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Bill Number:	6578	
Senate Pages:	3017-3428	**412**
House Pages:	3994-4185	**192**
Committee:	Judiciary: 2285-2295, 2324-2367, 2389-2393, 2401-2466, 2469-2512, 2514-2525, 2528-2540, 2548-2555, 2571-2582, 2670-2693, 2696-2708, 2716-2718	**260**
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Mr. President, we move for suspension for immediate transmittal to the House of Representatives of any additional items voted on that require action by that chamber.

THE CHAIR:

Motion's on the floor for suspension of the rules to send items down to the House. Seeing no objection, so ordered, sir.

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President.

If the Clerk might now call as the next item for order of the day, Calendar page 17, Calendar 661, House Bill Number 6578.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Turn to Calendar page 17, matter marked "Order of the Day," Calendar Number 661, File Number 726, House Bill Number 6578, AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY, favorable report from the Committee Judiciary. Clerk is in possession of amendments.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

On acceptance and adoption of the bill, sir, would you like to discuss it further?

SENATOR MCDONALD:

Yes, Mr. President, I would. Mr. President, this legislation comes to us from the House and presents the first opportunity for this chamber in quite some time to debate an issue of substantial public importance.

Under this legislation, Mr. President, the crime of cap -- capital felony would be replaced with a name of "murder with special circumstances," Mr. President. And it is important to note that under this proposal the modification of our criminal law would only be prospective in nature and would apply to crimes only committed on or after the effective date of this legislation.

Mr. President, there are legislative moments that say much about we, as a people, and as a state. And today I ask this chamber to join the House and 14 other states that have abolished the death penalty as a form of punishment for the most heinous crimes in

our society. And I do that, Mr. President, in large measure because this penalty has proven to be unworkable in our law.

Mr. President, I'm certain many members of the circle will talk about issues that are personal, issues that are profoundly held, issues of moral and religious significance, but, as the chairman of the Senate Judiciary Committee, I intend to keep my remarks to the criminal just -- justice aspects of this legislation and of the existing crime of -- of the existence penalty of death in our state. Mr. President, as I indicated, the death penalty has been an unworkable penalty in the State of Connecticut and, indeed, in many states for decades. Connecticut has had a decade's long experience with the death penalty, and it is a failed experienced. It is a failed enterprise, and it has caused tremendous angst for the victims of these murders -- I should say their relatives. And, Mr. President, it is failed because in almost the 50 years we have not -- in the last 50 years, the State of Connecticut has executed only one person as a result of a sentence of death. And, of course, that one person is Michael Ross who essentially had to invite the execution by abandoning all appeals, and, in many respects, in my opinion, at

least, he was drawing attention to himself and feeding a narcissistic need to have the State of Connecticut obsess about him and not about his victim.

Mr. President, in 1994, when John Rowland was running for the office of governor, one of his main campaign themes was a workable death penalty. And, at that time, there were five men on death row in Connecticut, including Michael Ross. After John Rowland became Governor Rowland, he pressed the legislature to make our death penalty more workable, and he was successful in pressing forward legislation to make it easier to impose a sentence of death. And, as, then, Representative -- now a judge -- Radcliff said in a news account at the time, we will finally have a workable death penalty in this state. At that time, Representative Lawlor, Representative Tulisano and officials from the Chief State's Attorney office opposed those changes and argued that adopting them would tie up cases in our courts for years. Then Chief State's Attorney Bailey disagreed with his prosecutors, at the time, and said that reforms would cut appeals of death penalty cases to three and a half years.

Fourteen years later, Mr. President, they are still litigating that workable death penalty, and

nobody who has been convicted under it is even close to receiving that penalty. Those reforms did not make our death penalty more workable, in fact, the exception of Michael Ross who invited his execution; those four other men are still on death row.

I agree with one thing that John Rowland said in April of 1995, Let's not live under the delusion that we have a workable death penalty in this state. He proposed that his changes would make it workable. It has not become workable. And, unfortunately, Mr. President, the people who have borne the brunt of that failure are the families of murder victims. Those families have to relive the horror of those murders every time there's a court hearing, every time there's a court appearance, every time a news reporter inquires, again, about the progress of a case, and every delay is documented, and every time the gory details are relived.

Since that time, we've moved from five to ten men on death row, and one of those ten has been under a sentence of death for more than 20 years. One might ask, is that because of anything in our statutes? And the answer is an undebi -- undeniable no. It is a constitutional right of any defendant to appeal a sentence of death, and each and every one of the

individuals on death row are still litigating their original appeal. That is not a statutory problem. It is a constitutional issue that our courts are charged with fulfilling. And I propose, Mr. President, that because we have that as an available penalty in our law, we have provided a statutory framework that gives false expectations to those families.

In my opinion, Mr. President, death in many instances is too kind a penalty for some of these defendants. In my opinion, it is a harsher punishment to sentence in individual to life in prison without possibility of release. To know that every day when you wake up, you will still be in an 8-by-10 cell. You will still not have direct sunlight in your life. You will still have the obligation to consider the harm and pain that you have inflicted on your victims. We have 46 such individuals in the State of Connecticut right now who are serving life in prison without possibility of release sentences, many of them going back two decades. You don't know their names. They have been put into prisons and told that is where you will die.

The names we know are those who still demand our attention because they are under a sentence of death. In my opinion, Mr. President, and based on the facts

that we have in our history here in Connecticut, a sentence of life in prison without possibility of release is quicker, more certain and definite. Living in an 8-by-10 cell is not an easy life. In fact, it is a hard life.

If you have not had an opportunity -- I know some members of the circle have had an opportunity -- to see what a cell at Northern Correctional Facility looks like, I urge you to do that. Living in 80-square feet, waiting for your heart to stop that is what this sentence is for 46 men in our state.

Mr. President, the death penalty is not a deterrent. People may support the death penalty because of a sense of revenge or vengeance or retribution, but it is certainly not a deterrent. States with the death penalty have a 40 percent higher murder rate than states without it, according to mo -- the most recent statistics. And even in states that are considered to be the death penalty mills of our country, in Texas and Louisiana, their murder rate is much higher than ours even here in Connecticut.

In Connecticut, we have about three murders per 100,000 residents. In Texas, which has had 423 executions in the last 30 or so years, their murder rate is six per 100,000, double the State of

Connecticut's murder rate. In Louisiana it's four times higher than Connecticut, 14 murders per 100,000. And, in fact, Mr. President, in six of the ten states with the lowest murder rate, there is no death penalty. They are the -- among the safest state in our nation.

Mr. President, there are certainly disparities that exist in our criminal justice system. And that is certainly also the case in the administration of the death penalty. In fact, those disparities resulted in this State of Illinois suspending the use of the death penalty. In New Mexico and New Jersey, it was repealed as a penalty. Those disparities cross racial lines, economic lines and, certainly, geographic lines.

Even here in Connecticut, as I indicated, there are ten individuals who were certainly -- the cert -- still serving and waiting for their sentence of death. Five of those ten were prosecuted in Waterbury. It's not like murders weren't happening in the rest of Connecticut. We've had 4600 murders since the death penalty was restored in Connecticut and only 13 people have ever been sentenced to death, most of them in Waterbury.

There's an interesting article in the paper today

by a columnist who talked about how attention is brought -- perhaps more attention is brought to some victims of horrible crimes, but there are other nameless, faceless victims who don't receive that same attention. It's not as if their murders were more kind. There is no gentle murder. They're all brutal. By definition, it is murder.

Mr. President, humans are not without fallibility. We all know that and with that fallibility comes error and mistake. While it wasn't in the context of a death case, we know that it is true with Mr. Tillman who spent 18 years in prison for a sentence -- for a crime he did not commit. More recently -- and it hasn't gotten as much attention as Mr. Tillman's case, Miguel Roman served 20 years in prison of a 60-year sentence for a murder he did not commit, a murder of a pregnant woman. And yet 20 years later, we learned he was not the criminal. It was a mistake. It wasn't intentional. It was a mistake. And, yet, just as easily, Miguel Roman could have been on death row and could have been executed using the full force and power of the State of Connecticut.

Mr. President, those mistakes have had tragic consequences in other parts of our country.

Nationally, since 1973, 130 prisoners on death row have been exonerated. And the average time spent by those individuals on death row was nine and a half years. Mistakes happen. And if those mistakes were found to have happened with somebody who was sentenced to life in prison without possibility of release, we could correct that mistake. There is, of course, no turning back when the State has taken a life. Errors happen in investigations. Errors happen in witness identifications. Errors happen throughout our criminal justice system.

Mr. President, there are also other reasons, not nearly as deserving of our attention but, nevertheless real, the costs associated with administering the death penalty. It costs the state taxpayers millions of dollars to prosecute, convict and execute any individual even if we were actually got to that part. Even with Michael Ross inviting it, it cost the State of Connecticut $316,000 to strap him to a table on that day. And, yet, the cost of keeping somebody incarcerated in that 8-by-10 cell is approximately $90,000 a year.

Mr. President, the individuals who are the most heinous criminals in our state need to be separated from the rest of society forever. And I don't think

there is one member of this circle -- one member of this General Assembly who would say that anybody who has committed a vicious crime -- the vicious heinous crime of murder should be put away for as long as the law permits. But that doesn't mean that we have to continue to maintain a death penalty that is unworkable and that, in many instances, is extraordinary cruel to the -- to the families of the victims who wait decades and decades for closure that is never going to come.

Thank you Mr. President.

THE CHAIR:

Thank you, sir.

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, in speaking in support of the bill, I certainly would want to thank Senator McDonald and Representative Lawlor for bringing it forward for what I think will be one of the -- the most important and substantive debates of -- of our session.

Mr. President, as Senator McDonald indicated, the problem with our current death penalty statute and the problem in every state that does still have the option for the death penalty is that it gives the state the

opportunity to impose an irreversible penalty despite the fact that our system is fallible and is subject to error.

There are many reasons, many reasons that our system is imperfect and should not have the absolute power to take a life and to commit a possible error beyond redemption. And those imperfections fall into a couple of categories. First of all, there are good-faith mistakes. Witnesses can be wrong. Even eyewitnesses can be wrong. Even victims can be wrong as we saw in the Tillman case. That there's a conventional wisdom that a victim is necessarily going to be a more acutely aware witness. That is not necessarily the case. Witness error, good-faith error, people who have been traumatized by an event are often subject to -- to error. So we have the possibility of a mistaken witness. A mistaken -- mistaken about what was heard, about what was seen. And then we have the other subjective factor of possible unequal skill and trial advocacy. Perhaps, the prosecutor is a much more compelling and charismatic figure in the courtroom than the defense attorney. And these are subjective factors that are very hard to quantify.

Apart from that, we have the deliberate

misconduct that often can happen. And, that is, there may be perjury involved. There may be a witness who deliberately makes a -- a misstatement that he knows not to be true or makes an accusation that he knows not to be true. There could be prosecutorial misconduct, and that is the suppression of evidence that might have been exculpatory. It might have been helpful to the defendant had it been revealed earlier. Or there may be juried bias. There may be bias not revealed in the voir dire process, not revealed in the questioning of perspective jurors.

Now some would argue that these kinds of errors will often come to light in the appellate process that can be a basis for -- for an appeal to deal with issues of imperfections in the trial. But the reality, Mr. President, is that these are the kinds of flaws that are unlikely to come to light in the appellate process. And if they are revealed, at all, it may come about years and years later by accident because successful appeals are generally founded upon reversible errors of law by the presiding trial judge and not in second guessing the finding of fact and the credibility of witnesses that the juries have been able to sift through and make judgments on. And the reason for that, Mr. President, is that appellate

courts are very acutely aware that they do not have the opportunity to evaluate the subjective demeanor of evidence that is presented at a trial.

The appellate court is not able to see the actual witness testify, to hear the tone of voice, to see whether someone was staring directly and earnestly ahead in a compelling way or, perhaps, was looking shifty and uncomfortable and undermining his own credibility by his very posture and the tone of his voice. All of these factors are sifted out, because what the appellate court has to deal with is only the written transcript of the trial and the briefs filed by counsel.

The difference between an appellate proceeding and a trial proceeding, Mr. President, is analogous to the difference between seeing a play performed by live performers or reading the text of a play separately. The appellate court is reading the text. They're not seeing the performance. There is a real difference. And for that reason because appellate courts are very much aware that they are at one significant remove from the reality and the texture of a trial, they give great deference to findings of fact by juries. They will say -- and anyone who has read appellate opinions will read over and over again, that we defer to the

findings of fact. The jurors have the right to decide to believe one witness and not another witness, even if ten witnesses testify one way and one witness testifies the other way, as long as there is a credible basis in the record for the jury to believe that witness, often -- and most of the time that finding will not be disturbed by the appellate court unless, again, there is some identifiable clear error in the transcript. And, as I said, these are the kinds of errors that can be fatal but may not come to light and may not be discoverable or identifiable in the appellate process.

Given that reality, Mr. President, it is all the more dangerous to have a system when -- where we give the absolute power to take a life. What we should do, Mr. President, is to recognize with a greater degree of humility that a system is subject to error; and, therefore, we should be careful about giving it absolute power.

As Senator McDonald mentioned, our death penalty statute was changed a number of years ago. The debate over the death penalty goes back to the early 1970s when the US Supreme Court in the -- in the case of Fuhrman versus Georgia struck down the death penalty statute that existed in Georgia, at that time, was

similar to many death penalty statutes in other states around the country and found that the death penalty, as imposed in many cases, was arbitrary without sufficient standards, without sufficient due process.

The State of Georgia then revised its death penalty statute, and its new death penalty statute was upheld four years later in the case of Gregg versus Georgia. And, in that case, Mr. President, the new Georgia statute took the guidance of the Supreme Court in the Fuhrman case and created the system of sifting mitigating and aggravating factors, having a separate proceeding for determining whether those factors exist and also identifying several different kinds of categories where an aggravating factor would have to be in place to specify the kind of homicide that could be eligible for the death penalty.

Connecticut statute was revised accordingly, and as Senator McDonald said, a number of years later advocates of the death penalty in Connecticut said that the Connecticut death penalty statute created too high a burden, made it too difficult to impose the death penalty because our original statute provided that if a mitigating factor were to be established that would take the case out of the possibility of the death penalty even if aggravating factors existed.

The revision that happened some 15 years ago, as Senator McDonald said, provided for a -- a weighing and balancing of mitigating and aggravating factors. And if the mitigating factors predominate, the case would result in life, not death. If the aggravating factors predominated, the case could result in the imposition of the death penalty.

What that did, arguably, Mr. President, is to introduce another element of subjectivity into our death penalty statute, whereby a slight tilting of the balance, one way, would indicate death; another way would indicate life. So that the very same set of facts and circumstances, perhaps, in one case with one set of advocates arguing the case for the State or for the defense, and one jury might find one way on exactly the same circumstances. Another set of -- of jurors might find another way. So I think we have reintroduced some element of subjectivity into our death penalty statute since that revision in a matter of life and death.

So, Mr. President, it is -- it is an extraordinary opportunity we have here today to join with the House of Representatives and to join with the 15 states that have taken this approach in recognizing that -- that government that cannot guarantee the

absolute accuracy of its proceedings should not have -- or should not take to itself the power of taking a human life.

In this way, Mr. President, it is interesting that we often have a debate in the -- in the legislature about the scope and extent of governmental power. We have many who argue that governmental -- governmental power should be expansive; that government has the power to do a great deal of good; that government should be trusted in various cases; that the history of -- of governmental advocacy going back to the New Deal is a -- is history of -- of expansive belief in a well-organized, well-managed government initiative can do great good in society. The other side of the -- the philosophical debate, often the conservative side, is that government should -- cannot really be trusted to do well. Government is more often to make mistakes. Government is more often to overreach. Government is more often to have a stifling effect. And it -- it seems to me extraordinary that -- that many of the people who make that argument in many contexts create an exception for the death penalty and, in some cases, are willing then to grant a power to government in this case that when -- when they are very reluctant to grant extensive

government power in other circumstances.

So, Mr. President, I think that the best measure for us today would be to act with humility and to pass this bill in concurrence with the House of Representatives.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. On August 29, 1996, when he was accepting the Democratic nomination to run for President of the United States, William Jefferson Clinton stated regarding abortion that it should not only be safe and legal, it should also be rare.

Now, I would state that while I tend to be much more pro life as opposed to pro choice -- and we could debate here on the floor of the Senate whether life begins at conception or not -- I do believe it's fair to state that when we are talking about the death penalty in the State of Connecticut, it is right to draw an analogy regarding termination of life. And I'm going to frame my arguments around that quote because here, in the State of Connecticut, I oppose

this bill. I believe in the statutory framework that we have right now. And I believe, in many respects, the death penalty statutes that we have on the books right now allow our state to be more safe. I believe the construct that we have is legal. And, fundamentally, I believe that the utilization of the death penalty in the State of Connecticut should be rare.

This morning I started my day at nine o'clock on the high school football field in Windsor Locks for Military Appreciation Day. What a beautiful day. High school band was there. Dignitaries from the Town of Windsor Locks, the First Selectmen, Board of Education this was all organized by the Superintendent. They deserve an awful lot of credit. And we were there to honor our military.

And, as you are all aware here in the circle, Memorial Day is right around the corner. It's a Thursday towards the end of May, and this weekend we will be marching in parades. We will be saluting the flag. We will be watching ceremonies as we honor those men and women who put on the uniform to protect our nation.

And there have been times, I dare say, all of us would agree in the history of this wonderful United

States of America where we depended upon those men and women fighting in wars to protect our lives and liberties. Nobody likes war; nobody wants war. Some wars we feel are good, and some wars we feel are bad. But, in the history of this nation, men and women have had to take up arms and fight for our freedoms and the safety of ourselves and those whom we love. And, in pitched battles, whether it's North Africa, whether it's Europe, whether it's somewhere in Asia, whether it's defending a naval base at Pearl Harbor in Hawaii, men and women have lost their lives.

Now, luckily here in the year 2009, we can speak freely and debate this bill freely because we still have all of those freedoms that those folks fought and died for in protecting. Well, the first thing I want to call to your attention regarding the notion of safety is that sometimes there is a threat to our health and safety of ourselves and those whom we love by aggressors that we have no choice but to fight back. And I would posit as a first argument that while everyone of us here in the circle, I believe would acknowledge, that there have been wars where lives have had to be taken of enemy aggressors to protect us that when there are individuals in the State of Connecticut as antisocial and horrific and

diabolical such that they pose such a threat or have exhibited such a tendency towards violence against those whom we love and ourselves, that the argument is the same.

Why is it that a national boundary makes all the difference? Why is it a position of geography makes a difference, philosophically? We are going to praise, justifiably, those men and women who fought in our wars.

The good war, World War II -- world War II; you want to pick a war. You want to fight over good wars and bad wars. Let's pick World War II. Let's call them out: Adolf Hitler, Mussolini, Hirohito, blatant aggressors, not only against the United States of America but against all free-thinking peoples. And when we fought those wars, we had to fight to win because they posed a threat to our society.

I am suggesting to you that upon occasion we run into people, they may not have armies but they certainly have weapons and they may not kill hundreds or thousands, thank God, although 9/11, but they are aggressively attacking our way of life here in the State of Connecticut.

So, again, regarding my first characterization, regarding our debate on the death penalty, regarding

safety, I would say, please think about the analogy between wars that we fight abroad and the war to keep Connecticut safe for those whom we love. And, unfortunately, in some parts of our state, it is a battleground. But, more often than not, we're talking about isolated incidents that one couldn't even see coming. And for those folks who hold life with so little respect, I believe that the death penalty is appropriate.

Let's look at another aspect of safety here in the State of Connecticut. It has been argued time and time again that having a death penalty on the books does nothing to keep us safer. Logic would dictate, at the outset, that that is incorrect. If someone poses a risk and they are put to death, that risk is gone. That risk is gone. You put them in a cell, and as Senator McDonald indicated, some of us have walked death row, and I have walked death row more times than once. That's for certain, and -- in just the last year and seen those ten cells where these inmates are watching television, filing their appeals after being found guilty of some of the most heinous crimes one could ever imagine, awaiting a death penalty that seems to never arrive -- but I will get to that point in a moment. But if, and, I believe, when those

individuals are eventually executed by the very nature of an execution, that risk is now gone.

Let me pose this example to you. If someone came here into the middle this circle, some sociopathic mad murderer and pointed a gun at each one of us and said I'm going to give you two chances -- two choices, life without possibility of release or death right now. I think that none of us would choose death. The hugest instinct that we have as human beings is the instinct to stay alive. People do enormous things to stay alive. But, in a purely selfish assessment, if you are alive you live to fight another day.

Maybe the police will come and arrest that homicidal maniac, maybe the roof will fall in, maybe someone will discover me a week from now, a year from now, ten years from now. But if the choice is made, life without possibility of release or death, I don't know anybody choosing death. And why is that? Because life without possibility of release affords, at least, a hair's breadth of an opportunity to get free, to be released, to be pardoned. And, indeed, part of the argument in opposition to this bill is the notion that the public has that this is just the first step along a path of leniency because if our state legislature can throw out the death penalty and impose

life without possibility of release then what's next? What's next? Because to point to ten inmates, the oldest of which is in his 60s, and to look at him puttering around because he's the death row librarian putting books on a cart and giving those books to the other nine inmates on death row.

But, given the fact that there's no real threat to health, these individuals could live to 70 or 80 or 90. And it is not unfathomable to think that the legislature down the road, years from now, could say there's no real threat here, we're going to let these people go. That is a real, real possibility. So the notion that we're going to do this and that anybody would choose life without possibility of parole. It's such a terrible, terrible thing.

In fact, I was talking to somebody today and they said there are some poor people living out under bridges homeless that have it way tougher than the ten inmates on death row. And I'm going to tell you that is the exact God's honest truth. It's not like there's freezing temperatures here. Yeah, none of us would want to be in a cell, but none of us would want to be homeless in the middle of winter underneath a bridge either. So the other aspect of safety -- and it may sound brutal and insensitive, but I don't mean

it to be that way, but when a life is terminated, that is the end of the threat. And it would be disingenuous for anyone to state that they haven't -- if they didn't think it themselves that they haven't been around people that in some kind of shootout with police officers and someone has just gone through a home and killed a bunch of people or gone through a school and killed a bunch of people, whether it's a public high school or a university, and at the end of the day, that person either killed themselves or gets killed by the police that they're not happy. And it's they're happy because there's a blood lust, and it's not that they're happy because they're, sort of, mean or horrible people or conservative. No, no, no, no. They're happy because, in their heart of hearts, the threat is gone. That's the end of that crazy person. That threat is over, and there's finality. But that person was a real threat to our health, safety and well-being. Why play out the appeals game? God knows you might get out. One of these might stick. That habeas maybe granted. The State Supreme Court may overturn that decision. The United States Supreme Court may overturn that decision, and I'm out of here. And somebody who's been through this process, I dare say, may turn their lives around. But my guess is

that there's as much, if not more of a chance that they will continue to embark on a life of crime at some point in the future. And how sad it is, how sad it is that we see and hear about these stories all the time. So I would say that that aspect of safety is borne out by our common sense.

Does the death penalty act as a deterrent? There are studies that say it's unquantifiable, and it is nearly impossible to prove a negative. I can't reach into anybody's minds here in the circle and determine whether some negative impact that may befall them because they take some action will deter them from taking that action. I just can't. I can't. We can draw certain parallels to psychological and psychiatric behavior. We all recall in college Pavlov's Dog. Right? Pavlov's dog. Wanted to get fed, ring a bell? You ring the bell, all of a sudden you start salivating looking for the food because the bell was always associated with the food and the behavior of the dog, all of the sudden jumped over, such that, the action of the bell caused the salivation even when the food was no longer there.

Actions beget reactions. It's Newtonian. And, in many respects, our behavior whether one studies sociology or psychology or just studies how we behave

in this building. If you go out there and you lie about a bill, you lose your reputation and you can't get any business done here. That is a incentive not to lie. If you could lie in this building left, right and center and there was no negative repercussion, I'm not saying everybody would turn into a liar but having that impediment removed might cause more people to be a little liberal with the truth. I'm just guessing. It's human behavior.

I fundamentally believe we're fallen creatures. I don't think that were born perfect by any stretch of imagination. It is a lifelong quest to try to be a good human being. The first things that we exhibit when we're children are things, like selfishness. And we don't look at it as sinful or anything like that but what we want is what we want. And as we grow older, hopefully, we embody things, like sharing and compassion and all those other virtues. So to that extent can't we possibly imagine that having a death penalty on the books is a deterrent to someone? Is a deterrent to someone?

We have penalties on the books regarding suicide. We do everything we can to stop people from taking their own lives. I'd like to think that we do that because we feel we have an impact on them such that

they won't do that. We view that as so negative. I'd like to believe that all of our criminal laws we have on the books are there, in part, as a sense of justice and retribution and punishment but also, in part, towards deterrence -- towards deterrence. Because I also believe people -- if you can find the right angle into their soul then you can turn them into the right path. People can be redeemed, but the process of redemption has to have with it consequences such that the worst behavior has to have consequences, too. And fundamentally, philosophically, at least when it comes to deterrents and issues regarding crime and punishment, I don't necessary believe that the death penalty has no vigor. I think it has a place. I certainly do believe it has a place.

These statistics that were quoted by Senator McDonald, I believe, are somewhat fallacious. I don't see the necessary correlation between incidences of murder or violent crime and whether one has a death penalty on the books or not. Actually, I don't even see the correlation between that time the death penalty is imposed on an individual and incidences of violent crime because it's leaving out a critical component in the analysis. And let's use Louisiana and Texas because we love kicking those states around.

Let's use those states as a place where death penalty is -- seems to be utilized more often than any other place in the United States. I'm thinking Florida's probably in there, too. I don't know the critical piece of information that would tell me whether they are fundamentally more violent states at the beginning or not.

There are certain crimes that may be more prevalent in Connecticut, less so in other places. There may be more tendency towards violence. I don't know, maybe it's because it's warmer temperatures. Who's done that study? New England is cold in the winter. You want to stay indoors where it's warm, less likely you're going to bump into other individuals, less likely you're going to get on some other individual's bad side, less likely there'll be confrontation, less likely that confrontational will ratchet up, less likely there'll be murder. I don't know. If I was trying to get my master's thesis or PhD that sounds like a fruitful territory to do some research on. That could explain a lot. Warmer climates -- may be in certain climes, people are out more, hot and bothered, fights escalate, more violence. I don't know. I'm not saying that's the truth. I'm not saying that's not the truth. I'm

saying we have got to be skeptical of anybody that uses statistics to prove that there's a correlation or not a correlation between the deterrent effect of the death penalty or not.

I would go back to my other argument regarding the mad killer that's here in the middle of the circle pointing a gun. Nobody's picking death. Nobody's picking that. And, in fact, we don't like to talk about Michael Ross but this notion that were elevating individuals on death row and making them superstars and celebrities. Come on, that's ridiculous. Michael Ross wanted to be put to death and there are folks so fundamentally opposed to the death penalty in the state, they fought tooth and nail to fight it. They fought tooth and nail to fight it.

I believe the death penalty when it comes to the issue of safety that you have got to believe that if someone is executed, the risk they pose to our society is gone; that we see that in the greater world when we are constrained to go to war, it makes us a safer country; that there are individuals that pose such a great threat to us even in our neighborhoods that, occasionally, the death penalty needs to be utilized. And sometimes those threats come all the way to our country, as I indicated before 9/11.

But let's just take a quick look at as to the safety aspects, as it pertains to the defendant. Senator Looney brought out the notion that -- and Senator McDonald does well, that there are incidents where individuals in other states have been put to death that have been later exonerated, proved innocent. That's a good argument, if you're debating this in another state, but we're in Connecticut. I've walked death row. I don't like to make eye contact with those individuals. It still bothers me because they look just like you and I, normal, regular friendly folks. And then if you take a step back and you realize what they did to another human being, it creeps me out. These are really, really bad people, really bad.

It's real hard to get on death row in Connecticut. I got to be honest. It's hard to go to prison in Connecticut. That's my belief, tough state. We're a forgiving state, tons and tons of programs that will get you out of the system, and if you have any wherewithal whatsoever, you could turn your life around, but we will save that debate for another day. But, regarding the inmates themselves, no one here, I believe, this evening will posit that any of these individuals are innocent. We may not have the best

system in the country, but, boy, we've got a good system. Maybe it is the best.

And I'm going to go through it a little bit stage by stage to show you how many safety levels we have. But, once you hit -- once you hit death row in Connecticut, it's pretty darn clear to me that you have committed a horrific offense and you belong on death row. And the notion that I hear in arguments, that other people have committed violent crimes and how come they're not on death row. You know, when we debated Three Strikes, I heard time and time and time again we need to defer to the wisdom of the courts. Every case is unique. Facts are different in every scenario. We'll hear some amendments regarding that.

But could it be that regarding cases of capital felony where a person is charged with a crime, that should they be found guilty and that all the other parameters are met; that they will face the death penalty; that as much care and precision and sensitivity is utilized by the judicial system in those matters such that you can't cookie cutter these. That's what I believe. I mean it's the same old ruse, same old tricks. This doesn't work because it's not been applied to everyone. Then when you want to have some kind of stiff sentence applied to everyone, well,

we can do that and because we need to give our judges latitude to make precise decisions. You can't have it both ways. You just can't have it both ways.

So the argument that somehow someone is sitting on death row who's innocent, set that aside, set that aside in Connecticut. In Connecticut, even if you want to be put to death we're going to fight you on that. That -- that's our history. We're going to fight you on that. In fact, the attorney -- and I know T.R. Paulding and what a great guy -- the attorney that fights for you to try to get your wishes done might even get in trouble. That is so unfair because that attorney's working for his or her clients.

What kind of a construct do we have to help protect the defendant? Well, first of all for those folks who may be watching at home who might not be familiar with our capital fel -- felony statutes, we have five criteria that'll automatically bar imposition of the death penalty. So if you're brought up and the State's Attorney charges you with a capital felony, and, for the moment, let's assume that you meet the criteria to fit into that capital felony, the first thing I want to talk about is -- and I'll get to those other criteria -- but the first thing I want to

talk about is, is that there are five bars that'll just immediately knock you out: If you're under the age of 18. Under the age of 18 in Connecticut, nope, that's an automatic bar; the legislative research I have is mentally retarded. I'd like to call it developmentally disabled but that's an assessment. Mental capacity or the ability to conform conduct to the requirements of the law, significantly impaired, that knocks you out. Guilty only as an accessory; or the fifth criteria, could not have reasonably foreseen the consequences of his or her action.

So I want everyone to know that in our construct that we already have in the State of Connecticut, there are five bars. And if the trier determines that any of those bars are there, you're never going to get the death penalty imposed. It can't happen. It can't happen in the State of Connecticut. What if some of the assessment that might go through the head of the state's attorney as to whether to charge an individual with capital felony, well, you're going to see -- and I'm sure it'll come out in the debate later on this evening that there are a set -- there is a set of criteria that one can find both in Connecticut General Statute 53(a)-46(a), sub I, which are the enumeration of the aggravating factors, but also one will find

them in Connecticut General Statute 53(a)-54(b), which is what the initial criteria to charge someone with capital felony. And that first, sort of, umbrella area addresses our peace officers, our police officers. It's broadly drafted to -- include state marshals, marshals performing their normal duties, other law enforcement officers, Department of Correction personnel, including -- and also firefighters, and there's -- and there's many others.

If you murdered one of those folks, and, again, this is murder with knowledge. Not only is that one of the criteria that could allow state's attorney to charge one with capital felony, but it's also an aggravating factor. And for those folks why -- why is capital -- capita, head. It's easy to remember, per capita, per head, per person or to decapitate. It's all the same root. It's all the same root. But if you didn't murder one of those folks, what else could bring you in? Murder for pay or hire someone for the murder, previous convictions, murders while sentenced to life imprisonment, murders a kidnapped person and is the kidnapper, murders while committing first degree assault, murders two or more people at the same time and murders a person under the age of 16. Those are the criteria.

And what's really sad is that those ten individuals on death row that we have in the State of Connecticut, they don't fit into one are two of these categories. They -- they got most of these categories covered. How sad. I have a 13-year-old son, love him dearly, love my children, my wife, but Nathaniel's 13. I mean one of these guys on death row, Rizzo, you know him, right? He's the guy that lured in that thirteen 13-year-old boy to the backyard and smashed his head in 13 times. Yeah, yeah. I'm guessing that that fell under the statute regarding murders of person under age 16. Is it uncivilized that an individual that does something like that faces death in the State of Connecticut? I would posit that it is completely civilized. That we've made a determination that anybody who does an act like that if they meet the other criteria should face death.

At some point, we have to state that for the safety of our loved ones that there are certain lines that can't be crossed. So, on the issue of safety for the defendant, we've got to the five bars to conviction and we've got several specific criteria where an individual charged has got to fall under. And if you don't fall under those criteria, you can't even possibly face the death penalty in the State of

Connecticut.

The last part that I want to get to has to do with the area that Senator Looney spoke about and that was the balancing of the mitigating factor and the aggravating factors. And the arguments made by those folks who are against the death penalty say, well, these are highly subjective. They add a sense of uncertainty to the process. And I would argue that this criteria was placed in our statutory construct exactly so that there could be some element of subjectivity such that we could get the imposition of the death penalty in the most precise fashion possible. And so it allows defense counsel to raise mitigating factors, mitigating factors. Tough, tough, tough, tough growing up for that kid, father beat him all the time, had no chance in life, was abused, was bullied. There's some kind of problem, doesn't rise to the level of a psychiatric defense or psychological defense, but there's some kind of lack of -- marbles aren't right. Anything and everything defense counsel can bring to the table, as far as a mitigating factor, throw it out there and see what happens. But, on balance, we also have specifically delineated aggravating factors that have got to be put into the balance, as well.

And without going to all the details, committed the offense while committing or attempting to commit a felony while fleeing from the commission of or attempt to commit a felony, had been convicted of at least two state or federal offenses prior to the offense, each of which was committed on different occasions involving serious bodily injury, committed the offense in a especially heinous, cruel or depraved manner, procured someone else to commit the offense, committed the offense in return for payment themselves, committed the offense with an assault weapon, and, again, that catch-all provision that acts as an aggravating factor, committed the offense against a law enforcement officer, firefighter and other individuals in our society whose job it is to put their lives on the line to keep the safe.

People are not going into those lines of work to make a ton of money. Police officers, people that work for probation, parole, inspectors, investigators, most of those men and women are doing it because they have a strong sense of justice. They want to protect us. And we owe it to them such that if someone feels that it's open season on those folks, there is a greater possibility -- there's the possibility of a death sentence not just life without the possibility

of release.

And that's going to bring me to this other, sort of, nuance point -- and we'll get to this with the many amendments that will come forward in the hours to come. But, when it comes to my corrections officers the men and women that serve in the six correctional facilities in North Central Connecticut, and I've got Northern. I've got the super max in Somers where I have death row inmates. And, by the way, they may not get out an awful lot during the day, but they do get out. They do get out of those cells.

And what I am saying to you is, if you're in prison under a sentence of life without possibility of release, and you kill one of those corrections officers. What's the downside? Another sentence of life without the possibility of release? I would dare say that if you're talking about a lack of deterrence that would be a lack of deterrence. To my mind, no justice, there's no penalty and all. There's no penalty at all.

It's like when you hear about someone committing a crime and the judge offers a sentence of concurrent, as opposed to consecutive time. And you take a step back and you go, five years on three different pleas but to be served concurrently. And you go to someone

and you go, what does that add up to? It's five years. It's five years. Because it's concurrent not consecutively.

Well, if all of a sudden the norm is going to be life without possibility of release, I'd like to know what's that big stick going to be to help keep law and order in our correctional facilities? They'll be an amendment on that, but I guess I'm throwing that out there for consideration.

So the last aspect of safety, as it now pertains to the accused, is the balancing test. And I would agree that when we went through our reforms, and I was here. I was here in the legislature back '93, '94, '95, the beginning of the Rowland administration. We thought we could make a more usable death penalty, and we strove mightily to reform our statutes, but, essentially, at the end of the day, my belief is, is that we created more grounds for appeals, more gray areas that had to be figured out down the road.

Safe, legal and rare. Remember my first quote, from William Jefferson Clinton when he was talking about abortion, termination of life. Termination of life, death penalty. Legal, legal.

Let me get to legal now. We've talked about what goes into the initial charge. We've talked about the

balancing and the bars. What happens when an individual is finally adjudged guilty of a capital felony? Ladies and gentlemen, we give so many bites at the apple for these defendants. It should not surprise anyone of us that we haven't executed anybody but Michael Ross since we had the execution of Mad Dog Taborsky back in the early 1960s. You remember him, early 1960s, nice guy. He would prey upon small package stores in rural Connecticut. And he would go there around closing time, nine, ten o'clock back then. He'd go in there. God forbid, you heard the little bell ringing by the door in 1950s. If it was Mr. Taborsky, everybody died. Everybody died. Get on your knees, put your head down and he put gun behind everybody's head and shot them execution style, and that's how he went around Connecticut robbing package stores. I'm not one to cause people to get names but he got the name, Mad Dog Taborsky, last person executed prior to Michael Ross.

Do know how afraid the State of Connecticut was back then? We changed the hours that package stores could be opened. Forget about the Sunday sales for a moment, we'll set that aside for another day. But we didn't have these kind of opened only till eight o'clock laws until he went on his rampage. And it

took a long time to change those laws. Because those small mom-and-pop package stores they were afraid. They were afraid that somebody else would do something like that. You mean to tell me that wasn't justice? God forbid that was your mom or dad or grandma or grandpa. God forbid somebody went out to get a six pack of beer and that's what happened to them.

This is what happens in Connecticut now. After we go through this entire determination, are they guilty or not guilty of the capital felony offense and there's a special verdict assessment done and the entire balancing and everything else, there's an automatic appeal to the Connecticut Supreme Court. And they go through a checklist of things, making sure that it wasn't a product of passion or prejudice or any other arbitrary factors. They have to determine if the evidence supports the findings of an aggravating factor, balancing and all of that. And if that direct appeal that as of right appeal to the State Supreme Court fails, then, they can petition the United States Supreme Court. And if that fails, the defendant could then file a state habeas corpus petition. And, last I checked, we have no limitation on habeas corpus petitions in the State of Connecticut. Typically, they're for ineffective

assistance of counsel or new evidence has come up and I'm innocent.

If all of those don't work, if the habeuses fail, my understanding is -- and, as we precede throughout the evening, I'll be happy to be corrected if I'm wrong -- those decisions, the habeas, can be appealed to the State Supreme Court. And a denial in the State Supreme Court can then be appealed to the United States Supreme Court. See where I am going with this? See where I'm going? By the way, when you exhaust all of those, you can do a habeas petition in the federal courts. Now, I see Sue Storey's here watching this debate, and I really appreciate the intense passion and feelings expressed by folks in the Public Defender's Office. They do a fabulous job. They shake their heads. They can't believe once upon a time I was a special public defender, but it was true. And we're going to disagree philosophically on this issue. But I did ask a question during the Judiciary Committee -- can't say it was a hearing. It was more informational hearing that we had on the death penalty, and, as much as Chief Public Defender Storey was very impassioned in saying that she felt very firmly that the death penalty was uncivilized and Connecticut should get with the program that's in

every other nation, I think except Japan -- I did ask whether eventually the grounds for appeal run out and that is it possible even if you feel strongly and stridently about as a defender of these individuals. And there's no need that they have to have public defenders. They can have private counsel. But she did indicate, and I believe this is correct, that it at some point there is a lack of grounds and the process will come to an end whether that's in 10 years, 20 years, 30 years, 40 years. I don't know.

But when people say will Connecticut ever have a workable death penalty, I say, A, yes, it does work. It's super slow, but, eventually, the appeals process will end.

And I will throw this in here now, as well. I think we're all serious about trying to have a workable death penalty if we support the death penalty. One of the things that seems to be lacking is resources. Resources to properly compensate private counsel that are hired to take over these cases, but, also, in some of these cases, you wonder how this appeals process can drag on and on and on. In one of the cases through the informational hearing, it's my understanding that just ordering and getting the transcripts from the original trial took close to

three years. Why does the process in Connecticut take so long? We afford every opportunity for the defendant to appeal. That's why. And if people want to seriously sit down and figure out a way to reduce that process as far as time, I am more than happy to discuss that. But when I spoke at the informational hearing with Chief State's Attorney Kevin Kane, I did broach the notion that if we try to change the construct, the paradigm too much, will that actually form a basis for new appeals? And he said yes. He said yes. So the efforts that we've made in the mid 1990s have borne fruit, but they've borne fruit for the detractors of the death penalty. I'm not so sure they bore any fruit for proponents of the death penalty. But it's now been well over a decade since we put those reforms in place. And now, ladies and gentlemen, I think that we got to ride it out.

Safe, legal. I don't think that anybody can accuse our system of being illegally put together or unfair to defendants. Our state has bent over backwards to have a fair and balanced approach to capital felony and the death penalty.

There is one last argument out there regarding how it's utilized throughout the State of Connecticut and that will play itself out in the courts as far as

race and ethnicity and geography. But, again, at the informational hearing regarding a direct question to Chief State's Attorney Kevin Kane, regarding this. He stated that he felt very confident that at the end of the day, regarding all of these fundamental appeals, based upon constitutial -- constitutionality and fairness that the State would ultimately prevail. And I believe him. I don't always agree with the Chief State's Attorney, but I believe him.

The other aspect that sort of tied into this because as part of my argument that even though we've gotten along of time, don't let that dissuade you from supporting the construct that we have here today is the argument that it's unfair to victims. I have not done a poll of victims, and, indeed, there may be a majority of victims that feel so darn frustrated by the system, they'd rather see it thrown out. But I will say this, from the public hearing we had in the Judiciary Committee not only this year but in past years, there is a sufficient numbers of victims, family members who have come and testified before us who have said, I don't care how long this takes; I'll grow old, but it's justice that needs to be served. They state unequivocally, nobody gave my son or daughter this choice. The death penalty has been

imposed. I don't care how long it takes but I'll wait.

I have been really hesitant to even raise after almost an hour of speaking on this bill, 45 minutes, to talk about the horrific tragedies in Cheshire and Dr. Petit. But one thing absolutely took me by surprise in the last few months was Dr. Petit not only was brave enough to come up with his sister and testify before the Judiciary Committee on this bill in opposition, but he's been home watching on CTN all these hearings, informational and otherwise because I have received emails from him saying that he is passionate about this issue. And there are individuals who have argued that his poor deceased wife felt contrary regarding the death penalty, and that's a reason to support this bill.

All I can tell you is that the good doctor feels very strongly that the current construct we had in the State of Connecticut, if not perfect, should not be abolished. If there was any sane way, any fair way to reform the process, to expedite the process while still being fair to the defendants and not creating more grounds for appeals and gray areas to file for habeas corpus, show me the body. Habeas corpus, show me that body -- constitutionally protected. We would

go there. But, on balance, I think enough victims' family members feel that any sense of justice for justice to be achieved in the State of Connecticut, they're willing to wait. It may not be the fairest thing in the world, but they have told me loud and clear, nobody gave a choice to their son or daughter, their mom or dad, their loved one, their friend, do you want to die today or do you want to have life without possibility of release? They were never given that choice.

Safe, legal, and, now my last point, rare. I'm born in Massachusetts, raised in Connecticut, Windsor boy. We always took great pride, first English settlement in the State of Connecticut, Oliver Ellsworth, Chief Justice of the United State Supreme Court. We may not have had the richest town. Certainly, didn't have the poorest town but somehow every kid that was raised in the town of Windsor had a great sense of pride and place. We sort of knew who we were, and we knew what we were about. We were Connecticut. We were nutmeggers. We were land of steady habits. We were New Englanders.

I was able to get away with those few years as a pre-grammar school growing up in Shrewsbury, Massachusetts. New England has an incredible history

of tolerance, and it is something to be revered. We were the first folks that said, slavery, no way, no way, abolitionists. It was not perfect.

Read the story of our state heroine, Prudence Crandall, established a school for young girls. Remember the story? Brought in an African American girl, guess what? This is like the 1830s. All the parents of the white girls pulled their kids out. No way are you doing this. Do you know what her response was? Fine. I'll create a school just for African American young ladies. It didn't last long. It only lasted about a year or two, but she was at the forefront of saying this is the way I want my world to be. I want to live in a tolerant world. I believe in justice and equality, and for people to treat each other with this respect and dignity. Prudence Crandall, state heroine.

We have that ancient historical tradition replete throughout New England, whether you study Ralph Waldo Emerson, the transcendentalists, Henry David Thoreau. We are proud of the fact that we are tolerant of one another. We are proud of the fact that we formed these New England colonies to escape the injustices that we found if we came here from another country in the first wave from Europe and then as the years went

by from the four corners of the globe. We see it here in this circle. We're unafraid to take the high-minded view that we should lead the nation regarding various aspects of how we treat one another. We take great pride in the fact that our state constitution may have a wider ambit than our federal constitution. And we will read into that history, greater rights and greater protections for men and women and our children despite race, ethnicity or any other measure. I understand that. The Windsor boy, I understand that. That is why in our state, while I espouse the fact that we need to have a death penalty statute on the books, it should be rare.

William Jefferson Clinton, rare, legal, safe. Why doesn't that apply to the utilization of the death penalty in our criminal justice system here in the State of Connecticut? It has a purpose. It has a place. It is the imposition of the worst thing that we can do to a human being at the end of the day, but, fundamentally, I believe it works as a deterrent. It is utilized sparingly. We bend over backwards to help make sure no one is on death row unjustly. And, therefore, we can take pride in the fact and not feel accused of being uncivilized. Yes, we have this. We don't want to have to use it. But, in those rare

instances where someone's behavior is so antisocial, so horrific, so diabolical in their disrespect for the life of those whom we love and cherish and call mom or dad or grandma or grandpa or son or daughter or friend or neighbor or colleague. For these reasons, ladies and gentlemen of the Senate, I firmly believe this bill should be defeated, and we should hold onto the statutory construct we have and utilize our death penalty statutes and protect them as safe, legal and utilized rarely.

Thank you very much, Mr. President.

THE CHAIR:

Thank you, Senator Kissel.

Senator Meyer.

SENATOR MEYER:

Thank you, Mr. President. I'm not going to speak as long as Senator Kissel. But, hopefully, in that greater brevity, I'll be more persuasive. We are, when we vote, going to exercise our conscience as we seldom do in this body. When we vote either up or down in this bill, it will be truly an act of conscience. Our conscience may dictate on the one hand, as Senator Kissel was just saying that when a human being commits an atrocious act and takes a life, then the government must take a life as well. Or at

our conscience may say to us that we believe in reconciliation that we believe in the humanity of life and that we treasure the concept of life itself and that will be an act of conscience as well.

I went to law school and motivated by a criminal law professor, studied for the first time the issue of capital punishment as we called it. And I probably was pro capital punishment but I decided to do my third year thesis on capital punishment. And somewhat to my surprise, I discovered after looking at what states -- what had happened in states and in countries particularly in European and Scandinavian countries that those states and those countries that had repealed the death penalty and had the death penalty that there was absolutely the case was made that the death penalty does not have a deterrent effect. And if it doesn't have a deterrent effect, what are we doing with it except -- except in effect being vindictive? I went to the New York State lec -- to the New York State legislature and voted four times on the capitol pun -- on capital punishment there.

The first time we had a poll. We'd taken a poll on capital punishment. And my constitu -- constituency in New York had indicated 88 percent support of capital punishment, 88 percent support.

And, as a young political person, I got great trepidation about voting against the death penalty in New York with that kind of constituency. But I discovered something remarkable. I discovered conscience again. I discovered that my constituents understood that there are certain public issues, certain issues that we all vote on that are matters of conscience. And if you describe it as a matter of personal conscience with you, our constituents understand that. And I was returned to office in New York. I was a little bit more loquacious in those days than I am today, and the fourth time that the capital punishment bill came up before it was actually called, the speaker of the State Assembly in New York asked me to be acting speaker, therefore, he stopped me from being able to debate the bill -- still upset at him over that.

Many of the people who support the death penalty talk quite eloquently about justice. And I have tried to work out the concept of justice in my mind, and I want to just briefly say as some of the others have spoken here today have said a different concept of justice. Is it justice for the families of victims of murders to have to anguish for 20 years before they see the certainty of what will happen? I think not.

Is it justice to the taxpayers of Connecticut to have to pay for about $4 million, the cost -- the cost of putting someone to death in Connecticut? Is it justice even to the offender who -- the alleged offender, who later is exonerated by discovery of DNA evidence?

The Hartford Courant wrote this recently, justice would be served if Connecticut's death penalty statute were repealed and replaced with a sentence of life in prison -- prison without the possibly of release for those convicted of the most serious crimes. Senator McDonald referred to the direction that our country is taking with respect to the death penalty. Fifteen states have now abolished it, three of them in just the last two years. Two of them are states -- are very close to us, New York and New Jersey; and the third just this past March, two months ago, was the State of New Mexico.

You know who our partners are in doing executions in this world we live in? Eighty-eight percent of the executions that take place in the world occur in these countries China, Iran, Saudi Arabia, Pakistan, and the United States. Some partners we have.

I want to close by saying that I was impressed somewhat surprised when my wife Patti Ann came to me

last week and said that she was organizing our church to reach out across the State of Connecticut to the Governor's office and to the General Assembly, and, particularly, the United Church of Christ members were congregationalist. And, indeed, since said she told me that, she and other members of our church have been in one of the most intensive campaigns I've seen, and I've been in political campaigns as they've reached out to so many people to talk about this remarkable issue of the death penalty.

I see in the gallery here members of the Catholic Church, as well, as people representative of Protestants. What a -- what an important message this is. It's a message, ultimately, about life and about reconciliation. And I do hope that any of you who are undecided will vote that way.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

Mr. President, I rise with questions for Senator McDonald, if I may.

THE CHAIR:

Senator McDonald.

SENATOR CALIGIURI:

Thank you, Mr. President.

Senator McDonald, your first argument against the death penalty was that it was a failed policy in part because we haven't executed anyone in approximately 50 years. And my first question is why should the answer to that be to eliminate it instead of reforming the system so that we can have a more expeditious application of the death penalty? I say that in part because it wasn't that long ago that we concluded that our parole granting process was flawed. And yet we didn't decide to throw that system out the window. We looked at the problems and we made changes to improve and reform that system. And, yet, we're taking a very different approach with respect to the death penalty. If this is truly flawed because it hasn't been applied in a long time, why isn't the correct answer, with respect to that argument, to make the sort of changes we need so that it could be applied more expeditiously? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, well, as I indicated in my original remarks, the -- the last effort to make it more workable was spearheaded by Governor Rowland and his legal team to try to expedite the sentences of death. And, as I indicated, then Chief State's Attorney bailey thought that those reforms would cut appeals down to three and a half years. And we know, of course, that that has not been the case.

And when we had our our public hearing in the Judiciary Committee we posed those questions to Chief State's Attorney Kane and asked what would it take in your opinion to make the death penalty more workable? If that is a term that can be used with respect to the death penalty? And his proposal in sum and substance that would be applicable to anybody currently on death row was to expedite transcripts. And with all due respect to the -- the folks in the Chief State's Attorney office, it does take a long time to produce transcripts, but it certainly doesn't account for the decades long delays and -- and actually, I should say not even delay -- in counting. We really do not know if any of the individuals who are on death row will ultimately, ever be executed. And, in my opinion, at least, that is because the system that we have is unworkable and all of the proposals that we have heard

present their own problems and in and of themselves are unworkable. And, in my opinion, there is nothing that has been presented, nothing that we have seen, nothing that we have considered that would make it a workable penalogic device.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

Clearly, as Senator McDonald indicated, and I have a number of additional questions for Senator McDonald, there are other states that have applied the death penalty with greater frequency than we. And so, clearly, there are other models in place for systems of applying the death penalty in a way that results in a more expeditious application of that penalty where it's applicable and appropriate. Why aren't those models for us to look at, and why is it that we have reached the point where we are saying that there are no other good ideas out there for improving the system when there are other jurisdictions, whether you agree or disagree with the merits of the death penalty itself, and that will be a separate set of questions that I have for Senator McDonald, but in terms of raw workability and applicability, why aren't we looking

to states like that? It seems to me those would be jurisdictions from which we can garner ideas for making changes to our current death penalty, through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, we have considered or reviewed all proposals that have been submitted from any corridor. And we have looked to the professionals in our criminal justice system to share with us their opinions about the best ways in which, if the legislature chose to retain the death penalty, the best ways in which in could be reformed in a manner that would actually provide -- provide a workable solution that would actually deliver a sentence in -- in our state. And as I've said those best legal minds from our criminal justice community have not come up with anything that is -- that is going to substantially change the way in which our death penalty is administered and that is, in part, because we have our own constitution. We have our own Supreme Court who has interpreted the constitution. And even if we were to somehow transpose models, as I think it was your comment from other states, they are not

necessarily transferable and applicable to our constitutional scheme.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

And yet to be clear and this is probably my final question on this particular point, our Chief State's Attorney did make a suggestion, one that I think has been trivialized to some extent by Senator McDonald. But he did make a suggestion for making the system workable in his view, and it's a suggestion that we are choosing not to attempt to implement, through you, Mr. President; isn't that correct?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President. It was, in fact, the opinion of the Judiciary Committee that the substitution of a mandatory life in prison without possibility of release penalty for murder with special circumstances was a more definite and more certain punishment that would punish the defendant and allow families of the victims some sense of closure in a much more expeditious fashion than the never ending

decades long appeals process with respect to capital punishment.

I should also say I certainly disagree with Senator Caligiuri that I was trivil -- trivializing in any way the suggestion of the Chief State's Attorney about modifications to our existing statutory scheme. I know very well that he and his staff have worked very hard on these proposals. I think it's a measure of the difficulty of the subject matter, not the -- not the proposals offered that rendered the proposals something that is -- is not going to end up with a workable solution. I said that because the proposal was to expedite the transcripts.

There was also an additional proposal with respect to limitations on habeas appeals, and I said that it wouldn't have applied to any of the current situations because all of the individuals who are on death row are actually still involved in their direct appeal. It's got nothing -- these decades long delays have nothing to do with habeas corpus reform.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

My second line of questioning relates to the

reason to have a death penalty in the first place. And I would ask Senator McDonald whether he agrees with the general proposition and the statement that, in general, the penalty must fit the crime, and that our system of penalties in Connecticut, in general, has sought to match the penalty with the applicable crime to which that penalty relates.

Through you, Mr. President, does Senator McDonald agree with that proposition, in general?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Though you, Mr. President. Could Senator Caligiuri repeat the question?

THE CHAIR:

Senator Caligiuri, could you please repeat that question for Senator McDonald?

SENATOR CALIGIURI:

Yes.

Does Senator McDonald agree with the proposition that the penalty for a crime must fit the underlying crime itself, and that our criminal justice system, and, in particular, the penalties that are imposed, have historically sought to match the penalty with the severity of the crime to which they relate. Would you

agree -- agree with that general statement?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, given the breadth and scope of the -- the question and as a generic and overarching principle, I guess I couldn't disagree with the suggestion, although it is limited by current knowledge, current understanding and current configuration of our statutes.

I should also mention, Mr. President, and in -- and in further response to Senator Caligiuri's questions that we, in the Judiciary Committee, are not the only source of these ideas. And, in fact, not one legislator, not one legislator proposed any modifications to our capital punishment system that would have changed in any way our structure. So it wasn't because -- I know Senator Caligiuri and others have very strong opinions on this about the -- of it one way or the other, but there have been no proposals to modify our system from any legislator. And it was only after the Judiciary Committee requested the Chief State's Attorney's office consider any modifications that we received the proposal from -- from him earlier this year.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

The reason I asked Senator McDonald the question about whether he agreed with the general proposition that the punishment must fit the crime is because I wanted to establish that before I asked him the next, I think very important question, which is if you start with that general proposition, and I know you agreed with that as a very, very general matter. My question to Senator McDonald is very simply, why isn't death the appropriate penalty for someone whose has committed the type of murder to which the death penalty is traditionally applied in Connecticut?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, because it's not working. It is not a sentence that is being carried out. And, in my opinion, at least, it is brutal to the families of these victims to put -- continue to put them through a system that is never, in my opinion, going to deliver the result that they were promised. And in -- in my personal opinion, I believe

that a sentence of -- a certain sentence of life in prison without possibility of release is, in fact, a harsher penalty.

Release from this life is -- is the best of circumstance for somebody. Sitting in an 8-by-10 cell until your heart stops is the worst punishment, in my opinion.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

To be clear, I feel that I've heard two answers there. The first, initially, was conflating the first line of question we had with the second. But I think the second part of the answer was the more direct response to my question, which is that, in Senator McDonald's opinion, life imprisonment is, in fact, a harsher opinion than death.

And I'd like to ask for the record whether in fact I have that right and that's what Senator McDonald believes.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, as I said, the death penalty is unworkable. We know that to be true. We

know that efforts to reform it have failed. We know that, in 2005, when we had a public hearing on this subject, we had seven family members of victims come and testify before the Judiciary Committee and six of them asked us to abolish the death penalty. So there's -- part of this is my opinion, but it is informed by the testimony of the family members of these victims.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

I'd like to try the question again. Is it Senator McDonald's opinion that life imprisonment is a harsher more fitting penalty than death for these individuals?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Mr. President, as I indicated, the penalty of life in prison without possibility of release where someone is definitely and quickly given that sentence where it is certain to be upheld is a better social and criminal justice resolution to these heinous crimes than to put the families through a process that is elusive and, in my opinion, unfair to those

families.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Sounds like as close to a yes as I'm going to get. So I'm going to move on to the next line of questioning.

The next line of questioning had to do with error and the possibility of error. And yet we deal with the possibility of error in every aspect of our criminal justice system. And I'd like to ask Senator McDonald, why is the possibility of error in this sort of situation the, sort of, rationale that would justify getting rid of this penalty, which, as Senator Kissel pointed out, is indeed rare in its application?

THE CHAIR:

Senator McDonald. Oh, I'm sorry.

SENATOR CALIGIURI:

When we -- that's all right, Mr. President.

When we have other instances where errors apply and yet we aren't throwing out those penalties.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I would think that

the answer to that is self-evident that an error of this magnitude cannot be undone when one has been executed and the error is discovered after the execution.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Would Senator McDonald agree that Connecticut has been very progressive in the use of DNA testing and other tools to minimize and, if not, eliminate the possibility for error as a practical matter? And why isn't that ultimately the better way of solving the problem than eliminating this penalty as an option for us in the first instance? Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, there are -- we know that there are several cases where DNA evidence is still being examined that we don't know the full scope of the errors that are associated with DNA, but I think it would be incorrect to think that DNA evidence is the only the way in which errors happen in our criminal justice system.

Errors happen because of misidentifications.

Errors happen because of bad lawyering. Errors happen because of suppressed evidence. Errors happen because of -- because of people who lie on the stand as witnesses. Errors happen in a whole host of ways not just with physical evidence.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

And I would just note that -- and there's always a certain risk to taking logic to its extreme, but we are about drawing boundaries and drawing lines and striking the right balance, and I would just note that, though, a very logic that Senator McDonald articulated could be a logic for eliminating any number of criminal penalties that we have in place and, in fact, significant parts of our criminal justice system. And I personally find them ultimately not to be persuasive given the safeguards that we have a chance and, in fact, haven't put in place in Connecticut.

And my final line of questioning for Senator McDonald relates to the notion that, ultimately, the death penalty is cruel to families because of the amount of delay that's involved in applying it. And

to Senator McDonald, as I understand it, the right answer is to eliminate that delay by simply not making death penalty an option. My question to Senator McDonald, and I suspect I may get the first -- the answer I got to the first line of questioning, but it seems to me that the other way of tackling that problem would be to use our best efforts to reform the death penalty to deal with the excessive delays that have been involved in that process and the problems that we have identified up to that point as opposed to simply throwing it out the door as an option in our criminal justice system.

Why isn't that an equally legitimate and viable way of dealing with the final problem that Senator McDonald has articulated, namely, the alleged cruelty to families caused by the delay.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, I find myself in agreement with -- with Senator Kissel on this that reforming the death penalty would do nothing more than create a new set of issues that would be the subject of litigation for decades more. And we know that from our prior

experience in trying to reform it, every time that you tinker with the statutory scheme, the problems that are created by that process have effects in the judicial system for decades thereafter. And we have been cautioned with respect to modifications to our statutes by the Chief State's Attorney. And, as Senator Kissel so artfully and eloquently spoke earlier, that those modifications create new levels of problems that we cannot anticipate at this point but we know from history will be the subject of litigation for years and years and years.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

I find the -- Senator McDonald's response somewhat puzzling to me because it assumes that reforms and modifications could, in fact, be made. And, yet, his responses to my first line questioning consistently were that we couldn't make such reforms and modifications.

So my question to Senator McDonald is which is it? Is it we that we can't make modifications and reforms, or is it that the modifications and reforms that we can make would result in excessive litigation?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Mr. President, through you, I don't believe anything I've said in any of my prior answers to Senator Caligiuri are inconsistent.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Let me see if I could put the question a different way. Is reform of our system possible or is it not?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, reform of any statute is possible. You could say that the bill that we are debating is reform. The question is -- I believe the question is, could we do it in a way that would satisfy Senator Caligiuri? And I don't believe that Senator Caligiuri or anybody has offered any legislation to the Judiciary Committee which would achieve that result.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

I would love the opportunity to work with Senator McDonald, and if he withdraws this bill, I promise to do so. And I guess my question is, is he willing to do that?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Caligiuri, the bill was favorably reported by the Judiciary Committee and overwhelmingly passed by the House. I don't believe it is something that is going to be withdrawn.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

And I thank Senator McDonald for the responses that he's provided me to my questions.

And at this point let me just say that I disagree with every one of the points that Senator McDonald has articulated for why we should this bill and ultimately abolish the death penalty. Number one, if the death penalty is a, so-called, failed policy because we haven't applied it in 50 years with one exception,

then I think we ought to devote our efforts to reforming and improving the system so that we can have a more effective administration and justice when it comes to applying the death penalty. Don't throw it would the window.

I've never said -- and many proponents of the death penalty -- penalty do not argue that's it a deterrent. I would say it's simply a matter of justice. Senator McDonald agreed with the general proposition that our criminal justice system is structured and based on the proposition that the penalty must fit the crime. I can't think of a more fitting penalty for murder of the type that we're talking about here than death. And if that is the right approach, in general, as we seek to match penalties with crimes, I see no reason why this type of crime, namely, heinous murder, should be an exception to that rule.

On the issue of errors, that's something we have to be very careful about. Which is why it should not be easy ultimately to put someone to death. We can't do it willy-nilly. We have to use every means at our disposal to ensure that error has not been made, and, to the extent that it's been made, that we've identified it. But the possibility of error is no

more a reason to eliminate it in this case as it is in every other aspect for the penalty for a crime is harsh or else we have no criminal justice system.

The issue of cost, frankly, is hardly compelling to me because I think we all would agree that we need to commit the resources that we need to commit as a state to carry out our duties and obligations. And there is no higher duty and obligation that we offer and have to our citizens than public safety. And to the extent that we are keeping the most vicious murderers off the street and, ultimately, administering justice in a way that is fair, I think we served the public interest and cost should not be an issue.

And, finally, to say that the right thing to do is to eliminate the death penalty because the death penalty is cruel to families of victims of these crimes, I disagree with, respectfully, because ultimately I think the greatest injustice we offer these families is to have a system that can be improved -- approved -- improved and yet not improve it. And I think we owe them our best efforts to make the system more workable not to eliminate it altogether.

You know, Dr. Petit when he testified earlier

this year in support of the death penalty said my family got the death penalty and you want to give murderers life that is not justice. I agree with him. And that's why, ultimately, I believe that this bill, although well intentioned, should be defeated.

I thank you, Mr. President.

THE CHAIR:

Thank you, Senator Caligiuri.

Senator Duff.

SENATOR DUFF:

Thank you, Mr. President. Mr. President, when we get elected to the legislature, to this body, or to the House of Representatives, many times I think many of us come to this chamber with an opinion on a variety of issues. And we're expected to come here knowing about many different issues and ideas about how we want to do our part to change the world to make the world a better place, and -- and kind of a road map to the agenda we want to follow and what we're elected to do.

But I can tell you that speaking personally, myself -- this is my eighth session here -- when I was first elected, while I had opinions on a variety of issues, one of the issues that I did not have an opinion on was the death penalty. And I had thought

about that long and hard over the last many sessions whether or not this would never even come to a vote or not what my opinion would be if this ever came to the point where it is tonight.

I think like many people in the public, anyway, and maybe some people here in this building, I've always kind of been ambivalent about the death penalty. Many times I -- you see -- I've seen crimes happen that have been violent, and I thought to myself, geez, you know, those people should pay the ultimate penalty. And there's been other times when I've seen people wrongly convicted and poss -- and executed and thought to myself, shuddered to think that our country would make such mistakes like that. So this is a tough issue. I know it is for many people. And I've enjoyed listening to the debate so far, and I know that this is a vote of conscience for many members of the circle here this evening. And it's not an opinion that I came to lightly. I struggled with this for years as I thought about how I would, ultimately, vote whether or not we repealed the death penalty or not.

I guess I've started off as what are the goals that we have for the death penalty here in the State of Connecticut? I guess it would be to deter crime

and it would be to provide victims with a sense of relief and it would also be to send a message to criminals that if they were to take a life that they, ultimately -- the State could ultimately take theirs as well. But I'm not quite sure that that actually is the case that it is a deterrent; that it provides relief to the victim's families; or does it really send a message to the criminals out there that we might take their life if they take somebody else's life.

A few years ago, we had the execution of Michael Ross, and in this chamber and the chamber downstairs there were debates about the death penalty and the House actually did have a chance to debate that and vote on it. We did not have that chance. But at the time we'd -- I don't think a lot of people were sure whether not that was going to happen or not. And that was a -- probably a time for myself that I had a chance to probably reflect the greatest about this issue and how it ultimately come down on this should I have had the opportunity to make a vote.

So I was given a book by a nun and I'm not sure I would imagine that other members of the circle probably received the same book. It's called, "Ultimate Punishment" by Scott Turow. And it was a

book that ultimately -- changed my opinion or at least helped me to come to a decision that I could be comfortable with on this issue. Scott Turow is a writer. He's a lawyer. He's a former prosecutor and served on the Illinois Commission that was put together by Governor Ryan of Illinois when he commuted over a hundred death sentences, and they put together this commission to study the death penalty.

What I liked about this book, when I first started reading it, was the fact that Mr. Turow was somebody who was probably had the same opinion I did and maybe many others as well about the death penalty. He was somebody who was probably ambivalent. I think he actually mentioned that in the book. He -- his -- his views were the same as I had just described earlier about it. But he had an interesting past in the fact that he was a former prosecutor and did prosecute cases and prosecuted people to the point of the death penalty and how he had changed his views over the course of time and how his book was really laid out in a very objective way.

And what struck me most was that some of the different stories that he told about his time been a prosecutor and also the time on the commission. And it was -- and looking over this book, again, I haven't

opened it in a few years but reflecting back and -- and reading through the book again a little bit this afternoon -- this morning and this afternoon, was even in the very first chapter he talked about was the person who was convicted twice of a murder, put on death row, but released after ten years because it was a murder he did not commit.

Many of us tonight are -- are going to be debating whether not we should make changes to the death penalty laws if we do uphold the death penalty and making the pro -- appeals process much quicker. But for this person who was on death row and twice convicted, which is pretty amazing in the fact that he was twice convicted and, ultimately, found to be innocent of the crime, would a quicker appeal -- what would that have done? That would probably have taken his life, a life of an innocent person.

