of Correction
Steward, P-3B Council, CSEA/SEIU Local 2001
760 Capitol Ave.
Hartford, CT 06106
860.951.6614

Good afternoon, Chairman Lawlor, Chairman McDonald and members of the Judiciary Committee. My name is Tonia McCown and I am a parole officer and an official of Local 1565 of Council 4 AFSCME, representing parole and correctional employees. Thank you for holding this hearing. Our parole officers appreciate the concern that Governor Rell, Representative Lawlor and many other policy makers have shown regarding the parole board and improving parole. As a frontline parole officer, I can tell you two things that would help our parole officers immediately would be adding more staff and more training.

Often there is a tendency to look at caseload numbers alone as a measure of how well-staffed parole is. Since the Cheshire murders, the specific work for each parole case has increased. While greater scrutiny of each parolee is a fine idea, more parole officers are needed to accomplish this work. We ask that you consider the workload and the quality of work that goes into effectively supervising an offender. We ask that you consider the amount of work and time needed to prepare the package that influences an offender's eligibility, as well as the quantity of overall work assigned to an officer. I do not come before you today with a specific request for how many more officers should be added. However, our union would be happy to try and come up with such a number in time for the start of the legislative session (February 6), or work with the administration and legislature in determining such a number.

We also request more clerical staff to assist the parole board. Right now, parole officer are often performing clerical duties. This seems to be a more costly way to handle answering the phones, filing and processing paperwork, than hiring clerical staff. It would also allow parole officers more time to directly supervise parolees. We ask that any clerical hires be state employees and not temps. Due to the sensitive nature of the work, we think it warrants being put in the hands of state employee clericals, rather than contract workers.

We believe that cross training parole officers for both case work and hearing work will allow for the better use of parole officers by each division (Field/Community Services as well as the Board of Pardons and Parole). It will also give parole officers a more complete sense of how the entire parole system works and enhance our efforts to make the system more effective.

We as parole officers take pride in the service that we provide to our state's citizens. The hard work and diligence of parole officers is evidenced in the March 1, 2007 Office of Policy and Management report that shows that a parolee is almost twice as likely to avoid reconviction than is an offender who has completed his entire prison sentence. Thank you and I'd be happy to answer any questions.

THE INFLUENCE OF PROBATION SUPERVISION FOLLOWING PRISON

Conclusion: Inmates with probation supervision after completing their prison sentence have lower conviction rates than inmates leaving prison without community supervision.

It is common practice in Connecticut for judges to sentence convicted offenders to serve a prison term and once this prison term is completed, the offender is sentenced to serve a term of probation. This practice is commonly referred to as a split-sentence and guarantees that these offenders will have some type of community supervision following their release from prison.

The final analysis looked at the effect of split sentence probation on reconviction rates. For this analysis, only inmates who had completed their sentence were included because they were the only group being supervised by probation officers following their release from prison (parolees and transitional supervision inmates were excluded). Over one-third of all inmates released at the end of their sentence had to serve a term of probation to follow (36%).

For the three types of end of sentence inmates, the reconviction rates were significantly lower for split sentence probationers than inmates leaving prison without a probation sentence to follow. Overall, the reconviction rate was 14% higher for inmates who were released from prison following the completion of their sentence who did not have a term of probation to follow (46% to 32%).

Reconviction Rates for Split Sentenced Probationers by Type of Prison Release

	Number	Release from Prison	Release from Parole	Release from Transitional Supervision	Overall Averages
Post-Prison Probation	1,878	37%	21%	29%	32%
No Probation after leaving DOC custody	3,366	52%	32%	43%	46%
Overall Averages		47%	27%	37%	42%

Good afternoon Members of the Judiciary Committee,

My Name is Amy Stegall and I reside in Stafford Connecticut. I am here today as a law abiding citizen, as someone who was horrified at the recent tragedy in Cheshire, and as a person who lost a neighbor and dear friend many years ago to a violent crime. My friend Harriet Foote was murdered during a burglary; she was stabbed to death by a man who broke into her home to steal ten dollars and a tv. So you can see this issue is very important to me.

I have read the various proposals being put forth, and I would like to make special note of some particular items: information sharing, mandatory sentencing, and self defense.

Proposal # 4 would create an internet database for outstanding warrants for parole violations. I would argue that this does not go far enough, that the database should be expanded to ALL outstanding warrants, making them searchable by the public, much like our current online sex offender registry. Other states already do this, and it would be an asset to our police force.

Proposals # 8 & 14 concern the use of deadly force in defense of self and premises. I strongly agree with these proposals. Its time Connecticut started recognizing that citizens should have the right to defend themselves. I recently saw a quote to this effect "life or death decisions are made in a fraction of a second: and the police are only minutes away". This could not be more true.

Proposal # 7 extends mandatory sentencing, and one section addresses a firearm related crime: specifically the theft of a firearm. I would propose that mandatory sentencing be instituted for all violent crimes where a firearm or other weapon is used. Connecticut is notorious for persecuting law abiding gun owners while at the same time allowing criminals who violate gun laws to go without punishment. An OLR report dated July 20, 2007 reflects the following statistics:

For charges of use of a firearm to commit a class A, B, or C felony:
In 2005, 19 charges: all 19 were nolled
In 2006 44 charges: 35 nolled and 2 were plea bargained
In 2007 (up to the point of this report) 13 charges: 11 were nolled and 2 were plea bargained.
(as noted in the report, a "nolle" is a case where the prosecutor declined to prosecute that particular charge)

I am tired of seeing items like the following which just appeared a few days ago in the Journal Inquirer: "EAST HARTFORD - A 20-year-old was sentenced to four years of **probation** Tuesday after pleading guilty to charges that he pointed a gun at his neighbor during an argument over a car. **Charges of criminal possession of a weapon, stealing a firearm, possession of a sawed-off shotgun, and second-degree breach of peace were not prosecuted."**

In closing, I would also like to state that I believe violent crime is a symptom and not the disease. Legislators are currently looking at the middle of the problem. You need to work to address the root causes of crime: poverty, drug addiction, illiteracy and other woes. Hard work also needs to be put into reducing recidivism rates by creating better programs for those coming out of the prison system and back into the community. Merely expanding sentencing guidelines does not fix our broken judicial system, or effectively treat violent crime.

In summary: Support the right of citizens to defend themselves, enforce laws already on the books, start making more information available to the public, create programs which prevent crime at its source, and quit allowing violent offenders to walk away unpunished.

Thank you for your consideration of these issues.

Amy Stegall
17 Old Monson Road
Stafford Springs CT 06076
860-684-6583 stegall@snet.net

Good afternoon Chairman Lawlor, Chairman McDonald and members of the Judiciary Committee. My name is David Moffa and I am a state correction officer and acting president of Local 387 of Council 4 AFSCME, representing correctional employees of Connecticut. Also here today are Jon Pepe, president of Local 391, and Luke Leone, president of Local 1565.

Thank you for holding this public hearing on legislative proposals concerning correctional staffing and facilities, sentencing and parole. Our union is very concerned about overcrowding conditions in state correctional facilities. The state news media has widely reported on the extreme overcrowding of our area correctional facilities, lately.

Such overcrowding is inherently dangerous. We ask for your help in alleviating the overcrowding. It was detailed on a recent legislative tour of the Willard/Cybulski facility, that there are up to 30 inmates assigned to one toilet. There are inmates crammed into areas that should be used for teaching and recreation. Hygiene suffers. The danger of infections such as the MRSA virus and drug resistant tuberculosis, both have which been found in state correctional facilities, increases. Tension increases.

There was a serious fight at the Carl Robinson facility in Enfield last week. You may be aware that this facility was the site of serious rioting in the early 1990s. Two inmates were killed, many correction officers were injured and millions of dollars of state property was destroyed in that rioting.

We ask for your help in securing more posts to adequately man the state's correctional facilities. Our union submits to you a report prepared by the state legislature's nonpartisan Program Review and Investigations Committee staff. This report, completed in December of 2003, found that front line correction positions are more than 20% understaffed, which translates into 700 front line public safety positions. I assure you that staffing has not gotten any better since this report was written. In fact, the only step that the administration seems to have taken as a result of this report is to change the "shift relief" factor down to make it appear on paper as though we are more well-staffed.

Our union also has concerns about the large number of inmates with mental illness. We urge that the governor and legislature take steps to make sure that the needs of inmates with mental health problems be better addressed, as well as the needs of correction staff who have to deal with them.

Our members take their duty to Connecticut's citizens very seriously. We strive to be the best correctional staff in the country and provide state residents with the best of protection. We also strive to make our correctional facilities as safe as reasonably possible for both staff and inmates. We appreciate your taking an interest in doing the same. We would be happy to answer any questions.

Digest

CORRECTION OFFICER STAFFING

The objective of this study, begun in June 2003, was to determine if the current Connecticut Department of Correction (DOC) custodial staffing levels are sufficient for the safe and efficient management of the state's prison population. During the study, the following conclusions were reached.

- The Department of Correction is about 700 correction officers short of the number needed to fully staff the department's custody staffing plan. The shortage is covered almost exclusively by the use of overtime.
- There is no objective method for setting an overall custody staff level or inmate to custody staff ratio due to facility variation, making doing it by statute inadvisable.
- There is significant variation among the Department of Correction's facilities in terms of the number of inmates per custody officer and measures of safety.
- The Department of Correction's procedures for determining staffing needs are consistent with nationally recognized standards.
- Correction officers are generally distrustful of the Department of Correction's incident data and the ability of the department to determine the number of custody staff needed to assure safety.
- Correction officers generally hold the belief prison safety is better now than in the mid-90s, but not safe enough.
- There is no objective method for establishing an acceptable level of safety for either the entire department or individual facilities.
- There is inadequate data on the relationship between staff injuries as measured by workers' compensation claims and overtime.

Recommendations

1. An overall custody staff level or inmate to custody staff ratio should not be set in statute.
2. Changes in the number of custody staff at the Department of Correction should be based on changes in objective measures of prison safety including but not limited to disciplinary reports, inmate on staff assaults, inmate on inmate assaults, and the security risk level of the inmate population being supervised.

L.P.R.I.C.
12/2003 Report on
Correction Officer Staffing

Good Afternoon: I want to thank the members of the Judiciary Committee for, once again, allowing members of the community to come before you with testimony relative to the parole ban and any new changes since they are and will likely disproportionately and negatively impact our lives. My name is Barbara Fair and I have been here many times in the past, is here today and will be continue to be here until I begin to see policy changes that will ignite a decrease in our reliance on incarcerating people as job security. I am here as a member of People Against Injustice , a grassroots organization based in New Haven that seeks criminal justice and prison reform. I also come as a parent, an aunt and a cousin of incarcerated individuals and as one who simply cannot sit by and watch the consistent deterioration of families and communities. I once read a quote by the late Robert F Kennedy. He said that "Each time someone stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice he sends forth a tiny ripple of hope. I sit here today with a self imposed duty to stand up and send a tiny ripple of hope to thousands of individuals who have served their time, have been made eligible for parole and yet remain behind bars due to a knee jerk reaction to the horrific acts of violence of two. I also sit here in awe of how quickly legislation is proposed and scheduled for passage (within less than six months within a special session scheduled expressly for that purpose). While children in New Haven, Hartford and Bridgeport were dying on the streets on a daily basis it took several years just to pass legislation that will slap the wrists of those providing the flow of guns into our communities and while children from those same cities were being ushered into the adult system it took several years to pass legislation to return them to the system where they should have been in the first place; although that won't even occur until 2010 and while we as citizens came before this same committee and asked for citizen oversight over prisons because we have been aware for several years that human beings were being degraded and dehumanized in deplorable conditions this committee felt that current oversight was suffice. I am here today because I continue to hope that legislators of conscience will recognize that prisons no longer serve the purpose of correcting behavior and serve solely as warehouses for a certain segment of our society. Our families are viewed as commodities for the prison industrial complex. The complex has become a money maker and job security at the expense of the sick, the uneducated, unskilled and poor in our society. The parole ban has caused individuals who had previously been deemed eligible for parole to remain in prison beyond the promised release date, and returned some who were employed and reunited with their families and could have spent Thanksgiving with their families. It's so grossly unfair that thousands of prisoners and their families have to pay the painful price for the unspeakable acts of two individuals who,(had there been any real justice and equality within the system) would have been incarcerated for a much longer than 3 years. Most of those whom I live around spend 3 years and more in prison for a non violent drug offense. Connecticut prisons are overflowing with Black and Latino drug law violators. White males are LESS likely to spend time in prison in Connecticut than the national average while Black males are MORE likely to spend time in prison than the national average. Why is that? Legislators are responsible for a legal system that allows the kind of disparity in arrest, charging, sentencing and parole decision making that we have in Connecticut. It's time to reverse the tides of injustice in this state so that ALL its citizens can enjoy the pursuit of happiness. Rethink the ban and the proposed changes!!!

TO: General Assembly Judiciary Committee
RE: Public Hearing on Criminal Justice Reforms – Workforce Investment for a Safer Connecticut
DATE: November 27, 2007

Chairman Lawlor, Chairman McDonald, and members of the Judiciary Committee;

My name is I am Catherine Osten, and I am testifying today on the need for greater investment in Connecticut's criminal justice and support workforce. It is my honor to be able offer my experience and share my values as your Committee addresses proposals for reforming the state's criminal justice system.

I am a Correctional Lieutenant and have invested eighteen years of service in the Department of Correction to the people of Connecticut. I have had personal experience working at seven facilities; Niantic CI, Brooklyn CC, York CI, Corrigan CC, Radgowski CC, Gates CI and Bergin CC.

I am also the elected President of the Corrections Supervisors' Council in CSEA/SEIU Local 2001, the union representing public sector workers throughout our state. Our Council includes six hundred professionals in the DOC, representing lieutenants, training officers, captains, and counselor supervisors.

My fellow members and I believe the solution for safer communities across Connecticut requires investing the resources needed to achieve three fundamental goals:

1. ***Appropriate staffing levels for safe and secure facilities;***

2. ***Effective mental health services training for DOC professionals and access to pre- and post-incarceration supportive housing for inmates with mental health disorders; and***

3. ***Improved communications among the state's criminal justice and public safety agencies.***

First, I would like to address the need to increase supervisory staffing for Connecticut's prisons. Specifically, we believe a minimum of 70 additional lieutenants, 10 captains, and 10 counselor supervisors are needed to provide a minimum level of safety and security for the workforce as a whole and for the communities where our institutions are located.

Make no mistake; we are not simply recommending additional staff for its own sake. The job of DOC supervisors is to monitor the whole climate of each institution. We are expected to be the "eyes and ears" of each unit we are charged with supervising. A growing inmate population is straining the eyesight and impairing the hearing or our overstretched workforce.

Second, I would like to address the need for more effective mental health services training for DOC professionals. Thanks to your Committee, legislation creating a mental-health training program for our workforce and establishing a process for tracking inmates suffering from mental health disorders was passed by the General Assembly and signed into law by the Governor in July. Specifically, we believe the training must be expanded to include all correctional staff, regardless of the facility where they work or whether they are working with inmates with mental health issues.

Today, we are responsible for over 4,500 inmates who have been diagnosed with some form of mental illness. Though we have a dedicated facility for inmates diagnosed with mental health disorders, it only houses approximately 650. Where are the other 3,850 inmates afflicted with mental illness? You'll find them in the general population in our facilities all over the state. A careful look at our state's current incarcerated mentally ill population is needed to assess whether many could be served in a more cost-effective setting, such as supportive housing.

Many correctional facilities do not have 24-hour medical care, and little, if any, mental health supports. This leaves correctional custody staff the responsibility to handle medical and mental health care issues for which they have received little to no training, and for which there are few additional resources.

The legislation passed earlier this year is an important first step. As the inmate population has risen in the past few months, a greater investment of resources into effective mental health services training for DOC professionals and more pre- and post-incarceration supportive housing for inmates with a mental health disorder, is necessary to meet this expanding need.

Finally, I want to propose a concrete recommendation regarding the communication gaps that exist between public safety agencies, criminal justice units, and the judicial branch. The Governor has just signed landmark contract reform legislation that should prevent scandals like the one involving MAXIMUS, the private, out-of-state IT services consultant that has failed to upgrade the COLLECT criminal database. Specifically, we believe services such as this that directly impact public safety – and the public safety workforce – should not be contracted-out in the first place.

Fellow members in my union exposed this particular scandal to the news media last spring, and they testified to the Public Safety Committee at an informational hearing into the crisis in August. They raised an important question that I hope your Committee will also address;

> *Why are we not investing in our own public service IT professionals who are accountable to the taxpayers of Connecticut, not shareholders of a private corporation, for such critical functions?*

Please don't misinterpret my testimony to mean that the horrific crimes committed by ex-offenders, such as the frightening incidents in Cheshire, are always preventable. As valuable as they are to improving the quality of our state's criminal justice services, more supervisory staffing, mental health training, and better communications are no guarantee against such tragedies in the future.

Please do understand that I believe the DOC is ill-equipped to handle the needs of our growing prison population. That is why your Committee's proactive measures in providing the resources needed for appropriate staffing levels for safe and secure facilities, effective mental health services for the incarcerated, and reliable, seamless communications among our agencies are needed today.

Thank you for your time and for hearing my voice on this critical matter.

Catherine Osten
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Good morning. My name is Lou Paturzo and I am the coordinator of the New Day Program. The New Day Program is part of the Building Bridges initiative and provides a range of pre and post release services to Hartford residents. We operate as a pilot at the Carl Robinson Correctional Institution in Enfield where we meet with inmates twice weekly to assist them in their preparation for a successful transition from prison to their community in Hartford. Upon release we provide housing for up to 20 participants at one of two houses rented and supervised by the New Day staff. In addition to housing the New Day Program assists with employment services, referrals to other agencies for resources, and intensive case management by New Day staff
Working closely with Hartford Parole and Probation staff we provide an additional layer of both support and supervision for men released into the Hartford community.
We would be most willing to meet with any members of our legislature to provide a tour of our residential sites, meet with program staff, or meet with the participants of our program. I can be reached at the Connecticut Puerto Rican Forum (860) 247-3227 ext. 13.

As the Legislature looks to address the issues related to the release on parole of Connecticut inmates we would like to express our own concerns.
At the present time inmates convicted of crimes categorized as violent crimes have had their parole suspended. The governor has indicated this was done in the interest of public safety. We believe it will have the opposite effect
Before this suspension of parole inmates convicted of violent offenses were serving a minimum of 85% of their sentence before they could be released on parole. These are the very inmates who most need the transitional support and supervision that parole can provide.
The alternative, under the present directive, will see inmates completing their sentence and being returned to our community without support or supervision. During the time immediately following release from prison most ex-offenders face a variety of obstacles to a successful transition. It is especially at this time that ex-offenders need the structure parole can provide. Parole can mean curfew, electronic monitoring, mandated attendance in substance abuse and other groups as well as the support and resources available to those on parole.
Our program offers the support of a safe structured residence, employment assistance, a 30 day bus pass to go to appointments or job interviews, help with getting a state ID, and the help of a case manager to maneuver around potential obstacles to a successful re-entry.
Two years ago we accepted into our residence an inmate who had served a sentence for robbery. He had failed one period on parole and had been returned to prison. He entered our residence and within a week had found employment. He indicated to us that he had a safe place to live for the first time since he was 13 years of age. In January he will be out

for two years without a violation. He has worked full time and met a new circle of friends. He met a woman at work who had never had any contact with the law and now resides with her in their own apartment. They receive no state aid and are accepting responsibility for their own support.

Without the New Day Program and the supervision afforded by Hartford Parole he would have returned to Hartford with no place to live and only his old negative support system. With parole he found both the support and supervision he needed at a critical time.

In addition to the indefinite suspension of those convicted of violent crimes, those convicted of non-violent crime have had their parole suspended pending a re-review of their file. Only now inmates are beginning to be released but we believe problems remain:

1. The prisons are over-crowded. Not only are they over-crowded but many of the inmates have worked diligently to prepare for their return home. Their parole had been suspended not because of anything they had done but because of events beyond their control.
2. Since Commissioner Lantz has made transition a part of the mission of the Department of Correction there has been a new sense of hope on the part of the inmates. They had begun to believe that they could work successfully toward their own rehabilitation. The governor's decision has undone much of what the Commissioner has achieved. There is now frustration and cynicism on the part of many who have worked hard to improve themselves.
3. The governor has given, by her decision, the impression to the public that she believes ex-offenders pose a serious threat to the safety of the community. This disregards the hundreds of ex-offenders who get up every morning and go to work and who also work at being good neighbors in their community.

We, at the New Day Program, are committed to supporting Hartford residents as they prepare to return to their community. We believe we contribute to creating a safer, stronger community by helping ex-offenders become productive members of our community. We hope any changes made by this legislature will recognize the many achievements of those who have successfully used their time on parole and acknowledge the value of a strong parole system.

Testimony before the Judiciary Committee of the Connecticut State Legislature
November 27, 2007

My name is Jamie Bissonette and I direct the Criminal Justice Program at the American Friends Service Committee in the New England Region. I have 30 years experience in the field of Criminal Justice having focused on work with crime victims, the families of homicide victims and those who are imprisoned. I thank you for the opportunity to testify before you today.

Most of the bills we are looking at today represent a good faith effort to make sure that convicted felons who have a history of predatory violence do not have the opportunity to do more harm. The remedies that have been presented for public commentary are complex and deserve our careful consideration. Rather than respond to each bill, I have decided to give my general impressions of the proposed legislation.

Parole is incorrectly coupled with "early release." Parole is a vital public safety tool. If prisoners "max" their sentence because they are denied the option of parole, they simply return to their communities without housing, job or treatment plans. Their transition is self-directed and invariably produces chaos in their families and communities. All too often, this chaos results in tragedy. The result: over 60% of released prisoners are returned to custody. It is crucial that a thorough assessment of the parole department is undertaken and that policies and procedures are put in place for reliable evaluations and substantial support so that the men and women who are released from the Department of Corrections can make good transitions and become stable members of their communities. These policies and procedures would render a **public registry** of parolees unnecessary. There is reference to **re-entry support** in one of the bills but the monies apportioned are not sufficient.

The Department of Corrections needs to place a priority on rehabilitation. It is not enough to incapacitate an individual; each prisoner has to have a real opportunity to turn their lives around. There are provisions in one of the proposed pieces of legislation to move non-violent offenders into alternative settings, and this should be done. But this action will not resolve the rehabilitative needs of those who are in prison for violent crime. Most of these individuals will return to their families and their communities. It is important that each prisoner is making concrete steps toward resolving the problems that resulted in their crimes. A thorough assessment of the current rehabilitative programs within the DoC must be undertaken and resources assigned to assure that prisoners who have been convicted of violent crime address their issues before they are released. Yes, this will be costly, but we have been shown how costly it truly is if the needs of these men and women are ignored.

Three strikes laws have been proven to be a disaster in states where they have been implemented. Here, three strikes have been combined with penalty enhancements that will dramatically increase the number of people who will spend their entire lives in

prison. The cost of implementing these laws will take resources away from crucial public health and public safety projects in the community.

True prevention is not mentioned in any of the recommended legislation. Prevention is a solution, not a remedy. It is vitally important that a significant amount of public safely resources be assigned to prevention work.

None of the legislation apportions more resources to support the healing of **victims of violent crime.** As crime victims, our needs are complex and scarcely recognized by the criminal justice system. It is important that victims have a real opportunity to enter into a healing process and it is crucial that families of homicide victims have the means to bury and remember their loved ones with dignity. I work with families who have lost loved ones to homicide and know that the way we respond to victims of crime determines the health, balance and eventual peace in our communities.

In closing I would ask the Judiciary Committee to put resources toward prevention of crime, the support of crime victims, and both the rehabilitation of convicts and strong support after their release. Sadly, none of the proposed legislation we are considering today accomplishes this.

CONNECTICUT LEGAL RIGHTS PROJECT, INC.

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TESTIMONY OF JAN VANTASSEL, ESQ.
REGARDING CRIMINAL JUSTICE REFORM
JUDICIARY COMMITTEE
November 27, 2007

Good afternoon. My name is Jan VanTassel. I am the Executive Director of the Connecticut Legal Rights Project, a statewide non-profit agency that provides free legal services to low income adults with psychiatric disabilities on matters related to their mental health and civil rights. For several years CLRP has played a lead role with other advocacy organizations encouraging the state to develop cost-effective community based alternatives for persons with psychiatric disabilities who can be treated and monitored there rather than being incarcerated.

Connecticut's Prison and Jail Overcrowding Commission (PJOC) created the impetus for unprecedented collaboration between the Department of Correction, Department of Mental Health and Addiction Services and the Judicial Branch. The PJOC specifically identified the lack of adequate housing and community services for persons with psychiatric disabilities as factors contributing to the State's prison overcrowding. In fact, studies have found that persons with mental illness are more likely to be incarcerated and to serve proportionately longer sentences than other persons convicted of similar criminal offenses.

As a result of interagency collaboration Connecticut has implemented a number of innovative programs to prevent the unnecessary or extended incarcerations of persons with mental illness. These programs, including jail diversion, day reporting and crisis intervention training for police, have demonstrated that they can protect both the public safety and taxpayer dollars. The more recent allocation of funds to train specialized parole and probation officers to monitor persons with psychiatric disabilities provides further opportunities to assure that the high cost of incarceration is spent on dangerous individuals who require confinement to protect the public rather than as the only option for housing or treatment.

I am testifying today on two specific elements in the proposals under consideration by this committee. The first are the proposals to establish new correctional facilities; either a 1000 bed medium security facility and/or a 1200 bed medical and mental health facility. Before endorsing the expenditure of millions of dollars that such facilities will require, it is incumbent upon this committee to determine the number of persons currently incarcerated, including persons with mental illness who have not committed crimes of a serious nature, who could be monitored in the community. Information regarding the DMHAS jail diversion program indicates that a substantial number of the persons recommended for jail diversion are incarcerated solely due to the lack of housing and community services for them. Judges understandably recognize that they have no viable options.

At the same time, however, the state has failed to provide sufficient funding to meet the capacity of developers for supportive housing that might serve these individuals at less than half the cost of incarceration. During the last round of requests for proposals for scattered site supportive housing, a total of 729 units were requested by applicants, but only 250 units could be funded. Similarly, there were insufficient funds for all of the development applicants. Fourteen proposals for 378 units were submitted, but only 168 units could proceed. The state missed an opportunity to create 689 new units of supportive housing, while funding less than 50% of the requests. Ironically, not that long ago state officials were worried that the state lacked that the development capacity to keep pace with the need for supportive housing. Now we are lagging behind the capacity, running the risk that developers will stop pursuing this housing due to inadequate state commitment.

I do not mean to suggest that supportive housing is the solution to prison overcrowding. However, I know that it can be part of the solution and that it is a far better investment than building more prisons. Connecticut has cost-effective models of alternatives to incarceration that must be funded before we go down the road of building more prisons, regardless of their level and focus.

The second element of the proposals before you of specific concern to CLRP are the so-called "three strike" bills. I urge this committee to approach these measures with caution, particularly the manner in which you handle misdemeanors and non violent offenses. While I understand the state's interest in establishing clear rules and limits, the fact remains that many individuals with psychiatric disabilities become embroiled in the criminal justice system as a result of their illness, and our laws must provide the judicial discretion to factor that into its decision-making process. I have had clients whose disability-related inability to cope with a situation was exacerbated by a security guard who grabbed the individual and caused an unnecessary altercation that resulted in criminal charges.

Many people do not realize that persons with mental illness who comply their medication regimen can still have relapses, even when they have followed the prescription. Another little known fact is that persons with psychiatric disabilities are more compliant with their prescriptions than the general population.

Unfortunately, the lack of individualized treatment services and/or stable housing frequently contributes to encounters with law enforcement for our clients. The state's failure to invest adequately in housing and community services when state hospitals were closed is, in my opinion, a more serious crime than many that my clients commit. I urge you to avoid compounding that error in judgment by casting too wide a net in your legislation.

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DATE: November 24, 2007

TO: Lorenzo Jones

FROM: Judy Greene

RE: Three Strikes and Crime Rates

You asked whether there is evidence that "tough on crime" sentencing reforms such as California's Three Strikes law have the effect on public safety that their proponents claim. This brief memo sets forth a bit of background on the circumstances surrounding enactment of that measure, and provides a comparison of crime rates and incarceration patterns in California with both Connecticut and New York. Some of the information about Three Strikes may not be directly germane to the proposals under consideration by your Judiciary Committee, since key features of the California law are unique to that state. Nonetheless, the comparisons serve to illustrate that while increasing reliance on imprisonment is sure to increase correctional costs, it may not be the most effective or economical strategy.

Tragedies such as this summer's atrocious murders in Cheshire, the death of Len Bias, and the abduction/murders of Polly Klass and Megan Kanka invariably give rise to political grandstanding and ill-conceived, overly broad legislative proposals. (Thank goodness these events are so few and far between.) Silver-bullet legislation like Three Strikes and Truth-in-Sentencing provide relatively little protection from crime, but they waste enormous resources that are sorely needed for implementing evidence-based interventions and for mounting more fundamental efforts to revitalize high-risk communities. Strategies with real promise for improving and sustaining public safety over the long run go starving for funds, while prison budgets spiral to the sky.

Three Strikes in California

When Richard Allen Davis was arrested for the abduction and brutal murder of Polly Klass in 1993, his criminal history and parole status sparked a national uproar. Davis had amassed a record of crime that dated back to a 1967 burglary he'd committed at age 12. A mid-70s spree of violent crimes resulted in an indeterminate term of prison for one to twenty-five years. Paroled in less than five years, he was back in prison for a string of robberies by 1985. Released again in June 1993, he abducted 12-year-old Polly from her home in Petaluma, California less than four months later.

The following year was a watershed for crime policy, with enactment in Congress of the Violent Crime Control and Law Enforcement Act of 1994, and – in California – passage of one of the toughest anti-crime measures in U.S. history, commonly known as "Three

Strikes and You're Out." Many states were moving to stiffen penalties for people convicted of violent crime, but California's Three Strikes law went much further, providing long prison terms for people convicted of *any* felony if they had one or more "strikes" in their criminal history. A second felony conviction of *any* type that involves a defendant with one prior conviction for a violent or serious felony (one strike) *doubles* the prison term otherwise required by law. If the defendant has *two* prior violent or serious felony convictions, the law requires life imprisonment with a mandatory minimum term of 25 years.

Application of Three Strikes has varied greatly from county to county, with some California prosecutors seeking imposition of the law only in certain narrowly defined cases, while others press for application against most eligible defendants. Nonetheless, Three Strikes has had a very significant impact on California's prison system. Ten years after enactment, people sentenced under Three Strikes comprised more than one quarter of California's prison population. More than 35,000 were imprisoned for a second strike, while some 7,500 were serving a third strike. Just 37 percent of third-strikers were sentenced for the kind of violence against persons (e.g., robbery or assault) that the public generally expected would trigger the law, while 23 percent were convicted of a drug crime. After Three Strikes was enacted the average length of time served by prisoners before their first release stretched to one-fifth longer than before. Staff at the California Legislative Analyst's Office recently estimated that Three Strikes is costing taxpayers an additional half-billion annually.[1]

Supporters of Three Strikes claim that the law has made a substantial contribution to a decrease in crime in California. Yet a comparison of crime patterns with those in New York, a large state that did *not* enact a Three Strikes law, shows that even greater reductions in crime can occur without the huge tax burden incurred by Three Strikes in California. Moreover, recent research on deterrence and incapacitation does not provide support for the notion that longer sentences can do much to reduce crime rates.

Comparing crime trends in California, Connecticut and New York

Until recently, declining crime rates were front-page news across the U.S. The violent crime rate for the nation as a whole peaked in 1991 and by 2005 it had fallen by 38 percent. California's violent crime rate peaked at 1,120 per 100,000 residents in 1992, two years *before* enactment of Three Strikes. By 2005 that rate had dropped by 53 percent to 526. But New York's record drop in violent crime led the nation, falling by a whooping 62 percent from a rate of 1,181 in 1990 to just 446 in 2005. Connecticut enjoys a relatively low rate of violent crime compared to either New York or California. Your state's violent crime rate fell 40 percent from a high of 456 in 1990 to 275 in 2005:

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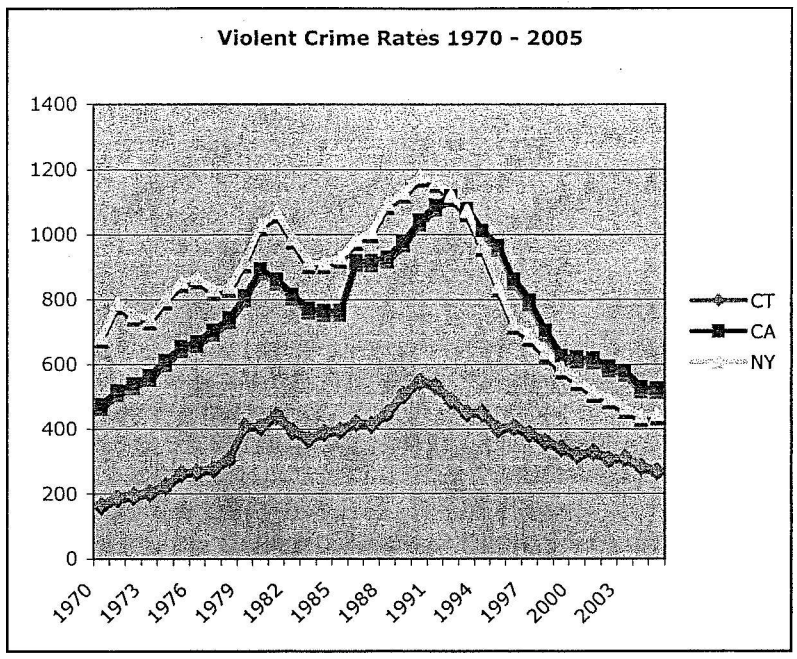
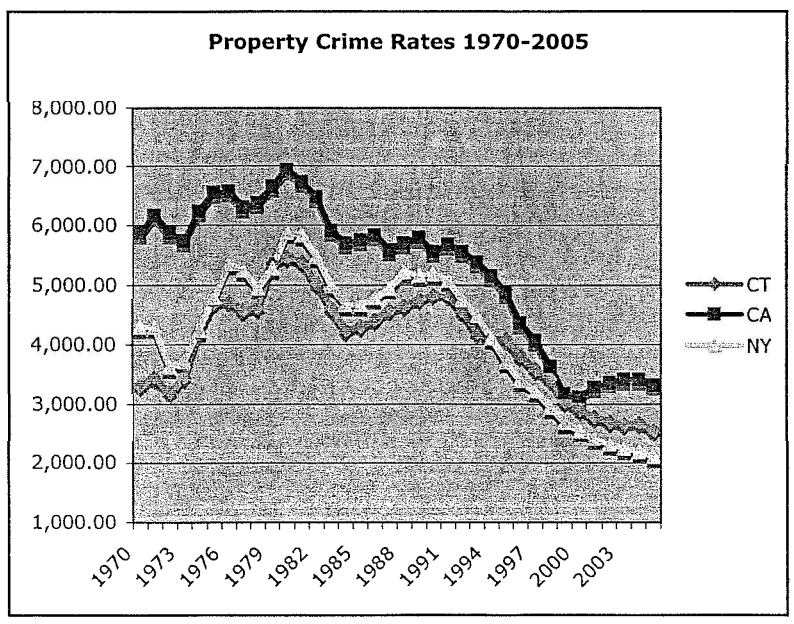
[1] Brown, Brien and Greg Jolivette. *A Primer: Three Strikes – The Impact After More Than a Decade.* October 2005 California Legislative Analyst's Office. 22 Nov. 2007 <http://www.lao.ca.gov/2005/3_Strikes/3_strikes_102005.htm>



SOURCE: Bureau of Justice Assistance Crime Trend Reports

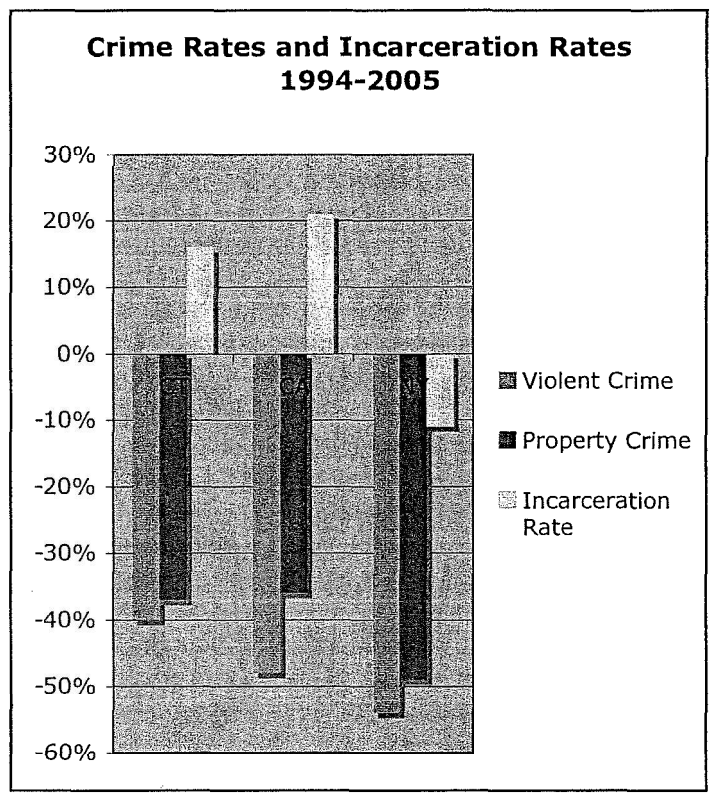
Property crime rates run highest in California but these indicators began to fall in all three states in 1980. Property crime rates picked up again in the mid-80s until 1990-91, after which they fell steadily again in New York and Connecticut, with a recent upward bounce in California:



SOURCE: Bureau of Justice Assistance Crime Trend Reports

Comparing crime rates and incarceration rates

Comparing crime rates with incarceration rates in the three states since 1994, the year that Three Strikes was enacted, California stands out as the leader in prison population growth. California's incarceration rate jumped by 21 percent, from 384 per 100,000 residents in 1994 to 466 per 100,000 residents in 2005. Even without enacting a harsh California-style Three Strikes law, Connecticut has already seen a rise of 16 percent. Yet during the same period of time, New York – a state where violent crime fell at a significantly greater rate than California's or Connecticut's – enjoyed an incarceration rate *reduction* of 11 percent:



SOURCE: Bureau of Justice Assistance Crime Trend Reports and Prisoners in 1994-2005 Bulletins

How could this be?

As mentioned above, incarceration of people sentenced under Three Strikes is costing Californians dearly. The state's prison budget is running neck and neck with the budget for higher education and will soon overtake it, with expected growth at a rate of nine percent each year, compared with just five percent for higher ed.[2] So why isn't the

[2] Sterngold, James. "Prisons' budget to trump colleges.'" *San Francisco Chronicle,* May 21, 2007

nation's toughest Three Strikes law and the largest state prison budget producing the best record on crime control?

A landmark empirical study of deterrence by a panel of national experts convened three decades ago by the National Academy of Sciences does not offer strong support for the notion that increasing criminal penalties deters crime.[3] A more recent review of deterrence research investigated the relationship between sentencing severity and general crime deterrence and, again, found no evidence to support the hypothesis that harsher sentences reduce levels of crime.[4]

But what about incapacitation? Since sending people to prison prevents them from committing crimes in the community for the duration of their prison sentences, isn't it logical that the imposition of long mandatory sentences as required under Three Strikes would have triggered the reduction in California's rate of violent crime? Bear in mind that many people convicted of the types of crime affected by Three Strikes were already subject to substantial prison terms under the old sentencing rules. For these prisoners, an incapacitation effect, if any, wouldn't kick in until after the point when they would have been released if they had been sentenced under the old system. But California's rate of violent crime began to decline *two years* before enactment of Three Strikes, too soon to have been triggered by the harsher sentencing requirements.

The logic of "more prison = less crime" fades quickly as you look more closely. The comparison between California and New York shown above illustrates that there is no simple, direct relationship between incarceration rates and crime rates. Two studies that compared California counties that applied the Three Strikes law at higher or lower rates have not found clear patterns of crime reduction associated with the rate of application.[5] During the 1990s decade of declining crime rates, states with *larger* increases in use of imprisonment achieved, on average, *lower* rates of crime reduction than was the case in states that have relied less on increased use of prison.[6]

This is not to say that sending more people to prison has *no* effect. But most national experts on crime trends agree that incarceration probably accounts for no more than about 25 percent of the decline in violent crimes. They see other factors such as those that appear to be driving crime rates down in New York – demographics, drug abuse patterns,

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[3] Blumstein, Alfred, Jacqueline Cohen, and Daniel Nagin. *Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates.* Washington, D.C.: National Academy Press. 1978

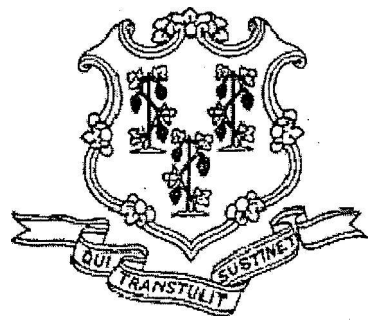
[4] Doob, Anthony N. and Cheryl Marie Webster. "Sentence Severity and Crime: Accepting the Null Hypothesis" in *Crime and Justice*, v. 30, edited by Michael H. Tonry. New York and London: Oxford University Press. 2003

[5] Greenwood, Peter W. and Angela Hawken. *An Assessment of the Effects of California's Three Strikes Law.* March 2002. Greenwood & Associates. November 24, 2007 http://www.greenwoodassociates.org/papers/three_strikes/GreenwoodThreeStrikes.pdf

[6] Gainsborough, Jenni and Marc Mauer. *Diminishing Returns, Crime and Incarceration in the 1990's.* Washington, D.C. The Sentencing Project. 2000

police tactics, employment levels – as having more far-reaching and long-lasting effects on crime rates.[7]

[7] Blumstein, Alfred, and Joel Wallman (eds.). *The Crime Drop in America*. Cambridge University Press 2000.



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Testimony before the Judiciary Committee
Tuesday November 27th, 2007
1.00 pm in Room 2E of the LOB

Good afternoon, Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Frank Sykes and I am the Legislative Analyst with the African-American Commission (AAAC), an independent non-partisan agency committed to improving the lives of African-Americans through research, policy analysis and advocacy.

Before I begin the Commission will like to express its sympathy to the victims of the Cheshire tragedy. This was an unfortunate incident, considering that such a tragedy could have been avoided with the proper administrative procedures in place. However we must also caution that the parole ban is an unfair policy and punishes others for the crimes that a few committed. It is a wrong on many levels.

Firstly 43 percent of inmates in Connecticut's prison system are African-American.[1] The majority of this population are incarcerated for drug offenses and not for the home/burglary invasion as has received so much attention recently. Not surprisingly it is also reported that as of November 1st roughly 40 percent of inmates affected by this ban on transitional supervision, happen to be African-American.[2] There is also no doubt that there are a number of inmates who have earned their parole through proper conduct and behavior. These inmates must be allowed to transition into the community setting and not held hostage for the crimes of others.

The AAAC is on record for supporting recommendations initially outlined in the 2004 Prison Overcrowding Report. That report proposed a number of recommendations that if implemented, will comprehensively address the public safety concerns before as of today. One of these proposals was improving the quality and availability of mental health facilities for inmates from the pre-arrest stage to the post release stage. Efforts to address the lack of mental health facilities must be a priority. A survey by the Department of Justice reports that 56 percent of inmates in state jails were diagnosed with some sort of mental disorder.[3] Incidentally an earlier report by the Bureau of Justice noted that the mentally ill were more likely than other inmates to be violent repeat offenders.[4]

The second was the hiring of adequate probationary staff to facilitate the release of ex-offenders, by providing critical support services such as identification for ex-offenders and the assessment of ex-offenders ninety (90) days prior to release. As research tells us the first three months after release are critical in determining whether an individual stays out of the prison system or is re-arrested. These are two key areas that need immediate attention.

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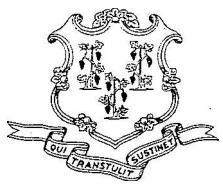
[1] Connecticut Department of Correction, *Incarcerated Population Breakdown By Race and Ethnicity*
[2] Connecticut Department of Correction, *Information on inmates on Transitional Supervision*
[3] Department of Justice, *Mental Health Problems of Prisoners and Jail Inmates*
[4] Bureau of Justice, *Mental Health and Treatment of Inmates and Probationers, July 2000*

In conclusion prevention or diversion must be the focus of any new state policy. In view of this the Commission has made education a top priority on its agenda, recognizing that educational attainment is a strong predictor of whether an individual is successful or ends up in the criminal justice system. The vast majority[5] of inmates in Connecticut's prison system today lack a high school diploma, consequently are caught up in an endless cycle of crime. This trend can be reversed by investing more resources in education instead of building more space to warehouse prisoners.

Thank you for the opportunity to speak today.

[5] Connecticut Department of Correction, *Data on high school graduation as of November 2006*



STATE OF CONNECTICUT

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

A HEALTHCARE SERVICE AGENCY

M. JODI RELL
GOVERNOR

THOMAS A. KIRK, JR., Ph.D.
COMMISSIONER

Testimony of Commissioner Thomas A. Kirk, Jr., Ph.D.
Department of Mental Health and Addiction Services
Before the Judiciary Committee
November 27, 2007

Good afternoon, Senator McDonald, Representative Lawlor and distinguished members of the Judiciary Committee. I am Commissioner Thomas A. Kirk, Jr., Ph.D., of the Department of Mental Health and Addiction Services, and I am here today to speak to some of the important issues you have been reviewing. My comments reflect the perspective and vision of the state agency responsible for providing services to those Connecticut residents suffering from serious mental illnesses and substance use disorders. Our vision includes providing treatment, care, encouragement and support to convey a deep sense of hope to our clients that they can recover to experience productive and fulfilling lives in the community.