We also -- he also talks in the book about people who make false confessions maybe because they have some mental illness, maybe because they're trying to make deals if they're in prison and trying to get a lighter sentence themselves, maybe because their ratting our a friend, a whole host of reasons why there are some flaws in the system.

He also brings up the point which I know we're

going to be debating later on about fair trials of people who -- who are -- who have heinous crimes. For instance, there was an example in his book about talked about, well, there are a lot of people who say, well, we should only have the death penalty for the most heinous of crimes, for instance, somebody kills a cop. And he spoke about that very eloquently by saying that -- because I had thought that, too. Well, maybe there's a compromise. Maybe there's a middle ground in this. And he spoke about how in the -- in -- if you have this kind of carve-out for the death penalty and you have where somebody commits a heinous crime, for instance, they kill a cop, and how that -- there's really so much pressure on the police, by the media, by the public at-large to find somebody, anybody, who might be in the wrong place at the wrong time, who might look like the suspects, who may have confessed in a false way that there is this pressure upon the -- the police and prosecutors to not only arrest but convict somebody and pressure on the jury to say, yes, we probably would convict somebody even if we believe that may not be the person because, as a jury, we probably don't want to put somebody money back in society even if we think they may not have done it. We don't want to put -- take that risk.

We'd rather go the extra mile to make sure that somebody like that stays in prison for life.

He also speaks about executing the mentally ill and how in book -- it was either in the book or another example that I read, where somebody who was being executed had said, right as they were about to be injected said to his executioners, after this, what's for dinner? So somebody who was on death row being executed didn't even really know what was happening to them. And to me that is not exactly a mark for our society that I am very proud of.

And, of course, as I've said previously, we have certainly in this country executed innocent people. To that -- this book, a short little book about 150 pages has helped convince me that the death penalty is not the right answer in the State of Connecticut. And that we have this opportunity tonight to repeal it with life in prison without the possibility of release, which I think, is the way to go for our state.

The death penalty, again, doesn't do three things, in my opinion. It doesn't lower the crime rate. It cost more to execute somebody. And it doesn't bring relief to victims' families. And I'll end here with a quote from the book, which is a person

named Dora Larson, who is a victim advocate in Illinois, and she says that, We, survivors, our biggest fear is that someday our child or loved one's killer will be released, and we know we'll never, ever get our loved one back. We want these people off the streets so that others might be safe.

And that's what we're doing tonight. We're taking them off the streets forever. We're making sure that they never get to see the light of day again. And that victims who don't -- victim's families do not have to go through the roller coaster ride of 20 or 30 years of court cases and appeals and emotions; that once the person is put away, they're put away forever; and that while it will never bring their cherished love one back, it would at least allow them to move on with their lives. And my opinion is is that is the way we need to go tonight.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Gomes.

SENATOR GOMES:

Thank you, Mr. President.

I want to open my remarks with something that was said by Mr. Kissel, I was born in Massachusetts and I

was raised in Connecticut. And I think that's about as near to remarks that I agree with that I will get to that Mr. Kissel has expounded on. When I came to Connecticut, in Bridgeport, I lived in predominantly rough neighborhood, mixed neighborhood, very rough neighborhood.

When you talk about a threat to my life or my way of living, then I'd have to tell you the very first people I mistrusted where the police. When police came to my neighborhood that meant trouble for me or some of my friends. We had a cop on the block. We called him big Red. Big Red would walk behind you, take his club out and whack you across the back or the butt and say, Get home you little "N" word and or -- or you little black bastard or whatever -- excuse the expression. I'm sorry -- but these are the things that made us not believe in the justice system.

I grew up and I met other people. There were no black cops. There were no Hispanic cops. There was nothing we could identify in the justice system. As I grew older, I met a real good cop. His name was Frank Lee. He was one of the best cops I've ever seen. He ran a youth bureau. And I loved that cop. But it took me a long while to believe in justice system because in my neighborhood when you said justice it was

pronounced "just us."

Some of the things we've heard here today, you talked about the capital punishment allows our state to be more safe, the best system in the country. If this is the best system, I would hate to see what is the worst. I've heard titles of -- or some of the words like heinous crimes, the best of the best and the worst of the worst.

The best of the best is usually applied to policemen, firemen and people who serve, but you just have somebody -- have somebody in their family be killed and the best of the best to them is that member of their family that got killed and the heinous crime was committed by this person who killed them and the worst of the worst was also that person killed them.

When we talk about the worst of the worst have wound up on death row in this state, in 1973, they applied to capital punishment, the death penalty in our state. Since 1973, to a report that went all the way up to 2007, there've been 4600 murders. Of that, lot of those murders, about 40 percent of those murders have been solved. Prior to 1973, there were less murders and there was about -- I would say a more -- more of a solving rate than after the death penalty was applied. And, just prior to the adoption of the

state's death penalty in '73, only 7 percent of murder cases were not cleared by arrest or other means. And, in 34 years since, there has been an erosion in the fraction of murders that are solved as a result. Today, roughly 40 percent of all murderers go completely free.

This implies that under current circumstances for every defendant who receives a sentence of death, 16 equally egregious murders will essentially have a zero sentence.

I have heard it said here today that a death penalty is a deterrent to murder or to crime -- to murder to be exact. It has actually done nothing since 1973 to improve the murder rate. It has done nothing exactly, since 1973, to improve the numbers of crimes that have been solved.

In an overview of this -- this study and the study was Capital Punishment in Connecticut 1973 to 2007, a comprehensive evaluation from 4600 to one execution, and this was done by Professor John Donohue. And what it was supposed to be was a systematic evaluation of capital punishment in the State of Connecticut. The overview of this is, he was asked to look at every phase of the operation of State's death penalty and regime to see if the system

in its entirety or in particular aspects was operating in an arbitrary and capricious manner and, specifically, whether there was racial or geographic disparities or arbitrariness in capital prosecution and/or the imposition of death sentence in the State of Connecticut.

Years ago, what made me scared of the death penalty was that I read a book. It was called "The Soledad Brothers." What it meant -- it was some brothers that were incarcerated in California in Soledad Prison, and they spoke of a death-oriented juries. And what they meant by death-oriented juries is that if you were indicted, if you were Black or Hispanic and you were indicted, you were convicted. And that means a hell of a lot of people wound up on death row that maybe didn't belong there.

The overview of this study, the objective is to assess whether the system operates lawfully and reasonably or is marred by arbitrariness, capricious and discrimination. And some of the observations was the latest evidence on the freakish and frequency from which the death penalty regime is serving any legitimate social purposes. Second, mindful of the Supreme Court's mandate that within the category of capital crimes, the death penalty has not targeted the

worst of the worst as they claim it has. At best, the Connecticut's system haphazardly singles out a handful for execution from a substantial array of horrible murders. That's the 13 people that they put on death row out of 4600 since in the 34 years prior.

At worse the defect of the evident arbitrariness of the sentence of convicted capital eligible defendants is further tainted by elements of discrimination based on the race of defendants and victims. Again, the Connecticut death penalty system is found to be warranting arbitrariness and/or discriminatory are defining features of the implementation of State's capital punishment regime.

Let's get to the part where they said that victims -- that just brings -- that just brings peace to victims to execute the murderers of their loved ones.

We had a guy named Walter Everett. Walter Everett was from Bridgeport. He had a son that was killed on July 26, 1987, and he said lived a full life of rage for almost a year. Toward the end of that year, he was invited to the State Attorney's Office where I was told that the State had agreed to a plea bargaining. The defender would accept a sentence of ten years, suspended after five. He said he was

furious, but the State's Attorney informed him, we know you don't like it, but you don't have any say in the matter. The state is the injured party. The state prosecutes. You're just a bystander.

He went on to say this really infuriated him that he was considered a bystander after he had lost someone in his family, but, over the years, this man came to believe something else. He testified before the Judiciary Committee, and he believed the only peace that he has gotten over the years is that he learned to forgive the person that had killed his son. And he also believed that families have been able to begin the long arduous process towards some semblance of healing. There's no such thing as closure or instantaneously healing with a death of a loved one. Healing is a life-long process. We owe it to the victims to allow this process to begin long before two decades have passed.

Life imprisonment without the possibility of parole for the defender would give the victims at least a fighting chance to begin the slow process and a measure of healing. We're sitting here talking about a process that has been in effect from 1973 until now. I think that's 36 years, and we've had an increase in the number of murders. And, out of 4600

people, we've managed to put 13 people on death row. And the only one of them that was executed was a person that asked to be executed because he felt like that was a better fate for him than to live in an 8-by-10 cell.

I heard another person up here, in the Senate -- not in the Senate but in the House refer to the fact that life, as it is, is a good life pertaining to a person being locked up for the rest of their life. What he was trying to say is, you get three-squares a day. You get clothes to put on your back, and you have the best health care system in the world. That's what he said. And this is what he measured against the fact that somebody would rather be dead than serve that kind of life.

Life without parole or no means of being put back out on the street, in my estimation, is not a life that I would rather live. We need to re-evaluate what is happening in the State of Connecticut concerning capital punishment. If you evaluate it and you find out the fact that, number one, it doesn't work. It doesn't deter any murders. Number two, it's costing us a fortune. Number three, it brings no solace to the victims.

And we sit here and we talk about this makes our

State safe. Safe from whom?

I'd like to close with the fact that and say -- with the fact that if people weren't so intent upon -- and I mean this when I say it, intent upon vengeance rather than justice, maybe the capital punishment would seem more in the light of somebody's eyes, in might seem that it was worth the trouble, but all that capital punishment has become in this state is just a means of vengeance. It has proven to be nothing else. It doesn't deter crime. It doesn't offer anybody any solace. It's costing us a fortune. I understand that it costs $94,000 a year to -- for each member that's on death row to support them. So I don't know what we are gaining out of capital punishment, at all. And I would hope that all my colleagues in this circle would vote to repeal the capital punishment.

Thank you.

[SENATOR DOYLE OF THE 9th IN THE CHAIR]

THE CHAIR:

Thank you, sir.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I rise to oppose this proposal on behalf of the victims of murder, their families, our

law enforcement community, and for the majority of my constituents, who have weighed in on this very serious change of policy.

Some in proposing this change have pointed to polls. The most important survey, though, I have reviewed is that of my constituents who seem to favor keeping the state's death penalty in place, 70 to 85 percent, depending on how the question is asked. I've also recently canvassed my law enforcement community and town leaders, who by more than 3 to 1 margin also favor the current death penalty.

National sentiment seems to show that two-thirds of the US population supports the death penalty and that Connecticut voters on the 7th of November in 2007, supported it by a 2 to 1 margin due to a Quinnipiac poll that was taken at that time.

Some have pointed to saving costs of countless appeals as a reason for change and yet their economists ensures who point out that each state execution actually could detour between three and 25 murders per year, possibly avoiding $70 million in loss by our society. There is a cost, by the way, as a felon ages and needs extensive geriatric medical care. With the high cost of long-term imprisonment true-life sentences is a real expensive proposition

other than the death penalty. Yet, no state concerned with justice should base this decision on cost alone.

Some say that there is no closure or relief for victims, yet countless testimonies by families say just the opposite that it does bring closure. Dr. Pettit and his testimony before the Judiciary Committee just in March -- on March 4th stated that, My family got the death penalty and you want to give murders life. That is not justice. Any penalty less than death for murder is unjust and trivializes the victims and the victims' families. It is immoral and unjust to all of us in our society.

His sister goes on to say that there must be an appropriate consequence for one's own actions. The death penalty to her is not revenge. To her it's about justice and justice is about enforcing consequences.

Beatrice Votino also testified before Judiciary. She had lost the only family she had, a brother and a niece, who were gunned down in their home and she describes her ordeal and the same sentiments as the Petits. She went to court with clumps of her hair falling on the floor of the courtroom due to two mastectomies that she had undergone. She has now become recluse, leaving her house only for food and

doctors. Another life that's been destroyed.

The deterrent factor, which is probably the most important to me at this time. To premeditate a murder is a major reason that I and law enforcement oppose removing this important State's statute. This penalty may not stop murderers due to acts of passion or insanity, which currently are not subject to our death penalty, but I do believe that it does stop premeditated murders, organized crime hits, drug traffickers from committing even more murders.

In fact, according to the testimony of our own Division of Criminal Justice, there are numerous studies that show it is a deterrent. That this penalty does prevent additional murders. They state that currently there are no innocent people on death row in Connecticut. They argue that the ability for law enforcement to use the death penalty is effective and is often used to plea down to life. That it has a positive effect on the willingness of defendants to plead guilty and accept a life sentence. This protects the public and saves the cost of trials and postconviction proceedings, as well as the anguish of victims' families.

If you only have life in imprisonment what deterrent do you have for a hardened violent criminal

that are serving life in prison from killing and killing again in prison? What harm do we place our correctional officers in if we didn't have that deterrent in our judicial system and our correctional institutions?

You know, I had an interesting experience and an extensive conversation with someone who told me and works as a correctional officer in our prison system. And he explained the incredible violent actions that he and others in the employment of our state are subjected to on a daily basis and how he had actually witnessed a fellow officer have a knife placed to his chest and brutally murdered. And also about the many officers he trained with that could not withstand the pressure of the daily threats to their life and they dropped out of the program.

Some say that life in prison is worse than death, yet not the case as most criminals ask for and, in fact, plead for a life sentence, not death, just as many of their innocent victims do at the time of their own death.

According the testimony of Connecticut's Division of Criminal Justice on this bill, they believe that it just doesn't remove the death penalty going forward, as the bill would state, but also would effect those

currently on death row.

We may disagree on this point, and I hope to get some further information from our Chairman of the Judiciary Committee. They believe it would abolish the death penalty for those ten violent criminals currently on our death row.

This bill, therefore, may very well remove the death penalty for Daniel Webb. Webb was convicted of kidnap and murder for the 1989 slaying of Diane Gellenbeck, a 37-year-old Connecticut National Bank vice president. He took her from a downtown parking garage to Keeney Park where he tried to rape her. She escaped. He shot her twice in the back as she fled. And, as she continued to attempt to crawl away, he walked up to her and shot her three more times in the head.

We have a Mr. Ashby who was sentenced to death for the 2002 rape and murder of his neighbor Elizabeth Garcia. High on angel dust, he broke into her apartment and raped her. He grabbed a knife, stabbed her to death, and, when she fought back, she was murdered. Prior to this crime, he was wanted in the rape of a teenager, later proved by his DNA. And just days before his arrest, he shot to death another man.

We have Ricky Cobb, who's a former deliveryman

from Naugatuck, who was convicted of capital felony, kidnapping, murder, sexual assault, and robbery in 1989 and an attack on a 23-year-old Julia Ashe of Watertown. He let air out of her tire while she was in the mall, then offered her ride when she came out. He then proceeded to rape and beat her and then dumped body in a stream where she left -- where he left her to die.

Since this is a very serious and possibly the most serious change in course of state policy, Mr. President, I have some questions for the proponent of this bill.

Mr. President --

THE CHAIR:

Yes.

SENATOR BOUCHER:

Prepare yourself -- prepare yourself, Senator McDonald.

SENATOR BOUCHER:

Through you, Mr. President.

To clarify the current Connecticut death penalty so we know exactly what we're replacing with this new language, in Connecticut the method of imposing the death penalty was changed from electrocution to lethal injection in 1995. How has this changed since this --

this particular change in '95? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

It has not changed since 1995. The current method for execution is still lethal injection.

THE CHAIR:

Representative Boucher.

SENATOR BOUCHER:

Yes, through you, Mr. President.

THE CHAIR:

Senator --

SENATOR BOUCHER:

If a person that is on death row becomes insane during that period of time, is he put to death, according to our laws here in Connecticut? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, the Supreme Court has declared that it is unconstitutional to put somebody to death who is not mentally competent. They would have to be

restored to mental competence before the execution could take place.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you for the answer, Mr. President.

Further question, in Connecticut a person convicted of a felony -- capital felony can be sentenced to either the death penalty or life imprisonment without the possibility of parole. It would very helpful to me, and I'm sure to others listening in on us, what some of those capital offenses might be? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Boucher, that is true. Under current law a capital felony can be a sentence of death or it can be life in prison without possibility of release. This legislation would simply clarify that under the eight categories of crimes that would constitute a capital felony they would -- the penalty would be a mandatory sentence of life in prison without possibility of release.

There are eight categories for such a sentence, and they include, in general: the murder of a correction officer or public safety officer; the murder committed for hire; murder by committed by one who'd previously been convicted of an intentional murder or a murder committed in the course of a commission of a felony; also murder committed by one who is under a sentence of life imprisonment; murder by a kidnapper; murder committed in the course of a sexual assault in the first degree; murder of two or people at the same time; and murder of a person under the age of 16 years.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Mr. President, I really thank the distinguished Chair for his thorough and detailed explanation.

Just a couple further questions on our current statutes. In a capital felony cases, is the defendant eligible for a jury trial or would a judge preside over this particular case? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, it is a question for a jury to decide.

SENATOR BOUCHER:

Thank you, Mr. President.

One further question, an important aspect of our -- of our current statutes has to do with aggravating factors. I wonder if we could have some clarification on those aggravating factors if -- if we could? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, through you, are also eight aggravating factors that are outlined in current law that are currently weighed against mitigating factors but they tend to -- the aggravating factors tend to relate to the nature of the commission of the crime. The most commonly discussed factor is that the crime was committed in a specially heinous, cruel or depraved manner, but there are eight separate factors.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Two further questions, through you, Mr. President.

What are the automatic bars to the death penalty?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

There are currently five factors, which would be an automatic bar to the imposition of a death penalty. Under state law, they include that the defendant was under the age of 18 at the time of a crime; that the defendant was mentally retarded at the time of the crime; that the mental capacity or the ability to conform his conduct was significantly impaired at the time of the crime; that they -- that they -- they're guilty of a capital felony only as an accessory and had relatively minor participation in the crime; or that they could not have reasonably foreseen that the conduct in the course of committing the crime he was convicted of would have caused someone's death.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President. That's extremely

helpful.

And, then, finally, my last question. Given that we talked so much and have discussed the appeals process in this case to such a degree that this is seen by some as a very good thing, a lengthy process could take up to 20 years, or a bad thing that it does delay the process and is very costly.

I wonder if the good Chairman wouldn't mind explaining a little bit more about what that appeals process would be if someone were in this particular situation? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Through you to Senator Boucher, that answer is not easily provided because, as we've heard, some of these cases have been in the appellate system for more than 20 years. So it certainly can take many twists and turns as it does, and, as our Constitution, as it's interpreted by the courts requires. But, in general, after a sentence of death is imposed, then there is an automatic appeal to the Supreme Court and that process is the process that we've been talking about this afternoon and this evening.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

And I thank the Judiciary Chair for his answers this evening -- it appears to be.

Mr. President, I have thought long and hard on this change in policy, and I've only come to a decision just this week. It is a very, very difficult one for all of us, and I'm sure the public wouldn't like to be put in this position, as well. But, in weighing all the issues surrounding this bill, I have to fall on the side of the public and the law enforcement community. Some of which serve with us right here in this chamber, those that have to face the danger of losing their life on a daily basis.

If keeping this bill -- this language, as we have it right now, and keeping the death penalty in Connecticut deters just one person from putting a gun in their face and pulling the trigger, I think I could live with the vote that I'm about to make.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Boucher.

Senator Coleman.

SENATOR COLEMAN:

Thank you, Mr. President.

Mr. President, I rise to support the repeal of the death penalty in the State of Connecticut and to replace it with life imprisonment without the possibility of parole. And, in rising, I'd like to associate myself with those remarks that were made by Senator McDonald and Senator Looney and all of those others who spoke in support of this bill.

In fact, Mr. President, I'd like to congratulate all of the members of the Senate who spoke and participated in this debate on the civility and the thoughtfulness of this debate. It's a subject matter that, I think, has been treated appropriately, respectfully this evening.

Mr. President, I have to confess that there are and have been times when I felt less proud about my country than other times and less proud about my state than at other times.

I recall as a youngster feeling immensely proud when this country landed a man on the moon. And, every four years, I feel immensely proud when athletes from this country compete and win gold and silver and bronze medals, but I feel even proud when they don't necessarily win a medal but they demonstrate a good

character and competitive spirit in competition with other countries and athletes from other countries.

Most recently, I felt tremendously proud when the people of this country selected a candidate to be president of this country based upon the content of his character rather than the color of his skin.

There've been few times when I felt less proud, Mr. President. Most recently when it appears that officials of this country endorse policies regarding torture, and, when I learned that, it sort of called to mind the date and the circumstances and the feeling I felt when this State sponsored the last execution of an individual. It seemed to me to be state-sponsored murder, and I have always been concerned how we can tell people that it's wrong to murder and then sanction the taking of a life.

I feel badly for her, my good colleague Senator Handley, because she tells me that this execution occurred on her birthday and she explains that there's been a pall cast over what should be a celebration for her.

This country of ours, this state of ours has some ideals and some values that are uplifting and inspiring. And I think that we ought to endeavor to distinguish ourselves from places who have less

respect for human life, places like China and Iran and Saudi Arabia and Pakistan and some others. I think that we ought to endeavor to associate ourselves with some of the more enlightened and the more compassionate governments around this country.

One of the things that has always confused me in this debate -- I think we all agree that justice requires that a person who commits murder, a person who takes a life ought to be severely punished. But I always get this sense that for the proponents of the death penalty, that it's almost as if the choice is it's either if they don't get the death penalty then it's just as if they're going free. The perpetrators are being set free. There's no punishment at all. And I disagree with that because I think that life imprisonment without release is a very fair and a very severe punishment for that kind of offense.

Even though there have been assertions to the contrary, I think, there's so much evidence to indicate that the application of our death penalty is uneven and imbalanced, so much depends on what geographical location you're arrested and tried in, so much depends on whether you're a minority person or a poor person, so much depends on what class you hail from, so much depends what color, ethnicity and race

the victim of the crime may be.

Probably, the most disturbing thing to me is the fact that, as good as our system may be, it is not perfect and it is not infallible and we don't need to look any further than what has happened with James Tillman and Miguel Roman to understand that our system is not perfect. And, in those two cases, and there are probably more, we came very close to making a tragic mistake.

Especially when you consider that Mr. Roman's crime could have qualified for the death penalty. His victim was a pregnant woman or the victim in his case was a pregnant woman and there was kidnapping involved. Fortunately, appropriate justice was done. It was discovered that he was not the one that actually committed the crime for which he was tried and convicted and sentenced.

If our system was perfect and we could guarantee that an innocent person would not be executed in the State, then I would be more likely to perhaps side with others who feel that we need a death penalty, but our system is not perfect. And we come oh so dangerously to close, on occasion, to convicting and sentencing and, heavens forbid, actually, executing people who are actually innocent.

So, Mr. President, I hope that my colleagues around this circle -- and I know that they do, give thorough consideration to how we can be the best that we can possibly be, how we can live up to our ideals and our values, and our respect for human life. We can take a significant step in furtherance of those values and those ideals if we do away with this uncharacteristic punishment that is on our law books.

Mr. President, I hope we take that step this evening.

Thank you.

THE CHAIR:

Thank you, Senator Coleman.

Senator Guglielmo.

SENATOR GUGLIELMO:

Thank you, Mr. President.

First of all, I'd like to commend Senator Williams and Senator Looney for going forward with the debate. I don't think we've done this in the Senate in the 17 years I've been here. I think it's an important debate for us to have. So many of the issues we discuss here effect such a narrow, small portion of the people, but this one has a broad interest, and I think it's -- the people should know where we stand on the issue so I commend the majority

party.

I do have a quick question for Senator McDonald, through you, Mr. President?

THE CHAIR:

Senator McDonald, prepare yourself.

SENATOR GUGLIELMO:

Senator, do we have a plan for these ten inmates that are on death row, assuming this passes tonight and is signed into law? And is there a transition?

SENATOR MCDONALD:

Thank you, Mr. President.

And, thank you, Senator Guglielmo for the question.

And it affords me an opportunity to reiterate that this legislation is prospective only, would only apply to any crimes that were committed after the effective date of the -- of the legislation and would not in any way modify the sentence that was already imposed for any of the ten individuals who are currently on death row and would not apply to the cases that are currently being prosecuted or any cases that might be prosecuted before the effective date of the legislation.

THE CHAIR:

Senator Guglielmo.

SENATOR GUGLIELMO:

I thank -- I thank the Senator for that information.

You know, it's been said here tonight that life in prison is a harsher penalty than the death penalty. And, you know, I have a little history that the staff put together of the ten that are on death row. And I would have to say that, in my opinion, that's probably not correct because the only one who's asked to be executed was Michael Ross. The others could drop their appeals, as well, if they considered the death penalty to be less harsh than the confinement that they currently have so, obviously, they haven't done that so I would say that's kind of the proof, at least in my mind that while life in prison is not a good thing, death is even less appealing to them.

I don't think there's too much doubt that the ten that are on death row are guilty. I think these are the worst of the worst, and when you read the histories, and I won't do it. Senator Boucher read some of them. They're pretty horrific. I'm concerned that when you do away with the death penalty, there are others that are those coming along who -- some recent murders at Wesleyan and Cheshire -- look like people who would fit the description of those that

would be put on death row. And my concern is, you put them in the general prison population and they are an extreme danger to the corrections officers, to the doctors who serve them, the teachers to go up to educate them, to the counselors and to fellow inmates.

I visited the prisons many time -- as many times as Senator Kissel. I have many -- because I'm so close the prisons, our district, I have many corrections officers in my district. Many of them have served on death row, talked to these inmates that are on death row and the point is that if these folks who are the worst of the worst are in the general prison population. And I have visited, there's -- believe it or not, a fair amount of freedom within the walls of the prison. They go -- they walk to the cafeteria. They have jobs at the metal shop and the carpentry shop. They have the gymnasium. They have the library. And the correction officers want this. Don't get me wrong. They want this because they feel it elevates the tension and makes the inmates less apt to be violent. So I don't begrudge that part of it, but my concern is the type of danger they are to the staff. When you have somebody who's already killed and killed in a most heinous way and in a premeditative manner, that's a pretty frightening

thought. That somebody would think about and plan for the elimination of another human being.

You know, I used to do a cable access television show, I had different guests on, and I had Mike Mittey on one time. Mike was the president of the corrections officers unit -- union. Best guest I ever had, most interesting guy. Came on and he had a suitcase and in the suitcase were all the weapons that had been confiscated from the inmates in one or two cell blocks -- I can't remember -- and in one or two shake-downs. So it wasn't over a long period of time. And these were ingenious. Let me tell you. Some of these people have talent. They put together weapons that are exceedingly dangerous.

I saw in Mike's little bag of tricks, a toothbrush and on the end of the toothbrush is sharpened metal that is taped and it used to go after someone's neck and face of a fellow inmate or a corrections officer. They had actually weapons that were made totally of plastic because those would go through the metal detector so they would get hardened plastic from one of the shops and sharpen it up and so they wouldn't be detected by the metal detector. One was as long as a sword. It was a piece of the -- they had taken out of the aluminum -- not of the aluminum

but the blind so that you twist -- that solid plastic that sometimes is on blinds. You twist it. It could be this long and somehow when they were having counseling or into see the doctor or whatever, they ripped this down, sharpened it to a sharp point. It was this long, sharp as a sword, could penetrate an entire body of a person.

So these are ingenious and dangerous people and, at the end of the little interview, I asked Mike -- I said would it be safe to say that the only unarmed people in a correction's facility are the corrections officers? And he said, yes, that'd be fair to say.

So, I guess, I don't know why we would want to endanger the life of staff and other inmates with -- by having people of this ilk in the general prison population.

You know, I also read the book that Senator Duff mentioned by Scott Thoreau. It was sent to all of us, as I recall, when we were going to have the last death penalty debate by the author himself, I believe, and I read the book and I pulled it out, same as Senator Duff did prior to tonight's debate. And I'm sure I could get examples just like this from Connecticut but it happen to be in the book and I was able to get it in time for this debate but I'll give you an idea.

There was a fellow in Illinois state prison named Henry Brisbon. He was a multiple murder -- murderer, sentenced to murder. He killed another person within 11 months after his incarceration. He and several inmates grabbed a corrections officer, locked him in his cell and then beat another inmate to death. He lead an escape a few years later, which resulted in the assault and near death of two more corrections officers. He stabbed two inmates over the period of time. He stabbed a corrections officer. He hit another corrections officer with a wooden plank hit another one with a 38-pound weight. He had 250 disciplinary tickets in the period of time he was in there.

These are the worst of the worst. These are people that never mind cannot be among us in regular society, they cannot even be in the general prison population. They're too dangerous for that kind of an atmosphere. So I would say to you this that -- oh, by the way, in reading the book, as I recall, that commissioner of Illinois did not eliminate the death penalty. They limited it, but they did not eliminate it after all those months of study.

So, I guess, what I'd sum up with is that there's something called moral proportion and the death

penalty is the ultimate punishment for the ultimate evil.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Guglielmo.

Senator Handley.

SENATOR HANDLEY:

Thank you, Mr. President.

I rise in support of the bill that's been presented before us, and I, again, thank Senator McDonald and the leadership of the Senate for giving us this opportunity.

I've been a long time opponent of the death penalty -- of the use of the death penalty because I believe and have believed for a very long time that what is meted out in the death penalty is not justice; that it is an old and very tired form of retribution that in most cases has disappeared from the industrial world, but I do recognize that the ability -- the State's ability to take a life is an awesome power. And, simply by passing such a law as we would tonight, we don't really end that power because as happened in the past we can take it back. It is within the power of the State to do this. I think we should not do it, and I hope that we will give up this power that we

have at least for the short time, but I would like to speak to the issue of people who do believe the death penalty is a form of justice. That it is right.

I think, all of us understand that for justice to be -- for the administration of justice to be real, it must be -- it must be equally dealt out. It must be certain, and, if all goes well, it should be swift. None of these characteristics approach the death penalty as it's handled in the State of Connecticut.

Senator Guglielmo talks about the worst of the worst being the folks who are on death row, at least I think, that's what he meant. The interesting thing is that the folks who are on death row, we know committed -- or at least have been convicted and are fairly confidant, committed some pretty horrific crimes, but there are people who have committed equally awful crimes who because of a decision of a prosecutor or the decision of other folks are not on death row.

And, in fact, the best example of this from my perspective is Michael Ross's case itself. Michael Ross committed serial crimes, as we know. And in the New London jurisdiction, he was convicted of a crime -- of a crime and was sentenced to life in prison. In the Waterbury jurisdiction, for the same crime, by the

same guy, he was convicted and sentenced to death.

There are enormous numbers of people who have committed crimes virtually as awful as the folks who are on death row. This is not equal justice when this happens. We know very well that the folks -- that the decision to go for the death penalty, to charge the death penalty has much more to do with the race of the victim than anything else. If a victim is white, the chances of a death penalty -- a capital charge is much greater than if the victim is black or if the victim is of another -- another ethnic background. The perpetrator's race and ethnic background is of secondary interest, but it is the victim's background, the victim's race. This is not equal justice.

We know, also, that there aren't very many poor people -- I mean, I got it wrong -- there are very few rich people on death row. The ability to hire fine lawyers to put together, as happened a few years ago out in California, a dream team of the greatest lawyers in the country will get people off a capital charge in a way that a poor person using even the great efforts of the public defenders and the legal aid folks, whom we have in this state, whom we're putting together money to try to keep working, is not the same as having millions of dollars to support a

charge.

So for those folks who think that the death penalty is a reasonable form of justice -- I don't think it is -- but if you do, I would ask you to realize that virtually everyday when we're in here -- I mean everyday -- we're not always all here at the same time -- we pledge liberty and justice for all. And the death penalty does not provide justice for all. For this reason, I urge our vote in favor of this motion -- of this bill.

[SENATOR COLEMAN OF THE 3rd IN THE CHAIR]

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

I'll start off by saying a -- reflecting on a comment by Senator Gomes that this is about justice not just about just us. This effects every individual in the State of Connecticut, and I can relate to some of the colloquy that Senator Gomes talked about in his opening remarks as a young child, growing up in the city and the treatment that he might have received because the color of his skin.

We know that is no longer the case in this state. We know that the justice system is meant to be fair.

It's based on a scale, an even scale and this scale doesn't have a Republican or a Democratic mark on it. We talked a lot about the best -- the worst of the worst and the best of the best. And I'm not so sure that I would put those comments on any individual because when I look at things, I look at things on an individual basis and I make my determination based on that solely.

Senator Coleman had mentioned murder begets state murder and that's what would happen if we move forward with the death penalty and how can a State sanction committing a murder if they're being punished for doing that same acts. When I say to you, if someone is charged with kidnapping and holding somebody against their will because they cannot escape. If they are found guilty in a court of law, they're being held against their will in a correctional facility. It's the same logic, the very same logic.

Someone in our society or something has to be responsible for maintaining order; otherwise, there would be chaos and anarchy. We've evolved from that system. We've evolved so much that I believe, race and ethnicity no longer has a part in our justice system because Lady Justice is blindfolded. Those two factors should not come into play when making a

determination of guilt or innocence.

And I think the fact that Senator Handley brought up a case out in California may not have something to do with money but with celebrity status. We often see those in the news often, time and time again, and that's not right. That's wrong. But I believe if we remove the provision of offering a death penalty, we remove a tool out of the toolbox. It doesn't have to be used. As a matter of fact, we must prove doubt -- proof beyond a reasonable doubt that the person is guilty and they have to be found guilty by a jury of their peers.

Senator Guglielmo brought out a good point about shanks in prison. Those plastic toothbrushes that are sharpened down to a fine point called shanks. And we talk about deterrence and how can we measure deterrence? Well, those folks that are in the correctional facilities are put there because they committed a crime, but, yet, being locked up in a correctional facility has not deterred them from committing a crime. In fact, they even commit murder in prison so being locked up does not deter crime. There's gambling going on, drug usage. They're ordering hits from within the prison facilities, harassing individuals. In fact, the mailrooms in the

prison have to go through the mail to make sure that they're not contacting victims and making threatening and harassing remarks to those outside the prison walls. These things happen and just because they're in a correctional facility doesn't mean that they won't.

How do you put a price on human life? Well, I've heard tonight that the price is approximately 90 to 94,000 dollars a year to keep somebody locked up on death row. Well, that's putting a price on human life. If you asked anyone of those victims' families -- do you believe your loved one is worth $94,000 a year for X amount of years? They'd tell you there's no price that could be paid on that person's life. And I'll use Michael Ross as the example. We no longer get a bill for Michael Ross. That $94,000 a year has stopped. Yes, it costs the state -- I heard in the debate earlier, $360,000. Well, if that were the case, I'm sure Michael Ross would have lived a lot longer than four more years from now so we'd still be paying for that.

I'm going to close my comments with stating that we shouldn't remove the tool of offering the death penalty because when it gets to that point in the court house, the families have a say in that.

I had the unfortunate measure because of my job to investigate a murder in my hometown about a decade ago and this person stalked this one woman down along the reservoir. She was out going for a nice walk and the woman got spooked by this gentleman that she always saw him walking around the path several feet behind her so she changed her routine, said I'm not going to go down there anymore because this guy keeps showing up. He's giving me the shivers.

Well, unfortunately, that message didn't get out to everybody that walks along that path and one morning Mrs. McDonald was out walking along that path with her dog. She never showed back up at the house. So the housekeeper went to where she knows that Mrs. McDonald walks and the only thing that came back was the little terrier dog so she knew something was wrong because Mrs. McDonald would never leave her dog alone. So she called the police and we began our search. And, unfortunately, we found Mrs. McDonald in the woods a couple hours later and she died of the wounds afflicted upon her by this young man.

They went to court and he was found guilty. He actually confessed to the crime so there was no question as to whether or not this individual did it. But the family made the decision because the

prosecutor had offered to go for the death penalty but the family had made the decision that they were traumatized enough and they asked the prosecutor for life in prison without the possibility of parole. And the prosecutor accepted that and said then that's what we'll go for, but, in this case, justice was served and it met the wishes of the family, and they were able to have closure based on that. But there are families out there that would like to see the final act of the death penalty imposed, and I think we owe it to those families to have that say, as well.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

I stand in opposition to the bill, and I'm hoping that this is by far and away the most difficult issue that we will all face as a legislative body this year. We're not talking about a tax credit. We're not talking about street signs. We're not even talking about tolling here tonight. We're talking about something that's far more profound and -- and causes each and every one of us in our own individual ways to

dig deep into our souls and ask ourselves a lot of very difficult questions, versus the back drop of very established legal system and court system within our own State of Connecticut.

I do want to thank Senator McDonald and Senator Looney for bringing this up for debate this evening or this afternoon -- starting this afternoon because it really does prove that we are civilized. The death penalty is still very much on the books here in Connecticut, and, if we did not debate this, I think people would raise an eyebrow and say, they're not even going to consider what the merits are of either maintaining it or losing it.

And, if this bill does not pass, I would suggest that we, in fact, do bring this up every year. So that we can continue to debate it, new thinking occurs, new technology comes about as a result of advances in criminal -- in criminal -- in the area of criminal science, and so on and so forth.

I think -- I think anybody who is against this bill is -- is digging deep and they're saying to themselves, we're not parading this concept around. We're not trying to enforce something that is completely, completely uncivilized. What we're doing is we're saying this is the ultimate last resort for

an absolutely heinous crime with circumstances that are so totally beyond a reasonable doubt, in terms of one's guilt in their complicity, or their actual accomplishment of a murder or whatever the set of murders, whatever the case might be.

So, I think with that, I stand against the bill.

I do have a couple of questions for Senator McDonald, if that's okay? Through you, Mr. President.

THE CHAIR:

Please proceed.

SENATOR FRANTZ:

Okay.

Senator McDonald, you mentioned that -- that life in prison, in your judgment, is tougher than the death penalty. I believe we have, approximately, 47 in prison for life at this point. Do we have an idea of what the number of suicides is amongst that group?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, none of the 46 who are there have committed suicide. If that's the question?

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you.

And, to your knowledge, during the last three, four maybe five years, have there been any suicides amongst that group of people?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Not that I'm aware of, through you, Mr. President.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you.

And just for my own edification maybe some others around the circle here tonight, of the, I believe it's ten on death row now, are each and every one them looking to commute their sentence currently?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, each of those appeals, which are mandated appeals straight to the Supreme Court, are still active appeals.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you.

It's always been my feeling when we're looking at proposed legislation to look very hard at the data to make sure that we have the right kind of data, the kind of comprehensive data that's going to give us wisdom, in terms of making the right choices on these respective bills.

With some of the data that you were using before, Senator McDonald, about the rate of homicides in states that have the death penalty or might not have the death penalty. Do we know what sort of -- did they do regression analysis? Did they take these numbers and do anything with it other than just take the raw numbers and put them into a chart?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, there are numerous studies that have done -- well, there are academic studies. There are think tanks that compile raw data, but there's also studies that have done statistical analyses of the type that you're talking.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you.

That's a reasonable answer.

It's been said before tonight so I won't go over it again but the -- some of the raw data that's out there, I think, is subject to one's own personal interpretation. It's a little less than scientific. It appears to me in any case. So I think we do have to be a little bit careful about that to make the adjustments for geography within the 50 states in the United States of America and a variety of other circumstances that might enter into that -- that picture, which would cause you to come conclusions.

Another question, through you, Mr. President?

THE CHAIR:

State your question.

SENATOR FRANTZ:

Thank you.

If you write about life in prison being, in fact, a more harsh penalty than the death penalty, does it -- does it, in fact -- does it, in fact, really save money? I think that's a question that has been raised before, and Senator Witkos addressed it, but I'm just wondering if in your judgment, if we passed this bill

tonight as a body and we end up with everybody on death row, at this point, ending up in prison for life, aren't -- aren't we still going to end up with the same number of appeals? Never mind the cost of housing and feeding, and so on and so forth, but aren't we going still end up with the same number of appeals, which ultimately cost the state, the taxpayers money?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, that isn't an easy question to answer because, obviously, each case is different. There are individuals who are serving life without possibility of release who have gone to trial. There have been people who have pled to that so the costs associated with those cases vary substantially.

I can tell you that -- that the -- that the public defender's office has an entire unit dedicated to just capital crimes. That the -- that the state attorneys have specialists in these areas that dedicate extraordinary amounts of their time to death penalty cases.

I believe the fiscal note indicates that,

ultimately, we would be able to save -- again, I don't hold this out as a prime reason to vote for the legislation, cost not being a primary consideration, but the State would save about $4 million a year, ultimately, after the current cases are litigated in present dollars. And that the -- that the time line, I should say, for -- for resolving the cases where people are sentenced to life imprison without possibility of release, in many instances, is much shorter than the cases per individuals who end up on death row.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you, for that answer.

The name Charles Manson comes to mind when I think about this issue. It's not something that I've thought about as intensively as I have in the last couple of weeks here knowing that this could very well be on the agenda one of these days. And I just wonder -- I'm not going to ask you directly, Senator McDonald, or anybody. What the cost to the state, to the taxpayers in California for the incarceration of Charles Manson has been, but I know it's been a darn long time. I remember reading the book in the late

1970s, I think it was Helter Skelter and that was a long time ago. I know that he's had numerous appeals. He's been up for parole at least two, maybe three, times now, and I can't imagine that the cost being minimal with respect to the -- that specific case.

What I'd like to do is just wrap up by saying that we might be better off if, in fact, you believe those numbers or if you're a little more skeptical about those numbers. Aren't we better off focusing on the system that we have? If we have a death penalty that is used extremely rarely and for extreme cases for absolutely heinous crimes, like some of the ones Senator Boucher was talking about before and Senator Guglielmo was talking about before. These are really, really bad people. The vetting process is intense. We know it all goes on forever, and it is very expensive as we have learned tonight if not before. I'm just wondering, shouldn't we be focusing our efforts on making sure that is a more decisive, more efficient and straightforward system?

Senator Looney said something interesting earlier about the possibility of error within the courts. There's a certain amount of subjectivity. There's no question about that. I agree with you wholeheartedly. However, I think what we're doing is we're talking

about cases here tonight that are so far beyond a reasonable doubt in terms of who was involved and who did what. Given the number of death sentences here in the last few years, the last decade even, I think, most of those cases -- and I have to check them carefully to make sure this is a valid statement -- but I would guess that those are very cut and dry cases.

I do disagree with Senator Looney when he does say that perhaps the other side has used the argument that government is not necessarily the best -- the best organization to enforce or run a business or do whatever. There are many cases of that. There's no question but using that same logic to say that the government should probably not be in the business of sentencing people to death, I think, maybe taking it to just a baby step too far because I think there are other components in the judicial process.

Not being a lawyer and, hopefully, not having to learn too much more about the judicial system -- what I think exists is that you have a jury, in most cases. You have a jury of peers. You have judges who are well qualified. They went through a vetting process themselves. And it's a very laborious process, as I understand it, to go through all the evidence, to look

at all the facts and circumstances and with all the modern advantages of technology these days, I think we can reduce the chances of error in any of these different cases to the point where everybody can feel darn near 100 percent if not, in fact, 100 percent that we've got the evidence, and we're not going to consider doing anything, like impose the death penalty, unless we're at that 100 percent threshold.

With that, I stand in opposition, and I'll wrap it up.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Frantz.

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President.

Mr. President, for years and years and years, I supported the death penalty. My neighbor's granddaughter was one of Michael Ross's victims. It just about destroyed her life, and I thought to myself, you know, somebody who would do something as heinous as that shouldn't even deserve to enjoy a cup of coffee, or see the sun rise, or have any of the basic simple pleasures of life because if you're going to take somebody else's life, you shouldn't live to

enjoy whatever life is there for you.

So, for years, I was a very strong supporter of the death penalty and then when -- even though Michael Tillman wasn't sentenced to death but he spent 20 years in prison for something he didn't do, I began to think, you know, how many mistakes the judicial system makes, and I began to think from what I had heard that life in prison without parole was a worse punishment than the death penalty.

And now I am so disturbed by what I heard Senator Guglielmo say that -- I really -- through you, Mr. President -- want to ask Senator Guglielmo where that information came from that people who serve life in prison without parole are able to go to the cafeteria, was what you said? They're able to -- they go to counseling. They go to classes.

And I'm thinking to myself, you know, is -- if this is real, do I want to let people who commit such terrible crimes escape the death penalty and have the pleasures that Senator Guglielmo is saying that they have?

It's making me re-think what I based my decision on to change my mind that maybe the information I had was wrong if what you have said is the way it is, than I am truly disturbed in changing my mind to avoid the

death penalty.

So, through you, Mr. President, I want to ask Senator Guglielmo, who is a dear friend of mine, where that information came from that people who are serving life in prison have those kind of pleasures?

THE CHAIR:

Senator Guglielmo, if you care to respond?

SENATOR GUGLIELMO:

Yes, thank you, Mr. President.

Thank you, Senator Prague.

Well, the -- years ago -- and I don't think it's changed -- I went to the prison for a sport's banquet. And I was a friend of the athletic director, Dave Musco from Somers and he invited me up and they gave awards. They did it in a cafeteria, you know, at the prison and they had the prison band playing when you went in and I'm not saying it was a pleasant place, don't misunderstand me. It was a little intimidating but we went up to eat at some point in the dinner and I was talking to a young guy who was pretty articulate and he was a heavyweight boxer that they had in the prison because they had boxing in the prison. So I came back to the table and I was talking to -- he's an attorney from Enfield now, Tyler -- I can't remember his first name. He was an assistant athletic director

at the prison, at one point. So, I said to him -- I said, well gee, that young man is pretty nice young guy. He's pretty articulate. Well, he said, yeah, he's a sweetheart. He said he gunned down two people with a shotgun. So he was within the prison population.

To my knowledge there was no prohibition -- and I could be wrong and if anybody's in the circle has information different than that, I'd hope they'd stand up and say so. I don't believe there's any prohibition for somebody who's a convicted murderer to stay in segregation. They are in the prison population.

The people who end up in segregation are people who misbehave when they're in the prison system. Those are the people they segregate from the others, who assault other inmates, who assault corrections officers, who cause those kinds of problems. So those are the ones that end up on the super max or the ones who are gang leaders will end up in a super max. But, to my knowledge, and, again, I invite anybody to stand up -- Senator McDonald, if I'm incorrect -- I don't believe that there's any automatic segregation of people who are convicted of murder. They can work their way by good behavior into the general prison

population.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Prague.

SENATOR PRAGUE:

Well, Mr. President, through you, I'd like to direct a couple of questions to Senator McDonald?

THE CHAIR:

Please proceed, ma'am.

SENATOR PRAGUE:

Through you, Mr. President, Senator McDonald, to your knowledge, if somebody has committed murder and they're sentenced to prison for the rest of their life, what kind of an environment do they spend the rest of their life in?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

And, through you, Mr. President to Senator Prague, I appreciate the opportunity to answer the question.

Somebody who is sentenced to life in prison without possibility of release is automatically

transferred to a super maximum prison. In general, that inmate would spend, approximately, 23 hours a day in that prison unless they had a reason to be out of that cell. If they are out of the cell, they are generally -- well, they aren't generally. They would be under supervision if they are moving outside of the cell. There can be reasons if they're going to counseling or something like that why they would be out of the cell, but, as a general proposition, they spend almost the entire day in a prison cell in super maximum security, always under supervision.

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

Mr. President, through you, just one more question to Senator McDonald?

THE CHAIR:

Please, frame your question.

SENATOR PRAGUE:

Thank you, Mr. President.

If I'm understanding you correctly, Senator McDonald, these people who have committed murder, who have taken somebody else's life and, for that, will be spending the rest of their life in prison, don't have the opportunity to socialize or to mingle in the

cafeteria and enjoy those aspects of prison life?

If I am going to say that staying in prison for rest of your life is worse than facing the death penalty, I have to know that staying in prison for the rest of your life is a situation wherein that a murderer doesn't have good times, doesn't have pleasures, doesn't socialize, and I need to hear from Senator McDonald if that is so?

THE CHAIR:

Senator McDonald, would you care to respond?

SENATOR MCDONALD:

Thank you, Mr. President.

Through you, Mr. President, to Senator Prague. As I indicated, with the exception of people who are on death row, nobody is more highly supervised. Nobody is more restricted in their movements. Nobody is more closely confined than somebody who is imprisoned for life without possibility of release. That is not to say that they never come out of their cell. There is time to be -- there's time for them to exercise for an hour a day. That's true for people in -- on death row, as well, and they can come out of a prison cell if they are under escort or super direct supervision of prison guards. They are not socializing in group settings and that type of thing.

They may have a meal in a dining facility, but it's not as though they are walking out of their cell and just strolling down to the cafeteria to grab a bite to eat. That is absolutely not the situation with these prisoners.

Through you, Mr. President.

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

Through you, Mr. President, thank you, Senator McDonald.

I know that you know the mistake that was made with Michael Tillman was horrendous. And my sense is that our justice system makes mistakes and to sentence people to death is not a mistake you can undue so I have some thinking to do before I press this button.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, first, I'd like to just comment on some of the discussion that took place.

I did tour, the last time I think there was some

discussion about getting rid of the death penalty. I did take a tour of the maximum security prisons. In fact, the tour that I went to -- the individual by the name of Robert Breton, who was sentenced to death in 1989, was convicted of two counts of capital murder for beating and stabbing his 38-year-old wife and their 16-year-old son.

Mr. President, I -- when I went to that facility, I went with several staff members so I could have an understanding of the incarceration and what took place. And a few things were interesting. A few things were relatively interesting to me as I toured the prison.

One was -- and it made sense to me, frankly, one was the guards that were there indicated that they have a different system -- social system within their prison. In that, what the prisoner did outside to get in here was not relevant and that makes sense to me because their society in their prison, the guards, have to have a different society. And they say, look what they did out there that landed them in this prison is relevant in terms of safety -- no question about -- but it's not relevant in terms of how we treat the prisoners. If they act like good prisoners in our system, that's the society we want to build on.

That makes sense to me

And the reason why that question was posed was, as I mentioned, this prisoner who's sentenced to death is Robert Breton, who killed his wife and his son and they showed me his cell. We walked into his cell. He had a TV. He had some magazines. His cell door was open so we proceeded inside and they described the stuff they could have and what they can't have in the cell.

We then toured the rest of the facility. We went to some outdoor stages where some of the prisoners go. We went to the library. When we got back about 45 minutes to an hour later that prison cell was still empty. So I asked where he was? And they indicated to me that he is a very soft spoken, clean individual, in terms of orderly, and he was in charge of the library and he was in charge of dispensing the books then collecting the books.

And, in fact, he was one of the main keepers of their library. He had done such a great job, he was one of the folks who they would count on to keep that library in order. And, although that struck me as kind of odd because I was under this understanding that one hour a day that they would be out -- they being these people, capital punishment -- and the

answer was no, no that is our system. However, we got to treat people within the system differently than you think of it because it's our own society in here. And if somebody is good and someone's a model prisoner, we recognize that -- other rules, just other rules.

And I went there purposely for this mission, to find out what it was like and probably what I didn't do is then return but (inaudible) and they talked to me about the length of time for which the people take showers. They're limited.

And I said, well, how strict are you on that? Well, we're not that strict. If it someone who is a prisoner, who is a good prisoner who plays by our rules, we are going to work with them. That makes sense to me.

In the society for which these guards work that makes sense to me. So when you look at that, I want to be clear that the image that, perhaps, I had for myself and I brought four or five staff members with me from our side so that they can look at it as well -- actually, they volunteered to come with me and we spent -- we toured three prisons, and we spent almost a day up at three prisons.

I also just want to talk very briefly about "The Ultimate Punishment," which is a book that was

mentioned by Senator Duff. You remember what the framework of that book was, and it's very interesting if you could read it. The framework of that book was what reforms, if any, would you make for the application of a death penalty? In that for the State of Illinois that it'll be fair, just and accurate?

And that was the mission of the commission put together by Governor Ryan and this gentleman apparently was asked to be on that commission. And they looked at issues, and what's amazing about what they looked at was the author of this book never comes to a conclusion. Each issue -- and I got to tell you if you read the book, I think he believes, he wanted to come to a conclusion that the death penalty is wrong. I really think when you read what his -- some of his thoughts were that's where he was going but as he looked at each issue. He looked at victims. He looked at it from all sides. He looked at whether or not it was fair with respect to race, whether it was fair with respect to economics, whether it was fair. And what he said was, there is no bright line that I could draw it and say, yes, because each case was so intricately involved in the facts and the different situation surrounding it that, in fact, no conclusion could be drawn.

When he looked at the issue of cost that we've talked about in this chamber, he says that costs do not provide -- do not provide a compelling argument against. We don't look at cost. He doesn't think, from his conclusions, that that's something you should look at. He does side against the death penalty in some circumstances; for the death penalty in some circumstances. His ultimate conclusion is whatever we come up with, I'll honor and respect, and it was an opportunity to serve.

He came to no conclusions and that's, frankly, why Governor Blagojevich, who's no longer there, after Governor Ryan, said I'm going to keep the moratorium up because I want to make sure that the reforms that this committee came up with that were not enacted by the legislature, until those reforms are in place, I am not -- I am not going to allow the death penalty. It's on our books, but I'm going to moratorium on it because the answer is not simple.

And the answer he finds that it depends on how you look at it and what the facts and circumstances, but this was not a book about the death penalty philosophy throughout the entire United States. This was a book about Illinois. This was a book where it did not have the procedures that we have in

Connecticut. It's not advocating it one way or the other and the reason why I'm bringing this book up, not to step on it or denounce it or anything. I think it's a good book. I think it's very eye opening in a philosophy type of sense, but I want to be clear to the circle. It was not a book advocating one side or the other. It's a book that talks about, here are the issues, none of which are black and white. None of which you can say, this is a positive, this is a negative and for all times and for all sake. It is a book for a state with a particular law that they had. And, until they do the reforms, they're going to have a moratorium on that.

Mr. President, I have more to say about this bill but now is not the time, now is not the time. But I do want to say is that this circle has engaged in many debates since I've been here that have been like this, a very substantive debate where it is very difficult issues that face us.

This is not, I believe, like many bills that we've debated or a handful of bills that we've debated. It is not a bill that someone can say, you're right or you're wrong. It is a belief. It is a conscience. And it's a difficult vote for each and every one of us around this circle. And what I

respect most about this circle -- many Senators and I include myself in it -- sit and listen to the debate around this circle because everybody has a different view depending on where they were born, how they were raised and what they were taught and the lessons that they had in life, and it's all that that you need to take into account when you vote on a bill like this.

So the reason I don't want to talk more is because I want hear the rest of the debate tonight. I want to see the movement of the debate tonight, and I look forward to the input of this circle.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President, nice to see you there.

I've waited a bit to share some thoughts. I was very anxious to listen to my colleagues, many of whom I have not heard their opinions on this subject, even though I've sat through about eight hours of debate and public hearing in the Judiciary Committee and so those members of the Judiciary Committee, I had the opportunity to hear their thoughts on it back in March, I believe it was.

And I came to the Connecticut Senate, frankly, with no idea that I would be debating the death penalty. I, frankly, thought that all of our energy this year would be budget related. In fact, I look at that clock outside the Senate Republican Caucus and I see that the red ink for the day -- today is 2 and a half million dollars so I really thought that was going to be the order of the session. And -- and I guess I was surprised by some of the other topics that have come up, but I honor this esteemed institution and the history that has taken place here. And my colleagues who have far much more experience in the legal field and in the history of such a very difficult topic that we face tonight.

I had a similar experience as my colleague from Norwalk, Senator Duff, who, frankly, came to the Senate not necessarily with a clear decision made on which way I would vote in the event I had the opportunity to vote on the death penalty. I was much clearer on other issues of criminal justice. In fact, last year I had the opportunity to meet Dr. William Petit and had lengthy discussions with him about his experience and, specifically, about Three Strikes Law that he was advocating for and I support. But the death penalty, frankly, didn't arise in those

discussions. And it wasn't until I was given the opportunity to serve on the Judiciary Committee -- and I must admit as a banker, that's my professional experience -- to serve on the Judiciary Committee is a humbling experience because you are facing legal scholars. You are seated next to distinguished co-chairs of the committee who have a great deal of experience in the legal profession.

And, so the experience of serving on the Judiciary Committee is unique, indeed, for someone like me, and I mention all of that because I'm trying to just share with you the struggle that I've experienced in assessing where I am on the death penalty. And I must admit that on both sides of me, my friend Senator Gomes, who I enjoy speaking with on a nearly daily basis now and Senator Duff, seem to be on a different side of thought than I am on this but in both cases they had experiences and very important ideas to add to this debate. And I listened intently as I have with everyone else.

And it -- those who are in favor of this bill, which I'll get more, specifically, to the bill, which I -- I think, is not necessarily the right way to handle this. If that, in fact, is what the proponent is intending to do, but those who are in favor of this

bill have the same passionate thought and feelings about capital punishment as those who are in favor of it. And, yet, I came to this circle without feeling very strongly about capital punishment. I had opinions about it, but I really didn't feel very strongly about it. And I will tell you that people that know me very well and know a little bit about who Mike McLachlan is, my upbringing, my faith, frankly, are a little surprised, I imagine, that I would entertain the thought of supporting capital punishment. And so I tell you all of this just to let you know that this, in fact, is always a challenge for me personally. But I know also that these kinds of decisions of an elected official as was clearly stated earlier today are a vote of conscience.

I believe Senator Meyer talked about the -- the way that we approach the decision may not necessarily be intellectual, but it is more that of a vote of conscience. So when I heard that that forced me to dig back into the files and reams of paper that I have accumulated on this topic over the last several months. And some people make fun of me because I have -- including my wife -- I have piles of -- of papers and testimony stacked up on my desk at home and in my office here at the capital. And -- and some

sort of look at me funny because I -- I'm a bit of a pack rat on topics that I'm interested in, and, in fact, this is one of those topics that I've read an awful lot about.

So I want to share with you some of my thought process, and I must begin by two pages here that looks to be just a table. At first glance, it has names and ages and race and sex on it. Doesn't -- doesn't look like much. It's in alphabetical order by last name and it starts with Lazale Ashby, age 24.

Ashby was convicted of raping and murdering his 21-year-old neighbor Elizabeth Garcia in her Hartford apartment. The crime occurred four days after Ashby's 18th birthday.

My colleague Senator Fasano referred to Robert Breton, age 62. Robert Breton was sentenced to death in 1989, and he was convicted of two counts of murder and one count of capital felony for the beating and stabbing deaths of his 38-year-old ex-wife, Joanne Breton and their 16-year-old son, Robert Breton, Jr.

Jessie Campbell, the third, age 29, was convicted of a capital felony, murder, attempted murder, first degree assault and weapons violations for the shooting deaths in Hartford of 20-year-old LaTaysha Logan and 18-year-old Desiree Privette and the shooting of

Privette's aunt, Carolyn Privette.

So that's just three and this list is ten, and, frankly, I want to read them all because it's -- it's -- I almost want to cry -- it -- it's disgusting.

Sedrick Ricky Cobb, age 47 -- now, I've heard this name many times and was sentenced to death in '91. The former deliveryman from Naugatuck was convicted of the rape and murder of 23-year-old Julia Ashe of Watertown, whom he kidnapped from a Waterbury department store parking lot.

Now, I knew that name because my dear wife Alicia is a native of Watertown, and that's where we were married. So that -- that was as close a connection as I got to one of these people.

Robert Courchesne, age 51, was convicted of capital felony by a three-judge panel for the deaths of Demetris Rogers and her baby. Rogers was eight months pregnant when she was stabbed over a $400 -- $410 drug debt. Her baby was delivered by emergency Caesarian section minutes after death, but the baby died 42 days later.

Russell Peeler, Jr., age 37, was convicted of ordering his younger brother to kill Karen Clarke and her eight-year-old son, Leroy "BJ" Brown, Jr., in their Bridgeport duplex. Now, I remember this story

because living in Danbury and its close proximity to Bridgeport, we seem to have shared that story an awful lot in our local paper and -- and so I seem to follow that almost on a weekly basis after that happened. I remember the name Russell Peeler. The boy was expected to be the key witness against Peeler in the fatal shooting of Clarke's boyfriend.

Now, here's an unusual thing. And I guess this may be one of the reason why some people are asking us not to proceed with the death penalty because Peeler is the only inmate on Connecticut's death row who did not actually commit a murder, rather he ordered his brother to commit the murder.

Now, that's six. There's four more. I'll spare you, most of you already know the details -- no, I won't.

Richard Reynolds, page 40, a crack dealer for the murder of a 34-year-old Waterbury police officer, Walter T. Williams. While being searched by Officer Williams, Reynolds bumped against him to determine if the officer was wearing a bulletproof vest and then Reynolds shot Williams point blank in the head with a handgun.

So that was my entré to a consideration of the death penalty in Connecticut was, I was trying to

understand the population of death row, and I also read some of the other cases of individuals who are serving life sentences, indeed scary, very scary. And I can't comprehend how family members would deal with such a thing, but I had some experience with that and I'll share that with you in a minute.

So when I saw their desire of this General Assembly or rather the leadership of the General Assembly and, specifically, the Judiciary Committee, to bring forward changes to the death penalty, I wondered how often had this been considered in the recent past. And I'm getting some conflicting information on that part.

In fact, if you just search the State website, you'll spend hours trying to get through the reams of documents that are there but a brief synopsis appears to be that in 1991, there was an attempt to repeal the death penalty and it failed 55 to 89. In '93, it failed 48 to 99. In 1995, it failed 55 to 90, and, in 2001, where a two-year stay on any execution rather than a full repeal was proposed, it failed 71, 74. And there's been many changes to the death penalty law since 1980.

I can see that the General Assembly has seen fit to attempt to find the right way to make capital

punishment in the State of Connecticut work. Now, it still remains to be seen if that can be done. I believe it can because they tell me that it is done elsewhere. I wonder now, not being a legal scholar, if we shouldn't be listening very carefully to those people, who are on the front lines, prosecuting for the State of Connecticut.

And so I looked at testimony from the Division of Criminal Justice at a hearing of the Judiciary Committee and written testimony it says that this bill, 6578, quote, Purports to abolish the death penalty only for capital felonies committed after its effective date. That is a fiction. In reality, it would effectively abolish the death penalty for anyone who has not yet been executed because it would have been untenable as a matter of constitutional law or public policy for the State to execute somebody today, who could not be executed for committing the same conduct after a date in the future.

If you'll indulge me just a moment longer as I understand our rules of this body is not to be reading other's testimony but this makes a point that the State could not seek the death penalty in any pending case that is presently eligible for the death penalty. And any death penalty that has been imposed and not

carried out would effectively be nullified. So I guess that means that if this body sees fit to approve this and Governor Rell is willing to sign the bill -- I'm not sure she will. Newspaper reports claim she won't but that is her decision -- then that means that these ten individuals are no longer on death row. And I don't know who's going to be the one to tell Police Officer Walter T. Williams' family what happened.

Other proponents of this measure talk about savings -- money. Now, I must tell you that there was a pretty extensive discussion about -- in the Judiciary Committee, a discussion about cutting people loose early from prison to save money. And I saw just last night that in California, they are in desperate shape there, and they're considering thousands and thousands of early releases to save money.

Ladies and gentlemen of this circle, I will never, ever understand how any elected official could vote in favor of letting a criminal out of jail early so you can save money. That's the most absurd thought I've ever heard of. And so, with that feeling in mind, I just don't comprehend the -- we're going to save money if we don't prosecute killers for capital punishment.

Now, the Office of Fiscal Analysis, a nonpartisan

body of the Connecticut General Assembly, issued a memo to Chairman Lawlor, who has been here almost all day, but he's not here now -- Representative Lawlor, talking about an estimated savings from the repeal of the death penalty, and there are numbers on here, but I don't get it.

This is a policy decision. It can't be a financial decision. This is -- we're talking about policy, public policy. And so, if, in fact, the total cost of a death penalty trial for Sedrick "Ricky" Cobb who was the deliveryman from Naugatuck who raped and murdered 23-year-old Julia Ashe of Watertown, whom he kidnapped from a Waterbury Department Store parking lot, if the cost of his death penalty trial, penalty hearings and appeals cost $157,377. That's what it costs the state.

And, then, on the high extreme, we heard about Michael Ross, who's not even on this list because he checked out. That's another thing. I keep hearing he -- you know, he punched his own ticket. He decided that he was better off and so he stopped appealing and so that's how he was executed. His cost was $1,073,922. Now, I don't remember all the details about Ross, but he killed a bunch of people. So it cost the state $1 million to prosecute.

How do you put a price tag on how much we're spending to prosecute someone who's killing people? I don't buy it. I'm sorry. I just don't buy it. It's not a valid argument. The Office of Fiscal Analysis, obviously, did a lot of work in this analysis, and it just doesn't carry any weight with me. I'm sorry.

A couple of other experiences that I've read -- now this is someone who I never met. And I have to read this because I didn't meet the individual personally and there's a fairly lengthy comment to the Judiciary Committee, but I'm going to just zero in on one paragraph so please indulge me -- one paragraph.

Beatrice Voltino describing what happened on Wednesday evening, September 25, 1996. Now where you were all of you on that night, September 25, 1996?

At about eight o'clock, a 17-year-old male armed with a 357 magnum and his 32-year-old partner enters with a plan -- enters the home, I guess with a plan. After some conversation, premeditation occurs. They were in my brother's home, after the signal, shots begin and my wonderful, kind brother is dead. A bullet entered the back of his head.

There are three other people, unfortunately, in the house, as they can identify him, they must be killed also. Wayne Burrows try to subdue the monster

shot. Lynn Shunescky -- Schezenzsky is shot. My beautiful brave niece, she was in her room on the phone getting ready for a date. They did not know she was home but, upon hearing the shots, she opened the door, her demise, said a few words -- shot but not dead. The monsters notice Lynn is moving. She is shot again, dead this time.

I believe at this time they exit. One in the car they arrived in. The other in my brother's vehicle, running is the cowards and evil they are.

My 18-year-old niece crawled down the hallway over to her dead father to the phone and dialed 911. The dispatcher answers. She can't talk. Her last breath of air echoed in the courtroom. We hear her die. She just graduated from high school, her prom, and was saving and working to become one excellent and compassionate nurse.

Forgive me, colleagues, for stretching the rule, but we need to hear that. We need to see that, but let me now share a couple of really nice people that I had the pleasure of meeting and spending a little bit of time with who also experienced horrific, horrific, beyond comprehension, death.

Johanna Chapin is the sister of Dr. William Petit and she joined Dr. Petit at a public hearing of the

Judiciary Committee to speak on this bill. She said she's against repealing the death penalty because she -- I believe that there must be personal responsibility in a civilized society. The death penalty is not about revenge. The death penalty is about justice.

She had other things to say, and I'll just share the closing comment.

Back in 2007, when the Parole Board decided that it was too expensive to get presentencing reports and sentencing transcripts, my brother Bill, lost big time. He lost his wife Jennifer, his two daughters, Hayley and Michaela, they lost their right to life. We all lost. We all got a life sentence.

Now, I must tell you that a couple of times when I've met, shaken hands with Dr. Petit, I walked away in awe, in absolute awe, trying to just grasp how does anyone deal with a brutal murder of a loved one. I haven't experienced it personally. I hope none of my friends have. I hope we don't ever have to. But I'll tell you the first time that I met Dr. Petit, spent a little bit of time with him, just a little bit. And I had already read all the stories, had read some of his comments before I met him, and he was advocating for a Three Strikes Law in Connecticut. And I remember

leaving that meeting -- and it was about lunchtime. I didn't have an appetite that day. And I went home a little early and began a discussion with my wife about it.