DMHAS is a public health care agency serving over 70,000 individuals who experience psychiatric disabilities, substance use disorders, or both. Since many of our clients have contact with the judicial system, we work in close collaboration with both the Court Support Services Division (CSSD) of the Judicial Branch and the Department of Correction (DOC). For example, we operate jail diversion programs in each of Connecticut's courts—working with CSSD and Bail Commissioners to develop new service plans for individuals who are, or have been, our clients to help them receive necessary treatment in lieu of incarceration. For those individuals who become incarcerated, a Memorandum of Understanding with DOC enables DMHAS to reach in to those individuals who have the most serious conditions (and are thus in need of mental health services) six months prior to their release. Over 225 offenders received this service last fiscal year. This ideal, cooperative process helps ensure that both a viable treatment plan and appropriate services are prepared in advance to support those offenders returning to the community.

In recent years, largely through federal funding, we have developed a widening network of peer support programs and recovery housing to assist a portion of the individuals we serve to achieve more permanent solutions to their basic needs. Among those initiatives is Access to Recovery (ATR), a federally funded, three-year effort that focuses on temporary housing, transportation and related services; both DOC and CSSD are partners with DMHAS in this project. In addition, two federally funded initiatives, now state-funded, are worth noting: one is the Connecticut Offender Re-entry Project, and the second is Transitional Case Management. The latter focuses on offenders with substance use disorders; it operates in the Waterbury and Hartford areas, and reached 80 persons last fiscal year.

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On a daily basis, however, we are reminded of the barriers and challenges faced by these individuals as they struggle to advance their personal recovery in the community. We know that safe, affordable and stable housing, jobs, and community connectedness are linchpins to reducing relapse and recidivism—yet, ongoing shortages in these three areas present the most significant impediments to individuals' recovery.

Expanding effective services to persons with psychiatric disabilities and those with co-occurring substance use disorders within the criminal justice system is essential, but we have faced seemingly insurmountable resistance to local siting of programs necessary to divert these individuals from incarceration. Most Connecticut communities are reluctant to open their arms to the persons we serve, thus reinforcing the most insidious obstacles to recovery —i.e., stigma and discrimination. We cannot expect people with psychiatric disabilities to function at the best of their abilities while they are homeless or residing temporarily in shelters. We also realize that judges will not release our clients from custody without decent housing in place as a part of their treatment plan. The lack of sufficient, stable community housing severely restricts our ability to decrease the number of persons with psychiatric disabilities occupying jail and prison beds.

Both the Connecticut Alcohol and Drug Policy Council and the Criminal Justice Policy Advisory Commission have identified housing as a significant barrier for ex-offenders and parolees seeking independent living through Section 8 housing. Individuals with felony convictions are often denied the ability to use vouchers and housing certificates by landlords. It is not unusual for judges to be hesitant either to divert from jail, or to release, persons with serious, persistent mental illnesses if they cannot be housed in residential programs that are staffed 24/7. For individuals with serious medical and mental health issues, these problems are exacerbated. While our discharge planners collaborate with DOC re-entry staff to arrange community health care for these individuals, their efforts are dependent upon the availability of housing.

In addition to housing barriers, for individuals who have been in recovery from an addictive disorder for two to three years, it is extremely challenging to secure employment when they are required to disclose a criminal conviction related to their prior out-of-control period of addiction. For this reason, many of those whom we serve—who have turned their lives around—often cannot obtain decent paying jobs that are critical to sustaining their recovery. We are grateful for some significant changes to the pardon process that have reduced this barrier, and we hope that any additional changes you may be considering will take into account the importance of obtaining jobs for individuals who have demonstrated genuine commitment to changing their lives. In addition, the addictions profession highly values the insight and unique skills of persons in recovery who desire to become paid workers in the field. However, because they face similar barriers to employment within the addictions field due to their past criminal records, many end up seeking employment elsewhere out of frustration. As a result, we continuously lose out on a valuable resource, at a time when our workforce is facing extreme shortages of personnel who have such skills.

Another problem is that many individuals lack valid government-issued identification upon their release from a DOC facility. This can severely restrict their ability to find employment, obtain a

driver's license, or access supportive services and entitlements, such as State-Administered General Assistance (SAGA). They may also have other licensure issues, such as driver's license suspension or suspension of employment licensure (trade workers, medical personnel, etc.).

The following recommendations would be helpful:

1. Directing correctional staff to identify offenders who have identification, licensure and related needs well in advance of their potential date of release.

2. Deploying traveling magistrates and DMV staff to DOC facilities periodically, in order to address identification and other related issues for offenders well in advance of their discharge.

3. Formulating an employer outreach and support program and consider methods to incentivize employers to hire former offenders in recovery.

DMHAS continues to work toward ensuring that those whom we serve have the opportunities necessary for their continuing recovery. We must work together to reward their successes by continuing to provide needed supports. Federal grants we have won for expanded Access-to-Recovery services and transformation of the mental health system will go a long way toward keeping individuals with mental illness and addictive disorders out of the criminal justice system and within their communities as productive members of society. It is our hope that any new initiatives you are considering will take into account both the needs of the persons we serve and the approaches that successfully reintegrate them into the community.

Thank you for the opportunity to address the Committee today on these important matters. I would be happy to answer any questions you may have at this time.

Testimony before the State of Connecticut Judiciary Committee

November 27th, 2007

Good afternoon, Senator McDonald, Representative Lawlor, & esteemed members of the Judiciary Committee.

My name is Thomas Burr, from Glastonbury, CT. I am the President of the Manchester Affiliate of the National Alliance on Mental Illness, aka NAMI. I am also the Parent of an Adult Child who is in Recovery from BiPolar Disorder, after 8 years worth of repeated Hospitalizations, Incarcerations, and Homelessness. Currently he is living on his own; he is working, and doing very well.

Please note that I am speaking today not as a member of any group, but simply as a Tax Payer in the great state of CT.

I am an advocate for Supportive Housing. Recently a state of Tennessee Program showed that the providing Crisis Services and/or Incarceration cost 2-3 times more than the cost of the Supportive Housing they later implemented. They realized significant money savings by the lower utilization of Nursing Homes, Emergency Rooms, and Jails and Prisons. Supportive Housing provides for BETTER SERVICES for LESS MONEY! In other words, rather than have people who are leaving our Jails & Prisons and Hospitals left to fend for themselves on the streets, they enter Supportive Housing, which includes medical monitoring as well as other services. This scenario eliminates the "revolving door" of repeated trips to the Emergency Room and/or CT's Jails & Prisons.

Better yet, people with a Mental Illness who have a stable home environment through Supportive Housing will be able to enter Recovery, eventually getting jobs in their community, and therefore providing tax revenue to the State. They transform themselves from being an expensive burden under the current system, and become instead an asset to the State and their community.

IN SUMMARY: I am asking the Legislature to redirect any funding targeted towards expanding our Jails/Prisons, and put it towards Supportive Housing. "Keep the Promise", and enable people with Mental Illness to become productive members of society, keep them OUT of our Jails & Prisons, Nursing Homes and Emergency Rooms; increase their chances for Recovery, and ultimately SAVE our Taxpayers Money.

Before I take any questions, I would like to clarify something that others have previously misstated. By definition, "Mental Illness" is a diagnosable Brain Disorder: e.g. schizophrenia, bi-polar disorder, depression, and is treated via medication and therapy, often leading to a full recovery. Conversely, people described as "pedophiles, arsonists, or rapists" are PREDATORS, and are NOT suffering from a Mental Illness.

Thank you. I will now gladly answer any questions you have.

Respectfully,

Thomas Burr
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Testimony for November 27, 2007

Public Hearing before the Judiciary Committee

In the late 1980's and early 1990's, when the state psychiatric hospitals began to "deinstitutionalize," the rate of failure was high. The community agencies responsible for their care were understaffed and not equipped to handle the high and extensive needs of the patients returning to the community. The answer was to increase community staff, agency resources and create intensive case - management teams, with small case loads. As a result, the success rate of patients in the community improved. I believe the same solution will work effectively with the prison/parole population.

I am a licensed clinical social work, and have worked with the incarcerated population for the past thirteen (13) years. I continue to struggle, with the question of recidivism.....why is it that while incarcerated, this population is able to manage themselves, set goals for themselves and their families, and vow not to return; but then eventually do return? As I sit and listen to story after story, I am amazed at the struggles that these individuals are faced with when they return to the communities they call home. The obstacles that they are faced with upon discharge from prison are immense. These are individuals with limited family supports, limited educational backgrounds, impaired coping and problem solving skills and yet, they are expected to navigate the Department of Social Services, the Department of Mental Health and Addiction Services, the Housing Authority, the Department of Transportation, the Board of Parole or Probation, the Department of Children and Families and Vocational services. And society is shocked at the high rate of failure/recidivism? How could it be any different?

Over the years, I have been witness to not only the growth of the population in numbers exponentially, but also the change of the level of functioning of the individuals we incarcerate. These are individuals that were frequently abused, physically, emotionally and sexually. They may have been failed by family, DCF, education, and society. Why is it, that we all have empathy for the child we see on the news that was beaten, abused and neglected; but when we see them later in life, using drugs and unable to manage their life we no longer have empathy and only want to lock them up in the jaiis/prisons that we continue to build?

So what is the solution? I **strongly** believe that building additional prisons at exorbitant costs to taxpayers, is **not** the answer. As we did in the 1990's for DMHAS, we need to adequately fund, staff and provide resources to the departments that are given the daunting task of caring for these individuals. Use the funds not for incarceration but in the communities to promote healthy lifestyles, healthy families and healthy rehabilitation. Not only will this decrease the recidivism rate, perhaps it will decrease the number of first incarcerations for the next generation.

Parole and Probation officers need to have small/manageable caseloads that can be provided with intensive monitoring. Hire professionals and train staff in areas of addiction, mental health and rehabilitation. Involve the housing authority to be accountable for providing safe, adequate and affordable housing. Involve the vocational services to be accountable for providing decent paying jobs for individuals with felonies on their record. Involve the Department of Mental Health and Addiction Services to be accountable for providing needed treatment, programming and counseling.

Although, I understand the shock, horror and share in the great sadness of the tragedy of the Cheshire home invasion, I don't believe that society can simply "give-up" on and abandon the individuals that we currently incarcerate. Yes, there is absolutely a small number of individuals that are dangerous and should not be allowed in our communities. However, the majority of these incarcerated individuals are guilty of crimes against themselves and their families. With appropriate levels of monitoring, support, counseling, education and assistance from the communities, these individuals have the potential to be successful. Although the media bombards us on a daily basis, of all the evil in this world in which we live, a great number of our fellow human beings are **not** truly evil. Instead of being shunned by the community, they need to be incorporated into the communities. They need "life-coaches" and the agencies expected to monitor and treat them needs to have the appropriate resources to be their "life-coach." Whether we like it or not, we share this earth with these individuals and must embrace them as we did when they were small and helpless, many of them still are!

Elizabeth Allen, LCSW

115 S. Edgewood Rd.

Niantic, CT 06357

NAMI Connecticut
National Alliance on Mental Illness

To: Judiciary Committee Members

From: The National Alliance on Mental Illness—Connecticut

Enclosed in this packet, please find national data and information re: systemic change for people with mental illnesses in the criminal justice system from:

1. The National GAINS Center for Systemic Change for Justice-Involved People with Mental Illness; and
2. The Criminal Justice Mental Health Consensus Project.

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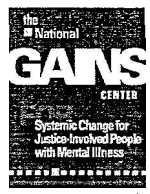


Moving Toward Evidence-Based Housing Programs for Persons with Mental Illness in Contact with the Justice System

Caterina Gouvis Roman[1]

The National GAINS Center for Systemic Change for Justice-Involved People with Mental Illness

Research shows that a one-size-fits-all approach to housing for persons with mental illness who are justice involved will not work. What works in housing for most persons with mental illness may be different from what works for those who are justice involved — particularly those individuals released from jail and prison to the community and placed under correctional supervision.

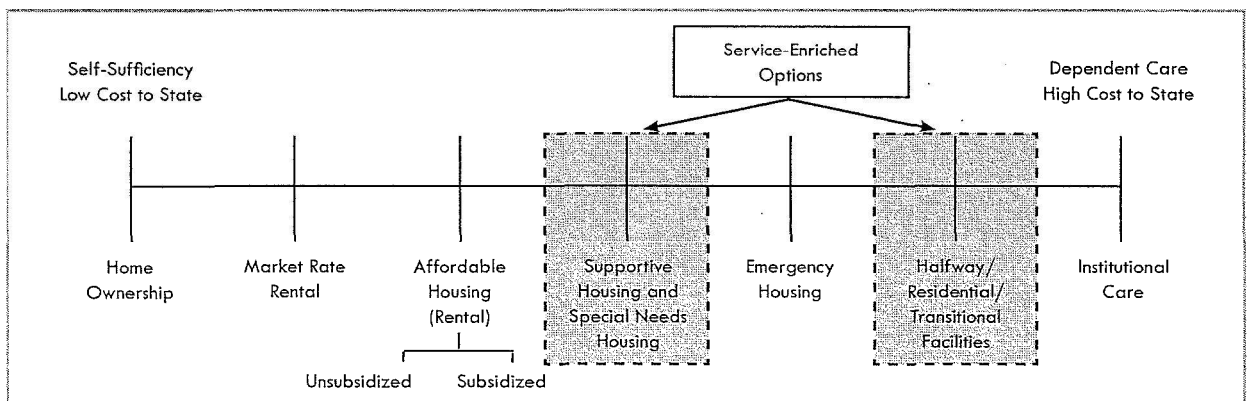
The reentry population may have differing needs than individuals with mental illness who have *not* had contact with the justice system. The *type* of criminal justice contact can play an important role in determining the best housing options for consumers as well. Persons returning from prisons and jails may have high-level needs given the requirements of supervision (e.g., remain drug free, obtain employment). Housing options should provide a balance between the often competing needs of criminal justice supervision and flexible social service provision.

Taking into consideration the reentry point of individuals can provide the basis for understanding how their mental health needs can be integrated with criminal justice system needs. When a person is under criminal justice supervision, housing and the services that come with housing must simultaneously satisfy the service needs of the individual and the demands of the criminal justice system. Furthermore, those returning to the community after being in the custody of the criminal justice system for long periods of time often lack awareness of the range of housing options, as well as the skills to make appropriate housing-related decisions.

With regard to returning prisoners, research suggests that residential instability and incarceration are compounding factors influencing both later residential instability and re-incarceration. A large study examining persons released from New York State prisons found that having both histories of shelter use and incarceration increased the risk of subsequent re-incarceration and shelter use (Metraux & Culhane, 2004). Individuals with links to the mental health system had considerably higher proportions of shelter stays and re-incarcerations post release than those without links to the mental health system. Other studies have found that persons with mental illness who experience housing instability are more likely to come in contact with the police and/or to be charged with a criminal offense (Brekke et al., 2001; Clark, Ricketts, & McHugo, 1999).

Housing for persons with mental illness who have had contact with the justice system can be viewed along a continuum of options from full self-sufficiency to full dependent care (see Figure 1). The most available or appropriate housing option for individuals may differ depending on which reentry point (i.e., diversion, jail, or prison) an individual enters the community. Supportive housing and special needs housing, and transitional facilities (highlighted in Figure 1) are the main options for consumers of housing in need of services to treat mental health conditions, outside of the provision of institutional care. Supportive housing and special needs housing are permanent housing options coupled with support services. These types of housing are most often partially or wholly supported by HUD and specifically designed to support disadvantaged populations. Transitional housing is an umbrella term to capture any housing that is not permanent but is designed to provide at least some type of service that assists clients with establishing community reintegration or residential stability.

Figure 1. The Continuum of Housing Options for Persons with Mental Illness Who Have Had Contact with the Justice System



Source: Modified from Safe Homes, Safe Communities. 2001. Minnesota Department of Corrections

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To navigate the intricate landscape of housing for persons with mental illness who have had contact with the justice system, it is important to understand that the service-enriched options for housing can utilize a range of approaches from *housing first* to *housing ready*. These approaches are underlying principles that guide the provision of housing and services to individuals who are homeless or have been deemed "hard to house."

The *housing first* approach offers the direct placement from the street (or an institution) to housing with support services available, but not required. Often, the only requirements are that individuals not use substances on the premises and abide by the traditional lease obligations of paying rent and refraining from violence and destruction of property. In contrast, *housing ready* starts with treatment and progresses through a series of increasingly less service-intensive options with the goal of permanent supportive housing as people are "ready." Housing is transitional in *housing ready* models and generally features services that are "high demand," as described below.

Although requirements and configurations of services vary tremendously across service-enriched housing options, service-related models cluster along a continuum from low demand to high demand. The literature describing housing options suggests that the service component is a key variable that will impact outcomes. Although some evaluation studies have found that housing with low-demand service provision may work well for persons with mental illness, low demand services might not be an option when individuals are under high levels of correctional supervision. Although correctional supervision-related coercion (e.g., mandatory drug testing) has been shown to work well in many circumstances with criminal justice-involved clients who have a mental illness, experts know little about how coercion works with those who have a mental illness.

Lessons can be learned from a California initiative focused on persons with mental illness and other major challenges including homelessness, recent incarceration, and a co-occurring substance use disorder. In 1999, California passed Assembly Bill 34 to fund housing and treatment programs for homeless individuals with a diagnosed mental illness. Specifically, the programs are designed to provide comprehensive services to adults who have severe mental illness and who are homeless, at risk of becoming homeless, recently released from jail or state prison, or others who are untreated, unstable, and at significant risk of incarceration or homelessness unless treatment is provided. State funds provide for outreach programs and mental health services along with related medications, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and other non-medical programs necessary to stabilize this population.

Evaluation of findings from the California initiative suggests that the provision of housing to persons who have mental illness and are justice involved through a *housing first* approach can enhance residential stability and increase successful community integration (Burt & Anderson, 2005; Mayberg, 2003). Findings also indicate that programs serving the most challenging clients (those with longer histories of homelessness and incarceration) produce similar housing outcomes as programs serving less challenging clients (Burt & Anderson, 2005). Essentially, people with serious mental illness and histories of arrest or incarceration can achieve housing stability with adequate support.

Although results from the AB2034 evaluation suggest that *housing first* models are appropriate and often successful strategies for housing persons with multiple challenges, our review of seven promising reentry housing programs operating nationwide (in-depth interviews were conducted with program directors) found that, with the exception of one program, the reentry programs are utilizing *housing ready* approaches.

Six of the seven programs reviewed were designed as transitional programs with a treatment focus. For the majority of the programs, all or some consumers of housing are under parole supervision. Some of the programs offer combination housing, where consumers can progress through different housing options. Related to the *housing ready* approach, the reentry populations served generally have little service or housing choice in the beginning of their continuum. Tenant rights are usually program based (but the program may transfer rights of tenancy if participants move into more permanent housing within the supported housing program). There is often 24-hour supervision and surveillance and on-site service teams present during the day for mandated sessions and activities. But, importantly, at the end of the progression through the various housing options, at least three housing programs offer permanent housing.

In summary, when criminal justice system contact is added into the mix of characteristics of clients served by current housing options targeting persons with mental illness, some issues may be more relevant/salient than others. The AB 2034 programs in California have shown that success can be achieved with *housing first* models, but it is important to note that, for the most part, AB 2034 consumers were not under correctional supervision. Although the seven programs reviewed in the discussion paper were not selected to be representative of all existing programs, it appears that, in practice, providers serving the reentry population are utilizing *housing ready* approaches, as opposed to housing first approaches. Not surprisingly, the review found that reentry programs offering permanent housing are rare. However, we see evidence that the number of permanent housing options for returning prisoners is increasing across the country.

This fact sheet is based on a larger discussion paper, developed for and reviewed by an expert panel convened by the National GAINS Center and is available for distribution. The discussion paper provides a detailed synthesis of the criminal justice and housing and homelessness literature as it pertains to reentry housing, and describes seven promising reentry housing programs that serve persons with mental illness.

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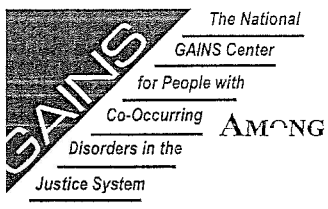

Integrated Services Reduce Recidivism Among Homeless Adults with Serious Mental Illness in California

Fall 2001/*Revised Winter 2004*

The recent report, ***Effectiveness of Integrated Services for Homeless Adults with Serious Mental Illness***, submitted to the California state legislature establishes the impressive results of California's broadened support of its Community Mental Health Treatment Program, known in shorthand as AB 2034, that serves adults with severe mental illness who are homeless or at risk of homelessness or incarceration. It is summarized here to make the results more easily accessible to a wider audience.

The pilot programs that are the subject of AB 2034 are being used to provide comprehensive services to adults who have severe mental illness and who are homeless, at risk of becoming homeless, recently released from a county jail or state prison, or others who are untreated, unstable, and at significant risk of incarceration or homelessness unless treatment is provided to them.

The goal is to get the target group off the street and into permanent housing, into treatment and recovery, or to provide access to veterans' services that provide for treatment and recovery. State funds for this program provide for outreach programs and mental health services along with related medications, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and other nonmedical programs necessary to stabilize this population. The integrated services approach, involving close collaboration at the local level among mental health and social service providers, law enforcement, and veterans' services agencies, combined with the practice of tailoring services to meet the individual needs and preferences of program enrollees, has amply demonstrated its merits.

As these programs have reduced recidivism, in terms of both hospitalization and incarceration (see Table 1 above right and Table 2 over), significant cost avoidance has been realized at both state and county levels. Further, as these programs have increased the number of clients able to gain and keep employment, they offer a broadly successful model to which other programs serving adults with serious mental illness may be urged to follow.

Three County Data at a Glance (Annualized)

	12 Months Prior to Enrollment	Since Enrollment*
Days Homeless	205,992	63,764
Days Incarcerated	60,438	9,287
Days Hospitalized	10,906	2,435

* (Annualized)

Table 1. From Effectiveness of Integrated Services for Homeless Adults

The report finds, "Integrated services offer an expanded array of service components, such as housing, employment, life skills coaching, and social support in addition to treatment. In addition to these program improvements, the model offers the capacity to respond quickly with an extensive service package suited to individual client needs and preferences.

"Important fiscal impacts also appear to result from this service model. With daily jail costs ranging from $50 to $60 for the general jail population, and a range of $300 to over $400 for the medical/psychiatric jail population, the decrease in the number of jail days among these clients has produced an important local savings and/or cost avoidance.

"For both earlier and newly funded programs, the budgeted cost per client still differs among the pilots. The factor most influencing the budgeted cost per client continues to be the degree to which programs are geared to provide housing for homeless clients. Other factors known to have impacted the cost per client are the extent of outreach efforts required in the cost of enrolling clients and the amount of startup costs

The National GAINS Center for People with Co-Occurring Disorders in the Justice System is a national center for the collection and dissemination of information about effective mental health and substance abuse services for people with co-occurring disorders who come in contact with the justice system. The GAINS Center is a partnership of the Substance Abuse and Mental Health Services Administration's two centers—the Center for Substance Abuse Treatment (CSAT) and the Center for Mental Health Services (CMHS)—and is operated by Policy Research Associates of Delmar, New York.

COUNTIES Programs	Incarcerations, Probation and Parole								
	Number of consumers currently	Number of consumers on probation at any time in 12 mos prior to	Number of consumers on parole at any time in 12 mos prior to enrollment	Number of unduplicated consumers incarcerated in 12 mos	Number of incarcerations in 12 mos prior to enrollment	Number of days incarcerated in 12 mos prior to enrollment	Number of unduplicated consumers incarcerated	Number of incarcerations since enrollment	Number of days incarcerated since enrollment
SACRAMENTO									
El Hogar	92	21	0	29	44	1,254	12	19	147
Turning Point	80	24	0	44	97	999	17	42	520
Total	172	45	0	73	141	2,253	29	61	667
STANISLAUS									
Families First	3	1	0	1	2	10	1	1	7
Telecare	65	7	3	22	53	639	16	33	682
Total	68	8	3	23	55	649	17	34	689
LOS ANGELES									
Didi Hirsch	26	1	2	22	31	2,511	1	1	47
Exodus	39	10	18	13	16	1,666	1	2	15
Hillview	90	35	28	50	54	10,753	16	20	1,989
LAMP	81	9	17	52	65	8,077	14	19	1,073
MHALA Village	130	10	20	61	108	5,959	20	26	1,199
Pacific Clinics	82	11	46	48	53	6,781	11	20	943
Portals	28	5	11	13	13	2,549	2	2	531
SCHARP	90	19	34	53	71	5,503	22	28	1,509
SFVCMHC	54	23	29	45	45	8,477	18	24	1,464
Telecare 4	19	0	0	15	23	1,563	3	3	167
Telecare7	47	4	13	15	23	2,042	8	13	732
Tri-City	10	1	2	5	6	379	1	1	22
Verdugo	15	2	3	9	9	1,276	7	8	562
Total	711	130	223	401	517	57,536	124	167	10,253
Grand Total	951	183	226	497	713	60,438	170	262	11,609

Table 2. From Effectiveness of Integrated Services for Homeless Adults

required to increase the service capacity among providers. As important as costs, are the savings and cost avoidance these programs generate. In the areas of acute hospitalization and incarceration alone, the past year's investment (annualized at $14.1 million) produced an estimated annual savings/cost avoidance of $7.3 million. For hospitalization/physician costs, this is derived from a daily hospital/physician cost of $500 (using an average of recent costs in Los Angeles) applied to the decrease in the number of hospital days over twelve months (8,471) for all three county programs, which yields $4.23 million. For incarceration costs, this is calculated at $60 per day for 51,151 fewer days yielding $3.07 million annually."

Effectiveness of Integrated Services for Homeless Adults with Serious Mental Illness, was authored by Gray Davis, Governor of California; Grantland Johnson, Secretary of the California Health and Human Services Agency; and Stephen W. Mayberg, Ph.D., Director of the California Department of Mental Health. The full report is available on the Internet at http://www.dmh.cahwnet.gov/press/docs/Homeless-Mentally-Ill-Leg_rpt.pdf.

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To find out how the National GAINS Center can help you address the needs of people with co-occurring disorders in the justice system or to order publications, please visit our website at gainscenter.samhsa.gov or contact us at:

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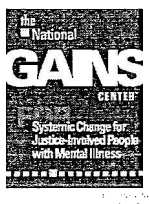

Extending Assertive Community Treatment to Criminal Justice Settings

Joseph Morrissey, PhD, and Piper Meyer, PhD[1]

The National GAINS Center for Systemic Change for Justice-Involved People with Mental Illness May, 2006

Assertive Community Treatment (ACT) is a service delivery model in which treatment is provided by a team of professionals with services determined by consumer needs for as long as needed (Phillips et al., 2001). ACT combines treatment, rehabilitation, and support services in a self-contained clinical team made up of a mix of disciplines, including psychiatry, nursing, addiction counseling, and vocational rehabilitation (Stein & Santos, 1998; Dixon, 2000). The ACT team operates on a 24/7 basis, providing services in the community to offer more effective outreach and to help the consumer generalize the skills to real life settings (Phillips et al., 2001). ACT is intended for consumers who have severe (a subset of serious with a higher degree of disability) mental illness, are functionally impaired, and at high risk of inpatient hospitalization.

Evidence-Base for ACT

The effectiveness of ACT has been well established with over 55 controlled studies in the US and abroad. In one recent review (Bond et al., 2001), ACT was found to be most effective in reducing the use and number of days in the hospital, but *not* consistently effective in reducing symptoms and arrests/jail time or improving social adjustment, substance abuse, and quality of life (See also Burns & Santos, 1995; Dixon, 2000; Marshall & Lockwood, 2004; Ziguras & Stuart, 2000). When tested against other forms of case management, ACT teams have proven to be more effective *only* in reducing psychiatric hospitalizations and improving housing stability (Bond et al, 2001; Ziguras & Stuart, 2000; LewinGroup, 2000).

Can we keep persons with severe mental illness out of jail by assigning them to special ACT teams that focus on forensic populations?

The lack of effectiveness in preventing arrests/jail detentions and reducing substance abuse in these studies is disappointing. However, very low base rates of arrest and the consequent lack of statistical power hamper drawing clear conclusions about these outcome indicators. A relevant question becomes: Can we keep persons with severe mental illness out of jail by assigning them to special ACT teams that focus on forensic populations and incorporate new specialists within the team with criminal justice system know-how?

FACT Adaptations

A number of ACT-like programs have grown up in communities around the country that focus on keeping people with severe mental illness out of jails and prisons. The name "forensic ACT" or FACT is the emerging designation for these hybrid teams. Little standardization of program practices and staffing exists for FACTs. Among the core elements that distinguish FACT from ACT are: (1) the goal of preventing arrest and incarceration; (2) requiring that all consumers admitted to the team have criminal justice histories; (3) accepting the majority of referrals from criminal justice agencies; and (4) the development and incorporation of a supervised residential treatment component for high-risk consumers, particularly those with co-occurring substance use disorders (Lamberti et al., 2004).

Can ICM Substitute for ACT?

Intensive Case Management (ICM) is a model that has some distinct differences from ACT and requires less funding than a full-fidelity ACT team. ICM often mirrors ACT with regard to assertive, in-vivo, and time-unlimited services, but it uses case managers with individual caseloads, has no self-contained team, lacks 24/7 capacity, and brokers access to psychiatric treatment rather than providing it directly. Brokered case management is much less intensive due to larger caseloads, often office-based services, and less frequent client contact. Evidence indicates that brokered case management is ineffective (Marshall et al., 1998) whereas strengths case management appears to be effective in a small number of trials (Rapp, 2004). We have located 26 programs in 12 states that have described their ACT or ICM program as one that serves a forensic population.

FACT Evidence-Base

Published evidence on FACT teams is limited to two recent studies (McCoy et al., 2004). In a pre-post study (no control group), consumers who completed one year of Project Link in Rochester, NY (Lamberti et al., 2001), compared to the year prior to program admission, had significant reductions in jail days, arrests, hospital days, and hospitalizations. A preliminary pre-post cost analysis also found that Project Link reduced the average yearly service cost per client (Weisman et al., 2004). Improvements were also noted in psychological functioning and engagement in substance abuse treatment. In two pre-post studies (no control group) after one year at the Thresholds State County Collaborative Jail Linkage Project (CJLP) in Chicago, consumers had a decrease in days in jail and days in the hospital and reduced jail and hospital costs (McCoy et al. 2004).

FICM Evidence-Base

The evidence base for FICM effectiveness comes from published studies (Cosden et al., 2003; Godley et al., 2000; Solomon & Draine, 1995; Wilson et al., 1995) and from the nine-site SAMHSA Jail Diversion Demonstration, where sites used FICM in a service linkage model (Broner et al., 2004; Steadman & Naples, 2005).

The first study (Broner et al., 2004; Steadman & Naples, 2005) involved a non-random comparison group design that used

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FICM to divert detainees to community treatment services at diverse sites around the country. Diverted individuals reported more days in the community, more service use, and fewer jail days than did the non-diverted comparison groups, but there were no consistent differences on symptoms or quality of life. In other words, FICM improved jail incarceration outcomes, but it had little or no effect on public mental health outcomes. Steadman and Naples argue that the absence of mental health effects in the SAMHSA jail diversion study was due to the treatment services to which diverted individuals were referred. None of them provided evidence-based treatments such as ACT, so the referral was equivalent to assigning people with severe mental illness and co-occurring substance abuse disorders to usual care.

The research to date remains unclear on the effectiveness of FACT as an evidence-based treatment.

Two random clinical trials have been reported here as well (Cosden et al., 2003; Solomon & Draine, 1995). The Solomon and Draine study compared FICM with FACT and with usual care services, finding no significant differences in social or clinical outcomes after one year of services but a higher re-arrest rate for FACT (attributed to having probation officers on the team). The Cosden et al. study compared a combined mental health court and FICM model (that also had probation officers as team members) with usual care; at 12 months, both groups exhibited improvements in life satisfaction, psychological distress, independent functioning, and drug problems. No differences were found for time in jail or number of arrests, but consumers in the intervention arm were more likely to be booked and not convicted, and to have been arrested for probation violations. The usual care group were more likely to be convicted of a new crime.

Conclusions

FACT teams are relatively new adaptations of the ACT model and come in many forms. When adhering to the core ACT model, they show promise for reducing inpatient hospitalizations. With their "criminal justice savvy" (Morrissey & Cuddeback, 2005), they can be expected to reduce recidivism and maintain certain clients in the community. Nonetheless, they are a high intensity, high cost intervention that fits the most disabled segment, perhaps 20 percent, of the persons being diverted or reentering from the criminal justice system. The community management models of choice for the other 80 percent or so of less disabled individuals are multiple, less costly forms of criminal justice-informed case management that rely on brokering services from mainstream providers rather than providing all services via a FACT team. While brokered case management models are still a challenge for many communities with limited resources, they are sustainable in areas where services are more ample.

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0011121

Cost Savings

		Jail/Hospital costs per person		
Program	# of Partici-pants	PRIOR to involvement	DURING involvement (plus program cost)	Cost savings per person
Thresh-olds Jail Program (Cook County, IL)	30 (two years)	$53, 897	$35,024	$18,873
Project Link (Monroe County, NY)	44 (one year)	$73,878	$34,360	$39,518

Source: Criminal Justice Mental Health Consensus Project

0011122

California's AB 2034 Program

Three County Data (Annualized)		
	12 Months Prior to Enrollment	Since Enrollment
Days Homeless	205,992	63,764
Days Incarcerated	60,438	9,287
Days Hospitalized	10,906	2,435

Source – National GAINS Center

WORKING DRAFT

General Assembly

Raised Bill No.

No. 1

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING THE PARTICIPATION OF PROBATION OFFICERS IN WARRANT SQUADS.

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

Section 1. (NEW) (*Effective from passage*) Any probation officer who in the discharge of such probation officer's duties acts as a member of an ad hoc fugitive task force that seeks out and arrests persons who have unexecuted state and federal warrants lodged against them shall be deemed to be acting as an employee of the state while carrying out the duties of said task force.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section

Statement of Purpose:
To provide that probation officers shall be deemed to be acting as state employees while participating as members of a fugitive task force.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

001124

OLR RESEARCH REPORT

November 9, 2007 2007-R-0654

PROPOSAL 1:
AN ACT CONCERNING THE PARTICIPATION OF PROBATION OFFICERS IN WARRANT SQUADS.

By: Kevin E. McCarthy, Principal Analyst

You asked us to summarize Proposal 1, *AAC the Participation of Probation Officers in Warrant Squads* for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

The bill specifies that any probation officer who in the discharge of his or her duties acts as a member of an ad hoc fugitive task force that seeks out and arrests persons who have unexecuted state and federal warrants lodged against them is considered to be acting as a state employee while carrying out the duties of the task force. The bill is effective upon passage.

CURRENT PRACTICE

The Judicial Branch has authorized certain probation officers to participate on an ad hoc fugitive task force with the U.S. Marshal Service. The task force apprehends individuals wanted on state and federal warrants, including violation of probation warrants. The participating agencies determine which outstanding warrants the task force will work on and how often and when apprehension teams will operate.

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RELATED LAWS

Under CGS § 5-141d, the state must indemnify any state employee from financial loss and expense arising from any claim or judgment by reason of his alleged negligence or alleged deprivation of any person's civil rights or other act or omission that results in damage or injury, if the employee is found to have been acting in the discharge of his duties or within the scope of his employment and the act or omission is found not to have been wanton, reckless, or malicious.

The state, through the attorney general, must provide for the defense of the employee in any civil action or proceeding in state or federal court arising out of an alleged act, omission, or deprivation that occurred or is alleged to have occurred while he or she was acting in the discharge of his or her duties or in the scope of his employment. But this is not required when the Attorney General, based on his investigation of the facts and circumstances of the case, determines that it would be inappropriate to do so and so notifies the employee in writing.

The state must bear the legal fees and costs incurred as a result of the retention of an attorney by the employee to defend his or her interests in such civil actions or proceedings only in those cases where (1) the attorney general has stated in writing to the employee that the state will not provide an attorney to defend the employee's interests; and (2) the employee is thereafter found to have acted in the discharge of his duties or in the scope of his employment, and not wantonly, recklessly or maliciously. The employee's legal fees and costs must be paid to the employee after the final disposition of the suit, claim or demand and in amounts the attorney general considers reasonable.

Under CGS § 5-143, a state employee who sustains an injury "arising out of and in the course of his employment" is eligible for compensation under the workers' compensation law.

KM:dw

WORKING DRAFT

General Assembly

Raised Bill No.

No. **2**

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING BURGLARY AND PERSISTENT OFFENDERS.

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

Section 1. Section 53a-101 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person is guilty of burglary in the first degree when: [he] (1) Such person enters or remains unlawfully in a building with intent to commit a crime therein and [: (1) He] is armed with explosives or a deadly weapon or dangerous instrument, or (2) such person enters or remains unlawfully in a building with intent to commit a crime therein and, in the course of committing the offense, [he] such person intentionally, knowingly or recklessly inflicts or attempts to inflict bodily injury on anyone, or (3) such person enters or remains unlawfully in a dwelling at night with intent to commit a crime therein, or (4) such person enters or remains unlawfully in a dwelling, while a person other than the participant in the crime is actually present in such dwelling, with intent to commit a crime therein, or (5) such person enters or remains unlawfully in a dwelling with intent to commit a crime therein and is aided by one or more persons actually present.

18 (b) An act shall be deemed "in the course of committing" the offense
19 if it occurs in an attempt to commit the offense or flight after the
20 attempt or commission.

21 (c) Burglary in the first degree is a class B felony [provided] and any
22 person found guilty under subdivision (1), (2), (4) or (5) of subsection
23 (a) of this section shall be sentenced to a term of imprisonment of
24 which five years of the sentence imposed may not be suspended or
25 reduced by the court.

26 Sec. 2. (NEW) (*Effective from passage*) (a) A person is guilty of
27 aggravated burglary in the first degree when such person enters or
28 remains unlawfully in a dwelling, while a person other than a
29 participant in the crime is actually present in such dwelling, with
30 intent to commit a crime therein, and, in the course of committing the
31 offense: (1) Acting either alone or with one or more persons, such
32 person or another participant in the crime commits or attempts to
33 commit a felony against the person of another person other than a
34 participant in the crime who is actually present in such dwelling, or (2)
35 such person is armed with explosives or a deadly weapon or
36 dangerous instrument.

37 (b) An act shall be deemed "in the course of committing" the offense
38 if it occurs in an attempt to commit the offense or flight after the
39 attempt or commission.

40 (c) Aggravated burglary in the first degree is a class A felony and
41 any person found guilty under this section shall be sentenced to a term
42 of imprisonment of twenty-five years of which ten years may not be
43 suspended or reduced by the court.

44 Sec. 3. Section 53a-102 of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective from passage*):

46 (a) A person is guilty of burglary in the second degree when such
47 person [(1)] enters or remains unlawfully in a [dwelling at night]

48 building with intent to commit a crime therein [, or (2) enters or
49 remains unlawfully in a dwelling, while a person other than a
50 participant in the crime is actually present in such dwelling, with
51 intent to commit a crime therein] and, in the course of committing the
52 offense, threatens the use of or displays or represents by such person's
53 words or conduct that such person possesses a firearm.

54 (b) An act shall be deemed "in the course of committing" the offense
55 if it occurs in an attempt to commit the offense or flight after the
56 attempt or commission.

57 [(b)] (c) Burglary in the second degree is a class C felony for a first
58 offense and a class B felony for any subsequent offense, and any
59 person found guilty under this section shall be sentenced to a term of
60 imprisonment of which three years of the sentence imposed may not
61 be suspended or reduced by the court.

62 Sec. 4. Section 53a-103 of the general statutes is repealed and the
63 following is substituted in lieu thereof (*Effective from passage*):

64 (a) A person is guilty of burglary in the third degree when [he] such
65 person enters or remains unlawfully in a building with intent to
66 commit a crime therein.

67 (b) Burglary in the third degree is a class D felony for a first offense,
68 a class C felony for a second offense and a class B felony for any
69 subsequent offense.

70 Sec. 5. Subsection (b) of section 54-125a of the general statutes is
71 repealed and the following is substituted in lieu thereof (*Effective from*
72 *passage*):

73 (b) (1) No person convicted of any of the following offenses, which
74 was committed on or after July 1, 1981, shall be eligible for parole
75 under subsection (a) of this section: Capital felony, as provided in
76 section 53a-54b, felony murder, as provided in section 53a-54c, arson
77 murder, as provided in section 53a-54d, murder, as provided in section

78 53a-54a, or aggravated sexual assault in the first degree, as provided in
79 section 53a-70a. (2) A person convicted of burglary in the first degree,
80 as provided in section 53a-101, as amended by this act, aggravated
81 burglary in the first degree, as provided in section 2 of this act, or an
82 offense, other than an offense specified in subdivision (1) of this
83 subsection, where the underlying facts and circumstances of the
84 offense involve the use, attempted use or threatened use of physical
85 force against another person shall be ineligible for parole under
86 subsection (a) of this section until such person has served not less than
87 eighty-five per cent of the definite sentence imposed.

88 Sec. 6. Section 53a-100 of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective from passage*):

90 (a) The following definitions are applicable to this part and section 2
91 of this act: (1) "Building" in addition to its ordinary meaning, includes
92 any watercraft, aircraft, trailer, sleeping car, railroad car or other
93 structure or vehicle or any building with a valid certificate of
94 occupancy. Where a building consists of separate units, such as, but
95 not limited to separate apartments, offices or rented rooms, any unit
96 not occupied by the actor is, in addition to being a part of such
97 building, a separate building; (2) "dwelling" means a building which is
98 usually occupied by a person lodging therein at night, whether or not a
99 person is actually present; (3) "night" means the period between thirty
100 minutes after sunset and thirty minutes before sunrise; and (4) "public
101 land" means a state park, state forest or municipal park or any other
102 publicly-owned land that is open to the public for active or passive
103 recreation.

104 (b) The following definition is applicable to sections 53a-101 to 53a-
105 106, inclusive, as amended by this act, and section 2 of this act: A
106 person "enters or remains unlawfully" in or upon premises when the
107 premises, at the time of such entry or remaining, are not open to the
108 public and when the actor is not otherwise licensed or privileged to do
109 so.

110 Sec. 7. Subsection (a) of section 53a-40 of the general statutes is
111 repealed and the following is substituted in lieu thereof (*Effective from*
112 *passage*):

113 (a) A persistent dangerous felony offender is a person who:

114 (1) (A) Stands convicted of murder, manslaughter, arson,
115 kidnapping, robbery in the first or second degree, [or assault in the
116 first degree] assault constituting a class B or C felony, burglary in the
117 first or second degree or burglary in the second degree with a firearm,
118 or an attempt or conspiracy to commit any of said crimes, and (B) has
119 been, prior to the commission of the present crime, convicted of and
120 imprisoned [under a sentence to a term of imprisonment of more than
121 one year or of death, in this state or in any other state or in a federal
122 correctional institution,] for any of the following crimes: (i) The crimes
123 enumerated in subparagraph (A) of this subdivision or an attempt or
124 conspiracy to commit any of said crimes; or (ii) [murder,] sexual
125 assault in the first or third degree, aggravated sexual assault in the first
126 degree or sexual assault in the third degree with a firearm, or an
127 attempt or conspiracy to commit any of said crimes; [or (iii) prior to
128 October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75
129 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
130 prior to October 1, 1971, in this state, assault with intent to kill under
131 section 54-117, or any of the crimes enumerated in sections 53-9, 53-10,
132 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80,
133 inclusive, 53-82, 53-83, 53-86, 53-238 and 53-239 of the general statutes,
134 revision of 1958, revised to 1968, or any predecessor statutes in this
135 state, or an attempt to commit any of said crimes; or (iv)] or (iii) in any
136 other state, any crimes the essential elements of which are substantially
137 the same as any of the crimes enumerated in subparagraph (A) of this
138 subdivision or this subparagraph; or

139 (2) (A) Stands convicted of sexual assault in the first or third degree,
140 aggravated sexual assault in the first degree or sexual assault in the
141 third degree with a firearm, or an attempt or conspiracy to commit any

142 of said crimes, and (B) has been, prior to the commission of the present
143 crime, convicted of and imprisoned [under a sentence to a term of
144 imprisonment of more than one year or of death, in this state or in any
145 other state or in a federal correctional institution,] for any of the
146 following crimes: (i) [Murder] The crimes enumerated in subparagraph
147 (A) of this subdivision, or an attempt or conspiracy to commit any of
148 said crimes; or (ii) murder, manslaughter, arson, kidnapping, robbery
149 in the first or second degree, [or assault in the first degree] assault
150 constituting a class B or C felony, burglary in the first or second degree
151 or burglary in the second degree with a firearm, or an attempt or
152 conspiracy to commit any of said crimes; [or (ii) prior to October 1,
153 1971, in this state, assault with intent to kill under section 54-117, or
154 any of the crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-
155 16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83
156 and 53-86 of the general statutes, revision of 1958, revised to 1968, or
157 any predecessor statutes in this state, or an attempt to commit any of
158 said crimes;] or (iii) in any other state, any crimes the essential
159 elements of which are substantially the same as any of the crimes
160 enumerated in subparagraph (A) of this subdivision or this
161 subparagraph.

162 Sec. 8. Subsection (h) of section 53a-40 of the general statutes is
163 repealed and the following is substituted in lieu thereof (*Effective from*
164 *passage*):

165 (h) When any person has been found to be a persistent dangerous
166 felony offender, [and the court is of the opinion that such person's
167 history and character and the nature and circumstances of such
168 person's criminal conduct indicate that extended incarceration and
169 lifetime supervision will best serve the public interest,] the court, in
170 lieu of imposing the sentence of imprisonment authorized by [section
171 53a-35] the general statutes for the crime of which such person
172 presently stands convicted, [or authorized by section 53a-35a if the
173 crime of which such person presently stands convicted was committed
174 on or after July 1, 1981, shall sentence such person to a term of

175 imprisonment of not more than forty years and, if such person has, at
176 separate times prior to the commission of the present crime, been twice
177 convicted of and imprisoned for any of the crimes enumerated in
178 subdivision (2) of subsection (a) of this section, sentence such person to
179 a term of imprisonment of not more than life] shall sentence such
180 person as follows: (1) For the class A felony of murder, a term of
181 imprisonment of not less than forty years or more than life, of which
182 ten years of the sentence imposed may not be suspended or reduced
183 by the court, (2) for a class A felony other than murder, a term of
184 imprisonment of not less than twenty years or more than life, of which
185 ten years of the sentence imposed may not be suspended or reduced
186 by the court, and (3) for a felony other than a felony specified in
187 subdivision (1) or (2) of this subsection, a term of imprisonment of not
188 less than ten years or more than forty years, of which ten years of the
189 sentence imposed may not be suspended or reduced by the court;
190 except that, if such person has, at separate times prior to the
191 commission of the present crime, been twice convicted of and
192 imprisoned for any of the crimes enumerated in subparagraph (A) of
193 subdivision (1) or subparagraph (A) of subdivision (2) of subsection (a)
194 of this section, the court shall sentence such person to a term of
195 imprisonment of not less than forty-five years or more than life, of
196 which forty-five years of the sentence imposed may not be suspended
197 or reduced by the court. The provisions of this subsection shall not
198 apply to a person who presently stands convicted of a capital felony.

199 Sec. 9. Subsection (c) of section 53a-40 of the general statutes is
200 repealed and the following is substituted in lieu thereof (*Effective from*
201 *passage*):

202 (c) A persistent serious felony offender is a person who (1) stands
203 convicted of a class A, B, C or D felony, and (2) has been, at separate
204 times prior to the commission of the present felony, twice convicted of
205 [and imprisoned under an imposed term of more than one year or of
206 death, in this state or in any other state or in a federal correctional
207 institution, for a crime. This subsection shall not apply where the

208 present conviction is for a crime enumerated in subdivision (1) of
209 subsection (a) of this section and the prior conviction was for a crime
210 other than those enumerated in subsection (a) of this section] a felony
211 in this state or any other state.

212 Sec. 10. Subsection (j) of section 53a-40 of the general statutes is
213 repealed and the following is substituted in lieu thereof (*Effective from*
214 *passage*):

215 (j) When any person has been found to be a persistent serious felony
216 offender, [and the court is of the opinion that such person's history and
217 character and the nature and circumstances of such person's criminal
218 conduct indicate that extended incarceration will best serve the public
219 interest,] the court, in lieu of imposing the sentence of imprisonment
220 authorized by [section 53a-35] the general statutes for the crime of
221 which such person presently stands convicted, [or authorized by
222 section 53a-35a if the crime of which such person presently stands
223 convicted was committed on or after July 1, 1981, may] shall impose
224 the sentence of imprisonment authorized by [said section] the general
225 statutes for the next more serious degree of felony, except that, if the
226 crime of which such person presently stands convicted is the class A
227 felony of murder, the court shall sentence such person to a term of
228 imprisonment of not less than forty years or more than life, of which
229 fifteen years of the sentence imposed may not be suspended or
230 reduced by the court and, if the crime of which such person presently
231 stands convicted is a class A felony other than murder, the court shall
232 sentence such person to a term of imprisonment of not less than fifteen
233 years or more than forty years, of which fifteen years of the sentence
234 imposed may not be suspended or reduced by the court. The
235 provisions of this subsection shall not apply to a person who presently
236 stands convicted of a capital felony.

237 Sec. 11. Subsection (f) of section 53a-40 of the general statutes is
238 repealed and the following is substituted in lieu thereof (*Effective from*
239 *passage*):

240 (f) A persistent felony offender is a person who (1) stands convicted
241 of a class A, B, C or D felony, [other than a class D felony,] and (2) has
242 been, at a separate [times] time prior to the commission of the present
243 felony, [twice] convicted of a felony [other than a class D felony] in this
244 state or any other state.

245 Sec. 12. Subsection (m) of section 53a-40 of the general statutes is
246 repealed and the following is substituted in lieu thereof (*Effective from*
247 *passage*):

248 (m) When any person has been found to be a persistent felony
249 offender, [and the court is of the opinion that such person's history and
250 character and the nature and circumstances of such person's criminal
251 conduct indicate that extended incarceration will best serve the public
252 interest,] the court, in lieu of imposing the sentence authorized by
253 [section 53a-35a] the general statutes for the crime of which such
254 person presently stands convicted, may impose the sentence of
255 imprisonment authorized by [said section] the general statutes for the
256 next more serious degree of felony, [; provided the sentence imposed
257 may not be less than three years, and provided further three years of
258 the sentence so imposed may not be suspended or reduced by the
259 court] except that, if the crime of which such person presently stands
260 convicted is the class A felony of murder, the court shall sentence such
261 person to a term of imprisonment of not less than thirty years or more
262 than life and, if the crime of which such person presently stands
263 convicted is a class A felony other than murder, the court shall
264 sentence such person to a term of imprisonment of not more than
265 thirty years. The provisions of this subsection shall not apply to a
266 person who presently stands convicted of a capital felony.

267 Sec. 13. Sections 53a-102a and 53a-103a of the general statutes are
268 repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:

WORKING DRAFT

Raised Bill No.

Section 1	*from passage*	53a-101
Sec. 2	*from passage*	New section
Sec. 3	*from passage*	53a-102
Sec. 4	*from passage*	53a-103
Sec. 5	*from passage*	54-125a(b)
Sec. 6	*from passage*	53a-100
Sec. 7	*from passage*	53a-40(a)
Sec. 8	*from passage*	53a-40(h)
Sec. 9	*from passage*	53a-40(c)
Sec. 10	*from passage*	53a-40(j)
Sec. 11	*from passage*	53a-40(f)
Sec. 12	*from passage*	53a-40(m)
Sec. 13	*from passage*	Repealer section

Statement of Purpose:

To revise the penalties and elements of burglary in the first, second and third degree, establish a new crime of aggravated burglary in the first degree, classify burglary in the first degree and aggravated burglary in the first degree as violent offenses for purposes of parole release, repeal the crimes of burglary in the second and third degree with a firearm and revise the definition of and penalty for a persistent dangerous felony offender, a persistent serious felony offender and a persistent felony offender.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

OLR RESEARCH REPORT

November 19, 2007 2007-R-0656

PROPOSAL 2:

AN ACT CONCERNING BURGLARY AND PERSISTENT OFFENDERS.

By: George Coppolo, Chief Attorney

You asked us to summarize of Proposal 2, *An Act Concerning Burglary and Persistent Offenders*, for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

This bill creates the new crime of aggravated burglary in the first degree, and makes it a class A felony, which is punishable by a prison term of 10 to 25 years, a sentence of up to $20,000, or both. The bill specifies that the offender must be sentenced to a mandatory minimum prison term of 10 years (§ 2).

The bill expands the crime of burglary in the first degree by, among other things, adding new conduct (two or more people entering or remaining unlawfully in a dwelling with intent to commit). It also adds conduct that is currently covered by burglary in the second degree. By doing so, it increases the possible maximum prison term from 10 years to 20 years for such coduct. It also imposes a mandatory minimum five year prison term for some of the conduct currently covered by burglary in the first degree or second degree (§ 1).

The bill expands the crime of burglary in the second degree to include any building, not just dwellings, and eliminates the requirement that the

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offense be committed at night. It also adds the additional requirement that in the course of committing the offense, the offender threatens the use of, or displays or represents by his or her words or conduct, that he or she possesses a firearm.

The bill eliminates one way to commit this crime (entering or remaining unlawfully in a dwelling, while a person other than a participant in the crime is actually present in such dwelling, with intent to commit a crime), but it includes this conduct in the definition of burglary in the first degree.

It increases the penalty for a second or subsequent offense of burglary in the second degree from a class C to a class B felony, and imposes a mandatory minimum three year sentence for any violation of this offense (§ 3).

The bill increases the penalty for burglary in the third degree from a class D felony to a class C felony for a second conviction, and to a class B felony for a third or subsequent conviction (§ 4). It eliminates the crimes of burglary in the second or third degrees with a firearm but includes the conduct covered by these crimes in the crime of burglary in the second degree and generally increases the maximum penalty and the mandatory minimum sentence (§ 13).

The bill generally increases the penalty for a persistent dangerous felony offender, a persistent serious felony offender, and a persistent felony offender and makes it easier to apply these harsher penalties (§§ 7-12). The bill eliminates the requirement that the court conclude that the public interest will be served by extended incarceration in order to trigger these enhanced penalties. Instead it authorizes the enhanced penalties if the offender is found to be a persistent dangerous felony offender, a persistent serious felony offender, or a persistent felony offender based on his current conviction and his prior conviction or convictions (§§ 8, 10, & 12).

EFFECTIVE DATE: Upon passage

AGGRAVATED BURGLARY IN THE FIRST DEGREE (§ 2)

The bill creates the new crime of aggravated burglary in the first degree. A person is guilty of this offense when he or she enters or remains unlawfully in a dwelling, while a person other than a participant in the crime is actually present in such dwelling, with intent to commit a crime, and, in the course of committing the offense:

1. acting either alone or with one or more persons, he or she, or another participant in the crime, commits or attempts to commit a felony "against the person of another person" (apparently this involves a physical assault but it might also involve a an attempt or threat to do so) other than a participant in the crime who is actually present in such dwelling, or

2. he or she is armed with explosives, a deadly weapon, or a dangerous instrument.

The bill specifies that "in the course of committing" the offense includes what occurs while attempting to commit the offense or fleeing from the scene.

The bill makes aggravated burglary in the first degree a class A felony, which normally is punishable by a prison term of 10 to 25 years, and a sentence of up to $20,000. The bill specifies that the offender must be sentenced to a mandatory minimum prison term of 25 years and that 10 years of the sentence may not be suspended by the court.

It is currently a class B felony to enter or remain unlawfully in any building with the intent to commit a crime while being armed with explosives or a deadly weapon or dangerous instrument. Thus for this behavior, the bill increases the mandatory minimum from five to 10 years, the maximum prison term from 20 to 25 years, and the maximum fine from $15,000 to $20,000.

BURGLARY IN THE FIRST DEGREE (§ 1)

Under current law a person commits burglary in the first degree if he or she enters or remains unlawfully in a building with intent to commit a crime:

1. is armed with explosives or a deadly weapon or dangerous instrument, or

2. in the course of committing the offense, intentionally, knowingly, or recklessly inflicts or attempts to inflict bodily injury on anyone.

By law, burglary in the first degree is a class B felony, which is punishable by a sentence of up to 20 years in prison, a fine of up to $15,000, or both. Those who commit this offense while armed with explosives or a deadly weapon or dangerous instrument are subject to a mandatory minimum sentence of five years in prison, which may not be suspended or reduced by the court.

This offense involves "buildings," whereas the newly created offense of aggravated burglary in the first degree is limited to dwellings.

By law, a "building," in addition to its ordinary meaning, includes any watercraft, aircraft, trailer, sleeping car, railroad car, or other structure or vehicle, or any building with a valid certificate of occupancy. By law, a "dwelling" means a building which is usually occupied by a person lodging at night, whether or not a person is actually present (CGS § 53a-100). Thus, the term "building" is much broader than the term "dwelling," but a dwelling is within the definition of a building.

The bill adds to the crime of burglary in the first degree by including someone who enters or remains unlawfully in a dwelling with intent to commit a crime:

1. at night,

2. while a person other than the participant in the crime is actually present in the dwelling, or

3. and is aided by one or more persons actually present.

It is currently burglary in the second degree for someone to commit the offense described in numbers 1 and 2 immediately above (entering or remaining unlawfully in a dwelling at night with intent to commit a crime, or while a person other than the participant in the crime is actually present in such dwelling, with intent to commit a crime). Burglary in the second degree is a class C felony, which is punishable by a sentence of a prison term of up to 10 years, or a fine of up to $10,000, or both. Thus, the bill increases the penalty for this conduct from a class C felony to a class B felony, and subjects the offender to a mandatory minimum five year prison term if someone other than the offender is in the dwelling.

The bill also requires a five year mandatory minimum sentence for those who commit this offense because the offender

1. is aided by one or more persons actually present, which is the new conduct the bill adds to this crime or

2. in the course of committing the offense, intentionally, knowingly, or recklessly inflicts or attempts to inflict bodily injury on anyone.

BURGLARY IN THE SECOND DEGREE (§3)

Under current law, a person is guilty of burglary in the second degree when he or she enters or remains unlawfully in a dwelling at night with intent to commit a crime. The bill expands this to include any building, and eliminates the requirement that it be at night. It also adds the additional requirement that in the course of committing the offense, the offender threatens the use of, or displays or represents by words or conduct, that he or she person possesses a firearm.

The bill eliminates from the crime of burglary in the second degree entering or remaining unlawfully in a dwelling, while a person other than a participant in the crime is actually present in such dwelling, with intent to commit a crime.

The bill specifies that an act is deemed to be "in the course of committing" the offense if it occurs in an attempt to commit the offense or flight after the attempt or commission.

Under current law, burglary in the second degree is a class C felony. The bill instead makes a first offense a class C felony, and a class B felony for any subsequent offense. It also imposes a mandatory minimum three year sentence for any violation of burglary in the second degree.

BURGLARY IN THE THIRD DEGREE (§ 4)

By law, a person is guilty of burglary in the third degree when he or she enters or remains unlawfully in a building with intent to commit a crime. Under current law, burglary in the third degree is a class D felony, which is punishable by a sentence of up to five years in prison, a fine of up to $5,000, or both. The bill instead makes it a class D felony for the first offense, a class C felony for a second offense, and a class B felony for any subsequent offense.

PAROLE ELIGIBILITY (§ 5)

The bill makes someone convicted of burglary in the first degree, or aggravated burglary in the first degree, ineligible for parole until he or she has served at least 85% of the sentence imposed. The law imposes this same 85% requirement on people convicted of an offense where the underlying facts and circumstances of the offense involve the use, attempted use, or threatened use of physical force against another person (See BACKGROUND-Parole Eligibility and Temporary Parole Policy).

DEFINITIONS RELATING TO BURGLARY (§ 6)

The bill makes certain definitions that currently apply to the burglary law to the newly created offense of aggravated burglary. These definitions include:

1. a "dwelling" means a building which is usually occupied by a person lodging at night, whether or not a person is actually present;

2. "night" means the period between thirty minutes after sunset and thirty minutes before sunrise; and

3. a person "enters or remains unlawfully" in or upon premises when the premises, at the time of such entry or remaining, are not open to the public and when the actor is not otherwise licensed or privileged to do so.

The bill also makes this third definition apply to all burglary laws.

PERSISTENT DANGEROUS FELONY OFFENDERS (§§ 7 & 8)

Classification

The current law, under certain circumstances, authorizes courts to sentence people classified as a persistent dangerous felony offender to a longer prison term than the offense they are convicted of allows. To be classified as a persistent dangerous felony offender an offender has to (1) stand convicted of certain offenses (this is referred to as the current offense), and (2) have been convicted of, and imprisoned for, specified crimes under a sentence of at least one year in prison, or of death, in Connecticut, in any other state, or in a federal prison before he or she committed the current offense.

Separate Classification Pathways. There are two separate paths to be classified this way. Under the first path, the current offenses are manslaughter, arson, kidnapping, assault in the first degree, and robbery in the first or second degree.

First Path-Current Offenses. Regarding the first path, the bill adds to the current offenses that make an offender eligible for this classification murder, burglary in the first or second degree, burglary in the second degree with a firearm, or an attempt or conspiracy to commit

any of the crimes specified as current offenses. Thus courts may consider an enhanced sentence for people who stand convicted of, or who have previously been convicted of, these offenses or other specified felonies.

The bill also adds the crime of assault constituting a class B or C felony to the list of current offenses. Under current law, there are three class B assault offenses—assault in the first degree, (CGS § 53a-59); assault of an elderly, blind, disabled, pregnant, or mentally retarded person in the first degree, (CGS § 53-59a); and assault of an employee of the Department of Correction in the first degree, (CGS § 53a-59a). There are two class C felony assault offenses—assault of public safety or emergency medical personnel (CGS § 53a–167c), and assault of a prosecutor (CGS § 53a–167d). Current law already includes assault in the first degree.

First Path-Prior Convictions. The bill adds to the list of prior convictions that make someone eligible to be a persistent dangerous felony offender (1) the new crimes added to the current crime list, (2) attempt or conspiracy to commit any of the crimes specified as current offenses, and (3) conspiracy to commit certain sexual offenses (sexual assault in the first or third degree, aggravated sexual assault in the first degree, or sexual assault in the first degree with a firearm).

The bill eliminates the requirement that the prior conviction resulted in a sentence of imprisonment of at least one year or of death. Also it removes from the list of prior convictions that may be considered to determine whether someone is a persistent dangerous felony offender the specifically listed Connecticut crimes from the Revision of 1958, revised to 1975, and from the Revision of 1958, revised to 1968. (see BACKGROUND - Persistent Offender Law-Specified Predecessor Offenses)

Second Path-Current Offenses. Under current law, the second path to be classified as a persistent dangerous felony offender includes the current offenses of sexual assault in the first or third degree, aggravated sexual assault in the first degree, or sexual assault in the third degree with a firearm. The bill adds to the list of current offenses, attempt or conspiracy to commit any of the specified current offenses.

Second Path-Prior Convictions. The bill adds to the list of prior convictions for this path the new crimes added to the list of current offenses and attempt or conspiracy to commit any of the listed offenses. Also it adds to the list of prior convictions (1) assault constituting a class B or C felony, burglary in the first or second degree, or burglary in the

second degree with a firearm, (2) an attempt to commit any of these crimes, and (3) conspiracy to commit these crimes and manslaughter, arson, kidnapping, and robbery in the first or second degree.

Just as with the first path, it eliminates the requirement that the prior conviction resulted in a sentence of imprisonment of at least one year or of death. It also eliminates from the list of prior convictions, the specifically listed Connecticut crimes from the Revision of 1958, revised to 1968. (see BACKGROUND- Persistent Offender Law-Specified Predecessor Offenses)

Penalty

Under current law, when any person has been found to be a persistent dangerous felony offender because he has on one previous occasion been convicted and sentenced to a prison term of more than one year for a specified offense, and the court concludes that the offender's history and character and the nature and circumstances of the offender's criminal conduct indicate that extended incarceration and lifetime supervision will best serve the public interest, the court, instead of the sentence for the offense he or she stands convicted of, must sentence the offender to a term of imprisonment of up to 40 years.

Under current law, if the offender has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the specified crimes, and the court reaches the same conclusion about the offender's history and the offense, it must sentence the offender to a prison term of up to life imprisonment. (Apparently this means a 60 year sentence because the law defines a life sentence as 60 years unless the offense explicitly provides otherwise CGS § 53a-35h).

The bill eliminates the requirement that the court make the required conclusion in order to trigger the enhanced penalty. Instead it requires the enhanced penalty if the offender is found to be a persistent dangerous felony offender based on his current conviction and his prior conviction or convictions.

Finally the bill eliminates the court's duty to sentence the offender to up to 40 years if he has one prior conviction and up to 60 years if he has two prior convictions. Instead the bill requires the court to sentence people found to be a persistent dangerous felony offender, with one prior conviction:

1. for the class A felony of murder, a term of imprisonment of not less than 40 years or more than life (60 years), of which 10 years of the sentence imposed may not be suspended or reduced by the court,

2. for a class A felony other than murder, a term of imprisonment of not less than 20 years or more than 60 years, of which 10 years of the sentence imposed may not be suspended or reduced by the court; and

3. for a felony other than a class A felony, a term of imprisonment of not less than 10 years or more than 40 years, of which 10 years of the sentence imposed may not be suspended or reduced by the court.

The bill requires the court to sentence people found to be a persistent dangerous felony offender, with two prior convictions for the crimes listed as current offenses for to a term of imprisonment of not less than 45 years or more than 60 years, of which 45 years of the sentence imposed may not be suspended or reduced by the court.

The bill specifies that this law does not apply to anyone who stands convicted of a capital felony.

PERSISTENT SERIOUS FELONY OFFENDER LAW (§§ 9 & 10)

Classification

Under current law, a persistent serious felony offender is a person who

1. stands convicted of a felony; and

2. has been, before the commission of the present felony, convicted of and imprisoned under an imposed term of more than one year or of death, in this state or in any other state or in a federal correctional institution, for a crime.

Current law imposes a limitation on who can be considered for this classification by specifying that a person may not be classified as a persistent serious felony offender if:

- the present conviction is for manslaughter, assault in the first degree arson, kidnapping, robbery in the first and second degree, sexual assault in the first or third degree, aggravated sexual assault in the first degree, or sexual assault in the third degree with a firearm; and

- the prior conviction was for a crime other than those specified as current or prior offenses under the persistent dangerous felony offender law.

The bill retains the classification but it:

1. requires that the current offense be a class A, B, C, or D felony instead of any felony thus eliminating people convicted of unclassified felonies;

2. requires two prior felony convictions, instead of one, that occurred before the commission of the current felony;

3. eliminates the requirement that the offender was imprisoned under an imposed term of more than one year or of death, in this state or in any other state or in a federal correctional institution, for the prior offense;

4. eliminates the limitation regarding the nature of the first and prior offenses, thus apparently permitting the current and prior offenses to be the same as those specified for the persistent dangerous felony offender classification.

Penalty

Current law authorizes the court to impose an enhanced penalty for a person found to be a persistent serious felony offender if the court is of the opinion that the offender's history and character and the nature and circumstances of his or her criminal conduct indicate that extended incarceration will best serve the public interest. Under such circumstances current law authorizes the court, instead of imposing the sentence of imprisonment authorized by law for the current offense, to impose the sentence of imprisonment authorized by law for the next more serious degree of felony.

The bill (1) eliminates the requirement that the court make the finding that extended incarceration will best serve the public interest; and (2) requires, instead of permits, the court to impose a sentence authorized by the next higher degree of felony.

Also it requires the court to sentence a persistent serious felony offender who presently stands convicted of:

1. the class A felony of murder, to a term of imprisonment of not less than 40 years or more than life (apparently 60 years), of which 15 years of the sentence imposed may not be suspended or reduced by the court; and

2. a class A felony other than murder, to a term of imprisonment of not less than 15 years or more than 40 years, of which 15 years of the sentence imposed may not be suspended or reduced by the court.

Finally, the bill specifies that a person who presently stands convicted of a capital felony may not be sentenced under this classification.

PERSISTENT FELONY OFFENDER (§§ 11 & 12)

Classification

Under current law, a persistent felony offender is a person who (1) stands convicted of a felony, other than a class D felony; and (2) has been, at separate times prior to the commission of the present felony, twice been convicted of a felony other than a class D felony.

The bill retains this classification but it:

1. makes it apply to people who stand convicted of a class A, B, C, or D felony thus including people convicted of a class D felony and apparently excluding those convicted of an unclassified felony;

2. makes it apply to those with one, instead of two, prior felony convictions; and

3. specifies that the prior conviction could have occurred in Connecticut or in any other state.

Penalties

Current law authorizes the court to impose an enhanced penalty for a person found to be a persistent felony offender if the court is of the opinion that the offender's history and character and the nature and circumstances of his or her criminal conduct indicate that extended incarceration will best serve the public interest. Under such circumstances, current law authorizes the court, instead of imposing the sentence of imprisonment authorized by law for the current offense, to impose the sentence of imprisonment authorized by law for the next more serious degree of felony, and it requires that the sentence imposed may not be less than three years, and that three years of the sentence may not be suspended or reduced by the court.

The bill (1) eliminates the requirement that the court make the finding that extended incarceration will best serve the public interest; and (2) eliminates the three year mandatory minimum sentence requirement.

Also, it authorizes the court to sentence a persistent serious felony offender who presently stands convicted of:

1. the class A felony of murder, to a term of imprisonment of not less than 30 years or more than life (apparently 60 years); or

2. a class A felony other than murder, to a term of imprisonment of up to 30 years. (Apparently because these are class A felonies they carry a mandatory minimum of 10 years.)

Finally, the bill specifies that a person who presently stands convicted of a capital felony may not be sentenced under this classification.

BURGLARY IN THE SECOND DEGREE WITH A FIREARM (§ 13)

The bill eliminates the crime of burglary in the second degree with a firearm. Under current law, a person is guilty of this crime when he or she commits burglary in the second degree and in the commission of such offense (1) uses a firearm, (2) is armed with and threatens the use of a firearm, or (3) displays or represents by words or conduct that he or she possesses a firearm. Under current law, burglary in the second degree with a firearm is a class C felony, with a mandatory minimum of one year.

The bill expands the current crime of burglary in the second degree to include the conduct currently covered by burglary in the second degree with a firearm. The bill makes a first offense for this conduct a class C felony, and a class B felony for any subsequent offense. It also imposes a mandatory minimum three year sentence for any violation, thus increasing the mandatory minimum from one to three years.

BURGLARY IN THE THIRD DEGREE WITH A FIREARM (§ 13)

The bill eliminates the crime of burglary in the third degree with a firearm, which is a class D felony with a one year mandatory minimum sentence. A person commits this offense when he or she commits burglary of a building, and in the commission of such offense, (1) uses a firearm, (2) is armed with and threatens the use of a firearm, or (3) displays or represents by words or conduct that he or she possesses a firearm.

The bill expands the current crime of burglary in the second degree to include the conduct currently covered by burglary in the third degree with a firearm. Thus, the bill increases the penalty for a first offense from a class D to a class C felony, which increases the maximum possible sentence from five to 10 years. It makes any subsequent offense a class B felony, increasing the maximum possible sentence from five to

20 years. It also imposes a mandatory minimum three year sentence for any violation, thus increasing the mandatory minimum from one to three years.

BACKGROUND

Parole Eligibility

Normally a prisoner is ineligible to be considered for parole until he serves at least 50% of his sentence in prison (CGS § 54-154a(a)). But where the underlying facts and circumstances of the offense involve the use, attempted use, or threatened use of physical force against another person the inmate is ineligible for parole until he or she has served at least 85% of the sentence imposed (CGS § 54-124a(b)(2)).

By law people convicted of the following offenses are ineligible for parole: capital felony, felony murder, arson murder, murder, or aggravated sexual assault in the first degree (CGS § 54-154a(b)(1)).

Temporary Parole Policy

During September 2007, Governor Rell directed the Board of Pardons and Paroles to immediately suspend approval of future parole for any inmate serving a sentence involving a violent offense. Apparently, this policy will remain in place until reforms of the parole process are complete.

Related Case-Persistent Dangerous Felony Offender

The state Supreme Court recently held that the statute that mandates sentence enhancement when the defendant is found to be a persistent dangerous felony offender and the trial court, rather than the jury, determines that extended incarceration will best serve the public interest, given the defendant's history, character, and the nature and circumstances of his or criminal offenses, violates a defendant's federal constitutional right to trial by jury (*State v. Bell*, 283 Conn. 748, 2007 WL 2481026, (2007).

The court ruled that the defendant was entitled to a new sentencing proceeding where the jury must make the determination, beyond a reasonable doubt, whether, upon consideration of the relevant factors specified in the persistent felony offender law, extended incarceration will best serve the public interest.

The court noted in its ruling that in those cases in which the defendant chooses to waive his right to a jury trial under the persistent felony offender law, the court may continue to make the requisite finding. Additionally, the court properly may impose an enhanced sentence if the defendant admits to the fact that extended incarceration is in the public interest.

Persistent Offender Laws-Jury Finding

The bill eliminates the requirement that the court make the required conclusions that trigger the enhanced penalty for three types of persistent offenders: persistent dangerous felony offender, serious felony offender, and the felony offender. But it does not make these changes to the provision that increases the penalty by one class for acts of terrorism and the other categories of persistent offenders, which all contain similar language to that considered by the court in its ruling. The other categories of persistent offenders are:

1. dangerous sexual offenders,
2. serious sexual offenders,
3. bigotry or bias offenders,
4. stalking and harassment-related offenders,
5. larceny offenders, and
6. operating under the influence felony offenders.

Persistent Dangerous Felony Offender Law-Specified Predecessor Offenses

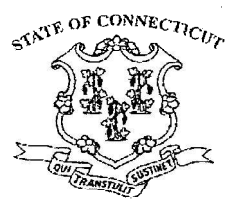
The persistent dangerous felony offender law specifies certain predecessor statutes that make someone eligible to be considered a persistent dangerous felony offender. These are reflected in Table 2.

Table 2: Specified Predecessor Offenses

Statutory Revision	*Statute Section*	*Offense*
CGS Revision of 1958 revised to 1975	53a 72	Rape 1st degree
	53a-75	Rape 2d degree
	53a-78	Sexual contact 1st degree
CGS revision of 1958 revised to 1968		
	54-117	Assault with intent to kill
	53-9	Murder
	53-10	First degree murder
	53-11	Homicide or serious assault
	53-12	Assault with intent to murder
	53-13	Manslaughter
	53-14	Maiming with intern to disfigure
	53-15	Assault with acid or other burning substance
	53-16	Aggravated assault
	53-19	Binding or administering drugs with intent to commit a crime
	53-21	Injury or risk of injury to a minor
	53-69	Burglary with personal violence
	53-79	Breaking and entering with violence
	53-79	Burglary with explosives
	53-80	Manufacturing, transporting, or disposing of explosives
	53-82	Arson of a vessel, dwelling, church, theatre, or other structure for public gatherings
	53-83	Arson of other buildings or vessels
	53-86	Burning of insured property
	53-238	Rape
	53-239	Assault with intent to commit rape

GC:dw

WORKING DRAFT



General Assembly

Raised Bill No.

No. 3

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING HOME INVASION PROTECTION.

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

Section 1. (NEW) (*Effective from passage*) (a) A person is guilty of home invasion in the first degree when such person enters or remains unlawfully in a dwelling with intent to commit a crime therein and (1) is armed with explosives, a deadly weapon or a dangerous instrument, or (2) in the course of committing the offense, intentionally, knowingly or recklessly uses explosives, a deadly weapon or a dangerous instrument that causes physical injury, serious physical injury or death to a person lawfully present in the dwelling.

(b) Home invasion in the first degree is a class A felony and any person found guilty under this section shall be sentenced to a term of imprisonment of not less than twenty-five years or more than life and twenty-five years of the sentence imposed may not be suspended or reduced by the court. Notwithstanding the provisions of section 53a-37 of the general statutes, the sentence imposed under this section shall run consecutively to any term of imprisonment imposed for conviction of any other offense arising from the same transaction.

17 Sec. 2. (NEW) (*Effective from passage*) (a) A person is guilty of home
18 invasion in the second degree when such person enters or remains
19 unlawfully in a dwelling with the intent to commit a crime therein and
20 uses or threatens the use of physical force against a person lawfully
21 present in the dwelling.

22 (b) Home invasion in the second degree is a class B felony and any
23 person found guilty under this section shall be sentenced to a term of
24 imprisonment of twenty years which may not be suspended or
25 reduced by the court. Notwithstanding the provisions of section 53a-37
26 of the general statutes, the sentence imposed under this section shall
27 run consecutively to any term of imprisonment imposed for conviction
28 of any other offense arising from the same transaction.

29 Sec. 3. (NEW) (*Effective from passage*) (a) A person is guilty of home
30 invasion in the third degree when such person enters or remains
31 unlawfully in a dwelling with the intent to commit a crime therein and
32 another person is lawfully present in the dwelling.

33 (b) Home invasion in the third degree is a class C felony and any
34 person found guilty under this section shall be sentenced to a term of
35 imprisonment of ten years which may not be suspended or reduced by
36 the court. Notwithstanding the provisions of section 53a-37 of the
37 general statutes, the sentence imposed under this section shall run
38 consecutively to any term of imprisonment imposed for conviction of
39 any other offense arising from the same transaction.

40 Sec. 4. (NEW) (*Effective from passage*) (a) A person is guilty of home
41 invasion in the fourth degree when such person enters or remains
42 unlawfully in a dwelling with the intent to commit a crime therein.

43 (b) Home invasion in the fourth degree is a class D felony and any
44 person found guilty under this section shall be sentenced to a term of
45 imprisonment of five years which may not be suspended or reduced
46 by the court. Notwithstanding the provisions of section 53a-37 of the
47 general statutes, the sentence imposed under this section shall run

48 consecutively to any term of imprisonment imposed for conviction of
49 any other offense arising from the same transaction.

50 Sec. 5. Subsection (b) of section 54-125a of the general statutes is
51 repealed and the following is substituted in lieu thereof (*Effective from*
52 *passage*):

53 (b) (1) No person convicted of any of the following offenses, which
54 was committed on or after July 1, 1981, shall be eligible for parole
55 under subsection (a) of this section: Capital felony, as provided in
56 section 53a-54b, felony murder, as provided in section 53a-54c, arson
57 murder, as provided in section 53a-54d, murder, as provided in section
58 53a-54a, [or] aggravated sexual assault in the first degree, as provided
59 in section 53a-70a, home invasion in the first degree, as provided in
60 section 1 of this act, home invasion in the second degree, as provided
61 in section 2 of this act, home invasion in the third degree, as provided
62 in section 3 of this act, or home invasion in the fourth degree, as
63 provided in section 4 of this act. (2) A person convicted of an offense,
64 other than an offense specified in subdivision (1) of this subsection,
65 where the underlying facts and circumstances of the offense involve
66 the use, attempted use or threatened use of physical force against
67 another person shall be ineligible for parole under subsection (a) of
68 this section until such person has served not less than eighty-five per
69 cent of the definite sentence imposed.

70 Sec. 6. (NEW) (*Effective from passage*) No person convicted of a
71 violation of section 1, 2, 3 or 4 of this act shall be eligible for temporary
72 leave, furlough or any other early release program or be eligible for
73 any credit that would reduce the mandatory minimum term of
74 imprisonment imposed pursuant to said section.

75 Sec. 7. Section 53a-100 of the general statutes is repealed and the
76 following is substituted in lieu thereof (*Effective from passage*):

77 (a) The following definitions are applicable to this part and sections
78 1 to 4, inclusive, of this act: (1) "Building" in addition to its ordinary

79 meaning, includes any watercraft, aircraft, trailer, sleeping car, railroad
80 car or other structure or vehicle or any building with a valid certificate
81 of occupancy. Where a building consists of separate units, such as, but
82 not limited to separate apartments, offices or rented rooms, any unit
83 not occupied by the actor is, in addition to being a part of such
84 building, a separate building; (2) "dwelling" means a building which is
85 usually occupied by a person lodging therein at night, whether or not a
86 person is actually present; (3) "night" means the period between thirty
87 minutes after sunset and thirty minutes before sunrise; and (4) "public
88 land" means a state park, state forest or municipal park or any other
89 publicly-owned land that is open to the public for active or passive
90 recreation.

91 (b) The following [definition is] definitions are applicable to sections
92 53a-101 to 53a-106, inclusive, as amended by this act, and sections 1 to
93 4, inclusive, of this act: (1) A person "enters or remains unlawfully" in
94 or upon premises when the premises, at the time of such entry or
95 remaining, are not open to the public and when the actor is not
96 otherwise licensed or privileged to do so; (2) an act shall be deemed "in
97 the course of committing" the offense if it occurs in an attempt to
98 commit the offense or flight after the attempt or commission; (3)
99 "deadly weapon" has the meaning provided in subdivision (6) of
100 section 53a-3, as amended; and (4) "dangerous instrument" has the
101 meaning provided in subdivision (7) of section 53a-3, as amended.

102 Sec. 8. Section 53a-101 of the general statutes is repealed and the
103 following is substituted in lieu thereof (*Effective from passage*):

104 (a) A person is guilty of burglary in the first degree when [he] such
105 person enters or remains unlawfully in a building other than a
106 dwelling with intent to commit a crime therein and: (1) [He] Such
107 person is armed with explosives or a deadly weapon or dangerous
108 instrument, or (2) in the course of committing the offense, [he] such
109 person intentionally, knowingly or recklessly inflicts or attempts to
110 inflict bodily injury on anyone.

111 [(b) An act shall be deemed "in the course of committing" the
112 offense if it occurs in an attempt to commit the offense or flight after
113 the attempt or commission.]

114 [(c)] (b) Burglary in the first degree is a class B felony [provided]
115 and any person found guilty under subdivision (1) of subsection (a) of
116 this section shall be sentenced to a term of imprisonment of which five
117 years of the sentence imposed may not be suspended or reduced by
118 the court.

119 Sec. 9. Section 53a-102 of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective from passage*):

121 (a) A person is guilty of burglary in the second degree when such
122 person [(1)] enters or remains unlawfully in a [dwelling at night]
123 building other than a dwelling with intent to commit a crime therein. [,
124 or (2) enters or remains unlawfully in a dwelling, while a person other
125 than a participant in the crime is actually present in such dwelling,
126 with intent to commit a crime therein.]

127 (b) Burglary in the second degree is a class C felony and any person
128 found guilty under this section shall be sentenced to a term of
129 imprisonment of which one year of the sentence imposed may not be
130 suspended or reduced by the court.

131 Sec. 10. Section 53a-102a of the general statutes is repealed and the
132 following is substituted in lieu thereof (*Effective from passage*):

133 (a) A person is guilty of burglary in the second degree with a
134 firearm when [he] such person commits burglary in the second degree
135 as provided in section 53a-102, as amended by this act, and in the
136 commission of such offense [he] such person uses or is armed with and
137 threatens the use of or displays or represents by [his] such person's
138 words or conduct that [he] such person possesses a pistol, revolver,
139 rifle, shotgun, machine gun or other firearm. No person shall be
140 convicted of burglary in the second degree and burglary in the second

141 degree with a firearm upon the same transaction but such person may
142 be charged and prosecuted for both such offenses upon the same
143 information.

144 (b) Burglary in the second degree with a firearm is a class C felony
145 [for which one year of the sentence imposed shall] and any person
146 found guilty under this section shall be sentenced to a term of
147 imprisonment of which two years of the sentence imposed may not be
148 suspended or reduced by the court.

149 Sec. 11. Sections 53a-103 and 53a-103a of the general statutes are
150 repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*from passage*	New section
Sec. 3	*from passage*	New section
Sec. 4	*from passage*	New section
Sec. 5	*from passage*	54-125a(b)
Sec. 6	*from passage*	New section
Sec. 7	*from passage*	53a-100
Sec. 8	*from passage*	53a-101
Sec. 9	*from passage*	53a-102
Sec. 10	*from passage*	53a-102a
Sec. 11	*from passage*	Repealer section

Statement of Purpose:
To establish four degrees of the crime of home invasion that occurs when a person enters or remains unlawfully in a dwelling with the intent to commit a crime therein, prohibit the parole or other early release of any person convicted of home invasion and revise the burglary statutes to make them applicable to buildings other than dwellings.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

JOINT
STANDING
COMMITTEE
INTERIM
HEARINGS

JUDICIARY
PART5
1157-1451

2007-2008

November 14, 2007 2007-R-0645

PROPOSAL 3:

AN ACT CONCERNING HOME INVASION PROTECTION.

By: George Coppolo, Chief Attorney

You asked us to summarize Bill Proposal #3, *An Act Concerning Home Invasion Protection,* for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

This bill establishes the new offenses of home invasion in the first, second, third, and fourth degrees (§§ 1-4). Each offense involves entering or remaining unlawfully in a dwelling with the intent to commit a crime. The first degree offense requires the possession or use of explosives, deadly weapons, or dangerous instruments. The second offense requires the use or threatened us of physical force but, like the third and fourth degree offenses, does not have as an element the possession or use of any weapon or instrument. The third degree offense requires that the dwelling be occupied; the fourth degree offense involves an unoccupied dwelling.

All four offenses require a mandatory minimum sentence. The first degree offense requires a mandatory minimum sentence of 25 years; the second, 20 years; the third 10 years; and the fourth, five years. The bill requires that the sentence imposed for any home invasion crime run consecutively to any term of imprisonment imposed for conviction of any other offense arising from the same transaction

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The bill makes people convicted of home invasion ineligible for parole (§ 5). It also makes them ineligible for (1) temporary leave, furlough, or any other early release program and (2) any credit that would reduce the mandatory minimum term of imprisonment the bill requires (§ 6). The behavior covered by these home invasion offenses is currently covered by burglary offenses that allow offenders to be considered for (1) parole after they either serve 85% or 50% of their sentence depending on whether the crime involved the use, attempted use, or threatened use of violence, and (2) temporary leave, furloughs, or other early release programs (See BACKGROUND- Parole Eligibility and Temporary Parole Policy).

EFFECTIVE DATE: Upon passage

HOME INVASION IN THE FIRST DEGREE (§§ 1, 7 & 8)

The bill establishes the new offense of home invasion in the first degree. A person commits this offense when he or she enters or remains unlawfully in a dwelling with intent to commit a crime therein and is either:

1. armed with explosives, a deadly weapon, or a dangerous instrument, or

2. in the course of committing the offense, intentionally, knowingly, or recklessly uses explosives, a deadly weapon, or a dangerous instrument that causes physical injury, serious physical injury, or death to a person lawfully present in the dwelling.

The bill makes home invasion in the first degree a class A felony, which is punishable by a prison term of 10 to 25 years and a fine of up to $20,000. But the bill requires that any person found guilty of it must be sentenced to a term of imprisonment of 25 years to life. It requires that 25 years of the sentence imposed may not be suspended or reduced by the court.

This conduct is currently included in the crime of burglary in the first degree, a class B felony, punishable by a prison term of up to 20 years, or a fine of up to $15,000, or both, with a five year mandatory minimum prison term. The bill eliminates this conduct from the crime of burglary in the first degree, and makes it the new crime of home invasion in the first degree. By doing so it limits burglary in the first degree to buildings other than dwellings.

The bill specifies that, for this and the other home invasion crimes the bill creates, a person "enters or remains unlawfully" in or upon premises when the premises, at the time of such entry or remaining, are not open to the public and when the offender is not otherwise licensed or privileged to do so (§ 7).

It also specifies that for this and other home invasion offenses the bill creates, and for the current burglary offenses, the term "dwelling" means a building which is usually occupied by a person lodging therein at night, whether or not a person is actually present.

HOME INVASION IN THE SECOND DEGREE (§ 2)

The bill establishes the new offense of home invasion in the second degree. A person commits this offense when he or she enters or remains unlawfully in a dwelling with the intent to commit a crime, and uses, or threatens to use, physical force against a person lawfully present in the dwelling.

The bill makes home invasion in the second degree a class B felony, which carries a sentence of up to 20 years, a fine of up to $15,000, or both. But the bill requires that any person found guilty be sentenced to a prison term of 20 years, which may not be suspended or reduced by the court.

The behavior covered by this home invasion offense is currently covered by the crime of burglary in the second degree, a class C felony, which is punishable by a prison term of up to 10 years, or a fine of up to $10,000, or both, but which does not have any mandatory minimum sentence requirement. The bill removes this conduct from the crime of burglary in the second degree.

HOME INVASION IN THE THIRD DEGREE (§§ 3 & 9)

The bill establishes the new offense of home invasion in the third degree. A person commits this offense when he or she enters or remains unlawfully in a dwelling with the intent to commit a crime and another person is lawfully present in the dwelling.

The bill makes home invasion in the third degree a class C felony, and requires the offender to serve a mandatory minimum sentence of 10 years.

The behavior covered by this home invasion offense is currently covered by the crime of burglary in the second degree, which is also a Class C felony, but which does not have any mandatory minimum sentence requirement. The bill removes this behavior from the crime of burglary in the second degree.

HOME INVASION IN THE FOURTH DEGREE (§ 4)

The bill establishes the new offense of home invasion in the fourth degree. A person commits this offense when he or she enters or remains unlawfully in a dwelling with the intent to commit a crime in it. Apparently this offense involves situations where no one else is in the dwelling when the offense is committed.

The bill makes home invasion in the fourth degree a class D felony, which carries a prison sentence of up to 5 years, or a fine of up to $5,000, or both. The bill requires the offender to serve a mandatory minimum sentence of five years.

This conduct is currently included in the crime of burglary in the second degree if the offender violates this law by entering an unoccupied dwelling at night. Burglary in the second degree is a class C felony but does not have any mandatory minimum sentence. The bill removes this conduct from the crime of burglary in the second degree.

DEADLY WEAPON AND DANGEROUS INSTRUMENTS (§ 7)

The bill specifies that for the home invasion offenses the bill creates, and for the burglary offenses, the term "deadly weapon" means any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy club, blackjack, bludgeon, or metal knuckles.

It also specifies that for these same offenses, the term "dangerous instrument" means any instrument, article, or substance which, under the circumstances in which it is used or attempted or threatened to be used, is capable of causing death or serious physical injury, and includes a vehicle and a dog that has been commanded to attack.

BURGLARY IN THE SECOND DEGREE (§ 9)

Under current law, a person commits burglary in the second degree when he or she enters or remains unlawfully in a dwelling at night with intent to commit a crime in it. The bill eliminates the requirement that

the offender enters or remains unlawfully at night, and limits the offense to buildings other than a dwelling (See BACKGROUND- Building Defined).

By law burglary in the second degree is a class C felony, which carries a sentence of up to 10 years in prison, or a fine of up to $10,000, or both. The bill maintains this class C felony status, but imposes a mandatory minimum sentence of one year.

Under current law it is also burglary in the second degree for someone to enter or remain unlawfully in a dwelling, while a person other than a participant in the crime is actually present in the dwelling, with intent to commit a crime in it. The bill eliminates this conduct from the crime of burglary in the second degree and instead makes this conduct the new crime of home invasion in the third degree. By doing so, it requires that people convicted for this conduct be given a mandatory minimum 10 year sentence instead of a sentence of up to 10 years.

BURGLARY IN THE SECOND DEGREE WITH A FIREARM (§ 10)

By law, a person is guilty of burglary in the second degree with a firearm when he or she commits burglary in the second degree and in the commission of such offense (1) uses a firearm, or (2) is armed with and threatens the use of a firearm or (3) displays or represents by words or conduct that he or she possesses a firearm. A person cannot be convicted of burglary in the second degree and burglary in the second degree with a firearm upon the same transaction but may be charged and prosecuted for both offenses.