And sharing with her the experience of witnessing an incredible amount of faith that an individual had that they found strength -- they" meaning Dr. Petit, his sister Johanna -- had found faith in what they feel was a mission and that the memory of their loved ones was driving them to be able to stand up in front of a crowd and advocate for criminal justice.

So that was my first exposure to Dr. Petit and Johanna, and then the other occasion was when they once again stood up at a Judiciary Committee meeting. Unannounced, didn't make any press releases they were coming. I was a little surprised when they arrived. To talk about this bill. And as it turned out, if I'm not mistaken, Dr. Petit sat quietly in the back of that very crowded hearing room all day long. Because his name didn't get pulled in the lottery until very late in the day. And if I'm not mistaken, that was an eight-hour meeting, pretty sure that was a -- it was a long day. I know that we debated it for hours and hours, too, but that was a very long day. And so Dr. Petit heard most of the testimony that day. Some of

the testimony given by people in this room tonight were in favor of the bill. And I think it was, probably overwhelmingly, in favor of the bill. There were not an awful lot of people opposed to it.

And so I took pause wondering, you know, if this is such a heated debate, why is it that there is so much testimony in favor of and not -- versus not. And that was my first lesson of this experience of an elected official of the Connecticut General Assembly that you can't necessarily gauge what the population of Connecticut feels about proposed legislation based upon who shows up at a public hearing. Because a lot of the people that show up at public hearings are either paid to be here to testify or live in the neighborhood and have the ability to be here and, frankly, others may have a very strong feeling about a particular issue and the most that they could possibly do to voice their opinion on a matter pending before the General Assembly is to write a two- or three-sentence email and push send. And they feel -- those individuals feel they've done their duty as a citizen and shared with their elected official what their opinion is about a matter.

So you can't gauge by the public hearing testimony of, you know, what are people really

thinking out there, but I will tell you -- now keeping in mind that you can't -- I quickly found out -- you can't weigh, you know, who's in favor and who isn't by who's in the room and, you know, counting heads, like we count votes. But, after every one had spoken and as I mentioned I'm pretty sure that Dr. Petit was darn near one of the last or it seemed like it was, he made an incredible impression on my feeling about this issue.

If you -- quote, If you allow murderers to live, you are giving them more regard, more value than three women who never hurt a soul and played by all of society's rules for all of their short lives. My family got the death penalty and you want to give murderers life. That is not justice. Any penalty less than death for murder is unjust and trivializes the victim and the victim's family. It is immoral and unjust to all of us in our society.

Dr. William Petit.

Mr. President, I carried on for awhile. Frankly, I have more that I -- I think I would like to share but -- but I think it's important that I listen to more of my colleagues' comments but, at this point, I can't see changing my mind.

Given that the professionals say that this isn't

really fixing the matter, and the families say what we're proposing is not justice, so why don't we do what the experts tell us we can do -- and I refer to one of the most talented state attorneys in the United States of America, as I understand, and this is what I've heard. I've spoken to people in Florida, California; Iowa, New Hampshire and they refer to this gentleman as an accomplished individual in his field -- and he said, You can fix it; the General Assembly has to have a will to do so.

And I urge this General Assembly to reject this bill and fix it.

Thank you, Mr. President.

THE CHAIR:

Thank you.

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President.

Mr. President, I rise in support of this bill. I am in favor of repeal of the death penalty and for locking these monsters that we've been talking about up and throwing away the key. I am in favor of life without any chance of parole.

Mr. President, first of all, I want to compliment my friends in the circle here for having this debate

and the way the debate has been conducted.

As Senator Fasano said there really is no right and wrong on this issue. This is a matter of conscience. This is something that we all feel deeply about. It is a matter of life and death. And we all respect that and I really feel proud to be here tonight.

I've struggled with this issue, as you all have, and I want to respond a little bit to some of the descriptions and the comments that have been made on the floor tonight describing some of the heinous acts, the things that none, none of us can understand, none of us can comprehend, none of us like -- it's -- what Senator McLachlan was talking about the descriptions -- I just -- I couldn't understand how someone could do that to another human being. I couldn't understand it -- not even being a family member, but, if I was a family member, I don't know what I would do?

Thankfully, I've been blessed to not have to be those shoes at this point in time. If I was -- if I was and one of those monsters walked into this circle right now, I'd want to pick up one of these chairs, break it apart and pulverize that person. I would want that person dead right now. That would be my emotion. That would be my instinct. As a matter of

fact, if they walked in here, even though it wasn't my family member, that's what I would want to do right now.

Hopefully, one of my friends here would restrain me -- would restrain me and say that's not the way we do things. That's not what justice is about. And when we vested by the people of this Great State with the responsibility to make public policy, we need to make it based on facts, based upon logic, reason and what we feel in our hearts are best. Not based on vengeance, not based on raw emotion, and that's why I'd be thankful that you would restrain me in that way.

And a lot has been said and arguments on both sides that have been very compelling, and I'm not going to repeat them all at this late hour but what I would to focus in on, just for a second, is the fallibility of the system. The fallibility of you and I and everybody out there as human beings.

In 2005, when the Judiciary Committee started weighing or weighed this weighty issue, there was testimony from one individual, Lawrence Adams, who in 1974 was wrongly convicted and was sentenced in the State of Massachusetts to electrocution.

Mr. Adams was lucky. Massachusetts abolished

the death penalty. He was not executed and what he said in front of the distinguish members of the Judiciary Committee was that there is human error.

This is his quote. There is human error. The law may be pure in its pure form but when we as people have to collect the evidence and have to present the case, we are not infallible. We are not infallible. And whether it is jury nullification, prosecutorial misconduct, witnesses that might not know exactly what they're saying, lost evidence, tainted evidence, misplaced evidence, evidence that's been excluded, the counsel that might not be up to par. The list can go on an on and on that may influence the outcome of a case.

And I haven't even talked about yet the factors that may go into whether you even face a capital charge, at all, whether you're in the Waterbury district or the Hartford district, who the victim might be, who you might be. Now, luckily, in the State of Connecticut, we have not had some of the horrific injustices. Many of them racially based but, otherwise, many of them economic based that we see around the country, but we're not actually just making law for ourselves, we're sending a signal to the rest of the country about what we believe the proper and

just system should be.

Around the country, when you take into account the discretion, discrepancies and fallibility that we know is a natural part of our lives and our criminal justice system, if you look back, one report alone has shown, since 1989, 238 postconviction DNA exonerations -- these are just exonerations from DNA so there are other exonerations -- this is back a couple of years ago and we know it's been picking up with exonerations, of course, Mr. Tillman, who we all have personal experiences, was mentioned in the circle tonight. Seventeen of these 238 people were on death row at some point, and these are only the people that have been exonerated not the people that are still in our jails, as we sit here privileged tonight with our freedom, that are innocent. Some of whom may be facing a death sentence because of human fallibility and other things that go on with the process.

That is why, at its core, besides the moral issues and other reasons which I won't go into for time purposes, but that is why I can not support a death penalty. And I say let's lock them up, throw away the key, put them in that 8-by-10 square foot shoe box that Senator McDonald described with no light and let them sit there and contemplate and rot for the

crimes that they've done. They are monster's. Senator McLachlan is right and my other colleagues are correct with that. We all feel that.

And the idea of the victims, the families that have suffered and must live with the effects of these horrific crimes, again, I can't try to put myself in their shoes and understand what it must be like to live everyday, every minute of the day with this memory, with this weight, but what I do know is that an important part of life is moving on and closure. And I don't understand how a system that keeps this horrific memory alive through appeals, through endless court appearances, through the public nature of keeping people on death row for year after year after year, decade after decade, helps those families get closure.

And, as a matter of fact, as Senator McDonald, spoke of, in 2005, at those same hearings where the exonerated Lawrence Adams testified, there were seven families who were victims of murders in those families. And six of them -- six of them did not want to have the death penalty. And I believe in my heart that that was because they wanted closure and justice could be served, by, again, locking them up, throwing away the key.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Doyle.

SENATOR DOYLE:

Thank you, Mr. President.

I've -- my tenure year in the House and now in the Senate, I participated in many death penalty debates, whether in Judiciary Committee for most of my tenure year -- almost every year we discussed or each session we discussed it, and then I've had, unlike many in the circle tonight, I've had many -- several votes in the floor of the House.

So this is really not new to me, and I appreciate everyone in the chamber how everyone is sincere and everyone is making a thoughtful decision, and I do appreciate and respect each member's opinion tonight. I hope each person respects mine because this is truly, I believe a vote of our heart and our conscience. But my fundamental belief is that I do believe that certain limited crimes are so heinous they do deserve the death penalty. And most people acknowledge the severity of the crimes, we defer on the penalty. 11.49.22

And I would say in my district, recently, we had

another horrendous crime that I think all of us can agree was striking. I represent the great institution of Wesleyan in Middletown and that -- that particular incident seriously troubled me for several days as it did, of course, for the Wesleyan community.

I'm sure a lot of people was -- you may not agree with my opinion tonight, however, as I said, it's a -- it's a -- it's an opinion of my heart. And I'm particularly struck by many of the comments tonight -- in this chamber tonight. I am probably most struck by the comments of an individual, the President, tonight. He certainly spoke from his heart and about his feelings for the country and different historical references, which I do appreciate. And I'm struck by how I, appreciating his sincerity and of his beliefs, believe the direct opposite because it's to me -- I respect his opinion, and I kind of find it difficult how I respect his opinion but then I disagree so severely on the penalty of the crime where we both have common ground in terms of the severity of the heinous acts we are speaking of tonight.

I would -- rather than avoiding going into a long dissertation of the facts, which many people have in the cases. I would just like to highlight a few points over the years in this session in the Judiciary

Committee and tonight that I'd like to address.

I -- different points along the way -- criticism by the proponents of the bill tonight the many -- at times -- at times appear to be hypocritical, to be honest where people have -- first of all, one of the current grounds of our death penalty, today, as the law stands today is a murder -- a murder that is occurred while a person is serving a life imprisonment.

At some point, a past legislature, not us, and probably nobody in the chamber tonight voted for that but there is a clear intent that we needed. That legislature decided we needed to pass that grounds for the death penalty to protect our prison guards because, otherwise, there's no disincentive to act irrationally and potentially try to kill prison guards in the State of Connecticut.

I happen to think, if tonight this act does -- pass by our chamber and signed by the Governor, our -- our prison guards could be put in -- at risk because there will be no more reason or disincentive to our existing individuals who are sentenced to life without parole to murder anyone. And I think people may disagree with me, but I think that is a legitimate concern tonight.

Some of the proponents over the past years have mentioned in a strange way is how I look at it. I do support the current law but the criticism of the current law is there's too many appeals and the process is so lengthy, in fact, it will never be applied and it doesn't make sense. To me, actually, that is evidence of a successful law and a good thing because I -- like everybody in the chamber does not want a wrong person to be executed. So the fact that Connecticut, unlike other States, has a law that provides multiple appeals, I think, in fact, is a good thing and that criticism of our current law, I think, is invalid.

Now, I might consider -- consider revising our habeas corpus statute to limit to a certain extent as Chief State's Kane testified before the Judiciary Committee. However, as a general premise, I think our law is sound contrary to some other states.

Other people tonight have spoken about the fallibility of our current death penalty law and the fact that we could have some individuals that, in fact, are innocent are executed, and, clearly, the Tillman case was troubling to all of us. And that -- Mr. Tillman had a difficult life and sincerely -- I did speak to him one day when he came to the chamber.

I apologized to him for his injustice.

That being said, the same individuals that criticized the fallibility of our statute say on many occasion -- I've heard proponents state that although, we're concerned about the fallibility, there's no doubt to me that the ten men currently on death row are guilty. Now that's evidence to me that, in fact, our statute is doing its job because if the proponents are saying all ten are guilty, there's no concern in Connecticut that innocent people will be executed.

Now, one of my colleagues recently mentioned a case where a person before the Judiciary Committee but, again, we are in Connecticut. We're not in Massachusetts. We're not in Texas. We're not in Florida. And, from my perspective, it appears that our law is reasoned and as the proponents have admitted on different occasions, the ten people clearly are guilty.

Another grounds that people have challenged our statute is that there is an unequal allocation or imposition of the death penalty in different GA districts in the State of Connecticut.

I spoke to our Chief State Attorney Kane this morning about our statute and I asked him point blank, why have five of the ten death row defendants been

sentenced in Waterbury before Chief State Connelly? There's always a discussion Waterbury's -- you know, it's really up to Connelly. And the fact of the matter is in my consultation with Chief State's Attorney Kane, he said it's -- it's a matter of circumstance that unfortunately, these five incidents happen to occur in the Waterbury GA. He said, that if he were sitting in New London or whatever, he believes any other prosecutor presented the same facts in their district, would have applied the death penalty.

So, it's just unfortunate that there happens to be five heinous acts in the Waterbury GA, but it's his position that, in fact, there is not an unequal imposition of the death penalty. The fact of the matter is, unfortunately, as I've said, that Waterbury GAs had these horrific incidents.

Now, there's another proposition and tonight many people are saying we will -- if they're successful and this law is signed into act that they would support life imprisonment without a parole. And I did some short research, albeit, but I think and would without a definitive word, I think, it is possible that a future legislature can reverse the parole and potentially release someone on different grounds. In my district, I know it's not comparable but, of

course, Mr. Messsenger there's talk of releasing him, and it's not comparable, but the truth of the matter is it's arguable that a future legislature could reverse the parole imposition and release a person on death row.

Now, is it probable? I don't know, but I believe it's possible.

And my last contention about this bill that really troubles me the most is there's proposition by the proponents of this legislation that this bill before us tonight is prospective and not retroactive. Now, legally, the fact is that, yes, we cannot change the direct imposition; however, this is a false premise and the reality of the imposition of our GAs.

In my conversation with Chief State's Attorney Kane this morning, I asked him the question, how would it work in the sense -- is it -- how would your office handle the -- the pending death penalty matters before you?

He prefaced that by saying recently our Connecticut Supreme Court had before him the issue whether our current death penalty statute is a cruel and unusual -- or whether it is cruel and unusual? And he said, of course, that our recent decision -- that our Supreme Court ruled the death penalty was not

cruel and unusual.

It's his opinion that if this law -- this bill tonight becomes law and another petition is brought by the Superior Court, our Connecticut Superior Court would decide our death -- the -- I should not say -- would decide the pending cases before it as cruel and unusual because it would violate our equal protection clause of the Constitution because you'd have any prospective defendants sentenced with life without possible parole versus other individuals on death row having the death penalty. He thinks it would be ruled unconstitutional. But even more striking than that matter because, of course, that's a decision of the -- of the Supreme Court. As a matter of practice our Chief State's Attorney stated to me that if the bill before us were passed, signed by the Governor, enacted into law, the Chief State's Attorney's office would not pursue the death penalty on the ten people before -- on the death penalty today. He said in good conscience his office could not pursue the execution of the ten people on death row because the legislature had acted inviolated the death penalty.

Therefore, I think to be truthful to all the people in the chamber tonight, we are not voting on a prospective law. As a practical matter -- and this is

really how we should be voting because it's a vote of conscience. And each person in the chamber does have their own well-rounded opinion, which I can't question, but to be honest to everyone in the chamber tonight -- you are voting on abolishing the death penalty retroactively and prospectively.

So, no -- no two things about it, everybody pending on death penalty and any cases pending out there that horrific crime of Cheshire and, unfortunately, the crime in my district -- I'm not sure what's going to happen with that there could be other defenses but the truth is tonight -- the truth of our vote tonight is -- you are abolishing the death penalty.

So, please I urge my colleagues don't vote tonight thinking the ten men -- ten men still on death row and other men having pending cases will still potentially get the death penalty. They will not. That's what the Chief State's Attorney told me as a matter of practice.

So, I just would like to make that clear to each of you. And I do respect the tone of the debate tonight, and I would urge my colleagues -- not really how to vote just vote true to your heart and your conscience, as I'm doing tonight, because this is a

particularly difficult vote. And it's really a vote where I don't think I should urge anyone how to vote. I would just ask my colleagues to vote their conscience, their heart, so they can wake up in the morning and look in the mirror and feel good how they vote, despite the fact that I'm certain not all of us are absolutely certain on your vote.

I simply vote what I think is right. I think certain heinous crimes deserve the death penalty and I appreciate the patience of the chamber and I appreciate the comments of the President earlier this evening.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

I do believe what many of us have already stated, that this is a vote of conscience.

And I grew up going to Catholic school my entire life. I went to Our Lady of Mount Carmel Grammar School and Sacred Heart High School, and I was raised a devout Catholic, one of six children, you know, that ol' Irish Catholic family set up. And we all always

taught in the parochial education, you know, to love thy neighbor as thy love thyself and do unto others as you would have do unto you and I believe in that, I truly do. And I believe that everything I do in raising my children -- my wife and I try teach them the best ways of being a person in our society and our community.

So, as everyone around this circle struggles with this, I can appreciate that. I do also believe at the same time that this is representative government. And all of us represent a certain district but, in total, we represent the State of Connecticut and on some level being in a legislature in the State of Connecticut, we represent the greater United States of America that we all live in.

And if you look at public opinion on this very issue it proves that the majority of people in the United States of America believe in capital punishment. I have a Gallop Poll that says consistently demonstrates that the American public overwhelmingly supports capital punishment. And, in a most recent poll, 67 percent of Americans favor the death penalty for those convicted of murder, 67 percent. Now we all know in our elections that would be considered a mandate and to me that's a pretty

strong one.

Only 28 percent are opposed from this Gallop Poll. In the United States of America, 67 percent are in favor of capital punishment; 28 are against it. From 2000 to 2006 -- the most recent poll came out in 2006 -- the support runs consistently in a 2-to-1 ratio in favor of capital punishment.

The other night, I came home and, probably -- well, let me take a step back -- if you turn on your laptops and everyone has them out, I'm sure you've got in an email, I hope you did because I know I did -- from someone at Yale University. And it says that they did a poll -- a Mr. Daniel Butler from the Department of Political Science at Yale University, did a poll in my district. Now, I know this poll was done because when I got home a few evenings ago, there was a call on my machine. And one of the questions was, Do you support the abolishing of the death penalty? And another question about smoking in casinos but we won't get into that right now.

But the most important thing that came out of it were the statistics that Mr. Butler, from Yale University, emailed me. And, in my district, and, hopefully, again, all of you have these as well. My district, there was 1,962 participants. So, 1900

participants close to 2,000. 1,226, -- and this went -- first of all, it went by party registration, Democrat, Republican, Independent, and I'll get to that in a second, but 1,226 were against abolishing the death penalty. 1,226, out of 1,962 is 63 percent. So, in my district, 63 percent of the respondents said, they would vote against this bill, HB 6578. 735 said they would in favor or 37 percent. So this, in my district, little 32nd in the State of Connecticut, went along with the results of a Gallop Poll for the whole United States of America.

Now, if you broke it down by party registration: among Democrats, it was pretty close it was 52 to 48; among Republicans, it was 68 to 31; and one important segment, Independents -- because I know we all solicit the votes of Independents. We all do mailers to Independents. We reach out to Independents because they are the swing vote -- 65 percent would be against this bill.

So, yes, I agree we are voting our conscience tonight. And we have to dig deep and think about this vote, but we also have to remember what we're doing here every single day in this legislature, which is represent the people of our district and the people of the State Connecticut. And the people of the State of

Connecticut are not in favor of this bill. So, when we go back to our districts, we're going to have to stand up for our vote -- answer for our vote, be held accountable for our vote.

And, when I go back to my district, I will be able to say to them with a clear conscience that I voted against this bill and with them because 63 percent of them decide that they would be against this bill.

It's also been said here tonight that the death penalty is disappearing. It was said earlier, but that's not the case. Thirty-seven states have capital statutes on their books. That to me is another majority or mandate out of 50.

It's also been said that why have victims anguish for 20 years while the appeal process is going on. Well, I'm sorry but I bet the victims -- the families of these victims probably anguish forever not just 20 years, regardless of what happens to the criminal that's put behind bars, they're going to anguish forever so I think that's a bad argument.

Then there was an argument about deterrent. Is the death penalty a deterrent? Numerous studies have shown that it is a deterrent and the death penalty saves lives.

There's a report that I'm looking at from Emery University that says each execution, on average, results in 18 fewer murders. They found that executions has a highly significant negative relationship with murder incidence. Each execution, on average, is associated with three fewer murders. The deterred murders include both crimes of passion and murders by intimates. It also says -- and earlier it was said that we can't reform this law but although don't understand that -- that increased deterrence is based on the wait for execution. By reducing the wait of execution, you could -- increase deterrence.

Obviously, it's been about five hours since we started this debate. So I had some more time and went on my computer. I went on the Internet, and I went to the Bureau of Justice. They have a website, like everyone else, and I looked at their website and it says this is the fifth consecutive year that the population on death row has decreased, another deterrent. It works, ladies and gentlemen. This is a deterrent.

Let me just end my arguments with facts and statistics and just tell you a little story about, I guess, my relationship, my experience, my knowledge of the people on death row.

Senator McLachlan read out a few names earlier and a couple of them struck a chord. Sedrick Cobb hung out at a Bradley's. Those of you from Waterbury -- Joan, Sam, you remember the old Bradley stores in Waterbury. I think we all went there -- but he hung out there waiting for someone to prey upon. And a girl by the name of Julia Ashe -- and my apologies to their family to even bring this type of stuff up but I think it's important -- from Watertown that Senator Mike McLachlan also mentioned that's where I'm from -- was shopping.

It was December 16th. It was about eight days left -- eight shopping days left. She was shopping, she came out to her car and her tire was flat, and the reason her tire was flat is because Sedrick Cobb flattened her tire purposely. He then offered help to Julia Ashe and helped her with the tire.

In doing so, he said, Would you mind giving me a ride?

Now what person would say no? Someone helps you out, you return the favor. Little did she know that he would drive her about a mile or two up the road to an isolated spot and rape her repeatedly and leave her there to die in a frozen little pond. He then later came back to make sure she was dead. Julia Ashe was

23 years old when that happened back in 1989.

So, when proponents of this bill say that living is better than death, I don't think so. Julia Ashe has been dead for 20 years -- or will be dead 20 years in December.

The other one I remember, distinctly, is Richard Reynolds who murdered a Waterbury police officer. As was stated earlier, he literally bumped up against the police officer to see if he had a bullet proof vest on and then shot him at point blank range. If there's an argument for capital punishment that could be it.

But the third one and more importantly that I really remember is that of Todd Rizzo. When my wife and I got married in '95, bought a small little house in Bunker Hill. She laughs at me to this day because she didn't see much in the house that I did but it was a nice little neighborhood in the Bunker Hill section. Right down the street there's a little park, Bunker Hill Pharmacy, and a little bit further is a little video store, you know. Before Netflix and Blockbuster online back in the day when we went to video stores. It was also a little candy store, and I think they video games and it's just a hang out, basically. Well, a little boy named Stanley Edwards, 13 years old, would hang around that video store. There's

candy, video games, of course, it's a great little place.

Well, a person by the name Todd Rizzo met him at that video store less than a mile from my house, less than a block from Bunker Hill Park where everyone played and hung around, and probably a little bit more than a block to Bunker hill Pharmacy where many elderly people and many families go for prescriptions and the like. But he came to him at this video store and lulled him back to his house where they could play with snakes.

A 13-year-old kid, wow, I like to see snakes, and venture off to see what's going on and discover things. He then brought him in his backyard and hit him 13 times with a 3-pound sledgehammer -- a 13-year-old boy, 13 times with a sledgehammer.

I could -- for the next four years that I lived in that neighborhood could not drive by that video store. I would take an alternate route, any way I could to avoid that video store. To this day, it bothers me to drive by that video store because this little boy, innocent enough, was brutally murdered by Todd Rizzo.

Now, 68 percent of the people in the United States of America say that Todd Rizzo deserves capital

punishment. That Ricky Cobb deserves capital punishment. That Richard Reynolds, and so on and so forth, deserve capital punishment -- capital murder and I agree with them Mr. President, I really do.

Thank you.

THE CHAIR:

Senator Gaffey.

SENATOR GAFFEY:

Thank you, Mr. President.

First of all, Mr. President, I would like to compliment Senator Mc Donald the Chairman of the Judiciary Committee for his excellent presentation of the bill and the facts surrounding the statute. I'd also like to compliment you, Mr. President, for your comments on the floor of this Senate and echoing what Senator Doyle had to say. The comportment and the civility of this debate that you exhibited is to be commended. And, to the very learned colleague, the Majority Leader Senator Looney and the excellent legal arguments he makes with regard to his position in support of this bill tonight, again, to be commended. It's a great service to the State of Connecticut that the three of you put together such fine presentations and arguments on behalf of your position on this bill.

This is certainly an issue that stirs the

conscience. Back in 1995, in my first year in this Senate, I voted for the amendment to this statute that would allow the weighing of aggravating and mitigating factors. And, certainly, in Connecticut, if the jury finds that the mitigating factors outweigh -- outweigh the aggravating factors or are of equal weight, the sentence must be life imprisonment.

If the aggravating factors, though, outweigh the mitigating factors, the sentence would be the finality of death in these cases. And I thought that was the -- the right thing to do at the time, I still do. I'm chagrinned to hear from my friend and colleague Senator McDonald that that is still being litigated. It's rather frustrating to learned at that but, Mr. President, I don't believe -- I just don't believe that life imprisonment in the cases that we are considering is worse for the person convicted than the death penalty.

I believe that human beings adapt. It's the very nature of human beings to adapt. It is a harder life, that is, life imprisonment. It is certainly very unpleasant, but it is life not a choice of how they want to spend their life I'm certain, but a choice that their victims certainly never had the opportunity to make.

I've often -- I also heard tonight arguments on cost differential. I don't believe and I searched high and low, but I don't believe there's any empirical evidence in this nation that the cost of a system of justice premised on life imprisonment is less than a cost of system premised on the ultimate sanction being the death penalty.

As far as error, I do not believe that there's been any testimony, either in Judiciary or in the floor of this Senate, that there's any doubt that the ten people that sit on death row in Connecticut, right now, are guilty of the most heinous brutal murders of innocent people that one can imagine. And I don't believe there's really any need to go into the extent of those actions. I'm certain that all of us around the circle have read about those cases and are just aghast that any human being could do that to innocent victims.

I also believe that forensic science is far more advanced now than ever before and that, in particular, the scientific analysis of DNA is -- or narrows the possibility of error to the point of near nullity.

We all search deep inside when we consider this question. Now, I've been in the Senate since 1995, we've had this question just a couple of times in all

of those years for a subject for debate on -- in this chamber. And you search and search and you research and you consider points made, the excellent arguments made by both the Chairman, Senator McDonald, the Majority Leader Senator Looney, Mr. President, yourself who are all friends of mine.

And -- and it's hard to disagree with your friends, but, on this one, we just gentlemanly agree to disagree. But I keep coming back to this question when I search deep inside on the debate and this bill, and that is, How do the victims feel? How would I feel if it were my children, my parent, my sibling? How did the victims feel? How would I feel?

And it doesn't matter -- it doesn't matter if was on the light of day on a street in Bridgeport or in the evening of a quiet warm night in the quaint suburb of Cheshire that I happen to represent. It doesn't matter. The crime is still heinous. The crime is still brutal, and the families suffer immeasurably and will never get over it. No matter how long, they will never get over it.

And I submit to this Senate tonight, it doesn't matter what process you want to premise your state of criminal justice on whether life imprisonment or death penalty. They will never ever, ever get over what

happened to their loved one.

Now some people may consider, myself or others, that feel that the death penalty is warranted in these extremely brutal cases. Some people might consider that to be vindictive. I consider it to be justice. I truly consider it to be justice and what troubled me probably most throughout this whole debate tonight is what my good friend, Senator Paul Doyle, said just a little while ago and that is that the Chief State's Attorney stated to him personally today that his office would not pursue the execution of the ten people sitting on death row today as a matter of practice if this bill were to become law.

That to me is very troubling, not to mention the fact that the two men who haven't even been tried yet that committed this just incredible heinous murder -- murders in the district that I represent would not have the death penalty, the ultimate sanction, pursued against them. That troubles me very, very deeply and, quite frankly, I don't think I could go back home and look my constituents in the face because of that.

So, Mr. President, I deeply respect each and every person in this circle and how they may come down on this question tonight. Pro or con on this bill, it's been a very, very good debate. It's been

substitutive and everybody's treated each other with extreme civility, and I think that is good for the people of Connecticut who may have the opportunity to listen to this debate. It's a complicated issue, and I commend each and every senator who has taken the floor to be part of the debate.

Thank you, sir.

THE CHAIR:

Thank you, Senator Gaffey.

Senator LeBeau.

SENATOR LEBEAU:

Thank you, Mr. President.

This has been quite an experience. There are times when one is proud to be a member of the Senate and tonight is one of those nights. To hear the reasoning and the articulateness of my fellow colleagues is very impressive from both sides, and it's somewhat daunting to stand up and to think after following such great orations say something that would be different or new. And I don't really have anything different or new to say, except I think, I'm one of the people -- one of the members of the Senate tonight who has, for most of my lifetime believed in the death penalty, and, tonight, I will vote not to repeal the death penalty.

To try to put into words exactly why that occurs -- why that occurred inside of me is difficult because it really is, ultimately, a change of heart. And it might come down to a simple -- and some of these terms have been used all night, but a simple view of what the death penalty is, whether it's really retribution or revenge.

There's -- there's -- there's much logic to -- you hear good arguments on both sides and I've always heard the arguments and I've been -- I've been persuaded of late that -- I heard Senator Gomes talking about, essentially, how we've gotten less convictions since we've had the death penalty. Senator Handley talking about -- and other's talking about higher murder rates in States where death penalty exist showing that there really does not appear to be a -- a preventative nature for -- for murderers by having a death penalty.

I've been moved by the idea of the disparities in the death penalty and how it's been -- how it is disparate across economic, racial, and, perhaps, even geographic boundaries in the State of Connecticut and elsewhere. I've been -- I know something that really influenced me in this decision was my own constituent and I was just listening to Senator Gaffey and I know

how -- when things are close to you, it makes a difference.

And, for Senator Gaffey, he had some horrendous things happen close to him, and I happen to have James Tillman in my district and that -- I began and it kind of shook me up and I said, wow, you know, eyewitness account and yet the man was innocent. And the story of Mr. Roman, the 60 year -- with a 60-year sentence for murdering a pregnant woman, was given a life imprisonment but he's been exonerated.

The cost to me, I'm not sure I -- it really bears much of a weight on my -- in my thinking and neither do the politics, but I think -- and I think that's part of why you have a change of heart. The -- I do think there are imperfections in the system, and I think there'll always will be. As human beings, we are imperfect.

Earlier this evening, the word "humility" was used, and I think that that's an important concept for me that -- that we are humble and I -- it's hard for me to put that in the same sentence as we are right to kill somebody. We are right to go ahead and to take somebody's life, no matter how heinous the crime, because it doesn't show humility on our part.

Now, I don't know, you know, why does your heart

change? Seeing your kids grow up? Losing your parents? Appreciating the fullness of life? Just getting older and, hopefully, more mature and not just older, but I, again, go back to this idea, this simple idea, that it is retribution -- that is not retribution but vengeance or revenge to kill. And back to an even simpler idea that my -- comes from -- everybody mentioned their, you know, their faith and what the values that they were brought up with. And the very simple idea that -- I was brought with my mother must have told me a thousand times, number one, it's obviously wrong to kill but, more importantly, two wrongs don't make a right.

Thank you, Mr. President.

SENATOR COLEMAN, THE CHAIR:

Thank you, Senator LeBeau.

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

Mr. President, first, I join Senator LeBeau in his comments about the quality of this debate. I think no matter what side you're on, the gravity of the issue deserves the level of thoughtfulness that this circle has given to it. And I would also like to join Senator Gaffey in thanking Senator McDonald for

bringing this out and complimenting him on his stamina for the questioning that he has gone through in this debate.

And, Mr. President, I rise in opposition to this bill, and I wish to talk tonight about some of the reasons for that, some philosophical, some emotional and some practical, but I also want to address some of the arguments that have been laid out for the bill and discuss why I believe some of the arguments that have been laid out by proponents are in error.

And I believe, Mr. President, that when we're talking about the death penalty that there are two basic arguments for it that I've heard around this circle tonight. One is that it is just. That justice is served through having the death penalty for society's most heinous crimes, and the second is that it actually acts as a potential deterrent and that it might prevent future murders of that type. And those are the two issues that I want to explore tonight in full detail.

And before I get into the details of it -- it's funny, Senator Lebeau made me think as he talked about his own experience and his own journey, how all of our perceptions and experiences actually shape our view on this issue. And I think back to when I formed my

opinion on this was actually as a teenager.

My father was a policeman in Bridgeport for 20 years. And when I was very, very young, he shielded us from the experience that he has, as a good father should. You see a lot of things when you are a cop in a big city that you don't want to tell your children. And, by the time that I was in my mid to late teens, he started to open up and tell us a little bit about what his job was, the things that he saw. And one of the beats he worked was homicide and to hear some of the stories that he told about not just the victims but the criminals who are arrested in these murder cases is absolutely chilling.

The one example, I think of, was one time in high school. My father was away for a weekend, which was unusual because he was a Bridgeport policeman. And he had gone to New York because what he and other detectives were doing were fishing, approximately, 20 body parts out of the East River in New York City, of a Bridgeport resident who was raped, murdered, cut into pieces and then scattered throughout the East River.

And you can't even imagine a more horrific crime being done and then my father proceeded to describe the arrest of the criminal who committed the crime,

who proceeded to laugh. Proceeded to laugh at the crime that he had committed, proceeded to laugh at the cops, saying that there was nothing they were going to be able to do touch him, and, fortunately, our justice system did convict him but he is not on death row.

The family of the victim had to experience a pain that very few of us could ever imagine while the criminal laughed and went to jail but not to a concept of justice that I formed through that experience. Because the concept of justice, in my opinion, means that you have to have inherent fairness.

And the question is fairness to who? When you think about fairness, it's a concept. You have to put it in relationship to someone. Do we need to be fair to the criminals or do we need to be fair to the victims? And where does that sense of justice actually lie? To me, there's no doubt in my mind. The sense of fairness needs to be towards the victims to make sure that the punishment that is going to be doled out is equal to the crime that has been committed.

And I speak of very, very emotional things because they're very emotional for me, but, when you think about justice, just in a more abstract level because a lot of colleagues have talked about very --

much more abstract legal concepts. As I thought about this debate, I said, well, what are the types of justice that we should be talking about?

And, in doing research on this, I found a concept called "retributive justice." They have a number of justices that -- that -- books talk about but retributive justice has two components to it, utilitarianism and retributionism. And, in thinking about this different philosophical works have said, as you are applying a punishment, you should think about the retributive justice along these two -- along these two lines.

And, Mr. President, as you think about it the utilitarianism is the question of what is best for society? It is not concerned with the individual. It is concerned with does the punishment have the most societal good? And, then, there's the question, Mr. President, of retributionism, which is a much more directly related to the individual. Does the punishment fit the crime?

As we're thinking about the death penalty and asking ourselves those two questions, I believe the death penalty rises to the standard of justice laid out by most philosophers in both of those cases. And some of my proponents may disagree on this -- or some

of my colleagues who are proponents may disagree on this.

The question first is what is best for society from a utilitarian standpoint? So, again, this is a very nonemotional view of it, is, let's not worry about the individual. Let's look at all of society. And the question is, is society better off for having the death penalty versus not having it?

Well, there's, first, the very direct impact that you have. Is if you have removed a heinous murderer from society, permanently, is society better off? The answer, in and of itself, is yes. Society is better off without having heinous murderers in our midst. I don't think anybody in this circle tonight, at any point, has defended any of these people. Why would society want them around, period?

Then, there's the broader question of whether there is a deterrent? So the immediate effect is quite obviously that society is better without murderers in our midst. The question is, is there a deterrent that actually means there will be less murders in other cases? I think the answer to that is up for debate, and I'll get to why I believe it's true, but it is up for debate.

I don't think what I heard anybody say is that by

having the death penalty, we have more murders. That people actually go out and commit more murders because we have a death penalty. So, both, from the perspective of the immediate impact of that individual not being with us anymore and from the deterrent aspect, which can only be positive for society not negative, the death penalty on both counts raises to -- rises to the standard of utilitarian justice.

That's very philosophical, Mr. President, and I find that a little cold, a little calculating, for what is a very visceral issue for a lot of people, and that's why the question of retributionism, also, I believe, is a valid way to look at the death penalty. The question of does the punishment actually fit the crime? Now, this, as well, is open to interpretation as most philosophical questions are. To me, it seems that punishment fitting the crime means that it is of an equal severity equal to that crime.

That's why, Mr. President, I don't think many people have proposed that if you commit arson that there should be a death penalty. It does not fit the crime at all. It's not proportional. It's a crime against property. Even other heinous crimes, Mr. President, rape, which is probably in my mind the second most horrific crime that a human could commit

on another human being, is not being proposed for the death penalty. Instead, what we have is a reservation of the highest degree of murder.

Manslaughter, accidental murder, taking of a life but not fully premeditated or intentional, is not eligible for the death penalty. It is only those crimes where, in a premeditated fashion, the murderer has done something so heinous that it rises to the level of us taking their life. The punishment, in this case, does indeed fit the crime.

So the question is, what is justice? And is the death penalty just? I think, if you look at it from any of these lenses that I've put on it tonight, whether you look at it as being inherently fair to victims, whether you look at it as a question of what's best for society, or whether you look at it as whether the punishment fits the crime, through any of those lenses, the death penalty rises to the level of being just.

A footnote to that, for those of you who are concerned about being fair to the criminals because, quite obviously, in my three lenses, I did not say we needed to be fair to criminals but people around the circle have made that argument. Our system is set up in such a way to avoid making horrendous errors and

that is through our appeals process and the fact that we have a way for people who are convicted to say, wait, this jury might have gotten it wrong; there might have been a procedural error; we are going to have someone else take a look at it. That gives the criminals their fairness, their fairness to be heard. Their fairness to make sure all the facts are out.

And we'll talk a little bit later about some of the problems with the appeals process because they way it's structured has made the death penalty less effective than it could be. But the fact that all of us in the circle would continue to defend the fact that there are -- there is the right to appeal makes this fair to the criminals, as well.

So, Mr. President, I've talked a little bit about justice, which is one of two reasons for the death penalty. Let me talk a little bit about the second reason I believe, that we should have a death penalty, and that's deterrence. And, in my mind, Mr. President, my first argument is stronger. My first argument, I think has a -- a clarity of logic that I find very compelling, and I hope my colleagues do, too.

The deterrent question, I think, is a little more ambiguous because there are different facts, different

statistics, that have been laid out tonight -- and I'm going to lay out some, as well -- that have shown the argument both ways. But, first, before I start talking about statistics, I want to talk about common sense. And the common sense I find around the deterrence argument is that to say the death penalty would deter all murders is illogical because not all murders are premeditated in such a way that you may find yourself as a potential murderer saying, oh, wait, I may face the death penalty.

So the one extreme of the argument that having the death penalty will deter all murders is incorrect, but, at the same hand going to the other extreme, and saying the fact that we have the death penalty will deter no murders, I find equally incorrect. Because to have the death penalty and to have no deterrence would imply that no one puts any thought into committing a murder before that's committed.

And I believe, Mr. President, that the truth lies somewhere in the middle. That there are a large number of murders that are out there that the killer actually thinks about, sometimes chillingly so. And for those people who've actually premeditated and thought about killing a fellow human being, I believe the death penalty does serve as a deterrent.

I believe it serves as a point of giving pause not -- again, not for everyone. Some murderers, again, might premeditate it and think about the death penalty and be so consumed with hate and violence that they proceed, but there will be those who will think twice. There will be those who will give pause to their plans. And, to me, Mr. President, if the answer is, we've saved one victim's life through having the death penalty that is a huge societal benefit.

Now, I'm not going to stand here and make the claim that I know the precise numbers; that I can tell you that having the death penalty or even the threat of the death penalty, as we have here in Connecticut -- as I believe Senator McDonald stated, we've only had one real execution in the last 20 years -- even having the threat of the death penalty is going to give enough murderers pause to have a positive deterrent effect. I can stand here and claim it's a 100 victims that have been saved. I can claim there's one. I don't know but even if it is one, and I believe, logically, as I just laid out, it has to be that makes the deterrent impact of the death penalty valuable.

Now, Mr. President, having said that, a lot of statistics were listed out tonight and I, too, did

research to find the ones that I personally found compelling. And, for this, I look at nationwide numbers to see what the murder rate actually was before we had the death penalty in this country, before its reinstatement in the 1970s, versus what it was more recently. And, in looking at that, the annual murder rate in the United States from 1965 to 1980 went from 9,960 murders to 23,040 murders, a 131 percent increase. Now, contrast that with the murder rate for 1995 to 2000, which was 12,000 per year, a reduction of 44 percent, from that 1970s rate, with an average of 71 executions a year.

Now, if you think about those numbers -- and I'll tell you what the caveats are on them in a second because there are some caveats -- but if you think about those numbers, 71 executions a year in the United States, not in Connecticut, but the United States is not a large number of executions in a population of 300 million. Yet, for 71 executions, we saw a 44 percent drop in the murder rate from before the reinstitution of the death penalty to after.

Now, why claim that all that 44 percent is an impact of having the death penalty now? There were a lot of other factors that were happening in society that were helping to drive down the murder rate, but,

as they say in the sciences, they say correlation is not causation, but there's usually something there. And the fact that we have the death penalty in the 1990s, where I have my data from, shows how much -- or the fact that we actually do see an impact from having the death penalty on lowering the murder rate.

Again, much like I wouldn't claim that we've saved 100 victims in Connecticut, I won't claim that the 44 percent drop is from having the death penalty in the United States. But if you look at the state that had the largest drop in the murder rate, it was in Texas. The state that actually implements the death penalty, the most consistently, they had a 60 percent drop in their murder rate from the 1970s to the 1990s.

So the question becomes, in deterrence, we could debate about what the impact is, how great the impact is. What I don't think is debatable is the fact that there's some deterrent that exists. And other points that I have, which, again, I can't claim that this right.

Isaac Ehrlich, the 1973 study that he claimed, there were seven lives saved for every death penalty conviction carried out. I don't know his methodology. I can't stand behind it. I don't know if that's right

or not or if it's more or if it's less. Was it at least one over the 1990s? Did we save one life by having the death penalty? I find it very hard to argue that at least one life wasn't saved.

And, finally, Mr. President, on deterrence, is the point that the death penalty itself is the ultimate deterrence because most of these people who commit these heinous crimes who are convicted and who are on our death row right now are people who, relative to the general population, would have a preponderance to do it again and removing them from society will ensure that these killers will never harm another person. Even if they're in jail for the rest of their life, they won't harm other prisoners. They won't carry out the same heinous acts that they carried in the past.

So, for all those reasons, Mr. President, I'm going to oppose this bill tonight. But I also want to address some of the arguments of the proponents of the bill because I believe that they were very thoughtful. They're well argued and very well laid out, but I heard three arguments that I will group them into. There may have been other's that were laid out. But the three that I heard were, one, is there's an issue around wrongful execution that much like I said that

we would have saved at least one victim's life. The proponents probably, quite accurately, argue if you do a lot of executions, at one point you're going to get it wrong, and at one point you might put an innocent person to death. I want to address that topic.

Secondly, I want to address the cost topic, and Senator Gaffey most recently mentioned it, is the fact, that people say that the death penalty is more expensive than life in prison. And they're a lot of fallacious numbers behind that I'd like to address.

And, then, third, and probably the most emotional argument was that all human life is precious, and I'd like to talk about that as well.

So, let me start, Mr. President, with the first objection. It is that there is wrongful executions that will inevitably happen when you have the death penalty. The fact, that you have even 71 murders a year -- excuse me -- 71 death penalty executions a year in the United States. There has to be one. There has to be one that we got wrong, and, Mr. President, I don't know if I can argue that? I don't know if I can argue that we have not at some point in the last 30 years put at least one innocent person to death. I think the statistics will probably show we have.

The question is when you're looking at this process, again looking back to the concept of utilitarian justice, is how are we going to assess that risk? If there is a risk present, should we eliminate that risk? I'll give you an example and then an extreme example.

An example would be, as know from the Tillman case, I am sure there are people in jail right now who are wrongfully there. We have had -- our error rate might only be .1 percent, but they're people in jail right now who are wrongfully there. Should we therefore, get rid of jail? Should we, therefore, say because there is an error rate there that rather than working to correct that error rate, we should let everybody out of jail? That is the exact analogous argument to saying we should get rid of the death penalty, if there was that even one, even one innocent person put to death. The better argument is to say how can we ensure that we have the smallest error rate possible?

A more extreme example would be driving. If you think about it one of the number one killers of people in the United States is auto accidents, 45,000 people last year alone. And would anybody say that we should get rid of cars because they kill an awful lot more

people than are even murdered every year. Again, it's a mistake in how you actually think about the risk of error.

The question becomes not whether or not you can ever eliminate that risk because you can't. We're human. You can't eliminate that risk in the death penalty. You can't eliminate that risk for life in prison. You can't eliminate that risk when you're driving. The question is always for us, how do we minimize it? And the answer, Mr. President, is by ensuring we have a strong appeals process in place that allows criminals the chance to state their case and allows us and our justice system to uncover the facts, to make sure that we've reached the right decision.

Now, that appeals process, in my opinion -- and we'll talk about this later with amendments -- should be unlimited but time bound, and what do I mean by that? What I mean is that in these death penalty cases, we cannot restrict the right to appeal. We have to allow a convicted felon the right to try to introduce new evidence, to challenge a procedure and allow them an unlimited number of them. However, Mr. President, we do not have to give them an unlimited amount of time to do so. We can actually time box

them to say, you, you need to file your appeals in X amount of time and the sentence must be carried out and why -- and we'll have amendments later on to deal with that.

So, Mr. President, of this first point that proponents have made, I believe they made a fallacious assumption in saying that just because the possibility of wrongful execution might exist that we must throw out the death penalty.

The second argument that has been made is one, quite honestly, Mr. President, that I'm more used to making, which is the financial one, which is the argument about cost. And a lot of numbers have been thrown around here tonight. But beneath statistics, Mr. President, there's common sense. And I want to lay out what the actual costs are for executing someone versus having someone for life in prison.

First, the actual cost for executing someone is minimal. It is an injection. It is administering that injection. It is having a priest there for last rights, and it is having the overhead to have that jail. That is it.

The cost of life imprisonent -- excuse me -- life imprisonment is a lifetime of clothing, of feeding, of entertainment, of the overhead to have that jail, of

security, of facilities. Now, proponents say, ah, but you have to provide all of that for the death penalty plus the costs of appeals, and here, Mr. President, is where they're right in the current world, but it doesn't need to be that way.

If you look at the absolute cost of executing someone versus the absolute cost of life in prison, the order of magnitude is over a 100 to 1. The thing that the proponents have cited that drives up the cost of executions is the fact that we actually let people -- let the murderers linger on death row for years, in some cases decades. So you incur all the same costs that you do for life imprisonment, possibly even more because of maximum security, plus the costs of appeals.

And so, if you put those together in our current system the way its formed, of course, it's going to be more expensive to execute someone when you never really execute them, when you let them linger. So it is a fallacious argument, again, because it assumes that we do not streamline the appeals process, not to limit the number of appeals, but to limit the time in which those appeals can be filed.

The third objection to death penalty, Mr. President, and probably the most emotional, is the

argument that all human life is precious. And the argument has been made tonight that criminals are still human and what right do we have to take their life? Just like what right did they have to take a victim's life?

And, Mr. President, I disagree with the assumption underlying this, that humanity is simply being alive. That humanity is, simply, you were born a homosapien and that you exist. Humanity is more than that, Mr. President. Humanity is something deeper. It's abiding love that exists in all of us that we have for ourselves, for our fellow man, for our families. That is what makes us human. When these criminals commit these heinous murders, when you -- as in the case of father's case that he dealt with, when you rape a woman, brutally stab her, chop up her body, and throw it in the East River, you forfeit your humanity.

In my opinion, Mr. President, you no longer, at that point, deserve to be called human, deserve to have the consideration of philosophy that we would apply to a human and so when my colleagues say all human life is precious, I agree with them. But the murderers when convicted beyond a reasonable doubt and through the appeals process are again and again found

to be guilty, when the murderer who my father caught, laughed at the thought of the murder he had committed, this is not humanity.

So if you take these arguments apart that the proponents have made, you find that it is not an issue of cost. It is not an issue of wrongful execution. It is not an issue of the sanctity of human life. Instead, the arguments to keep the death penalty, of justice and of deterrence strongly outweigh the fallacious arguments, well-intended they are, that proponents have made.

Finally, tonight, Mr. President, I'd like to talk a little bit about, even in our current laws, something that I, personally, find offensive. And my colleague, Senator Gaffey stood in praise of it because it is nuanced and is sophisticated and it goes against the very principles that I believe I just laid out of what justice truly is and that is the aggregating and mitigating factors that we have surrounding the death penalty.

Mr. President, when considering whether to have life imprisonment or the death penalty in this State, we ask our juries and our judges to consider aggravating and mitigating factors. So, if you look at the aggravating factors, things like, the defendant

committed the offense during the commission or attempted commission of a felony; or having been convicted of two or more state offenses or two or more federal offenses; or committed the offense and knowingly created a grave risk of death to another person in addition to the victim; did it in an especially heinous or cruel manner; did it with an assault weapon.

Mr. President, committing murder, a premeditated murder, to me it is irrelevant whether it was done with an assault weapon or whether it was done with a knife. The woman my dad found there was no assault weapon, simply stabbed with a knife over 20 times.

And so these aggravating factors seem to imply that some murderers are not worthy of the death penalty. That some premeditated murders are actually better than others, and I find that patently offensive. Even more offensive, Mr. President, is the mitigating factors portion of this, where you say, well, let's weigh -- jury, let's weigh those aggravating factors against mitigating factors -- and I'll read this.

It says to determine whether a particular factor concerning the defendant's character, background or history, or the nature and circumstance of the crime

has been established by the evidence and whether that factors is mitigating in nature considering all the facts and circumstances in the case.

Let's take that apart a little bit. The defendant's character. If a defendant has murdered someone and has been convicted beyond a reasonable doubt, I don't think there's anything mitigating about that person's character, background or history. To say that a murderer should be let off the hook from the death penalty because they grew up poor is a ridiculous argument. You are just as much a murderer if you come from the wealthiest family in Connecticut or you come from the poorest.

These mitigating factors, Mr. President, and the aggravating factors that accompany them, I believe are not put in place to be a sophisticated and nuance way of thinking about it. I believe they're put in place to make sure the death penalty never happens in Connecticut. To put in such rarefied aggravating factors that they are rarely present in many murders and to put in mitigating factors that allow almost any defense attorney to make an argument about the poor murderer's background or history, and it's a mitigating factor.

So, Mr. President, to summarize tonight, I

believe that my colleagues all good -- all well-intentioned, all true to themselves, and I applaud each and everyone of them for laying out their arguments in heartfelt way tonight. I hope they feel the same for me because I do believe that the logic I have laid out for the justice of the death penalty, whether through the prism of fairness to victims of utilitarianism philosophy or retributionist philosophy is just.

I also hope that my colleagues will agree that there is some deterrent effect to the death penalty. Don't know how much it is but even if it's one victim's life saved, it's worthwhile. And I hope the objections that I've made to the proponents' arguments go heeded in terms of wrongful execution, cost, and the argument that these heinous murderers are humans whose life is precious. And the mitigating and aggravating factors, Mr. President, although tangential to my argument are something that I believe we need to consider if the death penalty does continue on in Connecticut, as I hope it will.

So, Mr. President, I thank my colleagues for indulging me. I know I can very often talk quite a bit, but this was a topic that was very important tonight, and I thank you all for your indulgence.

And thank you, Mr. President.

THE CHAIR:

Thank you, Senator Debicella.

Will you remark further?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President, and good evening, sir.

THE CHAIR:

Good evening.

SENATOR MCKINNEY:

Mr. President, let me start by acknowledging what I think all of my colleagues who have stood up -- at least, all, after the first person, have stood up and acknowledged that this has been really an extraordinary debate tonight in the Senate.

One of the reporters -- I forget who it was -- asked, you know, why we would be doing this debate? The Governor has indicated that she's opposed to the abolition of the death penalty, had indicated during the time of Michael Ross that she would veto a bill that abolished it. The House did not pass the bill by a veto-proof majority and it did not appear at the time that there would be a veto-proof majority here. And my response was -- and the reporter went on to say, in light of the fact, that we are in such dire

fiscal straights. And my response was that this is absolutely a debate that we should have.

I was talking to Senator McDonald earlier. We probably shouldn't have it every year maybe every legislature should have it because it is an issue that is that important.

I've said to many around here and I'm going to contradict myself but I'll tell you what I've said to many, is that this debate maybe should have been ten minutes, where each of us would stand up and say that whether or not we believe the death penalty is a just punishment or not, and that position really is one of conscience. One that you feel in your head or your heart. I also think it's one that each legislator should visit and revisit each time the issue is before us.

There was one of the justices of our Connecticut Supreme Court, Justice Katz, who I consider to be a friend and an extraordinary jurist, said that, she obviously has written dissents and opinions against the death penalty. And some of my colleagues said, well, how can she take that position if the death penalty's been ruled constitutional by majority of our Supreme Court? The answer is because she is the justice of the highest court of the State of

Connecticut and she sits as the last review and every constitutional challenge on each individual on death row that comes before her is a new challenge and should be looked upon fresh and anew. And I think that's the same for all of us here.

I have spent many time -- much time, as a state senator, over 11 years, thinking about this issue and much time in my life thinking about it. There are not many votes we'll take, Mr. President, that are as powerful as this.

I intend to oppose the bill before us. And, in my opposition, I am stating support for the current law, which allows the death penalty in the State of Connecticut. And it is impossible to take that position without understanding the enormity of it because I know that by my vote and by my position if it is upheld and our current law stands that, at some point, someone on death row or someone who may be on death row in the future, may be put to death because of my vote because of the position I have. And that is an extraordinarily awesome responsibility and, in some ways, a burden, that I think all of us have. And that's why this is an important debate to have. That's why it is an extraordinary debate for us as a legislature and as a state senate. And I think the

quality of the debate that we've had here has really been something that we should all be very proud of and the people that we represent should be proud of, as well.

When I entered law school, Mr. President, you take all the normal classes -- you did as well -- criminal law, constitutional law. I remember my first naïve thought was, well, I thought things like -- well, how can it not be cruel and unusual punishment putting someone to death? How you can you actually put someone in prison before they've been convicted of a crime? How are these things allowed under our constitution? Of course, you learn through the teachings, both, in criminal law and constitutional law that life isn't so simple, and the answers aren't so obvious.

After -- during law school, I had a great opportunity to intern in the chief state's attorney's office in the appellate unit. One of the things that the interns did -- I think there were a handful of us from different law schools -- one of the things we did was to take a tour of our correctional facilities. And I think the tour of Carl Robinson was one of the more powerful moments of my life, and I will never forget the corrections officer.

At one point, we were in the far end of the facility and someone on the tour asked, Why don't you guys carry a weapon -- a gun? And his response was, well, if we did, we could easily be put away in a corner by a number of inmates; our lives would be in danger; the lives of others would be in danger; and, then, he commented that, in fact, the corrections officers were probably the only people there without a weapon.

And there are a lot of other societal issues that we could talk about that made that experience powerful, the make up of the people there and issues that I think people in this circle are all too familiar with. But after going to Carl Robinson, we had an opportunity to go to, then, maximum security prison and take a look at death row and that was just a frightening experience.

Senator Fasano had mentioned earlier that he had taken a tour of that, as well, and I have to tell you that that experience, in particular, but my entire internship in the chief state's attorney's office formed my opinion about this issue, as well.

Upon graduating from law school, Mr. President, I had, perhaps, the greatest professional experience of my life, other than being a state senator. And I got

to clerk for Justice Richard Palmer of the Connecticut Supreme Court, extraordinary individual. One of the smartest people I've ever met in my life. And one of the first cases assigned to him was the death penalty appeal of Robert Breton. And I believe Mr. Breton's case has been to our Connecticut's Supreme Court on a couple of occasions. I don't know how many, maybe two or three. But this case was assigned to Justice Palmer because he had not -- he was the new member of the court and had not taken a position on the constitutionality of our death penalty. And the Breton case involved our prior death penalty statute, whereby the aggravating cap -- the aggravating factors were argued in the death penalty phase, the sentence phase of trial. And if there was the presence of any one mitigating factor, that would commute the penalty from death to life imprisonment.

And I remember after Justice Palmer had been assigned the case in his chambers talking about and I don't think we're allowed to disclose what we talked about with the justices in chambers, but there was one poignant moment where he said that he knew he needed to and asked me as his law clerk to put aside any personal beliefs we had or political beliefs we had about the death penalty and that are goal there was to

do justice, to look at the case, to look at the case law, to understand the constitution, understand Connecticut's constitutional history, which included a Constitutional Convention -- I believe in 1965 -- which led to some evidence that ratified the position that the death penalty was constitutional and was intended to be constitutional in the State of Connecticut.

What struck me about that case was we also got the opportunity to go through the entire trial court record and all of the evidence in that case. And the case of Mr. Breton is unique but it is similar in all of the ten cases on death row in that it is a brutal, cruel, inhumane, disgusting murder. Mr. Breton went into the house of his ex-wife, who I believe was in her 30s, his son who was 16 years old, and he chased them around the house, stabbing them and murdering them. Stabbing each, I think, dozens of times from the bedroom down the stairs on to the first floor, as I recall.

And I say that not because anybody here in the circle, regardless of your position, thinks anything differently than I do about that. It's a disgusting inhumane crime, but I think it's important to say that because those are the types of crimes committed by the

ten people on our death row in the State of Connecticut.

Whether it's Mr. Ashby or Robert Breton or Sedrick Cobb or Robert Courchesne or Richard Reynolds or Daniel Webb or Todd Rizzo or Jessie Campbell or Eduardo Santiago. Those are the type of crimes, and I think they are the crimes, again, regardless of your position on this bill, that we would all agree upon, clearly, are the most heinous of murders one could imagine.

I think, Russel Peeler is the only case on death row, where someone did not actually commit the murder. Russel Peeler was the individual who talked somebody into killing the two people who were going to testify against him at trial and killed the two people in the City of Bridgeport.

One of the conclusions I reached through that process as a law clerk and working with Justice Palmer in the decision, is that there was -- there was no doubt about Mr. Breton's innocence or guilt. It was obvious that his guilt was beyond any doubt at all. And I think one of the things that we have to note here and our division of criminal justice in the State of Connecticut pointed it out in their testimony before the Judiciary Committee, is that unlike perhaps

other jurisdictions, unlike perhaps all other jurisdictions with the death penalty, Connecticut is unique in that we are not debating the innocence or guilt of the ten people on death row. We are not debating the potentiality of errors for the people we have on death row.

There have been a number of senators who stood up and talked about the possibility that mistakes could happen; that the technological advancements of DNA testing and the like could lead to the termination that someone who is now in prison is actually innocent and should be freed. It was an amazing moment when we, as a Senate, voted to compensate Mr. Tillman for the wrong that had been done to him. It was an even more amazing moment to get to meet and see what an unbelievably gracious human being that he his. I could not be the man that Mr. Tillman is were I to have spent, I think, 18 years. That's what he spent in jail for crime that I did commit. But that's not the issue here in Connecticut.

And the examples that people have talked about whether it's Illinois or other states, are just that, examples from other states. And I think it's important to point out that no one has talked about Connecticut because we can't talk about Connecticut

because there is no doubt. There's no doubt that Michael Ross -- there's no doubt that the ten people on our death row committed the crime.

So, in Connecticut, and that is the death penalty statute we are debating, the issue of potentiality of errors is not an issue -- is not really an issue.

I think, Senator McDonald when he brought out the bill talked about or maybe it was a conversation he and I had, talked about the purposes of our criminal laws, our punishments. And, again, establishing criminal laws, which we do as a legislature, which we do as part of society, I think also should not be taken lightly. And we've debated different criminal laws and increasing penalties for this crime or that or lessening penalties for this crime or that, but at its face when we establish what criminal laws people could be sentenced to jail for, we are understanding that we are taking away someone's liberty. We are taking away their freedoms and, in this case, potentially, their life.

So it's important to evaluate what the purpose of our criminal laws are, and we had that discussion, Senator McDonald and I, about the four purposes: punishment, deterrence, protecting the public by incapacitating the individual in prison, and

rehabilitation.

And when you look at the two alternatives before us, the death penalty or life imprisonment without possibility of release, it's interesting to look at those two in light of those four goals that I set forth.

In terms of rehabilitation, both those who favor the death penalty and those who choose life imprisonment without possibility of release would argue that they have the same position on rehabilitation. Neither position believes that the -- this individual can be rehabilitated because neither believes that the individual is ever going to be released into society again.

If you look at the incapacitation argument, the protection of the public from this person the committing the crime again, and, therefore, the person needs to go to jail for a period of time, you could make the argument that both positions are the same. I would argue not. I would argue that the death penalty provides an extra layer of protection. Senator Fasano talked about his conversation with the corrections officer and the corrections officer talking about, you know, the world in here being different than the world outside and, certainly, that's correct. But there is

an issue about the safety of corrections officers. And the potential that someone who is in prison for life without the possibility of release, someone who has committed a heinous murder or a heinous murders, may just want to do it again to a corrections officer. And so I think from a position of incapacitation or another -- or another prisoner from a position of incapacitation, there is, obviously, more protection under the current law.

On the issue of deterrence, I think -- I think there's a lot of debate about that. Many who've stood up tonight to support the abolition of the death penalty have criticized the death penalty as not being a deterrent. And I guess I would say, first off, let's assume that's correct. Let's assume for sake of argument that the death penalty is not, has never been, cannot be a deterrent. I don't know how we could ever prove that, but let's assume that for sake of our argument. If that is the case, then it also must be the case that life imprisonment without possibility of release is similarly not a deterrent. So I would ask you why is the death penalty's lack of deterrent effect a reason to get rid of it and adopt another punishment, which, similarly, by your own admission, would not be a deterrent?

Now, I think we also should take that assumption aside for a second because I think that those who support the abolition of the death penalty must concede that there are at least studies and peer review reports that suggest that the death penalty has a deterrent effect. Now, I haven't read all of these studies. I'm not capable or confident to do the studies and the studies may be flawed, but there are at least, as acknowledge by our own Division of Criminal Justice here in the State of Connecticut, in their testimony before the Judicial Committee -- Judiciary Committee -- excuse me -- they said there are those who claim is not a deterrent, the death penalty, but there are numerous studies published in peer review journals establishing that executions do deter the crime of murder and, therefore, save lives.

And there's a study that I have that takes a look at a number of those different studies and, in summation form, talks about a study done by two -- three Professor's at Emery University where they looked at panel data set of over 3,000 counties, from 1977 to 1996, and determined that executions had a highly significant negative relationship with murder incidence, in other words, that the death penalty and executions save lives.

A separate study done afterwards by just one of those three professors, confirmed those findings, that for each execution on average, there were fewer murders that were committed.

Another study done by two professors from the University of Colorado at Denver, also confirmed -- two studies confirmed the deterrent effect of capital punishment.

Two studies done by a man, named Paul Zimmerman, who I do not know, but using state level data from 1978 to 1997, found that for each additional execution, on average, there resulted in 14 fewer murders. And still a fifth study, by a professor at Auburn University, found also that there was a deterrent effect. And the summation by this one study, in review of all those studies, is that capital punishment does, in fact, save lives and that each additional execution appears to deter between three to 18 murders.

Now, again, I have not read all those studies but they are published. They are peer reviewed. And I think, at the very least, we must agree and other's must concede that there are arguments, well-founded, studied peer reviewed arguments that demonstrate that there is a deterrent effect.

That gets me to the fourth point, which we talked about. We talked about rehabilitation and we talked about incapacitation and deterrence and that's punishment. And, ultimately, I think that's what this debate is about. Do you think that it is a just punishment for some crimes or not? If the answer in your heart and your gut and your head is yes, then you'll vote in opposition to this bill. If your answer is no, then you'll vote for it.

One of the things that I don't think has been raised is the fact that this penalty, I believe the evidence shows, has been a helpful tool for prosecutors in the State of Connecticut. We all know and we've all talked about it, as have I, the fact that there are ten people currently on death row.

Senator McDonald, I believe referenced the 40-plus -- 46 or 47 people who are currently in our prisons with life without the possibility of parole or release. I'm not sure which it is. I guess it's without the possibility of parole, who are there for capital felony crimes. Individuals who could have been charged with and sentenced with the death penalty.

My sources and my information in looking at those 46 or 47 individuals indicate that a number of

them, perhaps as much as one-quarter of them, plead guilty. They didn't go to trial. They pled guilty, and I think one has to assume that faced with the possibility of being charged with the death penalty, they opted to plead for life without the possibility of parole rather than face the death penalty. For those individuals who pled guilty, the State did not have to go through a trial.

Now the issue that I think it's not really that important is that we didn't have to go through the cost of that trial. But the issues that are important is that the family members of the victims were spared the anguish and, perhaps, having to even testify at that trial. Perhaps, most importantly, we guaranteed that those individuals would all go to jail. Four or more trials didn't happen where maybe evidence could have been spoiled or eyewitnesses accounts could have been not remembered, and, perhaps, someone who was guilty may have been let go and now they weren't.

So I think you have to acknowledge if there are people who plead guilty to murder, who plead guilty to life imprisonment because they feared being charged with the death penalty that having that penalty is an important tool in those cases to the State and the prosecution of those individuals. And I would argue

that that's just common sense. Nobody pleads guilty to the most serious offense. That's not what plea deals are. Rather than going to trial and risking being punished by the most serious crime, prosecution, defense attorneys see if they can reach a plea deal for something less than the most serious offense.

So if we abolish the death penalty, we than set as the most serious offense, life without the possibility of release, and we guarantee that no one will plead guilty to that. They will all decide to go to trial and something could happen in one of those trials. Or if there is an issue over the evidence, if there is some concern about eyewitness testimony, if the prosecution, as we've heard on a number of different issues from Jessica's Law and other debates we've had, perhaps, one of the witnesses is a family member or a young child and the decision is to not have them go through that anguish and torture and be subjected to that trial, they decide to plead to something less than life without possibility of release, then we have guaranteed that we have weakened the punishment of someone who's committed one of these most heinous crimes.

And that gets me to -- and I'm going to address some of the arguments made by the proponents of this

bill -- that gets me to the one that I least like and the belief that somehow life without possibility of release is, in fact, a harsher penalty than death. Because I think while we're all entitled to our opinions and this is clearly a vote of conscience, that's the one argument that we have some factual basis to say, there are no facts to support it. Moreover, all the facts support just the opposite. If the people who commit these heinous murders -- and let's just take the ten individuals in Connecticut, if they believed -- if they believed that life without possibility of release was worse than the death penalty, why would they be fighting the death penalty? Why wouldn't they be doing what Michael Ross did and said, I don't want to exercise my appeals anymore? And even Michael Ross fought his death sentence four years before giving up subsequent appeal rights.

If it were a harsher penalty, if life -- if you think about it, if life without possibility of release is actually a harsher penalty, then we might want to keep the death penalty, have both, so people can plead down to the death penalty? But that sounds so silly because it is, because it would never happen because nobody would choose the death penalty over life without possibility of release and that is exactly why

there is no argument. There can be no argument that it's a harsher penalty. It makes no sense. It doesn't wash. It doesn't wash. I think the reason why people try to make that argument is because of the political concern of being soft on crime. Nobody in this circle who supports abolition of the death penalty is soft on crime, and I would suggest that, and I would hope nobody, for political purposes, ever would. So I think we should just take this argument off the table because there are no facts to support it, and it really makes no sense.