The bill limits this offense to buildings other than dwellings. Under current law, burglary of a building, other than a dwelling, with a firearm is a class D felony, which carries a prison sentence of up to 5 years, or a fine of up to $5,000, or both, and which requires a one year mandatory minimum prison term. The bill instead makes this conduct a class C felony, and increases the mandatory minimum from one to two years.

BURGLARY IN THE THIRD DEGREE (§ 11)

The bill eliminates the crime of burglary in the third degree. A person commits this offense when he or she enters or remains unlawfully in a building with intent to commit a crime in it. Burglary in the third degree is a class D felony, with no mandatory minimum sentence required. The bill makes this conduct burglary in the second degree, thus increasing the penalty to a class C felony and it requires a one year mandatory minimum prison term.

BURGLARY IN THE THIRD DEGREE WITH A FIREARM (§ 11)

The bill eliminates the crime of burglary in the third degree with a firearm, which is a class D felony with a one year mandatory minimum sentence. A person commits this offense when he or she commits burglary of a building other than a dwelling, and in the commission of such offense, (1) uses a firearm, (2) is armed with and threatens the use of a firearm, or (3) displays or represents by words or conduct that he or she possesses a firearm. A person cannot be convicted of burglary in the third degree and burglary in the third degree with a firearm for the same transaction but may be charged and prosecuted for both such offenses.

The bill increase the penalty for this conduct from a class D felony to a class C felony and increases the mandatory minimum prison term from one year to two years.

If the building were a dwelling, the conduct would be covered by the new offense of home invasion in the second degree, which carries a mandatory minimum sentence of 20 years.

BACKGROUND

Parole Eligibility

Normally a prisoner is ineligible to be considered for parole until he serves at least 50% of his sentence in prison (CGS § 54-154a(a)). But where the underlying facts and circumstances of the offense involve the use, attempted use, or threatened use of physical force against another person the inmate is ineligible for parole until he or she has served at least 85% of the sentence imposed (CGS § 54-124a(b)(2)).

By law people convicted of the following offenses are ineligible for parole: capital felony, felony murder, arson murder, murder, or aggravated sexual assault in the first degree (CGS § 54-154a(b)(1)).

Temporary Parole Policy

During September of 2007, Governor Rell directed the Board of Pardons and Paroles to immediately suspend approval of future parole for any inmate serving a sentence involving a violent offense. Apparently, this policy will remain in place until reforms of the parole process are complete.

Building Defined

The law defines the word "building" for purposes of the burglary offenses as, in addition to its ordinary meaning, any watercraft, aircraft, trailer, sleeping car, railroad car, or other structure or vehicle, or any building with a valid certificate of occupancy (CGS § 53a-100 (a)(1)). Apparently this term includes an automobile (*State v Baker*, 195 Conn. 598 (1985)).

GC:dw

WORKING DRAFT

General Assembly

Raised Bill No.

No. 4

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING HOME INVASION, CAREER CRIMINALS, COMMUNITY SUPERVISION AND INFORMATION SHARING RESOURCES.

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

Section 1. Section 53a-101 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2008*):

(a) A person is guilty of burglary in the first degree when [he] such person (1) enters or remains unlawfully in a building with intent to commit a crime therein and [: (1) He] (A) such person is armed with explosives or a deadly weapon or dangerous instrument, or [(2)] (B) in the course of committing the offense, [he] such person intentionally, knowingly or recklessly inflicts or attempts to inflict bodily injury on [anyone] another person, or (2) commits a home invasion.

(b) An act shall be deemed "in the course of committing" the offense if it occurs in an attempt to commit the offense or flight after the attempt or commission.

(c) Burglary in the first degree is a class B felony [provided] and any person found guilty under [subdivision (1) of subsection (a)] this

15 section shall be sentenced to a term of imprisonment of which five
16 years of the sentence imposed may not be suspended or reduced by
17 the court.

18 Sec. 2. Section 53a-100 of the general statutes is repealed and the
19 following is substituted in lieu thereof (*Effective January 1, 2008*):

20 (a) The following definitions are applicable to this part: (1)
21 "Building" in addition to its ordinary meaning, includes any
22 watercraft, aircraft, trailer, sleeping car, railroad car or other structure
23 or vehicle or any building with a valid certificate of occupancy. Where
24 a building consists of separate units, such as, but not limited to
25 separate apartments, offices or rented rooms, any unit not occupied by
26 the actor is, in addition to being a part of such building, a separate
27 building; (2) "dwelling" means a building which is usually occupied by
28 a person lodging therein at night, whether or not a person is actually
29 present; (3) "night" means the period between thirty minutes after
30 sunset and thirty minutes before sunrise; [and] (4) "public land" means
31 a state park, state forest or municipal park or any other publicly-
32 owned land that is open to the public for active or passive recreation.

33 (b) The following [definition is] definitions are applicable to sections
34 53a-101 to 53a-106, inclusive, as amended by this act: (1) A person
35 "enters or remains unlawfully" in or upon premises when the
36 premises, at the time of such entry or remaining, are not open to the
37 public and when the actor is not otherwise licensed or privileged to do
38 so; and (2) a person "commits a home invasion" when such person
39 enters a dwelling while a person other than a participant in the crime
40 is actually present in the dwelling with intent to commit a crime
41 therein and such dwelling, at the time of such entry, is not open to the
42 public and the actor is not otherwise licensed or privileged to enter
43 such dwelling.

44 Sec. 3. Section 53a-102 of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective January 1, 2008*):

46 (a) A person is guilty of burglary in the second degree when such
47 person [(1)] enters or remains unlawfully in a dwelling [at night] with
48 intent to commit a crime therein. [, or (2) enters or remains unlawfully
49 in a dwelling, while a person other than a participant in the crime is
50 actually present in such dwelling, with intent to commit a crime
51 therein.]

52 (b) Burglary in the second degree is a class C felony.

53 Sec. 4. Subsection (b) of section 54-125a of the general statutes is
54 repealed and the following is substituted in lieu thereof (*Effective*
55 *January 1, 2008*):

56 (b) (1) No person convicted of any of the following offenses, which
57 was committed on or after July 1, 1981, shall be eligible for parole
58 under subsection (a) of this section: Capital felony, as provided in
59 section 53a-54b, felony murder, as provided in section 53a-54c, arson
60 murder, as provided in section 53a-54d, murder, as provided in section
61 53a-54a, or aggravated sexual assault in the first degree, as provided in
62 section 53a-70a. (2) A person convicted of (A) an offense, other than an
63 offense specified in subdivision (1) of this subsection, where the
64 underlying facts and circumstances of the offense involve the use,
65 attempted use or threatened use of physical force against another
66 person, or (B) a violation of subdivision (2) of subsection (a) of section
67 53a-101, as amended by this act, shall be ineligible for parole under
68 subsection (a) of this section until such person has served not less than
69 eighty-five per cent of the definite sentence imposed.

70 Sec. 5. Section 53a-40 of the general statutes is repealed and the
71 following is substituted in lieu thereof (*Effective from passage*):

72 (a) A persistent dangerous felony offender is a person who:

73 (1) (A) Stands convicted of manslaughter, arson, kidnapping,
74 robbery in the first or second degree, [or] assault in the first degree or
75 burglary in the first degree, and (B) has been, prior to the commission

76 of the present crime, convicted of and imprisoned under a sentence to
77 a term of imprisonment of more than one year or of death, in this state
78 or in any other state or in a federal correctional institution, for any of
79 the following crimes: (i) The crimes enumerated in subparagraph (A)
80 of this subdivision or an attempt to commit any of said crimes; or (ii)
81 murder, sexual assault in the first or third degree, aggravated sexual
82 assault in the first degree or sexual assault in the third degree with a
83 firearm, or an attempt to commit any of said crimes; or (iii) prior to
84 October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75
85 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
86 prior to October 1, 1971, in this state, assault with intent to kill under
87 section 54-117, or any of the crimes enumerated in sections 53-9, 53-10,
88 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80,
89 inclusive, 53-82, 53-83, 53-86, 53-238 and 53-239 of the general statutes,
90 revision of 1958, revised to 1968, or any predecessor statutes in this
91 state, or an attempt to commit any of said crimes; or (iv) in any other
92 state, any crimes the essential elements of which are substantially the
93 same as any of the crimes enumerated in subparagraph (A) of this
94 subdivision or this subparagraph; or

95 (2) (A) Stands convicted of sexual assault in the first or third degree,
96 aggravated sexual assault in the first degree or sexual assault in the
97 third degree with a firearm, and (B) has been, prior to the commission
98 of the present crime, convicted of and imprisoned under a sentence to
99 a term of imprisonment of more than one year or of death, in this state
100 or in any other state or in a federal correctional institution, for any of
101 the following crimes: (i) Murder, manslaughter, arson, kidnapping,
102 robbery in the first or second degree or assault in the first degree, or an
103 attempt to commit any of said crimes; or (ii) prior to October 1, 1971, in
104 this state, assault with intent to kill under section 54-117, or any of the
105 crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16,
106 inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83 and
107 53-86 of the general statutes, revision of 1958, revised to 1968, or any
108 predecessor statutes in this state, or an attempt to commit any of said
109 crimes; or (iii) in any other state, any crimes the essential elements of

110 which are substantially the same as any of the crimes enumerated in
111 subparagraph (A) of this subdivision or this subparagraph.

112 (b) A persistent dangerous sexual offender is a person who (1)
113 stands convicted of sexual assault in the first or third degree,
114 aggravated sexual assault in the first degree or sexual assault in the
115 third degree with a firearm, and (2) has been, prior to the commission
116 of the present crime, convicted of and imprisoned under a sentence to
117 a term of imprisonment of more than one year, in this state or in any
118 other state or in a federal correctional institution, for (A) any of the
119 crimes enumerated in subdivision (1) of this subsection, or (B) prior to
120 October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75
121 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
122 prior to October 1, 1971, in this state, any of the crimes enumerated in
123 section 53-238 or 53-239 of the general statutes, revision of 1958,
124 revised to 1968, or any predecessor statutes in this state, or an attempt
125 to commit any of said crimes, or (C) in any other state, any crimes the
126 essential elements of which are substantially the same as any of the
127 crimes enumerated in subdivision (1) of this subsection or this
128 subdivision.

129 (c) A persistent serious felony offender is a person who (1) stands
130 convicted of a felony, and (2) has been, prior to the commission of the
131 present felony, convicted of and imprisoned under an imposed term of
132 more than one year or of death, in this state or in any other state or in a
133 federal correctional institution, for a crime. This subsection shall not
134 apply where the present conviction is for a crime enumerated in
135 subdivision (1) of subsection (a) of this section and the prior conviction
136 was for a crime other than those enumerated in subsection (a) of this
137 section.

138 (d) A persistent serious sexual offender is a person, other than a
139 person who qualifies as a persistent dangerous sexual offender under
140 subsection (b) of this section, who qualifies as a persistent serious
141 felony offender under subsection (c) of this section and the felony of

142 which such person presently stands convicted is a violation of
143 subdivision (2) of subsection (a) of section 53-21, or section 53a-70, 53a-
144 70a, 53a-70b, 53a-71, 53a-72a or 53a-72b and the prior conviction is for
145 a violation of section 53-21 of the general statutes, revised to January 1,
146 1995, involving sexual contact, committed prior to October 1, 1995, a
147 violation of subdivision (2) of section 53-21 of the general statutes,
148 committed on or after October 1, 1995, and prior to October 1, 2000, a
149 violation of subdivision (2) of subsection (a) of section 53-21 or a
150 violation of section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b.

151 (e) A persistent larceny offender is a person who (1) stands
152 convicted of larceny in the third degree in violation of the provisions of
153 section 53a-124 in effect prior to October 1, 1982, or larceny in the
154 fourth, fifth or sixth degree, and (2) has been, at separate times prior to
155 the commission of the present larceny, twice convicted of the crime of
156 larceny.

157 (f) A persistent felony offender is a person who (1) stands convicted
158 of a felony other than a class D felony, and (2) has been, at separate
159 times prior to the commission of the present felony, twice convicted of
160 a felony other than a class D felony.

161 (g) It shall be an affirmative defense to the charge of being a
162 persistent offender under this section that (1) as to any prior conviction
163 on which the state is relying the defendant was pardoned on the
164 ground of innocence, and (2) without such conviction, the defendant
165 was not two or more times convicted and imprisoned as required by
166 this section.

167 (h) When any person has been found to be a persistent dangerous
168 felony offender, [and the court is of the opinion that such person's
169 history and character and the nature and circumstances of such
170 person's criminal conduct indicate that extended incarceration and
171 lifetime supervision will best serve the public interest,] the court, in
172 lieu of imposing the sentence of imprisonment authorized by section
173 53a-35 for the crime of which such person presently stands convicted,

174 or authorized by section 53a-35a if the crime of which such person
175 presently stands convicted was committed on or after July 1, 1981,
176 shall sentence such person to a term of imprisonment of not more than
177 forty years and, if such person has, at separate times prior to the
178 commission of the present crime, been twice convicted of and
179 imprisoned for any of the crimes enumerated in subparagraph (B) of
180 subdivision [(2)] (1) of subsection (a) of this section, sentence such
181 person to a term of imprisonment of not more than life.

182 (i) When any person has been found to be a persistent dangerous
183 sexual offender, [and the court is of the opinion that such person's
184 history and character and the nature and circumstances of such
185 person's criminal conduct indicate that extended incarceration and
186 lifetime supervision will best serve the public interest,] the court, in
187 lieu of imposing the sentence of imprisonment authorized by section
188 53a-35a for the crime of which such person presently stands convicted,
189 shall sentence such person to a term of imprisonment and a period of
190 special parole pursuant to subsection (b) of section 53a-28 which
191 together constitute a sentence of imprisonment for life, as defined in
192 section 53a-35b.

193 (j) When any person has been found to be a persistent serious felony
194 offender, [and the court is of the opinion that such person's history and
195 character and the nature and circumstances of such person's criminal
196 conduct indicate that extended incarceration will best serve the public
197 interest,] the court, in lieu of imposing the sentence of imprisonment
198 authorized by section 53a-35 for the crime of which such person
199 presently stands convicted, or authorized by section 53a-35a if the
200 crime of which such person presently stands convicted was committed
201 on or after July 1, 1981, may impose the sentence of imprisonment
202 authorized by said section for the next more serious degree of felony.

203 (k) When any person has been found to be a persistent serious
204 sexual offender, [and the court is of the opinion that such person's
205 history and character and the nature and circumstances of such

206 person's criminal conduct indicate that extended incarceration will best
207 serve the public interest,] the court, in lieu of imposing the sentence of
208 imprisonment authorized by section 53a-35a for the crime of which
209 such person presently stands convicted, may impose a sentence of
210 imprisonment and a period of special parole pursuant to subsection (b)
211 of section 53a-28 which together constitute the maximum sentence
212 specified by section 53a-35a for the next more serious degree of felony.

213 (l) When any person has been found to be a persistent larceny
214 offender, [and the court is of the opinion that such person's history and
215 character and the nature and circumstances of such person's criminal
216 conduct indicate that extended incarceration will best serve the public
217 interest,] the court, in lieu of imposing the sentence authorized by
218 section 53a-36 for the crime of which such person presently stands
219 convicted, may impose the sentence of imprisonment for a class D
220 felony authorized by section 53a-35, if the crime of which such person
221 presently stands convicted was committed prior to July 1, 1981, or
222 authorized by section 53a-35a, if the crime of which such person
223 presently stands convicted was committed on or after July 1, 1981.

224 (m) When any person has been found to be a persistent felony
225 offender, [and the court is of the opinion that such person's history and
226 character and the nature and circumstances of such person's criminal
227 conduct indicate that extended incarceration will best serve the public
228 interest,] the court, in lieu of imposing the sentence authorized by
229 section 53a-35a for the crime of which such person presently stands
230 convicted, may impose the sentence of imprisonment authorized by
231 said section for the next more serious degree of felony; provided the
232 sentence imposed may not be less than three years, and provided
233 further three years of the sentence so imposed may not be suspended
234 or reduced by the court.

235 Sec. 6. Subsection (b) of section 53a-40a of the general statutes is
236 repealed and the following is substituted in lieu thereof (*Effective from*
237 *passage*):

238 (b) When any person has been found to be a persistent offender of
239 crimes involving bigotry or bias, [and the court is of the opinion that
240 such person's history and character and the nature and circumstances
241 of such person's criminal conduct indicate that an increased penalty
242 will best serve the public interest,] the court shall: (1) In lieu of
243 imposing the sentence authorized for the crime under section 53a-35a
244 if the crime is a felony, impose the sentence of imprisonment
245 authorized by said section for the next more serious degree of felony,
246 or (2) in lieu of imposing the sentence authorized for the crime under
247 section 53a-36 if the crime is a misdemeanor, impose the sentence of
248 imprisonment authorized by said section for the next more serious
249 degree of misdemeanor, except that if the crime is a class A
250 misdemeanor the court shall impose the sentence of imprisonment for
251 a class D felony as authorized by section 53a-35a.

252 Sec. 7. Subsection (b) of section 53a-40d of the general statutes is
253 repealed and the following is substituted in lieu thereof (*Effective from*
254 *passage*):

255 (b) When any person has been found to be a persistent offender of
256 crimes involving assault, stalking, trespass, threatening, harassment,
257 criminal violation of a protective order or criminal violation of a
258 restraining order, [and the court is of the opinion that such person's
259 history and character and the nature and circumstances of such
260 person's criminal conduct indicate that an increased penalty will best
261 serve the public interest,] the court shall, in lieu of imposing the
262 sentence authorized for the crime under section 53a-36 or section 53a-
263 35a, as applicable, impose the sentence of imprisonment authorized by
264 said section 53a-36 or section 53a-35a for the next more serious degree
265 of misdemeanor or felony, except that if the crime is a class A
266 misdemeanor the court shall impose the sentence of imprisonment for
267 a class D felony, as authorized by section 53a-35a.

268 Sec. 8. Subsection (b) of section 53a-40f of the general statutes is
269 repealed and the following is substituted in lieu thereof (*Effective from*

270 *passage*):

271 (b) When any person has been found to be a persistent operating
272 while under the influence felony offender, [and the court is of the
273 opinion that his history and character and the nature and
274 circumstances of his criminal conduct indicate that extended
275 incarceration will best serve the public interest,] the court, in lieu of
276 imposing the sentence authorized by section 53a-35a for the crime of
277 which such person presently stands convicted, may impose the
278 sentence of imprisonment authorized by said section for the next more
279 serious degree of felony.

280 Sec. 9. Subsection (b) of section 53a-300 of the general statutes is
281 repealed and the following is substituted in lieu thereof (*Effective from*
282 *passage*):

283 (b) When any person has been found guilty of an act of terrorism,
284 [and the court is of the opinion that such person's history and character
285 and the nature and circumstances of such person's criminal conduct
286 indicate that an increased penalty will best serve the public interest,]
287 the court shall, in lieu of imposing the sentence authorized for the
288 crime under section 53a-35a, impose the sentence of imprisonment
289 authorized by said section for the next more serious degree of felony.

290 Sec. 10. Subsection (b) of section 54-64a of the general statutes is
291 repealed and the following is substituted in lieu thereof (*Effective from*
292 *passage*):

293 (b) (1) When any arrested person charged with the commission of a
294 class A felony, a class B felony, except a violation of section 53a-86 or
295 53a-122, a class C felony, except a violation of section 53a-87, 53a-152
296 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c,
297 inclusive, section 53a-72a, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136
298 or 53a-216, or a family violence crime, as defined in section 46b-38a, is
299 presented before the Superior Court, said court shall, in bailable
300 offenses, promptly order the release of such person upon the first of

301 the following conditions of release found sufficient to reasonably
302 assure the appearance of the arrested person in court and that the
303 safety of any other person will not be endangered: (A) Upon such
304 person's execution of a written promise to appear without special
305 conditions, (B) upon such person's execution of a written promise to
306 appear with nonfinancial conditions, (C) upon such person's execution
307 of a bond without surety in no greater amount than necessary, (D)
308 upon such person's execution of a bond with surety in no greater
309 amount than necessary. In addition to or in conjunction with any of the
310 conditions enumerated in subparagraphs (A) to (D), inclusive, of this
311 subdivision, the court may, when it has reason to believe that the
312 person is drug-dependent and where necessary, reasonable and
313 appropriate, order the person to submit to a urinalysis drug test and to
314 participate in a program of periodic drug testing and treatment. The
315 results of any such drug test shall not be admissible in any criminal
316 proceeding concerning such person.

317 (2) The court may, in determining what conditions of release will
318 reasonably assure the appearance of the arrested person in court and
319 that the safety of any other person will not be endangered, consider the
320 following factors: (A) The nature and circumstances of the offense, (B)
321 such person's record of previous convictions, (C) such person's past
322 record of appearance in court after being admitted to bail, (D) such
323 person's family ties, (E) such person's employment record, (F) such
324 person's financial resources, character and mental condition, (G) such
325 person's community ties, (H) the number and seriousness of charges
326 pending against the arrested person, (I) the weight of the evidence
327 against the arrested person, (J) the arrested person's history of
328 violence, (K) whether the arrested person has previously been
329 convicted of similar offenses while released on bond, and (L) the
330 likelihood based upon the expressed intention of the arrested person
331 that such person will commit another crime while released.

332 (3) When imposing conditions of release under this subsection, the
333 court shall state for the record any factors under subdivision (2) of this

334 subsection that it considered and the findings that it made as to the
335 danger, if any, that the arrested person might pose to the safety of any
336 other person upon the arrested person's release that caused the court
337 to impose the specific conditions of release that it imposed.

338 Sec. 11. Section 53a-39 of the general statutes is repealed and the
339 following is substituted in lieu thereof (*Effective from passage*):

340 (a) At any time during the period of a definite sentence of three
341 years or less, the sentencing court or judge may, after hearing and for
342 good cause shown, reduce the sentence, order the defendant
343 discharged, or order the defendant discharged on probation or
344 conditional discharge for a period not to exceed that to which the
345 defendant could have been originally sentenced.

346 (b) At any time during the period of a definite sentence of more than
347 three years, upon agreement of the defendant and the state's attorney
348 to seek review of the sentence, the sentencing court or judge may, after
349 hearing and for good cause shown, reduce the sentence, order the
350 defendant discharged, or order the defendant discharged on probation
351 or conditional discharge for a period not to exceed that to which the
352 defendant could have been originally sentenced.

353 (c) The Commissioner of Correction, the chairperson of the Board of
354 Pardons and Paroles or the executive director of the Court Support
355 Services Division of the Judicial Branch may apply to the sentencing
356 court or judge for review of the sentence, in accordance with the
357 provisions of subsection (a) or (b) of this section, of a defendant
358 convicted and confined for the commission of a nonviolent offense if
359 said commissioner, chairperson or executive director believes that such
360 offender could be more suitably supervised in the community. For the
361 purposes of this section, "nonviolent offense" means an offense that
362 does not involve the use, attempted use or threatened use of physical
363 force against another person.

364 [(c)] (d) The provisions of this section shall not apply to any portion

365 of a sentence imposed that is a mandatory minimum sentence for an
366 offense which may not be suspended or reduced by the court.

367 [(d)] (e) At a hearing held by the sentencing court or judge under
368 this section, such court or judge shall permit any victim of the crime to
369 appear before the court or judge for the purpose of making a statement
370 for the record concerning whether or not the sentence of the defendant
371 should be reduced, the defendant discharged or the defendant
372 discharged on probation or conditional discharge pursuant to
373 subsection (a) or (b) of this section. In lieu of such appearance, the
374 victim may submit a written statement to the court or judge and the
375 court or judge shall make such statement a part of the record at the
376 hearing. For the purposes of this subsection, "victim" means the victim,
377 the legal representative of the victim or a member of the deceased
378 victim's immediate family.

379 Sec. 12. (NEW) (*Effective from passage*) (a) The Secretary of the Office
380 of Policy and Management shall design and implement a
381 comprehensive, state-wide information technology system to be
382 known as the SHIELD Criminal Justice Information System to facilitate
383 the immediate, seamless and comprehensive sharing of information
384 between all state agencies, departments, boards and commissions
385 having any cognizance over matters relating to law enforcement and
386 criminal justice, and local police departments and law enforcement
387 officials.

388 (b) The SHIELD shall be developed with the approval of a Criminal
389 Justice Information System Commission consisting of eleven members
390 as follows: The Secretary of the Office of Policy and Management, the
391 chairpersons of the joint standing committee of the General Assembly
392 on judiciary or their designees, the Chief State's Attorney, the
393 Commissioner of Correction, the Commissioner of Public Safety, the
394 Commissioner of Mental Health and Addiction Services, the
395 Commissioner of Children and Families, the chairperson of the Board
396 of Pardons and Paroles, a chief of a municipal police department

397 appointed by the Connecticut Police Chiefs Association and the Chief
398 Information Officer of the Department of Information Technology.

399 (c) The SHIELD shall include, without limitation, a central tracking
400 and information database, a central electronic document repository
401 and centralized analytical tools, as provided in subsections (d) to (f),
402 inclusive, of this section, all of which shall be developed with state-of-
403 the-art technology, as provided in subsection (g) of this section.

404 (d) The SHIELD shall include a central, integrated criminal justice
405 tracking and information database that provides:

406 (1) Complete biographical information and vital statistics for all
407 offenders and former offenders still living; and

408 (2) Tracking information for all offenders in the criminal justice
409 system, from investigation through incarceration and release, and
410 seamless integration with any electronic monitoring systems, global
411 positioning systems (GPS) and any offender registries.

412 (e) The SHIELD shall include a central, integrated electronic
413 repository of criminal justice records and documents that provides:

414 (1) Access to all state and local police reports, presentence
415 investigations and reports, psychological and medical reports, criminal
416 records, incarceration and parole records, and court records and
417 transcripts, whether such records and documents normally exist in
418 electronic or hard copy form; and

419 (2) Access to scanning and processing facilities to ensure that such
420 records and documents are integrated into the system and updated
421 immediately.

422 (f) The SHIELD shall include centralized analytical tools, bundled
423 together in a custom-designed enterprise system that includes:

424 (1) Analytical tools that empower and enhance criminal case

425 assessment, sentencing and plea bargain analysis and pardon, parole,
426 probation and release decisions;

427 (2) Analytical tools that empower and enhance forecasting
428 concerning recidivism and future offenses for each individual
429 offender; and

430 (3) Collaborative functionality that enable seamless cross-
431 department communication, information exchange, central note-taking
432 and comment capabilities for each offender.

433 (g) The SHIELD shall be developed with state-of-the-art relational
434 database technology and other appropriate software applications and
435 hardware, and shall be:

436 (1) Completely accessible by any authorized criminal justice official
437 through the Internet;

438 (2) Completely integrated with state and local police and law
439 enforcement departments, the Office of the Chief State's Attorney, the
440 Judicial Branch, the Department of Correction, the Department of
441 Public Safety, the Board of Pardons and Paroles and organizations
442 under contract with the state to provide community-based services
443 and programs for offenders released into the community, and their
444 information systems and database applications;

445 (3) Indexed and cross-referenced by offender name, residence,
446 community, criminal offense and any other data points necessary for
447 the effective administration of the state's criminal justice system;

448 (4) Fully text searchable for all records;

449 (5) Secure and protected by high-level security and controls;

450 (6) Accessible to the public subject to appropriate privacy
451 protections and controls; and

452 (7) Monitored and administered by the Department of Information

453 Technology, provided major software and hardware needs may be
454 provided and serviced by private, third-party vendors.

455 (h) Not later than July 1, 2008, and not later than January first and
456 July first of each year thereafter, the Criminal Justice Information
457 System Commission shall submit a report, in accordance with section
458 11-4a of the general statutes, to the joint standing committees of the
459 General Assembly having cognizance of matters relating to criminal
460 justice and appropriations and the budgets of state agencies
461 concerning the status of the design and implementation of the SHIELD
462 Criminal Justice Information System. In conjunction with the report
463 submitted not later than January first of each year, the commission
464 shall also make a presentation to said committees during the ensuing
465 regular session concerning the status of the design and implementation
466 of the SHIELD and a specific itemization of the additional resources, if
467 any, that are needed to achieve such design and implementation.

468 Sec. 13. (*Effective from passage*) (a) For the purposes described in
469 subsection (b) of this section, the State Bond Commission shall have
470 the power, from time to time, to authorize the issuance of bonds of the
471 state in one or more series and in principal amounts not exceeding in
472 the aggregate one hundred ten million dollars.

473 (b) The proceeds of the sale of said bonds, to the extent of the
474 amount stated in subsection (a) of this section, shall be used by the
475 Department of Correction for the planning and construction of a one
476 thousand bed medium security correctional institution.

477 (c) All provisions of section 3-20 of the general statutes, or the
478 exercise of any right or power granted thereby, which are not
479 inconsistent with the provisions of this section are hereby adopted and
480 shall apply to all bonds authorized by the State Bond Commission
481 pursuant to this section, and temporary notes in anticipation of the
482 money to be derived from the sale of any such bonds so authorized
483 may be issued in accordance with said section 3-20 and from time to
484 time renewed. Such bonds shall mature at such time or times not

485 exceeding twenty years from their respective dates as may be provided
486 in or pursuant to the resolution or resolutions of the State Bond
487 Commission authorizing such bonds. None of said bonds shall be
488 authorized except upon a finding by the State Bond Commission that
489 there has been filed with it a request for such authorization which is
490 signed by or on behalf of the Secretary of the Office of Policy and
491 Management and states such terms and conditions as said commission,
492 in its discretion, may require. Said bonds issued pursuant to this
493 section shall be general obligations of the state and the full faith and
494 credit of the state of Connecticut are pledged for the payment of the
495 principal of and interest on said bonds as the same become due, and
496 accordingly and as part of the contract of the state with the holders of
497 said bonds, appropriation of all amounts necessary for punctual
498 payment of such principal and interest is hereby made, and the State
499 Treasurer shall pay such principal and interest as the same become
500 due.

501 Sec. 14. (*Effective from passage*) The planning and construction of a
502 medium security correctional institution for which the issuance of
503 bonds is authorized under section 13 of this act shall be deemed a
504 "correctional facility project" as defined in section 4b-55 of the general
505 statutes, and the provisions of sections 4b-58 and 4b-91 of the general
506 statutes as said sections pertain to a correctional facility project shall be
507 applicable to the planning and construction of such institution.

508 Sec. 15. (*Effective from passage*) (a) For the purposes described in
509 subsection (b) of this section, the State Bond Commission shall have
510 the power, from time to time, to authorize the issuance of bonds of the
511 state in one or more series and in principal amounts not exceeding in
512 the aggregate one hundred fifty million dollars.

513 (b) The proceeds of the sale of said bonds, to the extent of the
514 amount stated in subsection (a) of this section, shall be used by the
515 Department of Public Works for the purpose of the planning and
516 construction of a one thousand two hundred bed medical and mental

517 health facility for persons committed to the custody of the
518 Commissioner of Correction.

519 (c) All provisions of section 3-20 of the general statutes, or the
520 exercise of any right or power granted thereby, which are not
521 inconsistent with the provisions of this section are hereby adopted and
522 shall apply to all bonds authorized by the State Bond Commission
523 pursuant to this section, and temporary notes in anticipation of the
524 money to be derived from the sale of any such bonds so authorized
525 may be issued in accordance with said section 3-20 and from time to
526 time renewed. Such bonds shall mature at such time or times not
527 exceeding twenty years from their respective dates as may be provided
528 in or pursuant to the resolution or resolutions of the State Bond
529 Commission authorizing such bonds. None of said bonds shall be
530 authorized except upon a finding by the State Bond Commission that
531 there has been filed with it a request for such authorization which is
532 signed by or on behalf of the Secretary of the Office of Policy and
533 Management and states such terms and conditions as said commission,
534 in its discretion, may require. Said bonds issued pursuant to this
535 section shall be general obligations of the state and the full faith and
536 credit of the state of Connecticut are pledged for the payment of the
537 principal of and interest on said bonds as the same become due, and
538 accordingly and as part of the contract of the state with the holders of
539 said bonds, appropriation of all amounts necessary for punctual
540 payment of such principal and interest is hereby made, and the State
541 Treasurer shall pay such principal and interest as the same become
542 due.

543 Sec. 16. (*Effective from passage*) The planning and construction of a
544 medical and mental health facility for which the issuance of bonds is
545 authorized under section 15 of this act shall be deemed a "correctional
546 facility project" as defined in section 4b-55 of the general statutes, and
547 the provisions of sections 4b-58 and 4b-91 of the general statutes as
548 said sections pertain to a correctional facility project shall be applicable
549 to the planning and construction of such facility.

550 Sec. 17. (NEW) (*Effective from passage*) The Board of Pardons and
551 Paroles and the Court Support Services Division of the Judicial Branch
552 shall jointly examine the feasibility of making information concerning
553 persons released into the community on probation or parole available
554 to the public on the Internet. Such information shall include the name
555 and address of the person, the offense or offenses of which the person
556 was convicted, the term of imprisonment and term of probation or
557 parole to which the person was sentenced and the name of the person's
558 probation or parole officer and contact information for such officer.
559 Such information shall be searchable by name and address. The board
560 and division shall report their findings and recommendations to the
561 joint standing committee of the General Assembly on judiciary in
562 accordance with section 11-4a of the general statutes not later than
563 February 6, 2008.

564 Sec. 18. (NEW) (*Effective from passage*) The Department of Correction,
565 the Board of Pardons and Paroles and the Court Support Services
566 Division of the Judicial Branch shall determine the number of persons
567 released into the community on probation, parole or any other
568 supervised release program who pose a risk to the safety of the public
569 to the extent that such person should be subject to electronic
570 monitoring by use of a global positioning system, and what, if any,
571 additional resources are needed by each such agency to ensure that
572 such persons are so monitored while in the community. The
573 department, board and division shall each submit a report of its
574 findings and recommendations to the joint standing committee of the
575 General Assembly on judiciary in accordance with section 11-4a of the
576 general statutes not later than February 6, 2008.

577 Sec. 19. (NEW) (*Effective from passage*) The Court Support Services
578 Division of the Judicial Branch shall make available on the Internet (1)
579 information concerning all outstanding arrest warrants for violation of
580 probation including the name, address and photographic image of the
581 probationer named in such warrant, and (2) a quarterly report listing
582 by court of issuance all outstanding arrest warrants for violation of

583 probation including the name and address of the probationer named in
584 each such warrant and the date of issuance of such warrant.

585 Sec. 20. (*Effective from passage*) The Judicial Branch shall hire an
586 additional twenty-five probation officers for purposes of executing
587 arrest warrants for violation of probation.

588 Sec. 21. (NEW) (*Effective from passage*) The Judicial Branch shall
589 ensure that there is a domestic violence victim advocate available in
590 each geographical area and judicial district courthouse to provide
591 assistance to victims of domestic violence at court proceedings.

592 Sec. 22. (NEW) (*Effective from passage*) The Office of Victim Services
593 shall assign two victim advocates to provide full-time assistance to
594 victims who appear before a panel of the Board of Pardons and Paroles
595 or submit a written statement to such panel, as authorized by section
596 54-126a of the general statutes.

597 Sec. 23. Section 54-124a of the general statutes is amended by adding
598 subsection (o) as follows (*Effective from passage*):

599 (NEW) (o) The Board of Pardons and Paroles shall employ at least
600 one forensic psychologist to assist the board in its parole release
601 decisions.

602 Sec. 24. (*Effective from passage*) The Department of Correction shall
603 contract for an additional one hundred beds in staff secure residential
604 sex offender treatment facilities.

605 Sec. 25. (*Effective from passage*) The Court Support Services Division
606 of the Judicial Branch shall contract for an additional one hundred
607 beds in staff secure residential sex offender treatment facilities.

608 Sec. 26. (NEW) (*Effective from passage*) The Department of Correction
609 shall establish a special overtime staffing program for nurses and
610 mental health staff in all correctional facilities for the purpose to
611 reducing the use of mandatory overtime and improving the

612 recruitment and retention of nursing and mental health staff. Such
613 program shall allow nursing and mental health staff at a correctional
614 facility to volunteer in advance for unfilled shifts that would otherwise
615 cause the department to mandate that certain staff work overtime to
616 fill such shifts.

617 Sec. 27. (*Effective from passage*) The Department of Correction shall
618 fill all authorized positions for mental health staff that are vacant on
619 the effective date of this section.

620 Sec. 28. Subsection (k) of section 14-227b of the general statutes is
621 repealed and the following is substituted in lieu thereof (*Effective from*
622 *passage*):

623 (k) Notwithstanding the provisions of subsections (b) to (j),
624 inclusive, of this section, any police officer who obtains the results of a
625 chemical analysis of a blood sample taken from an operator of a motor
626 vehicle involved in an accident who suffered or allegedly suffered
627 physical injury in such accident shall notify the Commissioner of
628 Motor Vehicles and submit to the commissioner a written report if
629 such results indicate that such person had an elevated blood alcohol
630 content, and if such person was arrested for violation of section
631 14-227a in connection with such accident. The report shall be made on
632 a form approved by the commissioner containing such information as
633 the commissioner prescribes, and shall be subscribed and sworn to
634 under penalty of false statement, as provided in section 53a-157b, by
635 the police officer. The commissioner may, after notice and an
636 opportunity for hearing, which shall be conducted in accordance with
637 chapter 54, suspend the motor vehicle operator's license or nonresident
638 operating privilege of such person for [a period of up to ninety days,
639 or, if such person has previously had such person's operator's license
640 or nonresident operating privilege suspended under this section for a
641 period of up to one year] <u>the appropriate period specified in</u>
642 <u>subsection (i) or (j) of this section</u>. Each hearing conducted under this
643 subsection shall be limited to a determination of the following issues:

644 (1) Whether the police officer had probable cause to arrest the person
645 for operating a motor vehicle while under the influence of intoxicating
646 liquor or drug or both; (2) whether such person was placed under
647 arrest; (3) whether such person was operating the motor vehicle; (4)
648 whether the results of the analysis of the blood of such person indicate
649 that such person had an elevated blood alcohol content; and (5)
650 whether the blood sample was obtained in accordance with conditions
651 for admissibility and competence as evidence as set forth in subsection
652 (j) of section 14-227a. If, after such hearing, the commissioner finds on
653 any one of the said issues in the negative, the commissioner shall not
654 impose a suspension. The fees of any witness summoned to appear at
655 the hearing shall be the same as provided by the general statutes for
656 witnesses in criminal cases, as provided in section 52-260.

657 Sec. 29. (*Effective from passage*) (a) The sum of seven hundred
658 seventy-five thousand dollars is appropriated to the Department of
659 Correction, Community Support Services account, from the General
660 Fund, for the fiscal year ending June 30, 2009, for the purpose of
661 contracting with a nonprofit organization to provide reentry services
662 in the Bridgeport area.

663 (b) The sum of one million dollars is appropriated to the Judicial
664 Department, Alternative Incarceration Program account, from the
665 General Fund, for the fiscal year ending June 30, 2009, for the purpose
666 of contracting with nonprofit organizations to provide reentry services
667 in the Hartford and New Haven areas.

668 (c) For the purposes of this section, "reentry services" means services
669 provided to a person being released from incarceration into the
670 community including, but not limited to, evaluating such person's
671 educational needs, employment skills, counseling needs, mental health
672 and substance abuse treatment needs and child support obligations,
673 assisting such person in obtaining necessary housing, employment,
674 education, treatment and counseling that such person may need upon
675 release and providing such other support services to such person as

676 deemed necessary.

677 Sec. 30. (*Effective from passage*) Sections 1 to 29, inclusive, of this act
678 shall take effect as indicated therein and in accordance with article
679 twenty-eighth of the amendments to the Constitution of the state upon
680 the declaration by the Governor of an emergency or the existence of
681 extraordinary circumstances and the vote of at least three-fifths of the
682 members of each house of the General Assembly to exceed the
683 authorized limit on state expenditures for the purposes of such
684 emergency or extraordinary circumstances with respect to the
685 expenditures required to implement said sections.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*January 1, 2008*	53a-101
Sec. 2	*January 1, 2008*	53a-100
Sec. 3	*January 1, 2008*	53a-102
Sec. 4	*January 1, 2008*	54-125a(b)
Sec. 5	*from passage*	53a-40
Sec. 6	*from passage*	53a-40a(b)
Sec. 7	*from passage*	53a-40d(b)
Sec. 8	*from passage*	53a-40f(b)
Sec. 9	*from passage*	53a-300(b)
Sec. 10	*from passage*	54-64a(b)
Sec. 11	*from passage*	53a-39
Sec. 12	*from passage*	New section
Sec. 13	*from passage*	New section
Sec. 14	*from passage*	New section
Sec. 15	*from passage*	New section
Sec. 16	*from passage*	New section
Sec. 17	*from passage*	New section
Sec. 18	*from passage*	New section
Sec. 19	*from passage*	New section
Sec. 20	*from passage*	New section
Sec. 21	*from passage*	New section
Sec. 22	*from passage*	New section
Sec. 23	*from passage*	54-124a
Sec. 24	*from passage*	New section

Sec. 25	*from passage*	New section
Sec. 26	*from passage*	New section
Sec. 27	*from passage*	New section
Sec. 28	*from passage*	14-227b(k)
Sec. 29	*from passage*	New section
Sec. 30	*from passage*	New section

Statement of Purpose:

To classify home invasion as burglary in the first degree, revise persistent offender laws, revise statutory provisions concerning the release and community supervision of offenders, implement a system to share criminal justice information, and provide additional facilities and staff for agencies and organizations supervising or providing services to offenders or assisting victims.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

WORKING DRAFT

General Assembly

Raised Bill No.

No. 6

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING OCCUPIED HOME INVASION.

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

Section 1. (NEW) (*Effective from passage*) (a) A person is guilty of occupied home invasion when such person enters or remains unlawfully in a dwelling, while a person other than a participant in the crime is actually present in such dwelling, with intent to commit a crime therein.

(b) Occupied home invasion is a class A felony.

Sec. 2. Section 53a-102 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person is guilty of burglary in the second degree when such person [(1)] enters or remains unlawfully in a dwelling at night with intent to commit a crime therein. [, or (2) enters or remains unlawfully in a dwelling, while a person other than a participant in the crime is actually present in such dwelling, with intent to commit a crime therein.]

(b) Burglary in the second degree is a class C felony.

16 Sec. 3. Section 53a-100 of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective from passage*):

18 (a) The following definitions are applicable to this part and section 1
19 of this act: (1) "Building" in addition to its ordinary meaning, includes
20 any watercraft, aircraft, trailer, sleeping car, railroad car or other
21 structure or vehicle or any building with a valid certificate of
22 occupancy. Where a building consists of separate units, such as, but
23 not limited to separate apartments, offices or rented rooms, any unit
24 not occupied by the actor is, in addition to being a part of such
25 building, a separate building; (2) "dwelling" means a building which is
26 usually occupied by a person lodging therein at night, whether or not a
27 person is actually present; (3) "night" means the period between thirty
28 minutes after sunset and thirty minutes before sunrise; and (4) "public
29 land" means a state park, state forest or municipal park or any other
30 publicly-owned land that is open to the public for active or passive
31 recreation.

32 (b) The following definition is applicable to sections 53a-101 to 53a-
33 106, inclusive, and section 1 of this act: A person "enters or remains
34 unlawfully" in or upon premises when the premises, at the time of
35 such entry or remaining, are not open to the public and when the actor
36 is not otherwise licensed or privileged to do so.

37 Sec. 4. Subsection (b) of section 54-125a of the general statutes is
38 repealed and the following is substituted in lieu thereof (*Effective from*
39 *passage*):

40 (b) (1) No person convicted of any of the following offenses, which
41 was committed on or after July 1, 1981, shall be eligible for parole
42 under subsection (a) of this section: Capital felony, as provided in
43 section 53a-54b, felony murder, as provided in section 53a-54c, arson
44 murder, as provided in section 53a-54d, murder, as provided in section
45 53a-54a, or aggravated sexual assault in the first degree, as provided in
46 section 53a-70a. (2) A person convicted of (A) an offense, other than an
47 offense specified in subdivision (1) of this subsection, where the

48 underlying facts and circumstances of the offense involve the use,
49 attempted use or threatened use of physical force against another
50 person, or (B) occupied home invasion in violation of section 1 of this
51 act shall be ineligible for parole under subsection (a) of this section
52 until such person has served not less than eighty-five per cent of the
53 definite sentence imposed.

54 Sec. 5. Subsection (a) of section 53a-40 of the general statutes is
55 repealed and the following is substituted in lieu thereof (*Effective from*
56 *passage*):

57 (a) A persistent dangerous felony offender is a person who:

58 (1) (A) Stands convicted of manslaughter, arson, kidnapping,
59 robbery in the first or second degree, [or] assault in the first degree or
60 occupied home invasion, and (B) has been, prior to the commission of
61 the present crime, convicted of and imprisoned under a sentence to a
62 term of imprisonment of more than one year or of death, in this state
63 or in any other state or in a federal correctional institution, for any of
64 the following crimes: (i) The crimes enumerated in subparagraph (A)
65 of this subdivision or an attempt to commit any of said crimes; or (ii)
66 murder, sexual assault in the first or third degree, aggravated sexual
67 assault in the first degree or sexual assault in the third degree with a
68 firearm, or an attempt to commit any of said crimes; or (iii) prior to
69 October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75
70 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
71 prior to October 1, 1971, in this state, assault with intent to kill under
72 section 54-117, or any of the crimes enumerated in sections 53-9, 53-10,
73 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80,
74 inclusive, 53-82, 53-83, 53-86, 53-238 and 53-239 of the general statutes,
75 revision of 1958, revised to 1968, or any predecessor statutes in this
76 state, or an attempt to commit any of said crimes; or (iv) in any other
77 state, any crimes the essential elements of which are substantially the
78 same as any of the crimes enumerated in subparagraph (A) of this
79 subdivision or this subparagraph; or

80 (2) (A) Stands convicted of sexual assault in the first or third degree,
81 aggravated sexual assault in the first degree or sexual assault in the
82 third degree with a firearm, and (B) has been, prior to the commission
83 of the present crime, convicted of and imprisoned under a sentence to
84 a term of imprisonment of more than one year or of death, in this state
85 or in any other state or in a federal correctional institution, for any of
86 the following crimes: (i) Murder, manslaughter, arson, kidnapping,
87 robbery in the first or second degree, [or] assault in the first degree or
88 occupied home invasion, or an attempt to commit any of said crimes;
89 or (ii) prior to October 1, 1971, in this state, assault with intent to kill
90 under section 54-117, or any of the crimes enumerated in sections 53-9,
91 53-10, 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80,
92 inclusive, 53-82, 53-83 and 53-86 of the general statutes, revision of
93 1958, revised to 1968, or any predecessor statutes in this state, or an
94 attempt to commit any of said crimes; or (iii) in any other state, any
95 crimes the essential elements of which are substantially the same as
96 any of the crimes enumerated in subparagraph (A) of this subdivision
97 or this subparagraph.