The other argument made, I touched upon it briefly and I won't spend too much time on it, is that errors can be made and death is irreversible. Well, that's obvious, but, again, all of the evidence to support the argument about errors being made was from states not called Connecticut. And if I were in Illinois or I were in Texas, we might be having a different debate and I might be taken a different position but none of us here are in those states. We're here in Connecticut.

And that's gets me to the other argument about the need to abolish the death penalty because the death penalty we have in Connecticut simply isn't workable. Mr. President, I don't know what that

means. I honestly don't. Is it not workable because we don't execute enough people? So would it be workable, if we had a Texas style death penalty, where people being executed monthly? I would dare say that if I offered an amendment that modeled the Texas law, which was workable, because people on death row were actually being executed that those who say our death penalty isn't workable, would not support that amendment. I don't think I would either, by the way, and that's where I come down on the argument that I don't understand the definition of "workable?"

Here's mine and I think it's subject to your own perspective. My definition of "workable" is that we have a very narrow, a very limited death penalty, not one that can be applied to all murders but only the most heinous and cruel and depraved murders.

My definition of "workable" is one that does ensure enough appeal rights so that we, as a society, can all feel comforted and know that the person is guilty beyond all doubt, beyond all doubt. So workable doesn't mean, you know two years from conviction to death or a short term. Workable, to me, means a longer period of time.

My definition of "workable" is a death penalty where there is no doubt that every individual on death

row and every individual who, ultimately, is executed, as was the case with Michael Ross, that there is no doubt. Even the people, who abhor the death penalty, concede that Michael Ross was guilty. And that Sedrick Cobb and Robert Breton and all the rest are guilty, as well. So that's my definition of workable. And I think, each of us can have that definition, but I would argue that are Connecticut death penalty works because of its limited use and because it takes a little bit longer and that extra time is used to make sure whether it's habeas petitions or other appeals that the person who may sentenced or will be sentenced to death is, in fact, guilty.

There was an issue of costs that has been brought up and, again, I think that's subject to debate. I think Senator Duff had referenced Scott Turow's book and I think it's important to point out that even Scott Turow said that he reached the conclusion that the cost argument is a red herring, and that's a direct quote from his book. He said that certainly, cost savings wouldn't justify capital punishment, essentially, any more than it provides a compelling argument to do away with it.

I also think that our own Department of Criminal Justice, again, in their testimony before the

Judiciary Committee, in testifying and stating their opposition to this bill, said that those who argue that it's cost make it prohibitive, fail to understand that what they're talking about is that the great bulk of the costs come from the postconviction litigation. That they ignore not only the studies that conclude that executions do prevent additional murders, which is enormous cost savings there, but they also ignore studies that show that the possibility that the death penalty may be imposed has a positive effect on the willingness of defendants to plead guilty and accept life. So, again, our own Department of Criminal Justice has testified and given cogent arguments and evidence that the argument that it costs more is not a complete and full argument and that those who favor abolition of the death penalty, like Scott Turow has said the cost is a red herring. So, again, I think the issue of cost is one that we need to put to the side of this debate, as well.

Another argument, Mr. President that was offered by those in favor of this bill is that our death penalty in Connecticut is cruel to the victims. I don't know how we address that. I really don't. I have no doubt that there are family members of victims of horrible crimes, who abhor the death penalty. Just

as I have no doubt that there are family members of victims who believe in their heart that the death penalty is moral and just. What strikes me is that I don't know who we are to even being talking about what is right for the family members of these victims. I think it is of no place of ours to suggest that our current law is unfair to family members of victims.

I could not imagine. I could not imagine if someone had murdered a loved one of mine and I -- I honestly don't know what my reaction would be -- Senator Harris -- Senator Harris said a lot of things, I think a lot of us would think. We want to personally, you know, do something but I don't know. I don't know how I would feel if someone who had murdered a loved one was put to death. My guess is that every single second of every single hour of every single day of their rest of lives, those family members live in anguish, whether we have the death penalty or not. And our hearts, regardless of where you are on this issue, go out to them.

But I just -- it's frustrating to listen to the arguments that we put ourselves in the positions of defending the family members of victims by getting rid of the death penalty because in -- and Senator Harris again, you could tell I listen to what Senator Harris

because he had excellent remarks -- he talked about how, I believe, six out of seven or five out of six families who testified at a judiciary committee hearing were family members of victims of murders who supported the repeal of the death penalty. And I, again, our hearts would go out to them. But I think if we're going to say that this is cruel to families of victims, we'd also have to say that repealing it is cruel to family members of victims because we can't put ourselves in that position. And, clearly, I think Dr. Petit is someone who we're all familiar with. And Dr. Petit believes that the death penalty is moral and is just. Someone quoted his comment before that his family got the death penalty and this repeal would give murderers life. Now that's his -- that's his opinion. And he's an amazing man. But, again, I don't think any of us in the circle should speak for the family members of victims. They could speak for themselves very eloquently on that issue, and, again, that's another argument that's been raised that need not be part of this debate.

Another argument that's been raised, Mr. President, and I could also watch some of the debate in the House of Representatives. There's a lot of discussion there about having a higher moral

conscience if you're for the appeal. And no one in this circle has suggested that either side has a higher moral conscience on this issue because each of us has our own moral conscience and that's how we vote this issue. The part of that debate down in the House was about government being in the business of taking human life and how that does not -- could not be supported.

One of the ways I got to the conclusion in support of our death penalty statute in Connecticut is coming to the very uncomfortable realization that we, as a society, tend to differentiate between an unlawful taking of life, what we would call a murder, another taking of life. We all acknowledge and understand that any one of us in society can lawfully take the life of another in defense of ourselves or our loved ones. We all acknowledge and need the tremendous sacrifice and service of police officers who are charged with and allowed to use deadly force to take the life of another person in the line of duty when it is necessary. And, obviously, as a nation, we all -- or I do, I should say, understand the necessity of having a military and the need to protect ourselves if attacked, which obviously leads to a government and sanctioned and sponsored taking the lives of, perhaps,

tens of thousands of people in war.

So these are very difficult issues. I happen to believe as a person of faith that someone upstairs is going to sort all those things out and I'm just here to do the best I can. But I think, on balance, and I certainly would say it's an extremely close call, Mr. President, on balance, I think our death penalty works in the State of Connecticut. And I think we should continue it.

I would also like to comment -- and Senator Doyle did a fantastic job so I won't spend too much time on it, but I think we do have to address the issue of the ten individuals on death row should this repeal become law because I have no doubt that should our death penalty statute be repealed that there will be lawyers, perhaps from the public defenders office or elsewhere, who will move in court and challenge the sentence of death on the ten individuals, probably, on some equal protection ground.

If you can challenge the constitutionality under disparate geographic treatment, that someone is more likely to get the death penalty were the murder to occur, say, in Waterbury versus New Haven, then certainly you can make a good faith constitutional challenge that now that the State has repealed the

death penalty, the sentences of the ten people on death row should be changed to life without possibility of release.

Even if you were to disagree with that -- well, let me strike that and say that I think we would all have to agree that those cases would be brought, that attorneys would file that constitutional challenge. I don't know what the result would be, but, clearly, they would make -- clearly, they would make those arguments. But even if the court were to reject those arguments, we now have our Chief State's Attorney saying that, in good conscience, he could not seek the sentence of death because the State, as a matter of public policy, had repealed the death penalty. And I think he's right. I do think he's right.

So this is not a date -- this is not a debate about prospectively doing away with the death penalty. This is a debate about saying we won't have the death penalty in the State of Connecticut. And the ten individuals on death row and anyone else who might be in the pipeline facing trial or awaiting sentencing, will also not be sentenced to death. And I think we ought to talk about that because this is not simply just prospective, this is saying that Sedrick Cobb and Robert Breton and Courchesne and others will never be

sentenced to death.

And there is a uniqueness about that -- consequence though, Mr. President, because what we would be doing by this repeal, in effect, although it purports to be prospective, what we would be doing is overturning the decision of a jury in ten cases. And that -- that is also something that is an extraordinarily rare and powerful decision we would be making.

Individuals, who sat on the juries in those ten cases, perhaps, performed one of the most difficult and trying acts of public service, sitting as a juror on a death penalty case in the death penalty phase. I imagine that's and excruciating experience, and we would also have to, I think, consider what we're saying to those individuals if we were to repeal the death penalty and the effect of the prospective repeal would be to also repeal the sentences of those ten individuals on death row.

I don't know if we've ever overturned a jury decision like that, as a legislature, Mr. President, but, in my memory, that would probably be the first time.

Mr. President, I guess one of the things I would -- I would leave with is that there was a professor

from the University of Chicago -- and I'm getting back to the studies on deterrence here for a second. There's a professor from the University of Chicago, who is opponent of the death penalty, who talked about the strength of the findings of legal scholars about the deterrent effect of the death penalty.

And he commented that if the recent evidence of deterrence is shown to be correct, than opponents of capital punishment face an uphill battle on moral grounds. If each execution is saving lives, the harms of capital punishment would have to very great to justify its abolition, far greater than most critics heretofore allege.

I think that's a pretty powerful statement that a professor at the University of Chicago, who is not a proponent of the death penalty, acknowledges that these very recent studies, as late as 2007, showing that executions via the death penalty leads to less murders and saving lives, is a very powerful, moral argument for maintaining the death penalty that we have.

Mr. President, I'm going to close my remarks by restating my opening remarks. This has been truly, I think, an extraordinary debate in this State Senate, and I am always proud to be a member of this body but

extremely proud tonight to partake in it. There are probably other legislative bodies around the country who have or are or will engage in a similar debate. We've heard that there are 14 or 15 States -- I forget the number -- who have moved to abolish the death penalty and maybe more will, as well. And I bet you in some of those states, maybe in a majority of those states, the debates are a lot more heated, and we have those from time to time here as well. There's probably a lot more finger pointing. There's probably a lot more -- you're soft on crime or you're for murdering people type of accusations. I can't come up with better ones than that -- sorry -- but that clearly is not the debate that we've had here tonight. That clearly is not the debate we've had here tonight, and I think it has been an important debate to have.

I know the hour is late but this is and was important debate for us to have. Important for us to go the record to state for our constituents, the people who send us here to represent them, where we are on a very important issues.

Yet, at the same time, whether my districts were 90 percent one way or the other, I think my vote would be the same. It would be a vote of my conscience, a vote of what looking at the evidence before me, I

believe is the best, most just punishment and policy for the State of Connecticut.

We have an extremely narrow death penalty. One applied in only limited circumstances. One applied to ten individuals. None of whom anyone would question their guilt or innocence. All of whom have engaged and committed some of the most horrific murders imaginable. And I think justice will be served with the meting out of their full punishment.

Thank you, Mr. President.

[SENATOR DEFRONZO OF THE 6th IN THE CHAIR]

THE CHAIR:

Thank you, Senator McKinney.

Senator Williams.

SENATOR WILLIAMS:

Thank you, Mr. President.

I rise to support this legislation, which would repeal the death penalty in the State of Connecticut.

The last time we debated this fully in the State Senate, I was chairman of the Judiciary Committee, and I'd worked with victims of crime because in a not too distant past, previous to that last debate, we, as a State, had amended our constitution. And we had provided some specific constitutional rights for victims of crime, but we found that those rights were

not always being honored within our judicial system. And I joined my Co-Chairman Mike Waller of the House, and we put together a legislation to create an advocacy office for victims of crime to make sure that they were heard in the judicial system that their rights, now guaranteed by the constitution of the State of Connecticut were upheld.

And that process and, in point of fact, in working on many other bills, we solicited the -- the input of victims of crime -- different organizations that represent them, one organization, in particular, Survivors of Homicide. I got to know the people who are active in that organization. I got to know the families that were represented by that organization, got to see just a little bit of what they had gone through and the suffering and the torment that those families had felt as a result of a loved one being murdered.

Now, some of those folks did not support the death penalty, but many did support the death penalty. No one would suggest that it's appropriate to make a decision of what's fair or what's not fair from the point of view of that victim, of that spouse, that family member. But, even for the folks who supported the death penalty, what I heard time and time again

were expressions of frustration with the death penalty because in our system of justice, what we really seek is justice that is fair; that is consistent; that is free from prejudice; that is applied in a manner that is not random.

Now, it was said earlier by Senator Gomes, and, perhaps others, that since 1973, in the State of Connecticut when the US Supreme Court said that the death penalty could be constitutional. Once again, in the United States, since 1973 and the reinstitution of the death penalty in Connecticut, there have been 4700 murders, 4700 murders. In that same time period, 13 people have been sentenced to death.

From the point of view of the victims of crime, I think it would be hard for us to say that only 13 of those 4700 murders were of a level that rises to giving the ultimate penalty that you would have in your State for committing murder. That's part of the source of the frustration for those victims.

In addition, as we know and has been said, death penalty prosecutions and the subsequent appeals take years, in some case -- cases decades. Why does that happen? Because when we're going to sentence someone to death and carry out an execution, a penalty that can not be revoked, our US Constitution and our

Supreme Court says that that person must afforded maximum due process and, consequently, it takes many years, many decades.

So, if we're looking for justice that is fair, consistently applied, free from prejudice, applied in a manner that is not random, can we see why some of these families feel so frustrated with a system that is inherently random.

Now, other issues have been raised in terms of the inequities of the death penalty. The fact that you can look at different geographic areas in the United States, different counties, state by state, different judicial districts in the State of Connecticut and find significant discrepancies in terms of who is prosecuted for the death penalty and who is not. Is that inconsistency fair? Is that part of our system of justice that is consistent and is not random?

What about a system of justice that is free from prejudice? We know about the statistics in terms of those of color and those of less income and what they face in our criminal justice system. It is not fair. There are tradeoffs.

For those who remember the celebrated case of O.J. Simpson, when he was accused of murdering two

people brutally, in the State of California. The prosecutors, in that action, did not even attempt to bring a death penalty case against him. Why? One of the reasons that was given was he was represented by the Dream Team. He had the financial resources to go toe to toe with the prosecutor's office. Perhaps to outspend the prosecutor's office, and, on that basis, they said, we will not bring a death penalty case against a person who has allegedly committed two horrific murders.

However, in cases were there are defendants of little or no financial means, the odds are not in their favor. Is that fair and consistent in our system of justice? Is that justice applied in a manner that is not random?

Now, I believe that we have the greatest system of justice in the world in the United States. And I believe that the way we put this together with adversaries coming in to court, with a presumption of innocence for the defendant, with the prosecution required to prove their case. That we do provide for liberty and freedom. That we do avoid tyranny in our society to the greatest extent possible. That is what our great system of criminal justice affords us. But no system of justice is perfect.

We are human. Prosecutors, judges, juries are human. Witnesses who take the stand, who take an oath to tell the truth, are human. Mistakes can be made. Mistakes are made. Nationally, since the death penalty was ruled constitutional, once again, by the US Supreme Court in 1973, 130 defendants who were convicted, who were put on death row, 130 have been exonerated. Mistakes are made.

Now, I believe those inequalities that I spoke of before, that are going to be inherent in almost any system of justice and that are present in ours, whether it's geographic, whether it's race, whether it's financial means. These are tradeoffs that we can afford when it comes to sentencing individuals to a term certain in jail. Where we know there is an opportunity to undo the damage if there was a wrongful conviction. And we have seen that happen across the country. We've seen it happen in the State of Connecticut.

Mistakes are made. Innocent individuals are convicted, and they are sent to jail because of human error. But what's remarkable about our system and what is part of human nature is our striving to even when we make the wrong decision, even when errors are made to try to make it right. And when someone is

sentenced to a term certain in jail and they were sent there wrongfully, we have that ability. And how can we ever give someone the year or the five years or the ten years or in some cases the 20 years or more back when they are exonerated? They can never get those years back, but they still have their life.

Our system is not perfect. That is why I believe, the ultimate penalty in our system of justice should be life in prison without the opportunity for parole. It is a sentence that is certain. It does not result in the frustration that I have heard directly from families who have had loved ones murdered, who have had an expectation that the perpetrator will be prosecuted and sentenced to death, but it doesn't happen. It doesn't happen in the State of Connecticut, in terms of those 4700 cases since 1973, 13 death sentences less than 1 percent.

It also is just. It requires that that person is taken out of our society and is punished with a -- a term that is not only certain but that is indefinite and is forever. And, most importantly, it provides for greater trust in what I believe is the greatest system of justice in the world. Greater trust knowing that we are fallible that even the greatest system of justice is not perfect and that we have the ability to

make good when we make mistakes because mistakes are made in this system.

I'd like to thank the folks around this circle. I'd like to thank the folks in the House. We debated this about 10 years ago or so. They're many different people in the circle then. We have many new folks now. It's important that we tackle tough challenges like this issue. It's important that we tell our constituents how we feel. That's our democratic process. It's important that we strive to have the best system of justice in our State and in the world. One that is consistent; one that is fair; one that is free from prejudice; and one where the results are not random.

Mr. President, I ask that we move this legislation forward, that folks vote their conscience and that, ideally, when the vote is taken that we repeal the death penalty in the State of Connecticut.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Williams.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

I was elected January 15th of last year in an

special election and then sworn in on January 22nd, a week later, and I remember that day obviously very well, I had my entire family here lined up, my wife, kids, brothers, sisters -- a very proud moment of course. I remember the Associated Press taking a picture of us seeing my name go up on the board, and I looked around the room here and it's obviously awe inspiring. And I think everyone should really take it in everyday when they come here, and that January 22nd was a special session and we were taking up the Three Strikes Law -- Bill, what have you.

And I remember sitting here very impressed by all of you. The speeches that took place, the debate. And I sat here and I said, jeez, you know, I don't know if I really want to say anything, being the new guy and all, but then I thought about it a little longer and I realized how just having gone through a special election. I was pounding the proverbial pavement, if you will, knocking on doors, meeting with -- diners at coffee shops and at the local supermarkets and just talking to voters throughout my district. And to a man they talked about the Three Strikes Law and how the Cheshire home invasion was imbedded in their minds. And I said, Well, I'm going to speak on this. I'm elected. Im a state senator.

I'm going to give it my best shot, and I remember doing that. I remember voting in favor of that bill. Ultimately, it did not pass, but I remember feeling very good about it.

This past summer, I had the opportunity to meet Dr. Petit, his sister Johanna. And I'll tell you I'm impressed with all of you, but I was moved by that man.

For those reasons, Mr. President, the clerk is in possession of LCO 7773, and I'd ask the clerk to call it, and I'd be allowed to summarize.

THE CHAIR:

Mr. Clerk, will you please call the amendment?

THE CLERK:

LCO 7773, which will be designated Senate Amendment Schedule A. It is offered by Senator McKinney of the 28th District, et al.

THE CHAIR:

Thank you, Mr. Clerk.

The question's on adoption?

Senator Kane?

SENATOR KANE:

Thank you, Mr. President.

I move adoption.

THE CHAIR:

Please move to adoption.

You may comment further.

SENATOR KANE:

Thank you, Mr. President.

What this amendment does, ladies and gentlemen, I think the debate has gone on for a number of hours already and -- and I have obviously stated my opposition to this bill.

We've talked about the many issues with the death penalty and how it can be fixed or repaired. My suggestion with this amendment would make it a capital crime if a person convicted of a murder of a person during a home invasion would be subject to the death penalty.

You know when the death penalty debate came -- came up back in February, Dr. Petit testified on the issue. And I remember, just earlier tonight, a number of people stated that it's harder to live with your crime than -- than be put to death. And I don't know if I necessarily agree with that.

In a news article that I have here from the Hartford Courant just after Dr. Petit spoke, and my apologies to Dr. Petit because I don't really want to bring all this back up. I'm sure he has to live with it every single day of his life. But he said that

when comparing to people that are living, that maybe Michaela cannot make homemade sauce any longer, play with her friends or kiss me goodnight. Because men murdered Hayley, she cannot experience her college years at Dartmouth, row on the Connecticut River, or sit and chat with me. Because men murdered Jennifer, she can no longer comfort a student at Cheshire Academy, talk with her parents and sister or sit with me on our porch.

Mr. President, looking at another news article, all three women had signs of accelerants on or near them. Just a quote from the police report, One of the deceased was burned beyond recognition with indications that an accelerant was liberally poured on her.

Investigators wrote in a search warrant, The remaining two victims appear to have some indication of accelerant being poured onto them in close proximity.

This was brutal, awful, disgusting and the word "heinous" has been used many times tonight. This fits all of those criteria.

Ladies and gentlemen, if you commit a murder in the process of a home invasion then you should be subject to the capital murder charges that we have

with the death penalty today.

I ask that the body support this amendment, and I ask when the vote is taken it be taken by roll call.

Thank you, Mr. President.

THE CHAIR:

A roll call has been requested.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I rise in opposition to the amendment, and it's important to note that as I indicated in my original comments that the underlying bill is prospective only. And notwithstanding the comments from Senator Kane, I think it would be a mistake to leave the impression that somehow anything in the underlying bill would affect the prosecution of the two defendants in the Petit case.

And I should also mention because I've heard the comment about what the Chief State's Attorney may or may not have said to members of the circle about existing death penalty cases. And it is, in fact, the case that the decision whether to pursue appeals rests with the state's attorney from the jurisdiction where the crime was committed. I would imagine that the Chief State's Attorney might have some input on that

question, but at least for five of the individuals on death row that decision about whether to continue to pursue an appeal would be the decision of State's Attorney Connely in Waterbury.

But, Mr. President, more generally, I am concerned about this amendment because it would, in fact, restore a sentence of death -- or I should say impose a sentence of death for something that even under today's law is not something that by itself, as a home invasion, would qualify for a capital felony charge. There's certainly other instances where the circumstances of a home invasion could be part of a capital felony charge, but it is important to remember that all of the elements of a capital felony charge would still be available to prosecutors as murder with special circumstances.

And the underlying point of this legislation is to abolish the death penalty because it is precisely unworkable in Connecticut. And notwithstanding the fact that there are horrible factual stories, a amendment like this would serve to continue to propagate an unworkable criminal justice statutory scheme and, in my opinion, would be convoluted to apply and very unfair to the families of those victims.

So I oppose the amendment.

THE CHAIR:

Thank you, Senator.

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

I rise in support of the amendment. I would note that conceptually what we are trying to do in this amendment is similar to what's been done over the years with respect to what had been and still is, until and unless this bill is adopted, consider it a capital felony, that is, we as a pub -- matter of public policy have identified those murders committed under certain circumstances, which we have concluded are so heinous, so egregious. Whether it's the murder of a law enforcement official, murder by a kidnapper of a kidnapped person, murder committed in the course of the commission of sexual assault, these are examples of some of the crimes to which the capital felony -- penalty would apply.

What we've done over the years is identified those murders and the context for a murder to occur, which are so serious that we believe they're worthy of the highest level of punishment. And I think one of the great benefits of the amendment proposed by

Senator Kane is that we would be saying, as a matter of public policy, that the murder committed during a home invasion is of a similar level of seriousness to warrant the highest level of punishment. And I think that's appropriate because it's cliché, but if you're not safe in your own home, where can you be safe?

And one of the great violations that can occur in one's life is to have your home invaded by someone who intends to do you harm. And for someone to be murdered in the course of that kind of an event is something that I believe is comparable to the crimes for which capital felony is currently a permissible penalty.

And so for those reasons I would say that we ought to adopt the amendment because it is consistent with the approach that this legislature has taken in the past, and I think would advance an important policy goal, and for those reasons I will be voting in favor of the amendment.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Good morning, Mr. President.

THE CHAIR:

Morning, Senator.

SENATOR KISSEL:

I see it's about 20 of one o'clock in the morning and when we do eventually vote on this amendment, I would request that it -- be taken by taken by roll, and I would like to commend Senator Kane for bringing this amendment forward.

First of all, regarding the remarks made by Senator McDonald, I do disagree with your characterization as to whether the underlying bill is merely prospective. I understand that some of my colleagues here in this circle took an opportunity to speak to Chief State's Attorney Kane today, but I distinctly remember the Chief's State's Attorney speaking to us at the public hearing on the underlying bill and, at that point in time, the Chief State's Attorney specifically stated that it was his reason and considered legal belief, understanding that it is the decision of the individual state's attorneys as to whether to proceed, but it was his belief in reviewing the appellate decisions regarding death penalty and changes that had occurred in other states, that when the laws in the

other states had been changed, albeit prospectively, that that precise point was raised by the individuals that were still on death row and because the public policy of the state had changed, it formed in and of itself sufficient grounds, I guess, under equal protection of the laws and due process, to have that change apply to individuals retroactively, as well.

So I don't believe it's just simply a decision of the individual state's attorneys depending on the geographic area, and I don't believe that it necessarily wouldn't apply to crimes that occurred prior to the effective date, and I actually believe that the underlying bill would apply to folks that have already been adjudge guilty of capital felonies and are sitting on death row.

Now getting to the merits of the individual amendment. It had been stated, I think, quite succinctly and effectively by Senator Caligiuri that it is almost harkening that a person's home is where they should feel safe. A person's home is their castle, but he's exactly correct that what we're stating here by this amendment is that the crime, the underlying crime of home invasion is so horrible, it rises to the level that it should be one of those capital felonies that we already have delineated in

the laws we have on the books.

It's very similar in some circumstances to kidnapping but instead of taking you and bringing you away from your surroundings what it is with the home invasion is -- is it's capturing you in the place where you should feel safest. What mom or dad would want their child to feel unsafe in their own home because someone broke in and committed a home invasion.

And by "home invasion," we're not simply talking about burglars who come in the dark of night or thieves that come in during the day and pose no direct harm or threat to the occupants. A home invasion is where someone busts in and they have it on their mind not only to ransack the home and steal the goods and the property, but they terrorize the family. It's not just the horrific events that took place in Cheshire to Dr. Petit's family. Shortly thereafter in the last year or so, remember we had that horrific event just down the road in New Britain. Wasn't it a Sunday morning and they were having a cup of tea or coffee and someone busted in -- a home invasion -- someone was killed? To my mind, that kind of an event definitely rises to the level of a capital felony.

We have all the other protections in the

underlying statutes on our books. The balancing of aggravating and mitigating factors, the right -- the absolute right to take an immediate appeal to our Connecticut State Supreme Court. There are precise instructions as to what they are to look towards, as far as analyzing the findings of the trial court, whether that case was tried to a jury or to a three-judge panel. The other protections are in there as well. If you lose at the Connecticut State Supreme Court level, you can take and appeal to the United States Supreme Court. If you lose on that level, you can file habeas corpus petitions to the state authorities. If you lose those habeas corpus actions, then you can appeal that to the Connecticut State Supreme Court. If you lose there, then you can appeal that to the United States Supreme Court. And, if all of that fails, the defendant still would have the right to file habeas petitions in the federal appeals courts.

Our statutes have been finely crafted to afford the defendants the utmost ability to defend themselves. We have bent over backwards. I believe many of my constituents would say we have bent too far backwards. But, all of that stated, we have the protections that the appellate procedures give us. We

have the fundamental protections that the balancing of aggravating and mitigating factors gives us and to say to our constituents that we don't feel a home invasion rises to the level of a capital felony when, at the end of the day, someone has been murdered in that process, I think is exactly against where I know my constituents, the vast majority of them, are coming from.

When you are defending yourself and you use physical force to the extent that you kill someone, it's my understanding, under the common law, that you have a responsibility to retreat to the extent that you can still protect yourself. And what I mean by that is -- and I'm going back 25 years now to my law school days -- it's my understanding that if you use the defense of self-defense but you have and ability to get out of that situation, run down an alley way, hop in your car and drive away, that before you take another person's life, you have to do that. But that all changes under the common law and notions if you're in your own home and that harkens back not to our own roots but it goes all the way back across the Atlantic Ocean to the underpinnings if our common law system in ancient England where, indeed, a person's home was their castle.

You don't have to retreat from your home. You have a right to feel safe and protected in your home. If there's one place in the world, your son or daughter should feel safe and secure, it's in your home. Your wife, your husband, your grandparents, in your home, they should feel safe and what we're saying is if a convicted felon invades that home and commits a murder, then at least that forms the predicate for a state's attorney to file charges of capital felony and then the process that has worked so well in our state thus far in protecting and balancing rights between the public and the accused will move forward.

Mr. President, I strongly support this amendment.

THE CHAIR:

Thank you, Senator.

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

Mr. President, I join Senator Kissel in supporting this amendment, and I want to thank Senator Kane for bringing it out.

Mr. President, it is clear to those of us who believe that the death penalty is both just and a good deterrent that we would want to apply it to any case where a murder can be considered truly heinous. I

don't think you'll see tonight, Mr. President, amendments coming out to apply this to manslaughter. I don't believe you will see us bringing out amendments to apply this to many lesser crimes, but when you think about the sheer brutality of breaking into somebody's home and murdering them, where they sleep, where they eat, where they raise their family, that rises to the level of deserving capital punishment, as just.

And, now, I don't expect my colleagues in the circle, who are against the death penalty, to vote for this amendment because we've had that debate. However, for those of us who do believe that the death penalty is just, I believe it is logical for us to see home invasion as the type of murder that is deserving of the death penalty.

Now, there's been a lot of talk about the highest profiled case that we've had in Connecticut, but that's not the only case that this is going to apply to and as a matter of fact this Senator McDonald quite accurately said it won't be applied retroactively, in and of itself. Instead this is going to happen again. It's an unfortunate reality but as we talked about before, the death penalty cannot be complete deterrent to murder, and there will be other home invasions

where someone gets killed. We, tonight, can make sure that prosecutors, judges and juries have the tools at there disposal to make sure the punishment for those crimes are just.

Senator Kane has been very thoughtful in his drafting of this amendment. I want to thank him for bringing it forward tonight and would urge my colleagues to support it.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I also rise to support this amendment.

On August 16, 2007, in Cheshire, hundreds of people attended a rally at Bartlum Park, just miles from where the unspeakable crime occurred calling on state legislators to enact stronger laws and longer jail sentences to protect families from the hardened criminals who would terrorized them. It didn't matter that any Three Strike Law probably wouldn't have stopped the two men who allegedly tormented and killed a mother and two daughters last month in a crime that

shocked the State and drew international attention. The message was constant. The system needs to be fixed. Our criminal justice system is one of expediency, bureaucracy, constraints and a lack of accountability said some of those individuals that attended that rally.

And I have to tell that my constituents who are many miles away but certainly heard about it and, in fact, there were a few that actually made the trip, all spoke in solidarity with this community and have been looking for -- and looking at us for a change to be made. They also started locking their doors a little bit more tightly after this happened. There was a great deal of fear that was created in our communities. They expressed their support for this law and were surprised and fairly unhappy that this law had not been enacted to date.

So I am grateful to our colleague and the Senate for proposing it right now and at least giving us one opportunity to vote in favor of it.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

I rise in support of the amendment, and I want to bring you back to some of the things that the proponent of the amendment brought out his initial remarks is that he had the opportunity during his special session to vote on the home invasion laws. Well, the home invasion laws became Public Act 08-1, and those laws became effective March 1, 2008. Well, not even a month later, we had a home invasion of the City of New Britain, where Lester Williams went in after following and stalking a 61-year-old woman. Not only did he proceed to rape her, he shot her in the head and left for dead in the basement. And then the other woman, her 66-year-old friend who was meeting to have coffee with, he brought her in her car, shot her in a sand pit where her body was later recovered that very next day.

Mr. Williams had spend some time in prison because he had been convicted of raping a five-year-old girl and while he was in prison he was remanded to attend the sex offender rehab, which he dropped out of. It didn't to -- it did not do to much for him. He finally was paroled, got out, and he continued with his life of crime. Two more of our citizens lost their lives.

When does it stop? When do we allow the crimes, such as home invasion -- I mean, we had some of the most highlighted debates, news media coverage because we passed this bill, the home invasion bill based on what happened in Cheshire and not even a month after that this bill became law did we see two more of our citizens lose their life under our Home Invasion Law.

So I'm not so sure if we had anything on the books, is it going to deter crime. But if we can prevent one action, one deterrence, then we need to provide for that opportunity to prevent that from happening.

So, with that, Mr. President, I will be supporting the amendment.

Thank you.

SENATOR DEFRONZO:

Thank you, Senator Witkos.

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, I rise in support of the amendment as put forth by Senator Kane. As people have been saying the home is a very sacred place, and I think I shared with the circle some time ago that my family and I, we had left our house and, inadvertently, I had

left the garage door open and when I returned to the house -- and this was about six months after the Cheshire incident -- when I returned to the house my youngest had seen that the garage door is open and refused to go into the house until I got out of the car and searched the house from top to bottom, from attic to basement. That's how much that impacted my daughter, the Cheshire murders, and I didn't even realize as a parent how much that must have bothered her. We had not talked about it, but, obviously, she must have heard about it or read about it, but it had a profound effect on her.

I cannot think of a more intrusive crime than going into a house that people want to feel secure in, committing the violent act that we've seen in Cheshire, that we read about in Florida, New Jersey, all over the country. I was just reading an article online about a police officer from Stonington, chief of Police who said that people are no longer satisfied with breaking into a house and robbing the goods of the house. There seems to be more of a propensity to cause violence, the chief of Stonington said -- police chief.

You know, Mr. President, unless we do get tough on these issues, unless we do send the message as a

policy maker in this state that we're not going to put with that type of behavior, I don't think we've done our job.

The impact of a home invasion not only extends well beyond the violent -- violence of the crime but when you mix it with murder or rape, as we've seen from time to time, we need to say that's not going to be tolerated and we need to have the harshest, harshest sentence on the books.

Now, people are going to say well, being in prison without the chance of parole is an extremely harsh sentence versus the capital crime for which you would be put to death but I've never heard of a plea bargain where someone is opted to be put to death as opposed to life imprisonment. I've never seen that plea bargain happen. They never say, oh, please don't put me in jail for the rest of my life; I want to be on death row. I've never seen that happen. So it runs -- doesn't seem -- the argument make -- does not make sense that being in jail for the rest of your life is as harsh a crime as capital punishment.

Mr. President, we need to be strong, and I know this is a difficult issue. But, when the Cheshire incident came out, I don't think there was any one of us, as legislators, who didn't feel sorry for the

Petit family and wanted to do whatever we could to make a tougher crime out of that inci -- out of that unfortunate incident. We can't let the ball drop. I think -- it was suggested that this amendment would be a new additional crime under the capital offense and, Mr. President, if I may say, I don't think it is.

I think the way it is drafted is the act of a home invasion rises it -- or raises that incident to a level of a capital offense but without the mitigation -- or mitigating circumstances. Without those, you don't get the capital offense. You don't get death row. It's just saying, look we're -- if there's a home invasion, it rises it to that level to be examined. Then if the mitigation -- the mitigating factors are there, the aggravating circumstances are there. Then, we can say it rises to a death case. Absent that, we would fall back as every other law does under that scenario.

So this does not create a new category at all, at all. It's not a strict liability case, if you would, at all, in terms of home invasion death, therefore, capital, no. You still look at it with all those factors.

Mr. President, I know this a tough issue for everybody. But, when you look at this issue just on

itself, just this one issue, it strikes a chord that if any place we're going to have the death penalty put on, it's got to be when you're in your house, someone breaks in and commits a murder, which have factors that make it cruel, you need to have a penalty that matches that crime. You just need that, therefore, Mr. President, I urge adoption of the amendment.

THE CHAIR:

Thank you, Senator.

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

I rise in support of this amendment, and I thank my colleague, Senator Kane, for presenting this to us.

Clearly, our memories are still raw of experience of gruesome home invasion here in the State of Connecticut that of the Petit family in Cheshire. I had opportunity to drive through that neighborhood, not long ago, and I noticed that in the place of the home is a make shift memorial garden, a sad scene indeed. And I believe this is truly a important consideration for this body. When we look at home invasion statistics in the United States of America it is scary, frankly. The deport -- report from the US Department of Justice says that 38 percent of all

assaults and 60 percent of rapes occur during a home invasion, and that 1 out of every 5 homes in America will experience a break-in or a home invasion. That's over 2 million homes.

The Cheshire story is not the only gruesome story that got worldwide attention. Some of you may recall that in November of 2007, the Washington Redskin star, Sean Taylor, was murdered during an overnight home invasion of his suburban home in Miami. Four perpetrators were arrested.

Unfortunately, really bad people get really bad ideas when they see it occur somewhere else. So let us send a message that if you're going to be a really bad person, we're not going to put up with it in Connecticut.

I urge adoption.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

I rise in favor of the amendment, and I'll say that there's always going to be a visceral reaction to the circumstances surrounding any kind of a situation

that has called for capital punishment to date here in the State of Connecticut. The -- whether you're arguing for it or against it, there's always a spectrum, a range of different emotions that you will feel given whatever circumstances relate to you about the different situations some of which have been referred to tonight. And you can also, in your own mind, you can imagine maybe to a certain degree what these details -- these gruesome details are like upon discovery and you can drum up the different scenario -- or a thousand different scenarios along that spectrum of different emotions that you might have depending on what the details are of each of these different terrible crime scenes.

For example, when you think Columbine, you think about the tragedy that occurred in that school, and I believe it was a minor who committed it but, nonetheless, you have to sit there and ask yourself, how could this have happened in the first place? What went wrong? Was this person sane? Was this person insane and how do I feel about it and, perhaps, your emotions changed over the course of time.

Senator Harris made some very good points earlier on. He described a scenario where if something it happened to someone in his family or a friend of his,

he would have an immediate visceral reaction to whatever the course of events was. And maybe after cooling off period, perhaps, he would change his mind a bit about what to do in terms of a punishment. However, for some people, I don't think that emotion -- that level of emotion, that intensity of emotion, ever changes. I don't think it changed for Dr. Petit. Given that, I think the sensitivity that we should have towards home invasion -- towards the home itself, as a sanctuary, where everybody should feel safe, that we work so hard on. We work so hard in our professional lives to create, to buy, to maintain, to make secure. This is an area that we should consider totally off limits to this kind of potential crime; and, therefore, I think that the amendment makes a tremendous amount of sense by sending out a message. The home is off limits. And we need to make that loud and clear -- that message loud and clear to any potential perpetrator's put there. I thank Senator Kane for raising this amendment, and I stand wholeheartedly in favor of it.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Frantz.

The question's on adoption of Senate A. Is there

further comment?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

Mr. President, just briefly in support of the amendment. I think it's been said, but it needs to be clearly before the Senate, this is not establishing a new crime eligible for the death penalty. This is not an expansion of our current death penalty. This is setting forth, as a matter of public policy, that because of what happened in Cheshire, Connecticut, because of the importance that we all placed on the sanctity of the home and protecting our families in our homes that this is a category of crime that if the aggravating factors are there, as they were in the horrific Petit murders, that the person would be eligible for the death penalty.

We say that because it would appear that there is a will of majority to repeal the death penalty, which has much broader application. There are a number of crimes eligible for the death penalty, and we think that it is important to say that despite that interest in repealing all of them, maybe we should just take a look at some that are just so important.

Senator Kissel and others have talked so

eloquently and, especially, when we talked about the home invasion laws we've passed about one's home being one's castle. We talked about how when people invade homes, especially, during the day -- during the nighttime -- excuse me. The people who go into homes at night have an expectation of confrontation. That there is a different criminal mindset to those who go into the homes at night and so -- and -- I don't want to relive the horrible tragic murders in Cheshire but because it happened in Cheshire, Connecticut, because it is so fresh in our minds. We've all had that discussion.

I remember sharing with the circle that in our house we had an alarm system that we rarely turned on, except for if we went away for a couple of days or -- but not at night just generally going to bed, hardly ever, did I tune it on you know after my wife and kids were a sleep. The very first night after the Cheshire murders, my wife said, Let's turn on the alarm. And I heard that from neighbors and friends and people I talked to about how all of lives were changed after that. We all felt a little bit vulnerable, more vulnerable perhaps than we did, and that was a horrible feeling.

So there is something tragic that happened and an

impact on all of us here in Connecticut, and if -- if as has been described by Senator Doyle and other's, the impact of the prospective repeal on the death penalty that the ten individuals on death row will not be faced and charged with that death sentence and what role the Chief State's Attorney might have with State's Attorney Connelly, I don't know. But I think the Chief State's Attorney still ranks higher on that totem pole.

This would still say, in that instance, as a matter of public policy, that under that home invasion, should the individuals in the Cheshire murders who have been charged with capital felonies, as I understand it, are tried and convicted of those crimes and a jury at a sentencing phase were to determine that the aggravating factors outweigh the mitigating factors. And I'd recuse myself from a jury right now because I certainly would think that the aggravating factors would outweigh the mitigating factors, but I shouldn't say that because I obviously don't know all the factors, but then, at least, in that case, those individuals if -- if found so guilty and so sentenced, would face that death penalty and be on death row in Connecticut.

And I urge adoption.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator McKinney.

Is there further comment on Senate A?

Seeing no comment on Senate A, I'll direct a roll call vote be called.

The machine will be opened.

THE CLERK:

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? Have all Senators voted?

Mr. Clerk, you may close the machine.

Announce the tally.

THE CLERK:

Motion's on adoption of Senate Amendment Schedule A

Total number of voting	36
Those voting yea	15
Those voting nay	21
Those absent and not voting	0

THE CHAIR:

The amendment fails.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

The Clerk has Amendment LCO Number 7783 in his possession. Will the clerk please call the amendment?

THE CHAIR:

Mr. Clerk, will you please call the amendment?

SENATOR FRANTZ:

Thank you, Mr. President.

I move adoption --

THE CHAIR:

Just wait one moment, Senator.

SENATOR FRANTZ:

Thank you.

THE CLERK:

LCO 7783, which will be designated Senate Amendment Schedule B. It is offered by Senator McKinney of the 28th District.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

I move adoption to the amendment and would like

to summarize.

THE CHAIR:

The question now is adoption, would you like to proceed?

SENATOR FRANTZ:

Yes, thank you, Mr. President.

LCO Number 7783 calls for a mandatory life imprisonment without possibility of release unless a death sentence is imposed on an individual convicted of killing a member of the state police or local police.

My colleagues, there is heinous and there's heinous both in not only the form that a crime takes circumstances surrounding the way is conducted but there is also a level of heinousness -- if that is even a word -- with respect to who that -- who is involved in that crime and who's the victim of that crime.

There are arguments for and against the death penalty. Some against the death penalty that are logical. There is no question about it, but I think many of us around this circle would agree that under extreme circumstances, again, whether you're talking about the circumstances of the crime or who is the victim of the capital crime that it is justified.

There is a certain segment of the population that I think deserves to be recognized in this amendment here and that is the people who put on the uniform everyday and serve in police departments both at the state level and also at the local level and anywhere in between for that matter. We have members of police forces serving within this chamber and also downstairs in the House of Representatives. We owe a debt of gratitude to these people for what they do. They take a tremendous amount of risk, and they put themselves on the line every single day by putting that uniform on, and in most cases carrying weapons around with them and putting themselves into precarious situations on a regular basis.

They're doing this not because there is a great stock option package. They're not going to get incredibly wealthy off of doing this. They're doing it because they have certain level of passion for the community, for mankind, for kids, for cats stuck in trees, whatever the case might be. Yet, everyday they have to be combat ready. They may go for weeks or months without doing anything that is consider risky and, kaboom, in one second they're faced with a madman, who unfortunately has a weapon and is threatening them.

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They're the first responders, you can imagine what -- as Senator Debicella told us about his father's experience in the City of Bridgeport. As a first responder coming to the scene of a crime and having to -- having to witness the heinous circumstances of someone having been murdered or cut apart, unfortunately. It's a major sacrifice on their part to be performing this kind of -- this kind of service for the community and for the State.

The passage of this amendment sends a message to potential criminals, instinctively think twice, intellectually think twice before you draw a weapon on a police officer or anyone who wears the badge. We can discuss all night, tonight, the issue of deterrence, and we all will have our own individual opinions about that, but I do happen to believe that in this amendment there is a certain deterrence value that is a value to me, personally, and I would hope would be a value to you.

740,000 sworn officers in the United States currently; 10 percent are female; 33 million crimes are committed per year. That's one every two seconds; 14,000 officers have been killed in the line of duty since recordkeeping began; one police officer dies every 58 hours in this country; 65,000 officers are

assaulted every year; 23,000 are injured every year.

The deadliest day in American history for officers, police officers was September 11, 2001, during which 72 officers were killed in just a few hours after the first airplane struck the World Trade Center. Moments before, all they were doing was walking their beat or perhaps just showing up on their job, thinking it's a gorgeous September day and not too many dramatic things will happen to me this day. It was quite a different story that day.

In the past centuries, 61 percent of officers killed were feloniously assaulted by criminals. It's a dangerous job, and they do it out of the goodness of their heart. This amendment is a good one, and I urge its passage.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I rise in opposition to the amendment. I'm certain members are tired to see me on my feet again, but I'm not going to belabor the issues that I've already addressed but, for all of the policy

reasons, I have discussed earlier and many members of the circle have discussed earlier, I rise in respectful opposition to the amendment.

THE CHAIR:

Thank you, Senator.

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President.

As you might imagine, I rise in strong support of the amendment that's before us, and if I can indulge the chamber for just a moment.

We had this death penalty debate my first year as a member of the House of Representatives, and I've had the opportunity to speak to a lot of recruit classes of police officers as they begin their career in law enforcement, and I tell them a little story about why it's special to be a police officer or law enforcement officer, if you will, because there's four attributes about being a law enforcement officer that only that profession can claim, no other.

Other professions may be able to claim one or two or a combination of them but only a police officer can claim all four attributes.

The first one is a police officer is trained to provide medical necessary -- whatever it happens to

be. I've had the pleasure of delivering two babies during my 20-year career thus far. We're trained in first aid, life saving. I've done multiple water rescues, car accidents. We save lives. That's what we do.

Number two, we also do an educational piece. We go to schools. We teach the kids about the dangers of alcohol, drugs, tobacco. DWI, we often provide classes in that. We actually have a set of goggles that -- at our country fair that we have people -- which simulates what a .10 -- or now it's .08 would be like driving a motor vehicle to show how your balance is off.

We also can take a life judiciously. We are -- that power has invested us through our State statutes to judiciously take someone's life, and that's an awesome responsibility.

And, lastly and not least, when we go to work everyday, we know we can have our lives taken from us because of the job that we do.

Last -- just last week was Fallen Officer Day across our nation. So it's befitting that this amendment is here before us today to make sure that those officers who have given -- paid the ultimate sacrifice of losing their life in the line of duty

while protecting others, protecting themselves, can see justice and know that those individuals that are convicted of this crime will also pay the ultimate price.

I know that oftentimes in law enforcement you're required to make a split-second decision, and I talked about those four attributes and those last two, where you may have your life taken or you will take another life, those are split-second decisions that are made. Those are not decisions that are made and drawn out through the court systems. We talked about the case, Cheshire and think it's going on two years now and they haven't even started the trial yet and that's frustrating, and I come -- and I've worked in a world where things are instantaneous. We go there. We get the job done, and we move on. And most people don't like things dragged out. They want to see justice, and I know and have attended almost every police officer's funeral in the State of Connecticut that has died in the line of duty. It's like a brotherhood. You'll see those -- and oftentimes you'll see the funeral procession on television because there are thousands and thousands of members of the thin blue line that'll come and pay respects to their fallen brother or sister because of no choice of their own,

they lost their lives.

And I strongly support the amendment that was brought forward by Senator Frantz.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator --

SENATOR WITKOS:

And I'd like to yield. If I could, I'd like to yield to Senator Kissel.

THE CHAIR:

I would just -- before you yield, I would just remind members of the circle that the hour's late. The debate's been long, and I would ask that you keep your remarks centered to the substance of the amendment.

Senator Kissel, do you accept the yield?

SENATOR KISSEL:

Yes, I do.

THE CHAIR:

Thank you, proceed.

SENATOR KISSEL:

And at the outset, Mr. President.

I appreciate the warning, but I see that we have about 20 amendments and we're going about at least half hour per amendment so -- I remember way back when

we were debating the assault gun ban or something, such as that. At that time, Senator Giannaros said, the sunlight coming through those stained glass windows in the morning looks beautiful so we might be seeing that again in a few hours.

Senator Witkos mentioned a thin blue line, and the reason why I strongly support this amendment is it is indeed that. That basically keeps our society in order. Oh, it's easy enough to take our police officers and state troopers for granted, but if anyone of us left here tonight -- left this building and there was something going outside, some crime, somebody busted into your car, you heard a scream on the Capitol lawn. Where would you go? You would call the police. Hopefully, the Capitol police would be nearby. But, if there were no Capitol police, you would call the Hartford police or the state police. When there is an emergency, it is the police officers that come to protect us from those who wish to harm us, and it is so easy to talk in the abstract until something bad happens.

The reason I think this amendment is so important is because one of the first things I did when I was first elected a state senator 17-years ago, was I had a friend of mine, his name is John Necovik and at that

time, he had recently became made a trooper in our Connecticut State Police. And we were chatting and he goes, you know, we're allowed and you're a state senator and we like nothing more, would you like to go for a ride along?

And I thought about it and I said, yes. And for it's worth, we've been trying to plan another ride along since the spring but then we had elections and winter and so -- I'm in line for my second ride along and it's been over ten years.

We met up out in, I believe it was in the Stafford area -- met him at the headquarters and the very first thing that I was amazed at is that I had to put on a bulletproof vest. The thing weighed a ton but until you have to put that on, I don't believe you actually appreciate where you're going. And this is what their job is all about.

Now all -- now let's go and Senator Guglielmo knows the Stafford area. We got 84 out there and it's rural. I mean, even in the center of Stafford compared to other towns, it's got a beautiful quaint rural charm but when I got there because I had to work during the day and it was in the middle of the week. We didn't leave until about six o'clock, and we were going to proceed at least five hours, and it was

wintertime. Well, you proceed and after about 20 minutes you start -- he's telling me what I have to be looking towards and you're looking at cars that are doing something there not supposed to be doing.

This is all important to the amendment, Mr. President.

Do they have a light out in the back? Are they driving erratically? Is there something amiss? And one of images that is so vivid in my mind is the first car we pulled over, and it was a lonely country road. It was winter. It was about 7:30 at night, but it was dark. And so he goes, Follow me and do what I do and stay close. So he gets out and he's proceeding to the automobile, and I get out and he immediately turns to me and goes, What are you doing?

I go, I'm following you.

He goes, No.

You have got to approach the vehicle -- and I bet you Senator Witkos knows this -- from a certain angle such that your vision of the driver is never impaired, never, because you don't know who's in that car. And if you get into a blind spot, they could come zipping out of there with a gun and, boom, you're dead. So, from the very moment, you pull over a vehicle and the state trooper or the police car got's the lights going

and it's a dark lonely road, there's no one else out there. Immediately these men and women are thinking this is the correct angle and this is how you have to approach the vehicle. And we did that quite a bit that night.

And let me tell you another thing, there were individuals we pulled over where you would think the nicest person -- it could be your Sunday school teacher by appearances, and they are mouthing you off like you could not believe. And the police officer, Trooper Necoviz trying to be super polite, trying to give her an idea -- just license, registration, please and for whatever reason, she didn't want to hassled by us at all and she almost got arrested. You don't know. You don't know what's out there.

This is what's going on in the State of Connecticut right now as we debate this bill. Yeah, for us it's late. It's 1:30 in the morning. It's already Friday but for whoever's on the shift right now, whether it's municipalities or state police, this is their shift. And someone's got to be out there, and I bet you dollar to doughnuts right now, someone's approaching a vehicle and that man or woman -- he said, don't talk about doughnuts, well, I'm sorry it slipped in -- but someone is approaching a vehicle and

their hearts beating a little faster than when they were in their cruiser or their car.

Let's shift gears a little bit. Richard Reynolds, Brooklyn New York crack dealer. Reynolds was convicted in 1992 murder of a Waterbury police officer, Walter T. Williams. Williams stopped Reynolds in a drug riddled Waterbury neighborhood and Reynolds shot him in the head and left him in the street to die. Leaving behind two young children and a wife pregnant with their third. It's one of the people sitting right now on death row.

Talk to Representative Berger how he feels about that particular incident. I disagree with Senator McDonald. I think if we go forward with the underlying bill without the amendment, that that will absolutely jeopardize whether that individual suffers the death penalty. I'm sorry you cannot pay people 40 or 50,000 dollars a year to protect our life and liberty and put their lives on the line and not say we, as a society, will at least say if someone comes up to you and puts a gun to your temple and just shoots you in cold-blood and leaves you to die in the middle of a city street with two little kids and a pregnant wife, we are not going to step up and protect you by having the possibility of a death sentence

imposed.

We owe those men and women, at least that, because if we start going down this path the issue that was raised by Senator McKinney and then later by Senator Fasano and others is exactly true. If you go forward and you eliminate the death penalty, we have studied time and time and time again that there are not an awful lot of cases litigated in our criminal courts to the point where I do believe that Representative Lawlor has even indicated he's concerned about the prosecutorial prowess in our criminal justice system because they just don't sharpen their trial skills because we don't have a lot of cases tried.

Well, if you don't have a lot of cases tried, then our statistics have borne out that over 90 percent of our criminal cases are plea bargained. Over 90 percent of our criminal cases are plea bargained. If all of a sudden the high water mark for a cop killer is life without the possibility of release, which is what the underlying bill and the proponents of the underlying bill are espousing, then there is no death penalty on the table and a plea bargain will necessarily be something less than that, unless it is tried -- unless it is tried, and we do

not have a system where every serious case is tried. So that means we're telling are police officers that there is going to be at least some number of cases where it's not even going to result in life without the possibility of release. It'll result in something less than that. And when I go home tonight, that's not the message I want to tell the men and women that protect me back at Enfield. I have too much respect for our Police Chief Carl Sferrazza. He's too good a man. Someone's got to be here in Hartford to say, nice idea in theory, but, in practice, it's going to have terrible results.

We already have one of these really nefarious people on death row. Tough luck. Sit there with the sword of Damocles hanging over your head, wondering if today's the day Connecticut finally gets it together and you're going to go get lethal injection. And if it's ten or 20 more years, tough luck, because those little kids didn't have a choice about losing their dad and that wife didn't have a choice losing her husband and that unborn child never, never got to even meet her father -- his or her father.

There's a lot of reasons why this is a good amendment, and I strongly support it, Mr. President, thank you.

THE CHAIR:

Thank you for those relevant comments, Senator Kissel.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I rise to support this amendment because these officers, both men and women, very well stand between the public or ourselves and a bullet almost everyday.

And, Mr. President, when this vote is taken, I ask that it be taken by roll.

Thank you.

THE CHAIR:

Roll call has been ordered.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

I, too, rise in favor of this amendment.

I've stated a couple of times this evening that I am opposed to the underlying bill but if the underlying bill should pass, then this carve-out -- was a term we like to use, I guess, up here many times, would protect the lives of the people that protect our lives, and I think that's very important.

Senator Kissel mentioned Officer Williams, who from Waterbury back in 1992 was murdered in cold-blood. There's a road when I get off my exit to go to work at the business I own, they have named this strip of road in memoriam to Officer Williams, and I think about that a lot. And I do remember it very plainly in -- back in 1992, as I had pretty much just been out of high school and in college at that time, and I do remember the -- the vivid pictures in the newspaper and television reports and radio and all our families talking about it and everyone in town talking about how awful and brutal this murder was of a police officer, nonetheless.

I mean, when we were kids, we were afraid to look -- look twice at police officer, let alone pull out a gun in opposition to one. So I believe that this is a good amendment. I thank Senator Frantz for bringing it up to us today because, as I stated, if the underlying bill goes through, this would give protection to this specific group that helps us every day and protects the lives of everyone in this room and everyone in the State of Connecticut. So I urge adoption of this amendment.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Kane.

Senator Debicella.

SENATOR DEBICELLA:

Thank -- thank you, Mr. President. And, Mr. President, just briefly on the amendment in support of it, Mr. President, obviously, this is an amendment that's very dear to my heart, and I thank Senator Frantz for bringing it up. Probably, the only person closer to it would be Senator Witkos.

My dad having been a cop for 20 years, the things that Senator Kissel talked about in terms of the sacrifices that they make and their families make is all too true. Senator Kissel mentioned, you know, cops out on the night beat, and I can remember my dad leaving at midnight and coming home at 8:00 a.m. when I was going to school. And the stress that that put on him and on our entire family.

But, Mr. President, that's my personal story. The appeal that I make to the circle on this amendment is that even for those of you who believe that the death penalty should not be applied generally to murder, as I do, I implore you to see this as a special case. I implore you to see our men and women in blue much like our men and women in the military as a class of citizens who should be beyond reproach when

it comes to criminals taking their lives.

Now, personally, Mr. President, I will continue to support the death penalty for the murder of any citizen. But for those of you who voted no on the previous amendment and who might vote yes on the underlying bill, I implore you to see this as a special case, as something that we, as a society, say murdering a police officer is something that we find so unacceptable that even those of us, who are opposed to the death penalty in normal everyday murders, see as something so wrong that we will allow the death penalty for it. And so even given all the great debate we had tonight on the underlying bill, I ask you to see this as something different and to vote in favor of this amendment that Senator Frantz has brought out to help protect our men and women who are serving to protect us.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

The questions on adoption of Senate B. Is there further discussion?

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I rise in favor of

this amendment and I thank Senator Frantz for bringing this forward. I think of -- think of back being a youngster and -- and really admiring a police officer in uniform and have many friends who are law enforcement officers. And so I rise in support of them and that ideal that I had as a child.

I was looking at, you know, how prevalent is this and how important is it. FBI statistics say -- and this is on their website -- that from 1998 to 2007, 549 law enforcement officers were feloniously killed in the line of duty. I -- I -- I had no idea it was that many. And 106, of those 549, law enforcement officers were killed in towns with a population of less than 25,000 people, which tells me that it's happening in middle America. Let us send a message today, colleagues, that we're not going to put up with that in Connecticut. I urge adoption of this, and I hope that my colleagues will agree.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. In support of the amendment, and I will keep my remarks brief, although

I'm a little jealous of how chatty Senator Kissel is at this late hour. I actually want to reference a comment Senator Caligiuri made earlier today on a different bill -- earlier yesterday on a different bill -- regarding the importance of legal aid and the necessity to have a fair and democratic system of justice. We needed to support legal aid so all people who go before our courts can have fair representation.

Well, we are a society of -- built upon the rule of law. And it are -- it is that police officer and the men and women of all of our local and state police departments who enforce and protect that rule of law without whom I dare say we would not live in the great country and the state that we do live in. So I think that as I talked earlier on the bill about the debate over the deterrent effect of the death penalty, I think one can say that the murder of a police officer is the case best made to show the deterrence of the death penalty.

Police officers who are murdered in the line of duty aren't necessarily and probably aren't the crime of passion of murder, perhaps that might be characterized as Robert Bretton killing his ex-wife and son. They are usually criminals engaged in some underlying criminal conduct confronted with a police

officer. If they bring a gun or another weapon that can kill with them in the criminal enterprise, whether it's a home invasion or a bank robbery or something else or a drug deal, they go into that criminal activity knowing that they have a weapon that can kill someone probably with the intent to use it so that they can fulfill their mission. They go into it knowing that they may be confronted by a police officer, and so I think that that police officer, that person who is there to protect us, to protect our democratic society and our rule of law is someone who needs the highest level of protection.

And that person who commits a crime with a deadly weapon with some expectation that they might have a confrontation with a person or a police officer is someone who's probably going to know about whether not we have the death penalty, and is going to know that should this amendment pass -- and it appears that the underlying bill will pass -- that they better think twice before they pull that trigger.

And I think we, as a society, have to do that. We have to protect that police officer because protecting the police officer protects all of us, protects our way of life, protects our democratic society that we live in. And I -- and I -- I don't

think it's an overstatement to say that. I mean, I think we can all imagine what would it be like if we didn't have a police force. And, I guess, we'd live under military rule perhaps, I don't -- I don't know. And so I think when you look at the cases, and Senator Kessel referenced one member of Connecticut's death row who's there for killing a police officer, and in some of the other cases I've looked at not from Connecticut. And it always appears that it's someone in the midst of a criminal act who brings a deadly weapon, who has to have some expectation of a confrontation. That's why they have the deadly weapon. And there has to be some expectation that there's going to be a confrontation with a police officer. And given that, I think the -- the only way that perhaps we can protect that police officer from that person pulling the trigger is if that person's aware that they may face a long time on death row and, ultimately, the death penalty. That's why I think this is unique among all the death-eligible crimes that we have on our current statutes, and why I think it could be the one unique exception to the underlying bill which repeals the death penalty. And that's why I would urge adoption, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. I apologize to Senator McKinney. I was out of the chamber and unable to speak, and I wanted to speak on this bill.

Mr. President, I think it wasn't long ago when 9/11 happened. Many of us, if not all of us in this circle, for those of us who were elected certainly went and participated in the various ceremonies in our towns. And we hailed those folks who during 9/11, the -- the police officers and the firemen who risked their lives at that tragic date to help others, who ran into a building that was crumbling in order to get people out of the building and died when the building collapsed. And, at that time, all of us felt so strongly about these men in uniform and felt so strongly about how they sacrificed their lives for us and put their lives in jeopardy day to day.

It is those types of issues that we have to remember when we have this bill in front of us. We read about the tragic situations where police officers are called to a domestic incident or some event and they're killed. We need to say, once again, that we have a rule that says we're going to protect these

people from these types of -- of crimes.

Remember that a while ago, I don't remember the year, but it was an early '90s when they had that big shoot out in Los Angeles. Some of you may recall there were two bank robbers who went into a bank. They had dressed in dark clothing. They had bulletproof vests. They had bulletproof materials right down to their feet. I think the only expose portion actually was their head. And what they did was they went to a brazen attack, and they had more weapons than our army. And they fired upon these policemen who hid behind the cars and with little 9 mm guns were trying to take on those with semiautomatic weapons. Even when those police officers were injured, their objective was to make sure that these guys did not get loose in the neighborhood and to do everything they can, and that they could do to stop these guys from strolling about the neighborhood with these guns.

Officers were severely injured. I think some of them may have passed, but they still returned as much fire as they could to these criminals. In fact, I think I recall that they broke into an ammunition shop to get some guns, right? To try to have enough ammunitions to match the bank robbers.

That's what we depend upon. That's what we depend upon every day. We depend upon these folks to do these types of heroic events. So when you see a bill like this in front of you that says we should protect them and give an extra shield of protection by law. It makes sense. It makes sense. It's what we can do in this circle tonight. We should protect the policeman. We should be there. We're not going to be dressed in uniform standing behind them as they go into these dangerous situations and conflicts. We just can't do that, but what we can do is provide a law that gives them the comfort to know that we appreciate what they do and if someone assaults them they're going to pay a significant price.

You know, Mr. President, when we talk about police officers, I know that some of us have different experience than others, but when we're in trouble that's the first person we call. That's the first person we tell our kids to call. Dial 11 -- 911 and get help. And we know do that and nothing's more comforting knowing that the police officers on the way. Well, if we give them that responsibility and we give them the security and comfort to deliver back to us, we need to treat them differently. We need to say, in our society, in our rules, right here in

Connecticut that we're going to give them these police officers that comfort, that protection, that recognition, that they are the people that we deem special in our society to keep law and order, to keep law and order.

Ladies and gentlemen, once again, I know this is a difficult issue but look at what we're trying to do. We're trying to protect those who protect us. We're trying to shield those who shield us. We're trying to respect those who respect our right to do in our society, be free and not be intimidated. These are the things that we're trying to do. This law goes a long way to achieving that end. And if that bill passes, at least we've carved out an exception to show the state and the police officers how we feel.

Those of us around the circle go to many events. We go to a lot of police officers events. And we talk about you guys are great. You're doing a great job. You're keeping us safe. You're out there doing what you're supposed to be doing. We appreciate. We give out awards. We give out certificates. That's nice, ceremonial but nice. Here we can give the biggest award that this legislature could ever give on this bill. That is showing the real thanks. That's just not a piece of paper with a congratulations and a

toast. That is something to show we really appreciate the hard work that you do.

Mr. President, when we talk about this bill and we talk about police officers, we have to remember if we don't approve this amendment and we reject this amendment, we are sending out the wrong message. We are sending out that, as a policy, we had the ability to make a difference. It's in our hands and we rejected it. We rejected it. That's the only message that could leave this chamber if you vote no. You reject the very simple notion that we need to protect those who protect us. We have lowered our standards. I would even suggest. I would even suggest we've shown disrespect to those who risk their lives. It's common sense. It's common sense. Therefore, Mr. President, I urge adoption of this amendment.

Thank you, Mr. President.

[THE PRESIDENT IS IN THE CHAIR]

THE CHAIR:

Thank you, sir. Will you remark further on Amendment B?

Senator Daily.

SENATOR DAILY:

Thank you very much, Mr. President. My father was a jail guard. Obviously, somebody that nobody

thought was important enough to be considered in this amendment, but he was taken hostage in the escape of Specks O'Keefe an underworld killer. He was released to his wife and six small children. And my Aunt Bridgely said, pray for that man. He has so much on his conscience. My sister Tisha was a DEA agent who was shot at and hit by a truck in a bust. My same aunt said, Pray for that young man; he has blood on his hands. In my family, the people that got into law enforcement to help others were not about to go in the business of killing people. And I'm not about to either. I urge rejection of this amendment.

THE CHAIR:

Thank you, ma'am.

Will you remark further on Senate B? If not, Mr. Clerk, please call -- I think it's roll call, right? Please call for a roll call vote. The machine will be opened.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Have all members voted? If all members have voted, please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

The Motion's on adoption of Senate Amendment Schedule B

Total Number Voting	35
Those voting Yea	15
Those voting Nay	20
Those absent and not voting	1

THE CHAIR:

The amendment fails.

Will you remark further on the bill?

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

The Clerk has an amendment LCO 7788. I'd ask that it be called and allow me to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7788, which will be designated Senate Amendment Schedule C. It is offered by Senator McKinney of the 28th District.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I move adoption.

THE CHAIR:

The motion is on adoption. Will you remark further, sir?

SENATOR MCLACHLAN:

Thank you, Mr. President.

This debate has gone on for many hours now, and we are seeking to find recognition of an important population of our state who deserves and should be protected. I am sorry to see that previous amendments to do so have failed. And this amendment, Mr. President, calls for a person convicted of a murder of any member of the Armed Forces shall be subject to imprisonment without the possibility of release unless a sentence of death is imposed.

And I call on this circle to consider this coming up on Memorial Day weekend a time in which this country takes pause to think of all who have served our country bravely, gracefully, and deserve the respect of the Connecticut General Assembly, and deserve the respect of this state and the residents of this state in the event of a capital felony committed against them.

It is about a year ago, this week, that a United States Marine Lance Corporal Robert Crutchfield was buried with honors outside Cleveland, Ohio, at the Western Reserve National Cemetery. Lance Corporal Crutchfield served his country with distinction and bravely for 15 months in Iraq. He was home in Cleveland, Ohio, waiting for a bus to work, and two thugs murdered him.

I don't have all the results of that case, but this is a case that I'm talking about. We should and must find the will if we're going to kick the death penalty to the curb tonight because that's what this circle appears ready to do. Let us, please, my colleagues, let us, please, protect those in our military and assure that if they are the subject of such a violent act that, in fact, their murderer will be subject to the death penalty.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark?

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I rise in opposition to the

amendment for the reasons that I've talked about at length this evening. And, in addition to those comments, I am not positive, but I am fairly certain that any member of the military forces who would be murdered in the course of their duties, any such defendant would also be liable for a federal crime, and, perhaps, even the federal death penalty if that is of any moment to any members of the circle.