98 Sec. 6. Subsection (h) of section 53a-40 of the general statutes is
99 repealed and the following is substituted in lieu thereof (*Effective from*
100 *passage*):

101 (h) When any person has been found to be a persistent dangerous
102 felony offender, and [the court is of the opinion that] such person's
103 history and character and the nature and circumstances of such
104 person's criminal conduct indicate that extended incarceration and
105 lifetime supervision will best serve the public interest, the court, in lieu
106 of imposing the sentence of imprisonment authorized by section
107 53a-35 for the crime of which such person presently stands convicted,
108 or authorized by section 53a-35a if the crime of which such person
109 presently stands convicted was committed on or after July 1, 1981,
110 shall, [sentence such person to a term of imprisonment of not more
111 than forty years and,] if such person has, at separate times prior to the
112 commission of the present crime, been twice convicted of and

113 imprisoned for any of the crimes enumerated in subparagraph (B) of
114 subdivision [(2)] (1) of subsection (a) of this section, sentence such
115 person to [a term of imprisonment of not more than life] life
116 imprisonment, except that in determining the number of prior
117 convictions for sentencing purposes under this subsection the court
118 may, in the interests of justice, strike an allegation that such person
119 had previously been convicted of and imprisoned for one of said
120 enumerated crimes so that such person has only one prior conviction
121 for purposes of this subsection and, if such an allegation is so stricken,
122 the court shall sentence such person to a term of imprisonment that is
123 twice the term otherwise provided as punishment for the crime of
124 which such person presently stands convicted.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*from passage*	53a-102
Sec. 3	*from passage*	53a-100
Sec. 4	*from passage*	54-125a(b)
Sec. 5	*from passage*	53a-40(a)
Sec. 6	*from passage*	53a-40(h)

Statement of Purpose:

To establish the crime of occupied home invasion, classify occupied home invasion as a violent felony for purposes of parole release and being a persistent dangerous felony offender and authorize a judge, when sentencing a persistent dangerous felony offender, to strike a predicate offense and sentence the offender to twice the term of imprisonment authorized for the offense for which such offender presently stands convicted.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

OLR RESEARCH REPORT

November 9, 2007 2007-R-0648

PROPOSAL 5:

AN ACT CONCERNING REFORM OF CRIMINAL SENTENCING, PAROLE RELEASE, COMMUNITY SUPERVISION AND DEATH PENALTY APPEAL PROCEDURES

By: Susan Price, Principal Analyst

You asked us to summarize Proposal 5, *AAC Reform of Criminal Sentencing, Parole Release, Community Supervision and Death Penalty Appeal Procedures* for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

This bill makes a number of changes in the criminal statutes. It:

1. requires certain dangerous three-time offenders to serve life sentences;

2. requires consideration of 1st and 2nd degree burglary convictions in sentencing proceedings under the persistent dangerous felony offender statute;

3. enhances prison sentences for burglary convictions and requires global positioning system monitoring for certain burglary offenders released on probation or conditionally discharged into the community;

4. prohibits parole release of people incarcerated for certain nonviolent burglary offenses without a full Parole Board hearing;

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5. creates the presumption that a person who used deadly force to defend his or her dwelling reasonably believed that this was necessary to prevent or terminate an unlawful, forced entry;

6. directs death penalty litigants and the Connecticut Supreme Court to complete appeal-related procedures within specified time limits;

7. establishes a deadline for filing habeas corpus petitions in capital felony cases;

8. limits the circumstances under which a prisoner sentenced to death can file successive habeas petitions and directs the chief court administrator to assign one judge to handle all death penalty habeas proceedings; and

9. loosens the standards governing death row prisoners' requests for DNA testing.

The bill also conforms the persistent dangerous felony offender statute to a recent Connecticut Supreme Court holding which found a portion of the statute unconstitutional. In *State v. Bell*, the Court ordered language authorizing "the court" to decide whether persistent dangerous felony offenders should be subjected to enhanced sentencing and post-release supervision be excised from the statute because offenders have the constitutional right to have a jury make this determination (283 Conn. 748, 812 (2007)).

The bill also excises identical language from the terrorism and other repeat offender statutes.

The bill is effective upon passage.

§ 7— MANDATORY LIFE SENTENCE FOR 3RD DANGEROUS FELONY

The bill mandates life prison sentences without the possibility of release for people convicted of a dangerous felony after having two or more prior convictions for dangerous felonies, including predecessor crimes and substantially the same crimes committed in other states. Table 1 shows the elements required for the enhanced penalty.

Table 1: Enhanced Penalty for Dangerous Felony Convictions

Current Conviction		
Murder, other than capital murder	Manslaughter	Arson
Kidnapping	1st or 2nd degree burglary	1st or 2nd degree robbery
Robbery involving an occupied vehicle	Felony assault (i.e., 1st or 2nd degree assault)	1st or 3rd degree sexual assault
1st degree aggravated sexual assault	3rd degree sexual assault with a firearm	1st degree stalking
Stealing a firearm		
2 Or More Prior Convictions For:		
Any crime listed above, including attempts and predecessor and crimes in other states with substantially the same essential elements		
Sentence Enhancement:		
Life (60 years) without possibility of release		

Repeat offenders who would otherwise be subject to life imprisonment may avoid it by proving that they were pardoned on the ground of innocence for an offense which is being counted as a prior dangerous felony conviction.

Under the bill, three-time dangerous felony offenders would not be eligible for consideration under the persistent dangerous felony law.

§ 6 — PERSISTENT DANGEROUS FELONY OFFENDER STATUS

The bill adds 1st and 2nd degree burglary to the list of felonies that can form the basis for a finding of persistent dangerous felony offender status, thus increasing the number of repeat offenders who may be subject to enhanced periods of jail and community supervision. By law, persistent dangerous felony offenders are those convicted of specified felonies with prior convictions for specified felonies.

Judges must follow the persistent dangerous felony offender statute's enhanced sentencing rules when the jury finds that the offender meets the statutory requirements and that his or her history and character and the nature and circumstances of the criminal conduct indicate that extended incarceration and lifetime supervision will best serve the public interest (CGS § 53a-40(h); *State v. Bell*, 283 Conn. 748 (2007)).

Table 2 describes the persistent dangerous felony offender criteria under current law and under the bill.

Table 2: Persistent Dangerous Felony Offender
(proposed changes in bold italics)

Current Conviction (§53a-40(a)(1))		
Manslaughter	Arson	Kidnapping
1st or 2nd degree robbery	1st degree assault	***1st or 2nd degree burglary***
Prior Conviction (Sentenced To At Least 1 Yr.)		
Murder	Manslaughter	Arson
Kidnapping	1st or 2nd degree robbery	1st degree assault
1st degree sexual assault, including aggravated	3rd degree sexual assault, including with a firearm	***1st or 2nd degree burglary***
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements		

OR

Current Conviction (§53a-40(a)(2))		
1st degree sexual assault, including aggravated	3rd degree sexual assault, including with firearm	
Prior Conviction (Sentenced To At Least 1 Yr.)		
Murder	Manslaughter	Arson
Kidnapping	1st or 2nd degree robbery	1st degree assault
1st or 2nd degree burglary		
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements		

Sentence Enhancement
Current conviction is strike 2: Up to 40 yrs.
Current conviction is strike 3: Up to life

Three-time offenders whose convictions qualify them for mandatory life sentences under Section 7 of the bill must be given that sentence, even though they would otherwise qualify for consideration as persistent dangerous felony offenders.

§§ 8-12 — BURGLARY OFFENSES

The bill also increases the mandatory minimum sentences associated with 1st and 2nd degree burglary and 3rd degree burglary with a firearm. It establishes a mandatory minimum sentence for simple 3rd degree burglary.

Table 3 shows the elements of each of the burglary crimes, current sentence ranges, and the sentence ranges under the bill.

Table 3: Burglary Offenses and Sentences Compared

Burglary Offense	Current Sentence	LCO 9967 Sentence
1st degree: entering or remaining unlawfully in a building with intent to commit a crime therein and 1. actor is armed with explosives, a deadly weapon, or dangerous instrument or 2. in the course of committing offense, actor intentionally, knowingly, or recklessly inflicts or attempts to inflict bodily injury on anyone *(CGS §53a-101)*	*Actor armed*: at least 5 and up to 20 yrs. *Actor unarmed; injury attempted or inflicted:* 1-20 yrs.	*Actor armed:* at least 6 and up to 20 yrs. *Actor unarmed; injury attempted or inflicted:* at least 5 and up to 20 yrs.
2nd Degree: 1. entering or remaining unlawfully in a dwelling at night with intent to commit a crime or 2. entering or remaining unlawfully in a dwelling with intent to commit a crime while a person other than a participant in the crime is actually present in such dwelling *(CGS §53a-102)*	1-10 yrs.	At least 2 and up to 10 yrs.
2nd degree with a firearm: same as above and actor (a) uses, (b) is armed with and threatens to use, or (c) displays or represents by words or conduct that he or she possesses a pistol, revolver, shotgun, machine gun, or other firearm *(CGS §53a-102a)*	At least 1 and up to 10 yrs.	At least 3 and up to 10 yrs.
3rd degree: Entering or remaining unlawfully in a building with intent to commit crime therein *(53a-103)*	1- 5 yrs.	At least 1, and up to 5 yrs.
3rd degree with firearm: same as above and actor (a) uses, (b) is armed with and threatens to use, or (c) displays or represents by words or conduct that he or she possesses a pistol, revolver, shotgun, machine gun, or other firearm *(53a-103a)*	At least 1 and up to 5 yrs.	At least 2 and up to 5 yrs.

§ 15 — Electronic Monitoring Throughout Probation or Conditional Release

The law authorizes courts to order electronic monitoring, including using global positioning systems (GPS), for people they release on probation or discharge conditionally into the community (i.e., without probation supervision). The bill makes GPS monitoring mandatory for offenders convicted of (1) 1st degree burglary or (2) that portion of the 2nd

degree burglary offense that does not involve weapons possession or use. The monitoring must continue throughout the probation or conditional release period.

By law, courts can order the person being monitored to pay some or all of the monitoring costs, up to $6 a day.

§§ 13-14 — Parole Restrictions

The bill increases, from 50% to 85%, the portion of prison sentences that offenders convicted of nonviolent 2nd and 3rd degree burglaries must serve before they can qualify for parole consideration. The 85% rule already applies to burglaries and other non-capital offenses where the actor used, or attempted or threatened to use physical force against another person (CGS § 54-125a).

By law, the Board of Pardons and Parole must conduct full hearings to determine the parole suitability of offenders subject to the 85% rule. Currently, parole release decisions involving those incarcerated for nonviolent 2nd or 3rd burglary can be made without a hearing if a board employee has reviewed the inmate's case and recommends it and at least two members of a board panel approve it.

Administrative parole decisions can still be made under the bill for those who are eligible for consideration after serving 50% of their sentences.

§ 16 — USE OF DEADLY FORCE

The law permits a person to use deadly physical force when he or she reasonably believes this is necessary to prevent or terminate an unlawful, forced entry into his or her dwelling (the "Castle Doctrine"). The bill lessens the amount of evidence the actor must present to establish the defense of justification when his or her use of deadly force under such circumstances gives rise to a criminal prosecution. Currently, the actor must prove by a preponderance of evidence that his or her belief was reasonable. The bill creates an evidentiary presumption that the person's belief was reasonable.

§17—DEATH PENALTY APPEALS

The bill requires that direct Supreme Court appeals be filed within 21 days after a court sentences a capital felon to death. Current law requires criminal defendants, including those sentenced to death, to give

the court oral or written notice within two weeks after the court enters its final judgment (CGS § 54-95). The bill directs the Court to consolidate the appeal with the statutorily-required sentence review hearing (CGS § 53a-46b(c)).

The bill also requires that the defendant's and state's appeal and reply briefs be filed according to a schedule that ensures that all are submitted to the Court within four months after the date on which sentence was imposed. And it directs the Court to schedule oral argument within six months after sentencing.

§ 18 — HABEAS CORPUS

Among other things, the writ of habeas corpus is a remedy for prisoners who claim that the state is unconstitutionally detaining them. Currently, there are no special procedures or rules for petitioners who have been imprisoned or sentenced to death for capital felonies, nor is there a statute of limitations for filing petitions or holding court hearings concerning them.

The bill requires habeas petitions, involving capital felony convictions resulting in either death or life imprisonment without possibility of release sentences, to be filed within 180 days after the date the court imposed the sentence. It directs the court to hold a hearing on the petition within 180 days of its filing.

The bill requires this petition to include all legal claims that could support the defendant's position that the conviction or sentence is unconstitutional or in violation of state or federal law. The bill bars filing additional petitions unless (1) the facts underlying the claim were unknown to the defendant or the defendant's attorney and could not have been ascertained by the exercise of due diligence prior to the filing of the first writ and (2) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would have reasonably led to a not guilty verdict or sentence other than death. The bill directs courts to hold hearings on these subsequent petitions within 180 days after they are filed.

Current law does not limit the number of petitions a prisoner can file, although it bars petitions seeking the same legal relief as was sought in an earlier petition unless the petitioner includes new facts that were not reasonably available at the time the earlier petition was filed. This will continue to be the rule for prisoners not convicted of capital felonies.

The bill also directs the Judicial Department's chief court administrator to appoint one judge to handle all death row habeas petitions.

§ 19 — DNA TESTING

The bill requires courts to grant petitions for DNA testing, without holding hearings, whenever a person sentenced to death requests this and states under oath that the (1) test is related to the investigation or prosecution that resulted in the conviction and (2) evidence he or she wants to test contains biological evidence. Current law governing DNA testing requests has no special provisions for requests from death row inmates. It conditions the granting of the request on the court holding a hearing and finding that:

1. a reasonable probability exists that the requested testing will produce DNA results which would have altered the verdict or reduced the petitioner's sentence if the results had been available at the prior proceedings leading to the judgment of conviction;

2. the evidence is still in existence and is capable of being subjected to DNA testing;

3. the evidence, or a specific portion of the evidence identified by the petitioner was never previously subjected to DNA testing, or the testing requested by the petitioner may resolve an issue that was never previously resolved by previous testing; and

4. the petition was filed in order to demonstrate the petitioner's innocence and not to delay the administration of justice.

By law, the court must determine whether the state or the petitioner pays for the test, but cannot deny a test request because the petitioner is unable to pay for it. The court must also appoint counsel to represent indigent defendants who are seeking DNA testing.

§§1-5 — JURY DETERMINATIONS REGARDING ENHANCED SENTENCING

In *State v. Bell*, the Connecticut Supreme Court ruled that a person convicted as a persistent dangerous felony offender had a constitutional right to have the jury, rather than the judge, decide whether his or her character and the nature and circumstances of the criminal conduct indicate that extended incarceration and lifetime supervision will best serve the public interest (283 Conn. 748, 812 (2007)). It ordered that language giving "the court" the authority to make this determination be excised from the statute.

This bill excises that language from following statutes, all of which require that the above finding be made:

1. persistent dangerous felony offender;
2. persistent dangerous sexual offender;
3. persistent serious felony offender;
4. persistent serious sexual offender;
5. persistent larceny offender;
6. persistent felony offender;
7. persistent offender of crimes involving bigotry or bias;
8. persistent offender of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order, or criminal violation of a restraining order;
9. persistent operating while under the influence felony offender; and
10. terrorism.

SP:dw

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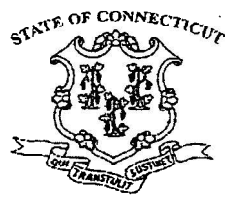


General Assembly **Raised Bill No.**

No. 5

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING REFORM OF CRIMINAL SENTENCING, PAROLE RELEASE, COMMUNITY SUPERVISION AND DEATH PENALTY APPEAL PROCEDURES.

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

Section 1. Subsections (h) to (m), inclusive, of section 53a-40 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(h) When any person has been found to be a persistent dangerous felony offender, and [the court is of the opinion that] such person's history and character and the nature and circumstances of such person's criminal conduct indicate that extended incarceration and lifetime supervision will best serve the public interest, the court, in lieu of imposing the sentence of imprisonment authorized by section 53a-35 for the crime of which such person presently stands convicted, or authorized by section 53a-35a if the crime of which such person presently stands convicted was committed on or after July 1, 1981, shall sentence such person to a term of imprisonment of not more than forty years and, if such person has, at separate times prior to the commission of the present crime, been twice convicted of and

16 imprisoned for any of the crimes enumerated in subdivision (2) of
17 subsection (a) of this section, sentence such person to a term of
18 imprisonment of not more than life.

19 (i) When any person has been found to be a persistent dangerous
20 sexual offender, and [the court is of the opinion that] such person's
21 history and character and the nature and circumstances of such
22 person's criminal conduct indicate that extended incarceration and
23 lifetime supervision will best serve the public interest, the court, in lieu
24 of imposing the sentence of imprisonment authorized by section 53a-
25 35a for the crime of which such person presently stands convicted,
26 shall sentence such person to a term of imprisonment and a period of
27 special parole pursuant to subsection (b) of section 53a-28 which
28 together constitute a sentence of imprisonment for life, as defined in
29 section 53a-35b.

30 (j) When any person has been found to be a persistent serious felony
31 offender, and [the court is of the opinion that] such person's history
32 and character and the nature and circumstances of such person's
33 criminal conduct indicate that extended incarceration will best serve
34 the public interest, the court in lieu of imposing the sentence of
35 imprisonment authorized by section 53a-35 for the crime of which such
36 person presently stands convicted, or authorized by section 53a-35a if
37 the crime of which such person presently stands convicted was
38 committed on or after July 1, 1981, may impose the sentence of
39 imprisonment authorized by said section for the next more serious
40 degree of felony.

41 (k) When any person has been found to be a persistent serious
42 sexual offender, and [the court is of the opinion that] such person's
43 history and character and the nature and circumstances of such
44 person's criminal conduct indicate that extended incarceration will best
45 serve the public interest, the court, in lieu of imposing the sentence of
46 imprisonment authorized by section 53a-35a for the crime of which
47 such person presently stands convicted, may impose a sentence of

48 imprisonment and a period of special parole pursuant to subsection (b)
49 of section 53a-28 which together constitute the maximum sentence
50 specified by section 53a-35a for the next more serious degree of felony.

51 (l) When any person has been found to be a persistent larceny
52 offender, and [the court is of the opinion that] such person's history
53 and character and the nature and circumstances of such person's
54 criminal conduct indicate that extended incarceration will best serve
55 the public interest, the court, in lieu of imposing the sentence
56 authorized by section 53a-36 for the crime of which such person
57 presently stands convicted, may impose the sentence of imprisonment
58 for a class D felony authorized by section 53a-35, if the crime of which
59 such person presently stands convicted was committed prior to July 1,
60 1981, or authorized by section 53a-35a, if the crime of which such
61 person presently stands convicted was committed on or after July 1,
62 1981.

63 (m) When any person has been found to be a persistent felony
64 offender, and [the court is of the opinion that] such person's history
65 and character and the nature and circumstances of such person's
66 criminal conduct indicate that extended incarceration will best serve
67 the public interest, the court, in lieu of imposing the sentence
68 authorized by section 53a-35a for the crime of which such person
69 presently stands convicted, may impose the sentence of imprisonment
70 authorized by said section for the next more serious degree of felony;
71 provided the sentence imposed may not be less than three years, and
72 provided further three years of the sentence so imposed may not be
73 suspended or reduced by the court.

74 Sec. 2. Subsection (b) of section 53a-40a of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective from*
76 *passage*):

77 (b) When any person has been found to be a persistent offender of
78 crimes involving bigotry or bias, and [the court is of the opinion that]
79 such person's history and character and the nature and circumstances

80 of such person's criminal conduct indicate that an increased penalty
81 will best serve the public interest, the court shall: (1) In lieu of
82 imposing the sentence authorized for the crime under section 53a-35a
83 if the crime is a felony, impose the sentence of imprisonment
84 authorized by said section for the next more serious degree of felony,
85 or (2) in lieu of imposing the sentence authorized for the crime under
86 section 53a-36 if the crime is a misdemeanor, impose the sentence of
87 imprisonment authorized by said section for the next more serious
88 degree of misdemeanor, except that if the crime is a class A
89 misdemeanor the court shall impose the sentence of imprisonment for
90 a class D felony as authorized by section 53a-35a.

91 Sec. 3. Subsection (b) of section 53a-40d of the general statutes is
92 repealed and the following is substituted in lieu thereof (*Effective from*
93 *passage*):

94 (b) When any person has been found to be a persistent offender of
95 crimes involving assault, stalking, trespass, threatening, harassment,
96 criminal violation of a protective order or criminal violation of a
97 restraining order, and [the court is of the opinion that] such person's
98 history and character and the nature and circumstances of such
99 person's criminal conduct indicate that an increased penalty will best
100 serve the public interest, the court shall, in lieu of imposing the
101 sentence authorized for the crime under section 53a-36 or section 53a-
102 35a, as applicable, impose the sentence of imprisonment authorized by
103 said section 53a-36 or section 53a-35a for the next more serious degree
104 of misdemeanor or felony, except that if the crime is a class A
105 misdemeanor the court shall impose the sentence of imprisonment for
106 a class D felony, as authorized by section 53a-35a.

107 Sec. 4. Subsection (b) of section 53a-40f of the general statutes is
108 repealed and the following is substituted in lieu thereof (*Effective from*
109 *passage*):

110 (b) When any person has been found to be a persistent operating
111 while under the influence felony offender, and [the court is of the

112 opinion that his] such person's history and character and the nature
113 and circumstances of [his] such person's criminal conduct indicate that
114 extended incarceration will best serve the public interest, the court, in
115 lieu of imposing the sentence authorized by section 53a-35a for the
116 crime of which such person presently stands convicted, may impose
117 the sentence of imprisonment authorized by said section for the next
118 more serious degree of felony.

119 Sec. 5. Subsection (b) of section 53a-300 of the general statutes is
120 repealed and the following is substituted in lieu thereof (*Effective from*
121 *passage*):

122 (b) When any person has been found guilty of an act of terrorism,
123 and [the court is of the opinion that] such person's history and
124 character and the nature and circumstances of such person's criminal
125 conduct indicate that an increased penalty will best serve the public
126 interest, the court shall, in lieu of imposing the sentence authorized for
127 the crime under section 53a-35a, impose the sentence of imprisonment
128 authorized by said section for the next more serious degree of felony.

129 Sec. 6. Subsection (a) of section 53a-40 of the general statutes is
130 repealed and the following is substituted in lieu thereof (*Effective from*
131 *passage*):

132 (a) A persistent dangerous felony offender is a person who:

133 (1) (A) Stands convicted of manslaughter, arson, kidnapping,
134 robbery in the first or second degree, [or] assault in the first degree or
135 burglary in the first or second degree, and (B) has been, prior to the
136 commission of the present crime, convicted of and imprisoned under a
137 sentence to a term of imprisonment of more than one year or of death,
138 in this state or in any other state or in a federal correctional institution,
139 for any of the following crimes: (i) The crimes enumerated in
140 subparagraph (A) of this subdivision or an attempt to commit any of
141 said crimes; or (ii) murder, sexual assault in the first or third degree,
142 aggravated sexual assault in the first degree or sexual assault in the

143 third degree with a firearm, or an attempt to commit any of said
144 crimes; or (iii) prior to October 1, 1975, any of the crimes enumerated
145 in section 53a-72, 53a-75 or 53a-78 of the general statutes, revision of
146 1958, revised to 1975, or prior to October 1, 1971, in this state, assault
147 with intent to kill under section 54-117, or any of the crimes
148 enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16, inclusive, 53-
149 19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83, 53-86, 53-238 and
150 53-239 of the general statutes, revision of 1958, revised to 1968, or any
151 predecessor statutes in this state, or an attempt to commit any of said
152 crimes; or (iv) in any other state, any crimes the essential elements of
153 which are substantially the same as any of the crimes enumerated in
154 subparagraph (A) of this subdivision or this subparagraph; or

155 (2) (A) Stands convicted of sexual assault in the first or third degree,
156 aggravated sexual assault in the first degree or sexual assault in the
157 third degree with a firearm, and (B) has been, prior to the commission
158 of the present crime, convicted of and imprisoned under a sentence to
159 a term of imprisonment of more than one year or of death, in this state
160 or in any other state or in a federal correctional institution, for any of
161 the following crimes: (i) Murder, manslaughter, arson, kidnapping,
162 robbery in the first or second degree, [or] assault in the first degree <u>or</u>
163 <u>burglary in the first or second degree</u>, or an attempt to commit any of
164 said crimes; or (ii) prior to October 1, 1971, in this state, assault with
165 intent to kill under section 54-117, or any of the crimes enumerated in
166 sections 53-9, 53-10, 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69,
167 53-78 to 53-80, inclusive, 53-82, 53-83 and 53-86 of the general statutes,
168 revision of 1958, revised to 1968, or any predecessor statutes in this
169 state, or an attempt to commit any of said crimes; or (iii) in any other
170 state, any crimes the essential elements of which are substantially the
171 same as any of the crimes enumerated in subparagraph (A) of this
172 subdivision or this subparagraph.

173 Sec. 7. (NEW) (*Effective from passage*) (a) For the purposes of this
174 section, "dangerous felony" means murder other than a capital felony,
175 manslaughter, arson, kidnapping, robbery in the first or second

176 degree, robbery involving an occupied motor vehicle, assault
177 constituting a felony, sexual assault in the first or third degree,
178 aggravated sexual assault in the first degree, sexual assault in the third
179 degree with a firearm, burglary in the first or second degree, stalking
180 in the first degree or stealing a firearm.

181 (b) Notwithstanding any provision of the general statutes,
182 whenever a person (1) stands convicted of a dangerous felony, and (2)
183 has, prior to the commission of the present crime, been two or more
184 times convicted of and imprisoned in this state or in any other state or
185 in a federal correctional institution for (A) a dangerous felony or any
186 predecessor crime in this state, or an attempt to commit a dangerous
187 felony, or (B) any crime in any other state the essential elements of
188 which are substantially the same as a dangerous felony in this state,
189 the court shall sentence such person to a term of life imprisonment
190 without the possibility of release.

191 (c) It shall be an affirmative defense to a charge under this section
192 that (1) as to any prior conviction on which the state is relying, the
193 defendant was pardoned on the ground of innocence, and (2) without
194 such conviction, the defendant was not two or more times convicted
195 and imprisoned as required by this section.

196 Sec. 8. Section 53a-101 of the general statutes is repealed and the
197 following is substituted in lieu thereof (*Effective from passage*):

198 (a) A person is guilty of burglary in the first degree when [he] <u>such</u>
199 <u>person</u> enters or remains unlawfully in a building with intent to
200 commit a crime therein and: (1) [He] <u>Such person</u> is armed with
201 explosives or a deadly weapon or dangerous instrument, or (2) in the
202 course of committing the offense, [he] <u>such person</u> intentionally,
203 knowingly or recklessly inflicts or attempts to inflict bodily injury on
204 anyone.

205 (b) An act shall be deemed "in the course of committing" the offense
206 if it occurs in an attempt to commit the offense or flight after the

207 attempt or commission.

208 (c) Burglary in the first degree is a class B felony [provided] and any
209 person found guilty under subdivision (1) of subsection (a) of this
210 section shall be sentenced to a term of imprisonment of which [five] six
211 years of the sentence imposed may not be suspended or reduced by
212 the court and any person found guilty under subdivision (2) of
213 subsection (a) of this section shall be sentenced to a term of
214 imprisonment of which five years of the sentence imposed may not be
215 suspended or reduced by the court.

216 Sec. 9. Section 53a-102 of the general statutes is repealed and the
217 following is substituted in lieu thereof (*Effective from passage*):

218 (a) A person is guilty of burglary in the second degree when such
219 person (1) enters or remains unlawfully in a dwelling at night with
220 intent to commit a crime therein, or (2) enters or remains unlawfully in
221 a dwelling, while a person other than a participant in the crime is
222 actually present in such dwelling, with intent to commit a crime
223 therein.

224 (b) Burglary in the second degree is a class C felony and any person
225 found guilty under this section shall be sentenced to a term of
226 imprisonment of which two years of the sentence imposed may not be
227 suspended or reduced by the court.

228 Sec. 10. Section 53a-102a of the general statutes is repealed and the
229 following is substituted in lieu thereof (*Effective from passage*):

230 (a) A person is guilty of burglary in the second degree with a
231 firearm when [he] such person commits burglary in the second degree
232 as provided in section 53a-102, as amended by this act, and, in the
233 commission of such offense, [he] such person uses or is armed with
234 and threatens the use of or displays or represents by [his] such
235 person's words or conduct that [he] such person possesses a pistol,
236 revolver, rifle, shotgun, machine gun or other firearm. No person shall

237 be convicted of burglary in the second degree and burglary in the
238 second degree with a firearm upon the same transaction but such
239 person may be charged and prosecuted for both such offenses upon
240 the same information.

241 (b) Burglary in the second degree with a firearm is a class C felony
242 [for which one year of the sentence imposed shall] and any person
243 found guilty under this section shall be sentenced to a term of
244 imprisonment of which three years of the sentence imposed may not
245 be suspended or reduced by the court.

246 Sec. 11. Section 53a-103 of the general statutes is repealed and the
247 following is substituted in lieu thereof (*Effective from passage*):

248 (a) A person is guilty of burglary in the third degree when [he] such
249 person enters or remains unlawfully in a building with intent to
250 commit a crime therein.

251 (b) Burglary in the third degree is a class D felony and any person
252 found guilty under this section shall be sentenced to a term of
253 imprisonment of which one year of the sentence imposed may not be
254 suspended or reduced by the court.

255 Sec. 12. Section 53a-103a of the general statutes is repealed and the
256 following is substituted in lieu thereof (*Effective from passage*):

257 (a) A person is guilty of burglary in the third degree with a firearm
258 when [he] such person commits burglary in the third degree as
259 provided in section 53a-103, as amended by this act, and, in the
260 commission of such offense, [he] such person uses or is armed with
261 and threatens the use of or displays or represents by [his] such
262 person's words or conduct that [he] such person possesses a pistol,
263 revolver, shotgun, rifle, machine gun or other firearm. No person shall
264 be convicted of burglary in the third degree and burglary in the third
265 degree with a firearm upon the same transaction but such person may
266 be charged and prosecuted for both such offenses upon the same

267 information.

268 (b) Burglary in the third degree with a firearm is a class D felony
269 [for which one year of the sentence imposed shall] and any person
270 found guilty under this section shall be sentenced to a term of
271 imprisonment of which two years of the sentence imposed may not be
272 suspended or reduced by the court.

273 Sec. 13. Subsection (b) of section 54-125a of the general statutes is
274 repealed and the following is substituted in lieu thereof (*Effective from*
275 *passage*):

276 (b) (1) No person convicted of any of the following offenses, which
277 was committed on or after July 1, 1981, shall be eligible for parole
278 under subsection (a) of this section: Capital felony, as provided in
279 section 53a-54b, felony murder, as provided in section 53a-54c, arson
280 murder, as provided in section 53a-54d, murder, as provided in section
281 53a-54a, or aggravated sexual assault in the first degree, as provided in
282 section 53a-70a. (2) A person convicted of burglary in the second
283 degree, as provided in section 53a-102, as amended by this act,
284 burglary in the third degree, as provided in section 53a-103, as
285 amended by this act, or an offense, other than an offense specified in
286 subdivision (1) of this subsection, where the underlying facts and
287 circumstances of the offense involve the use, attempted use or
288 threatened use of physical force against another person shall be
289 ineligible for parole under subsection (a) of this section until such
290 person has served not less than eighty-five per cent of the definite
291 sentence imposed.

292 Sec. 14. Section 54-125b of the general statutes is repealed and the
293 following is substituted in lieu thereof (*Effective from passage*):

294 (a) A person [whose eligibility for parole release is not subject to the
295 provisions of subsection (b) of section 54-125a] may be allowed to go
296 on parole in accordance with section 54-125a, as amended by this act,
297 or 54-125g without a parole hearing being conducted by a panel of the

298 Board of Pardons and Paroles if (1) an employee of the Board of
299 Pardons and Paroles has reviewed the inmate's case and recommended
300 parole be granted to such person, and (2) such recommendation has
301 been approved by at least two members of a panel of the board. A
302 parole hearing shall be conducted by a panel of the Board of Pardons
303 and Paroles if the chairperson of the board deems such a hearing to be
304 necessary or if a victim, as defined in sections 54-201 and 54-226,
305 requests such a hearing.

306 (b) The provisions of subsection (a) of this section shall not apply to
307 any person whose eligibility for parole release is subject to the
308 provisions of subsection (b) of section 54-125a, as amended by this act.

309 [(b)] (c) The chairperson of the Board of Pardons and Paroles shall
310 adopt regulations, in accordance with chapter 54, to establish criteria
311 and procedures for the administrative review and release of inmates
312 without a parole hearing as provided in this section.

313 Sec. 15. Section 53a-30 of the general statutes is repealed and the
314 following is substituted in lieu thereof (*Effective from passage*):

315 (a) When imposing sentence of probation or conditional discharge,
316 the court may, as a condition of the sentence, order that the defendant:
317 (1) Work faithfully at a suitable employment or faithfully pursue a
318 course of study or of vocational training that will equip the defendant
319 for suitable employment; (2) undergo medical or psychiatric treatment
320 and remain in a specified institution, when required for that purpose;
321 (3) support the defendant's dependents and meet other family
322 obligations; (4) make restitution of the fruits of the defendant's offense
323 or make restitution, in an amount the defendant can afford to pay or
324 provide in a suitable manner, for the loss or damage caused thereby
325 and the court may fix the amount thereof and the manner of
326 performance; (5) if a minor, (A) reside with the minor's parents or in a
327 suitable foster home, (B) attend school, and (C) contribute to the
328 minor's own support in any home or foster home; (6) post a bond or
329 other security for the performance of any or all conditions imposed; (7)

330 refrain from violating any criminal law of the United States, this state
331 or any other state; (8) if convicted of a misdemeanor or a felony, other
332 than a capital felony, a class A felony or a violation of section 21a-278,
333 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any
334 offense for which there is a mandatory minimum sentence which may
335 not be suspended or reduced by the court, and any sentence of
336 imprisonment is suspended, participate in an alternate incarceration
337 program; (9) reside in a residential community center or halfway
338 house approved by the Commissioner of Correction, and contribute to
339 the cost incident to such residence; (10) participate in a program of
340 community service labor in accordance with section 53a-39c; (11)
341 participate in a program of community service in accordance with
342 section 51-181c; (12) if convicted of a violation of subdivision (2) of
343 subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71,
344 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13)
345 if convicted of a criminal offense against a victim who is a minor, a
346 nonviolent sexual offense or a sexually violent offense, as defined in
347 section 54-250, or of a felony that the court finds was committed for a
348 sexual purpose, as provided in section 54-254, register such person's
349 identifying factors, as defined in section 54-250, with the
350 Commissioner of Public Safety when required pursuant to section 54-
351 251, 54-252 or 54-253, as the case may be; (14) be subject to electronic
352 monitoring, which may include the use of a global positioning system;
353 (15) if convicted of a violation of section 46a-58, 53-37a, 53a-181j, 53a-
354 181k or 53a-181*l*, participate in an anti-bias crime education program;
355 (16) if convicted of a violation of section 53-247, undergo psychiatric or
356 psychological counseling or participate in an animal cruelty
357 prevention and education program provided such a program exists
358 and is available to the defendant; or (17) satisfy any other conditions
359 reasonably related to the defendant's rehabilitation. The court shall
360 cause a copy of any such order to be delivered to the defendant and to
361 the probation officer, if any.

362 (b) Notwithstanding the provisions of subsection (a) of this section,
363 when imposing sentence of probation or conditional discharge for any

364 violation of section 53a-101, as amended by this act, or 53a-102, as
365 amended by this act, the court shall, as a condition of the sentence,
366 order that the defendant be subject to electronic monitoring which
367 shall include the use of a global positioning system for the duration of
368 the period of such probation or conditional discharge.

369 [(b)] (c) When a defendant has been sentenced to a period of
370 probation, the Court Support Services Division may require that the
371 defendant comply with any or all conditions which the court could
372 have imposed under subsection (a) of this section which are not
373 inconsistent with any condition actually imposed by the court.

374 [(c)] (d) At any time during the period of probation or conditional
375 discharge, after hearing and for good cause shown, the court may
376 modify or enlarge the conditions, whether originally imposed by the
377 court under this section or otherwise, and may extend the period,
378 provided the original period with any extensions shall not exceed the
379 periods authorized by section 53a-29. The court shall cause a copy of
380 any such order to be delivered to the defendant and to the probation
381 officer, if any.

382 [(d)] (e) The period of participation in an alternate incarceration
383 program, unless terminated sooner, shall not exceed the period of
384 probation authorized by section 53a-29 or two years, whichever is less.

385 [(e)] (f) The court may require that the person subject to electronic
386 monitoring pursuant to subsection (a) or (b) of this section pay directly
387 to the electronic monitoring service provider a fee for the cost of such
388 electronic monitoring services. If the court finds that the person subject
389 to electronic monitoring is indigent and unable to pay the costs of
390 electronic monitoring services, it shall waive such costs. Any contract
391 entered into by the judicial branch and the electronic monitoring
392 service provider shall include a provision stating that the total cost for
393 electronic monitoring services shall not exceed six dollars per day.
394 Such amount shall be indexed annually to reflect the rate of inflation.

395 Sec. 16. Section 53a-20 of the general statutes is repealed and the
396 following is substituted in lieu thereof (*Effective from passage*):

397 A person in possession or control of premises, or a person who is
398 licensed or privileged to be in or upon such premises, is justified in
399 using reasonable physical force upon another person when and to the
400 extent that [he] such person reasonably believes such to be necessary to
401 prevent or terminate the commission or attempted commission of a
402 criminal trespass by such other person in or upon such premises; but
403 [he] such person may use deadly physical force under such
404 circumstances only (1) in defense of a person as prescribed in section
405 53a-19, or (2) when [he] such person reasonably believes such to be
406 necessary to prevent an attempt by the trespasser to commit arson or
407 any crime of violence, or (3) to the extent that [he] such person
408 reasonably believes such to be necessary to prevent or terminate an
409 unlawful entry by force into [his] such person's dwelling, as defined in
410 section 53a-100, or place of work, and for the sole purpose of such
411 prevention or termination. There shall be a presumption that the belief
412 of a person that the use of deadly physical force is necessary to prevent
413 or terminate an unlawful entry by force into such person's dwelling is
414 a reasonable belief.

415 Sec. 17. (NEW) (*Effective from passage*) (a) Notwithstanding any
416 provision of the general statutes, any person convicted of a capital
417 felony and sentenced to death in accordance with section 53a-46a of
418 the general statutes who takes a direct appeal of such conviction to the
419 Supreme Court shall file such appeal not later than twenty-one days
420 after imposition of sentence. The Supreme Court shall consolidate such
421 appeal with the sentence review required pursuant to section 53a-46b
422 of the general statutes as provided in subsection (c) of said section.

423 (b) The defendant's briefs and the state's briefs shall be filed in
424 accordance with a schedule that will ensure that all briefs are filed not
425 later than four months after the date of the imposition of sentence.

426 (c) The Supreme Court shall schedule oral argument not later than

427 six months after the date of the imposition of sentence.

428 Sec. 18. (NEW) (*Effective from passage*) (a) An application for a writ of
429 habeas corpus pursuant to section 52-466 of the general statutes
430 challenging a capital felony conviction or the imposition of a sentence
431 of death pursuant to section 53a-46a of the general statutes shall be
432 brought not later than one hundred eighty days after the date of the
433 imposition of such sentence. Such application shall fully plead all
434 cognizable claims that the defendant's conviction or sentence was
435 entered in violation of the Constitution or laws of the state or the
436 Constitution of the United States. The court shall hold a hearing on
437 such application not later than one hundred eighty days after the filing
438 of such application.

439 (b) Notwithstanding the provisions of subsection (a) of this section,
440 the filing of a subsequent application for a writ of habeas corpus shall
441 not be barred if (1) the facts underlying the claim were unknown to the
442 defendant or the defendant's attorney and could not have been
443 ascertained by the exercise of due diligence prior to the filing of the
444 earlier application, and (2) the facts underlying the claim, if proven
445 and viewed in light of the evidence as a whole, would have reasonably
446 led the original trier of fact to have either found the defendant not
447 guilty or not sentence the defendant to death. The court shall hold a
448 hearing on such subsequent application not later than one hundred
449 eighty days after the filing of such application.

450 (c) The Chief Court Administrator shall designate one judge of the
451 Superior Court to hear and decide all applications for a writ of habeas
452 corpus filed by a person convicted of a capital felony and sentenced to
453 death in accordance with section 53a-46a of the general statutes.

454 Sec. 19. (NEW) (*Effective from passage*) Notwithstanding the
455 provisions of subsection (b) or (c) of section 54-102kk of the general
456 statutes, whenever any person convicted of a capital felony and
457 sentenced to death in accordance with section 53a-46a of the general
458 statutes files a petition pursuant to subsection (a) of said section 54-

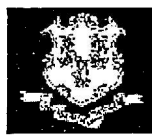
459 102kk requesting DNA testing of evidence, the court shall, without a
460 hearing, order such DNA testing.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	53a-40(h) to (m)
Sec. 2	*from passage*	53a-40a(b)
Sec. 3	*from passage*	53a-40d(b)
Sec. 4	*from passage*	53a-40f(b)
Sec. 5	*from passage*	53a-300(b)
Sec. 6	*from passage*	53a-40(a)
Sec. 7	*from passage*	New section
Sec. 8	*from passage*	53a-101
Sec. 9	*from passage*	53a-102
Sec. 10	*from passage*	53a-102a
Sec. 11	*from passage*	53a-103
Sec. 12	*from passage*	53a-103a
Sec. 13	*from passage*	54-125a(b)
Sec. 14	*from passage*	54-125b
Sec. 15	*from passage*	53a-30
Sec. 16	*from passage*	53a-20
Sec. 17	*from passage*	New section
Sec. 18	*from passage*	New section
Sec. 19	*from passage*	New section

Statement of Purpose:

To enact a "three strikes" law and revise laws on persistent dangerous felony offenders, burglary, eligibility for parole release, conditions of probation, defense of premises, death penalty appeals, habeas corpus challenges in capital felony cases and post-conviction DNA testing in death penalty cases.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



OLR RESEARCH REPORT

November 20, 2007

2007-R-0651
REVISED

PROPOSAL 4:

AN ACT CONCERNING HOME INVASION, CAREER CRIMINALS, COMMUNITY SUPERVISION AND INFORMATION SHARING RESOURCES.

By: Susan Price, Principal Analyst

You asked us to summarize Proposal 4: *AAC Home Invasion, Career Criminals, Community Supervision and Information Sharing Resources* for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

The bill makes a number of changes in laws relating to crime, incarceration and community supervision, and information sharing. It:

1. creates the 1st degree burglary offense of home invasion and requires convicted offenders to serve at least 85% of their sentences;

2. includes 1st degree burglary in the list of crimes that may give rise to a persistent dangerous felony offender conviction;

3. expands the 2nd degree burglary offense to include unlawful day time entries;

4. eliminates a factual finding currently required to trigger enhanced penalties under persistent offender and terrorism laws;

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5. substantially increases administrative driver's license suspension periods for drivers under age 21 when evidence obtained from a hospital indicates that they were driving with elevated blood alcohol levels;

6. mandates the design and implementation of SHIELD, an electronic criminal justice information sharing system;

7. requires judges to state reasons for imposing conditions on arrestees when they release them from custody;

8. authorizes $260 million in bonds for a new 1,000 bed medium security prison and 1,200 bed medical and mental health facility for offenders;

9. requires DOC to establish a voluntary overtime program for nurses and mental health workers and to fill all vacant mental health positions;

10. allows DOC, CSSD, and the Board of Pardons and Paroles to seek early community release for nonviolent offenders;

11. directs the Board of Pardons and Paroles to hire at least one forensic psychologist to assist the board in making parole release decisions;

12. requires the Department of Correction (DOC) and Judicial Branch's Court Support Services Division (CSSD) each to contract for 100 new beds in staff secure residential sex offender treatment facilities;

13. appropriates $1,775,000 for prisoner reentry services in Bridgeport, Hartford, and New Haven;

14. requires Internet posting of information about outstanding arrest warrants for probation violators and a feasibility study on posting information about all parolees and probationers online;

15. directs the Judicial Branch to hire 25 more probation officers to execute arrest warrants on probation violators;

16. increases access to victim advocates in courthouses and for victims making statements at parole board hearings; and

17. requires a needs assessment of global positioning system (GPS) monitoring for offenders on supervised release.

The bill is effective upon passage, except the home invasion and 2nd degree burglary provisions are effective January 1, 2008.

But, for the bill's provisions to go into effect on specified dates, the governor and legislature must first follow constitutional procedures for exceeding the state constitution's spending cap. Under the bill, (1) the governor must declare an emergency or the existence of extraordinary circumstances and (2) three-fifths of the members of each chamber must vote to exceed the spending cap and authorize expenditures required to implement the bill.