But, for the reasons I have previously articulated, I oppose the amendment and ask that when the vote be taken, it be taken by roll call.

THE CHAIR:

Thank you, sir. Roll call will be ordered.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Great to see you there at about eight minutes passed two o'clock in the morning.

THE CHAIR:

Good morning, sir.

SENATOR KISSEL:

Good morning. I stand in strong support of this amendment. And I think it's very apropos that Senator McDonald has pointed out that it's -- and it's my belief too that anyone who murdered one of our active

duty person -- military personnel would probably face capital punishment in our federal court system. Quite often we pride ourselves here in the State of Connecticut for -- looking to our own constitution and our own laws to be more protective of our citizenry than even allowed by the federal government. And, yet, if we don't move forward with this amendment, I believe, at least it would be my read, that we would be in position where the federal government would be more protective of our military personnel than we here in the State of Connecticut, and that seems backwards to me.

As I had indicated earlier, this afternoon when I began speaking about the underlying bill, I had notified or spoken to the circle, to my colleagues here, about how I started my day. And now my day being yesterday, Thursday, and it started at 9:00 a.m. in the great town of Windsor Locks. One of the towns that I represent that had Military Appreciation Day. And today if I --it's looking less and less like I'll be able to go to the Somersville Grammar School in Somers for a Memorial Day service, but certainly all of us have parades and other tributes that we will be going to this Memorial Day weekend. And that is all well and good and exactly correct for us all to do.

But, when I was there this morning in Windsor Locks, we actually had a flyover and a landing of the Blackhawk helicopter. The Air National Guards landed that, and the person that was in charge from where they were stationed -- I believe over at Bradley, indicated to all of us that a young man who graduated from Windsor Locks High School just two years ago was flying that helicopter and that the two others in there were seniors that we're doing a -- a service with the Air Corp, as well. They must be just 18 years old. And the pilot must only be about 20 years old. These are our young precious ones who when they graduated high school or college are in the bloom of their youth, said I am going to go into the military to protect all of us.

Other speakers this morning reminded me that things don't always go as you want in the military. An individual that we honored at that ceremony had enlisted many, many years ago, decades ago, right after he got out of high school. And when he signed up for the military they said this is your commitment to the Navy. And right before he was going to be deployed --and he's signed up, he wanted active service. Apparently, he was in an automobile accident that sent him through a windshield what he told us

all, that laid him up for many, many, many, many months. And then his total recovery took months after that. The short and the long of it was, as according to him, that by the time he was called to service in the Navy, which he had signed for. He had a wife, children and a career in education. And the Navy's response was, if we had wanted you to have a wife and a child, we would have put it in your sea bag. You're coming with us. Everything was put on hold because he had made the commitment to Uncle Sam, to all of us.

This is what they do. It's not a glamorous John Wayne movie or something like that. You are signing your life to serve, to protect our nation.

I was lucky enough a few years ago to go to Cape Cod and -- with a bunch by friends and went blue fishing and standing there on the dock waiting for his turn was a young man who had one arm --

THE CHAIR:

Senator Meyer for what purpose do you rise, sir?

SENATOR MEYER:

I rise for a point of order, Mr. President.

THE CHAIR:

What is your point of order, sir?

SENATOR MEYER:

My point of order is that Senator Kissel is now

talking about blue fishing and his family. It has nothing to do with the amendment that's before the House.

THE CHAIR:

The Senate will stand at ease.

[SENATE AT EASE]

THE CHAIR:

The Senate will come back to order. You know, this has been a long day. I've given a lot of leeway today on a lot of different bills and where people have gone with them. I would just say, at this point, that if Senator Kissel and everyone else who talks about any other business that we do today can be a little bit more specific on what's going. I think that would be the best way to handle this at this point.

SENATOR KISSEL:

Sure.

THE CHAIR:

Thank you.

Yes, sir, Senator Meyer.

SENATOR MEYER:

Are you rejecting my point of order? I'm not sure I understood you.

THE CHAIR:

What -- what I said, Senator Meyer, was that throughout today's debate and not only on specifically on this bill, there's been individuals that have talked about different things, not specifically -- I'm not sure where Senator Kissel is going with his --

SENATOR MEYER:

He's talking about blue -- blue fishing and his family, and I'm asking for a ruling that he's out of order.

SENATOR KISSEL:

Okay. May I add one sentence to get us to where we're going?

SENATOR MEYER:

Mr. President, can I get a ruling please, up or down?

THE CHAIR:

I do not believe that Senator Kissel is out of order because I have not heard the last of his thing. So we can debate that if you'd like.

SENATOR KISSEL:

Thank you very much, Mr. President. And there on the dock was a young man in his early 20s with one arm. And we followed through with the conversation, and he had just recently returned from Iraq.

And so the reason I wanted to talk about this was

here I was enjoying something that I almost took for granted. And there staring me in the face was a young man who had just recently lost his arm serving in the military in Iraq. The reason I support this amendment is if somebody went up to that young man and took his life after he went out there and protected ours and lost a limb in the process, I would want that person to face the potentiality that they could have the death penalty visited upon them.

The reason I wanted to point out that incident was I wanted to juxtapose what we all know and what we're all going to go through in the next few days, the Memorial Day parades, the bands, the tributes, the flags, the Pledge of Allegiance, the flyovers. But it's a different world and a different story when you bump into someone and you strike up a conversation and you find that they have been maimed recently defending our nation. And that's the other side of the coin. That's the other side of the argument.

We have a history in our state of carving our specific categories of individuals for different treatment under our criminal justice statutes. If you assault someone over the age of 65, if you assault someone with a disability, if you assault someone because of their sexual proclivity, you can have

enhanced penalties visited upon you in our criminal justice statutes.

President Barrack Obama campaigned that he was going to shut down these wars or least revisit them. But, as time has marched on in this new presidency, we find that we're still fighting in Iraq, and still fighting in Afghanistan, and we're sending our treasure, not always young but our men and women to go fight abroad. And it's not just those theaters of war. We have thousands of troops stationed in every corner of the globe. They have put their lives on hold. Some of them are going to come back in a coffin. But for those that come back on the -- breathing, who come back to our state. We can deem more -- we can do more for those men and women than just say thank you. We can pass this amendment and say, guess what, we value your service so much that if anybody here in the State of Connecticut goes out there and feloniously takes your life, they risk losing theirs as well. That can be our Memorial Day tribute to those men and women. For those reasons, Mr. President, I strongly support the amendment.

Thank you, sir.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate C.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I, too, rise in favor of the amendment and do believe that this is an appropriate amendment at this hour of this day, considering that in a few hours most of us will be, hopefully, headed toward our Memorial Day weekend.

I represent ten towns in the 32nd district, and I believe if I go into my Outlook and check my schedule I have parades in five of them so I'll be extremely busy this weekend. But I enjoy each and every one of them because what we do is we honor the men and women who have served our country so valiantly over the years. And each time we walk in a parade and we see the Stars and Stripes, we think about the kind of sacrifice that the men and women who have given their lives, the ultimate sacrifice, to our country. And beyond that you can talk about people that Senator Kessel just mentioned who have come back with wounds that are -- are great and even still cannot live full lives after that because of the amount of service they've given to our country in Afghanistan and Iraq and other places around the globe.

I think this amendment speaks to that. I think

this amendment says that if these people who serve our country, both men and women, all kinds of backgrounds throughout the United States, serve our country and are willing to put their -- their lives on line, then we should have a law to protect them. These are special people that do this for our country. We should have a special law for them.

A lot of times we -- all of us I think -- have attended services that are Secretary of State has put on honoring our veterans. I know I just in one recently with the Secretary of State in Woodbury. And you should see the joy on the faces of the men and women who come and get their medals for the time and service they've given to our country. More importantly, their stories, when they're asked to get up and share their stories and their experiences. That alone makes me decide that I should vote for this amendment, Mr. President. And I believe that this is a good amendment and we should support it throughout the chamber.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

Mr. President, I'd like to join Senators McLach -- excuse me -- McLachlan, Kissel and Kane in supporting this amendment. Mr. President, Senator McDonald mentioned the fact that this may be prosecutable under federal law as it exists. But, Mr. President, I also think it's relevant to look at the standard our military men and women hold for themselves because as we talk about whether we believe the death penalty is just in the event of killing someone in military so it is that members of the military hold themselves to the same high standards.

Mr. President, the military code of conduct actually authorizes the death penalty for a number of our Armed Forces who murders someone. And that is outside of our normal federal court system that is before a military tribunal. And 135 people in our military have been executed for murder since 1916. None of whom are currently on death row. And so, Mr. President, as we think about the very true arguments that my colleagues laid out that as we approach Memorial Day, we think about the killing of a service member and thinking about the impact that that has on our society, and how we have to have a proportionate

penalty for killing someone who is serving our country in the Armed Forces.

Let's look at the standard that our military men and women hold for themselves. I am sure every single member of this circle would say that our military men and women are honorable and that their code of honor is one that we are proud of. But part of that is they recognize, for their own ranks, the death penalty is appropriate should their members commit heinous murder. The least we can do, as a state, is to return that, to say that if someone kills a member of our Armed Forces in cold blood that the penalty for them should be death, or we should have the option of death.

The other thing that was talked about before on the death penalty, Mr. President, which I believe both Senator McKinney and Senator McDonald addressed was the similarities or differences between the death penalty and life without the possibility of parole. And, again, looking at our military and how our military thinks about this. They actually have a very similar system to what we have in Connecticut right now, where there is an option of death and the death penalty or life without parole. And there is that flexibility to the military tribunal who is

investigating and sentencing for that crime.

And Mr. President, you know, as we are thinking of about this, again, very similar to the last amendment, I implore members of the circle who might otherwise think that we don't want a broad death penalty that would apply to all cases, to think about the words that we say, and whether they have true meaning because every member of this circle does say that we hold our military in a special regard. And I believe all of us do. Let's put that into this statute so that even those of you who believe that the death penalty should be not used for all murder cases, that we recognize that the men and women of our military hold that special place in our hearts that if someone attacks them, not on the battlefield, but in cold-blooded murder, that we, as a society, say that deserves the ultimate penalty.

Mr. President, together with the last amendment, I believe these are in the two most important exceptions for someone who does not believe in a broad-based death penalty. And I would hope that the members of the circle who are going to support the underlying bill will think about whether our men and women of the military do deserve this special consideration. I fully do, Mr. President. I support

this amendment and I encourage its adoption.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate C?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

Mr. President, I actually was not intending on speaking on this amendment until I heard the remarks of Senator Debicella, and maybe it's because it's 2:30 in the morning but I -- I had forgotten or was unaware that the military has as its own rules the option of the death penalty. The reason why I reemphasized that is because there -- earlier, Mr. President, Senator McDonald, Senator Williams spoke actually quite eloquently for their positions and talked about consistency of application and the consistency in the fairness and the even-handed application or our laws. And that, in their opinion, the death penalty has not been applied evenly.

A reference was made to the fact that if you were to murder or commit a capital murder or a felony murder in the Waterbury judicial district, you may be more likely to be charged with a capital felony, the death penalty, than if you were to commit that murder

in another area of the State of Connecticut. And that we should repeal the death penalty so it can be applied evenhandedly.

And when I thought about that argument, I said well, -- well, now wait a minute, because if you repeal the death penalty how does that eliminate the inconsistent application of the law? Because, apparently, the prosecutor in the Waterbury judicial district has prosecuted more death penalty cases. Well, one would then have to assume -- and the death penalty being the harshest penalty we have -- one would have to then assume once you eliminate the death penalty, the harshest penalty we have then becomes life with out possibility of release. One would have to assume we're going to continue to have that inconsistent application of the law.

If you were to commit a cap -- a murder a life without possibility of release murder in the Waterbury judicial district, you'll be more likely to be charged with that crime than if you were in another judicial district. So I started thinking that the argument sounds hollow, getting rid of the death penalty doesn't get rid of inconsistent application.

But this amendment cures, at least, one inconsistency. Imagine if a member of our armed

services, Navy, Air Force, Marines, is killed by another member of our armed services, they may be subjected to the death penalty. But if that same individual were murdered by someone who's not a member of the military that person would not be. If you want consistent application of our laws then I think you have to support this amendment. Why should it be that if some criminal who's robbing a bank or doing something engaged in criminal conduct were to murder a member of the military, should that person not be subjected to the death penalty? Where if it were someone who was a member of the military would be. That is completely inconsistent. And I actually think what you would then see is someone would bring another constitutional challenge under some equal protection grounds and try to overturn the military law in that respect.

Perhaps, I don't really understand the military law but, at 2:30 in the morning, I don't understand just about anything we're talking about right now.

If we're going to be talking about consistency in application of the death penalty, as numerous people talked about, however, Mr. President, then I think we ought to note that it is a huge inconsistency that Senator Debicella pointed out with the treatment of

the murdering of a member of our military. And whether you're, you know, my father served in the Air Force for a number of years. I'm sure there are many here who had family members, friends, who served in the military. We all respect them.

Just the other day, Senator Maynard got up for a point of personal privilege to honor those who were leaving from Connecticut to go to places far away where their lives will be and probably are now in danger. And he was right so to do. We all honor and respect them, but this is a way to have application of the death penalty applied consistently to anyone who murders a member of the military, and to say, as a matter of public policy, that we hold military personnel to a higher level of respect -- to the highest level of respect that the deserve. And I would urge adoption.

THE CHAIR:

Thank you, sir.

Will you remark on Senate C?

Senator Meyer.

SENATOR MEYER:

Thank you, Mr. President. Just a brief response to Senator McKinney. We are not looking here for consistency. Federal law -- the federal law of court

martial does permit capital punishment. What we're doing tonight, before us, is trying to abolish capital punishment for the State of Connecticut. We're not seeking to have consistency between the federal court martial law, on the one hand, and -- and criminal law of the State of Connecticut. We have committed ourselves tonight to try to abolish the death penalty and put in its place life imprisonment without possibility of release. And I just think that clarification needs to be made.

Thank you, Mr. President.

THE CHAIR:

Will you remark further on the Senate C?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, I rise in support of the underlying amendment, Mr. President. Mr. President, when we talk about military, once again, as Senator Debicella said, there's certain -- the two most important amendments, at least in my mind and apparently that of Senator Debicella, was the last amendment for police officers and this amendment for the military.

Mr. President, once again, it seems to me that

this circle -- many of us in this circle -- partake in events that honor the military. We go out of our way -- in fact, today I think is the 50th anniversary of the Soldiers, Sailors and Marine Fund, an organization that -- actually, I think it's the 90th -- I should say the 90th anniversary of Soldiers, Sailors and Marine, which is amazing that it lasted that long, and we still let them keep their money. We threaten to take it, but we let them keep their money. And they do a great job. They help out many, many of our military folks.

But today down in the Secretary State's office we celebrated that event with a plaque and some speeches from members of the both side of the aisle, from the Senate and from the House. And we talked about how that organization was important because it is a fundamental foundation for those military folks who run into trouble. And the purpose of that foundation, and the reason why we don't touch that money is it is money that's used for the military for those folks who went and fought for us and gave part of their lives so that we could enjoy ours. And we recognize that both by honoring them every time there's an event but also by having this special fund. And we gave out certificates today. There were no shortage of words

to describe how much we appreciate those who have served and are currently serving.

Once again that's pretty easy. That's pretty easy for us to grab a microphone or stand in front of a group of veterans on Veterans Day, Memorial Day or a special occasion when you're with your VFW or Legion group and tell them how wonderful they are, how great they are, how we appreciate their sacrifices. And we talk about the ultimate sacrifices. We talk about all that. We talk about how we're proud of them and how our families have benefited from their sacrifice. And, today, we have a bill in which we can truly express more than words. We can pass a law that truly expresses our appreciation for what they've done. And with a mere yes vote, we could make it happen. It's unique. It's unique. It's different. It's the ability to represent this group by voting for something to protect them. Rather than standing up in front of a group with flowery language, a thank you, a handshake and we would go off to our next event.

We can do something substantive right here, right now. I can't think of a better way to show our appreciation to the military than doing this law. Simple. I don't know if it's going to pass. I hope it does. I hope it doesn't meet the same demise as

the last few, but this is an important one because it seems to me you can't say in one side how much we appreciate you with the words, and on the other side when it comes to acts we fall short. That doesn't seem to make a lot of sense to me, Mr. President.

Mr. President, my group of military folks left the other day for Afghanistan, I believe or Iraq, -- maybe it was Iraq -- to help with the police enforcement. Some of us were able to get there and say goodbye and wish them good luck. I think if they had their say right here, at this time, I think they would want us to vote in favor of this. I think they'd want that support that recognition for what they do and the service that they give to us and our country.

If you look at the history of the death penalty, there is some history that involved in the United States early on when we had crisis, we used the death penalty to help us out. When we talk about the military, that's where we need help. That's where we need recognition. And that's simply what this bill does. It gives that recognition. It gives that help.

There are a number of different organizations and services that do this, the police for one, we didn't pass that. There's an amendment on the calendar for

fire. But this is what you should be doing, as a legislature, to recognize and put them in a higher status, put a shield around them to protect them. This should be our obligation.

Mr. President, I urged that this amendment be adopted. I urge that the circle look at it as a way of saying congratulations to our military and thanking them for a job well done.

Thank you, Mr. President.

THE CHAIR:

Will you remark further on Senate C?

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President.

First, I do rise in favor of the amendment. First, I'd like to ask for a roll call when we get around to voting for this amendment -- on this amendment. Thank you.

In about a month and a few -- few days, there's a 17-year old celebration occurring in the Town of Greenwich, Connecticut. And I will make the formal invitation to anybody who is still awake to come on down and help us celebrate the men and women in uniform and the veterans of this great country for their sacrifices and their willingness to put

themselves in harm's way just as we were talking about in the previous purposed amendment with police officers at all levels. We celebrate on an annual basis at -- at this event called the Veterans Appreciation Council started by a Jim Carrier back in 1991 when the two us were sitting down on Memorial Day wondering why we don't do anything in recognition for the vets of our area as well as those serving currently in the military.

We both realized, at the time, that this is an underrecognized group of people, people who have been abroad, people who have sacrificed a great deal to train to go into the military, people who have sacrificed so much of their time to actually be shipped abroad after their training to go fly airplanes, to go -- to go protect other civilians in other countries on the ground or under the water or on top of the water. This is an amazing event. And over the last 17 years of this event being -- going from a small event to a very, very large event, 5 to 6 or 7,000 people, you come across a lot of different members of the -- of the military services and you learn about their stories. Most of them are incredibly humble about what they've had happened to them but they're very, very enthusiastic about this

country.

Patriotic is an understatement. Based on what they've done, you really have to take your hat off to them. And over the last 17 years the stories that I've heard are absolutely incredible. You hear about someone -- someone's nightmare story in Afghanistan or possibly in Iraq. And their leg is blown off and I'm the -- it's very apparent that they have this -- this handicap, but you don't want to ask about how it happened. Then you hear about how it happened, an IED explosive on the side of the road, blew up and the Humvee just couldn't handle the explosive forces of that bomb, and it ripped off that particular person's leg. They go to the medical -- the military medical hospitals, and they get medical attention there. And through prosthetics they get a new leg put on. They come back and within a few weeks or maybe a month or so of recovery, they're out and they're competing in triathlons. And then you hear about them requesting to be put back onto the front lines. Most of them are not allowed to go back, but they put in that request and some are allowed to serve in other capacities in the military.

These are people who are really devoted to everybody's freedom, not just around this circle but

throughout this entire country and arguably throughout the rest of the world. It's a very, very special group of people. This amendment recognizes that, and I think it's another good amendment and I urge its passage. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate C? If not, Mr. Clerk, please call for a roll call vote. The machine will be opened.

THE CLERK:

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 members voted? If all members have voted, please check the board. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion's on adoption of Senate Amendment Schedule C

Total Number Voting	36
Those voting Yea	15

Those voting Nay 21

Those absent and not voting 0

THE CHAIR:

The amendment fails.

Will you remark further on the bill before us?

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Mr. President, if we could, could the Cler -- Clerk please LCO Number 7795 please.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7795, which will be designated Senate Amendment Schedule D. It is offered by Senator Kissel of the 7th District.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. I move adoption of the amendment and ask leave to summarize.

THE CHAIR:

The motion on adoption, sir, would you like to discuss it further?

SENATOR KISSEL:

Yes, please.

THE CHAIR:

Please proceed.

SENATOR KISSEL:

Ladies and gentlemen, this amendment is near and dear to my heart and is extraordinarily important. And many of us in the several hours leading up to the moment that we have right now have discussed it somewhat tangentially, but I've got to tell you that this amendment addresses, including correctional officers and other prison personnel as an exception to what so many of you wish to do which is eliminate our death penalty. And let me tell you why this is critically important, absolutely, fundamentally, critically important.

First of all, corrections officers and prison personnel are found in two areas of our current state statutes. As I had indicated earlier in my opening remarks Thursday afternoon. They are noted both in the provisions of Section 1 in 53a-54b as one of the initial areas that would be encompassed as a capital felony, in other words, the murder of a correctional officer or correctional employee. But correctional officers are also noted in Connecticut General Statue 53a-46a, sub I or J, as one of the aggravating

factors.

In other words, under our current construct for the death penalty, we recognize law enforcement personnel, public safety personnel but, specifically regarding this amendment, corrections officers and correction personnel both as a protected class worthy of having the charges of capital felony brought. And, also, if an individual murders a corrections officer that that would be an aggravating factor in that weighing of mitigating and aggravating factors.

Now why is this important to us here in the State of Connecticut and, in particular, this Senator? Well, as I'm sure I've told you all many, many times, I happen to have more correctional facilities in my district than anybody else. I have six correctional facilities scattered over three towns. They house over 8,000 inmates right now. When I drive home whether it's tonight, tomorrow morning, later on, 8,000 inmates, waiting for us up there in the towns of Suffield, Enfield and Somers.

We have Northern, the super max facility. And, as I had indicated, death row is there. Whether the ultimate underlying bill passes or not, it will be up to whether Governor Rell signs that bill, but death row doesn't vanish into thin air. Those ten people

sitting on death row are there in their rooms. Also Northern is the home for folks that have administrative segregation because of their violent tendencies in other areas of the correctional facilities all over the State of Connecticut. And Northern also is utilized for gangs. All you have to do is watch that show on the History Channel about gangs. Gangs are scary, scary and quite often they just go to war with one another. That's just Northern.

We were talking about maximum security prisons where someone -- Senator Prague had inquired earlier on this evening, as to where do convicted murderers go. Even if they're given life without the possibility of parole, they will go to a maximum security facility, such as McDougal-Walker in the town of Suffield. It's a double-cell facility -- I mean double-bunk facilities so that you have the roommate. You don't spend 23 and a half hours in those cells. You don't walk around on your own volition either. But there's limited programming, and there's commune -- communal dining and that's a maximum security facility. Hundreds of inmates in there, many of which, very violent, and there are definitely some murderers in there. In fact, it wasn't too long ago

that one inmate thought another inmate was involved in the death of a relative, and in the blink of an eye that inmate jumped the other inmate, knocked him to the floor in the cafeteria area and stomped on his head and killed him.

In Northern, not too many months ago, as it was described even though it's a super max facility, they do have a community recreation areas. And two inmates were in an altercation there, where one of them strongly assaulted a rival gang member and then that inmate was charged.

We also have had an incident still under investigation as to how -- and please recall this because it was in all the newspapers, it was on the radio and television just a few months ago but it's still under investigation by the Department of Corrections, where two inmates on death row somehow bumped into one another in a hallway and had an altercation, two convicted death row inmates.

It's not what you think. You have to go visit the facilities. You have to see it with your own two eyes. You have to talk to the union members and the administration and learn as much as you can. As much as we strive to have the best facilities, safest facilities, and, to my mind, our correction officers

and personnel are the best in the country, and other states send people to Connecticut to look at how we operate things. Think about it, six facilities, 8,000 inmates, 8,000, and even the ones that aren't necessarily found guilty of violent crimes, they're housed in dormitory-style facilities, and I've walked through those. And you have 80 or 90 inmates and two or three guards, three, if you're lucky, usually two. Stick a razor blade in a bar of soap and throw it across the circle see how it feels if it hits somebody. That has happened in these facilities.

The whole talk about Mike Minny when he's the former president of Local 391 opening up his suitcase of shanks and shives and everything else that that was found in a locked down. That's absolutely true. We had a study group. Representative Jarmoc, Tallarita, Senator Guglielmo, myself, Representative Bacchiochi, representatives of the corrections officers unions, representative of the corrections administration, indeed Senator Stillman, was on it as well. And we learned an awful lot, and there's still more to learn. But one thing was clear, assaults go up, assaults come down. Population goes up and population goes down. But there's no lack of assaults either inmate on inmate or inmate on correction officer. It happens.

There's no guarantee to stop it.

Now it is extremely important that there is something that can be imposed on an inmate if that inmate is already serving life without the possibility of parole, life without the possibility of release. Because if an individual is in those correctional facilities doing life without the possibility of release and they go up and they get it in their head they want to kill a CO, what is the the ultimate punishment that can be visited on that individual? Yeah, they might have a little bit of freedom. It gets pull back a little bit more, but, to my mind, that will not answer for that crime.

We talked about the thin blue line, and the thin blue line is that line of police officers and troopers and law enforcement personnel outside the prison walls where you don't really know who you're running up against. You don't know how dangerous it is out there. I am happy to fight for my corrections officers. That's my job. They support me and I support them. If the possibility of a death sentence is hanging out there so that these terrible individuals who are serving very heavy duty sentences know that if they assault and kill a corrections officer, they are more likely than not to be

immediately brought up on charges of capital felony and they will more likely than not be found guilty. That acts as a deterrent, and it also tells our COs that we care about them.

People are critical at times of state employees. The corrections officers, by and large, do not make huge amounts of money. Sometimes the system is criticized for the amount of overtime, but quite often that's because individuals are drafted to work double shifts or triple shifts, because it's a 24/7/365 operation. We're all going to go home over the weekend, celebrate with our families, honor our wonderful military heroes, but the prisons are still going to be going. There are guards, COs, on duty right now in each of those six facilities and every other facility here in the State of Connecticut. You can't stop. You can't stop. You got do the job.

And the thing about a prison is this, when you encounter possible criminal suspects out in the outside world, they still haven't been found guilty of anything. When you're inside the barbed wire and inside the fencing, and inside the walls, every one of those individuals has been found guilty. There's no question. And in the maximum security facilities or the super max there is absolutely no question as to

violent propensity of these individuals.

We talked about the individuals on death row and the horrible crimes that they have committed. Just over the weekend, read through your newspapers, whether you're down in Gilford, whether you are down in Greenwich, whether you're up in Somers -- my neck of the woods -- wherever you are, you're going to find at least one story of some violent crime. It's just so unfortunate. But it's there and it doesn't go way because the next day's paper doesn't report about it anymore. Those individuals have now then been arrested. They have to go through the criminal court system, and, eventually, should they be found guilty, they're going to be doing some time.

I want to be able to go and drive up north back to my district and tell my correctional officers and the librarians that work in the system, and the teachers that work in the system, and the nurses that work in the system, and the doctors that work in the system that we felt their lives were worth enough to carve out a section of the capital felony statutes that would protect them if they were killed in the line of duty in our correctional facilities. They're going to feel better about their jobs. They're going to know that we appreciate the job that they do and

their husbands and their wives and their little boys and their little girls are going to feel a little bit better about it too.

It is one of the most dangerous jobs in the State of Connecticut. We can drive ourselves crazy in this room. Sometimes it gets really packed in our caucus rooms, but, imagine for a moment, that rather than haggling with each other over which bill is going to go through and which bills need to be amended and how late we're going to be here in the chamber, if our colleagues may be drug dealers, gang members, murderers, rapists, individuals that just did a home invasion, I think it would be a little different. Imagine every day you came to work that's who you're working with. And -- and as someone, when I was first elected said I'm going to do away with the weightlifting, get rid of the televisions. I want to honor my correction officers and all of those things were shot down because the way the system is set up is those things are in there to diffuse the tension. And, on balance, the professionals have determined that they don't even want billy clubs in those facilities for the COs for fear that some inmate will just jump a guard, steal that billy club and then use it as a weapon.

It has been stated earlier, I believe by Senator Guglielmo, he asked Mike Minney, the local 391 president man -- a few years ago, is it fair to characterize that within the prison walls the only folks unarmed are the COs and Mike Minney said, yes we've gone a long way since then. We have lock downs. They will randomly search cells and inmates to make sure they don't have arms. But we just went through a huge meeting between the administration, some of my colleagues in the House and myself that inmates in Northern, the super maximum facility, were taking lockers -- huge, giant, heavy lockers -- and over the course of weeks and months gently pushing the metal, pushing the metal, until they were able to break off huge chunks of super heavy duty metal and then they would rub them, rub them, rub them to get them into knives. These things weren't anything that you could bend with your own hands. It's amazing what they were able to do.

And in talking to Deputy Commissioner Murphy and Commissioner Lantz and others they said, we're studying it. We're going to go out to bid. We've got to replace the lockers. It's happening all the time. So, please, for our correctional officers, I implore you it's the right thing to do. We need to keep

safety and security within the facilities. And I got to be honest, all the people in the towns that I represent that live outside those walls, they depend on those facilities being safe and secure as well.

Mr. President, I strongly urge my colleagues to support this amendment, and I certainly do indeed support this amendment as well.

THE CHAIR:

Thank you, sir.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I first want to thank Senator Kissel because I -- I've had the pleasure of working with him on the Judiciary Committee now for seven years, and I have always known him to be thorough and dedicated, obviously, like all members of the committee, but a -- he's also been a tireless advocate on behalf of corrections officers and has demonstrated that yet again this morning. And he is to be commended for his dedication and vigilance on these issues. And I've had the pleasure of working with on a lot of legislation relating to the Department of Corrections, and I know that the officials in the Department of Corrections are extraordinarily

well-trained and well -- and very dedicated professionals and that's why it pains me that I disagree with Senator Kissel on this amendment because nobody doubts the extraordinarily important work that the members of the Department of Correction do day in and day out, night and day.

But for the reasons I've articulated previously, I still believe that life in prison without possibility of release is a -- is the appropriate sentence for somebody who commits these heinous crimes. And I would respectfully, both to Senator Kissel and to the Department of Corrections, object -- oppose the amendment. And I ask that when the vote be taken, it be taken by roll call.

THE CHAIR:

A roll call will be ordered.

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, I rise to support the amendment and align my comments with those of Senator Kissel. I think only he could say it so well, but I will repeat the most important point made. And that is that a violent criminal serving life in prison has nothing to lose, nothing. If he or she kills an inmate or a

correctional officer in that prison when there is no higher penalty, they have nothing to lose putting everyone at risk both that works there or may live in the surrounding communities.

Thank you, Mr. President.

THE CHAIR:

Thank you, ma'am.

Will you remark further?

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. Through you, a couple of questions for the proponent of the amendment.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, Mr. President.

SENATOR KANE:

Through you, Mr. President, in reading this amendment it says "employee," so does that mean that we're not just talking about correctional officers but any employee of the correctional system? Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Yes, actually it does. And a lot of folks don't really realize. I mean the -- the major amount of manpower in our correctional facilities are the correctional officers, and there's different ranks going up, but also, for example, you could even be a secretary in one of the offices in one of the prisons -- I'm not talking about the main office, but one of the prisons -- and quite often they will have inmates in there maybe doing filing and things like that. They've been accessed to be nonviolent, but, on occasion, things get out of control. And that's why we actually have issues regarding even a attack with bodily fluids. And so the language exactly mirrors the language that is found in those two statutes that I had cited earlier that's already part of our protections regarding capital felonies. And it does include things like maintenance personnel, librarians, doctors, nurses and folks like that, through you, Mr. President

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. You know, I do have another question or so for -- for Senator Kissel. I

consider you our resident expert on corrections, having not a great deal of knowledge of them myself, which I think is a good thing, probably. But these employees that you mention, I know you gave a couple of examples of some of the employees, and I'm sure there's probably more and you could probably go into that. How many of these employees get or have contact with, said, convicted fel -- convicted persons -- prisoners, I should say, probably the better word, how many have come in contact with the prisoners? Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much. I would say almost all. In these facilities, once you walk through the front gate and you get through that first check point where you have to go through a metal detector and slide in the keys and they hold on to any sharp objects.

Once you enter that facility, there's inmates. Even in Northern, you'll find inmates in the hallways, bringing food from the cafeteria, maybe doing maintenance jobs. Now, there may be -- God bless you. Now, there may be some COs walking with those inmates, but no matter what job you have in the course of a

day, you're probably going to bump into some inmates, through you, Mr. President

THE CHAIR:

Senator Kane

SENATOR KANE:

Thank you. I thank the Senator for his answers. You mentioned how many prisons you have in your district and how many, I think you said 8,000 prisoners. How many employees are we talking about that this would cover? Through you, Mr. President

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Well, the language of the amendment is patterned after our statutes that we already have. And so it would be the total amount of correctional officers, staff, and personnel that we have. I would like to say that's probably, on a total prison population, at any given time, of about 18,500. I'm guessing that there's probably anywhere between 3 and 4,000 total employees of the Department of Corrections, but those are just educated guesses.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President.

I thank the Senator for his answers. I rise then in favor of this amendment because I do believe that this amendment speaks to, not only to the correctional officers, but all the employees that Senator Kissel mentioned. And, through his answers, I ascertained that they come in contact with the prisoners that we're talking about. He mentioned how death row is still up there in Northern and all the other facilities how dangerous they are. And I think Senator Guglielmo talked about it earlier on, many hours ago.

I have a couple friends that are correctional officers, a husband and wife actually, who are expecting their third child, as a matter of fact, and they work in the, I believe, it's the Cheshire facility that they work at. And they -- many years, they've been serving our state of Connecticut as correctional officers. I believe that's how they met, being employees in the prison system and, you know, the stories about their hard work and their efforts are not lost on this senator. That's for sure. And I appreciate everything they do, and they've become good friends of mine. I also believe that every time we talk about the State budget because it's obviously on

everyone's minds wherever you go throughout your district or throughout the state of Connecticut, you will find you run into state employees. And state employees, correctional officers in particular, have told us they always wanted to be part of the solution and they always wanted to be part of getting us out of this deficit. And I think that's a great thing that they're willing to do for us, and that we've already done. And I believe that their efforts should be rewarded with the type of bill, like this, which is very important because they are putting themselves on the line every single day. And we should be putting up laws that protect them, as well.

So, for those reasons, I will support this amendment, and I appreciate the chamber to pass this amendment as well.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

Mr. President, briefly, in support of the amendment. First off, Mr. President, I want to thank Senator Kissel for bringing this forward. While all

of us are supporters of our correctional officers and our prison personnel, no one has championed their cause at this Capitol over the years like Senator Kissel has. So I thank him for, once again, looking out for their best interest.

What strikes me about this amendment, Mr. President, beyond the fact that we do want to honor our corrections officers by making sure that they -- that a murder of one of them would be met with the strictest of penalty is the sheer logic of this amendment. And Senator McDonald said, in opposition to the amendment, that what we believe what should happen is that you get life in prison without parole. And this seems to me the exact opposite of what you would want to happen. So, if someone is in jail for ten years and they murder a corrections officer, we are going to put them in jail for life around corrections officers.

It seems like perverse logic to me, Mr. President, because if they've committed the crime once, they'll be willing to commit the crime again. So, Senator McDonald's logic not only does not meet the standard of justice that we laid out earlier, I actually believe it puts correctional officers in even more harm's way. So, Mr. President, because the

underlying logic is so strong and because the sense of justice, I believe, does require that a murder of a corrections officer should have the option of capitol punishment, I support this amendment, and I thank Senator Kissel for bringing it forward.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate D. Will you remark further?

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

I rise in support of this amendment, and I thank Senator Kissel for bringing it forward. I wonder if he might be able to answer a couple of questions for me, through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

SENATOR MCLACHLAN:

Thank you, Mr. President.

Senator, your exposure to the criminal justice system in Connecticut is far beyond what I have seen and your personal experiences and exposure to our

corrections system, indeed, is far greater as well. And I wonder if you could share with me any particular experience you've had in talking to corrections officers about their fears of violence occurring behind the iron gates of our correctional facilities, through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

Well, first of all, I think that Connecticut has an extraordinarily complimentary relationship between our unionized work force and the correctional administration. And while they haven't always seen eye to eye, I personally, having just learned this week that Commissioner Lantz and Deputy Commissioner Murphy are going t to be taking early retirement at the end of June and also talking to folks within corrections, we're going to lose an awful lot of our knowledge base within those facilities.

In talking to the rank and file corrections officers, their number one concern, almost always, is staffing. Especially, when we went through that period shortly after the horrific tragedy in Cheshire where Governor Rell very rightly said I'm going to

stop the pardons and parole system. We need to do an assessment, find out who's violent, who not.

One of my proposals was that burglars should be treated as violent offenders and up until that point in time, they weren't. And we went through the discussion back and forth in this chamber as to how we would reform our criminal justice system. There was a huge backlog. That backlog has now been whittled away. There was a time when we were approaching a total population of 20,000, never got quite past it, but we were bumping up and getting very near it. Now, we're about 18,500. But COs, they want to have eyes and people power there to protect themselves. And, as I indicated, we focus, quite often on our violent offenders and our maximum security facilities, but, in some of the lesser facilities, medium or less, those are dormitory-style facilities.

So, if all you have is two COs: one at a station, for example, in the corner of the room here, and one as a roamer, but you have anywhere between 60 and 80 inmates in bunk beds, it's hard to keep your eye on everything that's going on. And what they're looking for is to have that extra set of eyes and ears so that if something happens, you've got someone that could come in and help you break up a fight or rescue

you from a fight. So that's one thing.

Another thing is proper and adequate equipment. There are some individuals that wanted protective gear and we're looking into that, but, at the same time, making sure that whatever decisions are made that all of the correctional officers have access to that gear. One of the things that, actually, Governor Rell has taken a leadership role in has been getting better radio communications equipment. There was a roll out in the last year with more radios in the northern sector of the state to be deployed in other parts of the state as bonding funds became available because, simply, those COs need to be able to communicate within a facility in the blink of an eye.

And, also, they want -- they look to us to us to pass adequate legislation. We have some bills in the building right now where we are going to do assessments as to staffing rations. Part of the task force that I served on with Senator Stillman, we recommended that we wanted to get our arms around the incidents of inmate-on-inmate and inmate-on-correctional-officer assaults. And, actually, one of the concerns I had was how we grade those assaults, because, heretofore, there just graded level 1 or level 2 and, perhaps, we could have a more

refined methodology.

And one of the things I championed about ten years ago here in this building was a new form of assault and it was brought to my attention by COs. And it's assault with bodily fluids, and it's exactly as disgusting as it sounds. I mean throwing of urine and feces and, especially, when you have communicable diseases and things, like SARS, and everything else, I mean the last you want if you're a CO -- I mean imagine this. You're walking down a hallway and there may be a very high security cell there where all you have is a door but that door has a little window with those little bars. Okay? There's not a lot of access and then flying out that window comes, you know, bodily fluids and it just hits you in the head.

So we had to pass legislation about a decade ago saying that that was going to be a separate and distinct crime. And, guess what, I think it worked. It sent to signal. They were doing this in the facilities, and we weren't going to tolerate it, and all of a sudden we added additional penalties if an inmate was found guilty of doing that, and it had exactly the effect. We responded to our COs. They told us what was going on, and then we created a deterrent by having enhanced criminal penalties.

So that's just a handful of things I can relate to you about what's going on in our facilities.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

And, through you, Senator, thank you for that answer. And I am amazed at your understanding of the challenges of the Connecticut correctional system, and I appreciate your observations.

You know, Senator Fasano on an earlier debate of a different amendment mentioned something about contraband that was found inside the correctional facilities, behind the bars, and that one of the supervisors/correction officers came to his TV show and brought with him a whole suitcase full of contraband weapons found inside the correctional facility.

And, I guess, I was a bit taken aback by that. I assumed not having really learned much about the correctional facilities or that business that if they're behind bars, they wouldn't have access to dangerous weapons.

Is this a, in your estimation, Senator Kissel, through you, Mr. President, do you feel that this is a

pervasive problem? That somehow these dangerous weapons seem to appear behind bars and become available to prisoners in our correctional facilities? Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

I think it's a pervasive problem throughout the entire United States within any correctional facility. And, since we've given many mentions to Mike Middy, the former President of Local 391. Currently and for last several years, it's been John Pepe, who's been the president of Local 391, and he has done an outstanding job as a union president, and I'm not hesitant to state that. And he has brought it to my attention that, yes, indeed in lockdowns, where they will shut down a portion of one of these correctional facilities. You, with all do care, bring out the inmates and then you go in there and you pull up the mattresses and you put on the gloves and you go and you check every nook and cranny in these cells and you see what you can find. And, as I've indicated, even in the super max facility of Northern, just recently, we had an incident where they were utilizing these

heavy gauge steal lockers and some how, by weeks and weeks and weeks of prying and bending, they were able to pull of pieces of that metal and turn them into daggers that were so tough you could -- I could put it into the wood here and it wouldn't even bend.

So does it occur? Yes, but do correctional authorities, the administration and the unions, work together as a team to weed this out and try to minimize the risk? Yes, but you're dealing with a population that has nothing but time on its hands and they can be creative. And so is it cat and mouse? And is it constantly trying to ratchet up and get to the next step? Yes, and so it's a constant battle and, you know, COs have to be ever vigilant.

But, yes, those shanks and turning tooth brushes and anything. Look at your desk right here. You wouldn't think -- all right. Here's a water bottle. I wouldn't think that this is dangerous. But some inmate might look at this and say, You know what, if I just peeled off the edges of this and maybe hardened it in a little bit of a flame and then used it against the bricks in my cell wall, hey, I go something where I could put somebody's eye out, or I could give them a nice gash across the face.

This is how some of those inmates are thinking,

whether it's to protect themselves. They're in a part of a gang. They want to attack another gang, or, God forbid, they want to go out and attack one of our COs. And so that's what's going on, and it goes on all the time, through you, Mr. President.

THE CHAIR:

Senator McLachlan

SENATOR MCLACHLAN:

Thank you, Mr. President.

And through you, Mr. President, Senator Kissel, do you have a approximate idea of how many convicted murderers are incarcerated in the Connecticut correctional system? Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

I'm stumped on that one. I'm sorry.

The Chair:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

And through you, Senator Kissel would you assume, as I do, that there are a good many who are convicted and now residing in Connecticut facilities?

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Well, let's put it this way, we have several hundred beds in Northern, which is a super max, and most of those are occupied either by folks on death row, violent offenders, administrative segregation for individuals who may not even come into the facilities, initially, as violent offenders but one thing, when you talk to the experts and the folks that work there, they'll say that there are some individuals that have very bad coping skills. They may have gone in on a drug charge or something else that based on the paper when they were ushered into the facilities, they wouldn't have even necessarily delegated them as a high risk, but, for whatever reason, they can't cope in that facility so they lash out at other inmates and find themselves up at Northern.

I will tell you this, McDougall-Walker in Suffield, it's a maximum security facility and, in the last probably decade or so, it went through a major expansion. And when you go in these facilities, as far as the eye can see, it's cell after cell after cell after cell. It's a maximum security facility. So I would suggest it would be probably very fair to say that out of a total prison population of about

18,500, I'm sure you could find 2 to 3,000 individuals that could easily be classified as very dangerous and have done something violent, either on the outside that got them convicted or may have had something done to them on the inside that merited a ticket, and a ticket is something that the COs issue for someone who has acted out in some way and did not comport with the rules of the facility.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

And through you, Senator Kissel, I live close to the Garner Correctional Facility, which is in Newtown, and, as I understand Garner, there is a unit there which is -- I'm not sure what the terminology is, but I believe it's for the criminally insane or something of that nature. They are in a serious lockdown and are pretty bad folks.

Is there a high incidence of violence among that population in the Connecticut correctional system, through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

I really appreciate that question and believe it or not a few years back I had an opportunity to tour Garner Facility. And we made some great progress, as a state, at Garner. Once upon a time, you know, inmates with mental disabilities, and I don't think we can classify them as criminally insane that would be a -- that's a different specific term of art that's used. But for individuals with any kind of mental disabilities, they would be scattered throughout the various correctional facilities, and it was a determination that was made to have some to those folks or try to centralize that in Garner. And Garner actually is designed -- I believe, was originally designed to house gangs so it was converted over to house the most violently prone folks with mental disabilities.

Up in my neck of the woods we also have, and I believe it's Willard-Cybulski that also has individuals with mental health issues so there's more than one.

Now, when I was touring Garner a few years ago -- it was probably about five years ago. The problem was the tension between the medical practitioners that were affiliated with the University of Connecticut

Health Care system, who are in there to treat these people with mental health needs and at the same time the correctional officers that said, Yeah, I understand these individuals may have mental health issues, but when they act out and they do things, we need to be able to reprimand them, crank up the penalties and issue them tickets.

And the tension was -- and we've made a lot of progress internally and I really commend them all for working better together -- but the paradigm was that the medical folks had set up was undermining the security issues that were paramount to the COs. In other words, an individual was assessed with a mental health issue and if he just smacks one of the COs, they would be assessed a ticket and the incident would be reported and then the medical practitioner would say, Well, you know, the persons not exactly right, was off their meds, or needs more counseling and so don't punish them. And that created a huge tension.

So, in your neck of the woods, in Garner right now, it's trying to balance mental health issues, but it's not criminally insane. It's just mental health issues, someone that should be taking meds, maybe bipolar. There could be other chemical imbalances, but it defiantly causes them to be, perhaps, more

violent. And that facility, having been originally designed for gangs, actually works to house those inmates. And so that's sort of where we are right now, through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

Through you, Senator Kissel, I was not aware that Garner was designed for gang population. I understand that the criminal justice system, or the correctional system across the country has a high population of gang members who, as I understand, also, have a high propensity for serious violence. And so, through you, Mr. President, is the gang member, the gang population in the Connecticut correctional system, tend to have a higher propensity for continued violence even though they're in the prison population? Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

When inmates are initially brought into the Department of Corrections, they are given an

assessment. The assessment is very wide ranging. It goes down to family history, incidents of prior criminal activities, prior convictions, whether they have tattoos, markings, things like that. And when I go -- the reason why I mention that is sometimes the tattoos and the markings will be gang symbols and that will allow corrections officials to make further inquiries.

Through this process of assessing the inmates at the time that they enter the facilities, a determination is made as to whether these gang members are affiliated with a gang. These guys -- the professionals that work in corrections are really good at this. And, you know, I could go through the list of names of the -- you know, the Crypts and the Bloods, and there's all these different ones. And some of them you see large populations of Connecticut and some of them may tend to have more affiliation with a state, like California. But, as they are brought into the facility, they are segregated.

The ultimate goal of corrections is to have them renounce their gang affiliation if it has a propensity towards violence. Okay? To the extent they don't renounce, they will be put in a program where they're educated as to the negative impacts of gang

affiliation. Connecticut is actually unique in the United States, in that if you look at the history channel and you look at California, if you look at Texas, those inmates that are determined to be members of gangs, they are put with other gang members of their own gang. And from watching those shows, and I don't really like those shows, they're a little too scary for me. But, I think that that approach to gangs and their violent tendencies has cost some of those facilities in California and Texas to spin almost out of control. Because when you have all the folks in the same gang hanging out together, it causes mischief.

Connecticut takes a different approach. They are segregated, taken out of the general population. They are educated, tried to be counseled, given every opportunity to reform. And, as part of a program that is famous in the United States, that other states come and visit to try to learn from. What we do is take small numbers of gang members and Department of Corrections purposefully puts a gang member from one gang in a cell with a gang member of another and monitors that closely. With the notion that if they can learn to live with one another, they are more likely to end up renouncing their gang affiliation and

become a nonviolent offender and they can serve out the rest of their time in the general population.

It doesn't always work, but Connecticut is trying to be a leader, nationally, when it comes to this. Your fundamental first question, I believe was, Are these gang members naturally violent and, perhaps, more violent as a whole to the general population? and I would say that, yes, but it also depends upon what their charges were that they were convicted of. You can be a member of a gang, but you may not be the most violent member of a gang. But just the fact that you're a member of a gang, heightens the Department of Corrections' sensitivity towards what may be violent propensities within you as an inmate, through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

And just one more question for Senator Kissel, if I may. This might be a little complicated. I represent Danbury and in the City of Danbury is the federal correctional institution which has been there, I believe, since the late '40s. And this facility, as I understand it, it considered to be fairly low

security. In fact, at one point I think it was primarily a work camp and some would have said it was called a country club at one time. However, my question to you is if you can help with the answer, and you may or may not have the answer. Sir, is a correctional officer in a federal prison, if they are murdered by an inmate of that federal prison, are they subject to the death penalty in the federal court system? Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

I must confess that I do not know the answer to that. I will say this, though, to the extent that I know about the federal system, any individual charged with a crime in the federal system, a federal crime, they have extremely tough sentencing guidelines and so if there ever was a possibility that there would be the in position of the death penalty, I think it's more likely than not, but I don't have an affirmative answer for you.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you.

And thank you, Senator Kissel, for your amendment today and for your answers. And I will continue to look to you for answers on those difficult questions about Connecticut's corrections system. I believe that the population of the Danbury Federal Prison includes murderers. And I don't think they have a death row there, but I do know that if you commit a crime of murder on federal property in the United States of America, you land yourself in a federal prison.

And I know that only because a friend of mine is -- two friends of mine, actually, are employees of a federal correctional institution. One is a tradesman and t he other is in charge of the armory, and they've told me some stories about their population. They've also told me stories about some pretty crazy acts of violence and that was pretty scary to me. And, frankly, by my exposure to my friends who work in the federal correctional system, I believe that they would like to have this coverage that is being proposed in your amendment tonight, Senator Kissel.

And, on behalf of them, I'm sure that our state correctional officers would also like to have this

protection so I stand in favor of this amendment, and I urge my colleagues to support it.

THE CHAIR:

Will you remark further on Senate Amendment D.

Will you remark further? If not, Mr. Clerk will --

Senator Caligiuri.

SENATOR CALIGIURI:

One, I hope, brief question to Senator Kissel if I may, through you, Mr. President.

THE CHAIR:

Please proceed, sir.

SENATOR CALIGIURI:

Thank you. I think the most important part of the amendment is the aspect of it that I believe results in enhanced protection to correctional officers who are in such close quarters with dangerous individuals that I believe they need the protection that the proponents of the amendment believe is offered through it. My questions to Senator Kissel is can he point to any discussions he's had with correctional officers or the unions or other experts about the issue of this kind of penalty being on the books actually serving as protection in the form of a deterrent to crime against a correctional officers if

Senator Kissel has any additional basis for that view that he can put into the record. I believe it would be helpful even though I agree with him completely, through you , Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Really all I can offer to Senator Caligiuri's very thoughtful question -- and I also want to thank Senator McLachlan for his series of question I think it got an awful lot of information out on the floor -- is anecdotal. Whenever I talk to COs, their number one issue always centers on security, whether it's manpower, whether it is the efforts that we made, probably about 12 years ago when they turned to me and legislatively we were able to take information regarding the Department of Corrections, how those facilities were designed and things like that and get that information pulled out of FOI for fear that inmates were trying to figure out the lay of the place, which believe it or not, we had to go through those permutations. We have issues right now pending in this building, where inmates are using the Freedom of Information Act to try and secure information on

correctional officers' personnel files so as to intimidate them and find if there was any disciplinary action against the COs so they could say how you getting along with the warden or finding out personal information, like, how's your son doing? It's scary.

And so, while we haven't sat down and had a talk regarding the death penalty, my guess would be, especially, for those COs working at Northern who brought to our attention these shanks made out of this heavy gauge steel. The correctional officers who are looking for the equivalent of flack vests and security vests, like our military personnel have in Iraq and Afghanistan, because they're fearful that someone is going to try to shank into their chest.

It's constantly about security, and I think when they wake up later on today, if they're sleeping right now and they find out there is no death penalty on our books, according to our Connecticut legislature, and that the protections that they had as part of the public safety carve-out for capitol felonies, I think I'll -- if I don't hear from them, I will be very, very, very surprised. It's all about security in there. They're just like you and I. They're moms and dads, and they want to be able to come home in one piece when their job is done after each shift, through

you, Mr. President.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President.

I thank Senator Kissel for that response. Let me just very briefly say thank you to Senator Kissel for his work on behalf of correctional officers and whose commitment to correctional officers is literally unparalleled, I believe, in this General Assembly. I think that what is really so valuable about this amendment is that I think this is clearly an aspect of the death penalty where the existence of a death penalty can and does, in fact, have a deterrent effect. I think it's an open question in other cases whether it does, but, in the real world of a prison environment, the close quarters is so intense and the proximity to dangerous individuals is so real that I think the existence of an additional and very meaningful penalty in the form of a death penalty, as a real possibility for victims -- or for crime against a correctional officer is something that I believe does give some individuals within the system pause. And if this can stay on the books and, in the process, help protect one, two, three, four, we'll never know

what number of correctional officers the existence of this deterrent may have ended up protecting, but I think we have a duty to them to do that and this amendment would do that and that's why, I believe, it's worthy of our support.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate D?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

Mr. President, if I could, through you, question to the proponent of the amendment, Senator Kissel.

THE CHAIR:

Senator Kissel.

SENATOR MCKINNEY:

Thank you, Mr. President.

Senator Kissel, one of the things that our districts share in common, and there's actually so many differences between the two, is that my district that I've represented for 11 years is home to a correctional institution. Yours is the home of many correctional institutions. I remarked earlier, through you, Senate President, how as a law student I

had toured Carl-Robinson and then the maximum security facility prison in the state of Connecticut and correction officers had remarked to me that they, in fact, were the only people in the facility who probably did not have some type of a weapon, a shank, or some piece of metal that hadn't been filed down to be a sharp weapon.

My question, through you, Mr. President, is that, has that been your experience with all the corrections officers you've met with and talked with through the years? Is it true that so many of the prisoners have weapons on them? Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

And through you to my good friend and colleague, Senator McKinney.

As I stated earlier, there's been a learning curve regarding this. I would say that when I was first elected 17 years ago, there was much more incidents of shanks and things really being profligate in the correctional system. And not to pick on any particular commissioner but, under Commissioner Larry Meachum, who was in charge of corrections, there was

much more of a conciliatory administration and it tended to be more redempterous than secure, and, the net result of that, in my view was, we had this incredible riot at Carl-Robinson, where buildings were burnt to the ground and two inmates were murdered.

And, after that, things began to change. And I will tell you that over the years that I have represented these facilities and the people that work within them and the communities that surround them, there has been a concerted effort for the unions to work very closely on security matters with the administration. There is no doubt, in my mind, that if we did a lockdown in any facility, at Garner or at Carl-Robinson, or even at the super max facility Northern, that we would come out of those facilities with at least a dozen shanks, shivs, blades, knives. Any kind -- any one of which could either maim you or kill you.

When I saw that those shanks made from the lockers at Northern, this was just a month and a half ago, two months ago. Senator McKinney, the blades were about a foot long. The gauge was heavy gauge steel, that if I took and tried to just bend it on my knee, I couldn't.

They worked tirelessly over weeks to slowly bend,

slowly bend, until it broke off and then they rubbed it quietly against the bricks of their rooms or hallways or wherever until they got these weapons. These weapons are in there, and I tried to offer bills to have corrections officers armed and the COs said themselves said help us this way, keep encouraging the lock downs, encourage the relationship between the administration and us to seek out and eliminate these weapons that the inmates have, but don't fight to get us batons or anything else because the flip side of that is we're going to get an inmate that's just going to bowl us over, steal the baton, and then beat the tar out of us and now they have a weapon in the facility.

Is it dangerous? Absolutely. Is it as bad as it was when you toured the facilities? I like to think not but, boy, it still is dangerous, to you, Mr. President.

SENATOR MCKINNEY:

Thank you, Senator Kissel. And through you, Mr. President, obviously Senator Kissel, my experience with Garner is a little different. Obviously, Garner is home to prisoners with mental health issues, and, therefore, the construction and set up within Garner is a little bit different than Northern, for example.

Obviously, in Carl-Robinson there's a lot more freedom of movement. But there was a discussion earlier, actually, yesterday, technically, where Senator Fasano talked about his trip to death row. And we had heard members of this legislature talk about how people who were convicted of and sentenced to jail for murder were in their jail cell for 23 hours a day out of the 24. Senator Fasano's experience was very different with that.

And I'm wondering, through you, Mr. President, now that we now know that there may be -- well, that there definitely are prisoners that have dangerous weapons, sharp instruments that can kill, through you, Mr. President, is it possible that someone who's in Northern or one of the prisons who's been convicted of murder, who's there for life, perhaps, with the possibility of parole or without that someone, a correction officer, could be faced with a prisoner that has one of these weapons? Through you, Mr. President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

Senator McKinney, you ask an excellent question.

First of all, I think we have to reiterate that there are degrees of murder. And, first of all, the 23 hours and the half hour in the exercise area -- the exercise yard, by yourself is probably the standard, the rigor of the ten folks on death row. Once you get outside death row, it changes, such that, if you are incarcerated for life without possibility of release, you might find yourself at Northern, but only if you need administrative segregation or you're part of a gang. Otherwise, you'll be found at a maximum security facility such as McDougall-Walker or Cheshire.

In those facilities, you will be assessed. And depending on your assessment, you will probably be in a cell with a roommate because most of these facilities -- and Garner may be a bit different. I'm trying to recall from my tour there. But I know at Walker -- McDougall-Walker, which is a maximum security, the cells are double-bunked. They have a communal dining area. I have asked corrections personnel late last evening because today is Friday. They can be in the general population for limited purposes. They can't come and go as they please, but they can be right out there.

So to your fundamental question, can a CO be

exposed to murders? Oh, yeah, all the time. Do those murders necessarily have to have a shank to do harm to the COs? Absolutely not. There was an incident a few months ago at McDougall-Walker, a maximum security facility, where one inmate was having his lunch, I believe, in the communal dining area, which there's an area in the corner where a CO monitors and one or two float around. That inmate thought that another inmate was involved in an incident where that first inmate's loved one was killed. In the blink of an eye that inmate bounded over to the other one, knocked him off his chair, crushed his skull and killed him before any CO or any inmate could do anything. That's the environment.

So, in the prison population, are these COs exposed to shank, things that could maim them, kill, them in the blink of an eye, or just a fist with a hard smack to a COs head, which is going up against the cinder block wall. It's all there. That's the environment.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

I want to thank Senator Kissel for answering my

questions.

Mr. President, again, I don't think there is a member of this circle who has probably spent more time touring with our correctional officers than Senator Kissel. And so his experience and his understanding of the dangers correctional officers face, of the possibility that a prisoner in jail for murder for life, someone who has already demonstrated that they will murder, the possibility that that person could murder a corrections officer, again, is real and indeed sadly exists.

That's why when we talk about the need for having a penalty of death for someone who kills a corrections officer, we need to focus on one of the four tenets that we talked about for the purposes of our crime and punishment statutes. We talked about incapacitation. We talk about one of the purposes of your criminal laws is that to take someone out of society so that for the time that they're taken out of society they cannot commit another crime. Hopefully, people are rehabilitated but clearly people who are murderers who are sentenced to life, there's, obviously, no understanding of rehabilitation.

So, in that case, the one person -- the one person in danger is a correction officer. Life

without possibility of release does not protect that correction officer, and, as we now know from Senator Kissel, who has toured our maximum security prisons, that correction officers, every second they're on the job, are potentially subjected to and could be under serious danger from a murderer with a very dangerous weapon. I could never be a correction officer, Mr. President. I couldn't do it. I'm not big enough. I'm not strong enough, probably couldn't do it. And it's amazing the work that they do.

I have great respect for Commissioner Lantz. She's done a great job with our prisons, and I hope the next commissioner will do as well. But that's why correction officers deserve special protection, and I appreciate the questions and answers with Senator Kissel so we can get that on the record. Just because someone is taken away from society for the murder, that protects all of us. The one group left unprotected are our correction officers. And we need people who are in jail for life to understand that if they were to kill that correction officer, there is one more additional penalty, one worse penalty out there and that is the ultimate penalty, the sentence of death. And that's why this is a critical amendment, and I would urge adoption.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate D? If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

There will be an immediate Senate roll call vote. All members please report to the chamber. The Senate is voting by roll call, members to the chamber.

[PAUSE]

THE CLERK:

The Senate is now voting by roll call. Will all senators please return to the chamber. The Senate is now voting by roll call. Will all senators please return to the chamber.

THE CHAIR:

Have all senators voted? If all senators have voted -- if all senators have voted, please check your vote. What are you guys waiting for? I don't see anyone. All right. If all senators have voted, please check your vote.

If all senators have voted, please check your vote. The machine will be closed. The Clerk will call tally.

THE CLERK:

Motion's on adoption of Senate Amendment Schedule D

Total number of voting	36
Those voting yea	15
Those voting nay	21
Those absent not voting	0

THE CHAIR:

The amendment fails.

Will you remark further on the bill?

Senator Boucher.

SENATOR BOUCHER:

Thank you, Mr. President.

Mr. President, we have just had a very extensive, lengthy dialog regarding police, military and correctional officers, putting them at risk by removing the death penalty. I'd like to try and shift the conversation, for a moment, to a very vulnerable population.

The General Assembly previously debated proposals regarding Jessica's Law. This law was a response to a rape and murder, one of the most horrific in recent memory. The Florida state attorney's office state prosecutor stated that 9-year-old Jessica Lansfern was raped, bound with speaker wire, wrapped up in garbage bags and put in a hole in the ground before being

buried alive by her kidnapper.

John Evander Coey, 46, was convicted in 2007 of sneaking into Jessica Lansfern's home, about 150 yards from his house in February 23, 2005, and abducting Jessica then raping her and killing her by burying her alive. Third grader Jessica was last seen when her grandmother tucked her into bed in her home just north of Tampa. When her grandmother went to awaken her the next morning, she was gone without a trace.

A door at the home was unlocked and one of Jessica's dolls was missing. When 9-year-old Jessica Lansford disappeared from her bedroom at her grandparents home in the middle of the night, a massive search was launched for the missing girl that drew the attention of national television networks over many, many weeks. The police found the body of Jessica buried in a shallow grave under the back porch of a mobile home.

A day after the convicted sex offender told authorities that he had killed the 9-year-old girl, after kidnapping and brutally raping her as evidence by an autopsy and the blood drenched sheets that were discovered in his home. Before murdering the 9-year-old girl, who he snatched from her bed, he told her that he would take her home if she got into a

plastic bag. But, instead of taking her home, he buried her alive in that plastic garbage bag, and, after killing her, he fled to Georgia.

Her body was found March 19, 2005, in a grave covered by a mound of leaves just 150 yards from her home. Behind the mobile home where Coey was living. The police found her in this makeshift grave where she had been wrapped in two plastic bags, knotted at her feet and head, and she was wearing shorts and a shirt, different clothing from the pink nightgown she was wearing when she was abducted.

Her small hands and fingers were found pushed through the plastic in the last desperate attempts of saving her own life, like just some sort of piece of garbage. According to the coroner's report, Jessica died of asphyxiation. Her small body was found kneeling and clutching a purple stuffed dolphin.

Coey was on probation for a drug conviction at the time and had been required to register as a sex offender after the conviction for fondling a 5-year-old girl. Citrus County Sheriff Jeffry Dawson described him, as truly, a piece of trash.

With a criminal record prior to this incident including multiple arrests for burglary, carrying a concealed weapon, indecent exposure, disorderly

conduct and larceny. He also faced charges of fondling a girl under the age of 16.

Rape and murder, two of the most violent criminal actions in society, but when combined it becomes the most unthinkable and most unimaginable of inhuman acts ever perpetrated on another person or child.

I can't imagine if it happened to my baby or my child or my spouse or loved one. A victim of rape, usually a child or woman and at times infants and young boys, are subjected to unimaginable mental and physical violence. Their families and loved ones also become victims and are devastated. Their lives negatively affected forever. Furthermore, when a rape results in murder, many of us believe that these criminal acts when combined, rises to a level that compel us to consider a more serious remedy than life in prison.

Mr. President, the Clerk has LCO Number 7775. Will the Clerk please call, and may I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7775, which will be designated Senate Amendment Schedule E, is offered by Senator McKinney

of the 28th district.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Yes, Mr. President, this amendment --

THE CHAIR:

Senator Boucher, do you move adoption?

SENATOR BOUCHER:

Yes, sir. I move adoption, sir, and I also ask for a roll call vote.

THE CHAIR:

Please proceed.

SENATOR BOUCHER:

Thank you, Mr. President.

This amendment states that notwithstanding provisions of this act, any person convicted of murder with special circumstances under Subdivision 6 of Section 53a-54b, of the General Statutes as amended by this act, for the murder of a person in the course of the commission of sexual assault in the first degree committed on or after the effective date of this section shall sentenced to a term of life imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a of the General Statutes as amended by this act.

The provisions of this act also are applicable to a person who commits a capitol felony prior to the effective date of this section, shall apply in a manner to a person convicted of murder as provided in Subsection A of this section.

The consequences of -- the consequences for victims of rape are grave and may affect them for the rest of their lives if they actually do survive. They are physically ravaged, emotionally terrorized, have serious and chronic medical conditions. They have -- and often it can lead to life-threatening diseases.

In the case where the violence of rape could last for day, if not weeks, and the rape victim is penetrated forcibly, the victim is left bleeding in a great deal of pain. The victim is often beaten and sometimes raped with objects and sticks and sometimes within earshot of the children that they have and who will never be the same, if indeed they also survive the experience.

Very often the victim is punched in the face, mouth taped or gagged, wrists and feet bound with packing tape, just as Jessica was, and then raped and oftentimes sodomized, as well. And, after enduring all of these and other atrocities, the victim is murdered, often brutally, as in this case. And I do

believe and I think many of us believe that these acts rise to such a level that a capitol penalty option leading to a death penalty is warranted.

Mr. President, I ask for the chamber's support of this amendment, and I stand ready to answer any questions that my colleagues may have.

THE CHAIR:

Thank you, Senator Boucher.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President.

Mr. President, I rise in opposition to the amendment. The amendment offered does address, obviously, a very serious issue of our criminal law. That is why it is already reserved in the most -- in the section of our criminal justice statutes dealing with the most heinous crimes and this already, under the existing underlying bill, would count as a murder with special circumstances, requiring a automatic sentence of life in prison without possibility of release.

Beyond that, Mr. President, I would just reiterate the arguments I've annunciated earlier in this debate about why the death penalty is an unworkable solution in our State, and I oppose the

amendment. And I believe Senator Boucher has already asked for a roll call vote.

THE CHAIR:

Thank you, sir.

A roll call vote will ordered.

Any further discussion of Senate E?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

Mr. President, I know the hour is late, or early depending on how you look at it so I'll be very quick. Mr. President, I stand in support of this amendment. You are taking in this amendment the two most heinous crimes that are possible, murder and rape, and putting them together. The federal government and our federal courts have already recognized this as one of the areas that is available for the death penalty in our federal court system, and it seems that we, in Connecticut, should adopt the same.

This is something that you can't -- as Senator Boucher described some of the potential cases. You can't even imagine what these families are going through. And so, Mr. President, I believe that this is a very well-crafted amendment that targets those two crimes which rob you of your life and rob you of

your humanity. And so I strongly support this amendment and hope the circle will pass this.

Thank you.

THE CHAIR:

Thank you, Senator Debicella.

Will you remark further on Senate E? If not, Mr. Clerk please call for a roll call vote. The machine will be open.