§§ 1, 2, 4, & 5—BURGLARY OFFENSES

Home Invasion

The bill makes home invasion a form of 1st degree burglary, punishable by imprisonment for at least 5 and up to 20 years, a fine of up to $15,000, or both. A person commits this crime by entering a dwelling:

1. while a person other than a criminal participant is present;

2. at a time when the dwelling is not open to the public, and without permission or the right to do so; and

3. intending to commit a crime inside.

By law, a dwelling is a building that someone usually occupies at night.

This offense is currently a form of 2nd degree burglary, punishable by imprisonment for up to 10 years, a fine of up to $10,000, or both.

Parole Eligibility. The bill requires people convicted of committing home invasions to serve at least 85% of their prison sentences before they can qualify for parole consideration. The 85% rule already applies to burglaries and other non-capital offenses where the actor used, or attempted or threatened to use physical force against another person (CGS § 54-125a). Currently, people convicted of committing nonviolent burglaries in occupied dwellings may be considered for parole release after serving 50% of their sentences.

Consideration under Persistent Dangerous Felony Offender Law

The bill also adds 1st degree burglary, including home invasion, to the list of felonies that can form the basis for a finding of persistent dangerous felony offender status, thus increasing the number of repeat offenders who may be subject to enhanced periods of jail and community supervision. By law, persistent dangerous felony offenders are those convicted of specified felonies with prior convictions for specified felonies.

Table 1 compares the persistent dangerous felony offender classification under current law and the bill.

Table 1: Persistent Dangerous Felony Offender
(proposed changes in bold italics)

Current Conviction (§53a-40(a)(1))		
Manslaughter	Arson	Kidnapping
1st or 2nd degree robbery	1st degree assault	***1st degree burglary, including home invasion***
Prior Conviction (Sentenced to at Least 1 Yr.)		
Murder	Manslaughter	Arson
Kidnapping	1st or 2nd degree robbery	1st degree assault
1st degree sexual assault, including aggravated	3rd degree sexual assault, including with a firearm	***1st degree burglary, including home invasion***
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements		

OR

Current Conviction (§53(a)(40)(a(2))		
1st degree sexual assault, including aggravated	3rd degree sexual assault, including with firearm	
Prior Conviction (Sentenced to at Least 1 Yr.)		
Murder	Manslaughter	Arson
Kidnapping	1st or 2nd degree robbery	1st degree assault
	1st degree burglary, including home invasion	
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements		

Sentence Enhancement
Current conviction is strike 2: Up to 40 yrs.
Current conviction is strike 3: Up to life

Second Degree Burglary

Currently, a person commits 2nd degree burglary when he or she enters or remains unlawfully in a dwelling at night with the intent to commit a crime inside. The bill expands the crime to include offenses committed during the day.

§§ 5 - 9—ENHANCED PENALTIES FOR REPEAT OFFENDERS AND TERRORISTS

Currently, to obtain a conviction under the persistent offender and terrorism laws, the state must prove that a person awaiting sentencing for a covered crime has (1) the requisite number of prior convictions and (2) a history and character that, considered along with the nature and circumstances of his or her criminal conduct, indicate that extended incarceration (and, in some cases, extended post-release supervision) will best serve the public interest.

The bill eliminates the second element of proof. As under existing law, the court must impose the enhanced penalties on those convicted as:

1. persistent dangerous (a) felony or (b) sexual offenders;

2. persistent offenders of crimes involving (a) bigotry or bias or (b) assault, stalking, trespass, threatening, harassment, or criminal violations of protective or restraining orders; and

3. terrorists.

The court may impose the enhanced penalties on those convicted as persistent (1) serious felony or sexual offenders, (2) larceny or felony offenders, and (3) operating under the influence felony offenders.

§ 28—ADMINISTRATIVE DRIVER'S LICENSE SUSPENSIONS

When evidence lawfully obtained from a hospital indicates that a driver involved in an accident had a blood alcohol level exceeding legal limits (.08% or more for adults and .02% or more for those under age 21), the law permits the Department of Motor Vehicles commissioner to administratively suspend his or her driver's license. The suspension period is currently 90 days for a first offense and up to one year for second and subsequent offenses.

The bill, instead, imposes the same suspension periods as are applicable to cases in which a driver's breath test indicates a blood alcohol level over the legal limit. The change will substantially increase license suspension periods for drivers under age 21. For older drivers, suspension periods will increase in some situations and decrease in others. The bill does not alter the 90-day suspension period for first-time-offending adults with elevated blood alcohol levels of less than .16%.

Table 1 compares suspension periods under current law and the bill.

Table 1: Administrative Per Se License Suspension Periods:—Test Results Obtained from Hospital

Per Se Offense	*First Offense*	*Second Offense*	*Third or Subsequent Offense*
BAC at least .08% but less than .16%	**Current:** 90 days **Bill:** 90 days	**Current:** up to 1 yr. **Bill:** 9 mos.	**Current:** up to 1 yr. **Bill:** 2 yrs.
BAC of .16% or more	**Current:** 90 days **Bill:** 120 days	**Current:** up to 1 yr. **Bill:** 10 mos.	**Current:** up to 1 yr. **Bill:** 2 yrs., 6 mos.
BAC of .02% or more (driver is under 21)	**Current:** 90 days **Bill:** 180 days	**Current:** up to 1 yr. **Bill:** 18 mos.	**Current:** up to 1 yr. **Bill:** 4 yrs.

§§ 12—SHIELD CRIMINAL JUSTICE INFORMATION SYSTEM

The bill directs the Office of Policy and Management (OPM) to design and implement SHIELD, a comprehensive, statewide information technology system. Its purpose is to facilitate immediate, seamless, and comprehensive information sharing among all of the following:

1. state agencies, departments, and boards and commissions that have cognizance over law enforcement matters;
2. local police departments; and
3. law enforcement officials.

System Requirements

SHIELD must include a centralized tracking and information database, electronic documentary repository, and analytical tools. They must be developed with state-of-the-art technology.

Tracking and Information Database. The central, integrated tracking and information database must provide:

1. complete biographical information and vital statistics for all living offenders and former offenders; and

2. tracking information for all offenders in the criminal justice system, from investigation through incarceration and release, and seamless integration with electronic monitoring systems, global positioning systems, and offender registries.

Electronic Records Repository. The central, integrated electronic repository of criminal justice records and documents must provide access to:

1. state and local police reports, presentence investigations and reports, medical reports, criminal records, incarceration and parole records, and court records and transcripts, whether the records and documents normally exist in electronic or hard copy form; and

2. scanning and processing facilities to ensure that records and documents are integrated into the system and updated immediately.

Centralized Analytical Tools. The centralized, analytical tools must be bundled together in a custom-designed enterprise system that includes:

1. tools that empower and enhance criminal case assessment, sentencing, and plea bargain analysis and pardon, parole, probation and release decisions;

2. tools that empower and enhance forecasting concerning recidivism and future offenses for each individual offender; and

3. collaborative functionality that enables seamless cross-department communication, information exchange, central note-taking, and comment capabilities for each offender.

State-of-the-art Technology. The bill directs that SHIELD be developed with state-of-the-art relational database technology and other appropriate software applications. The system must be:

1. completely Internet-accessible by all authorized criminal justice officials;

2. fully integrated with information systems and database applications used by state and local police and law enforcement departments; the Office of the Chief State's Attorney; Judicial, Correction, and Public Safety departments; Board of Pardons and Paroles; and community-based program and service contractors;

3. indexed and cross-referenced by offender name, residence, community, criminal offense, and any other data points necessary for the effective administration of the state's criminal justice system;

4. fully text searchable;

5. secure and protected by high-level security and controls;

6. accessible to the public, subject to appropriate privacy protections and controls; and

7. monitored and administered by the Department of Information Technology.

Private, third-party vendors may provide and service the system's major software and hardware.

Criminal Justice Information System Commission

The bill establishes the 11-member Criminal Justice Information System Commission which has approval authority over the new system. Commission members are the:

1. OPM secretary;

2. Judiciary Committee chairpersons, or their designees;

3. chief state's attorney;

4. Correction, Public Safety, Mental Health and Addiction Services; and Children and Families commissioners;
5. Board of Pardons and Paroles chairperson;

6. Information Technology Department's chief information officer; and

7. municipal police department chief appointed by the Connecticut Police Chiefs Association.

Commission Responsibilities. The commission must submit biannual status reports to the Judiciary and Appropriations committees beginning July 1, 2008. In conjunction with the January reports, the commission must make a presentation to the committees during the ensuing regular session. The presentation must cover the status of the design and implementation of SHIELD and a specific itemization of any additional resources that are needed.

§ 10—COURT FINDINGS RELATED TO RELEASE CONDITIONS

When a person is arrested for a crime for which bail release is available, the law specifies factors that judges may take into account in determining what conditions of release will reasonably assure (1) the person's appearance in court and (2) that the safety of any other person will not be endangered. The factors are:

1. the nature and circumstances of the offense;

2. the arrestee's criminal history, record of appearing in court after being released on bail, family and community ties, employment record, and financial resources, character, and mental condition;

3. the number and seriousness of pending charges, the weight of the evidence against the arrestee, and whether he or she has previously been convicted of similar offenses while released on bond;

4. the arrestee's history of violence and, based on the arrestee's expressed intention, the likelihood that he or she will commit another crime while released.

The bill requires the court to state for the record the factors it considered at the time it imposes conditions of release. It must also state any findings about the danger, if any, that the arrestee might pose to the safety of any other person when this consideration caused it to impose specific conditions of release.

§ 11—EARLY RELEASE FOR NONVIOLENT OFFENDERS

The bill allows the DOC commissioner, Probations and Paroles Board chairperson, and the Judicial Branch's CSSD executive director to file court applications to review a nonviolent offender's prison sentence when the applicant believes that the prisoner could be more suitably supervised in the community. Under the bill, a nonviolent offense is one that does not involve the use, attempted use, or threatened use of

physical force against another person. When the prisoner who is the subject of the application is serving a sentence of more than three years, the bill appears to require the prosecutor's agreement.

By law, judges can, after holding hearings, reduce sentences or order prisoners to be discharged with or without community supervision. Supervision can be ordered for a period up to the maximum prison sentence that could originally have been imposed.

§§ 17 - 19—PUBLIC PROBATION AND PAROLE INFORMATION

The bill directs the Judicial Branch's Court Support Services Division (CSSD) to place on the Internet (1) information concerning all outstanding arrest warrants for probation violations, including the probationer's name, address, and photograph and (2) quarterly reports that list, by issuing court, all outstanding arrest warrants for probation violations that include the probationer's name and address and the date the warrant was issued.

Feasibility Study

The bill also directs the Board of Pardons and Paroles and CSSD to jointly study the feasibility of posting information concerning probationers and parolees available on the Internet. The posted information must include the (1) person's name and address, (2) the offenses for which he or she was convicted, (3) his or her prison and probation or parole sentence length, and (4) contact information for his or her probation or parole officer. The Internet site must be searchable by name and address.

The agencies must submit findings and recommendations to the Judiciary Committee by February 6, 2008.

§§ 13 - 16—BONDING FOR NEW CORRECTIONAL FACILITIES

The bill authorizes the State Bond Commission to issue up to $260 million in general obligation bonds for two new facilities for people in Department of Correction (DOC) custody. DOC may use up to $110 million to plan and construct a 1,000 bed medium security correctional institution, and the Department of Public Works may use up to $150 million to plan and construct a 1,200 bed medical and mental health facility for people under DOC custody. The bill makes both projects "correctional facility projects" which by law are generally exempt from state competitive bid procedures.

§ 26—VOLUNTARY OVERTIME PROGRAM FOR DOC NURSES AND MENTAL HEALTH WORKERS

The bill directs DOC to establish a special overtime program for nurses and mental health staff in all correctional facilities targeted at reducing mandatory overtime and improving staff recruitment and retention. The program must allow these employees to volunteer in advance for unfilled shifts that DOC would otherwise fill by requiring mandatory overtime.

§ 29—APPROPRIATIONS FOR REENTRY SERVICES

In FY 2008, the bill appropriates $775,000 to DOC to contract with a nonprofit organization to provide reentry services in the Bridgeport area and $1 million to the Judicial Branch for reentry services in the Hartford and New Haven areas. By law, reentry services are intended to assist offenders transition from prison to community life and reduce their chances of reoffending. They include education and job training, mental health and substance abuse treatment, and supported housing.

§§ 21 - 22—VICTIM ADVOCATES

The bill directs the Judicial Branch to ensure that there is a domestic violence victim advocate available at each geographical area and judicial district courthouse. These advocates assist domestic violence victims at court proceedings.

The bill also directs the Office of Victim Services to assign two full-time victim advocates to provide assistance to victims who appear before Board of Pardons and Paroles panels or submit written statements to them.

§ 18—ELECTRONIC MONITORING NEEDS STUDY

The bill requires DOC, CSSD and the Board of Pardons and Paroles to determine how many people released into the community on probation, parole, or supervised release should be subject to global positioning system (GPS) monitoring because of the public safety risk they present. The agencies must also determine what additional resources are needed to ensure that the monitoring continues as long as an offender remains under community supervision.

The agencies must submit their findings and recommendations to the Judiciary Committee by February 6, 2008.

SP:dw

OLR RESEARCH REPORT

November 14, 2007 2007-R-0646

PROPOSAL #6

AN ACT CONCERNING OCCUPIED HOME INVASION

By: George Coppolo, Chief Attorney

You asked us to summarize Proposal 6, *An Act Concerning Occupied Home Invasion*, for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

This bill establishes the new crime of "occupied home invasion," making a violation a class A felony, and eliminates the conduct specified in the new crime from the crime of burglary in the second degree, which is a class C felony. Thus the bill increases the penalty for entering or remaining unlawfully in a dwelling with intent to commit a crime in it, while a person other than a participant in the crime is actually present in the dwelling. A class A felony is punishable by a sentence of 10 to 25 years; a class C felony carries a sentence of up to 10 years (see BACKGROUND-Penalty for a Class A felony).

The bill requires people convicted of the new crime of "occupied home invasion" to serve at least 85% of their sentence before they are eligible to apply for a parole. Under current law, people convicted of this conduct are eligible to apply for parole after serving 50% of their sentence. (Under current law, people who commit a crime that involves the use or threat of violence must serve at least 85% of their sentence before being eligible for parole. Thus, under current law, people who are convicted of

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first degree burglary, second degree burglary with a firearm, or third degree burglary with a firearm must serve 85% before being eligible for parole.)

The bill includes the new offense of occupied home invasion under the "persistent dangerous felony offender law," thus allowing courts to consider an enhanced sentence for people who stand convicted of occupied home invasion, or who have previously been convicted of this offense or other specified felonies.

The bill eliminates the court's authority to impose an enhanced sentence of up to 40 years for persistent dangerous felony offenders who have been convicted once and sentenced for certain specified felonies before they committed the offense they stand convicted of.

Under current law the court may sentence a persistent dangerous felony offender to a prison term of up to 60 years if (1) the persistent offender has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the specified crimes and (2) the court concludes, that extended incarceration serves the public interest. The bill instead requires the court to sentence the offender to 60 years, instead of up to 60 years. But the bill authorizes the court, when it is determining the number of prior convictions for sentencing purposes, in the interests of justice, to strike an allegation that the offender had previously been convicted of, and imprisoned for, one the specified crimes so that the offender has only one prior conviction. If this occurs, the bill requires the court to sentence the offender to a prison term that is twice the term otherwise provided as punishment for the crime of which the offender presently stands convicted.

Finally, the bill eliminates the requirement that the court must conclude that extended incarceration serves the public interest. Thus, in cases where the defendant opted for a jury trial, the jury would have to reach this conclusion before the court imposed the enhanced penalty (See BACKGROUND-Related Case and Other Persistent Offender Laws).

EFFECTIVE DATE: Upon passage

OCCUPIED HOME INVASION (§§ 1, 2 & 3)

The bill increases, from a class C felony to a class A felony, the penalty for a person who enters or remains unlawfully in a dwelling with intent to commit a crime in it, while a person other than a participant in the crime is actually present in the dwelling. The penalty for a class C

felony is a prison term of up to 10 years, or a fine of up to $10,000, or both; the penalty for a class A felony is a prison term of 10 to 25 years, and a fine of up to $20,000 or both.

The bill does this by establishing the new crime of "occupied home invasion," making a violation a class A felony, and eliminating the conduct specified in the new crime from the crime of burglary in the second degree, which is a class C felony.

Under current law, unchanged by the bill, it is a class C felony to enter or remain unlawfully in a dwelling at night with intent to commit a crime.

Under current law, unchanged by the bill, a person "enters or remains unlawfully" in or upon premises, when the premises, at the time of such entry or remaining, are not open to the public and when the actor is not otherwise licensed or privileged to do so. A "dwelling" is a building which is usually occupied by a person lodging there at night, whether or not a person is actually present.

REQUIREMENT TO SERVE 85% OF SENTENCE (§ 4)

The bill requires people convicted of the new crime of "occupied home invasion" to serve at least 85% of their sentence in prison before they are eligible to apply for a parole. Under current law, people convicted of the behavior the new crime covers (entering or remaining unlawfully in a dwelling, while a person other than a participant in the crime is actually present in the dwelling, with intent to commit a crime in it) are eligible to apply for parole after serving 50% of their sentence.

Under current law, people who commit a crime that involves the use or threat of violence must serve at least 85% of their sentence before being eligible for parole. Thus, under current law, people who are convicted of first degree burglary, second degree burglary with a firearm, or third degree burglary with a firearm must serve 85% before being eligible for parole (see BACKGROUND - Parole Eligibility for Parole and Temporary Parole Policy).

PERSISTENT DANGEROUS FELONY OFFENDER (§§ 5 & 6)

The law, under certain circumstances, authorizes courts to sentence people classified as a persistent dangerous felony offender to a longer prison term than the offense they are convicted of allows.

The bill includes the new offense of occupied home invasion under the persistent dangerous felony offender law classification, thus allowing courts to consider an enhanced sentence for people who stand convicted of occupied home invasion, and who have previously been convicted of this offense or other specified felonies.

Under current law, the court may sentence a persistent dangerous felony offender to up to 40 years in prison instead of to the term that applies to the crime he stands convicted of if:

1. the offender has been found to be a persistent dangerous felony offender because on one previous occasion he or she has been convicted and sentenced to a prison term of more than one year for a specified felony, and

2. the court concludes that the offender's history and character and the nature and circumstances of the offender's criminal conduct indicate that extended incarceration and lifetime supervision will best serve the public interest.

This type of enhanced sentencing provision is sometimes referred to as two strikes—the current conviction and one previous conviction.

The bill eliminates the court's authority to impose this enhanced sentence for such offenders who have one prior offense.

Under current law, the court may sentence a persistent dangerous felony offender to up to 60 years in prison, instead of to the term that applies to the crime he or she stands convicted of, if the offender has, at separate times prior to the commission of the present crime, been twice convicted of, and imprisoned for any of the specified crimes, and the court reaches the conclusion about extended incarceration. Although the law specifies a sentence of up to life imprisonment, apparently this means a 60 year sentence because the law defines a life sentence as 60 years unless the offense explicitly provides otherwise (CGS § 53a-35h). This type of enhanced penalty law is often referred to as a three strikes law because it involves a current offense and two prior convictions.)

The bill instead requires the court to sentence the defendant to life imprisonment (60 years), instead of up to life imprisonment, for an offender with two prior convictions.

But the bill instead authorizes the court, when it is determining the number of prior convictions for sentencing purposes, in the interests of justice, to strike an allegation that the offender had previously been

convicted of, and imprisoned for, one the specified crimes so that the offender has only one prior conviction. If this occurs, the bill requires the court to sentence the offender to a prison term that is twice the term otherwise provided as punishment for the crime of which the offender currently stands convicted.

Table 1 lists the crimes and sentence enhancements under the persistent dangerous felony offender law, with the proposed changes in bold italics. The table reflects two separate paths to becoming a persistent dangerous felony offender. The first involves current offenses not involving sexual offenses; the second involves current offenses involving sexual offenses.

Persistent Dangerous Felony Offender
(Proposed changes in bold italics)

CURRENT CONVICTION-NON-SEXUAL OFFENSE (§53a-40(a)(1))		
Manslaughter	Arson	Kidnapping
1st or 2nd degree robbery	1st degree assault	***Occupied Home Invasion***
PRIOR CONVICTION (SENTENCED TO AT LEAST 1 YR.)		
Murder	Manslaughter	Arson
Kidnapping	1st or 2nd degree robbery	1st degree assault
1st degree sexual assault, including aggravated	3rd degree sexual assault, including with a firearm	***Occupied Home Invasion***
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements (See Background)		

OR

CURRENT CONVICTION- SEXUAL OFFENSE (§53(a)(40)(a(2))		
1st degree sexual assault, including aggravated	3rd degree sexual assault, including with firearm	
PRIOR CONVICTION (SENTENCED TO AT LEAST 1 YR.)		
Murder	Manslaughter	Arson
Kidnapping	1st or 2nd degree robbery	1st degree assault
Occupied Home Invasion		
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements		

Finally, the bill eliminates the requirement that the court make the required conclusions that extended incarceration and lifetime supervision will best serve the public interest. Thus, in cases where the defendant opted for a jury trial, the jury would have to reach this conclusion before the court imposed the enhanced penalty (See BACKGROUND -Related Case and Persistent Offender Laws).

BACKGROUND

Penalty for a Class A Felony

The law requires a court to impose a sentence of 10 to 25 years in prison for a class A felony other than murder (CGS § 53a-35a(3)). The court may only suspend a prison sentence entirely, or in part, if it couples the suspension with a period of probation or conditional discharge (CGS § 53a-28(b)). The court is not authorized to impose probation or conditional discharge on a person convicted of a class A felony (CGS § 53a-29(a) and (b)). Thus, the court must sentence a person convicted of a class A felony to a prison term of at least 10 years, and may not suspend any portion of the sentence it imposes.

Parole Eligibility

Normally a prisoner is ineligible to be considered for parole until he serves at least 50% of his sentence in prison (CGS § 54-154a(a)). But where the underlying facts and circumstances of the offense involve the use, attempted use, or threatened use of physical force against another person the inmate is ineligible for parole until he or she has served at least 85% of the sentence imposed (CGS § 54-124a(b)(2)).

By law people convicted of the following offenses are ineligible for parole: capital felony, felony murder, arson murder, murder, or aggravated sexual assault in the first degree (CGS § 54-154a(b)(1)).

Temporary Parole Policy

During September of 2007, Governor Rell directed the Board of Pardons and Paroles to immediately suspend approval of future parole for any inmate serving a sentence involving a violent offense. Apparently, this policy will remain in place until reforms of the parole process are complete.

Related Case

The state Supreme Court recently held that the statute that mandates sentence enhancement when the defendant is found to be a persistent offender and the trial court, rather than the jury, determines that extended incarceration will best serve the public interest, given the defendant's history, character, and the nature and circumstances of his or criminal offenses, violates a defendant's federal constitutional right to trial by jury (*State v. Bell*, 283 Conn. 748, 2007 WL 2481026, (2007).

The court ruled that the defendant was entitled to a new sentencing proceeding wherein the jury must make the determination, beyond a reasonable doubt, whether, upon consideration of the relevant factors specified in the persistent felony offender law, extended incarceration will best serve the public interest.

The court noted in its ruling that in those cases in which the defendant chooses to waive his right to a jury trial under the persistent felony offender law, the court may continue to make the requisite finding. Additionally, the court properly may impose an enhanced sentence if the defendant admits to the fact that extended incarceration is in the public interest.

Persistent Offender Laws-Jury Finding

The bill eliminates the requirement that the court make the required conclusions that trigger the enhanced penalty for the persistent dangerous felony offender law. But it does not make this change to the provision that increases the penalty by one class for acts of terrorism and the other categories of persistent offenders, which all contain similar language to that considered by the court in its ruling. The other categories of persistent offenders are:

1. dangerous sexual offenders,
2. serious felony offenders,
3. serious sexual offenders,
4. felony offenders,
5. bigotry or bias offenders,
6. stalking and harassment-related offenders,

7. larceny offenders, and

8. operating under the influence felony offenders.

Persistent Offender Law-Specified Predecessor Offenses

The persistent dangerous felony offender law specifies certain predecessor statutes that make someone eligible to be considered a persistent dangerous felony offender. These are reflected in Table 2.

Table 2: Specified Predecessor Offenses

Statutory Revision	*Statute Section*	*Offense*
CGS revision of 1958 revised to 1975	53a-72	Rape 1st degree
	53a-75	Rape in 2d degree
	53a-78	Sexual contact in the 1st degree
CGS revision of 1958 revised to 1968	Statute	Offense
	54-117	Assault with intent to kill
	53-9	Murder
	53-10	First degree murder
	53-11	Homicide or serious assault
	53-12	Assault with intent to murder
	53-13	Manslaughter
	53-14	Maiming with intern to disfigure
	53-15	Assault with acid or other burning substance
	53-16	Aggravated assault
	53-19	Binding or administering of drugs with intent to commit a crime
	53-21	Injury or risk of injury to a minor
	53-69	Burglary with personal violence
	53-79	Breaking and entering with violence
	53-79	Burglary with explosives
	53-80	Manufacturing, transporting, or disposing of explosives
	53-82	Arson if a vessel, dwelling, church, theatre, or other structure for public gathering
	53-83	Arson of other buildings or vessels
	53-86	Burning of insured property
	53-238	Rape
	53-239	Assault with intent to commit rape

GC:dw

WORKING DRAFT

General Assembly **Raised Bill No.**

No. 7

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING CRIMINAL SENTENCING AND THE PAROLE PROCESS.

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

1 Section 1. (NEW) (*Effective from passage*) (a) Notwithstanding any
2 other provision of the general statutes, whenever a person (1) stands
3 convicted of manslaughter, arson, kidnapping, robbery in the first or
4 second degree, robbery involving an occupied motor vehicle, assault
5 constituting a felony, sexual assault in the first or third degree,
6 aggravated sexual assault in the first degree, sexual assault in the third
7 degree with a firearm, burglary in the first or second degree, stalking
8 in the first degree or stealing a firearm, and (2) has been, prior to the
9 commission of the present crime, two or more times convicted of and
10 imprisoned in this state or in any other state or in a federal correctional
11 institution for (A) any of the crimes enumerated in subdivision (1) of
12 this subsection or any predecessor statutes in this state, or an attempt
13 to commit any of said crimes, or (B) in any other state, any crimes the
14 essential elements of which are substantially the same as any of the
15 crimes enumerated in subdivision (1) of this subsection, the court shall
16 sentence such person to a term of life imprisonment without the

17 possibility of release.

18 (b) It shall be an affirmative defense to a charge under this section
19 that (1) as to any prior conviction on which the state is relying the
20 defendant was pardoned on the ground of innocence, and (2) without
21 such conviction, the defendant was not two or more times convicted
22 and imprisoned as required by this section.

23 Sec. 2. Section 53a-40 of the general statutes is repealed and the
24 following is substituted in lieu thereof (*Effective from passage*):

25 (a) A persistent dangerous felony offender is a person who:

26 (1) (A) Stands convicted of manslaughter, arson, kidnapping,
27 robbery in the first or second degree, or assault in the first degree, and
28 (B) has been, prior to the commission of the present crime, convicted of
29 and imprisoned under a sentence to a term of imprisonment of more
30 than one year or of death, in this state or in any other state or in a
31 federal correctional institution, for any of the following crimes: (i) The
32 crimes enumerated in subparagraph (A) of this subdivision or an
33 attempt to commit any of said crimes; or (ii) murder, sexual assault in
34 the first or third degree, aggravated sexual assault in the first degree or
35 sexual assault in the third degree with a firearm, or an attempt to
36 commit any of said crimes; or (iii) prior to October 1, 1975, any of the
37 crimes enumerated in section 53a-72, 53a-75 or 53a-78 of the general
38 statutes, revision of 1958, revised to 1975, or prior to October 1, 1971, in
39 this state, assault with intent to kill under section 54-117, or any of the
40 crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16,
41 inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83, 53-
42 86, 53-238 and 53-239 of the general statutes, revision of 1958, revised
43 to 1968, or any predecessor statutes in this state, or an attempt to
44 commit any of said crimes; or (iv) in any other state, any crimes the
45 essential elements of which are substantially the same as any of the
46 crimes enumerated in subparagraph (A) of this subdivision or this
47 subparagraph; or

48 (2) (A) Stands convicted of sexual assault in the first or third degree,
49 aggravated sexual assault in the first degree or sexual assault in the
50 third degree with a firearm, and (B) has been, prior to the commission
51 of the present crime, convicted of and imprisoned under a sentence to
52 a term of imprisonment of more than one year or of death, in this state
53 or in any other state or in a federal correctional institution, for any of
54 the following crimes: (i) Murder, manslaughter, arson, kidnapping,
55 robbery in the first or second degree or assault in the first degree, or an
56 attempt to commit any of said crimes; or (ii) prior to October 1, 1971, in
57 this state, assault with intent to kill under section 54-117, or any of the
58 crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16,
59 inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83 and
60 53-86 of the general statutes, revision of 1958, revised to 1968, or any
61 predecessor statutes in this state, or an attempt to commit any of said
62 crimes; or (iii) in any other state, any crimes the essential elements of
63 which are substantially the same as any of the crimes enumerated in
64 subparagraph (A) of this subdivision or this subparagraph.

65 (b) A persistent dangerous sexual offender is a person who (1)
66 stands convicted of sexual assault in the first or third degree,
67 aggravated sexual assault in the first degree or sexual assault in the
68 third degree with a firearm, and (2) has been, prior to the commission
69 of the present crime, convicted of and imprisoned under a sentence to
70 a term of imprisonment of more than one year, in this state or in any
71 other state or in a federal correctional institution, for (A) any of the
72 crimes enumerated in subdivision (1) of this subsection, or (B) prior to
73 October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75
74 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or
75 prior to October 1, 1971, in this state, any of the crimes enumerated in
76 section 53-238 or 53-239 of the general statutes, revision of 1958,
77 revised to 1968, or any predecessor statutes in this state, or an attempt
78 to commit any of said crimes, or (C) in any other state, any crimes the
79 essential elements of which are substantially the same as any of the
80 crimes enumerated in subdivision (1) of this subsection or this
81 subdivision.

82 (c) A persistent serious felony offender is a person who (1) stands
83 convicted of a felony, and (2) has been, prior to the commission of the
84 present felony, convicted of and imprisoned under an imposed term of
85 more than one year or of death, in this state or in any other state or in a
86 federal correctional institution, for a crime. This subsection shall not
87 apply where the present conviction is for a crime enumerated in
88 subdivision (1) of subsection (a) of this section and the prior conviction
89 was for a crime other than those enumerated in subsection (a) of this
90 section.

91 (d) A persistent serious sexual offender is a person, other than a
92 person who qualifies as a persistent dangerous sexual offender under
93 subsection (b) of this section, who qualifies as a persistent serious
94 felony offender under subsection (c) of this section and the felony of
95 which such person presently stands convicted is a violation of
96 subdivision (2) of subsection (a) of section 53-21, or section 53a-70, 53a-
97 70a, 53a-70b, 53a-71, 53a-72a or 53a-72b and the prior conviction is for
98 a violation of section 53-21 of the general statutes, revised to January 1,
99 1995, involving sexual contact, committed prior to October 1, 1995, a
100 violation of subdivision (2) of section 53-21 of the general statutes,
101 committed on or after October 1, 1995, and prior to October 1, 2000, a
102 violation of subdivision (2) of subsection (a) of section 53-21 or a
103 violation of section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b.

104 (e) A persistent larceny offender is a person who (1) stands
105 convicted of larceny in the third degree in violation of the provisions of
106 section 53a-124 in effect prior to October 1, 1982, or larceny in the
107 fourth, fifth or sixth degree, and (2) has been, at separate times prior to
108 the commission of the present larceny, twice convicted of the crime of
109 larceny.

110 (f) A persistent felony offender is a person who (1) stands convicted
111 of a felony other than a class D felony, and (2) has been, at separate
112 times prior to the commission of the present felony, twice convicted of
113 a felony other than a class D felony.

114 (g) It shall be an affirmative defense to the charge of being a
115 persistent offender under this section that (1) as to any prior conviction
116 on which the state is relying the defendant was pardoned on the
117 ground of innocence, and (2) without such conviction, the defendant
118 was not two or more times convicted and imprisoned as required by
119 this section.

120 (h) When any person has been found to be a persistent dangerous
121 felony offender, and [the court is of the opinion that] such person's
122 history and character and the nature and circumstances of such
123 person's criminal conduct indicate that extended incarceration and
124 lifetime supervision will best serve the public interest, the court, in lieu
125 of imposing the sentence of imprisonment authorized by section
126 53a-35 for the crime of which such person presently stands convicted,
127 or authorized by section 53a-35a if the crime of which such person
128 presently stands convicted was committed on or after July 1, 1981,
129 shall sentence such person to a term of imprisonment of not more than
130 forty years and, if such person has, at separate times prior to the
131 commission of the present crime, been twice convicted of and
132 imprisoned for any of the crimes enumerated in subdivision (2) of
133 subsection (a) of this section, sentence such person to a term of
134 imprisonment of not more than life.

135 (i) When any person has been found to be a persistent dangerous
136 sexual offender, and [the court is of the opinion that] such person's
137 history and character and the nature and circumstances of such
138 person's criminal conduct indicate that extended incarceration and
139 lifetime supervision will best serve the public interest, the court, in lieu
140 of imposing the sentence of imprisonment authorized by section 53a-
141 35a for the crime of which such person presently stands convicted,
142 shall sentence such person to a term of imprisonment and a period of
143 special parole pursuant to subsection (b) of section 53a-28 which
144 together constitute a sentence of imprisonment for life, as defined in
145 section 53a-35b.

146 (j) When any person has been found to be a persistent serious felony
147 offender, and [the court is of the opinion that] such person's history
148 and character and the nature and circumstances of such person's
149 criminal conduct indicate that extended incarceration will best serve
150 the public interest, the court in lieu of imposing the sentence of
151 imprisonment authorized by section 53a-35 for the crime of which such
152 person presently stands convicted, or authorized by section 53a-35a if
153 the crime of which such person presently stands convicted was
154 committed on or after July 1, 1981, may impose the sentence of
155 imprisonment authorized by said section for the next more serious
156 degree of felony.

157 (k) When any person has been found to be a persistent serious
158 sexual offender, and [the court is of the opinion that] such person's
159 history and character and the nature and circumstances of such
160 person's criminal conduct indicate that extended incarceration will best
161 serve the public interest, the court, in lieu of imposing the sentence of
162 imprisonment authorized by section 53a-35a for the crime of which
163 such person presently stands convicted, may impose a sentence of
164 imprisonment and a period of special parole pursuant to subsection (b)
165 of section 53a-28 which together constitute the maximum sentence
166 specified by section 53a-35a for the next more serious degree of felony.

167 (l) When any person has been found to be a persistent larceny
168 offender, and [the court is of the opinion that] such person's history
169 and character and the nature and circumstances of such person's
170 criminal conduct indicate that extended incarceration will best serve
171 the public interest, the court, in lieu of imposing the sentence
172 authorized by section 53a-36 for the crime of which such person
173 presently stands convicted, may impose the sentence of imprisonment
174 for a class D felony authorized by section 53a-35, if the crime of which
175 such person presently stands convicted was committed prior to July 1,
176 1981, or authorized by section 53a-35a, if the crime of which such
177 person presently stands convicted was committed on or after July 1,
178 1981.

179 (m) When any person has been found to be a persistent felony
180 offender, and [the court is of the opinion that] such person's history
181 and character and the nature and circumstances of such person's
182 criminal conduct indicate that extended incarceration will best serve
183 the public interest, the court, in lieu of imposing the sentence
184 authorized by section 53a-35a for the crime of which such person
185 presently stands convicted, may impose the sentence of imprisonment
186 authorized by said section for the next more serious degree of felony;
187 provided the sentence imposed may not be less than three years, and
188 provided further three years of the sentence so imposed may not be
189 suspended or reduced by the court.

190 Sec. 3. Subsection (b) of section 53a-40a of the general statutes is
191 repealed and the following is substituted in lieu thereof (*Effective from*
192 *passage*):

193 (b) When any person has been found to be a persistent offender of
194 crimes involving bigotry or bias, and [the court is of the opinion that]
195 such person's history and character and the nature and circumstances
196 of such person's criminal conduct indicate that an increased penalty
197 will best serve the public interest, the court shall: (1) In lieu of
198 imposing the sentence authorized for the crime under section 53a-35a
199 if the crime is a felony, impose the sentence of imprisonment
200 authorized by said section for the next more serious degree of felony,
201 or (2) in lieu of imposing the sentence authorized for the crime under
202 section 53a-36 if the crime is a misdemeanor, impose the sentence of
203 imprisonment authorized by said section for the next more serious
204 degree of misdemeanor, except that if the crime is a class A
205 misdemeanor the court shall impose the sentence of imprisonment for
206 a class D felony as authorized by section 53a-35a.

207 Sec. 4. Subsection (b) of section 53a-40d of the general statutes is
208 repealed and the following is substituted in lieu thereof (*Effective from*
209 *passage*):

210 (b) When any person has been found to be a persistent offender of

211 crimes involving assault, stalking, trespass, threatening, harassment,
212 criminal violation of a protective order or criminal violation of a
213 restraining order, and [the court is of the opinion that] such person's
214 history and character and the nature and circumstances of such
215 person's criminal conduct indicate that an increased penalty will best
216 serve the public interest, the court shall, in lieu of imposing the
217 sentence authorized for the crime under section 53a-36 or section 53a-
218 35a, as applicable, impose the sentence of imprisonment authorized by
219 said section 53a-36 or section 53a-35a for the next more serious degree
220 of misdemeanor or felony, except that if the crime is a class A
221 misdemeanor the court shall impose the sentence of imprisonment for
222 a class D felony, as authorized by section 53a-35a.

223 Sec. 5. Subsection (b) of section 53a-40f of the general statutes is
224 repealed and the following is substituted in lieu thereof (*Effective from*
225 *passage*):

226 (b) When any person has been found to be a persistent operating
227 while under the influence felony offender, and [the court is of the
228 opinion that his] <u>such person's</u> history and character and the nature
229 and circumstances of [his] <u>such person's</u> criminal conduct indicate that
230 extended incarceration will best serve the public interest, the court, in
231 lieu of imposing the sentence authorized by section 53a-35a for the
232 crime of which such person presently stands convicted, may impose
233 the sentence of imprisonment authorized by said section for the next
234 more serious degree of felony.

235 Sec. 6. Subsection (b) of section 53a-300 of the general statutes is
236 repealed and the following is substituted in lieu thereof (*Effective from*
237 *passage*):

238 (b) When any person has been found guilty of an act of terrorism,
239 and [the court is of the opinion that] such person's history and
240 character and the nature and circumstances of such person's criminal
241 conduct indicate that an increased penalty will best serve the public
242 interest, the court shall, in lieu of imposing the sentence authorized for

243 the crime under section 53a-35a, impose the sentence of imprisonment
244 authorized by said section for the next more serious degree of felony.

245 Sec. 7. Section 53a-101 of the general statutes is repealed and the
246 following is substituted in lieu thereof (*Effective from passage*):

247 (a) A person is guilty of burglary in the first degree when [he] such
248 person enters or remains unlawfully in a building with intent to
249 commit a crime therein and: (1) [He] Such person is armed with
250 explosives or a deadly weapon or dangerous instrument, or (2) in the
251 course of committing the offense, [he] such person intentionally,
252 knowingly or recklessly inflicts or attempts to inflict bodily injury on
253 [anyone] another person.

254 (b) An act shall be deemed "in the course of committing" the offense
255 if it occurs in an attempt to commit the offense or flight after the
256 attempt or commission.

257 (c) Burglary in the first degree is a class B felony [provided any
258 person found guilty under subdivision (1) of subsection (a)] and any
259 person found guilty under this section shall be sentenced to a term of
260 imprisonment of which five years of the sentence imposed may not be
261 suspended or reduced by the court.

262 Sec. 8. Section 53a-102 of the general statutes is repealed and the
263 following is substituted in lieu thereof (*Effective from passage*):

264 (a) A person is guilty of burglary in the second degree when such
265 person (1) enters or remains unlawfully in a dwelling at night with
266 intent to commit a crime therein, or (2) enters or remains unlawfully in
267 a dwelling, while a person other than a participant in the crime is
268 actually present in such dwelling, with intent to commit a crime
269 therein.

270 (b) Burglary in the second degree is a class C felony and any person
271 found guilty under this section shall be sentenced to a term of
272 imprisonment of which five years of the sentence imposed may not be

273 suspended or reduced by the court.

274 Sec. 9. Section 53a-102a of the general statutes is repealed and the
275 following is substituted in lieu thereof (*Effective from passage*):

276 (a) A person is guilty of burglary in the second degree with a
277 firearm when [he] such person commits burglary in the second degree
278 as provided in section 53a-102, as amended by this act, and in the
279 commission of such offense [he] such person uses or is armed with and
280 threatens the use of or displays or represents by [his] such person's
281 words or conduct that [he] such person possesses a pistol, revolver,
282 rifle, shotgun, machine gun or other firearm. No person shall be
283 convicted of burglary in the second degree and burglary in the second
284 degree with a firearm upon the same transaction but such person may
285 be charged and prosecuted for both such offenses upon the same
286 information.

287 (b) Burglary in the second degree with a firearm is a class C felony
288 [for which one year] and any person found guilty under this section
289 shall be sentenced to a term of imprisonment of which five years of the
290 sentence imposed shall not be suspended or reduced by the court.

291 Sec. 10. Subsection (b) of section 54-125a of the general statutes is
292 repealed and the following is substituted in lieu thereof (*Effective from*
293 *passage*):

294 (b) (1) No person convicted of any of the following offenses, which
295 was committed on or after July 1, 1981, shall be eligible for parole
296 under subsection (a) of this section: Capital felony, as provided in
297 section 53a-54b, felony murder, as provided in section 53a-54c, arson
298 murder, as provided in section 53a-54d, murder, as provided in section
299 53a-54a, or aggravated sexual assault in the first degree, as provided in
300 section 53a-70a. (2) A person convicted of (A) an offense, other than an
301 offense specified in subdivision (1) of this subsection, where the
302 underlying facts and circumstances of the offense involve the use,
303 attempted use or threatened use of physical force against another

304 person, or (B) a violation of section 53a-102, as amended by this act,
305 shall be ineligible for parole under subsection (a) of this section until
306 such person has served not less than eighty-five per cent of the definite
307 sentence imposed.

308 Sec. 11. Subsection (a) of section 54-124a of the general statutes is
309 repealed and the following is substituted in lieu thereof (*Effective from*
310 *passage*):

311 (a) There shall be a Board of Pardons and Paroles within the
312 Department of [Correction] Public Safety, for administrative purposes
313 only. On and after [October 1, 2004] January 1, 2008, the board shall
314 consist of [thirteen] twenty members appointed by the Governor with
315 the advice and consent of either house of the General Assembly. In the
316 appointment of the members, the Governor shall endeavor to reflect
317 the racial diversity of the state. The Governor shall appoint a
318 chairperson from among the membership. The chairperson of the
319 board shall be qualified by education, experience and training in the
320 administration of community corrections, parole or pardons.

321 Sec. 12. Subsection (e) of section 54-124a of the general statutes is
322 repealed and the following is substituted in lieu thereof (*Effective*
323 *January 1, 2008*):

324 (e) The chairperson may serve on both pardons panels and parole
325 release panels and shall have the authority and responsibility for
326 assigning members to such panels. The chairperson shall assign
327 [seven] fourteen members exclusively to parole release hearings and
328 shall assign five members exclusively to pardons hearings. Except for
329 the chairperson, no member assigned to parole release hearings may
330 be assigned subsequently to pardons hearings and no member
331 assigned to pardons hearings may be assigned subsequently to parole
332 release hearings. Each parole release panel shall be composed of two
333 members and the chairperson or a member designated to serve
334 temporarily as chairperson, for each correctional institution. Such
335 parole release panels shall be the paroling authority for the institutions

336 to which they are assigned and not less than two members shall be
337 present at each parole hearing. Each pardons panel shall be composed
338 of three members, one of whom may be the chairperson, except that
339 for hearings on commutations from the penalty of death, one member
340 of the panel shall be the chairperson.

341 Sec. 13. (NEW) (*Effective from passage*) No panel of the Board of
342 Pardons and Paroles shall hold a hearing to determine the suitability
343 for parole release of any person or hold a meeting to consider the
344 recommendation of an employee of the board made pursuant to
345 section 54-125b of the general statutes to grant parole to a person
346 unless the members of the panel are in the possession of the complete
347 file on such person including, but not limited to, a transcript of any
348 sentencing hearing required to be delivered to the board pursuant to
349 section 51-286f of the general statutes and a copy of any presentence
350 investigation report prepared pursuant to section 54-91a of the general
351 statutes. The board shall provide each member of such panel with such
352 complete file not later than three business days prior to the date
353 scheduled for such hearing or meeting.

354 Sec. 14. (NEW) (*Effective from passage*) Whenever a person is
355 convicted of a felony, the prosecuting attorney and the court shall
356 make a statement for the record at the sentencing hearing concerning
357 such person's history and character and the nature and circumstances
358 of such person's criminal conduct.

359 Sec. 15. (NEW) (*Effective from passage*) Any person convicted of
360 manslaughter, arson, kidnapping, robbery in the first or second
361 degree, robbery involving an occupied motor vehicle, assault
362 constituting a felony, sexual assault in the first or third degree,
363 aggravated sexual assault in the first degree, sexual assault in the third
364 degree with a firearm, burglary in the first or second degree, stalking
365 in the first degree or stealing a firearm who is released from
366 confinement in a correctional institution or facility into the community
367 shall, not later than seven days after such release, report to the

368 organized local police department for the town in which such person
369 resides or, if such town does not have an organized local police
370 department, to the state police troop having jurisdiction for such town
371 and submit to the taking of a photographic image of such person.

372 Sec. 16. (NEW) (*Effective from passage*) Any person convicted of
373 manslaughter, arson, kidnapping, robbery in the first or second
374 degree, robbery involving an occupied motor vehicle, assault
375 constituting a felony, sexual assault in the first or third degree,
376 aggravated sexual assault in the first degree, sexual assault in the third
377 degree with a firearm, burglary in the first or second degree, stalking
378 in the first degree or stealing a firearm or a sexual assault offense
379 involving a minor who is released into the community on probation,
380 parole or any other community release program shall, as a condition of
381 such probation, parole or other release, be subject to electronic
382 monitoring by use of a global positioning system device for the
383 duration of such person's period of probation, parole or other release.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*from passage*	53a-40
Sec. 3	*from passage*	53a-40a(b)
Sec. 4	*from passage*	53a-40d(b)
Sec. 5	*from passage*	53a-40f(b)
Sec. 6	*from passage*	53a-300(b)
Sec. 7	*from passage*	53a-101
Sec. 8	*from passage*	53a-102
Sec. 9	*from passage*	53a-102a
Sec. 10	*from passage*	54-125a(b)
Sec. 11	*from passage*	54-124a(a)
Sec. 12	*January 1, 2008*	54-124a(e)
Sec. 13	*from passage*	New section
Sec. 14	*from passage*	New section
Sec. 15	*from passage*	New section
Sec. 16	*from passage*	New section

WORKING DRAFT

Raised Bill No.

Statement of Purpose:

To revise the persistent offender law to address the Connecticut Supreme Court decision in State v. Bell, impose a five-year mandatory minimum prison sentence for first and second degree burglary, classify burglary of a residence as a violent offense for parole purposes, expand the use of electronic monitoring of parolees, provide the Board of Pardons and Paroles with the resources and information necessary to properly carry out its duties, and enact a "three strikes" law that would require a sentence of life imprisonment without the possibility of release for a third conviction of specified serious felonies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

001251

November 9, 2007 2007-R-0641

PROPOSAL 7:

AN ACT CONCERNING CRIMINAL SENTENCING AND THE PAROLE PROCESS

By: Christopher Reinhart, Senior Attorney

You asked us to summarize Proposal 7, *An Act Concerning Criminal Sentencing And The Parole Process*, for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY:

This bill creates a new enhanced penalty law that requires the court to sentence someone to life in prison (statutorily defined as 60 years) without possibility of release if the person (1) is convicted of one of the following crimes and (2) has at least two convictions and imprisonment in any state or any federal institution for one of these crimes, any of their predecessor crimes, an attempt to commit one of these crimes, or a crime in any state that has substantially the same essential elements as one of these crimes:

1. manslaughter,
2. arson,
3. kidnapping,

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4. 1st or 2nd degree robbery,

5. robbery involving an occupied motor vehicle,

6. assault constituting a felony,

7. 1st or 3rd degree sexual assault and 3rd degree sexual assault with a firearm,

8. 1st degree aggravated sexual assault,

9. 1st or 2nd degree burglary,

10. 1st degree stalking, and

11. stealing a firearm.

It permits a person convicted of a third one of these crimes to avoid the life sentence by showing that he has been pardoned for one of the earlier crimes on the ground of innocence.

The bill expands an existing five year mandatory minimum sentence for certain types of 1st degree burglaries to all types of 1st degree burglaries. It also imposes a five year mandatory minimum sentence for 2nd degree burglary and increases the mandatory minimum sentence for 2nd degree burglary with a firearm from one to five years.

The bill also responds to a recent Connecticut Supreme Court ruling that convicted offenders have the right to have a jury determine whether they should be subject to the more stringent penalties associated with the persistent dangerous felony offender classification (see BACKGROUND). The bill codifies this ruling by removing the requirement that the court make certain findings and thus leaves it to the jury to make these findings. A judge could still make these findings if the defendant waived the right to a jury. The bill also makes this change to the other persistent offender statutes and the provision that increases the penalty one class for acts of terrorism, which all contain similar language to that considered by the court in its ruling.

The bill:

1. requires people convicted of 2nd degree burglary to serve 85% of their sentence before being eligible for parole;

2. increases the membership of the Board of Pardons and Paroles from 13 to 20 on January 1, 2008 and requires that the additional members be assigned to parole panels;

3. prohibits the board from holding a hearing or meeting about an inmate's release unless the panel members have the person's complete file;

4. requires the prosecutor and court to make a statement for the record about the person's history and character and the nature and circumstances of the criminal conduct at the sentencing hearing of anyone convicted of a felony (§ 14);

5. requires anyone convicted of one of the crimes subject to the new enhanced penalty who is released from prison into the community to report to and have his or her photo taken at the police department or resident state troop for the town where the person resides within seven days of release (§ 15); and

6. requires anyone convicted of one of the crimes subject to the new enhanced penalty or sexual assault involving a minor to be subject to electronic monitoring by global positioning system for any time the person is on probation, parole, or other community release program, with electronic monitoring as a condition of release (§ 16).

EFFECTIVE DATE: Upon passage, except the increase in Board of Pardons and Paroles membership takes effect January 1, 2008.

MANDATORY MINIMUM SENTENCES FOR BURGLARY (§§ 7-9)

The bill imposes a mandatory minimum five year sentence for someone who commits 1st degree burglary by entering or remaining unlawfully in a building with intent to commit a crime and in the course of committing the offense, intentionally, knowingly, or recklessly inflicts or attempts to inflict bodily injury on someone. Under current law, unchanged by the bill, a five year mandatory minimum sentence already applies if someone commits 1st degree burglary by entering or remaining unlawfully in a building with intent to commit a crime and the person is armed with explosives, a deadly weapon, or dangerous instrument. By law, 1st degree burglary is a class B felony punishable by up to 20 years in prison, a fine of up to $15,000, or both.

The bill imposes a mandatory minimum five year sentence for someone who commits 2nd degree burglary. By law, a person commits 2nd degree burglary, a class C felony, by entering or remaining unlawfully in a dwelling with intent to commit a crime (1) at night or (2) while someone other than a participant in the crime is in the dwelling. A class C felony is punishable by up to 10 years in prison, a fine of up to $10,000, or both.

The bill increases the mandatory minimum sentence for 2nd degree burglary with a firearm from one to five years. By law, a person commits this crime by committing 2nd degree burglary and using, being armed with and threatening the use of, displaying, or representing by words or conduct that he or she possess, a pistol, revolver, rifle, shotgun, machine gun, or other firearm. By law, this crime is a class C felony.

PERSISTENT OFFENDER STATUTES AND SUPREME COURT RULING (§§ 2-6)

The bill responds to a recent Connecticut Supreme Court ruling that convicted offenders have the right to have a jury determine whether they should be subject to the more stringent penalties associated with the persistent dangerous felony offender classification (see BACKGROUND). The bill codifies this ruling by removing the requirement that the court make certain findings and thus leaving it to the jury to make these findings. A judge could still make these findings if the defendant waived the right to a jury.

The bill also applies these changes to the provision that increases the penalty one class for acts of terrorism and the other categories of persistent offenders, which all contain similar language to that considered by the court in its ruling. The other categories of persistent offenders are:

1. dangerous sexual offenders,
2. serious felony offenders,
3. serious sexual offenders,
4. felony offenders,
5. bigotry or bias offenders,

6. stalking and harassment-related offenders,

7. larceny offenders, and

8. operating under the influence felony offenders.

PAROLE ELIGIBILITY FOR 2ND DEGREE BURGLARY (§ 10)

By law, a person's eligibility for parole is based on the crime he or she is convicted of. A person is ineligible for parole if convicted of some serious crimes. Crimes where the underlying facts and circumstances involved the use, attempted use, or threatened use of force require the person to serve 85% of the sentence before becoming eligible for parole. For other crimes, a person is eligible after serving 50% of the sentence.

The bill requires people convicted of 2nd degree burglary to serve 85% rather than 50% of their sentence before being eligible for parole.

BOARD OF PARDONS AND PAROLES (§§ 11-13)

The bill increases the membership of the Board of Pardons and Paroles from 13 to 20 on January 1, 2008. It requires the board's chairman to assign 14 members, instead of seven, exclusively to parole hearings. As under current law, five members are assigned to pardons hearings and the chairman can serve on both parole and pardon hearings.

The bill places the board within the Department of Public Safety, instead of in the Department of Correction, for administrative purposes.

Complete File Requirement

The bill prohibits the board from holding a hearing on someone's suitability for parole release or holding a meeting to consider a board employee's recommendations for release based on the employee's administrative review unless the panel members have the person's complete file including any:

1. sentencing hearing transcript that the law requires prosecutors to deliver to the board and

2. presentence investigation report prepared by a probation officer for the court before sentencing.

The bill requires the board to give each panel member the complete file at least three business days before the scheduled hearing or meeting date.

ENHANCED PENALTY, REPORT TO POLICE, AND ELECTRONIC MONITORING—LIST OF CRIMES (§§ 1, 15, 16)

The bill uses the same list of crimes to (1) subject someone to the new enhanced penalty law, (2) require a person released into the community to report to the police, and (3) subject a person to electronic monitoring. The list uses the terms "manslaughter," "arson," "kidnapping," and "assault constituting a felony." It appears that these terms refer to the following specific crimes:

1. manslaughter 1st degree, including 1st degree with a firearm;

2. manslaughter 2nd degree, including 2nd degree with a (a) firearm or (b) motor vehicle;

3. arson 1st, 2nd, and 3rd degree;

4. kidnapping 1st and 2nd degree including with a firearm;

5. assault 1st degree including when the victim is (a) elderly, blind, disabled, pregnant, or mentally retarded or (b) a corrections employee;

6. assault terminating pregnancy;

7. assault 2nd degree including (a) with a firearm, (b) when the victim is elderly, blind, disabled, pregnant, or mentally retarded, (c) with a firearm when the victim is elderly, blind, disabled, pregnant, or mentally retarded, and (d) with a motor vehicle;

8. assault of (a) public safety or emergency medical personnel or (b) a prosecutor;

In addition, the list includes the crimes of 1st or 2nd degree burglary. (It is unclear whether this would also include 2nd degree burglary with a firearm.)

For electronic monitoring, the bill applies to sexual assault offenses involving a minor which could apply to a number of different statutes depending on the circumstances.

BACKGROUND

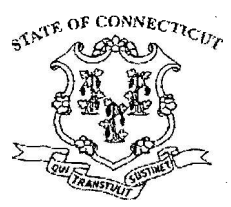
State v. Bell

The state Supreme Court recently held that the statute that mandates sentence enhancement when the defendant is found to be a persistent dangerous felony offender and the trial court, rather than the jury, determines that extended incarceration will best serve the public interest, given the defendant's history, character, and the nature and circumstances of his or criminal offenses, violates a defendant's federal constitutional right to trial by jury (*State v. Bell*, 283 Conn. 748 (2007)).

The court ruled that the defendant was entitled to a new sentencing proceeding wherein the jury must make the determination, beyond a reasonable doubt, whether, upon consideration of the relevant factors specified in the persistent felony offender law, extended incarceration will best serve the public interest.

The court noted in its ruling that in those cases in which the defendant chooses to waive his right to a jury trial under the persistent felony offender law, the court may continue to make the requisite finding. Additionally, the court properly may impose an enhanced sentence if the defendant admits to the fact that extended incarceration is in the public interest.

CR:ts



WORKING DRAFT

General Assembly

Raised Bill No.

No. 8

Referred to Committee on

Introduced by:
(JUD)

AN ACT STRENGTHENING CRIMINAL LAWS CONCERNING PERSISTENT OFFENDERS, BURGLARY, THE JUSTIFIABLE USE OF DEADLY FORCE AND PAROLE RELEASE.

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

Section 1. (NEW) (*Effective from passage*) (a) For the purposes of this section:

(1) "Dangerous felony" means murder other than a capital felony, manslaughter, arson, kidnapping, robbery in the first or second degree, robbery involving an occupied motor vehicle, assault constituting a felony, sexual assault in the first or third degree, aggravated sexual assault in the first degree, sexual assault in the third degree with a firearm, burglary in the first or second degree, stalking in the first degree or stealing a firearm; and

(2) "Predicate offense" means a dangerous felony, two class A misdemeanors or three class B misdemeanors.

(b) Notwithstanding any provision of the general statutes, whenever a person (1) stands convicted of a dangerous felony, and (2) has, prior to the commission of the present crime, been two or more

15 times convicted of and imprisoned in this state or in any other state or
16 in a federal correctional institution for (A) a predicate offense or an
17 attempt to commit a predicate offense, or (B) any crime in any other
18 state the essential elements of which are substantially the same as a
19 predicate offense in this state, the court shall sentence such person to a
20 term of life imprisonment without the possibility of release.

21 (c) It shall be an affirmative defense to a charge under this section
22 that (1) as to any prior conviction on which the state is relying, the
23 defendant was pardoned on the ground of innocence, and (2) without
24 such conviction, the defendant was not two or more times convicted
25 and imprisoned as required by this section.

26 Sec. 2. Subsection (h) of section 53a-40 of the general statutes is
27 repealed and the following is substituted in lieu thereof (*Effective from*
28 *passage*):

29 (h) When any person has been found to be a persistent dangerous
30 felony offender, and [the court is of the opinion that] such person's
31 history and character and the nature and circumstances of such
32 person's criminal conduct indicate that extended incarceration and
33 lifetime supervision will best serve the public interest, the court, in lieu
34 of imposing the sentence of imprisonment authorized by section
35 53a-35 for the crime of which such person presently stands convicted,
36 or authorized by section 53a-35a if the crime of which such person
37 presently stands convicted was committed on or after July 1, 1981,
38 shall sentence such person to a term of imprisonment of not more than
39 forty years and, if such person has, at separate times prior to the
40 commission of the present crime, been twice convicted of and
41 imprisoned for any of the crimes enumerated in subdivision (2) of
42 subsection (a) of this section, sentence such person to a term of
43 imprisonment of not more than life.

44 Sec. 3. Subsection (a) of section 53a-40 of the general statutes is
45 repealed and the following is substituted in lieu thereof (*Effective from*
46 *passage*):

47 (a) A persistent dangerous felony offender is a person who:

48 (1) (A) Stands convicted of manslaughter, arson, kidnapping,
49 robbery in the first or second degree, [or] assault in the first degree or
50 burglary in the first or second degree, and (B) has been, prior to the
51 commission of the present crime, convicted of and imprisoned under a
52 sentence to a term of imprisonment of more than one year or of death,
53 in this state or in any other state or in a federal correctional institution,
54 for any of the following crimes: (i) The crimes enumerated in
55 subparagraph (A) of this subdivision or an attempt to commit any of
56 said crimes; or (ii) murder, sexual assault in the first or third degree,
57 aggravated sexual assault in the first degree or sexual assault in the
58 third degree with a firearm, or an attempt to commit any of said
59 crimes; or (iii) prior to October 1, 1975, any of the crimes enumerated
60 in section 53a-72, 53a-75 or 53a-78 of the general statutes, revision of
61 1958, revised to 1975, or prior to October 1, 1971, in this state, assault
62 with intent to kill under section 54-117, or any of the crimes
63 enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16, inclusive, 53-
64 19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83, 53-86, 53-238 and
65 53-239 of the general statutes, revision of 1958, revised to 1968, or any
66 predecessor statutes in this state, or an attempt to commit any of said
67 crimes; or (iv) in any other state, any crimes the essential elements of
68 which are substantially the same as any of the crimes enumerated in
69 subparagraph (A) of this subdivision or this subparagraph; or

70 (2) (A) Stands convicted of sexual assault in the first or third degree,
71 aggravated sexual assault in the first degree or sexual assault in the
72 third degree with a firearm, and (B) has been, prior to the commission
73 of the present crime, convicted of and imprisoned under a sentence to
74 a term of imprisonment of more than one year or of death, in this state
75 or in any other state or in a federal correctional institution, for any of
76 the following crimes: (i) Murder, manslaughter, arson, kidnapping,
77 robbery in the first or second degree, [or] assault in the first degree or
78 burglary in the first or second degree, or an attempt to commit any of
79 said crimes; or (ii) prior to October 1, 1971, in this state, assault with

80 intent to kill under section 54-117, or any of the crimes enumerated in
81 sections 53-9, 53-10, 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69,
82 53-78 to 53-80, inclusive, 53-82, 53-83 and 53-86 of the general statutes,
83 revision of 1958, revised to 1968, or any predecessor statutes in this
84 state, or an attempt to commit any of said crimes; or (iii) in any other
85 state, any crimes the essential elements of which are substantially the
86 same as any of the crimes enumerated in subparagraph (A) of this
87 subdivision or this subparagraph.

88 Sec. 4. Section 53a-101 of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective from passage*):

90 (a) A person is guilty of burglary in the first degree when [he] such
91 person enters or remains unlawfully in a building with intent to
92 commit a crime therein and: (1) [He] Such person is armed with
93 explosives or a firearm, deadly weapon or dangerous instrument, or
94 (2) in the course of committing the offense, [he] such person
95 intentionally, knowingly or recklessly inflicts or attempts to inflict
96 bodily injury on anyone.

97 (b) An act shall be deemed "in the course of committing" the offense
98 if it occurs in an attempt to commit the offense or flight after the
99 attempt or commission.

100 (c) Burglary in the first degree is a class B felony [provided] and any
101 person found guilty under subdivision (1) of subsection (a) of this
102 section shall be sentenced to a term of imprisonment of which [five] six
103 years of the sentence imposed may not be suspended or reduced by
104 the court and any person found guilty under subdivision (2) of
105 subsection (a) of this section shall be sentenced to a term of
106 imprisonment of which five years of the sentence imposed may not be
107 suspended or reduced by the court.

108 Sec. 5. Section 53a-102 of the general statutes is repealed and the
109 following is substituted in lieu thereof (*Effective from passage*):

110 (a) A person is guilty of burglary in the second degree when such
111 person (1) enters or remains unlawfully in a dwelling at night with
112 intent to commit a crime therein, or (2) enters or remains unlawfully in
113 a dwelling, while a person other than a participant in the crime is
114 actually present in such dwelling, with intent to commit a crime
115 therein.

116 (b) Burglary in the second degree is a class C felony and any person
117 found guilty under this section shall be sentenced to a term of
118 imprisonment of which two years of the sentence imposed may not be
119 suspended or reduced by the court.

120 Sec. 6. Section 53a-102a of the general statutes is repealed and the
121 following is substituted in lieu thereof (*Effective from passage*):

122 (a) A person is guilty of burglary in the second degree with a
123 firearm, deadly weapon or dangerous instrument when [he] such
124 person commits burglary in the second degree as provided in section
125 53a-102, as amended by this act, and, in the commission of such
126 offense, [he] such person uses or is armed with and threatens the use
127 of or displays or represents by [his] such person's words or conduct
128 that [he] such person possesses a pistol, revolver, rifle, shotgun,
129 machine gun or other firearm or a deadly weapon or dangerous
130 instrument. No person shall be convicted of burglary in the second
131 degree and burglary in the second degree with a firearm, deadly
132 weapon or dangerous instrument upon the same transaction but such
133 person may be charged and prosecuted for both such offenses upon
134 the same information.

135 (b) Burglary in the second degree with a firearm, deadly weapon or
136 dangerous instrument is a class C felony [for which one year of the
137 sentence imposed shall] and any person found guilty under this
138 section shall be sentenced to a term of imprisonment of which three
139 years of the sentence imposed may not be suspended or reduced by
140 the court.

141 Sec. 7. Section 53a-103 of the general statutes is repealed and the
142 following is substituted in lieu thereof (*Effective from passage*):

143 (a) A person is guilty of burglary in the third degree when [he] such
144 person enters or remains unlawfully in a building with intent to
145 commit a crime therein.

146 (b) Burglary in the third degree is a class D felony and any person
147 found guilty under this section shall be sentenced to a term of
148 imprisonment of which one year of the sentence imposed may not be
149 suspended or reduced by the court.

150 Sec. 8. Section 53a-103a of the general statutes is repealed and the
151 following is substituted in lieu thereof (*Effective from passage*):

152 (a) A person is guilty of burglary in the third degree with a firearm,
153 deadly weapon or dangerous instrument when [he] such person
154 commits burglary in the third degree as provided in section 53a-103, as
155 amended by this act, and, in the commission of such offense, [he] such
156 person uses or is armed with and threatens the use of or displays or
157 represents by [his] such person's words or conduct that [he] such
158 person possesses a pistol, revolver, shotgun, rifle, machine gun or
159 other firearm or a deadly weapon or dangerous instrument. No person
160 shall be convicted of burglary in the third degree and burglary in the
161 third degree with a firearm, deadly weapon or dangerous instrument
162 upon the same transaction but such person may be charged and
163 prosecuted for both such offenses upon the same information.

164 (b) Burglary in the third degree with a firearm, deadly weapon or
165 dangerous instrument is a class D felony [for which one year of the
166 sentence imposed shall] and any person found guilty under this
167 section shall be sentenced to a term of imprisonment of which two
168 years of the sentence imposed may not be suspended or reduced by
169 the court.

170 Sec. 9. Subsection (b) of section 54-125a of the general statutes is

171 repealed and the following is substituted in lieu thereof (*Effective from*
172 *passage*):

173 (b) (1) No person convicted of any of the following offenses, which
174 was committed on or after July 1, 1981, shall be eligible for parole
175 under subsection (a) of this section: Capital felony, as provided in
176 section 53a-54b, felony murder, as provided in section 53a-54c, arson
177 murder, as provided in section 53a-54d, murder, as provided in section
178 53a-54a, or aggravated sexual assault in the first degree, as provided in
179 section 53a-70a. (2) A person convicted of burglary in the second
180 degree, as provided in section 53a-102, as amended by this act,
181 burglary in the third degree, as provided in section 53a-103, as
182 amended by this act, or an offense, other than an offense specified in
183 subdivision (1) of this subsection, where the underlying facts and
184 circumstances of the offense involve the use, attempted use or
185 threatened use of physical force against another person shall be
186 ineligible for parole under subsection (a) of this section until such
187 person has served not less than eighty-five per cent of the definite
188 sentence imposed.

189 Sec. 10. Section 54-125b of the general statutes is repealed and the
190 following is substituted in lieu thereof (*Effective from passage*):

191 (a) A person [whose eligibility for parole release is not subject to the
192 provisions of subsection (b) of section 54-125a] may be allowed to go
193 on parole in accordance with section 54-125a, as amended by this act,
194 or 54-125g without a parole hearing being conducted by a panel of the
195 Board of Pardons and Paroles if (1) an employee of the Board of
196 Pardons and Paroles has reviewed the inmate's case and recommended
197 parole be granted to such person, and (2) such recommendation has
198 been approved by at least two members of a panel of the board. A
199 parole hearing shall be conducted by a panel of the Board of Pardons
200 and Paroles if the chairperson of the board deems such a hearing to be
201 necessary or if a victim, as defined in sections 54-201 and 54-226,
202 requests such a hearing.

203 (b) The provisions of subsection (a) of this section shall not apply to
204 any person whose eligibility for parole release is subject to the
205 provisions of subsection (b) of section 54-125a, as amended by this act.

206 [(b)] (c) The chairperson of the Board of Pardons and Paroles shall
207 adopt regulations, in accordance with chapter 54, to establish criteria
208 and procedures for the administrative review and release of inmates
209 without a parole hearing as provided in this section.

210 Sec. 11. Section 53a-30 of the general statutes is repealed and the
211 following is substituted in lieu thereof (*Effective from passage*):

212 (a) When imposing sentence of probation or conditional discharge,
213 the court may, as a condition of the sentence, order that the defendant:
214 (1) Work faithfully at a suitable employment or faithfully pursue a
215 course of study or of vocational training that will equip the defendant
216 for suitable employment; (2) undergo medical or psychiatric treatment
217 and remain in a specified institution, when required for that purpose;
218 (3) support the defendant's dependents and meet other family
219 obligations; (4) make restitution of the fruits of the defendant's offense
220 or make restitution, in an amount the defendant can afford to pay or
221 provide in a suitable manner, for the loss or damage caused thereby
222 and the court may fix the amount thereof and the manner of
223 performance; (5) if a minor, (A) reside with the minor's parents or in a
224 suitable foster home, (B) attend school, and (C) contribute to the
225 minor's own support in any home or foster home; (6) post a bond or
226 other security for the performance of any or all conditions imposed; (7)
227 refrain from violating any criminal law of the United States, this state
228 or any other state; (8) if convicted of a misdemeanor or a felony, other
229 than a capital felony, a class A felony or a violation of section 21a-278,
230 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any
231 offense for which there is a mandatory minimum sentence which may
232 not be suspended or reduced by the court, and any sentence of
233 imprisonment is suspended, participate in an alternate incarceration
234 program; (9) reside in a residential community center or halfway

235 house approved by the Commissioner of Correction, and contribute to
236 the cost incident to such residence; (10) participate in a program of
237 community service labor in accordance with section 53a-39c; (11)
238 participate in a program of community service in accordance with
239 section 51-181c; (12) if convicted of a violation of subdivision (2) of
240 subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71,
241 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13)
242 if convicted of a criminal offense against a victim who is a minor, a
243 nonviolent sexual offense or a sexually violent offense, as defined in
244 section 54-250, or of a felony that the court finds was committed for a
245 sexual purpose, as provided in section 54-254, register such person's
246 identifying factors, as defined in section 54-250, with the
247 Commissioner of Public Safety when required pursuant to section 54-
248 251, 54-252 or 54-253, as the case may be; (14) be subject to electronic
249 monitoring, which may include the use of a global positioning system;
250 (15) if convicted of a violation of section 46a-58, 53-37a, 53a-181j, 53a-
251 181k or 53a-181*l*, participate in an anti-bias crime education program;
252 (16) if convicted of a violation of section 53-247, undergo psychiatric or
253 psychological counseling or participate in an animal cruelty
254 prevention and education program provided such a program exists
255 and is available to the defendant; or (17) satisfy any other conditions
256 reasonably related to the defendant's rehabilitation. The court shall
257 cause a copy of any such order to be delivered to the defendant and to
258 the probation officer, if any.

259 (b) Notwithstanding the provisions of subsection (a) of this section,
260 when imposing sentence of probation or conditional discharge for any
261 violation of section 53a-101, as amended by this act, or 53a-102, as
262 amended by this act, the court shall, as a condition of the sentence,
263 order that the defendant be subject to electronic monitoring which
264 shall include the use of a global positioning system for the duration of
265 the period of such probation or conditional discharge.

266 [(b)] (c) When a defendant has been sentenced to a period of
267 probation, the Court Support Services Division may require that the

268 defendant comply with any or all conditions which the court could
269 have imposed under subsection (a) of this section which are not
270 inconsistent with any condition actually imposed by the court.

271 [(c)] (d) At any time during the period of probation or conditional
272 discharge, after hearing and for good cause shown, the court may
273 modify or enlarge the conditions, whether originally imposed by the
274 court under this section or otherwise, and may extend the period,
275 provided the original period with any extensions shall not exceed the
276 periods authorized by section 53a-29. The court shall cause a copy of
277 any such order to be delivered to the defendant and to the probation
278 officer, if any.

279 [(d)] (e) The period of participation in an alternate incarceration
280 program, unless terminated sooner, shall not exceed the period of
281 probation authorized by section 53a-29 or two years, whichever is less.

282 [(e)] (f) The court may require that the person subject to electronic
283 monitoring pursuant to subsection (a) or (b) of this section pay directly
284 to the electronic monitoring service provider a fee for the cost of such
285 electronic monitoring services. If the court finds that the person subject
286 to electronic monitoring is indigent and unable to pay the costs of
287 electronic monitoring services, it shall waive such costs. Any contract
288 entered into by the judicial branch and the electronic monitoring
289 service provider shall include a provision stating that the total cost for
290 electronic monitoring services shall not exceed six dollars per day.
291 Such amount shall be indexed annually to reflect the rate of inflation.

292 Sec. 12. Section 53a-20 of the general statutes is repealed and the
293 following is substituted in lieu thereof (*Effective from passage*):

294 A person in possession or control of premises, or a person who is
295 licensed or privileged to be in or upon such premises, is justified in
296 using reasonable physical force upon another person when and to the
297 extent that [he] such person reasonably believes such to be necessary to
298 prevent or terminate the commission or attempted commission of a

299 criminal trespass by such other person in or upon such premises; but
300 [he] such person may use deadly physical force under such
301 circumstances only (1) in defense of a person as prescribed in section
302 53a-19, or (2) when [he] such person reasonably believes such to be
303 necessary to prevent an attempt by the trespasser to commit arson or
304 any crime of violence, or (3) to the extent that [he] such person
305 reasonably believes such to be necessary to prevent or terminate an
306 unlawful entry by force into [his] such person's dwelling, as defined in
307 section 53a-100, or place of work, and for the sole purpose of such
308 prevention or termination. There shall be a presumption that the belief
309 of a person that the use of deadly physical force is necessary to prevent
310 or terminate an unlawful entry by force into such person's dwelling is
311 a reasonable belief.

312 Sec. 13. (NEW) (*Effective January 1, 2008*) (a) Any person released
313 from confinement on parole shall register such person's name,
314 identifying factors, as defined in section 54-250 of the general statutes,
315 criminal history record and residence address with the Commissioner
316 of Public Safety on such forms and in such locations as the
317 commissioner shall direct, and shall maintain such registration for the
318 duration of such person's period of parole. Any person who has been
319 released from confinement on parole prior to the effective date of this
320 section and continues to be subject to parole supervision on said date
321 shall register not later than ten calendar days after the effective date of
322 this section. Any person released from confinement on parole on or
323 after the effective date of this section shall register at such time prior to
324 such release as the Commissioner of Correction shall direct.

325 (b) Prior to releasing a person from confinement who has been
326 granted parole, the Commissioner of Correction shall require as a
327 condition of such release that such person complete the registration
328 procedure established by the Commissioner of Public Safety under
329 subsection (a) of this section. The Commissioner of Correction shall
330 provide the person with a written summary of the person's obligations
331 under subsection (a) of this section and transmit the completed

332 registration package to the Commissioner of Public Safety who shall
333 enter the information into the registry established under section 14 of
334 this act.

335 (c) If any person who is subject to registration under this section
336 changes such person's name, such person shall, without undue delay,
337 notify the Commissioner of Public Safety, in writing, of the new name.
338 If any person who is subject to registration under this section changes
339 such person's address, such person shall, without undue delay, notify
340 the Commissioner of Public Safety, in writing, of the new address.
341 During such period of registration, each registrant shall complete and
342 return forms mailed to such registrant to verify such registrant's
343 residence address and shall submit to the retaking of a photographic
344 image upon request of the Commissioner of Public Safety.

345 (d) Any person who violates the provisions of subsection (a) or (c)
346 of this section shall be guilty of a class D felony, except that, if such
347 person violates the provisions of this section by failing to notify the
348 Commissioner of Public Safety without undue delay of a change of
349 name or address, such person shall be subject to such penalty if such
350 failure continues for five business days.

351 (e) Notwithstanding the provisions of subsection (a) of this section,
352 during the initial registration period following the effective date of this
353 section, the Commissioner of Public Safety may phase in completion of
354 the registration procedure for persons released on parole prior to said
355 date over the first three months following said date, and no such
356 person shall be prosecuted for failure to register under this section
357 during those three months provided such person complies with the
358 directives of said commissioner regarding registration procedures.

359 Sec. 14. (NEW) (*Effective from passage*) (a) The Department of Public
360 Safety shall establish and maintain a registry of all persons required to
361 register under section 13 of this act. Upon receipt of registration
362 information, the department shall enter the information into the
363 registry and notify the local police department or state police troop

364 having jurisdiction where the registrant resides or plans to reside.

365 (b) The Department of Public Safety may suspend the registration of
366 any person registered under section 13 of this act while such person is
367 incarcerated, under civil commitment or residing outside this state.
368 During the period that such registration is under suspension, the
369 department is not required to verify the address of the registrant
370 pursuant to subsection (c) of this section and may withdraw the
371 registration information from public access. Upon the release of the
372 registrant from incarceration or civil commitment or resumption of
373 residency in this state by the registrant, the department shall reinstate
374 the registration, redistribute the registration information in accordance
375 with subsection (a) of this section and resume verifying the address of
376 the registrant in accordance with subsection (c) of this section.

377 (c) Except as provided in subsection (b) of this section, the
378 Department of Public Safety shall verify the address of each registrant
379 by mailing a nonforwardable verification form to the registrant at the
380 registrant's last reported address. Such form shall require the registrant
381 to sign a statement that the registrant continues to reside at the
382 registrant's last reported address and return the form by mail by a date
383 which is ten days after the date such form was mailed to the registrant.
384 The form shall contain a statement that failure to return the form or
385 providing false information is a violation of section 13 of this act. Each
386 person required to register under section 13 of this act shall have such
387 person's address verified in such manner every ninety days after such
388 person's initial registration date. In the event that a registrant fails to
389 return the address verification form, the Department of Public Safety
390 shall notify the local police department or the state police troop having
391 jurisdiction over the registrant's last reported address, and that agency
392 shall apply for a warrant to be issued for the registrant's arrest under
393 section 13 of this act. The Department of Public Safety shall not verify
394 the address of registrants whose last reported address was outside this
395 state.

396 (d) The Department of Public Safety shall include in the registry the
397 most recent photographic image of each registrant taken by the
398 department, the Department of Correction, a law enforcement agency
399 or the Court Support Services Division of the Judicial Department and
400 shall retake the photographic image of each registrant at least once
401 every five years.

402 (e) Whenever the Commissioner of Public Safety receives notice
403 from a superior court pursuant to section 52-11 of the general statutes
404 or a probate court pursuant to section 45a-99 of the general statutes
405 that such court has ordered the change of name of a person, and the
406 department determines that such person is listed in the registry, the
407 department shall revise such person's registration information
408 accordingly.

409 (f) The Commissioner of Public Safety shall develop a protocol for
410 the notification of other state agencies, the Judicial Department and
411 local police departments whenever a person listed in the registry
412 changes such person's name and notifies the commissioner of the new
413 name pursuant to section 13 of this act or whenever the commissioner
414 determines pursuant to subsection (e) of this section that a person
415 listed in the registry has changed such person's name.

416 Sec. 15. (NEW) (*Effective from passage*) (a) (1) Notwithstanding any
417 other provision of the general statutes, except subdivisions (3) and (4)
418 of this subsection, the registry established and maintained by the
419 Department of Public Safety pursuant to section 14 of this act shall be a
420 public record and shall be accessible to the public during normal
421 business hours. The Department of Public Safety shall make registry
422 information available to the public through the Internet. Not less than
423 once per calendar quarter, the Department of Public Safety shall issue
424 notices to all print and electronic media in the state regarding the
425 availability and means of accessing the registry. Each local police
426 department and each state police troop shall keep a record of all
427 registration information transmitted to it by the Department of Public

428 Safety, and shall make such information accessible to the public during
429 normal business hours.

430 (2) Any state agency, the Judicial Department, any state police troop
431 or any local police department may, at its discretion, notify any
432 government agency, private organization or individual of registration
433 information when such agency, said department, such troop or such
434 local police department, as the case may be, believes such notification
435 is necessary to protect the public or any individual in any jurisdiction
436 from any person who is subject to registration under section 13 of this
437 act.

438 (3) Notwithstanding the provisions of subdivisions (1) and (2) of
439 this subsection, state agencies, the Judicial Department, state police
440 troops and local police departments shall not disclose the identity of
441 any victim of a crime committed by a registrant, except to government
442 agencies for bona fide law enforcement or security purposes.

443 (4) When any registrant completes the registrant's period of parole,
444 the Department of Public Safety shall notify any state police troop or
445 local police department having jurisdiction over the registrant's last
446 reported residence address that the person is no longer a registrant,
447 and the Department of Public Safety, state police troop and local police
448 department shall remove the registrant's name and information from
449 the registry.

450 (b) Neither the state nor any political subdivision of the state nor
451 any officer or employee thereof, shall be held civilly liable to any
452 registrant by reason of disclosure of any information regarding the
453 registrant that is released or disclosed in accordance with subsection
454 (a) of this section. The state and any political subdivision of the state
455 and, except in cases of wanton, reckless or malicious conduct, any
456 officer or employee thereof, shall be immune from liability for good
457 faith conduct in carrying out the provisions of subdivision (2) of
458 subsection (a) of this section.

WORKING DRAFT

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*from passage*	53a-40(h)
Sec. 3	*from passage*	53a-40(a)
Sec. 4	*from passage*	53a-101
Sec. 5	*from passage*	53a-102
Sec. 6	*from passage*	53a-102a
Sec. 7	*from passage*	53a-103
Sec. 8	*from passage*	53a-103a
Sec. 9	*from passage*	54-125a(b)
Sec. 10	*from passage*	54-125b
Sec. 11	*from passage*	53a-30
Sec. 12	*from passage*	53a-20
Sec. 13	*January 1, 2008*	New section
Sec. 14	*from passage*	New section
Sec. 15	*from passage*	New section

Statement of Purpose:

To enact a "three strikes" law, revise laws on persistent dangerous felony offenders, burglary, eligibility for parole release, conditions of probation and defense of premises and establish a public registry of parolees.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

November 9, 2007 2007-R-0649

PROPOSAL 8: AN ACT STRENGTHENING CRIMINAL LAWS CONCERNING PERSISTENT OFFENDERS, BURGLARY, THE JUSTIFIABLE USE OF DEADLY FORCE AND PAROLE RELEASE

By: Susan Price, Principal Analyst

You asked us to summarize Proposal 8: *AA Strengthening Criminal Laws Concerning Persistent Offenders, Burglary, The Justifiable Use Of Deadly Force and Parole Release* for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

This bill makes a number of changes in the criminal statutes. It:

1. requires certain repeat offenders to serve life sentences;

2. requires consideration of 1st and 2nd degree burglary convictions in sentencing proceedings under the persistent dangerous felony offender statute;

3. enhances prison sentences for burglary convictions and requires global positioning system (GPS) monitoring for certain burglary offenders released on probation or conditionally discharged into the community;

4. prohibits parole release of people incarcerated for certain nonviolent burglary offenses without a full Parole Board hearing;

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5. creates the presumption that a person who used deadly force to defend his or her dwelling reasonably believed that this was necessary to prevent or terminate an unlawful, forced entry; and

6. requires the Department of Public Safety to establish and maintain a public registry of offenders on parole.

The bill also conforms the persistent dangerous felony offender statute to a recent Connecticut Supreme Court holding which found a portion of the statute unconstitutional. In *State v. Bell,* the Court ordered language authorizing "the court" to decide whether persistent dangerous felony offenders should be subjected to enhanced sentencing and post-release supervision be excised from the statute because offenders have the constitutional right to have a jury make this determination (283 Conn. 748, 812 (2007)).

The bill is effective upon passage, except the provision requiring parolees to register is effective January 1, 2008.

§ 1 — MANDATORY LIFE SENTENCES FOR REPEAT OFFENDERS

The bill mandates life prison sentences (statutorily defined as 60 years) without the possibility of release for people convicted of a "dangerous felony" who were incarcerated for two prior "predicate offenses," attempts to commit predicate offenses, or crimes in other states with substantially the same essential elements as predicate offenses. Under the bill, a predicate offense is (1) a dangerous felony, (2) two class A misdemeanors, or (3) three class B misdemeanors.

By law, a class A misdemeanor is a crime punishable by imprisonment for up to one year, a fine of up to $2,000, or both. A class B misdemeanor is punishable by imprisonment for up to six months, a fine of up to $1,000, or both.

Table 1 below shows the offenses that are classified as dangerous felonies.

Table 1: Dangerous Felonies

Murder, other than a capital felony	Manslaughter	Arson
Kidnapping	1st or 2nd degree robbery	Robbery involving an occupied motor vehicle
Felony assault	1st or 3rd degree sexual assault	1st degree aggravated sexual assault
3rd degree sexual assault with a firearm	1st or 2nd degree burglary	1st degree stalking
Stealing a firearm		

Repeat offenders who would otherwise be subject to life imprisonment may avoid it by proving that they were pardoned on the ground of innocence for an offense which is being counted as a prior conviction.

§§ 2 AND 3 — PERSISTENT DANGEROUS FELONY OFFENDER STATUS

The bill also adds 1st and 2nd degree burglary to the list of felonies that can form the basis for a finding of persistent dangerous felony offender status, thus increasing the number of repeat offenders who may be subject to enhanced periods of jail and community supervision. By law, persistent dangerous offenders are those convicted of specified felonies with prior convictions for specified felonies.

Judges must follow the persistent dangerous felony offender statute's enhanced sentencing rules when the jury finds that the offender meets the statutory requirements and that his or her history and character and the nature and circumstances of the criminal conduct indicate that extended incarceration and lifetime supervision will best serve the public interest (CGS § 53a-40(h); *State v. Bell,* 283 Conn. 748 (2007)).

Table 2 compares the persistent dangerous felony offender classification under current law and the bill.

Table 2: Persistent Dangerous Offender
(proposed changes in bold italics)

CURRENT CONVICTION (§ 53a-40(a)(1))		
Manslaughter	Arson	Kidnapping
1st or 2nd degree robbery	1st degree assault	***1st or 2nd degree burglary***
PRIOR CONVICTION (SENTENCED TO AT LEAST 1 YR.)		
Murder	Manslaughter	Arson
Kidnapping	1st or 2nd degree robbery	1st degree assault
1st degree sexual assault, including aggravated	3rd degree sexual assault, including with a firearm	***1st or 2nd degree burglary***
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements		

OR

CURRENT CONVICTION (§ 53(a)(40)(a(2))		
1st degree sexual assault, including aggravated	3rd degree sexual assault, including with firearm	
PRIOR CONVICTION (SENTENCED TO AT LEAST 1 YR.)		
Murder	Manslaughter	Arson
Kidnapping	1st or 2nd degree robbery	1st degree assault
1st or 2nd degree burglary		
Attempts to commit any of the above crimes and convictions under predecessor statutes or for crimes under laws of other states that have substantially the same essential elements		
SENTENCE ENHANCEMENT		
Current conviction is strike 2: Up to 40 yrs.		
Current conviction is strike 3: Up to life		

§§ 4-8 — BURGLARY OFFENSES

The bill increases the mandatory minimum sentences associated with 1st and 2nd degree burglary and 3rd degree burglary with a firearm. It also expands the weapons that can give rise to 2nd or 3rd degree armed burglary. But under both current law and the bill, the elements of the crimes of 2nd and 3rd degree armed burglary are identical to those for the crime of 1st degree armed burglary.

The bill also establishes a mandatory minimum sentence for simple 3rd degree burglary (i.e., when no weapon is involved).

Deadly Weapons and Dangerous Instruments

The law defines a deadly weapon as "any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles" (CGS § 53a-3(6)). It defines a dangerous instrument as "any instrument, article or substance which, under the circumstances in which it is used or attempted or threatened to be used, is capable of causing death or serious physical injury". It includes vehicles and dogs (other than police dogs acting under an officer's direction) who have been given orders to attack (CGS § 53a-3(7)).

Table 3 compares the current and proposed elements of each of the burglary crimes and sentence ranges.

Table 3: Burglary Offenses and Sentences Compared
(proposed changes to elements of burglary offenses in bold italics)

Burglary Offense	Current Sentence	LCO 9965 Sentence
1st degree: entering or remaining unlawfully in a building with intent to commit a crime therein and 1. actor is armed with explosives, a deadly weapon, or dangerous instrument or ***firearm*** or 2. in the course of committing offense, actor intentionally, knowingly, or recklessly inflicts or attempts to inflict bodily injury on anyone *(CGS §53a-101)*	*Actor armed:* at least 5 and up to 20 yrs. *Actor unarmed; injury attempted or inflicted:* 1-20 yrs.	*Actor armed:* at least 6 and up to 20 yrs. *Actor unarmed; injury attempted or inflicted:* at least 5 and up to 20 yrs.
2nd Degree: 1. entering or remaining unlawfully in a dwelling at night with intent to commit a crime or 2. entering or remaining unlawfully in a dwelling with intent to commit a crime while a person other than a participant in the crime is actually present in such dwelling *(CGS §53a-102)*	1-10 yrs.	At least 2 and up to 10 yrs.

-Continued-

Burglary Offense	Current Sentence	LCO 9965 Sentence
2nd degree with firearm, ***deadly weapon, or dangerous instrument:*** same as above and actor (a) uses, (b) is armed with and threatens to use, or (c) displays or represents by words or conduct that he or she possesses a pistol, revolver, shotgun, machine gun, or other firearm ***or deadly weapon or dangerous instrument*** *(CGS §53a-102a)*	At least 1 and up to 10 yrs.	At least 3 and up to 10 yrs.
3rd degree: Entering or remaining unlawfully in a building with intent to commit crime therein *(53a-103)*	1- 5 yrs.	At least 1 and up to 5 yrs.
3rd degree with firearm, ***deadly weapon, or dangerous instrument:*** same as above and actor (a) uses, (b) is armed with and threatens to use, or (c) displays or represents by words or conduct that he or she possesses a pistol, revolver, shotgun, machine gun, or other firearm ***or deadly weapon or dangerous instrument*** *(53a-103a)*	At least 1 and up to 5 yrs.	At least 2 and up to 5 yrs.

§ 11 — Electronic Monitoring Throughout Probation or Conditional Release

The law authorizes courts to order electronic monitoring, including using global positioning systems (GPS), for people they release on probation or discharge conditionally into the community (i.e., without probation supervision). The bill makes GPS monitoring mandatory for offenders convicted of (1) 1st degree burglary or (2) 2nd degree burglary (except 2nd degree burglary with a firearm, deadly weapon, or dangerous weapon). The monitoring must continue throughout the probation or conditional release period.

By law, courts can order the person being monitored to pay some or all of the monitoring costs, up to $6 a day.