THE CLERK:

There will be an immediate Senate roll call vote, members to the chamber. The Senate is voting by roll call, members to the chamber.

THE CHAIR:

Have all senators voted? If all senators have voted, please check your vote. The machine will be closed. The clerk will call the tally.

THE CLERK:

Motion's on adoption of Senate Amendment to Schedule E

Total number voting	35
Those voting yea	15
Those voting nay	20
Those absent and not voting	1

THE CHAIR:

The amendment fails.

Will you remark on the bill before us?

Can you guys move out of the way so I can see Senator McKinney? Thank you.

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

Mr. President, speaking for the second time on the bill. Earlier -- earlier in the morning and yesterday, later at night, one of the things I said earlier and all of the members said earlier is that this has been an extraordinary debate.

This is one of the most important votes we'll take. It is a vote that I think each of us felt it important to express our feelings, our beliefs, our ideas, and the need to have this.

Mr. President, the Clerk is in possession of Several amendments with my name on them. I would ask that those amendments be withdrawn at this time. I am proud to be a member of this State Senate everyday, and I'm even more proud at four o'clock in the morning because we, as a body, have engaged in a debate on whether or not the State of Connecticut should continue to have the death penalty as a punishment for some of the most heinous crimes. That is an extremely important issue and the issue has brought out the best

of this State Senate. And whether you are for the repeal or whether you are for maintaining the current death penalty statute that we have, I don't know which side is right.

I know where I am. I know that I think our death penalty is workable. I think it's the right and just punishment for the heinous crimes. But, at the end of the day, I think that members will vote their conscience, and I look forward to having that vote very soon.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on the bill? If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

A 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, please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on passage of House Bill 6578 in concurrence with the action of the House

Total number of voting	36
Those voting yea	19
Those voting nay	17
Those absent and not voting	0

THE CHAIR:

The bill passes.

Senator Looney.

SENATOR LOONEY:

Good morning, Mr. President.

THE CHAIR:

Good morning, sir.

SENATOR LOONEY:

Mr. President, the Clerk is in possession of Senate Agenda Number 3 for yesterday's and today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Mr. President, Clerk is in possession of Senate Agenda Number 3 for Thursday May, 21 session, 2009, copies of which have been distributed.

THE CHAIR:

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subject during the proceedings.

If people have conversations about other matters, they'd please take them out of the Chamber. And I want to maintain a proper decorum for this debate. Thank you very much.

Will the Clerk please call Calendar 479.

THE CLERK:

On page 14, Calendar 479, House Bill Number 6578, an Act Concerning the Penalty for Capital Felony, favorable report of the Committee on Judiciary.

SPEAKER DONOVAN:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Thank you, Mr. Speaker. I move accept -- I move for acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER DONOVAN:

The question is acceptance of the Joint Committee's favorable report and passage of the bill.

Remarks, sir?

REP. HOLDER-WINFIELD (94th):

Yes. Thank you, Mr. Speaker.

The bill before us what it does is takes the penalty of a capital felony and replaces it with a -- or renames it -- a murder with special circumstances.

The bill from the effective date, therefore, anyone who would have been charged with a capital felony will be charged with a murder with special circumstances. The punishment for which is life in prison without the possibility of parole, and this bill will be effective upon passage going forward. And it came out the Committee 24 to 13, and I urge passage -- I move passage of the bill.

SPEAKER DONOVAN:

Thank you, Representative.

Remark further on the bill?

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. This is, as you described yourself, sir, usually when -- when we're done people describe the deliberations in the hall of the House as the legislature at its best. And I think in the past and I don't know if it's three, four or five times we've had this debate since I was elected in 1986, each of these times the -- the outcome has been the same. Efforts to repeal the death penalty have been defeated.

At various times we've added new provisions to the death penalty. Almost all the time, those are passed. And on one occasion, which is most notable in

1995, an attempt was made to enact what was then characterized as a workable death penalty. There was -- there was a different legislature, a different governor at the time. For what it's worth, it was the aftermath of the 1994 election. Governor Rowland had just been sworn into office. The Republican Party controlled the majority of the State Senate. And, even here in the House, although there was a democratic majority in the House, the -- the margin was substantially narrower than it is today. And I think it's fair to characterize the mood at the time was that -- that there was a real frustration with the death penalty. There was a sense that it wasn't workable and that something should be done to speed up the process.

Now there are many legislators, myself included, who oppose the death penalty for a variety of reasons. And the last time we had this discussion was four years ago and on -- on that occasion, I outlined, I think, it was like an hour long I spoke -- but I felt it was important to sort of catalog the top ten reasons why I oppose the death penalty and why I think it's not a good public policy for this state. I won't repeat all of those, but I want to highlight what I think are some very important points for us to keep in

mind as we have this discussion.

For starters, I think it's really true and we're all politicians. We talk to our constituents. We talk to our neighbors. We get to read the papers. We watch TV. We talk to our colleagues. We get a sense of the mood in the state. And I think it's true to say that about a third of the people in our state are totally against the death penalty no matter what. And about a third of the people in the state are totally for the death penalty no matter what. So that leaves a third. And I think that third can be best described as don't have a philosophical problem with the death penalty but for a variety of reasons have increasing doubts about it as a public policy. In other words, they think it's appropriate to execute people under certain circumstances, but they're also focused on this -- this practical side of the discussion. Will it ever happen in our state? How long does it take? Is it fair? Is there a racial bias involved? How much does it cost? These practical considerations seem to resonate among people, and I think for that reason we've seen a gradual decline in support for the death penalty. And, at the same time, a gradual decline in enthusiasm for the death penalty among the people who support it, mainly that middle third.

So I think I certainly have nothing but respect for people who think that this is a matter of justice. I think it is a matter of justice. I think on -- in another context, we have to decide whether the government should be empowered to kill people under any circumstances in this sort of delivery process. And that's where I am, I don't -- I don't -- I think it's a little dangerous to give that kind of power to the government. I think history has shown that with that power, governments start to push the envelope, expand the scope and before you know it, you're executing for political reasons or whatever. And -- and I think to stay as far away from that danger should be our goal. And so I think by eliminating the death penalty following what really is the practice in virtually all of the rest of the industrialized, sometimes referred to a civilized world, that -- that's clearly a trend across -- around the world and throughout this -- the country.

With that in mind, it is also important to note that in recent years there have been significant changes in the death penalties of public policy throughout the whole country. The number of death sentences has declined significantly in the last 15 years. The number of executions has declined

significantly in the last 15 years. Three states have actually abolished the death penalty in the last five years.

New York State, its Supreme Court declared their death penalty unconstitutional. And the legislature said the governor said, we do not support rewriting the death penalty to reenact it. So, as a matter of fact, New York no longer has a death penalty on it's -- an enforceable death penalty as a matter of law.

Two years ago, New Jersey repealed their death penalty. Like this bill, it was prospective only. And the reason if you read the deliberation of the New Jersey's legislature, not that we should follow their example necessarily, but I think what they did was instructive for our deliberations here today. And they basically listened to their constituents and it seemed there was a consensus in New Jersey that although, in theory, there was a death penalty; in practice, no one was ever actually going to be executed. And why not conform the law to what the reality was in New Jersey and so they just abolished it. And to my knowledge there's never been a hewing cry in that state about reinstating the death penalty. It seemed like people had just given up on it. It's a bad idea. It's never going to happen. Who are we

kidding? We might as well have truth in sentencing so let's switch to life without possibility of release.

Just two months ago in New Mexico, the legislature -- I think surprisingly -- decided to repeal the death penalty. And Governor Richardson signed that even though he had historically been a supporter of the death penalty. And if you look at his reasons for changing his mind on the death penalty and signing the bill, ultimately, it was much the same that was stated in New Jersey's. Look it's -- it's unworkable and there's no way we can think of to make it workable and so it's important to be -- to level with the family members of the victims and the citizens at large. If this is not really going to work, let's get rid of it.

As we speak, in Kansas -- in Kansas -- and in Colorado, there's a very serious effort underway to repeal the death penalty. I'm not sure it will be successful this year, but it's clearly a bipartisan effort to -- to rethink this public policy given the same frustrations that -- that I think are present here in Connecticut about the workability of the death penalty.

And, in New Hampshire, I think they're done for the year, but New Hampshire very seriously considered

-- I think the House passed the repeal of the death penalty and the Senate either didn't take it up -- I forget what actually happened there -- but, in other words, this is a very serious discussion taking place in a lot of the death penalty states.

I know it's down to 35 states right now -- had been 38 -- take out New York, New Jersey, New Mexico, you're down to 35, so 15 states don't have the death penalty. It's worth keeping in mind that in this part of the country, New Jersey doesn't have it, New York doesn't have it, Massachusetts doesn't have it, Rhode Island doesn't have it, Vermont doesn't have it, Maine doesn't have it. New Hampshire, in theory, has it. There's nobody on death row. There's not been a death penalty prosecution in -- in recent decades. And that leaves Connecticut.

So what do we have? What is this mechanism we have in the statute books that seems to impose the death penalty for the most heinous of crimes? Why isn't it working? What's the problem here? Well, as I said 15 years ago, Governor Rowland proudly signed a bill that he characterized as finally making the death penalty workable. Well, I had my doubts at the time and I expressed them publicly and back then I said, you know, I wonder what it's going to be if in ten

years goes by and there's no more death sentences, there's no more executions, if no one actually is executed? I wonder what people will think. Well, here -- now it's been 15 years and here we are.

The only person to be executed was actually executed four years ago today. And I think as everyone knows that -- that murderer, who certainly deserved to be executed, spent ten years working with the prosecutors to get himself executed because apparently he couldn't bear the thought of spending the rest of his life anonymously locked up in that maximum security prison facility. He just wanted to commit suicide, in essence. So it's also interesting on that day, four years ago, when that murderer was led down the hallway at Northern Correctional, you know, he had given up his appeals. And if you asked the commissioner of Corrections, the former Chief State's Attorney, the Attorney General is it true that when that murderer was on that gurney, is it true if he had said at any time up to the point that they injected the lethal injection into him that I want to appeal, is it true that you would have stopped the whole proceeding and he would have not been executed? They will tell you -- because we asked them in the public hearing -- yes, that's true.

And so even though we did have an execution, the first one since 1961. It's hard to imagine that's a punishment. That's what he wanted. And I support the one penalty that apparently that guy feared the most, which is to be locked up for the rest of his natural life living anonymously not the mini-celebrity you get to be if you're on death row, and if you don't believe me just Google Connecticut death row. You can see their photos. They apparently have fan clubs. They have supporters. They have web pages set up on their behalf. That's what happens when you're on death row. There's three guys -- of the ten -- who are death row right now. Three of them have been there since -- committed their crimes in the 1980s, the 1980s. And so why is -- how is that possible? How could we have a workable death penalty based on what happened in 1995? Here it is 2009. How's it possible that there's three guys in the 1980s -- and by the way it's worth noting that almost everybody involved in the system agrees that if the guy who is executed four years ago today had wanted to appeal, he'd still be alive today and he'd be no closer to execution than any of these guys are. How is that possible? What's the problem?

Well, it's not endless appeals. That's for sure

because these guys -- and this was described in great detail before the Judiciary Committee the other day -- are basically still on their first appeal. Now there's a lot of complicated legal technicalities that go along to explain exactly where each case it, but none of them have gotten to the point where a date has been set and then has been postponed by a habeas petition that was filed after they had gotten their final Supreme Court decision. None of them would be affected by any of the proposals that were put forward by the Chief State's Attorney at the public hearing we had -- or the informational hearing we had last week. They're caught up in this -- what's currently a -- a disparate -- what the heck is it called, a racial disparity analysis which is in a trial court, which has been going on for years and which may go on for a few more years and even when the trial court decides whether or not there's a racial bias in our death penalty statute, then that decision, either way, will have to be appealed to the State Supreme Court and once that decision is done then it will have to be appealed to the United States Supreme Court. And there's no bill that we can pass or that's ever been considered before the legislature that would change that.

It's been suggested that somehow the legislature in the last 20 years threw some obstacles in the way, passed some bills that made it more difficult to execute people. And I know people can say that, but that's not true. Kevin Kane, the Chief State's Attorney, was before our committee last Friday and we asked him. We said, Mr. Chief State's Attorney, people say that there's some obstacle that's been thrown in your way by the legislatures in the last 20 years that makes it more difficult to execute people, is that true? Is there any bill that we passed? And he said, no, there's not been any bill passed by the legislature that makes it more difficult. What's going on are the -- the -- the appeals that are clearly called for, under our State Constitution and the United States Constitution.

And here's what the law says right now. The law says if you get convicted of capital murder and if you get sentenced to death, then there is a direct appeal to the State Supreme Court. That is a streamlining maneuver because were it not for that, most likely, this would first have to go to the State Appellate Court and then ultimately to the Supreme Court. So to save time, these appeals go directly to the State Supreme Court. It's -- it is, in fact, an automatic

appeal. It's a mandatory appeal, but I mean just think of it I mean how many people are going to get convicted and say, don't worry about it, I give up my appeals. I mean as a practical matter, the decision to appeal is going to be automatic no matter how you look at it.

So that's what you have today. You got guys committed their crimes in 1980s still with their case moving through the process. And any potential restriction on habeas corpus petitions that we could consider wouldn't even apply -- wouldn't deny them the right to do what they're already doing. And the Chief State's Attorney said that there's -- under no circumstances, would there be an execution date set in the next three or four years, five years for any of these guys. And, even if it were, they still get federal habeas corpus petitions. And any decision that's made here in Connecticut, could still be appealed directly into the federal court system. So, in all likelihood, we're talking, at least -- I mean it's unthinkable that it would happen within five years, probably more like ten, 15, 20 years, if ever.

And so why is this important? Well, it's important for two reasons. I think that there's going to be some suggestions today to tinker with the

appellate process and fine we can talk about that, but I think, as a practical matter, if you talk to people directly, they say if this helps at all it will be very, very small help. It would speed it up just a tiny bit, like accelerating the time in which the transcripts have to be prepared, et cetera. If it's even possible to do, it would cut maybe three months off the process. So that's one possibility you might, best case analysis, save a few months.

On the other hand -- and this was pointed out by the ranking Senate member of the Judiciary Committee, Senator Kissel. He said, you know, as a supporter of the death penalty, I'm not sure this a great idea because any change we make now might in and of itself be ruled unconstitutional and, therefore, invalidate all the death sentences and you wouldn't even know that for five or ten years because that would have to go all the way probably to either the State or the United State Supreme Court just to know whether any change we could consider today is even constitutional.

So that's the dilemma we find ourselves in no matter whether you're for or against the death penalty, you're confronted with this reality that, as a practical matter, in Connecticut, we're never really going to execute somebody against their will.

Now I think it's important to say that publicly because I believe in truth in sentencing, and I don't know what the prosecutors tell the victim's families when they're victimized in a crime that is eligible for the death penalty. Can you imagine? What would you tell these people that come to you and they say, okay, great, the death penalty is an option here but tell me how the process works. What's the likelihood they're actually going to be executed or sentenced to death -- actually executed and about how long is that going to take? What would be the honest answer? Twenty years, 30 years, 40 years. We don't even know. Maybe in five or ten years, we'll know the answer. If you committed your crime in 1988, you got executed in 2015, 2020, and that's optimistic from the point of view of -- of the people who support his policy. I mean that's the reality. And there's -- there's nothing that we can do to change that reality. No matter what you do, there's always going to be smart, well-trained, dedicated lawyers who will do everything they can think of to block an execution because some people feel so passionately about this issue that's just a given.

You've got a constitution, a US Constitution, a State Constitution which unless somebody's proposing

to change that you cannot get around. It's -- I understand it's been suggested that, well, you know, in some states, like Florida and Texas, when they execute somebody the average is like 13,, 14, 15 years after the sentence was imposed in the court. Well, that's Florida and Texas. And I think almost all of us would acknowledge that the way the Florida and the Texas judicial system is run, the election of judges and things like that, that's not something that we're want to sign up for. Let alone the election of prosecutors, the politicized process there and other important differences. I'm not criticizing those states. I'm saying it's just -- it's not Connecticut. The idea that we can pass some bill that makes Connecticut's court system into Florida's court system or Texas's court system I think is a preposterous idea.

So we're stuck with reality. It's Connecticut. No other state around us has executed anybody in over 50 years and they're not going to. In fact, if you go a little further west, Michigan, Wisconsin, Minnesota, they don't do it either. Those are states that are a lot like us in many ways. It's just not going to happen here. And so if that's true, and I really think it is true, if that's true, don't we owe it to

the citizens of our state and to the family members of our victims to tell them the truth. Seriously, we're not ever going to actually execute anybody. And isn't it better for us to do what New Jersey and New Mexico recently have done is conform our law with what is the reality that we know, which is, the maximum penalty that's going to be imposed on people that commit these most heinous crimes is life without possibility of release. That's what's going to happen. That's the end result.

Now the final thing I want to say is -- is just to briefly highlight some of the other arguments that are raised which -- which I think are certainly true. It's cheaper to exec -- to lock somebody up for life than it is to go through an entire execution process. It's been studied in many states. It's just true. It costs a lot more to go through all this death penalty stuff than it would be to just lock the guy up forever. That's just the fact. I'm -- not everybody's going to agree, but, if you check it out, you'll see that that's pretty clearly the case.

It's not a deterrent. In fact, if you compare the murder rates in states that have the death penalty to the murder rates in the states that don't have the death penalty, you compare the murder rate in the

United States to any other, like westernized industrial country, you'll see that if you want to get murdered, you want the odds to be the highest, well, go to Texas, go to Florida. Right? And I'll tell you the cities that you should go, go to Houston, go to Jacksonville. You know, half the people on death row in Texas committed their crimes in Houston. There you go. Is it a deterrent? I'm not so sure about that.

I think at the end of the day we get down to the argument that, well, it's justice. Right? These people deserve to be executed and we should do it. Well, let me be the first to say, they deserve to be executed. In fact, in some cases, they deserve worse than that. But I think all the things that you could list if -- if they deserve to have done to them what they've done to other people, I think that's -- we all feel that way.

The question is should the state be doing this kind of stuff. Well, we can't under our constitution. You know, we can't sexually assault people as punishment. We can't chop off their limbs. We can't strangle them to death. We can't force them to watch their loved ones be murdered in front of them. Those aren't penalties that are available to us. It is constitutional to execute people. There's no question

about that. But the law that the Supreme Court, the United States Supreme Court, imposed on the states in the early 1970s said that if you're going to do this, it is such an elaborate process that it gives rise to all of these problems we have today.

And maybe -- I'm sure most of you -- I know most of you aren't lawyers and not that I'm an expert on the death penalty, but there's a few basics you should be aware of as we discuss this. It's not like a typical criminal case. Compare a death penalty case to an ordinary murder case.

A death penalty is not one trial but two trials. First is the guilt phase, then comes the penalty phase. Two completely different trials. Could be two completely different juries. And so it's -- it's at least twice as long just the mechanics of the trial. You have to do the same thing twice. The first question is did you do it? The second question is the whole second trial is are there any aggravating factors, are there an mitigating factors? If there are both do the aggravating factors outweigh the mitigating factors? That's a whole presentation of evidence. There's a jury involved or, perhaps, there's a three-judge panel but still it's the whole production.

To even get on a jury for one of these cases, there's an individual interview that takes place with each protect -- prospective juror. To even get on it you have to say you support the death penalty. If you're opposed to it or if you're equivocal you're just going to be knocked out. You're not death penalty qualified. If you say you do support the death penalty then they have to determine if you can be fair and unbiased in a particular case and if you think of some of the more recent death-penalty eligible cases in Connecticut, just think how long is it going to take to pick a jury that consists only of people who say they support the death penalty and people that say, based on what they've read in the newspapers, they can be fair and impartial in that case. You're going to have to find not 12 people but you're going to have to find 12 people plus probably 12 alternates, so it's 24 people. Try and find 24 people in our state that say that they support the death penalty and they could be fair and unbiased in one of these very well known cases where it was covered wall to wall in the news media that they could be fair when it comes to what the punishment is in that case. And then you'd start to understand why these cases take a year. And if there was a case

where there was more than one defendant, then it's a year for the first trial and then a year for the second trial and then the appeals start after that. And all we know for sure is we're talking 15, 20 years just to get through the first set of appeals because that's where all the current cases are. So that's what you've got.

And those are just realities and no one is proposed changing any of that and to change any of that thing any of what I've described you're going to have to amend the constitution or change the makeup of the United States Supreme Court to undo the decision from the early 1970s. So that's -- that's our dilemma.

So a solution to this problem, in my view, is pass this bill because once this bill is passed, in the future, family members of victims can ask for whatever is the most serious penalty available under the law for these most heinous of murders and they will know that that penalty can be and will be imposed and will be carried out.

Little known fact under Connecticut's capital murder statute, there's two possible penalties, execution and life without possibility of release. There are many people who have been prosecuted under

the capital felony statute, only ten of them are sitting on death row right now and an 11th was executed four years ago today at his own request. All of the other persons conduct -- convicted under that capital felony statute are currently serving a sentence of life without possibility of release. And some of them have been in prison since the 1970s. It's 2009 right now. It's been suggested that somehow if we repeal the death penalty next somehow the legislature go and start undoing the life without possibility of release sentence.

Well, let me just share a short history lesson on that topic. I got elected in 1986. In 1980, Connecticut banned parole for all persons convicted of murder, 1980. And for 29 years that law has remained intact on the statutes. No one has proposed, even once, changing that.

In 1993, the legislature -- this is 1993, so not to be partisan, just pointing out historical fact -- legislature controlled by Democrats in both houses and Lowell Weicker was the governor of Connecticut. In 1993, the legislature in -- and I was a member of the Judiciary Committee. I was the vice chair at the time and -- and went through this debate, and I felt very passionate about this that we should have truth in

sentencing, especially for violent criminals. And, in 1993, among other things, we said that the good time credits we use to reward almost automatically to all offenders regardless of what they're in for, including murder, should be abolished because the sentence people heard in court ought to be the sentence people served. And, at the time, people were serving as little as ten percent of their sentence, including a lot of violent criminals so the legislature abolished it. Governor Weicker signed it. And, to this day, there are no good time credits awarded for any offenders.

Now, we may end up discussing, not good time credits, but rethinking some of the penalties for nonviolent offenders, some of the -- the -- the time served standards for them but only with victim involvement so a de facto victim veto power with that kind of -- that's the kind of thing that we might be discussing. But people have been very clear in both parties, almost unanimously among legislators, that violent offenders are in league by themselves and murders, whether it's capital murder or regular murder, should not get any discount under any circumstances. And these sentiments have remained the same as we sort move back and forth on the spectrum --

sort of -- sort of moving in the left direction and moving in the right direction.

The sentiment that we should have absolute undeniable truth in sentencing for violent offenders has never wavered since 1993, even going back to 1980. If anything, it's been in the direction of more truth in sentencing there. I say that because if there are suspicions that somehow down the road we start watering down the life without possibility of release statute, I don't see any historical precedent for that. That law has been on the books since 19 -- since the 1970s. And people are still serving those sentences. None of them have been paroled. None of them have been released early. It's intact. It's going to stay, and it should stay. And -- and I would passionately oppose any attempt to change that that passing this bill would be truth in sentencing.

At the end of the day, I think our current death penalty statute, the theory, not the reality of the death penalty in Connecticut, I think that is cruel and unusual punishment to the families of the murder victims in these capital cases because what they have to be put through just so that we can maintain the appearance of a death penalty process in Connecticut is -- got to be extraordinary torture. And I take

partial responsibility for that because, as member of the policymaking body, I think we all should share responsibility for that. I think that we should level peop -- with people. I think we should do what New Jersey and Arizona did. Let's be honest. If we're never going to actually execute anybody, let's just get rid of the death penalty. Let's switch to something we can deliver on; that will save money; that will not be subject to all the criticisms we have; and, for sure, even though nobody on death row is -- no one on death row right now is innocent in Connecticut. That's clear. But just the other day, in another state, a person was released from death row after having served 22 years as a condemned inmate. The easier we make this process, the more likely that is to happen. So I can't think of a single good reason to do it other than they deserve it. They deserved to be executed. But given all of the realities that none of us have the power to change, I urge passage of this bill.

SPEAKER DONOVAN:

Thank you. Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Ladies and gentleman of the chamber, in keeping with the tone set by the

Speaker, I have to add some words of introduction, if I may, before my remarks. Some of who've been here before have heard me say these remarks, it has been my privilege to serve in this chamber for 17 years. I believe this is the fourth time I've been involved in a death penalty debate.

Regardless of the side of the issue that you stand on, it often and always is for me my proudest moment to be a member of this body and engage in the high level debate -- and respectful debate on this very important issue. So for those of you who are new and have not witnessed a death penalty debate, I think in looking back at your legislative careers, you might look upon this day as one that's quite special.

Mr. Speaker, as I indicated in my opening remarks, it is not my first time being witness to a death penalty debate and, certainly, not my first time in participating in one. And, though I have served with Representative Lawlor for 17 years, he's a friend of mine. We don't agree on every issue. We certainly don't agree on this issue. It is a honor to debate Chairman Lawlor on this issue because I think he is so knowledgeable and articulate and sincere in the positions he puts forth.

I often have said when asked that I support the

Connecticut death penalty. And I'm always cautious to say that because I realize as Representative Lawlor indicated that 35 states, at least now, have death penalties. I don't know whether they're workable or not. I don't know the statistics with regard to when their last execution was. And, frankly, as a Connecticut resident, that is not of concern to me. What is of concern to me is the death penalty in the State of Connecticut because, as Representative Lawlor indicated, there are many reasons that one might support a death penalty. And various supporters might have different reasons for supporting the death penalty. I'd like to share with you some of mine, and they might be very different from others in this chamber who support the death penalty. And I guess the best way to start is to indicate what I don't believe to be true about the death penalty.

One of the reasons given, as Representative Lawlor indicated, is that the death penalty is a deterrent to crime. That people within a given state that has the death penalty will think twice before they commit that most serious, heinous, deplorable crime. I do not believe that. I do not believe that before somebody commits a capital murder as we describe it, the most serious, the most heinous, the

most deplorable act that we recognize in our penal code, I do not believe before they do that they stop and say, does this state have a death penalty? If it does not I will go through with it; if it does, I will stop. I do not believe it is a deterrent.

On the flip side of that as I've often said that I also do not believe that a state that has a death penalty is an incentive to murder. And I only find it necessary to say that because so many times people have quoted statistics which indicate that states and/or countries that do not have the death penalty actually have a lower rate of murder or capital murder. And just as I do not believe that the death penalty is a deterrent, I also do not believe that before somebody commits a heinous, deplorable, unspeakable act of capital murder that they say because this state has a death penalty, I will go through with that act. So I don't believe it is a deterrent. And on the flip side of that, I certainly do not believe it is an incentive.

I also do not believe that it is money saver. I certainly don't believe it's cheaper to execute somebody than it is to house them in prison for their rest of their life. That's sort of an age old cliché. I don't believe it. In fact, I take Representative

Lawlor at his word when he says statistics will show it costs far more to have a death row inmate go through the various appeal processes than it would be to just house them in the normal course. But, frankly, the money savings component is of no moment to me because I do fall on the side of the argument referenced by Representative Lawlor that it is about justice.

We in the State of Connecticut and we, as legislators, pass laws every day and certainly those with regard to our criminal justice system and our penal code. We make decisions year after year, for hundreds of years, on behalf of our constituents wherein we, as a legislature, make determinations on the seriousness of crimes, on gradations of penalties, on degrees of wrongs, determining one act is worse than another act, which is worse than another act, et cetera. And our penal code reflects that, based on a find that might be given for a certain act, a time in prison, et cetera.

The worse the crime, the more harsh the penalty is the general theory. It is reflected in our statutes, and it -- which reflects the wisdom of this General Assembly over hundreds of years, which reflects the will and wishes of our constituency.

Does that change from year to year? Without doubt, it does. It certainly does.

I do not accept the argument, if you will, that our -- that our capital punishment statute, our death penalty statute, is unworkable because we can't use it. As I often say, I loathe the day where we measure the success of our death penalty by how often we kill people. I think we would all hope for a day where we had a -- maybe had a death penalty that we never had to use. But no one committed the crime to warrant the use of the death penalty. That would be a nice world indeed. Unfortunately, that is not the case. So I don't measure the workability of a death penalty by how often we use it. I measure it by its constitutionality. And we, as a state, have gone through a period of time where the death penalty we had was unconstitutional. I think Representative Lawlor and others even who are proponents of this particular bill will not argue the fact that our current death penalty is constitutional. They'll argue it ain't working because you can stay on death row forever if you so choose. But I don't think they -- at this point, will argue it is unconstitutional. That's how I define workability.

So, Cafero, one might ask, if you're don't think

it's a deterrent; it's not a matter of cost; and you acknowledge it hasn't worked so well. What the heck do you want it for? You say justice. What does that mean? It was indicated before in Representative Lawlor's remarks that even our capital murder statute has two possible results to it: execution and life imprisonment without the possibility of release.

Even in describing -- or setting forth -- I should say -- in our penal code, the crime of capital murder, we, as a legislature, made a distinction that some behaviors are the worst of the worst. Some behaviors warrant life imprisonment in -- in accordance with a judge and/or -- three-judge panel and/or jury without possibility of release and some are even worse that under our current law, in the eyes of a jury of a defendant's peers, a convicted individual's peers warrants death. We recognize there is a difference.

During Representative Lawlor's presentation in defense of the bill before us, he used words, such as frustration, the frustration on the behalf of those who might be supporters of the death penalty that it's not workable. He used the term a lack of, over the recent years, enthusiasm. And, with all due respect, I must correct that notion. I'll speak for myself, as

a supporter of the Connecticut death penalty, I do not relish the penalty. I do not get excited at the prospect of someone being put to death. I do not get enthusiastic about that penalty. I simply believe that there are crimes that are committed that are so heinous and so deplorable that justice requires the individual who committed that crime and is convicted of that crime to be no longer of this earth.

I've often said many times that I don't hope that individual has that broken arm or eye for an eye; that his brains are gouged out; that he bleeds from the eyes; that he screams in pain; that he suffers real torture. I don't believe that. We have a system in our Connecticut death penalty of death by lethal injection. It is not firing squad or hanging or gas chamber. It is lethal injection. That was the wisdom of this particular legislature. Not a legislature enthusiastic about the death penalty, but a legislature that seeks justice. It's not enthusiastic about it, does not cheer it, does not get frustrated by its lack of use but believes in justice.

I believe in a Connecticut death penalty that does have appeals; that gives someone convicted of a crime every possible benefit of the doubt, every defense. The right to counsel and now with the advent

of technology, every benefit of technology, appeal after appeal after appeal; that allows that person to defend him or herself against the ultimate of punishments. But, when that is done, we, as a society, are entitled to justice. Many people, over the years, have said it's really a matter of revenge, and I've often argued it is a matter of retribution. Some say, what's the difference? Revenge is that eye-for-an-eye mentality. Revenge has within the word, vengeance. Vengeance is an emotion. Retribution connotes justice, exacting a punishment for behavior in the pursuit of justice. Notice the difference one contains emotions; one does not.

Government cannot afford to be emotional. Government does not have that privilege. It cannot be compassionate. It cannot be angry. It cannot be vengeful. We, as individuals, can be. We can have those feelings of certain criminals what we would like to with them, but government cannot be that way. Government must be just. And so I believe, like any penalty that we have on the books, can our death penalty be improved? Probably but that's not what we're discussing here today. What we're saying is, do we, as a state, believe that should be the ultimate penalty on our books? Not with the regard with to how

many times it's used, but so long as we are comfortable and confident in the fact that it's rarely, thank -- pray to God it is used -- it is used justly after every benefit of the doubt is given.

Representative Lawlor indicated that because of the actualities of the imposition of our death penalty, it is actually cruel and unusual to those families. Again, with all due respect, that implies that if we were to eliminate the death penalty, the families who have been victim to these heinous deplorable crimes would breath a sigh of relief; that they would feel better that the person who perpetrated that crime against the loved one would not be so bad or the frustration would not be there because their doing life in prison without possibility of parole and not on death row, where they face potentially the prospect of death. I don't believe that.

As Representative Lawlor indicated, we currently have ten people on death row. There's often been debate -- during the debate of how we debate and whether or not we should delve into those individuals who are on death row because people say, well, it's inflammatory; you're skirting the issue; you're playing to the emotions of the crowd; that's not fair. Debate the penalty on its merits. But how can you do

that? How can you debate the penalty on its merits if you can't, at least, demonstrate the very rare occasions that we imposed that penalty and what caused Connecticut residents sitting on a jury and/or a three-judge panel to impose that. How could we that? I feel I must.

We have a gentleman on death row by the name of Robert Breton, Sr. He was sentenced to the death in 1989. He was convicted of two counts of murder, one count of capital felony for the December 13th beating and stabbing death of his 38-year-old wife and his 16-year-old son. He slashed his wife with a knife and did the same to his son.

Sedrick Cobb sentenced in '91, deliveryman from Naugatuck, convicted of rape and murder of a 23-year-old. He lured her by flattening her tire, pretending to help her, drove her to a secluded road. She fell 23 feet, the icy water below to her death.

Richard Reynolds, Brooklyn, New York, crack dealer sentenced to death for the murder of a Waterbury police Officer, Walter Williams.

Todd Rizzo sentenced in 1999, former US Marine, who was convicted of killing a 13-year-old boy by bludgeoning his head with a sledgehammer because, as he said, I wanted to see what it felt like.

Just some of the people that are on death row. Unique, heinous and deplorable crimes that many people and probably everyone in this room believe in their heart deserve the ultimate penalty. Our law afforded them to receive that. Yes, they're still alive on death row, but they were convicted under a constitutional death penalty. That's justice or the pursuit thereof.

And I'm wondering, ironically, as we sit here, May 13, 2009, a State that tragically and unfortunately has made national news not once but three times in the last few years for certain deplorable acts that have taken place within our state. The Cheshire murders, those brutal, unconscionable murders of an entire family, drawn out over hours, torturous, barbaric, unspeakable. Followed by the New Britain murder, again, torturous deplorable, heinous, unspeakable. Most recently, the national news that we, as a State, made regard to the murder that took place at Wesleyan.

What is the message for the State of Connecticut with regard to our criminal justice? Do we send that message that now we, as a State, believe that our ultimately penalty is unworkable and, therefore, should be abolished. Let's get rid of it. It doesn't

work. No one's died. I'm not sure I'm comfortable with that reason.

I mentioned the last time we debated this, and I think it bears repeating, Representative Lawlor referenced, in some cases, the celebrity status of some of our death row inmates, they have websites, fan clubs, et cetera.

And I -- I call your attention to two. One is Daniel Webb, a death row inmate, who was sentenced in 1991. He convicted of kidnapping, attempted rape and murder for the slaying of a 37-year-old Connecticut National Bank vice president. He kidnapped the young woman from downtown Hartford while she was in route to a meeting. He drove her to Keeney Park in the City's north end, tempted to rape her. Shot her five times when she broke free and tried to run. Witnesses testified the last shots were fired at close range. The last one was fired point blank into her face, 37-year-old bank executive.

Daniel Webb has a website. He writes that I'm a lover of music, sport, travel, culture, gaining a deeper insight and understanding of the mysteries of life and, of course, women. Women, he writes, of all ages and races as long as she's opened-minded. I'll respond immediately to all those who write. As you

could imagine, though, I already have a full plate of hot steamy drama so I don't need any more of that so I'm looking for a trusty dish of peace and harmony.

I'm sure Daniel Webb is. What about his 37-year-old victim? She can no longer enjoy music, sports, entertainment because he killed her.

Todd Rizzo, a death row inmate who bludgeoned a 13-year-old boy's head with a sledgehammer because he wanted to see what it felt like. He writes, I'm in the minority of American prisoners who just need a friend to correspond with. He begs and pleads for that discourse, that exchange. That 13-year-old boy can't have that exchange because he killed him. What about justice?

Ladies and gentlemen, the death penalty is not for revenge. The death penalty is not a deterrent. The death penalty is not a cost-saving measure. The death penalty, in the eyes of the people of the State of Connecticut and its elected representative has been and hopefully will be the ultimate form of justice, rarely used, for the most deplorable, heinous and unspeakable crimes.

I respectfully asked that you consider those facts when you vote on this bill and vote against the removal of the death penalty in our criminal statutes.

Thank you for indulging me.

Thank you, Mr. Speaker.

SPEAKER:

Thank you, Representative.

Representative Mikutel.

REP. MIKUTEL (45th):

Thank you, Mr. Speaker.

You know I wonder what Connecticut's innocent victims of murder would say if they were here today, which I believe they are in spirit. What would they say to Representative Lawlor's remark that it's not good public policy for the State to have a death penalty. I don't think they would agree, and I don't think they would agree with a statement that we can't make a workable death penalty. I think we can do them better than that and we will show how we can do that at some point today.

You know, they can't be here to speak for themselves so people, like me, are going to try speak for them. Nothing we can say will do them justice. I say that, but we will try our best. You know, we did not -- the supporters of the death penalty, such as myself, we did not seek this debate. In fact, it's a beautiful day, and I really don't like debating this topic. On a beautiful day, like today, I'd like to be

talking about more pleasant things, but you cannot debate the death penalty and have a talk about pleasant things because it involves victims, and, when you talk about victims, there's pain and suffering that you have to talk about? You cannot have an intellectual debate as you will about the death penalty, a bloodless, painless, sufferingless debate. There'll be no sanitized debate from me.

I think, we are debating the wrong bill at this time. I believe that our response to the -- Cheshire tragedy should not be to abolish the death penalty. It should be to make a workable death penalty. This bill may pass today, but that doesn't make it right. And I take comfort in the knowledge that Governor Rell will veto this bill if it does pass. You know, as a child, I was taught by the adult world that God protects the innocent, and so, at night, I used to pray that God to protect my family, me and my friends. And, as a little boy, I went to the movies and in those days they used to have double features and in between that feature they had a news clip about the Nazi death camps. And, as a little boy, I saw stacks and stacks of naked dead people, women, children, men, and you could see every bone in their body. It had a real impact on me. I went home to my mother then and

I said, Mom, how could this happen? And, you know, my mother didn't really have a good answer but she said something, well, people do horrible things to people. And I realized then that God does not protect the innocent. I found out later that John Kennedy was right when he said, "God's work in this world must truly be our own."

I realize, too, that the police cannot really protect the innocent. They try. They didn't protect Dr. Petit's family. They didn't Michael Ross from killing those young girls in my district. They try but I believe we, here in this legislature, have an opportunity today to protect the innocent. I really do and we can do that and we'll explain how. We can do it by defeating this bill before us. We can do that by keeping the current law, which has been ruled Constitutional by the US Supreme Court, by the Connecticut Supreme Court.

You know, they're certain crimes or incidents that have shaped my views on the death penalty. One was, as I mentioned, that the Nazi war criminals. In particular, people like Rudolph Hoess, who's an Auschwitz Nazi commandant, where they killed over 1 and a half million people, mostly Jews. His famous quote was, "The only way the Jews will leave this

place is through the chimneys." And our friend Dr. Josef Mengele, Dr. Death, who is in charge of medical experiments. None of his patients survived. Operated on patients without anesthesia.

Michael Ross murdered three young girls in my district. I knew those girls. I knew their families. They used to ride their bikes on the road that I live on. And one day they stopped riding their bikes. They stopped riding their bikes because Michael Ross kidnapped them and killed them and that's when little girls and boys in Eastern Connecticut stopped riding their bikes on country roads. To this day, mothers and fathers do not let their children ride their bikes on country roads in Eastern Connecticut because the fear is still there. The fear that was created by serial killer Michael Ross. We need to take back the streets from these criminals.

I remember very vividly. It has always stayed in my mind about this young woman, in Rhode Island, in her late twenties. She went out one night to an establishment, and I bet you she was looking for love. A single woman dresses herself up, goes out. We all go out looking for love. I think she thought she was going to find Mr. Right. She found Mr. Wrong, a Mr. Ted Bundy like type guy, who sweet-talked her into

taking a ride with her.

He drove her to the Rhode Island beaches and buried her alive, buried her alive. I know those beaches. I walked those beaches as a young man. I know Rhode Island beaches. Every time I go by and walk the beaches of Rhode Island, I think of that young woman, and I think of the horror that she must of felt when she was being buried alive.

And, more than her life, I think of the dreams that were buried with her. You know, I bet you she wanted to find that Mr. Right. I think she wanted to find a husband, raise a family. I think she wanted all the things that a mother wants and she didn't get that opportunity.

I don't think we can say here that we understand their pain unless you have had someone very close to you murdered. There is no such thing as closure. There's no closure on -- for these people. That's a fiction of the media. I have sat on the -- in the dining rooms of the people who were murdered -- the survivors of homicide. The families that Michael Ross ruined, and they tell me they feel pain to this day. There is an emptiness in their heart that will never be filled so there's no such thing as closure.

You know, I think it needs to be said that

Connecticut's capital felony statute is used very carefully -- very, very, carefully. There's no rush to judgment here. There's no rush to execute anybody. Most murderers don't get the death penalty. There's only ten on death row. There's 762 convicted murderers in prison. So it's used very, very selectively.

And there are certain automatic bars to execution. Under age 18 cannot be executed. Mentally retarded doesn't apply. Accessory with minor participation doesn't apply. So there's automatic bars to execution, and then even after that, if you're charged with a capital felony, you have to be weigh -- they will have to weigh mitigating and aggravating factors. Mitigating factors mean it's less bad if you kill somebody if it's a mitigating factor, which most people don't understand but that's the way the legal system is. They have to weigh the mitigating and aggravating factors and only then after they prove beyond a reasonable doubt that aggravating factors prevail, only then is someone sentenced to death.

So who gets -- what are types of people that get the death penalty in this state? That kills -- serial killers, like Michael Ross, that guys, like Ted Bundy and John Gacy, who built a torture chamber in his

house and murdered 30 young boys. Jeffrey Dahmer, a Hannibal Lecter himself. Gary Ridgway killed 35 that we know -- murdered 35 young ladies.

You see, who are most of the targets here? It's women and children. Women and children are the victims of choice of murderers in the State of Connecticut and everywhere else. We should be doing more to protect women and children.

So why do we have a death penalty? You know, for me, the case for the death penalty is not that it's a deterrent, which I believe it is and I disagree with Representative Cafero. I believe it is a deterrent, and many experts believe it is deterrent and so we do not accept the statement that it is not a deterrent. In fact, I think it's a very unjust claim to make, but my support for the death penalty is because of my belief that it is a just result for these cold and callous criminals. I think the death penalty holds people accountable for their actions.

I'd like to quote Dr. Petit on the issue of justice. He says it very well. He says, My family got the death penalty and you, the Judiciary Committee, want to give murderers life. That is not justice.

The death penalty is about holding people

accountable for the choices that they made, the choice to murder and innocent human being.

We heard it said by Representative Lawlor that he did not believe that the death penalty was a deterrent. I'd like to quote the Chief State's Attorney Kevin Kane. The Chief State's Attorney said, there are those who claim it is not a deterrent, but there are numerous studies published in peer review journals establishing that executions do deter crime of the -- crime of murder and, therefore, save lives.

I would like to quote Professor Adler. Professor Adler did a -- and Professor Summers did a study, a very extensive study, and I'm quoting that reveal the capital punishment actually save lives. Our study, he says, examine the relationship between the numbers of executions and number of murders in the United States for the 26-year period, from 1979 to 2004. The study discovered that each execution carried out was associated with 74 fewer murders the following year.

Professor Adler is a well-known and respected scholar in this area. However, I want to read -- he said, the study was sparked by an inability to believe the apparent conventional wisdom. It seemed as if each time an errant person on television is talking in opposition to the death penalty the first words were

some variation of, since the death penalty has no deterrent effect. It's become an cliché. As a psychologist, I knew that the deterrent effect of punishment has been universal among animal species everywhere over millions of years. It seemed very unlikely the single exception to this universal rule would be the death penalty.

You know, the death -- to say that the death penalty is not a deterrent, fails the common sense test, the common sense test. When you were a child and you did something wrong, didn't you fear being punished by your parents? To say that it isn't a deterrent is to say that punishment, per se, has no effect. It doesn't make sense to me.

I know it's been said here that the death penalty -- someone made a reference that it was uncivilized. In fact, I know, I heard the chief state's public defender say that. I don't know if I'm supposed to infer from that that the people of Connecticut are uncivilized because the majority of people do support the death penalty. Are we to infer that the US Supreme Court justices are uncivilized because they have ruled it constitutional? Are we to say that the survivors of homicide who support the death penalty are uncivilized? I think the uncivilized people are

sitting on Connecticut's death row. Those are the barbarians.

Now it's been said here that the death penalty cost too much that it's more costly than life without parole. Well, I dispute that. And there's been many studies that indicate that that is not the case. In fact, I did a few calculations on my own and the way I came up with a figure -- and I will show how I did it to anyone who wants to talk to me, but it comes to $5.5 million per person serving life in prison without parole, and about 2 and a half million of those who are subject to the death penalty. You can average that by so much amount per year, but you have to with the life imprisonment you have to use a figure of 50 years. Many of these are committed in people in there 20s, early 30s and with the medical care that they get in prison, they'll be there for 50 years. And they get -- as they get older, they get much more expensive to keep because they have medical costs, high medical costs. So the bottom line here is, when you added all up after 50 years, the cost for maintaining that person in prison is much more than it is than the person were executed.

Now I'm not getting into the cost issue because I just want to set the record straight, but this always,

to me, and always will be a matter of justice, not a matter of costs but we should set the record straight.

You know, in Pennsylvania, they have a life -- Pennsylvania is a State that has life imprisonment without parole. They do not have the death penalty in Pennsylvania. I'd like to quote something from an article describing the Pennsylvania situation.

SPEAKER DONOVAN:

Representative, I just want to remind that you may testify but please refrain from reading --

REP. MIKUTEL (45th):

Well, I think it's important to get something on the record, Mr. Speaker. I'm not quoting the whole dissertation here.

SPEAKER DONOVAN:

And, Representative, other people's words are not members of this body so if you wish to summarize that would be appropriate but we certainly would like to hear from you.

REP. MIKUTEL (45th):

Well, as I said, Mr. Speaker, I will try to summarize here, but I think it's important for the record that we get certain things on the record.

Let me just say it in my own words then. In Pennsylvania, where they have a life without parole

situation, they're finding that it's very expensive to keep these people in prison. The average cost is about $80,000 for a person at getting into their 70s -- 60s, 70s, and 80s and they're now looking at alternatives to life imprisonment without parole because it's so expensive.

I don't know if somebody said whether the death penalty was racially biased here. I don't quite remember what Representative Lawlor said, but I just want to say I don't think that we should see racial prejudice where it does not exist in the Connecticut legal system.

In Connecticut there are two factors alone that determines someone -- whether someone gets the death penalty. The two factors: Did the defendant commit the crime and that in such a manner that it triggers the death penalty; and, two, the person's criminal record. Those are the two factors that determine whether or not somebody gets the death penalty in the State of Connecticut. Now I know the Chief State's Public Defender has raised the issue of racial bias. She hasn't proved it. I talked to Kevin Kane, Chief's State Attorney. He said doesn't exist. He told me as I just told you, what are the reasons that they bring a charge of capital felony?

Someone said state executions -- or they probably will be said by somebody that State's executions are -- can -- are similar to murder. Well, if that's true than making love and rape are one in the same because they both involve sexual intercourse. It means kidnapping and imprisonment for wrongful conduct are one in the same because they deprive -- each deprive someone of liberty. I think that's a rather absurd claim to make -- excuse me.

I would like to say that there is some value and much value in the current system that we have right now. I believe that the current law that we have is the best way to ensure justice and to protect the interest of our citizens and the welfare of our citizens.

The current law allows for a penalty. Under current law, the penalty for capital felony, for murder, is either the death penalty or life imprisonment without the possibility of release. Having these options available to the prosecutor helps the prosecutor do his job. It helps him get the -- put the bad guys away. Without the death penalty, it is my belief and I have read studies on this -- without the death penalty more capital felony defendants will obtain reductions to lower degrees of

homicide. That is, they will be sentenced in -- get a lower sentence which allows them to be paroled, to go back out on the streets and we are talking capital felony type murderers. These are the heinous criminals.

If you eliminate the death penalty and all you are is bringing a charge of life imprisonment without parole that will result in lesser sentences. It will trigger sentences that will allow those people to come back out on the streets. So the talk that capital felony, life imprisonment without parole, will somehow have the same end result of the death penalty, that it'll lead to total incapacitation of the murderer is not true. Not under that scenario because they will get lower sentences than they would otherwise get.

The bottom line here is the death penalty results in more heinous killers getting life imprisonment without parole or a longer sentenced than would otherwise be the case. So I don't know why we want to try to take a tool away from the prosecutor. Why we want to make our prosecutors have their job more difficult to get just convictions and the proper sentence for these heinous, cold-blooded killers.

What's wrong this bill that proposes life without

parole? Well, you know, I'd like to briefly say that this, as I see it, there's no certainty that this legislative body, if it passes, this bill, and it becomes law, there's no certainty that people will actually receive or not have that reversed that at some future point in time. Who knows what future legislatures are going to do? Politicians come and go. Judges come and go. Things change. I don't think anyone can say that at some point in the future that we may be abolishing life imprisonment without parole. It is said that that would never happen.

Representative Lawlor said, he would strongly be opposed to that, but I think that is already being the basis -- the groundwork for that is already being laid. Pretty soon they'll be saying -- and I know they're saying it now that those who oppose the death penalty are saying that life imprisonment without parole is their next objective because they believe that to be a cruel and unusual punishment. That's what one woman said at the Judiciary Committee hearing four years ago.

Mr. Speaker, I wonder what some people want their legacy to be. I heard some legislator once say that she wanted her legacy to be that she'll helped abolish the death penalty in the State of Connecticut. I

don't want that to be my legacy. I want my legacy to be that I defended justice when it needed to be defended and that I defended women and children from these cold-blooded killers and that I did not turn justice into poison.

Thank you.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker.

Mr. Speaker, a little while ago when discussing the measure before us, Representative Lawlor talked about how the people in our State fell into roughly three groups when it comes to the issue that's now before us. A third who clearly support the death penalty. A third who are clearly opposed, and a third who are ambivalent.

I am someone who had always fallen into that last category. On the one hand, it was evident that the death penalty was not an effective deterrent. On the other hand, it seemed that in certain horrible cases it might be the most appropriate penalty. When I first came to this chamber in 1995, Timothy McVeigh had just blown up the federal building, the Murrow

Building, in Oklahoma City, killing 165 innocent men, women and children. And it seemed somehow just that he should be sentenced to death for such a horrible crime.

So, up until today, I've always voted no on the abolition of the death penalty. During previous debates many points were raised that, for me, raised more doubts. It seems strange to me that we had on the books a law that rarely worked. That there were people who had been ostensibly sentenced to death, who languished on death row for 10, 20, 30-plus years without the penalty ever being imposed.

I also wondered about basic questions of fairness. It seemed to me strange that your life or death could be effective by which jurisdiction you were tried in. Which prosecutor handled your case? Who your defense attorney turned out to be? And, though my good friend Representative Mikutel made it sound like it's black or white, whether you are dealing with a capital felony case, in fact, the prosecutor has discretion in determining whether or not to pursue the death penalty, and different prosecutors make different decisions. So that for any given individual the question of whether or not they were facing capital punishment was, in some sense of

the word, random.

In 2005, the last time this body debated this issue, we were faced with a specific extreme situation. A serial killer, Michael Ross, a man who was guilty beyond doubt had been convicted of capital crimes. The prosecutor wanted him put to death, and he himself wanted the death penalty. Many victims' families were quoted in the media saying that they had had enough and that they wanted this execution carried out. Those voices carried a tremendous weight with me, personally. I understood, to some extent -- I don't think any of us can say we fully understand -- but I had some sense of the horrible pain and suffering that this monstrous individual had caused across Eastern Connecticut. And it didn't seem to me right that we could consider striking the death penalty from the books on the eve of his execution.

I opposed on that day abolition of the death penalty, instead supporting a moratorium and study after his execution so that we could see how fairly the law was being carried out. Michael Ross was executed. I was struck after the execution by the statements given by a number of folks who were in the victims' families saying that the execution was not what they expected; that it didn't give them the sense

of closure that they had expected; that they felt he had died too easily; that he should have had to suffer more. In short, it didn't match up with what they had expected and didn't give them anything in particular.

I was personally approached by a member of a murder victim's family around the time of that 2000 debate and she said something very simple to me. She said, please do not support the death penalty. Please do not kill in my name. The death penalty does nothing to help me, and it hurts our society, please end it. Those words had great resonance with me because this was someone who knew a pain that, thank God, few of us have known, the pain of losing a member of her immediately family to murder. And there she was imploring me to change our law, and it made me question a basic notion. It made me think about what we mean by justice. And I think when it comes to the death penalty, one way or another, those who support it are really seeking in some basic sense, retribution.

On a basic emotional level, I think, all of us have some desire to get even with someone who has done so much harm, and, in the case of murder, that means kill the killer. But, also, in some basic sense, a society that kills criminals has adopted the code of

conduct that the criminal lives by. Having a criminal justice system -- having a penal system, killing people corrodes our character. It puts us at the same level as individuals who think it's okay to kill other people.

I believe a just society punishes people. It punishes severely people who have committed major crimes. And I can think of no punishment more severe than life imprisonment without parole in one our maximum security prisons. For those who haven't been to the maximum security facilities, I encourage you to visit. I can think of no more frightening prospect than spending every single day for the rest of my life in one those facilities. But I want to remind us all that our justice system isn't perfect because it's composed of people and every person isn't perfect. So logically a system that's made up of a variety of people playing their roles as best they can, is going to occasionally do imperfect things and have imperfect outcomes. A just society doesn't take people who pass through an imperfect system and then kill them.

I guess, I conclude by framing it this way. I'd ask you all to think not about what the death penalty does to the criminal but about what it does to us. What does it say about us if we support the notion

that a totally imperfect system, run by imperfect people, can kill other people. All of us here have to think about what message we send to our society and what we teach our children. It seems to me we should be able to teach our children that bad people, sick people, kill other people but we do not.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker.

I rise in opposition of this measure. I would like to begin by acknowledging that those people who are opposed to the death penalty on the grounds of their religious beliefs or their philosophical beliefs, I certainly have great respect for those -- those people. In fact, there's really nothing that that we supporters of the death penalty can say to a person who is opposed to the death penalty on religious or philosophical grounds.

However, I believe -- and most of the people of this State believe that are some crimes that are so heinous that the only just penalty is the death penalty. In fact, if we were to abolish the death

penalty today, Mr. Speaker, it would be a slap in the face to the families of the victims of those people on death row.

I would like to address some of the arguments that the opponents of the death penalty put forward. In fact, I would like to say that many of the opponents of the death penalty will also say that those people who are serving on death row deserve to die but they just have particular problems with the death penalty as it exists. They acknowledge that that it's justice for those people on death row to receive the death penalty, but they might argue that we would save money by abolishing the death penalty. And I would assert that that is a false argument because if we were to abolish the death penalty and life in prison without the possibility of parole was the most severe penalty that a person could receive, well, then, those particular people charged with that crime where the penalty was life without parole, those cases would be just as vigorously defended as the death penalty cases are now defended. There would be no cost savings whatsoever.

We'd have the same vigorous defense of those cases as currently are the people are defending the death penalty cases. So, there literally be no

savings whatsoever. In fact, obviously there would be cost increase because there would be nobody on death row and there would be no chance of any execution, if we abolished it, that's what it would mean; and, therefore, there would be more serving people serving sentences of life without parole. So, of course, the cost would go up. So there clearly would be no savings by adopting this measure.

Also, as indicated, nobody currently on Connecticut's death row is claiming actual innocence, which is a legal term that means that they believe that they didn't do what they're accused of doing. There's no claim by anybody on death row, right now, in Connecticut, that none of those people are arguing that they're innocent. They're all guilty even they know they're guilty.

Also, as pointed out, if we were to abolish the death penalty prosecutors right now -- Chief State's Attorney Kevin Kane has indicated -- they regularly use the fact that there is a death penalty in their plea bargaining on certain cases where a defendant will plead guilty to a penalty of life without parole. In other words, the existence of the death penalty on the books, at all, is an important tool the prosecutors use.

Connecticut has one of the most difficult death penalty statutes to obtain a conviction. We have rigorous standards and procedures. The public defender's office that represents people accused of a capital crime in Connecticut are some of the best attorneys in the country, in the world. Would they have these people, who are accused of a capital crime have excellent defense, and the statuette gives them numerous protections. There's no constitutional problem with the death penalty in Connecticut. In fact, it's quite hard to obtain a conviction in a death penalty case in Connecticut, and I'm proud of that. It's not easy to get a death penalty conviction in Connecticut, make no mistake.

The people of Connecticut -- you know, I hear talk of one-third, one-third, one-third -- a strong majority of the people of Connecticut support the death penalty. And I'll tell what they think -- what I hear when I talk to the average person in my district, they support the death penalty. They just don't like the endless appeals. How many people say that to us, all the time? That's what the average person says. They support the death penalty. They just don't believe in the endless ongoing appeals. It's a shame. It's a shame for the victims' families

that these people on death row can continue for decades, literally decades, to keep appealing their case. And there's no reasonable expectation, at all, that the sentence will ever be carried out. That's not right.

And so, Mr. Speaker, I have an amendment the Clerk has in his possession LCO Number 7170. I ask that he call and I be allowed summarize.

SPEAKER DONOVAN:

Will the clerk please call LCO Number 7170, which we designated House A.

THE CLERK:

LCO Number 7170 House A, offered by Representative Labriola, et al.

SPEAKER DONOVAN:

Representative seeks leave of the chamber to summarize the amendment. Is there objection to summarization?

Representative Labriola, you may proceed with summarization.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker.

Mr. Speaker, this amendment would streamline the appeals process by providing in the automatic review to the Supreme Court, that a decision by the Supreme

Court would be made within two-years after the filing of a notice of appeal. It would provide that all capital cases will be assigned to a particular judge at the -- by the Supreme Court Chief Justice. It would provide for parallel tracking of the habeas petition that had to brought by in 180 days. And it would assign habeas petitions to a particular judge. And, finally, in Section 3, it would provide a mechanism for new DNA evidence to be brought forth on a capital case.

And I move adoption.

SPEAKER DONOVAN:

The question before the chamber is adoption of House Amendment Schedule A. Will you remark? Will you remark?

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker.

As I indicated, the people of Connecticut support not only the death penalty, but they'd support a streamlined appeals process. It's just not correct that there's nothing we can do to move this appeals process forward. Other states do it, why can't we? Of course, we can. If there's -- we could do -- this is the State of Connecticut. We could adopt an

appeals process that would streamline the system, of course, we could. This is a way.

The expectation of the families of the victims needs to be that eventually there will be a result that the case will be over and that the death penalty would be carried out. We owe it to the families of the victims to adopt this amendment. And so I urge adoption and, Mr. Speaker, I ask that when the vote is taken it be done by roll call.

SPEAKER DONOVAN:

Question before the chamber is a roll call vote.

All those in favor of a roll call vote, please signify by saying, aye.

The requisite 20 percent has been met. When the roll is taken, it will be taken by roll.

Will you remark further on the amendment. Will you remark further on amendment?

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker.

I just have a couple of questions through you to the proponent of the amendment. And I'll just say a couple of things and ask it, and correct me if I'm wrong in my understanding, but I believe this is not the proposed --

Well, first of all, I believe it's the case that no legislator introduced any proposed changes to the death penalty appellate process during the current session of the General Assembly. I believe that's true because they would have been referred to the Judiciary Committee, and we never got any. I just want to say we never had a public hearing so I believe that's true. And -- I hope there's not an objection because I'll ask a few simple questions like this. I believe they are all true statements, and I'll stand to be corrected if I'm wrong.

Second, I believe this is completely different in the proposal that was submitted to us by the Chief State's Attorney in response to our request at our hearing on the death penalty when the issue was, sort have, broached about -- what about trying to speed up the appellate process? The Chief State's Attorney did respond to our request. He did give us some proposed language. The Judiciary Committee conducted an informational hearing on that just last week on Friday so that we would understand the issue better if and when an amendment about the appellate process is offered today, but, based on my quick review of this amendment, it seems to be substantially different than the -- it maybe completely different from what I can

tell but it's certainly substantially different from the proposal that the Chief State's Attorney submitted to us, which he felt would be helpful.

So, on those two questions, did anyone else propose anything during the current session legislature and is this, in fact, different from what the Chief State's Attorney gave us last week?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker, through you. I believe that there were representations made that there would be some kind of a task force or working group to discuss whether or not we should streamline the appeals process. And, perhaps, that was sort of folded into, if you will, the informational forum that we did have in the Judiciary Committee. So -- so, no, there was no actual bill proposed, but I think that there was an understanding that we certainly would be discussing the concept of streamlining the appeals process.

As to, I believe your second question was whether -- whether this is substantially different from Attorney Kane's proposal? It is another example of a

way that we can streamline the appeals process. It's based largely on the Florida system, and the State of Florida has a totally working constitutional death penalty.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thanks, Mr. Speaker.

Well, I think it's important to keep in mind -- it's worth noting that not only does Florida have a different system, but they also have a different constitution. And the main analysis that's going to take place about any change that we make to the appellate process would be under the Connecticut Constitution. And, of course, there'd be a subsequent analysis about how it conforms to the United States Constitution but, you know, this is Connecticut. We're a sovereign state. We have our own constitution. We have our case law. We have our own supreme court. And I venture to say that almost every attorney in the Country would agree that the kind of common law that's evolved in Connecticut, the interpretation of our statutes and our own state constitution, which is, in fact, different than the

Florida Constitution would be quite a bit different. So what might fly in Florida, won't necessarily fly in Connecticut.

And I say that for a reason because, going back to the theme, I, sort of, was trying to highlight earlier. I think the whole idea that we're leading people to believe that that a law has a certain effect can be extremely cruel and misleading if, in fact, it turns out not to be the case. And I'm not suggesting anybody's intentions or motivations are to further muddy the waters but I'm only suggesting to you that I think -- and I'll explain why in a second -- that this would do just that. And there was some, even some supporters of the death penalty on the Judiciary Committee had those concerns about the Chief State's Attorney's own proposals.

Now, with regard to the Chief State's Attorney's Office, the lead prosecutor who deals with the death penalty appeals is named Harry Weller. He testified before our committee on Friday, and he's extremely respected. He's been handling almost all of these appeals since day one. And he felt that the wording of the proposal that came from the Chief State's Attorney was, in his view, defensible. And I'm not sure what he would think about this. He's the one

who's going to have to defend it. And I -- given the very different nature of this proposal from what was presented before the Judiciary Committee, I just want to highlight that concern.

Whatever you think about the death penalty, whether or not you think we should speed up the appellate process. I think there's a very serious chance that if this actually became the law of the State that all of the current death sentences would end up being invalidated.

So -- and, with that in mind, let me ask you an additional question, is this prospective only? Does it only apply to the future death penalty cases? Or does this apply to all the cases currently pending or currently in the court system?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker, through you. I believe it's largely prospective and would apply to cases that are -- that would happen from the imposition of this amendment going forward. However, I do note that I believe some of this would apply to the people currently on death row but largely prospective.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Well, it's worth keeping that in mind because, you know, there's already -- there's ten people on death row and I think there's another ten or so pending capital murder cases in the courts right now so we're talking about a fare amount of cases. And so the prospective impact of this would be 20, 30 years down the road, theoretically, because you'd have to have new crimes being committed, new prosecutions under the capital felony states, get through the whole trial process, which itself takes years and years and years and then, ultimately, get into the appellate process.

So, my reading of the -- on the very first page of the amendment -- I think even whether or not you ever spent a minute trying to understand how the law works, I think you -- almost everybody can understand this technical language at the very bottom of the first page of the amendment. It appears -- it does say that the Supreme Court shall render a decision within two years after the filing of the notice of appeal. So, I think everybody can understand what that says.

Okay. Here's the problem. It's a lot more complicated than that. Just, for example, during our hearing on Friday, we got some statistical information from the office of the chief public defender. And so, in August of 2007, a death sentence was imposed in a case in Connecticut and an appeal was filed. And as part of the appellate process, a transcript of the trial proceedings has to be ordered because you can't have the briefs written until you can read what was actually said at the trial so you have to get the transcript in order do that. So, August 2007, was the end of the trial and the notice of appeal, and so under -- if this proposal were to become law -- just think -- so, two years going forward from that, which would be August 2009, which is just a few months away.

So, in that particular case, the transcript was ordered on November 26, 2007, and on today May 13, 2009, the transcript is incomplete. So more than 18 months have gone by and the transcripts have not even arrived so that the lawyers can begin writing their briefs. So you might ask how is it possible that it could take 18 months to prepare a transcript of the trial. Well, the best estimate of the length of that transcript -- of that trial is that it will be approximately 20,000 pages, which have to be prepared

by the court reporter who was in the court room during that trial. These trials go on for like a year, the jury selection, all the motions, all the hearings, from the day of the arrest up until the rendering of the verdict. All of that stuff becomes part of the transcript and anything that happens in there is subject to claims on the appeals. So you can't even form your arguments for the appeal until you can read what the formal transcript says because you have to cite that transcript in making your briefs to the Supreme Court.

So, what I'm saying here is, in that case, August 2007 is at least 18 months and counting before the transcripts would be ready and so if they were delivered tomorrow, you'd have six months to do all the things, which normally take a long time to do. And if you think that's an exception, there was a death penalty trial concluded in -- on December 10th of 2007. The transcripts were ordered on February of 2008, and those are incomplete too, 17 months later. And there was another death penalty case where the estimate of the transcript is also 20,000 pages that was finished on -- the sentence was imposed on March 28th. The transcript was ordered and is still not delivered. So those are three relatively recent --

the most recent death sentences where there's an appeal, which has been initiated under this amendment, the two-year clock would be ticking. So how realistic is two years under the circumstances?

Then -- let's see, let's take a case where the death sentence was imposed on December 5, 2007. In that case the transcript was ultimately prepared, and it was received eight months after the imposition of the sentence there. The transcript consisted of 10,154 pages. The brief of the defendant's was filed in that case on August 1, 2002, which is a year after the transcripts were delivered. And the prosecutor's response brief was filed on August 12, 2003, which is a year after the defense briefs were filed. Then there's a reply brief that's mandatory in all appeals and that was filed a year and a half year after that by the defense. Then, the oral arguments took place one month after that, and then the decision, after the oral arguments, took one year two months for a total, to get the Supreme Court decision, of four years. And that, if you look at the other ones, is by far the shortest of all the deliberations -- for all the start-to-finish periods for those initial appeals.

So how realistic is it do two years? You can judge for yourself. So my question is, let's say two

years go by and the court hasn't issued a decision? What happens then? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker, through you. Well, the statute is clear that this provides a streamlining of the appeals process. And the two-year statute is not unusual in our body of law. We have those kinds of statue of limitations throughout our statutes. Let's say, there's a bad car accident, somebody dies and there's a statue of limitations for the filing of the criminal case against the person who was at fault. Well, often there's a -- has to be an elaborate reconstruction, an elaborate investigation. And you might ask, well, how are we going to get it done by in one year, or there's a variety of those types of limits that are throughout our statutes. And, you know, the bottom line is other states get it done. Other states provide these kind of limitations, and they're able to move the process along.

There was a suggestion made, through you, Mr. Speaker, that would some how cost us another 20 years. Well, you know, I have some statistics here that indicate, in Florida, the average length of stay on

death row is 12 years. The average age of a person at the time of execution is 44 years. So it's just not correct that this would just move things along 20 years on.