§§ 9 and 10 — Parole Restrictions

The bill increases, from 50% to 85%, the portion of prison sentences that offenders convicted of nonviolent 2nd and 3rd degree burglaries must serve before they can qualify for parole consideration. The 85% rule already applies to these burglaries and other non-capital offenses where the actor used, or attempted or threatened to use physical force against another person (CGS § 54-125a).

By law, the Board of Pardons and Parole must conduct full hearings to determine the parole suitability of offenders subject to the 85% rule. Currently parole release decisions involving those incarcerated for nonviolent 2d and 3rd degree burglary can be made without a hearing if a board employee has reviewed the inmate's case and recommends it and at least two members of a board panel approve it.

Administrative parole decisions can still be made under the bill for those who are eligible for consideration after serving 50% of their sentences.

§§ 13-15 — PAROLEE REGISTRY

The bill requires all people released on parole to register their names and identifying factors (defined by law as fingerprints, photographic images, and descriptions of any other identifying characteristics the Department of Public Safety (DPS) commissioner requires), criminal records, and home addresses with DPS and keep the information up-to-date until their parole ends. The DPS commissioner must establish a registry and procedures for updating it, and make information available to the public and law enforcement agencies. Many provisions in the bill mirror those in the existing sex offender registration law.

Parolees released after the bill is enacted must register before the Department of Correction (DOC) commissioner can release them. The commissioner must provide them with written summaries of their registration obligations. She must also forward the completed registration packages to the DPS commissioner for inclusion in the registry.

People already on supervised parole when the bill is passed must register within 10 days after passage unless the DPS commissioner establishes a phase-in procedure for them. Any phase-in must be completed within three months.

Registrant's Responsibilities

Registrants must notify the DPS commissioner in writing of name or address changes without undue delay. They must also periodically complete and return verification forms and be re-photographed at the DPS commissioner's request.

Failing to register on time or report name and address changes within five business days is a class D felony, punishable by imprisonment for up to five years, a fine of up to $5,000, or both.

DPS Responsibilities

DPS must establish and maintain the registry. The registry must include information in the registration packet and the most recent photo taken by DPS, DOC, a law enforcement agency, or the Judicial Department's Court Support Services Division. DPS must notify the local police department or state police troop having jurisdiction over the area where the registrant lives or plans to live that the individual is a registered parolee. DPS must update the registry with name and address changes and re-photograph registrants at least once every five years.

The department must also verify the address of each in-state registrant by mailing a non-forwardable verification form to his or her last reported address every 90 days after the initial registration date. It need not do this during periods when the registrant is incarcerated, under a civil commitment order, or living out of state.

DPS must notify the local police department or state police barracks if a registrant fails to return the form within 10 days of the date it was mailed. The police, in turn, must seek an arrest warrant, charging the registrant with failure to comply with registration mandates.

The bill states that the registry is a public record that must be accessible to the public during normal business hours. It directs DPS to make registry information available on the Internet. DPS must also issue notices to all print and electronic media in the state at least every three months regarding the availability and means of accessing the registry.

DPS must also develop a protocol to notify other state agencies, the Judicial Department, and police when a registrant gives it notice that he or she has a name change or when notified by the superior or probate court that a registrant's name change request has been granted.

DPS must notify the local law enforcement agency having jurisdiction over the registrant's last reported address when his or her parole term ends; both the department and law enforcement must remove the name and identifying information from the registry.

Disclosure of Registry Information

The bill permits state agencies, the Judicial Department, and any state police troop or local department to notify government agencies, private organizations, or individuals about registrants and information on the registry when they believe that notification is necessary to protect the public or any person from a registrant.

Confidentiality

The bill prohibits state agencies, the Judicial Department, and state and local police from disclosing the identity of any victim of a crime committed by the registrant except to government agencies for legitimate law enforcement or security purposes.

Civil Immunity

The bill states that the state and its political subdivisions and their respective officers and employees cannot be held civilly liable to registrants for releasing or disclosing information in accordance with its provisions. The state and political subdivisions are immune from liability for good faith conduct in notifying government agencies, private organizations, or individuals of registration information when they believe this is necessary to protect the public or an individual from any registrant. State and political subdivision officers and employees may be held civilly liable for notifications involving wanton, reckless, or malicious conduct.

§ 12 — USE OF DEADLY FORCE

The law permits a person to use deadly physical force when he or she reasonably believes this is necessary to prevent or terminate an unlawful, forced entry into his or her dwelling (the "Castle Doctrine"). The bill lessens the amount of evidence the actor must present to establish the defense of justification when his or her use of deadly force under such circumstances gives rise to a criminal prosecution. Currently, the actor must prove by a preponderance of evidence that his or her belief was reasonable. The bill creates an evidentiary presumption that the person's belief was reasonable.

SP:ts

WORKING DRAFT

General Assembly **Raised Bill No.**

No. 9

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING THE BOARD OF PARDONS AND PAROLES AND REENTRY FURLOUGHS.

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

Section 1. Subsections (a) and (b) of section 54-124a of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There shall be a Board of Pardons and Paroles within the Department of Correction, for administrative purposes only. On and after October 1, 2004, the board shall consist of thirteen members appointed by the Governor with the advice and consent of either house of the General Assembly. In the appointment of the members, the Governor shall endeavor to reflect the racial diversity of the state. The Governor shall appoint a chairperson from among the membership. The [chairperson] members of the board appointed on or after January 1, 2008, shall be qualified by [education,] experience [and training] in the administration of community corrections, parole or pardons, the evaluation or supervision of offenders, the provision of mental health or other services to offenders, criminal justice or criminology.

17 (b) The term of each appointed member of the board serving on
18 [September 30, 2004] December 31, 2007, shall expire on said date. The
19 term of each member of the board [beginning on or after October 1,
20 2004,] shall be coterminous with the term of the Governor or until a
21 successor is chosen, whichever is later. Any vacancy in the
22 membership of the board shall be filled for the unexpired portion of
23 the term by the Governor.

24 Sec. 2. Subsection (c) of section 54-124a of the general statutes is
25 repealed and the following is substituted in lieu thereof (*Effective*
26 *January 1, 2008*):

27 (c) The [chairperson] members of the board shall devote full time to
28 the performance of [the] their duties [under this section] and shall be
29 compensated therefor in such amount as the Commissioner of
30 Administrative Services determines, subject to the provisions of section
31 4-40. [The other members of said board shall receive one hundred ten
32 dollars for each day spent in the performance of their duties and shall
33 be reimbursed for necessary expenses incurred in the performance of
34 such duties.] The chairperson or, in the chairperson's absence or
35 inability to act, a member designated by the chairperson to serve
36 temporarily as chairperson, shall be present at all meetings of said
37 board and participate in all decisions thereof.

38 Sec. 3. (NEW) (*Effective from passage*) No panel of the Board of
39 Pardons and Paroles shall hold a hearing to determine the suitability
40 for parole release of any person or hold a meeting to consider the
41 recommendation of an employee of the board made pursuant to
42 section 54-125b of the general statutes to grant parole to a person
43 unless the members of the panel have reviewed the complete file on
44 such person including, but not limited to, a transcript of any
45 sentencing hearing required to be delivered to the board pursuant to
46 section 51-286f of the general statutes, a copy of any presentence
47 investigation report prepared pursuant to section 54-91a of the general
48 statutes and such person's criminal record required to be sent to the

49 board pursuant to subsection (a) of section 54-125a of the general
50 statutes. The board shall provide each member of such panel with such
51 complete file not later than seven business days prior to the date
52 scheduled for such hearing or meeting.

53 Sec. 4. Section 18-101a of the general statutes is repealed and the
54 following is substituted in lieu thereof (*Effective from passage*):

55 The Commissioner of Correction at the commissioner's discretion
56 may extend the limits of the place of confinement of an inmate as to
57 whom there is reasonable belief he or she will honor his or her trust, by
58 authorizing the inmate under prescribed conditions to visit a
59 specifically designated place or places, within or without the state, for
60 periods not exceeding thirty days and return to the same or another
61 institution or facility. Such periods may be renewed at the discretion of
62 the commissioner. Such furlough may be granted only to permit a visit
63 to a dying relative, attendance at the funeral of a relative, the obtaining
64 of medical services not otherwise available, the contacting of
65 prospective employers, or for any compelling reason consistent with
66 rehabilitation. A reentry furlough may be granted only to inmates who
67 have demonstrated good conduct and obedience to the rules of the
68 institution or facility while confined, have a low-level security risk
69 classification and are not confined for conviction of an offense
70 involving the use, attempted use or threatened use of physical force
71 against another person. Any inmate who was sentenced to a period of
72 probation shall be subject, at a minimum, to the same conditions and
73 supervision while released on a reentry furlough as such inmate
74 would be subject to while released on probation. No reentry furlough
75 may be granted solely for the purpose of reducing the population of an
76 institution or facility. Any inmate who fails to return from furlough as
77 provided in the furlough agreement shall be guilty of the crime of
78 escape in the first degree. For the purposes of this section, "reentry
79 furlough" means a furlough granted for the purpose of reintegrating
80 an inmate into the community that allows such inmate to serve the
81 period immediately preceding such inmate's parole release or

82 discharge date in the community.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	54-124a(a) and (b)
Sec. 2	*January 1, 2008*	54-124a(c)
Sec. 3	*from passage*	New section
Sec. 4	*from passage*	18-101a

Statement of Purpose:
To provide for the appointment of a full-time professional Board of Pardons and Paroles, provide inmate files to board members at least one week before a hearing or meeting to consider the suitability of an inmate for parole release and restrict the use of reentry furloughs.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

001288

November 9, 2007 2007-R-0642

PROPOSAL 9:

AN ACT CONCERNING THE BOARD OF PARDONS AND PAROLES AND REENTRY FURLOUGHS

By: Christopher Reinhart, Senior Attorney

You asked us to summarize Proposal 9, *An Act Concerning the Board of Pardons and Paroles and Reentry Furloughs*, for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

This bill ends the terms of Board of Pardons and Paroles members on December 31, 2007 and requires new appointments starting January 1, 2008. The bill requires the new members of the board to be qualified by experience in administering community corrections, parole, or pardons; evaluating or supervising offenders; providing mental health or other services to offenders; criminal justice; or criminology. The bill also applies this standard to the board chairman. Under prior law, the chairman had to be qualified by education, experience, and training in administering community corrections, parole, or pardons.

The bill requires all board members, rather than just the chairman, to devote full time to performing their duties after January 1, 2008. It eliminates the $110 per diem and reimbursement for necessary expenses that members currently receive for performing their duties. Instead, as for the chairman, it requires the Administrative Services commissioner to set their compensation.

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The bill prohibits the board from holding a hearing on someone's suitability for parole release or holding a meeting to consider a board employee's recommendations for release based on the employee's administrative review unless the panel members have the person's complete file.

The bill defines a "reentry furlough" as a furlough to reintegrate an inmate into the community that allows the inmate to serve a period immediately before parole release or discharge into the community. It limits reentry furloughs to non-violent offenders and sets other requirements for release.

EFFECTIVE DATE: Upon passage, except the provision on full-time board members and their pay is effective January 1, 2008.

COMPLETE FILE

The bill prohibits the board from holding a hearing on someone's suitability for parole release or holding a meeting to consider a board employee's recommendations for release based on the employee's administrative review unless the panel members have the person's complete file, including the:

1. sentencing hearing transcript that the law requires prosecutors to deliver to the board,

2. presentence investigation report prepared by a probation officer for the court before sentencing, and

3. person's criminal record required to be sent to the board by the state's attorney within three weeks of a person's commitment to a sentence of more than one year.

The bill requires the board to give each panel member the complete file at least seven business days before the scheduled hearing or meeting date.

REENTRY FURLOUGH

Under current law, the DOC commissioner can allow an inmate to visit a specifically designated place, within or outside the state, under specified conditions for up to 30 days for (1) visiting a dying relative, (2) attending a relative's funeral, (3) obtaining medical services not otherwise available, (4) contacting prospective employers, or (5) other compelling reasons consistent with rehabilitation. The commissioner can renew the furloughs.

The bill provides that a reentry furlough can only be granted to inmates who (1) have demonstrated good conduct and obedience to the rules where they were confined; (2) have a low-level security risk classification; and (3) are not confined for an offense involving the use, attempted use, or threatened use of physical force against another. Inmates released for a reentry furlough who were also sentenced to probation must, at a minimum, be subject to the same conditions and supervision that they would be subject to while on probation. The bill prohibits granting reentry furloughs solely to reduce a facility's population.

CR:dw

WORKING DRAFT

General Assembly

Raised Bill No.

No. **10**

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING PERSISTENT BURGLARY OFFENDERS.

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

Section 1. (NEW) (*Effective from passage*) (a) A persistent burglary offender is a person who (1) stands convicted of burglary in the first degree in violation of section 53a-101 of the general statutes, burglary in the second degree in violation of section 53a-102 of the general statutes, burglary in the second degree with a firearm in violation of section 53a-102a of the general statutes, burglary in the third degree in violation of section 53a-103 of the general statutes or burglary in the third degree with a firearm in violation of section 53a-103a of the general statutes, and (2) has been, at separate times prior to the commission of the present burglary, twice charged with commission of the crime of burglary.

(b) Whenever any person has been found to be a persistent burglary offender and such person's history and character and the nature and circumstances of such person's criminal conduct indicate that extended incarceration will best serve the public interest, the court, in lieu of imposing the sentence authorized by section 53a-35a of the general statutes for the crime of which such person presently stands convicted,

18 shall impose the sentence of imprisonment authorized by said section
19 for the next more serious degree of felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section

Statement of Purpose:
To establish a persistent burglary offender law.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

November 14, 2007 2007-R-0652

PROPOSAL 10:

AN ACT CONCERNING PERSISTENT BURGLARY OFFENDERS.

By: Sandra Norman-Eady, Chief Attorney

You asked for a summary of Proposal 10, An Act Concerning Persistent Burglary Offenders for a Judiciary Committee public hearing scheduled for November 27, 2007.

The bill establishes a new category of persistent offenders. It requires the court to sentence persistent burglary offenders to the next more serious degree of felony under certain circumstances. The enhanced sentence is required when the offender's history and character and nature and circumstances of the offender's criminal conduct indicate that extended incarceration will best serve the public interest.

Under the bill, a persistent burglary offender is someone who (1) is convicted of 1st, 2nd, or 3rd degree burglary, including 2nd and 3rd degree burglary with a firearm, and (2) was charged with burglary twice before, whether or not the charges resulted in convictions. Thus, it is possible for two burglary offenders to be subject to different sentences for their first convictions. One with two prior burglary arrests could be subject to an enhanced penalty while another first-time offender with one or no prior burglary arrests could not.

The bill is effective upon passage.

Table 1 shows the current elements, classifications, and penalties for burglary crimes.

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TABLE 1: BURGLARY CRIMES

Crimes	*Classifications*	*Penalties*
1st Degree Burglary: Entering or remaining unlawfully in a building with intent to commit a crime and the actor: 1. is armed with explosives, a deadly weapon, or a dangerous instrument or 2. intentionally, knowingly, or recklessly inflicts or attempts to inflict bodily injury on someone while attempting to commit the offense or while fleeing (CGS § 53a-101)	Class B felony	Up to 20 years in prison, five years of which cannot be suspended if armed.
2nd Degree Burglary: 1. Entering or remaining unlawfully in a dwelling at night with intent to commit a crime or 2. Entering or remaining unlawfully in a dwelling with intent to commit a crime while someone, other than a participant in the crime, is in the dwelling (CGS § 53a-102)	Class C Felony	Up to 10 years in prison
2nd Degree Burglary with a Firearm: 1. Committing 2nd degree burglary and the actor 2. (a) uses; (b) is armed with and threatens to use; or (c) displays or represents by words or conduct that he or she possesses, a pistol, revolver, rifle, shotgun, machine gun, or other firearm (CGS § 53a-102a)	Class C felony	Up to 10 years in prison, one year mandatory minimum
3rd Degree Burglary: Entering or remaining unlawfully in a building with intent to commit a crime there (CGS § 53a-103)	Class D felony	Up to five years in prison
3rd Degree Burglary with a Firearm: 1. Committing 3rd degree burglary and the actor 2. (a) uses, (b) is armed with and threatens to use, or (c) displays or represents by words or conduct that he or she possesses a pistol, revolver, rifle, shotgun, machine gun, or other firearm (CGS § 53a-103a)	Class D felony	Up to five years in prison, one year mandatory minimum

SNE:ts

WORKING DRAFT

General Assembly

Raised Bill No.

No. **11**

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING INFORMATION PROVIDED TO THE BOARD OF PARDONS AND PAROLES.

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

Section 1. Subsection (a) of section 54-125a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person convicted of one or more crimes who is incarcerated on or after October 1, 1990, who received a definite sentence or aggregate sentence of more than two years, and who has been confined under such sentence or sentences for not less than one-half of the aggregate sentence or one-half of the most recent sentence imposed by the court, whichever is greater, may be allowed to go at large on parole in the discretion of the panel of the Board of Pardons and Paroles for the institution in which the person is confined, if (1) it appears from all available information, including any reports from the Commissioner of Correction that the panel may require, that there is reasonable probability that such inmate will live and remain at liberty without violating the law, and (2) such release is not incompatible with the welfare of society. At the discretion of the panel, and under the terms

17 and conditions as may be prescribed by the panel including requiring
18 the parolee to submit personal reports, the parolee shall be allowed to
19 return to the parolee's home or to reside in a residential community
20 center, or to go elsewhere. The parolee shall, while on parole, remain
21 under the jurisdiction of the board until the expiration of the
22 maximum term or terms for which the parolee was sentenced. Any
23 parolee released on the condition that the parolee reside in a
24 residential community center may be required to contribute to the cost
25 incidental to such residence. Each order of parole shall fix the limits of
26 the parolee's residence, which may be changed in the discretion of the
27 board and the Commissioner of Correction. Within three weeks after
28 the commitment of each person sentenced to more than [one year] two
29 years, the [state's attorney for the judicial district] prosecuting official
30 shall send to the Board of Pardons and Paroles the criminal record, if
31 any, of such person, a copy of the police report, a copy of any
32 presentence investigation report prepared pursuant to section 54-91a
33 and a transcript of the sentencing hearing.

34 Sec. 2. (NEW) (*Effective from passage*) Whenever a clerk of the court
35 issues a judgment mittimus committing a person to the custody of the
36 Commissioner of Correction, such clerk shall indicate on the mittimus
37 whether a presentence investigation report was prepared for such
38 person in accordance with section 54-91a of the general statutes and
39 the date of such report.

40 Sec. 3. (NEW) (*Effective from passage*) No panel of the Board of
41 Pardons and Paroles shall hold a hearing to determine the suitability
42 for parole release of any person or hold a meeting to consider the
43 recommendation of an employee of the board made pursuant to
44 section 54-125b of the general statutes to grant parole to a person
45 unless the members of the panel have received and reviewed the
46 complete file on such person including, but not limited to, such
47 person's criminal record, a copy of the police report, a copy of any
48 presentence investigation report prepared pursuant to section 54-91a
49 of the general statutes and a transcript of the sentencing hearing

50 required to be delivered to the board pursuant to section 51-286f of the
51 general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	54-125a(a)
Sec. 2	*from passage*	New section
Sec. 3	*from passage*	New section

Statement of Purpose:
To ensure that the Board of Pardons and Paroles has complete information on an inmate before the board votes on whether to allow the inmate to be released on parole.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

001298

November 14, 2007 2007-R-0647

PROPOSAL 11:

AN ACT CONCERNING INFORMATION PROVIDED TO THE BOARD OF PARDONS AND PAROLES

By: Kevin E. McCarthy, Principal Analyst

You asked us to summarize Proposal 11, *An Act Concerning Information Provided to the Board of Pardons and Paroles* for the Judiciary Committee public hearing to be held on November 27, 2007.

SUMMARY

The bill modifies the information that must be sent to the Board of Pardons and Paroles (board) when a person is committed to prison and the circumstances under which it is sent. Under current law, within three weeks after a person who is sentenced to more than one year is committed, the state's attorney for the judicial district must send the board the person's record, if any. The bill (1) limits this requirement to individuals sentenced to at least two years (by law, the board does not have jurisdiction over people sentenced to shorter periods); (2) specifies that the information to be sent to the board is the person's criminal record, copies of the police report, any presentence investigation report, and a transcript of the sentencing hearing (the latter is already required under CGS § 51-286f); and (3) imposes the obligation on the prosecuting official rather than the state's attorney for the judicial district.

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The bill prohibits panels of the board from holding (1) hearings to determine the suitability for parole release of any person or (2) meetings to consider the recommendation of board employees to grant parole to a person unless the panel's members have received and reviewed the prisoner's complete file. The file must at least include the information described above. It appears that these provisions apply to persons who are already incarcerated, while the previous provisions regarding the transmittal of information only apply to individuals sentenced to two or more years on or after the bill's effective date.

The bill requires court clerks, when issuing a judgment mittimus (court order) committing a person to the custody of the Commissioner of Correction, to indicate on the mittimus whether a presentence investigation report was prepared for the person in accordance with the law and the date of the report.

The bill is effective upon passage

BACKGROUND

Pre-Sentence Investigation

CGS § 54-91a requires a probation officer to conduct an investigation before the court disposes of a case of a person convicted of a crime (other than a capital felony) for which a prison sentence longer than one year can be imposed. The court can require such an investigation for crimes with shorter potential prison sentences. The investigation must address the circumstances of the case, the victim's attitude, and the defendant's criminal record, among other things. The probation officer must prepare a report, which the court must consider in disposing of the case.

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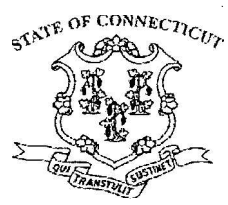
WO. .KING DRAFT



General Assembly **Raised Bill No.**

No. **12**

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING THE RELEASE OF A PERSON ON PAROLE OR OTHER SUPERVISED COMMUNITY RELEASE.

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

Section 1. (NEW) (*Effective from passage*) No person shall be released from confinement in a correctional institution or facility into the community on parole or any other supervised release program unless the Commissioner of Correction, a panel of the Board of Pardons and Paroles or other designated releasing authority, as the case may be, has reviewed the complete file on such person including, but not limited to, such person's criminal record, a transcript of any sentencing hearing and any presentence investigation report prepared pursuant to section 54-91a of the general statutes.

Sec. 2. (NEW) (*Effective from passage*) No person convicted of sexual assault, the illegal sale or possession of controlled substances or an offense involving the use, attempted use or threatened use of physical force against another person shall be eligible for release from confinement in a correctional institution or facility into the community on parole or any other supervised release program unless such person has submitted to a psychiatric examination and the written report of

17 the examining physician has been filed with and reviewed by the
18 Commissioner of Correction, a panel of the Board of Pardons and
19 Paroles or other designated releasing authority, as the case may be.

20 Sec. 3. Subsection (b) of section 54-125a of the general statutes is
21 repealed and the following is substituted in lieu thereof (*Effective from*
22 *passage*):

23 (b) (1) No person convicted of any of the following offenses, which
24 was committed on or after July 1, 1981, shall be eligible for parole
25 under subsection (a) of this section: Capital felony, as provided in
26 section 53a-54b, felony murder, as provided in section 53a-54c, arson
27 murder, as provided in section 53a-54d, murder, as provided in section
28 53a-54a, or aggravated sexual assault in the first degree, as provided in
29 section 53a-70a. (2) A person convicted of (A) an offense, other than an
30 offense specified in subdivision (1) of this subsection, where the
31 underlying facts and circumstances of the offense involve the use,
32 attempted use or threatened use of physical force against another
33 person, or (B) a violation of subdivision (2) of subsection (a) of section
34 53a-102, shall be ineligible for parole under subsection (a) of this
35 section until such person has served not less than eighty-five per cent
36 of the definite sentence imposed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*from passage*	New section
Sec. 3	*from passage*	54-125a(b)

Statement of Purpose:
To prohibit the parole or other supervised release of a person from prison unless such person's complete criminal record has been reviewed, require a psychiatric examination of certain offenders before they become eligible for parole or other supervised release and classify the burglary of an occupied dwelling as a violent offense for purposes of parole eligibility.

November 14, 2007 2007-R-0653

PROPOSAL 12:

AN ACT CONCERNING THE RELEASE OF A PERSON ON PAROLE OR OTHER SUPERVISED COMMUNITY RELEASE.

By: Sandra Norman-Eady, Chief Attorney

You asked for a summary of Proposal 12, *An Act Concerning the Release of a Person on Parole or Other Supervised Community Release,* for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

The bill (1) adds to the process for releasing inmates on parole or supervised home release, (2) requires certain inmates to submit to psychiatric examinations before they are eligible for parole or supervised release, and (3) requires inmates convicted of entering or remaining unlawfully in an occupied dwelling to commit a crime to serve a longer sentence before they are eligible for parole.

The bill is effective upon passage.

PAROLE RELEASE CONDITIONS

The bill prohibits the release of inmates on parole or supervised release unless the correction commissioner, Board of Pardons and Paroles, or other designated releasing authority, as appropriate, has reviewed the inmate's complete file, including his or her criminal record, sentencing transcript, and any presentence investigation report. The prohibition appears to apply to al types of parole, including

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administrative (generally for inmates convicted of nonviolent offenses), medical (for inmates with terminal conditions), special (ordered by the court as part of a sentence), and deportation parole.

By law (CGS § 18-100(c)), the commissioner of correction may release inmates to a supervised community correction program if they (1) were sentenced to a prison term of two years or less and (2) have served at least 50% of their sentences minus any good time credits.

PAROLE ELIGIBILITY

Sex Offenders, Drug Dealers and Users, and Violent Offenders

It requires inmates convicted of sexual assault; illegal drug sale or possession; or the use, attempted use, or threatened use of physical force against another person to submit to a psychiatric examination before they are eligible for parole or supervised release. The examining psychiatrist must file a written report and the correction commissioner, a Board of Pardons and Paroles panel, or other designated releasing authority, as appropriate, must review it before parole or supervised release is approved. The law already permits the parole board to require sexual offenders to undergo specialized sexual offender treatment for at least one year before it schedules a parole hearing.

Inmates Convicted Of Occupied Home Invasions

The bill makes anyone convicted of entering or remaining unlawfully in an occupied dwelling to commit a crime ineligible for parole until he or she has served at least 85%, instead of 50%, of his or her sentence. As a consequence, the Board of Pardons and Parole must hold a hearing to determine these offenders' suitability for release. Under current law, they may be released without a hearing.

By law, entering or remaining unlawfully in an occupied dwelling to commit a crime is 2nd degree burglary, punishable by one to 10 years in prison, up to a $10,000 fine, or both.

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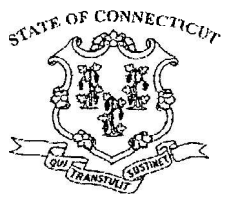

WORKING DRAFT

General Assembly

Raised Bill No.

No. **13**

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING NURSING AND MENTAL HEALTH STAFF AT CORRECTIONAL FACILITIES AND OTHER STATE-OPERATED INSTITUTIONS.

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

1 Section 1. (NEW) (*Effective from passage*) (a) On or before July 1, 2008,
2 the Commissioner of Public Health, in consultation with the Board of
3 Governors of Higher Education, shall establish a program for the
4 forgiveness of loans provided by the state to students who are
5 pursuing a degree leading to licensure as a registered nurse. The loans
6 shall be forgiven in accordance with subsection (b) of this section if the
7 student practices as a registered nurse in a state-operated facility or
8 institution after receiving such degree.

9 (b) Participants in the loan forgiveness program shall have loans
10 that qualify for forgiveness under the program forgiven based upon
11 the following schedule: (1) Ten per cent of the total amount borrowed
12 and qualified for under the program shall be forgiven upon the
13 completion of one year's service pursuant to the program; (2) twenty-
14 five per cent of the total amount borrowed and qualified for under the
15 program shall be forgiven upon the completion of two years' service

16 pursuant to the program; (3) forty-five per cent of the total amount
17 borrowed and qualified for under the program shall be forgiven upon
18 the completion of three years' service pursuant to the program; (4)
19 seventy per cent of the total amount borrowed and qualified for under
20 the program shall be forgiven upon the completion of four years'
21 service pursuant to the program; and (5) one hundred per cent of the
22 total amount borrowed and qualified for under the program shall be
23 forgiven upon the completion of five years' service pursuant to the
24 program.

25 (c) Not later than July 1, 2008, the Commissioner of Public Health, in
26 consultation with the Board of Governors of Higher Education, shall
27 adopt regulations, in accordance with the provisions of chapter 54 of
28 the general statutes, to establish procedures to administer the loan
29 forgiveness program.

30 (d) The Department of Public Health, in consultation with the
31 Department of Higher Education, shall advertise the loan forgiveness
32 program established under this section in such manner as the
33 Department of Public Health determines will most effectively attract a
34 greater number of persons to pursue a degree leading to licensure as a
35 registered nurse and practice in a state-operated facility or institution
36 thereafter.

37 Sec. 2. (*Effective July 1, 2008*) The sum of one million five hundred
38 thousand dollars is appropriated to the Department of Public Health,
39 from the General Fund, for the fiscal year ending June 30, 2009, for the
40 loan forgiveness program authorized under section 1 of this act.

41 Sec. 3. (*Effective July 1, 2008*) The sum of two hundred fifty thousand
42 dollars is appropriated to the Department of Public Health, from the
43 General Fund, for the fiscal year ending June 30, 2009, for purposes of
44 the accelerated relicensure of nurses who have left the workforce and
45 whose licenses have expired.

46 Sec. 4. (*Effective July 1, 2008*) The sum of two hundred thousand

47 dollars is appropriated to the Department of Public Health, from the
48 General Fund, for the fiscal year ending June 30, 2009, for purposes of
49 developing and implementing an advertising campaign to recruit
50 nurses to work at state-operated institutions.

51 Sec. 5. (NEW) (*Effective from passage*) (a) On and after the effective
52 date of this section, no state agency may require a nurse in a state-
53 operated institution to work in excess of a predetermined scheduled
54 work shift, provided such scheduled work shift is determined and
55 promulgated not less than forty-eight hours prior to the
56 commencement of such scheduled work shift. Any nurse may
57 volunteer or agree to work hours in addition to such scheduled work
58 shift but the refusal by a nurse to accept such additional hours shall
59 not be grounds for discrimination, dismissal, discharge or any other
60 penalty or employment decision adverse to the nurse.

61 (b) The provisions of this section shall not apply: (1) To any nurse
62 participating in a surgical procedure until such procedure is
63 completed; (2) to any nurse working in a critical care unit until such
64 nurse is relieved by another nurse who is commencing a scheduled
65 work shift; (3) in the case of a public health emergency; (4) in the case
66 of an institutional emergency including, but not limited to, adverse
67 weather conditions, catastrophe or widespread illness, that in the
68 opinion of the administrator of the institution will significantly reduce
69 the number of nurses available for a scheduled work shift, provided
70 the administrator of the institution has made a good faith effort to
71 mitigate the impact of such institutional emergency on the availability
72 of nurses; or (5) to any nurse who is covered by a collective bargaining
73 agreement that contains provisions addressing the issue of mandatory
74 overtime.

75 Sec. 6. (*Effective from passage*) The Commissioner of Correction shall
76 make reasonable efforts to fill any vacancies in authorized positions for
77 employees who provide mental health services by April 15, 2008. Not
78 later than March 1, 2008, the commissioner shall submit a report to the

79 joint standing committee of the General Assembly on judiciary on the
80 status of the commissioner's efforts to fill such vacancies.

81 Sec. 7. (*Effective from passage*) During the fiscal year ending June 30,
82 2009, the Commissioner of Correction shall expand the special
83 overtime staffing pilot program to all correctional facilities.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*July 1, 2008*	New section
Sec. 3	*July 1, 2008*	New section
Sec. 4	*July 1, 2008*	New section
Sec. 5	*from passage*	New section
Sec. 6	*from passage*	New section
Sec. 7	*from passage*	New section

Statement of Purpose:
To ensure there is adequate nursing and mental health staff at correctional facilities and other state-operated institutions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

November 14, 2007 2007-R-0665

PROPOSAL 13:

AN ACT CONCERNING NURSING AND MENTAL HEALTH STAFF AT CORRECTIONAL FACILITIES AND OTHER STATE-OPERATED INSTITUTIONS

By: Kevin McCarthy, Principal Analyst

You asked us to summarize Proposal 13, *AAC Nursing and Mental Health Staff at Correctional Facilities and Other State-Operated Institutions*, for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

This bill bars state agencies, with certain exceptions, from requiring nurses in state-operated institutions to work more than a predetermined shift, which must be determined and promulgated at least 48 hours before the shift starts. The bill does not define "state-operated institutions." These provisions currently apply to registered nurses (RNs) and licensed practical nurses working in hospitals (CGS § 19a-490*l*.)

The bill requires that the Department of Public Health (DPH) commissioner, in consultation with the Board of Governors of Higher Education, establish a program by July 1, 2008 to forgive state loans provided to RN students who practice in a state-operated facility or institution after receiving their degrees.

The bill appropriates the following amounts to DPH from the General Fund for FY 09: (1) $1.5 million for the loan forgiveness program, (2) $250,000 for the accelerated relicensure of nurses who have left the

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workforce and whose licenses have expired, and (3) $200,000 for developing and implementing an advertising campaign to recruit nurses to work at state-operated institutions.

The bill requires the Correction commissioner to make reasonable efforts to fill any vacancies in authorized positions for employees who provide mental health services by April 15, 2008. By March 1, 2008, the commissioner must submit a report to the Judiciary Committee on the status of her efforts to fill such vacancies.

Finally, the bill requires the Correction commissioner, during FY 09, to expand the special overtime staffing pilot program to all correctional facilities.

The appropriations provisions are effective July 1, 2008 and the rest of the bill is effective upon passage.

RESTRICTIONS ON MANDATORY OVERTIME FOR STATE-EMPLOYED NURSES

The bill bars state agencies from requiring nurses in a state-operated institution to work more than a predetermined scheduled work shift, which must be determined and promulgated at least 48 hours before the shift starts. Any nurse may volunteer or agree to work more hours, but a nurse's refusal to accept additional hours cannot be grounds for discrimination, dismissal, discharge or any other penalty or employment decision adverse to the nurse.

These provisions do not apply: (1) to any nurse participating in a surgical procedure until it is completed; (2) to any nurse working in a critical care unit until she is relieved by another nurse who is commencing a scheduled work shift; (3) in a public health emergency; (4) in an institutional emergency including adverse weather conditions, catastrophe, or widespread illness, that in the opinion of the institution's administrator will significantly reduce the number of nurses available for a scheduled work shift, provided the administrator has made a good faith effort to mitigate the impact of the emergency on the availability of nurses; or (5) to any nurse who is covered by a collective bargaining agreement that contains provisions addressing the issue of mandatory overtime.

LOAN FORGIVENESS PROGRAM

Under the bill, participants in the program would have 10% of their state loans forgiven after one year of state service, 25% after two years, 45% after three years, 70% after four years, and 100% after five years. The bill requires the DPH commissioner, in consultation with the board, to adopt regulations by July 1, 2008 to administer the program. The bill requires DPH, in consultation with the Department of Higher Education, to advertise the program in a way that DPH determines will most effectively attract more people to pursue an RN degree and practice in a state-operated facility or institution.

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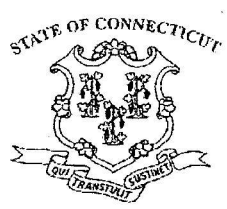

General Assembly

Raised Bill No.

No. **14**

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING THE JUSTIFIABLE USE OF DEADLY FORCE IN DEFENSE OF PREMISES.

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

Section 1. Section 53a-20 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A person in possession or control of premises, or a person who is licensed or privileged to be in or upon such premises, is justified in using reasonable physical force upon another person when and to the extent that [he] such person reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of a criminal trespass by such other person in or upon such premises; but [he] such person may use deadly physical force under such circumstances only (1) in defense of a person as prescribed in section 53a-19, as amended by this act, or (2) when [he] such person reasonably believes such to be necessary to prevent an attempt by the trespasser to commit arson or any crime of violence, or (3) to the extent that [he] such person reasonably believes such to be necessary to prevent or terminate an unlawful or forcible entry [by force into his] into such person's dwelling, as defined in section 53a-100, [or] place of

17 work or occupied vehicle, and for the sole purpose of such prevention
18 or termination, or (4) to the extent that such person reasonably believes
19 such to be necessary to prevent or terminate the unlawful removal of
20 another person against such other person's will from such person's
21 dwelling, as defined in section 53a-100, or occupied vehicle, and for the
22 sole purpose of such prevention or termination.

23 (b) Any person whose use of deadly physical force is justified under
24 subsection (a) of this section shall be immune from civil or criminal
25 liability for such use.

26 Sec. 2. Section 53a-19 of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective from passage*):

28 (a) Except as provided in subsections (b) and (c) of this section, a
29 person is justified in using reasonable physical force upon another
30 person to defend himself or herself or a third person from what he or
31 she reasonably believes to be the use or imminent use of physical force,
32 and he or she may use such degree of force which he or she reasonably
33 believes to be necessary for such purpose; except that deadly physical
34 force may not be used unless the actor reasonably believes that such
35 other person is (1) using or about to use deadly physical force, or (2)
36 inflicting or about to inflict great bodily harm.

37 (b) Notwithstanding the provisions of subsection (a) of this section,
38 a person is not justified in using deadly physical force upon another
39 person if he or she knows that he or she can avoid the necessity of
40 using such force with complete safety (1) by retreating, except that the
41 actor shall not be required to retreat if he or she is in his or her
42 dwelling, as defined in section 53a-100, [or] place of work or vehicle
43 and was not the initial aggressor, or if he or she is a peace officer or a
44 special policeman appointed under section 29-18b or a private person
45 assisting such peace officer or special policeman at his or her direction,
46 and acting pursuant to section 53a-22, or (2) by surrendering
47 possession of property to a person asserting a claim of right thereto, or
48 (3) by complying with a demand that he or she abstain from

49 performing an act which he or she is not obliged to perform.

50 (c) Notwithstanding the provisions of subsection (a) of this section,
51 a person is not justified in using physical force when (1) with intent to
52 cause physical injury or death to another person, he or she provokes
53 the use of physical force by such other person, or (2) he or she is the
54 initial aggressor, except that [his] the actor's use of physical force upon
55 another person under such circumstances is justifiable if [he] the actor
56 withdraws from the encounter and effectively communicates to such
57 other person [his] the actor's intent to do so, but such other person
58 notwithstanding continues or threatens the use of physical force, or (3)
59 the physical force involved was the product of a combat by agreement
60 not specifically authorized by law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	53a-20
Sec. 2	*from passage*	53a-19

Statement of Purpose:
To provide protection to individuals who use deadly force to protect themselves or members of their household against an intruder who has illegally entered their occupied premises.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

November 9, 2007 2007-R-0650

PROPOSAL 14:
AN ACT CONCERNING THE JUSTIFIABLE USE OF DEADLY FORCE IN DEFENSE OF PREMISES

By: Susan Price, Principal Analyst

You asked us to summarize Proposal 14: *AAC The Justifiable Use of Deadly Force in Defense of Premises* for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

This bill expands the circumstances under which a person is justified in using deadly physical force in defense of property. It also makes a person who justifiably uses deadly physical force in these circumstances immune from criminal prosecution and civil lawsuits for money damages.

The bill is effective upon passage.

DEADLY PHYSICAL FORCE

Under current law, people in possession or control of premises, or those permitted to be present on them, may use deadly physical force to prevent or stop the commission or attempted commission of a criminal trespass in the following circumstances:

1. in self-defense or to defend someone else if the actor reasonably believes the attacker is (a) using or about to use deadly physical force or (b) about to inflict great bodily harm; or

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2. when the actor reasonably believes it is necessary to (a) prevent a trespasser from committing arson or a violent crime or (b) for the sole purpose of preventing or stopping an unlawful, forced entry into his or her dwelling or place of business.

The bill makes the use of deadly physical force justified when the actor reasonably believes it is necessary and uses it for the sole purpose of preventing or stopping (1) an unlawful, forced entry into his or her occupied vehicle or (2) the unlawful removal of another person from that person's dwelling or vehicle against his or her will.

By law, the defense of justification is not available if the actor knew that he or she could safely (1) retreat, (2) surrender possession of the property to a person asserting a claim of right, or (3) comply with a demand that he or she abstain from performing a voluntary act. But the actor need not retreat from confrontations involving his or her dwelling or business, so long as he or she was not the initial aggressor. The bill extends this exemption to confrontations involving the actor's occupied vehicle.

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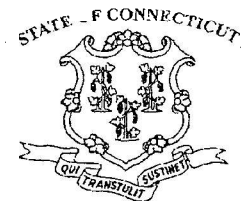

General Assembly

Raised Bill No.

No. **15**

Referred to Committee on

Introduced by:
(JUD)

AN ACT CONCERNING THE SUPERVISION OF CERTAIN OFFENDERS.

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

Section 1. (NEW) (*Effective from passage*) Any offender who is under the supervision of an adult probation officer of the Court Support Services Division of the Judicial Branch and is under twenty-one years of age shall be supervised by a probation officer who has a caseload of not more than thirty such offenders. Each such offender shall be required to remain in school or in an educational program approved by such offender's probation officer during the period of such offender's supervision. The probation officer for such offender shall develop a life development plan with such offender that sets forth the educational, employment and career goals of such offender while he or she is under the supervision of the Court Support Services Division. Each such offender shall be given a mental health evaluation and the results of such evaluation shall be used by the probation officer to make recommendations that will improve the ability of such offender to safely remain in the community and not commit acts of violence. All such offenders who are enrolled in an accredited secondary or post-

17 secondary educational program shall be eligible during the period of
18 their supervision to participate in an employment program developed
19 and paid for by the Labor Department that provides relevant work
20 experience for such class of offenders.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section

Statement of Purpose:

To offer alternatives to incarceration for younger offenders and thereby increase the chances that such offenders will lead productive lives and not reoffend.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

November 20, 2007 2007-R-0676

PROPOSAL 15:

AN ACT CONCERNING THE SUPERVISION OF CERTAIN OFFENDERS

By: George Coppolo, Chief Attorney

You asked us to summarize Proposal 15, *An Act Concerning the Supervision of Certain Offenders*, for the Judiciary Committee public hearing scheduled for November 27, 2007.

SUMMARY

This bill requires that any offender who is under the supervision of an adult probation officer while he is under 21 years old must be supervised by a probation officer who has a caseload of no more than 30 such offenders. The bill requires that each offender remain in school or in an educational program the offender's probation officer approves during the period of the offender's supervision. (Presumably this is until the offender reaches age 21.) The probation officer must develop a life development plan with the offender that specifies educational, employment, and career goals.

The bill requires that (1) each offender be given a mental health evaluation and (2) the probation officer use the evaluation results to make recommendations that will improve the offender's ability to safely remain in the community and not commit violent acts. It also requires that all such offenders who are enrolled in an accredited secondary or post-secondary educational program must be eligible to participate in an employment program developed and paid for by the Labor Department that provides relevant work experience.

EFFECTIVE DATE: Upon passage

CG:dw

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Definition of Pardon

Par´don Pronunciation: pär´d'nd

n. 1. The act of pardoning; forgiveness, as of an offender, or of an offense; release from penalty; remission of punishment; absolution.

Pardon, *my lord, for me and for my tidings.*

- Shak.

But infinite in **pardon** *was my judge.*

- Milton.

2. An official warrant of remission of penalty.

Sign me a present **pardon** *for my brother.*

- Shak.

3. The state of being forgiven.

4. *(Law)* A release, by a sovereign, or officer having jurisdiction, from the penalties of an offense, being distinguished from amnesty, which is a general obliteration and canceling of a particular line of past offenses.

v. t. 1. To absolve from the consequences of a fault or the punishment of crime; to free from penalty; - applied to the offender.
[imp. & p. p. Pardoned (pär"d'nd); p. pr. & vb. n. Pardoning.]

In this thing the Lord **pardon** *thy servant.*

- 2 Kings v. 18.

I pray you, **pardon** *me; pray heartily,* **pardon** *me.*

- Shak.

2. To remit the penalty of; to suffer to pass without punishment; to forgive; - applied to offenses.

I pray thee, **pardon** *my sin.*

- 1 Sam. xv. 25.

Apollo, **pardon**
My great profaneness 'gainst thine oracle!

- Shak.

3. To refrain from exacting as a penalty.

I **pardon** *thee thy life before thou ask it.*

- Shak.

4. To give leave (of departure) to.

Even now about it! I will **pardon** *you.*

- Shak.

Pardon me
forgive me; excuse me; - a phrase used also to express courteous denial or contradiction, or to request forgiveness for a mild transgression, such as bumping a person while passing.

→ Related Words

accept, acquittance, allow, allowance, benevolence, clear, clearance, clearing, clemency, commiseration, compassion, compurgation, condolence, condonation, decontaminate, destigmatization, destigmatize, destigmatizing, discharge, disculpation, dismiss, dismissal, dispense from, exculpate, exculpation, excusal, exempt, exempt from, exemption, exonerate, favor, feeling, forbear, forbearance, forgiving, free, give absolution, give quarter, grace, grant amnesty to, grant forgiveness, grant immunity, grant remission, have mercy upon, have pity, humanity, immunity, indemnification, indemnity, indulge, indulgence, justification, justify, kindness, leniency, let go, let off, let up on, liberate, melt, mercy, mitigation, nonpros, overlooking, pathos, pity, purgation, purge,

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Main Entry: ²**pardon**
Function: *transitive verb*
Inflected Form(s): **par·doned; par·don·ing** \'pärd-nig, 'pär-d*n-iŋ\
Etymology: Middle English, from Anglo-French *parduner*, from Late Latin *perdonare* to grant freely, from Latin *per-* thoroughly + *donare* to give — more at PARBOIL, DONATION
Date: 15th century

1 a : to absolve from the consequences of a fault or crime **b :** to allow (an offense) to pass without punishment **:** FORGIVE **c :** to relieve of a penalty improperly assessed
2 : TOLERATE

synonyms see EXCUSE