Also, there was a suggestion made that, you know, this could invalidate our entire body of death -- of capital punishment law. There's no suggestion of that whatsoever, none whatsoever.

As a matter of fact, the Supreme Court this week, in Florida, in the case of Merritt versus Florida, found that their death penalty statute is not cruel and unusual. It's not arbitrarily capricious, and the procedures throughout their law are constitutional. So it's just been reaffirmed again this week.

The bottom line, ladies and gentlemen, is if we want to do something like this to streamline the appeals process, of course, we can do it. We're debating the amendment right now. I'm asking you to adopt this, to support this amendment but really, as Representative Mikutel, mentioned we didn't seek this debate. We're doing this in response -- our hand was forced. We're doing this in response to the fact that there's this attempt to abolish the death penalty entirely. Let's not go forward with this attempt. Let's not perceive to try to abolish the death

penalty. Let's work together on streamlining the appeals process.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker, through you.

I appreciate your response but I just want to get an answer to this sort of technical question. Once you get to the two-year mark if a decision hasn't been rendered, what happens? Does the person automatically get executed, or do they automatically not -- does it invalidate the -- I mean there's some consequence to violating the rule? What's the consequence to violating the rule? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker. Well, I believe the question goes to what would be the consequence to the Supreme Court. This indicates that the Supreme Court shall render a decision. So, presumably, they would render the decision. And if they didn't for some reason, perhaps, they, themselves, would issue a reason why they didn't. I mean, this is highly

speculative. Through you.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I guess but my sense is really two options. Either number one that the judgment of the trial court stands, in other words, the execution is valid. If that's the case, I mean, there's no question that there'd be a due process appeal in to the State and the federal court system claiming that they didn't get their right to appeal because through no fault of their own the Supreme Court never issued a decision, and, now, automatically, they're being executed. And I think pretty much any attorney would tell you that if you're denied the right to appeal, you've been denied your due process rights under both the United States and State constitutions. It's pretty clear to me that that option is a bad idea.

The other option, which would be sort of the simpler option, would be to say we can't meet the guidelines, therefore, we invalidate the death sentence and, by default, you receive a life sentence without a possibility of release. I think that would be more likely.

I -- if you've been watching, you've notice there's a bit of flurry of activity between the vice chair of the Judiciary Committee and myself. I have been authorized to represent to the members of the chamber, that the Chief State's Attorney has reviewed this amendment and has provided us with the advice that he would oppose the enactment of this because of his fears that it would, in effect clearly would undermine -- I don't want to represent what he said. He clearly opposes this and has asked us to do our best to ensure that this amendment is rejected. That's the officer of the Chief State's Attorney, which handles the appeals in this case.

SPEAKER DONOVAN:

Remark further on the amendment? On the amendment, remark further? I have a -- maybe you could help me out. I have a list of names here, I believe, are speaking on the bill, this is on the amendment of --

Representative Walker.

REP. WALKER (93rd):

Thank you, Mr. Speaker. Mr. Speaker, through you, a question to the proponent of the amendment?

SPEAKER DONOVAN:

Please proceed, madam.

REP. WALKER (93rd):

Thank you, Mr. Speaker. At the -- I think line 43 and 44, you have a point down here where it says that, shall designate -- the chief court administrator shall designate one judge of the Superior Court to hear and decide all applications for writ of habeas. Through you, have we -- when I looked at the fiscal note, I did not see that in the fiscal note. So I'd like to know have you talked to the Superior Court to ask what the cost would be for us to designate one judge for that aspect?

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker. Through you, no, I have not as I indicated this is sort have been thrust upon us to have to engage in this debate about streamlining the appeals process because of this debate regarding abolishing the death penalty. However, I will indicate that the OLR Report attached to this amendment indicates that, in general, there would be a reduction in costs that we would have a net state savings if this amendment passed.

SPEAKER DONOVAN:

Representative Walker.

REP. WALKER (93rd):

Thank you, Mr. Speaker. Through you, I'm trying to figure out where the savings is if we are going to have to increase the staffing for people to maintain constitutional rights for the people that they are defending because I know, that when we have a hearing that Representative Lawlor talked about, many of the people that are participatory in the habeas process said they have limited staff and part of the reason why we have such a long turnaround was because of the fact that they had limited staff. But, to make sure that the State of Connecticut does not deny people their Constitutional rights, it is going to require us to expand the staffing especially for the public defenders; otherwise, we will then be sued -- available to other suits that will come around because of the fact that we have denied people their Constitutional rights.

So, through you, to the proponent of the amendment, has he thought about the staffing that is going to be required not only for the public defenders but also for the prosecutors, as well as the court staff? Thank you.

SPEAKER DONOVAN:

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker, through you. Well, first of all, I'm going to rely mainly on the OFA Report as to the cost but I think the concept of assigning both the direct appeal and the habeas portion of the appellate process to a single judge is not that we're going to be somehow hiring another judge or incurring new cost but actually providing efficiencies. And I think that's why the State of Florida, for example, does it that way because, currently, what happens is different judges handle the different cases. Their sort of -- where as if we had just one judge who would be working entirely on these kinds of cases, I think, then you'd have greater attention to that particular case and greater attention, frankly, to the rights of that defendant. And to make sure the whole process is constitutional but also, as far as the people of Connecticut, it would be greater ability to make sure that the definite deadlines are being met and we'd have one judge focused on that. Through you.

SPEAKER DONOVAN:

Representative Walker.

REP. WALKER (93rd):

Thank you, Mr. Speaker. And I thank the gentlemen for his answers, but I know that as we've

been going through this budget process, one of the things that we heard from the court systems, from many of the people that are participant in there is that they are lacking in the staffing.

If we were going to have savings, the savings would not -- would be eaten up by the need for having more staff so that we could expedite this type of process. I think that the idea of addressing the habeas in this case is not something that is warranted. And I oppose this amendment totally because I believe what we're doing is we're, again, denying people an opportunity and their rights. Many people who have no money to actually be defended during these times rely on what they are provided through the states. And here we are talking about doing something in a quick manner, which I don't think is the way we want to provide justice in the State of Connecticut. So I'm opposing this amendment. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Will you remark further on the amendment? The amendment?

Representative Berger.

REP. BERGER (73rd):

Thank you, Mr. Speaker. And, certainly, I rise to support the amendment that's before us. And, Mr. Speaker, and for the chamber, I would like to speak certainly on the amendment as a legislator but also as a retired 20-year veteran of the Waterbury Police Department and the fact that the current system that we have before us is set up for a defeat.

It's set up in its current manner not to achieve the goal that it was made to achieve, that is, the death penalty. That's putting an individual to death. The system as is currently structured and has been structured and revised is again set up for a defeat. Representative Fleischmann spoke directly to the fact that -- and Timothy McVeigh was put to death for a crime he committed, 165 people, detonated by a bomb in front of a government building. And you know what? Where there's a will, there's a way because the government, in trying him, in the crime that he committed did it in two years and put him to death. So, if there's a will, there's a way. You can make it workable.

This may not be a perfect amendment, and God knows and everyone knows, certainly God, that this chamber oftentimes doesn't create perfect laws, perfect bills, but that's what we're all about here.

We have our ideas. We debate them. We have amendments. We go through a process, and what we feel strongly about we propose. We debate it. We make a decision. This may not be perfect, Mr. Speaker, but it helps us achieve a goal. That goal being finding a workable appeal process that achieves a goal, a goal of a workable death penalty of an individual that was tried by a jury of their peers, by -- rendered a decision on a preponderance of the evidence and found guilty beyond a reasonable doubt and even beyond that with the death penalty. That we need to achieve higher and higher standards and they all achieved that, all those individuals on death row. So this amendment, before us here today, is going to help with that process, help with the process that supporters of the death penalty want is finality and workability.

Certainly, we're going to talk about the appeal process, and there'll be other's here that will speak to this amendment, both in favor and opposed to it, but I ask, for you, to be reasonable here this evening and this afternoon in your assessment and when you go to hit the button here that we are trying with this amendment to reach a level that achieves a goal. So we all need that chance to reach that level of finality in getting a working death penalty. And we

need your support on this amendment.

When we talk about the bill, which we will after we vote on the amendment, we'll certainly talk about the importance of the death penalty because having a workable death penalty, ladies and gentlemen, moves the process forward for death because -- listen, the individuals that are on death row -- let's all face it. They have it pretty good. All right? They've got three square meals a day. They've got a nice room to live in. They've got clothes. They've got healthcare, all on the state dollar of $62,000 a year. That's a pretty good life for life.

This amendment, and I'm hopeful for support of it, is going to achieve a goal to move that process forward, to end that good life. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Will you speak -- remark further on the amendment? Remark further on the amendment? If you would, please stand and take an order of the group here. Representative Mazurek, followed by Representative Holder-Winfield.

REP. MAZUREK (80th):

Thank you, Mr. Speaker. Good afternoon to you,

good afternoon, ladies and gentlemen.

I can't lay claim to the amount of years that Representative Cafero has been in the chamber, nor can I lay claim to the number of death penalty debates that he's gone through. I can tell you that I've been here for seven years and I have gone through one other death penalty debate, and that was very early on in my career here at the General Assembly.

It's always a very, very difficult subject to broach. There's very sharp, very high emotions on both sides of the debate, and you sit and you listen to all of your colleagues, respectfully, and try to put yourself in their position, try to understand what their position is. And, as I listened to Representative Lawlor talk about no possibility to speed up the system in Connecticut, I'm just not willing to accept that. I absolutely can't believe that there's nothing that we can do in the State of Connecticut to move the system forward.

We do have a death penalty in the State of Connecticut and very shortly we'll vote on whether we should leave it in place or whether we should remove it. But to say that there's no possible way to move it forward, under our Constitution, I just can't buy into that.

Representative Lawlor made mention of the fact that we don't want to turn Connecticut into Texas, and I absolutely agree with him. I love the state I live in, and I don't want to live in State of Texas. I want to live right here in Connecticut. I just don't understand why we can have a law on our books and yet have no way to put that law into action so that it happens. I heard an argument about cheaper to spend life in prison than it is to put someone on death row. I find that hard to believe because we've never put anyone to death in the State of Connecticut, at least not in modern times. So I don't know how we can make that comparison on what it costs to keep someone or put them all the way through the death penalty in the state of Connecticut versus giving them life in prison.

We had someone stand up and say that we -- if we implement the death penalty, that we have adopted the code of conduct that the killer lives by. And I, absolutely, categorically, reject that argument. No one in the State of Connecticut, no one in this General Assembly has suggested that we take someone's wrists and bind them together with tape and their legs and bind them together with tape and throw them in a freezing pond. No one has suggested that. No one has

suggested that we stand there and put a bullet in their head while they're staring down the barrel of a gun. No one has suggested that we lie them on a bed tied up, pour gasoline around them and light it on fire. No one has suggested that. So I don't believe for a second that this death penalty, in fact, adopts the code of conduct that a killer has shown us in the State of Connecticut.

If we do nothing today, if we leave the death penalty in place and do nothing, we still satisfy the people who want a death penalty in the State of Connecticut and we satisfy the people who don't want a death penalty but would rather see life in prison because we've already discussed that, in fact, with the system that we have in place, it's not so workable the way we have it right now.

So I'm rising in support of the amendment that's on the floor to say let's try to move the system along. Let's try to make some changes in the law that we have on the books in Connecticut right now and try to move the process along. And if we don't move it along, let's all make the commitment that we'll sit down again and try to come up with a way to, in fact, implement the death penalty in the State of Connecticut but get the process to move along a little

bit faster than it is. Mr. Speaker, I thank you for your time, ladies and gentlemen, and I do support the amendment, thank you.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Thank you, Mr. Speaker. I rise in opposition to the amendment. The proponent of the amendment couldn't tell us what would happen if the Supreme Court weren't able to do what they were required to do by this amendment.

Representative Berger, who is also a proponent of the amendment, said to us this may not be perfect but we're dealing with people's rights and their ability to avail themselves to their rights. And I think when we're dealing with the ability of people to avail themselves to the rights given to them under the Constitution of the United States and Connecticut, we have to be careful in what we do. And so I don't know that this is a careful amendment. I'm pretty sure that it's not, and I would suggest and urge my colleagues in the chamber to vote against this amendment.

SPEAKER DONOVAN:

Thank you, Representative.

Will you remark further on the amendment? Remark further on the amendment? If you do, please stand. If not, will staff and guests please come to the well of the house. Members take -- I'm sorry Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I just want to reiterate because I did have an opportunity to speak in person with the Chief State's Attorney who was just outside the hall of the House. He did reiterate in person to me and indicated that I could represent to the chamber that the office of the Chief State's Attorney opposes this amendment because it would have the opposite of the intended effect. So, regardless of how you feel about the death penalty, if you're against the death penalty, this amendment strikes everything after the enacting clause, you should vote against it. If you're for the death penalty, the effect of this amendment were it to become law would basically invalidate the death penalty, in effect. And that's according to the Chief State's Attorney, who is standing right outside the hall of the House and has indicated he'd be happy to speak with any member of the chamber.

So regardless of your position, this is a flawed amendment and should be rejected.

SPEAKER DONOVAN:

Thank you, Representative.

Remark further on the amendment?

Representative Labriola.

REP. LABRIOLA (131st):

Thank you, Mr. Speaker. Just briefly, we are having a debate today between and among the members of the House of Representatives, and I don't think that it's proper or appropriate for some kind of hearsay communication to somehow influence this debate. Thank you.

SPEAKER DONOVAN:

Thank you, Representative.

Will you remark further on the amendment? Remark further on the amendment? If not, staff and guests please come to the well of the house. Members take your seats. The machine will be opened.

THE 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.

A VOICE:

Technical difficulties

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? All members voted, please check the roll call board to make sure your votes were properly cast. If all members have voted, the machine will be locked and the clerk will please take a tally.

Will the clerk please announce the tally?

THE CLERK:

On House Amendment Schedule A for House Bill 6578

Total number of voting	144
Necessary for adoption	73
Those voting Yea	56
Those voting Nay	88
Those absent and not voting	7

Amendment failed.

SPEAKER DONOVAN:

Remark further on the bill?

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker.

Representative Mikutel brought up the case of Michael Ross. Representative Mikutel described the situation, and we've heard from certainly Mr. Cafero,

who brought up the issue of whether or not you should bring up who's on death row -- death row inmates because it's inflammatory. Well, ladies and gentlemen, heck, yes, and I hope to heck that it is inflammatory. We deal with inflammatory issues up here every day, ladies and gentlemen. Some -- all right. I give you a few -- a few days are not inflammatory but, yes, we do and this is life and death.

SPEAKER DONOVAN:

(Inaudible) Representative --

REP. SAWYER (55th):

Thank you, Mr. Speaker, the decorum in the chambers --

SPEAKER DONOVAN:

I agree.

Members, when operating with proper decorum -- after the vote, there's been a little bit of a buzz. If we could return to listening to the debate. Thank you very much.

Representative, thank you for inviting us.

REP. SAWYER (55th):

Thank you and I appreciate that, sir.

We've had had the one execution because that particular prisoner decided that he was done with

appeals. He made that personal decision. It was stalled. I remember that very distinctly because I had a very personal reason to know what was going on that night, that very cold winter night in January, late January. Michael Ross was supposed to have been executed. I told the story, in 2005, that I had very young children in the early 1980s when the terror ran across Eastern Connecticut, as Representative Mikutel described, but we didn't know how to put together the first death, the second death, the third death, the fourth death of a serial killer. And it wasn't until much later that we were going to look back at this series of rapes that occurred at Columbia University. But not only the eight girls that we knew about but four more that they didn't prosecute for so twelve as well as all those rapes.

And you make decisions in your life and one of mine was to decide whether or not there was evil in this world, Mr. Speaker. And I made that decision and I took my faith and those decisions, then I had a very unusual situation.

Very late, in January, on that cold night, Michael Ross was to be executed, my husband was flying for the Connecticut State Police, Trooper One. And his job was to fly over the prison for the evening for

protection, for control, for justice and for the safety of everyone else. So I was very aware of what was happening that night, the entire night, including the appeal that stopped it until May 13th. And, again, the same scenario was going to be put into place. The State Police were activated, and there was a very systematic, very complex procedure that they had to protect everyone else because they wanted it to be done in a very thoughtful, very orderly, and, Mr. Speaker, it's very odd to say this but in a very respectful way.

I read a lot after that because it was so personal I felt living in Eastern Connecticut. Certainly, I've been aware of the other people who are on death row. We have seen those cases come. We have seen those cases grow but each one has been very, very thoughtfully, carefully, albeit, slowly done. We also know that there has not been a rash of people on death row deciding if they terminate their appeals process either. When we look at 3,000,500 people in the State of Connecticut to protect, that is our job, we must do it for each and every one of them. And we must look at the positive as well as the negative.

Mr. Speaker, I do not believe at this time in our history that the death penalty is being used wrongly

in the State of Connecticut. It is not being done lightly, and I don't see with the defeat of that last amendment that we will be in the near future actually executing anyone in the State of Connecticut. I do believe in the premise that it is a powerful, powerful, sociological instrument because it's not just the Petit murders. It's not just the women that we discussed just a moment ago with Michael Ross, or the other victims of those on death row but the other cases that are coming along in the system.

Every murder in this state, in no matter what community must be looked at with the same examination and process that we look to those victims and their family that they deserve every bit of justice that we've given all these others no matter what community, no matter who the families are. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Nicastro.

REP. NICASTRO (79th):

Thank you, Mr. Speaker.

I rise in strong opposition to this proposed bill. Mr. Speaker, for the passed 2 and a half hours, I've listened to several speakers from both sides of

the aisle speaking how they felt. And I have the greatest admiration and I have the greatest respect for every legislator that sits in this room regardless of how they feel. That's their right. That's their prerogative, Mr. Speaker. Mr. Speaker, they have a right to yes. They have a right to say no and that shouldn't stop us from continuing to view our opinions.

Mr. Speaker, I've seen, in my past 68 years, I've seen some awful things done in this State and, in other states. I heard Representative Lawlor, who I have a lot respect for, state that other states have abolished the death penalty. I say to that, Mr. Speaker, that doesn't necessarily make it right. It may be a way of just not facing up to what has to be done so it doesn't necessarily make it right.

I look at what happened in 1969. Yes, it didn't happen in Connecticut, but I saw Sirhan Sirhan shoot Robert Kennedy in the head in front of 100. He took the life of a father of nine children and one on the way. They suffered tremendously growing up without a father. They suffered. They suffered in so many ways emotionally, we couldn't even discuss it here today. Especially, the last child who never got a chance to meet her father. Yet, that gentleman -- I won't --

he's not a gentleman -- I retract that. He's not a gentleman. That murderer sat in a prison -- sits in a prison at the cost of the taxpayers' expense. He took the life of a father of nine children and he sits there, gets his three squares a day as somebody else pointed out.

That kind of action can't be tolerated. We're sending a message out that you can destroy lives. You can destroy a family, and there's no final consequence. People do life sentences now for not committing murder. Mr. Speaker, let's think back also a few years, and, again, it wasn't in Connecticut. Look at what happened to Sharon Tate. We had a young woman who was a movie actress who was pregnant. She was murdered. Her baby was murdered. She was stabbed multiple times. They took her blood, painted it all over and wrote the word, pig. Yet, that person still sits in a jail but her family suffered and continues to suffer the consequences.

We need to send a message that if you're going to act this way, there is a strong consequence for your action. If we remove the death penalty, we are sending out a subliminal message that go ahead and kill because you don't have to worry about your life being taken. I agree, Mr. Speaker, the death penalty

is not perfect and, yes, it needs to be revamped. But, once we take it off the books, try and get it back on is going to be an awful tough task. We have a responsibility to protect all of the citizens of this great state and this isn't a way to do it.

Mr. Speaker, think about it for a second, just for a moment, the pain that that family in Cheshire is suffering, all the relations, all of that family. What was done to those -- 11-year-old girl and 17-year-old girl and the mother is unspeakable, is unspeakable. And that's not the last time that this is going to happen in this State of ours. Sad to say, Mr. Speaker, it's not going to be the last time. We need to show that if you want to act this way, if you want to go that far, then there is a final consequence.

There is a final consequence, and I'm sure that people out there would understand our actions. They don't like what's happening now because people sit there for years and years and years. We have to bring it to a head but removing the death penalty is not bringing it to a head. It's doing an injustice to the survivors of these massacres and things like that.

Mr. Speaker, I would strongly urge my colleagues to vote against this bill to remove the death penalty

because I know what's going to happen here. I know what's going happen here, and I ask you to stop and think. I ask my fellow reps to stop and think about this. This is just a start of going downhill. Next it'll be, well, people shouldn't be in prison for life, maybe they should get paroled after 30 years or something like that, and little by little we're eating away. And who's suffering? The innocents are suffering, not the guilty. It's about time we stood tall and said there is a final consequence for this action.

Let's work together, clean up the death penalty. Let's get it settled, like somebody mentioned that they were supposed to have a committee and I strongly support that. Let's look at it. Let's see what we can do to streamline it. Yes, there'll be appeals but to give you one final example. In the case of Sirhan Sirhan, how many appeals should somebody get? It's cold blooded murder. It's calculated. It was seen. Why should somebody like that -- if that happened in Connecticut, why should they have eight or nine appeals? It's cut and dry. They did it. They can't deny it. You don't need a DNA on that. You saw it just like we saw Jack Ruby assassinate Lee Harvey Oswald. There are cases when there is no question

whatsoever.

Mr. Speaker, I strongly recommend that this bill be defeated. Thank you very much, sir.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Butler.

REP. BUTLER (72nd):

Thank you, Mr. Chairman. Excuse me -- thank you, Mr. Speaker.

I rise in strong opposition to this bill. Heard from a number of people on this bill, but I haven't heard anybody speak from the perspective of being the family member of a victim. I haven't heard anybody in here say that they lost a family member. I haven't heard anybody say a family member has been murdered. I didn't want to speak on this bill today. I really didn't. I really didn't plan to speak on this bill today. I'd rather be talking about and passing bills on healthcare for everyone. I'd rather be talking about how to fix the rates for energy. I'd rather be passing bills to address the economy, the budget here, the needs of the people. I'd rather be passing those bills but, no, today we have to talk about the death penalty so let's talk about it.

Let's talk about it for somebody who lost a

family member. I, by no means, want to be a poster child for this particular cause but let me tell you I spent a good part of my life being affected by this cause.

When I was 18 and going off to college, I thought to myself, you know, in the State there was a lot of debate of the death penalty. And, as a freshman in college, I was thinking to myself, man, if just one life is taken by mistake by the death penalty, what a hideous thing, what a wrong thing that is, but I stand here today and tell you that I feel much differently. I've lived a little bit. I've lost a little bit. I've lost a lot. I lost a brother. A brother that was taken from me 24 years ago, and I tell you -- and I'm going to try to get through this without being really emotional but it's been 24 years, but I assure everyone in this chambers that I feel it. I feel it like it was yesterday.

I heard Representative Lawlor articulate the merits of this bill, and he did a very good job. I think he represented the bill and its merits in fine fashion. And, for those who believe in the merits of this bill for religious or for the cause or whatever else, I respect that opinion.

But I want to talk about the rights of those

people who have lost loved ones. You know, I heard Representative Lawlor talk about that government, you know, isn't or shouldn't be in the business of killing people? But aren't we? How many people that we -- did we kill last week? How many people did we kill in Iraq? How many civilians and people did we kill in Afghanistan? In the name of who? In the name of what? I believe that was in the name of justice, in the name of the United States of America, in the name of government for a cause, a just cause. So the argument about State-sanctioned murder or killing be an argument, it's something that I believe has been going on since the beginning of time and probably will continue for some time.

Talk about the appeals process, and there was an amendment, right, wrong or indifferent and -- but it was for a cause. A cause to make this a workable death penalty. There's been initiative taking to try to make it so but, yet and still, we don't have that model. We should have that model. Points were made about whether or not it's cheaper to keep somebody in jail or to go through all the appeals process, and I don't buy that argument either. I mean, there's recently an alleged victim who shot a person point blank in the face, 18-year-old. Okay. If that person

goes through the process, found guilty and stays in jail all their life, okay, at the cost of -- what's the cost to incarcerate somebody, 40 to 50,000? Okay. You do the math. If they're in jail until they're 80 years old, okay, healthcare, dental, what have you. I don't know if it's cheaper. I don't know if I buy that.

But another item and the probably the most compelling thing, the most compelling thing for me is justice. I don't want retribution. I want justice. People want justice. That's what the laws of the land are about. We want justice but all we really get is due process of law. I want justice. What's right?

There's been mention of truth in sentencing, well, let me tell you, you know, that whole process -- the whole process really, really stinks. Let me tell you a little bit about the process. When somebody in your family is murdered, you first find out the news by whatever means that you just happen to come upon that, and it could be true. There's never a good way to get that news, okay. You get that news first that somebody in your family is dead. Somebody has taken their life.

Now, for some people, it may be a matter of hours, weeks, sometimes years or you may never know

who murdered your family member. You may never know, which is probably the cruelest thing but no matter what it is, you know, if it's, you know, a day, weeks, in my particular case, it was probably a couple of days. So if somebody's been murdered in your family and a couple of days go by and you don't know where this person is, you don't know what they look like and you're supposed go on with your life knowing that somebody killed somebody in your family. You don't know what they look like. You don't know who they are. You don't know what motivated them necessarily. You've got to think about your own mortality at that point. Do they have something against the whole family? When you get up in the morning to go to work, is it your life that's going to be looking at the end of a gun barrel?

When somebody loses their life and for those family members left over to mourn and shield the hurt, a part of them dies. A part of them dies. A part of me died. A part of my brothers and sisters died. My parents, a part of my parents died that day.

And let's talk about that a little bit, the family members. Okay? Well, before we get to family's, let's talk about the court proceedings. In a situation like this, it all plays out in court, and

you know what? And your facts and all of everything that's brought forward for consideration, but you know what? There's one voice that is never going to be heard and that's going to be the voice of that person who's been murdered, okay? And the family has to endure the process and that process is brutal. It's like going through another loss, going through that process, but, on top of that, when you go through the court system, the murderer has rights. And, through the whole process, they have rights, but where's the rights for the victim's family? Where are our rights?

You're -- somebody's going to argue on behalf of rights of a murderer? I beg of you. Let's start thinking about the rights of the families of the victim. That's one thing that's so wrong about this whole process. We're talking about -- and we're -- this whole debates stems around the rights of murderers. I say -- I caution on the side of the rights of the families -- the victim's family than the rights of murderers.

I will not stand here and support any initiative for murderers. I just have a little disdain for that. Now -- and you go through that process and the whole trial and everything and that you go through that. You just a little of you dies through the whole

process. Finally, you get to something truth in sentencing. Well, yeah, we have a model. It's not workable. We talk about how many people can challenge and fight it, but we have bright minds here. We have lawyers here. Can't we come up with a workable solution so that we don't spend so much in appeals as opposed to, you know, copping out -- and I do really see it that way, copping out to just life in prison.

You know, let's think about this for awhile. In this day and age, there so much of an emphasis on the homeless. Well, a lot of times, these people in prison for life -- let's see. They don't have to worry about roof over their head. They don't have to worry about sleeping on the railroad tracks when it's freezing outside. They don't have to worry about their next meal. They get healthcare, God. They get a trip to the dentist. That is, you know -- I don't -- when you just say those things, somebody might say, well, so what? Well, I'll tell you what. All of that is paid by for who or whom? Who pays for that? And, that's the other part that is so wrong about this and what's -- why I would never vote for this bill. Is the fact that you want to give somebody a life sentence and then you expect the family members of the victims to pay their freight, to pay for the

healthcare for somebody, to pay for their trip to the dentist, to pay for them to be fed. Thank you, my brother, thank you, somebody's mother, sister, aunt, and your tax dollars got to go support them for life? I think not. I think not.

My brother had children and, you know, a part of what I, kind of, vowed to do was to try to look out and do what I could for them, and I tried the best I could. I have my own children, but, invariably, you can never give somebody's children the -- what they needed most was a mother or father or family member that was lost. You'd never be able to replace that.

My brother had siblings. Can I begin to tell you how my life has changed. Today, and it's probably appropriate today's the 13th. My brother was murdered on the 13th. Can I tell you that every 13th of every month this goes through my mind? I was never one of those people that believe in superstition. Okay. But I can tell you the number 13, whether it falls on a Monday or a Sunday, is a bad thing for me today, just the number 13. Just for 24 years, it really irked me. When it's on a Tuesday, I don't even want to leave the house. And, now, Friday, the 13th, which never meant anything to me, even that makes me cringe sometimes but any day that falls on a 13th in any month has that

impact on me. That's what murder does to people.

My siblings -- my siblings, their lives. Their lives have -- it's kind of hard to tell you the significance of losing a loved one, but they, too, I could tell you they -- a part of them died that day and ever since that day, there's always been just a little bit more that you lose.

I -- there's other family members who lost an uncle, a cousin, whatever, it's -- their lives are profoundly changed. It's not just one person that dies. There's families, multiple members that are affected. It's -- it's devastation and then there's parents. Let me tell you about parents, my parents, good parents. I love my parents. My parents are deceased. My parents are deceased but a part of them died that day, too, and it -- and it wasn't nine years after my brother was murdered that pretty healthy individuals died themselves, two months to the day from one another. And I could tell you that the stress and the agony behind all this probably played a big part of their health. They were never the same. They had health issues that just seemed to get more complicated, and I lost them nine years after I lost my brother. I miss them so. I miss my parents so. I miss them so much.

And I'm here -- I'd like to think that I'm here for a lot of other reasons, to represent people to vote for good bills, to do good things for humanity and the citizens of Connecticut. There's so many ways you could do that, but this bill is not one of them. You know, besides the 13th, I think about my brother's birthday. I'm one of those people who remembers every date of family members and things. There's things like, birthdays and whether it was a brother or mother that's been murdered. Imagine a mother that's been murdered, how the family feels on Mother's Day. How do you think they feel? I tell you it's not a good thing. If a father was taken, how do you think that the children feel on Father's Day? It's not a good thing. These are the things we need to take into consideration when we look at this and as (inaudible) go and what we're actually trying to do. We're trying to be compassionate for murderers. I don't think so not in my heart.

I -- I really have to say that in looking at this, this is my story and this is just my brother -- brother that I love, but we talk about it could be somebody's daughter in the case of the 23-year old that was raped and murdered, a law enforcement officer that was cowardly shot in the back of the head. We

talk about, you know, a 19-year-old killing another teenager with a sledgehammer, as it was pointed earlier, because he wanted to know what that felt like.

There was -- there was the murders in Cheshire and, at the time, we were debating three strikes law but I'm sitting over here saying, we're debating three strikes. This is an offense, if I've ever seen one, for the death penalty. We shouldn't be just talking about debating three strikes, and it was a big deal. That was so heinous, you know, there shouldn't be a debate on three strikes. Anybody who does something, like that, forfeits their own life in my mind.

And then what happened in New Britain. It's, you know, just think that was somebody's grandmother, somebody's mother. What happened in Bridgeport, I believe there was a mother and a child that was witnesses to some murder or crime, they were murdered. There were somebody's mother and somebody's child, and, then, most recently in Wesleyan. God, you know, a young lady shot point blank in the face. God, you know, I have a daughter that's in college. That was somebody's daughter. Do you know what it's like to have to receive that news? And I'm going to fight for the rights of that person to have the comfort of a

shelter over their head, meals, healthcare, dentists for the rest of their life? I think not.

And, I guess, I'd like to just finish, and I thank you for your indulgence. It's, like I said, I didn't want to have this debate today. I'd rather be talking about healthcare. I'd rather be talking about energy policies. I'd be -- been wanting to talk about how to fix the budget but, no, we had to this discussion today. Goodness.

Lastly, I want to leave with you that these murderers what they do is, they take away all that you have. They take away all that you are. They take away all of what you could have been. It's all gone. They take all of that away, and, then, they have for the rest of their lives -- no. I want justice. That is not justice. There's a price to pay for that here in the State of Connecticut, and that's the death penalty. We should keep it and make it work and most of all we should enforce it. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Rowe.

REP. ROWE (123rd):

Thank you, Mr. Speaker.

Certainly, this is a difficult and important

debate that we're having this afternoon and this evening. And I think there are compelling arguments that we've heard on both sides. To me, the goodness and, perhaps, worth of a society ought to be judged, at least in part, upon how we treat humanity and how we treat our fellow man. Perhaps, conversely, or, on the other hand, it seems that there's an innate justice, of sort, in punishing the worst among us by ending their lives, by taking the serial murderers and the rapists and those who have beyond a reasonable doubt been judged to have committed the worst of the worst offenses that can be committed.

Natural law argues that those lives may be forfeited. Traditional theology has taught that the civil state does have the right to punish with the ultimate punishment, the death penalty. It must be used judiciously and appropriately, but there has been always that recognition that that right for the civil authority does exist.

However, in Connecticut, the death penalty, as it now operates, is often obtuse. It's clumsy and really seems unworkable in so many cases. I think that the amendment that we voted down earlier, the Labriola amendment, would have been a step in the direction of creating a workable death penalty. One that serves

the ends of justice much better than that which we now have.

And, as we debate -- and we seem to be debate this every few years -- the weighty matter of the death penalty, I confess to being a bit curious as to why we seem to bring up the death penalty each year or each few years when the death penalty results in what? The execution once every 40 years is pretty much how it's -- how it's come out this century of an affirmed beyond -- not a reasonable doubt, beyond any doubt, a killer.

So we debate repeatedly or, at least frequently, whether or not we ought to do away with that. Again, do away with punishing the worst of the worst among us, the confirmed killers, that we only execute anyway once every 40 years. At the same time, and, perhaps, one of the reasons why we're having this debate is because we, as a state, want to value human life, and there may be no more noble cause than valuing and protecting human life.

That leads me to the inescapable question of, what about the 40 lives that are sanctioned to be taken by the State every day in Connecticut, the lives of the unborn and can't we have some sort of debate or recognition that those lives deserve something. They

deserve a debate. They deserve a public hearing. They deserve the right to be heard because they can't be heard, and it's unfortunate because year after year after year after year -- this is my 11th year -- we have and not just me but others, bring up in the public hearing process bills related to abortion. Not seeking to abolish it that would be unconstitutional, at this point, but seeking to have some parameters around it. Seeking some modest, minimal protections for the unborn, for the most vulnerable.

What is more vulnerable than an unborn human life? They can't speak for themselves. They can't advocate for themselves, and we can't -- we can't debate it here and yet we can debate whether or not the State ought to take the lives of the worst of the worst among us. And I don't say it glibly. It may sound that way, but I would be happy to eliminate the death penalty in this State if this body would simply take a few even modest measures to preserve or, at least, give some due process to the rights of the unborn.

I have an amendment drafted, which is germane, which would simply be a very modest way to allow girls under the age of 18, seeking an abortion, simply to have to notify an adult. There's a judicial bypass

mechanism, and it's clearly constitutional and it is but an infinitesimally small step in this direction, but that's a debate that we're not going to have tonight. I do hope we can have it in the future. The unborn deserve it.

Those on death row and those that have been convicted of the terrible crimes for which they're sentenced to die and for which we -- we take the life of one every 40 years. They deserve this debate. And I dare say they deserve this debate maybe even annually but, goodness, the 40 unborn that are taken everyday in this -- every day in this State, they deserve something, and they're not getting anything from this legislature, which is so unfortunate.

I thank the Speaker for the latitude, and I will not be calling the amendment, and I -- I do associate myself with some of Representative Lawlor's remarks in that the death penalty is justice. It innately is justice. Unfortunately, the death penalty, as we have it in Connecticut, does not serve those ends of justice, or, at least, it serves them so imperfectly that it's appropriate that we look at this as we have been doing.

So I appreciate the body's time. I do hope that we can pay a little more attention to the needs and

the lives of the most innocent and the most vulnerable among us because, ultimately, we, as a society, ought to judge on how we protect those lives.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Urban.

REP. URBAN (43rd):

Thank you, Mr. Speaker -- sorry about that, Mr. Speaker.

Mr. Speaker, I think most of the chamber knows that I taught economics, and when I was teaching my freshman classes, I would walk in with this look on their face for they have been subject to purgatory, the most boring class on the planet, economics. And I would always start with a controversial subject, and it was usually the death penalty to capture their attention because the death penalty can be looked at from an economic perspective as I think, all my colleagues here know. We can look at the price of the elasticity of demand. We can look at opportunity costs. We can look at marginal analysis, all kinds of things, but, inevitably after we had discussed these, and they had become quite galvanized by this way of utilizing economic analysis to look at something like

the death penalty, we would always come back to, yes, but isn't this really not about economics. Isn't this really about core values and how we feel about ourselves as a society and what is, in fact, punishment that we, as a civilized society, feel as appropriate. And I had no trouble not all, Mr. Speaker, talking the talk on that subject, but then it came that I had to walk the walk.

My brother was murdered. I don't talk about it very much because it's very difficult to talk about, much as Representative Butler found it difficult to talk about.

My brother was a shining star. He was from the University of California. He was an All-American tennis player. He was a protégé of Poncho Segura. I can still remember playing mixed double tournaments with him where I learned to say, yours, yours, yours. And we actually won. He was on his way to law school. He was 26 years old. I know what Representative Butler speaks of. There's not a day that goes by -- and you'll notice that I wear a black band on my arm that says Christopher forever in our hearts -- that I don't think of him.

And I have a son who is an All-American Tennis player, and I rue the day that my brother died because

he never got to know my son and they would have played a heck of a game of doubles together. And when I walk on the court to play parent-child tournaments with my son, don't think that I don't think about my brother, and I still say, yours.

Mr. Speaker, the death penalty is not tough enough. Putting someone away for life is tough enough. For that person not to see the light of day, a beautiful sunset, a walk on the beach. I cannot, in my best conscience, support killing someone to make up for the death of my brother. It does not bring the person back. It doesn't give me any satisfaction that we should take a person and kill them because that person killed my brother. To know that that person would be in prison for the rest of their days, to know that that every day that they woke up they would have to know that they took a precious, precious life away.

We were going to be the lawyer and the environmental professor, and we were going to conquer the world. Unfortunately, I went on, by myself, but no longer because now my son is a lawyer. So there is a continuum, Mr. Speaker, and I feel that continuum, but I also feel that taking a life of a person that took life away from me is not the way for our society to show that we are evolving; that we are humane; that

we want peace. Taking that person and putting them away without -- and, Mr. Speaker, I repeat, without possibility of parole ever. That helps me feel that there is some justice in the world in the loss of my brother.

And, as I say again, there are very many economic reasons here and I can spout those over and over and over but this is not about economics. This is about us. This is about us and our humanity. So, Mr. Speaker, I would hope that today we abolish this death penalty in the State of Connecticut. Thank you.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Noujaim.

REP. NOUJAIM (74th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to this bill. Many of my colleagues over the past several hours spoke about a variety of issues, both sides of the aisles, both sides of the issues. They talked about process. They talked about economics. They talked about personal experiences. They talked about the duration of the appeals. They talked about how the appeals are conducted and whether or not they are effective, but we all have in us some personal tragedy

that we know and personal experiences.

I would just concentrate on two events, Mr. Speaker, and I will not mention the name of the murderers because they do not deserve to be mentioned. In my opinion, they are murderers.

I remember December 16, 1989. This was 7,089 days ago, 19 years, 4 months and 28 days. I did the calculation. Julia Ash, a 23-year-old beautiful young lady on the east end of Waterbury was going shopping. Some criminal took the air out of tires and when she came out of the department store, he asked her to change -- he asked her if he could fix her tire. She agreed. And after he pumped the air into her tire, he asked her for a ride. Obviously, she could not decline thinking that he was doing a good deed for her, right before Christmas. He drove her to a pond that still exists right in Waterbury's East End, gagged her, tied her with duct tape, raped her and threw her in the frozen pond just to die. Not only that, several hours later he returned to the scene of the crime to see if she was still alive or not. 7089 days ago, Julia Ash was buried. And this criminal is sitting in jail.

I was with the Ashes, with Mr. and Mrs. Ash just last week. We were doing a scholarship in the memory

of their daughter. You could see the pains in their eyes. Representative Urban spoke about continuance, what is the continuance in the -- for the eyes and the mind and the lives of Mr. and Mrs. Ash? They lost a 23-year-old child, who had all her life ahead of her. Bright young lady with education was buried 6 feet under, and we have a criminal sitting in jail, 7089 days ago and still sitting in jail, and where's the justice?

Shortly thereafter, on Friday December 18, 1992, again, right before Christmas. Officer Walter Williams on a Friday night was doing his duty for the Waterbury Police Department. A criminal shot him blank range in the back of the head, 5,991 days ago, 16 years, 4 months, and 26 days. A criminal sits in jail while the Walter Williams' children grew up without a father. Where is the continuum for their lives? Don't they miss their father, and why does a criminal have a right to take away the life of a police officer who was doing his job for our community to protect our community. Why would a criminal of this magnitude deserve to be protected by us or anyone else when he takes the life of a person?

This is not about the Petit family in Cheshire. This is not about one specific person. To me, the

family of the -- the Petit family in Cheshire, their lives is as precious as one 8-year-old African American child in Bridgeport. To me an 8-year-old African American child has a precious life, just like anybody else, and the precious life in Bridgeport also was taken. Why is it that we tolerate those people who prey either on the young. They prey on the females and the prey on the police officers and here we are debating to allow them to remain in jail for life. They do not deserve to live.

I worked with Helen Williams. I worked with her when I was a young kid being a stock boy in a department store. I see Helen Williams occasionally. Walter Williams father. I look in her eye and everyday and everyday and just last week, we did a memorial in Waterbury for the police officers who died in the line of duty. And you look in her eyes and you see the pain, 5991 days ago. Why is it that somebody like Helen Williams has to endure this kind of pain? At one time I was talking to her and people were asking her about revenge. And I quote Helen Williams said, It is not revenge; it is justice; it is simply justice.

Mr. Speaker, I will be brief in my comment. These are my points. I will oppose this bill and,

hopefully, I urge my colleagues to support it as well for the people who were killed needlessly and unnecessarily while they are protecting our community or a young lady who was just shopping, shopping for her family before Christmas.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Candelaria.

REP. CANDELARIA (95th):

Thank you, Mr. Speaker.

I rise in support of this bill for many reasons but I'm just going to name -- give you a few names: David Keaton, 1973; Jay Kramer, 1973; Michael Linder, 1981; Anthony Brown, 1986; Nathan Fields, 2009. That is the list of five individuals that have been exonerated. And I am going to repeat myself -- exonerated from a list of 131 since 1971. People that were put on death row for a crime they never committed.

In 1972, the Supreme Court declared that the capital punishment was unconstitutional; that it violated the 8th and 14th Amendment because it was cruel and unusual punishment. Unfortunately, in 1976, it was reversed.

Putting somebody on death row, what does it accomplish? It doesn't accomplish anything. The victim is already dead. You cannot bring them back. Do you think that fear of death or putting somebody in death is going to deter crime? It's not, not at all. Most crimes are done in the heat of passion. They're done in the heat of passion; therefore, how can one even think that the fear of death is going to deter crime? I must add that, as a victim, we look for instant gratification. At that moment, we look for that instant gratification.

Death row is a long process. Once a person gets convicted, they sit in a cell for years. The family members still continue to struggle with that pain. That pain is still there. It still hurts. I share the sentiments of some of my colleagues in here who have lost a loved one and they have never recovered. Well, let me tell you something, I lost someone as well. I lost my grandmother. She died in a horrific crime. She was raped. She was beaten, and she was suffocated to death. At that moment, I was angry. I'm not going to lie. I wanted to commit a crime myself. If that person would have been in front me, I probably would have killed them. Does that make it any better? Was that going to make me feel any

better? Not at all. Not at all because why? I killed the individual and what? I'm still going to suffer the death of my grandmother because that's not going to bring her back. That would never bring her back.

When you have someone who is either murdered or die of a natural cause, you're still going suffer it in your heart always. It doesn't matter how the death comes. You're always going to suffer it no matter what because it's a loved one.

I cannot bring grandmother back, but, you know what? If that person would have been caught, which never was caught and was processed and put on death row, that's not going to solve the issue. You know what put him in a prison, in four walls for life, let him suffer. I think that's a worse punishment not to have the liberty to see the sun the next day. That's a bigger punishment.

Death penalty, which makes it irreversible and the chance of error is inescapable when based on human judgment. Based on human judgment because we all make mistakes. We could be sitting and passing judgment, based on facts that later on, turn out to be not the reality. So here we are prosecuting somebody, putting them on death row who might be innocent. Is there any

evidence to support the useful of the death penalty securing the life of the citizen? Not at all. Does the death penalty give increased protection against being murdered? No, it does not. We can leave this chamber today and be murdered tonight. And I could see the headlines, "Legislator Killed in a Drive-By Shooting." We weren't looking for it. We were in wrong place at the wrong time. "Legislator Killed in a Convenience Store Robbery."

So the death penalty is not going to deter crime, definitely not. The conviction of an innocent does occur, as I stated earlier, and we have seen it many, many time. Death makes a miscarriage of a justice that is irrevocable.

Two states, Maine and Rhode Island, have abolished the death penalty because of public shame and remorse after they discovered they executed an innocent man.

And I will conclude my remarks by saying that killing an individual is not going to bring that loved one back. How many are killed daily? Daily? And they will never find justice because those individuals were never caught. If the death penalty is to deter crime, then our state, our beautiful state would be free of murders -- and the last time I read the

newspaper, somebody got and killed. So I urge all my colleagues to support this bill.

Thank you, Mr. Speaker.

MR. SPEAKER DONOVAN:

Thank you, Representative.

Representative O'Neill:

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker.

I understand the comments of those who say, as the previous speaker just did, that we might run the risk of executing an innocent person but that is not a risk that we, in Connecticut, are facing. No one believes that any of the individuals currently on death row is innocent. That's been repeated here over and over again today.

With the advent of DNA and other forms of tech -- scientific technology, it's becoming increasingly possible to exonerate people but, more importantly, to be able to verify that the people that we are convicting are indeed the guilty ones.

And so, going forward, we are going to have with the death penalty more and more certainty that the people that are convicted are the right people, are the people who committed the crime.

The real question, though, for us here tonight,

is the bill that is before us. And one of things that was said at the public hearing on this bill was stated by the Chief State's Attorney Kevin Kane. One of the things he said was, first of all, I think it's important -- with -- this is the central thing he said -- I think it's important with regard to 6578, for everyone to be very clear what will happen. The Bill purports to abolish the death penalty for any capital felony committed after the effective date of the act. That -- what would actually happen is the death penalty would be nullified for anybody who has not yet been executed. The State could not and would not -- could not constitutionally and would not, as a matter of public policy, seek to execute someone for a crime they committed today when they could not be executed for committing that same crime tomorrow. I don't think that would stand up as a matter of constitutional law. I don't think the courts would permit it and I'm sure this legislature would not want us to be doing it.

If the legislature wants to abolish the death penalty, do it upfront, do it straightforward by abolishing the death penalty for anybody who hasn't been executed. Don't create a situation where the families of victims of pending cases or the families

of victims of people for whom the death penalty has been imposed but not yet carried out, don't put them in a situation that leaves them in hope that those executions will be carried out. And the bill before us purports to abolish the death penalty prospectively but that bill would, under the interpretation and the understanding of the Chief State's Attorney, inevitably lead to the end of the death penalty for all of those currently serving on death row and so this bill has that effect. It would release the people who committed the crimes that the Minority Leader described, horrible crimes, crimes for which the convictions have already been imposed. Crimes which the people of the State of Connecticut decided deserved to be punished with the death penalty so I think that the bill before us tonight suffers from a very fatal flaw in that regard. It has -- purports to be prospective abolition of the death penalty, but the reality, according to the Chief State's Attorney, is that it would have a retrospective impact as well.

The testimony that had the most impact on me with respect to the death penalty when we had the public hearing, though, was not that of the Chief State's Attorney, it was the testimony of Dr. Petit. And he quoted Lord Justice Demming of the United Kingdom for

the proposition that the truth is that some crimes are so outrageous that society insists on adequate punishment because the wrong doer deserves it, irrespective, of whether it is a deterrent or not. And I think that at the bottom line -- that is the bottom line for the death penalty. It is the punishment that fits these kind of horrendous crimes that we've had described here where someone uses a sledgehammer to crush the skull of a 13-year-old just to find out what it feels like.

I don't know if that was exactly the kind of crime of passion that we were talking about a little bit before. These are horrible crimes committed by people who know what they are doing. If they were in some overwrought state, some mental problem was inflicting them, they would assert that as part of their defense and that would be a factor that would go into deciding whether or not they would deserve the death penalty, their mental state. These are not people who are victims in some way of our system. These are people who've committed the most horrible crimes that are possible to be committed and they are being given this very rare sentence because it's the only appropriate sentence to impose.

If we pass this bill tonight, those ten people

currently sitting on death row will probably never be executed, not because we don't know how to run an efficient system where we couldn't amend our laws to make it more efficient but because we will have abolished this death penalty and it will not be possible for us to execute anyone that was previously convicted, according to the Chief State's Attorney.

So I would urge, on that basis alone, everyone here to vote against this bill.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Berger.

REP. BERGER (73rd):

Thank you, Mr. Speaker.

I'm just going to add a couple of comments. I know, there's many members here in the chamber that want to speak on this bill, and I have spoken on the amendment.

But, when we spoke about the amendment -- and just prior to that Representative O'Neill makes a very strong and valid point about current death row inmates that could be effected by a yes vote on this bill that's before us, and I think we all need to think about that very, very closely.

We've all heard their stories, and I'll have a couple of stories to tell quickly, also, tonight but we've all heard the stories here tonight and this afternoon. So when we vote today and you either vote yes or no, remember that voting yes for this bill will probably allow those that are currently on death row to have their death row sentence commuted. So that's something to consider when you come to your vote tonight.

The other process that I think is important to note is that we, in this chamber here, legislate. We are elected by the people of our districts to vote on bills that affect our district and affect the State of Connecticut. And, certainly, tonight there were discussions in this chamber that were outside the chamber that were with individuals outside the chamber that aren't elected by the people. It's important to remember and certainly not for me to preach, but we are here to vote and not to be influenced by conversations taken outside of the chamber of the House of Representatives when we make our decisions.

And I'm hopeful that, down the road, we can have a workable death penalty document that eliminates the appeal process. That we can work with the Chief State's Attorney with a workable document and

probably, if it were my opinion and if it were my decision, which it's not, I'd probably had PT this bill until we could come up with that workable document that supposedly the Chief State's Attorney has. I'd loved to be able to share that and debate that document in this chamber tonight, but that's not going to happen. We have a vote before us here tonight, and we're going to make a decision based on the information that we have.

Now, I spoke before about the life that these individuals have on death row. And I spoke a little bit about the lives that they have taken, but I'm going to just give you a quick story about one of the lives that were taken that I witnessed and a person that I worked with and a person that probably was one of the most outstanding police officers and had won awards for outstanding police service in the State of Connecticut and that was Walter Williams of Wolcott, Connecticut.

A Waterbury police officer, who on patrol in the north end of Waterbury in a tactical patrol unit and he worked a tough area -- and I'm not going to say he wasn't a tough cop. He was a tough cop because when you work in the north end in the 80s, it was all about crack cocaine, and crack cocaine was running rampant.

Gangs were running rampant and we were under orders to make something happen and to bring these people to justice. So just after lunch at 1:30 in the morning, he was in a one-man tactical car patrolling the north end of Waterbury. He came across two individuals, one of, which he knew and had previously arrested. So, in his investigative process, he stopped and routinely started to question those two individuals, one of which he already arrested before in the past for narcotics violations.

On this night, though, he was accompanied by an individual that had another agenda based on crack cocaine and money, a couple hundred dollars, a couple bags of crack. He brushes up against Walter Williams, and the hardened criminal that he is goes for information to see if that officer has a vest on. A lifesaving protective vest, which Officer William did have on. And the hardened criminal that he was, he came around the back of Walter Williams, put a 9 mm gun behind his ear and pulled the trigger.

And we lost a valuable public servant and, as this individual, this hardened criminal left the crime scene and ran. He fired back five rounds, back at the cruiser and at the falling officer. What a standup man that is in our community. That's somebody that we

should leave and give a life sentence to that stays in a nice little room, gets on the Internet has a fan club, gets three square a day, has a cot, has healthcare, has clothes. And we're going to let that person have that nice quality of life for the rest of his life.

And what about Walter Williams' family, buried with all due honors, 2,000 police officers at the funeral, had a baby boy at the time, now is grown up and, by the way, is an all-state football player, is a great football player. He never saw him play. His son never saw his father, was never able to enjoy the life that we all do. We enjoy with our sons, going to the ball games, yelling at the refs, being part of that whole process of growing up and being a family. That family will never be able to have that love and joy ever again and have that wound and that scar for the rest of their life.

So I know this -- these are difficult times in the State legislature and in the State of Connecticut, but I would ask that you remember these stories here tonight when you vote and remember the families and the children and the lives lost and the lives ruined, and the individuals that are sitting alive in their cells with a good life and families to visit and think

about the lives that they ruined.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. Sometimes the fourth graders come to the chamber and a couple years ago one of them asked me, what was the most difficult vote you ever made? And I always remember that question because the answer was so easy for me to provide. It was the vote we took a few years back on the death penalty.

I live in Somers and I have Northern Correctional in my district. And the night before we took that vote I thought how strange it is that there is somebody a few miles from here wondering -- something I'm going to be involved in is going to make a decision whether or not that person lives or dies. I hated having that on my conscience and I really didn't sleep and I kept thinking this is such a huge responsibility that we have.

This debate and the vote that we make is so significant but I'm clear that the death penalty is warranted in some cases. And I think we reached that

decision based on people we know, experiences we have, opportunities that present themselves to us.

A few years ago, I was in Oklahoma City, and I made it a point to go to the national memorial there. And as I walked through and I saw those 19 little chairs, I'll never get over that. And I saw those 19 little chairs and I thought about those children and that continues to drive my decision about what is justice.

The federal government managed to make a process that works. In six years, Timothy McVeigh was executed.

I know the proponent of the bill started the debate by saying the process simply can't work but if our federal government can make that process work, why can't the State of Connecticut? Mr. Speaker, sometimes bills that we vote have unintended consequences, and I do have a concern about today's bill that's before us -- through you, Mr. Speaker, may I ask a question to the proponent of the bill?

SPEAKER DONOVAN:

Please proceed, madam.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. Mr. Speaker, having Northern Correctional in my district and all of the

death row inmates in my district, I also many of the correction officers who work on death row, friends of mine living in my district or living near by. If we were to eliminate the death penalty and someone on death row were to attack one of these correction officers, what would be the penalty if they are already serving the highest penalty that the State of Connecticut can give them?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

The penalty, as stated in the bill, is that there will be a penalty of life imprisonment without the possibility of parole.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. But if an inmate is already serving life in prison without the possibility of parole and they were to kill one of the correction officers that works in Northern Correctional, what additional penalty could there be if they're already serving the highest penalty?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Through you, Mr. Speaker, the highest penalty is life imprisonment without the possibility of parole.

SPEAKER DONOVAN:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Mr. Speaker, I appreciate the proponent's answer, but I think that raises a serious red flag in my mind and I hope others will consider it before they vote tonight. We have many fine men and women serving in our correctional facilities and some of them are protecting us by working on death row.

And I firmly believe that by eliminating the death penalty, there is nothing left to do to those people, to prevent them from basically doing anything they want when they're in prison. Don't think that those people that are on death row stay in their cells 24 hours a day because they do not. They're also allowed out of their cells, uncuffed and unshackled based on AC -- ACLU? I'm sorry -- ACLU findings. They have TVs. They have many amenities in their cells. They're allowed, on occasion, free access. They go into the library. They can eat, under certain

conditions, without shackles so there's a lot of opportunity, Mr. Speaker, for them to intermingle with the correction officers. And, frankly, if you're already serving life in prison without the possibility of parole, it's absolutely impossible to serve two lifes in prison without parole.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Hennessy.

REP. HENNESSY (127th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the bill. Today, if there were any question in anybody's mind that we live in a very dangerous world, I'm sure that we would be persuaded to believe that, in fact, it is a dangerous world we live in.

Today, we have heard testimonials for people who have died, family members, pillars of the community. We've heard of horrendous acts of violence, but I think that what this bill is really addressing is what we believe we are as a people, as a state, as a country. And I believe that we're better than that; that the death penalty is vengeance; and that we, as a people, are better than that. We can't take away the

fact that terrible things happen. Unfortunately, they do.

We hear that the death penalty doesn't act as a deterrent. I think by voting for this bill, we are making a statement that we believe in justice. These people put away in prison for the rest of their lives and we shouldn't kill.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Morin.

REP. MORIN (28th):

Good evening, Mr. Speaker, and thank you.

SPEAKER DONOVAN:

Good evening, Representative.

REP. MORIN (28th):

I rise in opposition of this bill. And, before I begin to give you my reasons as to why, I want to state publicly, after listening to this debate, it gives me understanding as to why I admire and respect my colleague so much.

This is a debate that's been intellectual. This is a debate that's been emotional. This is a debate that for some is spiritual. And, if nothing else, it's extremely passionate. I've looked at -- some of

the things I've heard and things that rankle me just a bit. We talk about the cost of incarceration. We speak about the cost of trying to implement the death penalty. None of that matters to me. Everything we do -- or a lot that we do in this legislature, especially in these difficult economic times, cost has an effect. Cost might even make you think a different way, not on this issue, not for me.

I look at quality of life. The quality of life issues when we're discussing this type of legislation, and all I can go back on is the quality of life of the victim. The quality of life of the person that's been -- their life has been taken from them. They have no quality of life. Their survivor's quality of life has been seriously diminished. I've heard -- listening to Representative Butler's story today, Representative Candelaria's story -- it's painful to hear. It's disturbing to hear. I have a family. I am lucky enough to have a wife and three children. I can't tell you how I would feel -- well, I can. I'd be -- I'd be angry, and I'd have rage, and I'm not sure be that I'd be man enough to let justice go through the system.

Life imprisonment or the death penalty. Life imprisonment without the possibility of parole --

getting back to the quality of life. Yes, I'm sure being in prison isn't a joyous thing to have. I'm sure it's not anything anyone of us would like. But when you have life in prison, you have an opportunity to nurture yourself. You have an opportunity to learn more. You can read. You can watch television. You can listen to music. Yes, you can eat. You can probably recreate a little bit. And, when we go back, the victim is doing none of those things. And their family members are living with that pain everyday. And I've also heard the argument that if you kill someone, if we become just like them, that will not bring anyone back; that will not bring the victim back. Well, I understand that as well. But it doesn't bring the victim back, if they're staying in life in prison without the possibility of parole. Nothing brings the victim back.

What the death penalty does is it allows, in my opinion, it punishes someone for the severity and the disgusting crimes that they are purporting against our citizenry, our friends, our neighbors.

I've listened to folks say that if we kill them, we're just as bad as they are. You know I don't think by my voting against this bill that it makes me less of a person. I consider myself to be a compassionate

person. I care about people. And I care very much about the victims, and I'm not diminishing the folks that are arguing on the other side, I'm not saying that they don't so please be clear on that.

But in my -- just for my one vote in this chamber, I think that a no vote is absolutely the way to go. I appreciate you giving me this opportunity, and I appreciate all of the heartfelt contributions that you've all made tonight.

Thank you.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker.

This discussion has certainly focused all of us in a very profound way upon an enormous question. I don't know whether the death penalty is a deterrent or not, the evidence seems to be more or less in equilibrium. I don't think whether or not it saves money is even an issue. I think to bring money into it, the cost really trivializes the question.

I frankly can't imagine -- I can't imagine anyone saying, well, I'd be for the death penalty but it's just so expensive. You know, I mean I just -- I just

can't imagine that -- that thought process. But there are -- there is something to look at, at this question of life in imprisonment without parole. In talking to the family of victims, I have learned that that sentence doesn't have a lot of credibility. Attitudes change; memories fade; mistakes are made. In fact, reportedly, the suspects in the Cheshire killings were out because of a mistake because of the parole board not having the sufficient information before them.

The families of victims look at -- they see that the man who shot President Regan was released. The man who shot Dr. Martin Luther King is not -- has not been released, but he has come up for parole several times. So there always is the possibility that -- that person who is in life imprisonment will one day be back on the streets.

Moreover, I think life imprisonment is for -- well, a terrible sentence, is not quite as harsh as we sometimes imagine. These people can conduct a life. They can become celebrities. They can communicate with people. They can continue to learn. They can -- without even considering the question of whether or not they get three squares and medical care. They simply can continue to progress with a human life. They do, in fact, see the sunset now and then.

And so we have to look at that in the way that this sentence may not be as final as it would seem. Moreover, during the time -- and you've seen this happen, someone is put away for a heinous crime, 25 years later, they say, well, but he has been a model prisoner and he has done so many wonderful things; he participated in an organ transplant or whatever, and we know he's not the same person who went to prison 25 years ago. And, you know, maybe that's right, maybe he's not. But I think that this -- the belief that life imprisonment fulfills the old notion of Devil's Island, which the French maintained years ago, is just not accurate.

There is, in fact, a national movement to release -- to release everyone after they get to be a certain age on the theory that they no longer pose a threat to society. The question, and I will cut to the final -- the question is a momentous one, unnecessary to say. And many, many of us, I think, are affected by the argument that, you know, forgiveness is -- is a perfect motivation; that we should try to love one another and be free with out forgivings. But, you know, we live in a less than perfect world. We live in what sometimes people of religion will say a fallen world. But, whether it's

fallen or not, we have to deal with it the way it is. And this is a decision squarely before us. We make many profound decisions in this chamber, many profound decisions, that I would dare say impact lives much more and almost, as drastically, as the question of the death penalty.

The death penalty can be made workable if we have the will to do it, but I think the primary concern is that we set forth the penalty that we believe that is just; that we believe that for the most heinous crime there is a terrible, terrible consequence. The decision is before us. We must choose. We must choose to make that judgment or not. There is no other way. I believe it is just and for that reason, and, with some discomfort, I oppose this bill.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Fritz.

REPRESENTATIVE FRITZ (90th):

Thank you, Mr. Speaker.

I cannot count the number of times that I've gone through this debate, and it always amazes me. It's a great, shall I say, sympathy and concern that my colleagues bring to this debate. I have always

supported the death penalty, and I will continue to do so. I stand in opposition to this proposal. I voted against it in Judiciary, and I -- I will vote against it here tonight. But I do so, not only because the people I represent believe in the death penalty. I do so because I fully realize that the people of Connecticut do not trust us.

We come to work in the General Assembly to make law, to change laws. How many times have we changed the statute of limitations on crimes? Over and over and over again. In fact, last week, we were talking about in Judiciary, reinstating "good time." Something that we had abolished years ago. I strongly believe that if we do this proposal and this proposal passes, where you have the life imprisonment without the chance of parole, that down the road somebody is going to say. That's way too harsh. Ten years, 5 years, I think we need to look at it again. I think it might be time for a change. Those people back in the 90s, 80s, and so on, they were almost cannibals. The people of Connecticut cannot rely on us to make sure that there are no changes; and, therefore, I support the status quo, the death penalty.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Gonzalez.

REP. GONZALEZ (3rd):

Thank you, Mr. Speaker.

We've been here debating this issue for so many hours, and I really believe that it's because we're all different. Different opinions, different ideas. And -- but we respect each other, and I really believe that at the end of the day, if we lose or pass this bill, it's going to be based on opinion because I really believe that we don't have all the facts.

Fifteen years ago, my stepson got killed. I was working that night and I called my husband telling him I'm on the way home. And he was crying, and he asked me please come and pick me up. I went to pick him up. We went to the hospital. And I will never, never forget that day. The whole family was there, brothers, sisters, and everybody was crying. Sammy -- that was his name -- he was married and his wife was pregnant four months.

When we got to the hospital, she was seated on the floor, crying, and asking why, why him? He was a good kid. I went with my husband. We got into the room, and my husband grabbed the kid, hugging his son, and saying please wake up, wake up. We have to remove him from the room. He went crazy. That night when we

got to the house, his head on the floor and he couldn't express the pain with words, but he went to the floor and he was twisting around, pulling his hair, pulling his clothes and screaming, and it was so horrible.

I remember how many times I woke up at three o'clock in the morning and my husband was crying. How many times I woke up, and he was looking through the window saying, maybe, I'll see my son. He was the oldest, and he was a very quiet kid, nice kid. And that happened when the gangs in Hartford was acting up. And he got killed because they confuse him.

Time pass and we were hoping that we find out who did it, but, 15 years later, we're still waiting. I ask my husband, do you think that if they caught the guy and he got the death penalty, do you think there's going to be a difference? Do you think that you're going to feel better? He turned around, he said, No, no, death penalty is not an answer.

I really believe he said that death penalty is revenge, and I understand both people that have the feeling because they were members of the family, but he's said revenge is not the answer. We're here saying today, while members of the family have been suffering, and members of the family will suffer for

life. Yes, I agree with that. But, also, I will say, if a member of my family got murdered, my family is going to suffer. But also the other person who get executed, his family or her family is going to suffer. So I'm saying here, it is my pain or the other family. Can we say, I suffer more? I don't think so. I think that if somebody of my family got executed, I'm going to suffer, even though if I think that he did something wrong. It's something that you can't avoid. It's something that -- it's a pain.

All the time that I talk about it, I'm -- I get emotional. It's been 15 years and my husband gets up every morning, and he gets in his car and he goes to the place that his son was killed and he prays. He prays. For 15 years, he's been doing that, and the pain is still there. But I know that the death penalty is not going to change anything. It's not going to bring his son back. It's not going to resolve anything.

I believe that life without parole, that's punishment. You have to get up in the morning and you have to think about what you did. You go to bed and you have to think about what you did. You can't enjoy freedom. You can't enjoy your family. I really believe that that's punishment. And also I will say

where we are -- can we make that kind of decision? I don't think so because if somebody got murdered, I want the person, and we know that our system will prosecute that person. Why? Because he did something wrong. So what is the difference here. It's our system, prosecute the person and execute the person. What is the difference here? If we go after somebody and we kill the person. We have the right here to decide for another person's life. I don't think so. I don't think so. I don't think that that's our decision here.

I'm supporting this bill, knowing that my husband is suffering. He misses his son. He goes and visits his grandson, 14, 15 years now. And when we look at him, yes, we remember his son. We talk about him. But guess what? If we ever catch the guy who killed my stepson, it will never bring him back. So I ask my colleagues to support this bill.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative McCrory.

REP. MCCRORY (7th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise and, to be quite honest, this

is probably the first time that I have not made a decision on how I'm going to support a bill. And I'll try to explain to you why.

My first thought about this bill is -- I'll give you the framework. I believe in an eye for an eye and a tooth for a tooth. I believe that. I believe if you do wrong to someone, if you murder someone, if you commit a heinous crime against someone, you should suffer the consequences. What you do to that person should get done to you.

That's my mindset. I believe that. I honestly believe that. I'm not soft on crime, not at all. What's right is right, and what's wrong is wrong.

I also believe in justice, and not just us, justice for everyone. And I do not believe one person's life is more valuable than another person's life. I think too many times we make laws that are too subjective. And we pick and choose who we go after. And we pick and choose who should get punished, who should pay, who should be rewarded.

My colleagues today made very strong arguments on both sides, passionate arguments. And, to be honest with you, all of them are right because we all have our own opinions, but we have to make laws that are just.

When I heard the discussion, the debate going on today. There was talk about individuals who were murdered and some of them were bank execs and teenagers, some of them have prestigious jobs and careers. But then I think about the 30 murders in the City of Hartford last year, and I'm wondering why aren't we going after those murderers? Why aren't we going after those with the same zest, the vigor, the determination to bring justice to those families? Their lives are just as important as everyone else, just as important as all those other murderers on death row. Thirty murders, City of Hartford alone, one year. And I believe they should get the death penalty, too, but why aren't they? Why aren't they? Did they -- did they -- did we not give them the justice? Aren't the scales of justice should be balanced? Did one group of people have a better set of lawyers than another group of people so, therefore, they didn't get the death penalty, maybe they just got 30 years. That's not right. That's not right.

Eye for an eye, tooth for a tooth. That's what I believe. I think most people believe that. But that's why we struggle with this because some of us forgive. I do that, too. I forgive. I believe in justice. So what do we do?

We set policy. But something about this policy is troubling me. It smacks of isms that have been floating through American society for years. Racism, sexism, classism. Oh, yes, look at the policy. Why are some people on death row and others aren't?

Just look at throughout history. It reminds me of when I was a child, while I was in the South. My grandpa used to say, boy, you kill a black man you might get 30 days in jail, shit, 60. Kill somebody else, you're going get hung. That was a long time ago, but sometimes it creeps up now. It creeps up now. Those isms.

I think about one of my colleagues, I think Representative Sawyer said, every murderer must be looked at with the same -- the same -- the same determination and wisdom. Let's investigate them, all of them. I think about those civil rights workers in the South that put their lives on the line, whether they were from the North or they were white, whether they're black, and they were murdered, and how they families live -- why didn't we give those murderers, who we knew who we were, give them the death penalty. Why didn't we do it then?

Just like we should put those murderers who committed that heinous crime in Cheshire, if we're

going to do one, let's do them all. Let's not pick and choose. Let's not pick and choose. Then I think about James Tillman. Man did 18 years in jail for a crime he didn't commit. What if it was another crime? What would have they have said he murdered someone? And we executed him. What will we be saying now? What will we be saying today? Innocent man. Death frightens me. Because the number one reason why people are exonerated is because of mistaken identity. Someone chose the wrong person.

Hey, you guys know I look like Representative Hewitt. I saw his driver's license today. I look like Representative Hewitt. Put me up against a lineup with someone who's upset and wants justice. Hey, good thing, he's a good citizen because I might be the one going down. You see that's why we have trouble with this debate because we know what's right. We know what's wrong. We get emotional. We think of how it impacts us. We think of how our colleagues feel. We think about how our constituents feel. I know how I would feel if someone murdered my -- someone in my family. I want justice. I will probably go out and find justice myself and many of you probably feel the same way because everyone's life is important whether you're a police officer, a

correctional officer, a high school drop out, a single mother, a person who doesn't speak English well.

For me, everyone's life is just as important as everyone else because all of us have loved ones. All of us are sons and daughters of a higher power. So I don't like when we pick and choose who we go after. That's why I struggle with this. So I encourage my colleagues -- I'm not going to stay long -- I encourage my colleagues to think real hard about where you decide to put your political clout behind, whether you support this bill or don't, take everything into consideration. I know it's tough, but you have to take everything -- look at the historical perspective, look at justice, look at who we go after, all those things you have to consider. It's not that cut and dry. So I'll listen to the remainder of the debate, and at the end I'll make my decision about where I will put my political clout behind. I know it's tough.

Thank you, Mr. Speaker, for allowing me to address the audience.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Annie Hornish.

REP. HORNISH (62nd):

Thank you, Mr. Speaker.

I rise in support of this bill. I want to start by saying that I feel deeply for the victims. We all do. I feel their suffering and the suffering of their families and friends. I feel their pain and loss, and I wish them peace. But I believe that the only way peace can be found is not through an act of violence, the act of killing but through forgiveness, and that's a very difficult thing to do. Forgiveness is an incredible challenge, especially for those who have suffered a great and painful and, perhaps, permanent loss.

And I believe, also, there's a significant difference between justice and vengeance. We often hear how victims families don't experience closure after the executions of killers. That's because this spirit of vengeance doesn't bring peace. Only forgiveness brings peace and wholeness and healing.

The death penalty does not further the cause of justice. The death penalty does not bring peace and wholeness and healing. The death penalty celebrates the cause of vengeance and violence, not forgiveness. And I think that this is, therefore, the wrong direction if we want to move in the direction of a peaceful society.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Christopher Caruso.

REP. CARUSO (126th):

Thank you, Mr. Speaker.

Mr. Speaker, as I listen to the debate today, it's not so much about the cost of incarcerating a prisoner. It's not about the deterrent of the death penalty. It's not even so much about the heinous crimes. It's about compassionate people trying to come to a conclusion as to what is right and wrong.

As elected officials, we strive everyday to help our constituents, to help them solve problems, to help them feel better at times, and we do that with our constituents who have been killed. And the victims who remain. We try to help. We try to come up with an answer. As human beings, as parents, as grandparents, as nieces, as nephews, as uncles, we strive to try to seek justice and support and love with those who have been left behind from a heinous crime or murder. The reality in both those situations, as an elected official, as a person who is part of a family, we can never bring back those loved ones. So the question then becomes the power of the

government, is it justice? Is it indeed just to kill a human being who has killed others? Because see, then, the answer -- or the question becomes a heinous crime of an individual shooting someone in the back of the head, as the police officer today we discussed, or a young lady, 23, falling form a 23-foot height to her death. Is it just then, for the State, through an executioner, with a needle and a lethal injection to end the life of another human being. You see it becomes somewhat easy because we're not that executioner. And, yet, as compassionate, loving people, we probably wouldn't want to be there when it happens.

The death with lethal injection is as wrong as the heinous crime of an individual. Death murder is plain and simple. There is a right and wrong. It is the taking of a life. Whether it's taken by a deprived individual for whatever reason or whether it's taken by the power of this State, it is wrong. And it goes against all of us who believe in compassion and love. It goes against everything that we strive for in our lives to raise good families. It goes against everything that we believe in as human beings. And it takes that piece away from us, as a society, of civility. Once lost, never regained.

We have had a history in the State and in this country, where we have jumped to conclusion and we have killed people. We have hung people. We have shot people. In riots, in scenes, and it's been at some times the hand of the government or the lack of the government to step in and say it was wrong. But to continue the level of violence that we have in this state and in this country is wrong. To continue it says that it's okay by the power of the government to kill, but anyone else should not. It's wrong.

It's coming from a converted person. I believed in the death penalty. I thought at first it was the way to go. And, when you look at the facts and you look at the issues, it is not the way to go.

I would love to bring back an individual who has meant something to someone. I would love to have that certain word or that certain message at a funeral to make them feel better, to make them feel whole, to make them feel that the life of that the individual meant something. At times, we can't do that. There will continue to be heinous crimes in the state, unfortunately. There will continue to be individuals that will prey on others, unfortunately. But if we continue on a path where we allow the executioner to do the same thing that we have attacked the accused on

then the question is what is the right and the wrong.

That is why tonight, Mr. Speaker, I will be voting for this bill. And I, respectfully -- the compassion and the passion by individuals tonight. But please don't confuse justice with murder. Don't say what is just in this situation. There is no justice with murder. Justice is a word that can be broadly used. Well, would you say that justice is trying to lift the lives of people in poverty. Maybe, if we work hard to do that, maybe we decrease the violence that takes place. Is justice trying to lift the lives of a child who's in a school system, where their classroom is in the closet of a school because the school itself does not have enough space for that child. Is justice trying to lift that child so that child in turn fulfills their dreams and expectations and possibly, just possibly, doesn't follow a road of crime. Is justice lifting the lives of people who have no health care so that they can feel part of a society so they can feel better.

We will see. Every research shows that crime in some ways has its roots in poverty. It's steeped in poverty. There are some exceptions. We've had people of affluence that have killed, but, for the most part, it's been people of poverty. I don't say that's

justification for their acts, but maybe, as a society that looks at that, as a way of decreasing violence in turn will have a stronger society. Maybe we wouldn't stand here debating the death penalty and the right or wrong of the government and the power of the government to take a human life. The same government that has the power to take a human life can also lift a human life to measures beyond our expectations for stronger human beings.

I would suggest tonight we support this measure, and we say that there is a right and wrong with murder. We don't condone murder. We don't accept murder. We don't acknowledge it by people who commit heinous crimes. But, as a government, we also don't commit murder ourselves.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Holder-Winfield.

REP. HOLDER-WINFIELD (94th):

Thank you, Mr. Speaker.

Obviously, I'm a proponent of the bill. I've heard a lot about victims and when we talked about the death penalty in the Judiciary Committee, the first thing I talked about was the victims. But when I hear

us talk about the victims, I hear us talk about one set of victims. I don't hear us talk about the victims that came before the Judiciary Committee a few years ago. I don't think most of us even remember their names. We remember Dr. Petit, but I don't think we remember Gail Canzano and many other people. We don't remember those people because what they're talking about, what they're asking us to do doesn't comport with what we think is the right thing to do. And we cannot assign to the things that we feel, the value of truth simply because they comport with what we feel. And that is what we do a lot of the time.

You know, I don't think any of us have a district where every single person in that district thinks this is the right thing to do -- and, by this, I mean the death penalty. I don't think so. And so I think when we make these decisions, we have to act as if we are representing all the people in our district, and we cannot stand behind, well, some of the people in our district think this is the right thing to do.

This is a decision we have to make because it's right or it's wrong. This is a decision we have to make because of what we believe and if we're going to talk like we've been talking part of the day about

whether the people trust us, whether they are going to believe in us, then we have to stand up and say, not because I hid behind the people in my district, but because it is right or it is wrong, I am going to do this thing.

Representative Cafero talked earlier about, he doesn't believe this is unworkable. And he said he doesn't believe this is unworkable because it's not linked to how often we do this thing, how often we kill people. Well, I beg to differ. The Supreme Court, the court that we talked about, the Supreme Court has told us that it is linked to how often we do this. It is. In 1976, the Supreme Court ruled on the death penalty, and we talk about our statute being constitutional, and it is as it is written. But it also has to be constitutional in the way that we practice it. And when we want to talk about doing this rarely, we're on troubled ground. Because the Supreme Court said, that when the death penalty statute applies, it should be used. And even the proponents of the death penalty say to us, well, we don't want to do it all the time. Well, if you don't want to do it all the time, then you don't want to do it.

Be honest with the people of the state. If you

want to be a proponent of doing the death penalty, then being a proponent of doing the death penalty. And that means it should apply every time that it applies. That is the reality, if we're going to talk about a workable death penalty statute, we have to talk about this in reality. We have to put these things into context and we have not been doing that. We've been making emotional arguments, and I understand them, their valuable arguments. But we also have to tell the people of the state the truth, so when you vote tonight, please think about the realities of what you're saying.

We have a problem with the way that the death penalty is practiced in this state. That is not my opinion. That is a fact. We have a problem. You have a prosecutor in Waterbury who tells you, the penalty for murder is not death, and, yet, we practice the death penalty here. And you go to another jurisdiction and you have a different penalty when you murder people. And, in the place where I live, you're not going to going to get the death penalty. You can murder all the people that you want, you will not get the death penalty.

This is not about justice because justice is supposed to be blind. Well, it's not blind where I

live, and it's not blind for the people that I know. This is not about what we've talking about today. This is about some people are special. That's what it's about. And Representative McCrory is right, depending on who you are and what you look like, it may or may not apply. Representative McCrory gets mistaken for Representative Hewitt, and I can kind of understand that, but I get mistaken for both of them, and I can't understand that at all. But that is what we deal with, when we deal with all of these questions.

This is not about whether you're a Democrat, a Republican, whether you're tough on crime, because, damn it, if we were tough on crime, we'd be tough on education. We would be. But we let those education bills go by, and we don't -- and we can get to it another. We can get to it some other time. We're not talking about any of those things. Let's put this back into the context that it belongs in and talk about how this really affects peoples lives.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Morris.

REP. MORRIS (140th):

Thank you, Mr. Speaker.

I rise in support of this proposal. I think each one of the members of this legislature who are kind enough to bear their hearts and share their personal stories. And, certainly, I respect each one of those stories that were given and feel the need just to understand each one of them. Because we heard a vast array of stories and, in the end, how people felt about it, what retribution was and whether it was revenge or whether the people felt they needed to move on. And we talked about the victims and the victims, as families, but I also believe the community and the state is a victim anytime there's a murder and just as heinous as it is as well. We all suffer because it takes something away from us, as a state and as a community. I think anytime there's a murder or anything is tragic, all of the people involved need closure as early as possible, but the issue is what should that closure look like? What should that closure look like? Certain, while there are victim's families who may have a strong need for retribution and based on their loss and certainly based on everything we've heard today, we can understand why. No one would dare dismiss that feeling. But tonight we, as legislators, must weigh whether that

retribution should be in the form of a death because that's what sought by some of the victim families. They feel unless we have a death penalty, retribution has not been met. But we need to determine whether that retribution outweighs the risk. The risk of executing an innocent person. I heard during our debate today, well, everyone that is there, none of them are innocent. But this is a bill that is talking about going forward, and we know nationally there are people who have been on death row and were exonerated so innocent people do end up there.

This is also something for us to determine whether we should be submitting to a policy that doesn't value life. For certainly for us to take a life, says that, as policymakers, we do not value life because when one's was taken, we're saying on one side, well, we value life, and because it was it was taken, we're going to do the same thing. I think those two positions are contrary one to another, and, equally important.

When we're considering how we're going to vote today is the issue that does the death penalty ensure public safety? I think Representative Lawlor made the argument very well. The death penalty does not ensure public safety, and I think that's what our

constituents want to make certain that we do while we're weighing all these different factors. The argument that Representative McCrory just brought and Representative Holder-Winfield, initially, when I was making my notes, I wasn't going to go there because of the tone of what I heard, and I agree with Representative Winfield, I think that's where a lot of the discussion really should have been. I mean I've got a great big report here that was given to us in Judiciary that was done by Yale Law School. It is a phenomenal report that has taken a look at the death penalty from every vantage point. It talks about the disparity. It talks about the fact that when you talk about the egregiousness of offenses because we talk about the how heinous the offenses are. This report basically indicates that some of the most egregious offenses are those that end up with life without parole while others end up with the death penalty. Is that fair? Is that right?

It certainly talks about, I think, it gave three cases in Waterbury, where it was black-on-black crime, and two of those cases were the most serious, and the death penalty was not imposed, even though it should have been eligible. The other two had to do with a white person who was a victim, the death penalty was

imposed. There is something wrong with that as a story. How can we call this death penalty justice? This is not justice.

Life without parole doesn't deny the retribution that some people feel they need. It doesn't deny that. But it affirms a public policy that we value justice, life and public security. By permanently removing the offender to a maximum security facility that isn't comfortable, as I understand it, because the way I heard it today it was like people are going to something that is comfortable. I don't envision -- I think the situation there in right now may be more comfortable so for those reasons, Mr. Speaker, I encourage -- I am supporting this, and I encourage others to do so.

As a last comment, I heard and said earlier today and I think it is important, what does the death penalty say about us? What does it say about us? Is this the best that we can do? Is this the best that we can do when our society comes to the point that we have individuals, whether they intend to perform one of these (inaudible) crimes, or whether it accidentally happens -- however it happens. Is this the best that we can do is to decide, well, we're just going to spend tons of money and then kill them. Is

there something better we can do to change our society? Representative Holder-Winfield began to talk about it. Representative Caruso did as well. Most of the people who end up in these situations, there a lot of them in poverty. We have failed to educate them. There are so many more positive things that we can do to work forward for the state of Connecticut.

I thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Spallone.

REP. SPALLONE (36th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the bill. This is the third time that I have had the opportunity to debate and vote on the death penalty during my nine sessions now in the legislature, and I had not intended to remark this evening. However, I was struck by the remarks of members of the chamber who were personally affected by crimes, by violent crimes, by murder and was listening to those remarks while I was in the caucus room and in the chamber earlier. Both, by members who support and oppose the death penalty, and considering this is a relatively small number of people considering there are probably

members who did not speak who have had a similar experiences or family members have, I think says, unfortunately, something about our society, that this is a good and great nation, but, unfortunately, there is a history of a higher rate of violent crimes in the United States than in similar industrialized societies. That's unfortunate, and I think it calls for reflection. It calls for thought as we consider policies regarding crime and punishment. So I think that a debate on the death penalty -- and it calls on us to face this issue squarely, and I think a debate on the death penalty give us an opportunity, an important opportunity, to step back from this history of violent acts, to step back from death and, in fact, to rise above these horrible crimes, to rise above the violence and to be better, as a society, than what these crimes represent, to rise above the crimes committed and the persons who have committed them to appeal to the better angels of our nature and I ask, Mr. Speaker, for the members to consider that as they vote this evening, and I thank you and the chamber for listening.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Bartlett.

REP. BARTLETT (2nd):

Thank you, Mr. Speaker.

It's been a very emotional debate today, more than -- more than I expected or was prepared for. The members who've spoken about their personal experiences, especially Representative Butler. I mean, it's for me a real gut check about where you stand and what you're going to do and why you're going to do it in terms of your vote. And I grew up being for the death penalty, you know, I get it. And I think that the first time that I tried to think about it and decide was this where you should be as you follow public debates around the country in different states. I think Governor Ryan out of Illinois is the person who first made me re-evaluate, really consider, you know, where I was in the death penalty. The fact that he commuted over 150 people's sentences to life in prison. The fact that he was a Republican. The fact that he was the governor who had the power -- had the power of life and death in his hands and he chose to reverse himself and his position and commute those sentences. And I believe it was around the same time or soon after the Connecticut legislature considered the death penalty and for whatever reason I was up here and remember approaching a one of our Connecticut

legislators and saying, what are you going to do? And he wasn't sure, and I think right then and there I began to advocate that, you know, we should have, at a minimum, a moratorium also in the state of Connecticut because there were mistakes, it was -- you know, it was conscience to me, you know, through this whole process that mistakes had been made, that innocent people were on death row; that our criminal justice system was not perfect.

I mean the one thing that I heard earlier that I have to say right now while I'm thinking about it is is that, you know, I don't care how far we get advanced with DNA and technology, we have such a long way to go before we come up with a really fair criminal justice process. I mean our whole process is set up adversarially, and mistakes are made all the time. So I have to accept, as a fact, that mistakes are going to be made in this process going forward. And the other thing that I have to just accept is that we have to, each of us, I think, be governors because we're really the judge and the jury in some sense. The Governor is making that decision at the end. I mean, we've all seen the movies. We all know what the process is. They have that power to commute a sentence or to sign that death certificate. And I

think we need not let ourselves off the hook because we're legislators. We are empowering that ultimate power. And I don't like to -- and don't agree with oftentimes, legislators bringing religion into the chamber and -- and kind of going down that road, but I do think that we have to -- we have to go there in terms of do we have the right to make those life and death decisions? And I put myself there and say, well, if I was the last stop, could I sign that death certificate and, for myself, I can't -- I can't do that.

And I think that we have to think about that because we have the comfort of not having to make that decision in these chairs, but, ultimately, we're giving one person in the state of Connecticut the ability to make that decision. And justice, however, we want to define it, I think that it's -- I don't think we can, in terms of dealing justice at this level. I think that there is a higher power. I think there is a heaven and a hell. And I think people will pay for what they do and so because of that and because I think that mistakes are made and that it's really not our right to make that decision in the end, I would ask that we move forward and vote in the affirmative for this bill.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

Mr. Speaker, I've been here for the past several hours listening to this debate, a very thoughtful one, a very emotional one, and it's a debate that I've also had with my colleagues, both Republicans and across the aisle and have listened to my constituents both for an against this bill, and there's a commonality that I've noticed and that's that our justice system has failed us, and our prisons system has also failed us. Our justice system for the fact that it does matter which judicial system you come out of. It depends on whether or not you have the tougher prosecutor, whether or not you have the better attorney. I don't think it's a mistake that, unfortunately, on our death row it consists of minorities and that men are sentenced to death more readily than women are. I think these are issues that are prevalent in our society and issues that show and demonstrate that our justice system is not even handed and I, too, believe in an eye for an eye, and,

unfortunately, I'm fulfilled that that's what we're getting with our judicial system. If we have the system, we have to make sure that it's working. And, unfortunately, I'm not convinced that it's working.

If you have two people who commit the same murder, yet one person commits it in a way that leaves no evidence that person more likely than not will be able to negotiate a lesser penalty, more likely than not, not sentenced to death. Unlike the other person who committed the same exact crime and they left more evidence, more traceable evidence, well, quite frankly, that prosecutor is going to have an easier case against them and more likely than not, they will be sentenced to death, yet it was for the same crime. So, once again, this is just one more example that our judicial system is not protecting us. It's failing unfortunately.

And I think the other thing that I've noticed in the debate that we've had today is our prison system. To be completely frank, there's a lot of characteristics as to what kind of life are these people having on death row. Do they have access to the Internet? Do they have pen pals? Of course, I'm sure they're being provided with meals. Do they have the ability to go outside and exercise and mingle with

other people? So for those families, who have been touched by these criminals, murderers, as it was described earlier and, of course, I couldn't provide them with any other word because I think that is fitting for it, if they're a murderer, they're a murderer -- for those families, to be able to have to live without that family member or friend who was killed and know that these people are living on death row -- or life imprisonment -- excuse me -- life imprisonment, opposed to a death sentence, has got to be tough. These people are living out their lives in prison, but yet the ones that they care for, they're lives were taken away from them. So, again, that is one of the things that I've noticed in this debate it's tough and that's where our prison system fails us. Because that should not be the life that they're living in prison for life sentences.

Quite frankly, I'd would like to see our prison system revamped. I believe that these people who would be then sentenced to life imprisonment or currently are sentenced to life imprisonment, they should be paying their way. They should not be an additional burden on our state. They should be working their way through, not only to pay for their stay in prison, but then restitution and pay back to

those families for what they have caused them all the pain and suffering. I think that putting them, sentencing them to death, quite frankly, takes them out of that misery.

So, again, there are just two points that I have noticed in my conversation with my colleagues and across the aisle here that the commonality is our justice system has failed us. Our prison system has failed us. And that's why we're here for so many hours today debating whether or not to support this bill because, quite frankly, there is many different things that need to be changed, and I would like to then share those thoughts, also providing those thoughts into this debate. Because those are the commonalities that I noticed, and I do respect and thank everyone who has provided their testimonials here today because this is certainly a bill and a debate that is not easy for anyone.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Giannaros.

REP. GIANNAROS (21st):

Thank you, Mr. Speaker.

I know it's been a long day. I'll try to be as

brief as possible. I do rise in support of the -- the bill before us.

Apart from the issues that relate to morality and religion that, in all honesty, I am affected by and my cultural and religious background does -- it is reflected in me and what I do. But if we look at things from a fairness point of view, apart from those other issues that I just mentioned, this process of trying to solve the crime problem has been applied in a very unfair way, especially, to those who happen to be in groups in our society that are disadvantaged. And some of the crime and other things are impacted by the status of people in terms of employment and income, et cetera. But let me just quote from the website, in fact, called thedeathpenalty.org. In there they say that in 1990, a report done by the General Accounting Office, 82 percent of the studies that they reviewed, they found in those studies, in 82 percent of them, that race played a role, was a major influence in terms of the likelihood that an individual would be given the death penalty. More importantly, there is evidence, clear evidence, that if the person who died is a white person, like me, the individual who commits the crime is more likely to face the death penalty than if the person who died was

a black person or perhaps a Hispanic. This is a system that is disgraceful when it comes to fairness. I bet you we have killed hundreds of thousands of people over time because of the facts that I just mentioned. It is applied at random, because if you're wealthy, then you can afford the best there is in terms of legal defense, as we saw in many cases in the recent past now that we can watch television, that is, court on television.

We may -- you may be able to get away with murder, literally, but if you happen to be of less well means and the lowest stratus, you're in a total different category in terms of defending yourself and given a fair trial. We know for a fact that many people have been found recently to be innocent after they have been prosecuted and given the death penalty.

More importantly, why is it US, again, is standing out, 137 countries in the world have abandoned, eliminated, the death penalty. Including almost all of Europe, almost all -- almost all of North America, and almost all of South America. Why do we have to be in the category of Iraq and China when it comes to the death penalty?

As many before me said, and I do understand the emotions relating to losing one -- losing individuals

in your own family and I can empathize with that and I can understand why people would feel the way they do. But, on the other hand, we have to have a society that is civilized, humane, and applies the rule of law fairly and equally across the board. And the death penalty has not been applied fairly across the board, and we know that, and there is no reason for us to continue to do the same.

I was just looking at the photographs of the people who are in death row in Connecticut, and I can tell you that they're not like me in terms of color, by and large. And that may be an indicator of what I'm talking about. And I think it is time for us to abolish it, have lifelong-term sentences without parole because it is unfair. It is not a just process. It's not a just way of dealing with crime, and it is not a civilized approach.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Rigby.

Representative Mikutel.

REP. MIKUTEL (45th):

Thank you, Mr. Speaker.

I didn't want to speak again but having listened

to some recent comments, I feel I have to speak again.

It's okay. Mary. I feel I have to rise to speak again in response to some of the comments that I heard, especially in respect to the last speaker. There is no indication that the legal system in Connecticut is racially biased. There is no indication of that at all. The chief public defenders office is -- has raised that claim. It has not made that claim -- I mean not proven that claim. The Chief State's Attorney's Office has been trying to gather data in an expeditious manner to deal with that claim. But the Chief Public Defender's Office has actually withheld information that the State's prosecutor has asked for, in fact, the Chief State's prosecutor has had to subpoena that information so I think it's quite unfair to infer that Connecticut's legal system is racially biased.

I also would like to object to the statements made earlier that state execution is equal to murder. I don't know if now I infer from that, as a legislator, that supports capital punishment, that now I am a murderer. I think that is a preposterous claim because it fails to recognize the moral distinction between guilt and innocence. There is a difference. There is a big difference between guilt and innocence.

As to the issue of innocence, no one is claiming that anyone on Connecticut's death row is innocent. They're not innocent. They're all cold-blooded killers. They did the crime. We have a -- and we refer to -- always seem to refer to out of state, what happened in this state, what happened in Illinois, what happened here. Well, we're talking about Connecticut. And if you talk to the people at the Chief State's Prosecutor's Office, you'll soon realize that they scrutinize every case very carefully. They're never going to bring a case where they feel there is serious doubt as to this person's guilt or innocence.

I heard it said that if they had to sign someone's death warrant that they would have a hard time doing it. You know, I'm a compassionate person. I'll tell ya. I think a lot about peoples welfare, but, at the end of the day, I have to think about those innocent peoples lives. I have to think of all the damage that as done to that family. I would not have any hesitation of signing that person's death warrant, not the people who are sitting on Connecticut's death row. Somebody's got to make the call. We're elected here to make the call. We're elected here to make these tough decisions. I'm not

copping out. I'm ready to make that decision. I'm ready to vote on a workable death penalty.

This is nonsense that we can't develop a better system. Yeah, I acknowledge some of the problems in the delays. But we can do better. After all, it's people that make things happen. It's not just institutions. It's people. It's a cop out to say that we can't develop a system, a legal system where we can have real justice and have timely justice. It's a cop out.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Remark further?

Representative Lawlor.

REP. LAWLOR (99th):

Thanks, Mr. Speaker.

I just want to make a couple factual points. I'm aware that people are watching this debate and some of the things have been said here, asserted as facts, are actually are not true. Just to clarify the record, just to -- and there's just a few, I just want to mention them because I think that we get the wrong idea.

State of Pennsylvania does have a death penalty.

There's 2 -- last count, there is 226 persons on death row in Pennsylvania of whom three have been executed since 1976. There was an earlier statement that Pennsylvania did not have a death penalty. That's not the case.

There was also suggested several times that inmates on death row have Internet access. That is not the case. Inmates on death row do not have access to the Internet directly or any other way.

It was suggested that inmates on death row have physical contact with one another. That's not the case. At no time is an inmate on death row ever in the physical presence of another inmate. They eat all their meals in the cell. If they're ever -- they're allowed one hour recreation period each day, and that is -- that takes place either by themselves in the one common room adjacent to death row -- I've actually visited this place -- or if it's an outside recreation, there's cages just outside the death row, surrounded by a wall that's about 15 feet high, about ten feet wide, and they never are in physical contact with one another.

They're not in physical contact with corrections officers unless they are completely shackled, and they -- that's the way it is 24/7.

So I think some -- and I'm not blaming people for making mistakes about the factual situation. I think if people might be watching this debate, they would get wrong idea about what life is like on death row, and what I've cited to you, I've just reviewed from documents provided to me by the Department of Corrections this afternoon so just those factual corrections, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Remark further? Remark further?

Representative Merrill.

REP. MERRILL (54th):

Thank you, Mr. Speaker.

I just wanted to rise at this point to commend the chamber on the debate this evening. I like some other people in the chamber am a veteran of other debates on this issue. It's obviously an extremely difficult issue for people, but I am struck by the evolution of our thinking on this issue. Many new things have happened since the last time we debated in this chamber.

It's been an articulate, sometimes emotional, powerful evening, full of inspiration and anguish in some cases. But I think, as we see, the justice

system may not be perfect, and there are many different opinions. Each person in this chamber will probably make a very individual decision on this issue. But I think it was an important issue for us to debate this evening, and I just commend everyone for their respectful debate, and I'm proud to be a member of the chamber and hope that we all feel good about making whatever decision we're making this evening.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

I would just like to add to the chamber. It has certainly been an honor and a privilege to preside over this debate, respectful conduct, respecting each other, but strong beliefs and you certainly made it known. But we debated with honor, and Connecticut is very proud of all of you.

The machine will now be open.

THE CLERK:

The House of Representatives is voting by roll call, members to the chamber. The House of Representatives is voting by roll call, members to the chamber please.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? Members please check the board to make sure your votes are properly cast.

If all the members have voted, the machine will be locked and the clerk will please take a tally.

Will the clerk please announce the tally.

THE CLERK:

House Bill 6578

Total number of voting	146
Necessary for passage	74
Those voting Yea	90
Those voting Nay	56
Those absent and not voting	5

SPEAKER DONOVAN:

The bill is passed.

Representative Schofield. Representative Schofield, for what reason do you rise?

REP. SCHOFIELD (94th):

Thank you, Mr. Speaker.

I'd just like to correct an erroneous vote earlier on the amendment. I meant to vote against the amendment, and I mispressed the button. Sorry.

SPEAKER DONOVAN:

It will be so noted on the transcript.

REP. SCHOFIELD (94th):

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ABBY ANDERSON: Thank you.

REP. LAWLOR: Any further questions? If not, thank you very much.

ABBY ANDERSON: Thank you.

REP. LAWLOR: Next is Bill Barrett.

BILL BARRETT: Good afternoon, honorable Representatives and Senators. My name is Bill Barrett. I'm the President of People Against Injustice. HB6578

I oppose the death penalty. I support proactive initiatives to be put in place to dismantle what I call this phenomenon of a social engineering that allows young people to grow into a mindset of having unconscionable behavior. I think it is guilt by the community in omission, the (inaudible) Michael Ross when he was on death row, he said that -- while he was on death row, he said that he was currently taking medication, psychotropic medication, that was -- that would reduce or remove his obsessive-compulsive behavior, mind you, the compulsive behavior that he talked about during his killing spree. If you combine that with the fact that he was an abused child, intervention may have worked instead of executing him, and that would have saved him and the victims rather than to put expensive money into killing somebody.

In terms of absolute certainty, I think that's an illusive, unattainable, abstract, subjective term. There are often factors that come into play after we thought we were so sure that we had it down pat; we thought we had it to a T.

There's a case I know of that I read the

person's transcript, trial transcript. There were all kinds of cases that (inaudible) that he should get a new trial. I read the same transcript two years earlier, and it looked like this person was perfectly guilty. (Inaudible) if I had just read that transcript only, not the original transcript, and not (inaudible), I would say that this person is absolutely, certainly 100 percent guilty, so things do happen, things that we cannot foresee.

For that reason, I oppose the death penalty, and in terms of a child making any statements without a parent or a guardian, they are afforded the less rights than an adult. Adults are allowed to have an attorney present, and if we're going to question -- if the law enforcement is going to question kids without their parents, there should be a disinterested social worker who's trained in terms of understanding a kid's mindset. There's no way law enforcement can understand a kid's mindset right there on the spot, one, and two is we shouldn't have to look at things after the fact to find out if this child was able to hear information willingly and without being under duress only in his own mind.

There can always be provided a social worker who understands the child's mentality and understands the gravity of the comments that are going to be admitted or not admitted. For that reason, I would like for a child to always have a parent or professional representative whenever he gives information to a policeman.

Thank you.

REP. LAWLOR: Thank you, Mr. Barrett. Are there questions? If not, thanks again for coming

up to testify today.

Next is Sally Joughlin.

SALLY JOUGHLIN: Good afternoon. I'm going to speak about two things in opposition to 6386, delaying raise the age, and in support of Bill 6578, to abolish the death penalty.

We do not allow youths under 18 to vote, to sign a contract, to rent an apartment without a parent cosigning, to purchase liquor, or enroll in the regular military. Why is Connecticut only one of three states that thinks these minors become adults only when they get in trouble? Let's be consistent in defining who is a juvenile and place these youthful offenders where they belong as soon as possible.

Please, no two-year delay. It should be happening now.

Every day we hear about the state's financial crisis. With raise-the-age, we have the opportunity to reduce spending in one area that will also be a benefit to crime prevention. Not only is the juvenile justice system less costly than the adult penal system, but also minors who remain in the juvenile system where they have greater access to counseling and education are far less likely to get involved in more serious crimes than peers prosecuted as adults.

Let's be safer without delay and save taxpayer money at the same time.

These taxpayer dollars saved by raising the age starting in 2010 means more available for our state universities, public schools, HUSKY and other programs for young people. If the

Governor and certain Legislators aren't in a hurry to help troubled youth become better citizens, they should at least pick the more cost-effective manner of dealing with them.

I have to get ready for the rest of my testimony.

HB6578

So, here's another cost-saving measure for our state. Abolish the death penalty, and I didn't mean to be funny because, of course, it's a very serious issue. The threat of the death penalty is not a deterrent; otherwise, those states that kill a lot of people, like Texas, should have fewer homicides, which is not the case. Another point: I happen to know personally an individual wrongfully convicted of murder. I'm wondering what would have happened if he had been given a death sentence.

So, what is left as so-called good reasons for capital punishment? Revenge and retribution. And, I can understand that sentiment; however, only a handful of murderers actually get a death sentence. The others get life sentences or a very large amount of time of incarceration. That is a very harsh punishment indeed, and which also provides us with public safety. Not only should we question whether the state itself should be participating in the killing, but I also really cannot see the advantage to Connecticut taxpayers of using their dollars to kill someone. Put that money saved into rehabilitation and into prevention of violence in our communities. That is real public safety.

Thank you.

REP. LAWLOR: Thank you very much, Sally. Are

there any questions from the Committee? Representative Holder-Winfield?

REP. HOLDER-WINFIELD: I don't have any questions. I just wanted to thank you for coming, Sally. I know that you spend a lot of time at the capital, and I don't think it's money. I think it's important, and I understand why you would wear more than one shirt. I just wanted to thank you for coming.

SALLY JOUGHLIN: Thank you.

REP. LAWLOR: Further questions? If not, thanks again.

Next is George Kane, and what I'd like to do is to try and weave in -- now that we've gone relatively quickly here with some members of the public, there's a few state officials remaining, so I think next would be Mr. Kane, then Jillian Carroll, and then we'll go to Carolyn Signorelli, and then come back to members of the public, and we'll see how that goes (inaudible).

Good afternoon, Mr. Kane.

GEORGE KAIN: Good morning, Representative Lawlor, how are you?

My name is Dr. George Kane, and I'm here with respect to speaking on Raised Bill 6578 regarding prospective abolition.

I'm an Associate Professor of criminal justice in the Division of Justice and Law Administration of Western Connecticut State University. My students tell me that I ramble on too much, so I have a (inaudible) prepared statement here.

Prior to my teaching at WestConn, I was a Connecticut adult probation officer and a judicial branch administrator for twelve years, and I'm currently a police commissioner in the town of Ridgefield. Throughout my career, I've been deeply interested and intrigued by the issue of the death penalty. I studied the topic in my Ph.D. program and was constantly surrounded by debate on the issue throughout my law enforcement career and also in my teaching career.

My personal view of the death penalty may not be a popular one with some of my close colleagues in law enforcement, but I've come to find that I'm not alone in my view, and that some in law enforcement share many of the same concerns that I have.

Recent debate in opposition to the death penalty has been focused on the issue of DNA and exonerations and on the risk of innocent people being put to death. Although this issue alone could and has served as a firm basis of opposition to the death penalty, it is not the only issue that we should be concerned about. The moral and legal arguments that have stood the test of time remain of primary concern even though the focus has recently been centered on the strong evidence that innocent individuals have been sentenced to death and later exonerated.

There are those who would argue that in the state of Connecticut we don't need to be concerned about innocent people being sentenced to death, that we are somehow more careful to make sure that we have the right man before issuing a sentence of death to one convicted of capital murder.

I have the utmost respect and admiration for

my colleagues in law enforcement, in the courts, our Department of Correction, and our parole system, but I've seen honest mistakes made, and we have seen some very big mistakes in our criminal justice system here in Connecticut.

We are imperfect people who try our hardest to do the right thing, but we still continue to make mistakes. When it comes to capital punishment, there is no parole for an execution. It's a mistake we simply can't afford to make.

But, going back to my original point, the threat of wrongful executions is not our only concern. The moral fiber of our country is regularly being corrupted with messages of violence. Our children are exposed to more and more violence on television, in movies, in video games and, sadly, in their own homes.The death penalty is yet another violent message, and although we preach that violence should not be countered with more violence, that's exactly what the death penalty is all about.

We are morally obligated to stop this violent message. Killing does not stop killing. We know that. And, legally, there is no set of procedural safeguards enacted by our courts that have produced equal application of the death penalty. In the words of former United States Supreme Court Justice Harry Blackman, the death penalty experiment has failed.

I urge you to stop state-sanctioned murder from continuing. Abolish the death penalty here in Connecticut. Thank you.

REP. LAWLOR: Thank you, Professor Kane. Are there questions? Representative Berger?

REP. BERGER: Thank you, Mr. Chairman.

I've listened to this debate for several years, and thank you for coming up and testifying, but I have a hypothetical question I'd like to pose to you and to those that, you know, don't agree with the death penalty as it exists today.

What would you say to a police officer's family if you had to face them and this is a police officer that goes out every day, does his job 24 hours a day, has a family like everybody else sitting in this room, has children, goes to work, and is murdered in cold blood on the streets doing his job protecting the citizens of the city that he works for and of the state of Connecticut? The person that does this crime goes to trial, is convicted by a jury, found by a jury to be under the law to be sent to death. What would you say to that police officer's wife and children and family members for the officer that was just murdered in cold blood in a street, and there are many instances like that?

GEORGE KAIN: It's a very good point. I would say the same thing to that police officer's family that I would say to any victim of murder. I don't know that I value a police officer's life any more than I do anybody else. Every life is valuable, and I've had these discussions with my colleagues in law enforcement, and it's surprising that when you separate and you talk to people one on one, it's interesting that you get the perspectives that are different from sometimes the party line response that law enforcement tends to give, which I fully understand. I worked in law enforcement for 13 years.

Killing is wrong. Any killing is wrong, and it's the same message to a police officer's family as it is to anyone else in this country that's murdered.

REP. BERGER: Well, I would have to say -- and I appreciate your remarks and comments and opinion -- but I would say that if someone wasn't touched personally by this, if they didn't have to face a person eye to eye, if this incident had happened to them, incident had happened to them, and this murder hadn't happened in their own life, that I think it's a hard thing. I think it's a hard thing to judge, and I think when you look in the eyes of someone and you look into the eyes of that officer's or that person's children and babies and family that will never have to see him again, you know what? You're really looking in the eyes of someone that wants some justice done, and maybe you don't agree with the death penalty, but that's the law as it exists right now, and that's the justice that's done for the crime that they committed, so (inaudible).

GEORGE KAIN: We can certainly debate the issue of what justice and what true justice is, but I understand your comments, and my students challenge me all the time and say to me what if it was someone in your family, what if your wife or your daughter were murdered, and my response is -- and I'm going to be perfectly honest -- I'd want to strangle the guy myself, but that is an emotional response. It's an understandable response, and through the test of time, we need to deal with those things, and I'm sure there are many people here today that have been victims themselves that are going to testify that may surprise you with some of their perspectives on how they dealt with it and how they've gotten through it.

Initially, it's a horrible shock. The pain and the anger would be normal, natural, and to be totally expected, but we need to move beyond that.

REP. LAWLOR: Further questions? Representative Gonzalez?

REP. GONZALEZ: Thank you for coming, and I can agree with you. My -- fifteen years ago, my step-son, he got shot, and in front of my daughter's house, and I remember my husband and the family at that time, they were angry, they were mad, and I think that I can agree with your comment. That's what they were saying at the beginning, you know, maybe the first year, they were upset, but they never catched the person that was responsible for that, but (inaudible) I talked to him, and we agree both of us that the death penalty is not the answer. That's what he keeps saying. He keeps saying, you know, if they ever catch the person, I'm not looking for the death penalty because that is not the answer, and also, you know, we know that we can't put -- we have to put the safety of the people first, but right now I don't think that that is the answer.

You know, right now we spend more money to, you know, with somebody on death row that we're keeping that person for years, you know, in jail, so I don't -- right now I don't see -- I agree with you, and I don't see, you know, the purpose here. I think that we should think of putting money to help people and rehab those people in jail. Thank you.

GEORGE KAIN: And, you know, I think that any abolition bill should contain provisions for funding for support of victims such as what you've gone through, and any victim that has gone through this horrible, horrible kind of

thing. We've got to spend more time and money and put much more of an effort supporting the victims of violent crime like this because they're devastated, and it's not right.

REP. GONZALEZ: Thank you.

REP. LAWLOR: Further questions? If not, thanks again, Professor Kane.

GEORGE KAIN: Thank you, Representative Lawlor. Thank you.

REP. LAWLOR: Next is Jillian Carroll, and she'll be followed by Carolyn Signorelli, who will then be followed by Alicia Woodsby.

JILLIAN CARROLL: Good afternoon. My name is Jillian Carroll and I'm the Program Director of the New Haven Family Support Center at St. Francis Home for Children. I'm here to speak against Bill 6386.

Since October 2007, the New Haven Family Support Center has provided services to over a hundred youth and families in the New Haven area. As the Program Director, numbers are a very important part of my job, but I truly believe that the clients' success and personal stories are really what makes me proud of what I do.

The youth that we serve don't belong in front of a judge or in a probation office. The majority of youth whom we serve are not delinquents or criminals, but they are in need of help and guidance and, you know, those services that are made possible to the Family Support Center are possible through your legislative support.

Unfortunately, I see often that these kids are

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LIZ RYAN: I think that's still in discussion, and Rhode Island, your neighbor, almost went the other way, and when they heard what you all were doing, they said, whoops, we don't want to do that.

REP. LAWLOR: I heard about that one. Thank you very much. Further questions? If not, thank you.

Next is Attorney Storey?

SUSAN O. STOREY: Good afternoon, Representative Lawlor, Senator Kissel, Representative O'Neill. My name is Susan Storey. I'm the Chief Public Defender for the State of Connecticut. I'm here to testify on Bill 6578 concerning the penalty for capital felony. With me to my right is Attorney Christine Rapillo who is our Director of Juvenile Delinquency Defense who will be testifying on the juvenile bills that you are considering this afternoon.

Well, I'm going to quote you, Senator Kissel, because what you said is very important, that you have to pick and choose your priorities, especially during the economic crisis, and I realize the death penalty is not all about economics. This is a very emotional, you know, bill and policy and for years and years we've debated both sides of the issue, and we will agree to disagree I'm sure on it, but the Office of Chief Public Defender strongly endorses the abolition of the death penalty.

Although as other states are also considering it, I'm sure you realize that a number of other states are now also considering abolition, I think largely due to the economic crisis. There are other reasons, I think,

they're also considering it, but I think what's really brought it to the fore of this particular year is the national economic crisis. But, it is an important policy choice that you have to wrestle with when you're considering, and I think today is the perfect example of that, delaying raise-the-age where so much work has gone into it which is based on best practices and best evidence-based to really make a difference in a large number of children's lives and promote public safety, and whether we can move forward on that is also a choice, but as we know, the resources in the state are finite.

Despite our support for this bill, I do want to emphasize that this particular bill if you're looking at it from an economic perspective for a cost savings does not provide an immediate cost saving to the state because it's not immediate abolition and it only applies to those cases after this particular statute is actively passed. You still have all the remaining cases you have -- and I should change my testimony. We have 47 cases in various cases throughout the state, 20 pending trial right now, capital cases, 15 of those where death is still a possibility. You still have all these cases that are at various stages within the criminal justice system, some are pending trial, some are on appeal, some have had habeas hearings, some are pending habeas corpus hearings. None of them have had a federal habeas hearing, although two have had a state habeas trial, so all those particular cases are cases that we carry economically, if you will, for all the years that it takes to come to some kind of final decision on individual person's life or death sentence.

So, it is an enormous strain on state

resources. The drain has been extreme and longstanding for as long as we've had the death penalty. In fact, in preparing my testimony, I was looking back at 1993 where there was actually a very comprehensive Law Tribune article where the late State's Attorney, Jack Bailey, was interviewed as well as my predecessor, Jerry Smyth, who was only then in his first year as Deputy Chief in '93, but they were -- and we're having the same discussion today, and they were both saying, you know, what an enormous economic and psychological toll that it takes on both sides of the criminal justice system, and, of course, to the families involved, but also to the participants who are litigating the issues, and that the --they both expressed their deep concern for those issues, and I think Jack Bailey prophetically stated that --and I'll quote him: The State will throw more and more criminal justice resources at capital cases. Every dollar we spend on a capital case is a dollar we can't spend anywhere else.

And,that's a policy choice, and that's what you have to wrestle with, but he also said -- what Jack Bailey also said, he said that, you know, we need to keep statistics and we need to let the public know what the death penalty costs because they are your constituents and they have a say in how we're going to be spending dwindling state funds.

So, the public, you know, has to know what it costs, and I think the most comprehensive study that's been done as far as, you know, the policies and the cost was done in 2003 by the State of Connecticut Commission on the Death Penalty, and that was submitted to the Connecticut General Assembly in January of 2003, and that particular document, which is

available online, is probably one of the most comprehensive studies that have been done on the relative costs of capital punishment in the state as well as a lot of the other policy issues that they were told to address in the Commission.

There are a number of appendices there that give a tremendous amount of information. If you would like to look at some of that, I think it's extremely helpful in coming to decisions.

I will say that in 2007, we see that New Jersey abolished the death penalty. Right now, Maryland, Colorado, Kansas, Nebraska, New Mexico, Montana and Washington are also considering abolishing the death penalty in some fashion. I think Kansas is one that's also looking at a prospective statute which does not include persons that were convicted, that were sentenced to death before the passage of the statute.

But, there are also other reasons to think about abolishing the death penalty, and I think one of those that was cited by New Jersey was there is no hard evidence that the death penalty is a deterrent. Also, a sentence of life imprisonment without the possibility of release was seen as a sufficient protection for public safety, and that the death penalty on balance did not -- is final, but that life without possibility of release was adequate protection.

Also, it eliminated the risk of executing innocent persons, that the death penalty is inconsistent with evolving world and national concerns about decency, the enormous cost, and the fact now that state budgets cannot support the cost of the death penalty in the current

budget crisis.

Also, back in '93, the late Richard Tulisano was also quoted about resources available to state agencies are finite, and that life without possibility of release is better and cheaper.

The annual -- we do keep records on the annual cost to our agency. I will tell you that the -- in the last four years that the costs of defense, Public Defender services, in capital cases has equaled 5 to 6.1 percent of our total budget. The cost projection for this fiscal year is 2.5 million, and this is for -- I just want to correct a number in my testimony. I stated there were 61 cases at various stages. The number is actually more around 47, and that means any case that was handled or billed or in some way impacted our particular agency, any capital case, over the last year.

In 1993 -- and I think it's the same today -- the State's Attorneys were quoted as having spent -- and we're speaking about the first Ross appeal -- that they spent nine months working six days a week, 10 to 12 hours a day, to complete a 299-page appellate brief in the Michael Ross case. That's similar to what Public Defenders experience as well. Briefs are 300 pages. I will tell you that at that time, the Ross transcript was quoted as having been -- cost about $19,000, and I will tell you that now just in a recent case in Hartford that resulted in the death sentence, the case of State versus Lazale Ashby, the brief, the trial brief in that cost is going to cost approximately $40,000 just for that expense.

And, I think what's interesting in the 2003 study, the case of Robert (inaudible) which

began in 1987, in 2003 the cost of that case totaled about $340,000. Now that (inaudible) is awaiting his habeas corpus trial, our costs are calculated at about $931,000.

So, these cases last many years, and the costs are enormous as the case proceeds through trial, through sentencing, through appeal. Through direct appeal many cases are sent back for retrial. Usually it's the penalty phase that needs to be retried, but then the costs are there again, and then there's another appeal, and then there is habeas corpus. So, these cases are very long enduring, so this particular bill that you're talking about, without total abolition, there's still tremendous costs that are attached there, and I think everybody needs to realize that.

Most of the costs in capital cases arise from the penalty phases. I think what the study in 2003 showed is that for a case that proceeds as a death penalty case and is tried as that, compared to a case where there is a plea to a sentence of life without the possibility of release, the costs in 2003 were calculated at about 88 percent higher in death penalty cases than cases where there were pleas to sentences of life.

I know Chris this morning will talk about the juvenile bills, so I just want to summarize that there are concerns that if we didn't have a death penalty that people wouldn't plead to life. I think that there are recent studies showing that there are in other states people who are still pleading to life without possibility of release. I realize that it's a public safety concern. There's also -- having the death penalty, you also need to realize that there are people who will plead to life without possibility of release that are

innocent to avoid the death penalty, and that's another consequence of having a death penalty.

If you do abolish the death penalty, it eliminates the cost of the racial bias study, the problems of disproportionate sentencing, the racial bias study, and ongoing litigation expenses that are occurring in the racial bias litigation as well as lethal injection regulation.

REP. LAWLOR: So why don't we have a discussion about the death penalty, your testimony, and then there's additional testimony about the juvenile bills, so let me ask you a few questions.

I think, you know, there's a fair amount of discussion about the cost of the death penalty and, you know, people pointed out some people think it's worth it, some people don't think it's worth it, some people quibble with the numbers, so that's one discussion, but I want to focus in on for my own information this discussion about why it takes so long to move through this process, and the reason I want to ask a few questions about this is because in 1995 right after Governor Rowland had been sworn into office, during that campaign he had promised if elected I will enact a workable death penalty for Connecticut, and if you recall, at that same election, Governor Rowland won a significant victory, and the State Senate, there was a Republican majority in the State Senate, and both there and in the House of Representatives at the time, there was an overwhelming pro death penalty majority in both houses of the Legislature, and the Judiciary, because this was the first year I was Chairman of it together with now Judge

Upson who was the Senate Chair, we had a lengthy discussion about how to rewrite the death penalty to make it more workable.

I voted against that bill because I'm opposed to the death penalty, but the discussion we had was since there were plenty of votes on the Committee to pass it and in the Legislature to pass it, what would be the version of the bill that would eliminate the sense that somehow there's these procedural obstacles in the way of execution, and so my sense was well, you know, if you ever have an opportunity to have the perfect death penalty bill, here it is, whatever it is, so that we don't have to -- ten years from now, we won't have to hear, well, you know, there's problems with the bill; there's too many appeals, et cetera, et cetera, so that version got passed, and so we can compare what happened before that to what happened after that, and that's what I want to ask you about.

At the moment, according to the information I have, there's 10 people on death row.

SUSAN O. STOREY: That's correct.

REP. LAWLOR: And, four of those individuals committed their crimes before the effective date of the so-called workable death penalty, which took effect on October 1st, 1995. Six people got prosecuted under the new and current death penalty law, the workable law that so many people talked about when it was passed in the Legislature overwhelmingly in 1995.

It looks to me if you go from the date of the arrest to the date of the sentencing, in the cases under the old law, it looks like on average it was about two years between the

time of the arrest and the time of the end of the trial when they were sentenced to death. Under the new law, it looks like the average is four or five years from the date of the arrest until the actual end of the trial where the sentence was being imposed.

And, my question to you is since your office handles so many of these cases, why is it taking longer now to get the case from start to finish in the trial court than it did before? What different thing is happening now?

SUSAN O. STOREY: I think there are a number of reasons. I think that preparation -- the death penalty law is now -- I hate to use the word workable because I think sometimes when people use the word workable, it means that everybody that is prosecuted for death ought to have a death sentence.

REP. LAWLOR: Well, let me interrupt you there. Let me just clarify what I perceive to have been the argument back then.

As you know, under the old law, there was this -- if there was a single mitigating factor --

SUSAN O. STOREY: Exactly.

REP. LAWLOR: -- there was not going to be a death sentence even if there was 100 aggravating factors, and people argued that that made it almost impossible to impose the death penalty, even though there was a fair number of people who had been sentenced to it.

The change was -- the one and only change that was made, even though it could have been any change in the world, we could have completely written the entire thing top to bottom, but

the one and only change that was made was to allow the jury in the penalty phase to -- even if there was a mitigating factor -- weigh those against the aggravating factors in order to figure out whether or not the person ought to be sentenced to death.

So, all I'm saying is if there's truth in advertising --

SUSAN O. STOREY: That was hugely significant.

REP. LAWLOR: My question is assuming the goal was to speed the process up and make it easier, which I think it was, why is it taking two or three times as long now just to get to the sentence than it did before?

SUSAN O. STOREY: Well, a number of things. A number of these cases that were prosecuted under the new statute have been sent back for new penalty hearings. Also, because it's easier to get a death sentence, in my opinion, the preparation that the defense has to do has to be exhaustive to make sure that they've covered all the bases especially when you have almost a double-winged statute.

Also, in Connecticut, if there's a hung jury on the penalty phase, in other states a judge can impose --will impose a sentence of life without the possibility of release. That doesn't happen in Connecticut. You have a hung jury; you have a retrial; and, that's happened in some of the cases where we go back and then do another penalty phase, and then you have another appeal, and then you have habeas proceedings.

I can tell you we're still waiting for the (inaudible) appeal decision to come down.

REP. LAWLOR: Could we just stick to the trial part first, and then we'll talk about the appeals second, if you don't mind.

SUSAN O. STOREY: Okay. But, the preparation is monumental in a defense case. In order to meet that burden, as you said, that if one mitigating factor was proved, that that could --that would result in a sentence of life without the possibility of release. That's no longer the case.

REP. LAWLOR: Well, why does it take longer now? That's my question. It seems like two or three times as much time under the new improved workable law than under the old law. What has happened that it takes so long?

SUSAN O. STOREY: (Inaudible.) Can I have Pat Culligan come up here? Maybe he has a better idea.

REP. LAWLOR: Because I think -- and the reason I'm asking this is not just I'm curious. I think a lot of people are curious, and we have some pending death penalty cases right now. Why does it take so long to get to the sentence, and especially since apparently we have a new and improved version of this on the books for 14 years running now. I mean, I think I have some suspicions, but you guys are the experts. I'll ask the prosecutors later if they can explain it, but just out of curiosity.

PATRICK CULLIGAN: Thank you, Representative Lawlor. Attorney Patrick Culligan. I am the Chief of the Capital Defense and Trial Services Unit and have been working in this field for about 20 years now.

Certainly, a significant difference between the present law and the first version of the

law since 1995 is that there has been an increase in the number of capital felonies prosecuted since 1995, and although our staff has grown --

REP. LAWLOR: Can I just ask you about that, though, because the statistics don't look like that. I'm looking at the United States Supreme Court rule that states could impose the death penalty -- what was it, '73, 1973? Is that when it was?

PATRICK CULLIGAN: Yes, right.

REP. LAWLOR: And so, we got -- I guess the Ross case must have been the first successful death penalty prosecution in the state, in that post-Supreme Court decision.

PATRICK CULLIGAN: Yes.

REP. LAWLOR: That was '84, '85, he was sentenced to death, I think, something like that?

PATRICK CULLIGAN: Eighty-seven.

REP. LAWLOR: Eighty-seven? Okay. So, after that, we've got one crime committed in '87, one in '89, a second in '89, and another in '92. Those are the four cases under the old law.

PATRICK CULLIGAN: Yes.

REP. LAWLOR: And then in the 14 years since then, we've got only six people all ended up sentenced to death over 14 years, so it doesn't seem like there's more death sentences now than there were before.

PATRICK CULLIGAN: I agree. There has not been an increase in the number of death sentences, which I feel very pleased about because we've

been involved in a lot of those defenses.

REP. LAWLOR: Then --

PATRICK CULLIGAN: The point I was making, Representative, was that the numbers of cases prosecuted as capital felonies has increased since 1992, 1995.

REP. LAWLOR: So, does that mean the prosecutors, the State is seeking the death penalty more frequently now than they have in the past?

PATRICK CULLIGAN: I can't say that -- no, I'm not. That statement I wouldn't make. What I'm saying is the numbers, the times that capital felony cases are charged, the absolute number has increased.

REP. LAWLOR: So, does that mean the batting average in obtaining the death sentence has gone way down if it's sought much more frequently than in the past and there's only six in 14 years sentenced to death? Does that mean, let's say, the batting average for the State when it seeks the death penalty has gone way down? I mean --

PATRICK CULLIGAN: I don't think it's gone way down, but certainly there's an awful lot of effort put into accomplishing or achieving the six death sentences that you're referring to over the last 13 years.

REP. LAWLOR: I gotcha, so I guess my curiosity, since I was here in the old days and now under the current system, the whole point was to make it more workable.

PATRICK CULLIGAN: Right.

REP. LAWLOR: That was the whole point of changing

the law back in 1995, and I'm just trying to find some evidence that it had that effect.

PATRICK CULLIGAN: Well, it didn't, Representative, in my opinion, and I recall you speaking on the floor of the House at the time that the bill was being debated, and you stated at that time that the effect of changing the death penalty statute in 1995 would be an increase in litigation because it was a new statute with new terminology and a new procedure, and that the previous bill or the previous law, which has been ruled upon by the Connecticut Supreme Court, would no longer be in effect, and so a whole new arena or a whole new area of litigation would take place, and that is exactly what has happened.

REP. LAWLOR: Well, in fact, that wasn't my point of view. I was quoting the chief appellate attorney for the prosecutors who actually said that to us, that, listen, if you're asking me what you should do, leave the statute alone because at least we know that that one's constitutional and it's workable as far as we're concerned, and I just -- if the whole point -- and I say this because there's so much public focus on this issue. I mean, all the citizens are watching our deliberations. What is wrong with the death penalty, and so we've got you here today, we've got the State's Attorney's Office here today, there's people suggesting that maybe we should change the rules for appeals, or something like that. I'm interested in any suggestions anybody has, but I wonder, is there actually any bill we can pass that changes this reality that, A, very few people are going to get sentenced to death and, B, no one has actually been sentenced to death except for the one guy who wanted to be killed.

PATRICK CULLIGAN: In my opinion, Representative, there is not, and the reason for that is is because we live in a republic that is governed by a constitution, and the United States Supreme Court has made it very clear that if a state is going to achieve a death sentence, it has to be done constitutionally, and they have made it very clear that if a defendant goes to trial and his defense team is not properly prepared to defend him against the imposition of the death sentence, that death sentence if that, in fact, happens, will be overturned.

And, the fact of the matter is that in order to properly prepare to defend against a death sentence in these cases requires on the average two and a half to three years for the defense team to get ready. Just imagine having to, you as an individual, having to write a biography of a person's life that's thoroughly investigated, researched, and numerous, numerous people have been interviewed in order for you to write that biography. Certainly, any one of you would want at least a minimum of three years to do that. That is the obligation of the defense team in a capital felony death penalty prosecution, is to be able to present to a jury the entire life story of the person on trial, and we take that obligation very seriously, and I will point out to the Committee that in response to the so-called more workable death sentence, death penalty law that was passed in 1995, we realized that professionally in our obligation to our clients who are accused in death penalty cases, we have to rise to that new challenge in order to make it so that it would not be easier for our clients to receive death sentences.

Our methods changed; our way of doing our job changed. It became more intense; it became

more labor intense; and, we realized that that was the way it had to be done and, in fact, the United States Supreme Court has acknowledged that in recent decisions over the last five years or so that if the mitigation case in a death penalty prosecution is not properly investigated as thoroughly and as exhaustively as it should be, the death sentence will be overturned.

REP. LAWLOR: And, that's something that's not -- that part of a death penalty case, that aggravating/mitigating analysis, that's just not even a part of a normal murder trial, right, so that entire enterprise is not necessary in a regular murder prosecution.

PATRICK CULLIGAN: That's correct, Representative.

REP. LAWLOR: And, you've stated that it's because -- and it's very important because we have some pending cases like I said right now, and a lot of people are wondering why it's taking so long, so this is an opportunity to find out what the process is so that everyone has full information and can decide whatever they want to do in terms of proposed legislation or criticism or anything else like that.

You said that it's like two to three years just to get ready for the trial, especially the penalty phase. Right? That's what you said on average?

PATRICK CULLIGAN: That's correct.

REP. LAWLOR: Is this something that -- does the State take the position that you're dragging your feet? Does the State try and expedite it? Are you fighting with the prosecutors to get more time -- is that how it works -- or is it the case where the prosecutors say, look,

our interest is having a defensible verdict here, and we understand that if you don't have the time you need to do what you have to do, then ultimately this would get thrown out by some appellate court? Are you in a battle over time with the prosecutors in these cases, or do both sides essentially agree that this amount of time is necessary in terms of the integrity of the ultimate verdict?

PATRICK CULLIGAN: It's most definitely the latter. The State's attorneys clearly understand what's at stake when they attempt to achieve a death sentence and what that means in terms of the preparation that the defense has to do so that if a death sentence is attained, one of the grounds of appeal will not be that the defense was not properly prepared to defend against the death sentence. They recognize that, as does the judiciary.

REP. LAWLOR: Now, the Chief State's Attorney's Office is present, and they'll be here in a minute, and we'll ask them all the same questions, because I think it's very important, people are very interested to get to the bottom of this story, right? Just the process, not the merits of any particular case that's currently pending.

So, let's switch now -- let's assume a death sentence is imposed and we have 10 guys on death row right now who have been sentenced to death. Three of them committed their crimes in the 1980's. I'm assuming that -- well, just tell me what the appeal process is, and ultimately I'm going to ask you why does it take in the case of Mr. Breton -- and not the merits of his case, it's just the time line -- his crime was committed on December 13th, 1987, and here it is March 4th, 2009, and as far as I know, there's no imminent execution,

there's no date that's been set, nothing like that.

Why does it take so long to get through this appellate process? He was sentenced to death on October 27, 1989, which was coming up on 20 years ago. What is the process in these cases?

SUSAN O. STOREY: If I can start answering that, Representative Lawlor, after the trial, of course, in death cases, there is an automatic direct appeal. An automatic direct appeal was taken in the Breton case --

REP. LAWLOR: Can I just ask you? Is that some statute the Legislature passed, this automatic direct appeal to the Supreme Court, or is this in the constitution?

PATRICK CULLIGAN: It's a statute.

REP. LAWLOR: So, we could change that if we wanted, right?

PATRICK CULLIGAN: We could, yes.

REP. LAWLOR: And, if we did, it would mean you would have to go to the appellate court first and then to the Supreme Court. Is that right, if there wasn't a direct appeal to the State Supreme Court?

PATRICK CULLIGAN: I suppose you could legislate that it would go to the appellate court, but --

REP. LAWLOR: That would just drag it out longer, I'm guessing.

SUSAN O. STOREY: I think the appellate court would just send it to the Supreme Court.

REP. LAWLOR: If there's a death sentence, it goes straight to the State Supreme Court; there's no intermediate steps or anything else like that?

SUSAN O. STOREY: That's correct.

REP. LAWLOR: Okay.

SUSAN O. STOREY: So, in Mr. Breton's case, the case was sent -- was overturned and was sent back for another penalty hearing, and so then there was a different defense team that did that second penalty hearing and, obviously, if it resulted in a death sentence the first time, the second team has to, you know, review the trial transcripts, what the mitigation was, what were they going to present that was different to obtain a different result, so you have preparation. You don't have the guilt phase, but you have the mitigation phase.

Then the death sentence was reaffirmed. There was another appeal. The case was affirmed, and now -- and then you go into a state habeas claim.

REP. LAWLOR: Okay, but let's just -- again, this is just objective information, the time line. When was -- if you know, when was the Breton death sentence affirmed by the State Supreme Court? Do you know approximately when it was, how far back it goes?

PATRICK CULLIGAN: What? The first one?

REP. LAWLOR: No. When he finally had been sentenced to death and that had been upheld by the State Supreme Court, because the reason I'm asking, I want to know how much time does that whole process take typically?

PATRICK CULLIGAN: Yes. His death sentence was affirmed -- his first death sentence was affirmed -- I'm sorry -- it was overturned. The conviction was affirmed, and the death sentence was vacated in 1995.

REP. LAWLOR: And then there had to be a second go-round?

PATRICK CULLIGAN: Yes.

REP. LAWLOR: And --

SUSAN O. STOREY: I have the --

PATRICK CULLIGAN: Oh, wait a minute.

SUSAN O. STOREY: That was in June of 2003.

REP. LAWLOR: So, it took from -- he was arrested in '87, and it wasn't until 2003 until he finally got through this whole process of having his conviction -- finally being sentenced to death upheld by the State Supreme Court. Is that right?

PATRICK CULLIGAN: In 1995.

REP. LAWLOR: 2003 I heard, the second time around.

SUSAN O. STOREY: 2003.

REP. LAWLOR: Which one, the second one?

SUSAN O. STOREY: The second one.

PATRICK CULLIGAN: Well, are you referring to the second one?

REP. LAWLOR: Yes.

PATRICK CULLIGAN: The final one?

REP. LAWLOR: Yes.

PATRICK CULLIGAN: '03.

REP. LAWLOR: Okay. So now the appeal process starts after you leave the State Supreme Court? What happens then?

SUSAN O. STOREY: Then you -- then there's -- you go through the state habeas process.

REP. LAWLOR: And, is that -- is there a statute that says every death penalty -- every person sentenced to death has a mandatory habeas proceeding after the State Supreme Court has upheld the sentence?

SUSAN O. STOREY: People who have been convicted in Connecticut have a statutory right to habeas corpus.

REP. LAWLOR: Could we change that?

SUSAN O. STOREY: I would imagine you could change the statute. I'm not sure it would pass constitutional muster.

REP. LAWLOR: Why is that? Why is that?

PATRICK CULLIGAN: Well, habeas corpus has always been referred to as the great writ going back to the 800 or 900's in England and has constitutional significance.

REP. LAWLOR: So, could we pass a statute that says no person who has been sentenced to death and that sentence has been upheld by the State Supreme Court shall have a right to habeas relief in state courts? Could we pass -- I mean, I suppose we could, but the question is

is there a strong argument that that can't be -- that's unconstitutional?

PATRICK CULLIGAN: There's an exceedingly strong argument, yes.

REP. LAWLOR: That would be under the State Constitution or the federal Constitution?

PATRICK CULLIGAN: Both.

REP. LAWLOR: Has that ever been explored by the State Supreme Court as far as you know or the United States Supreme Court?

PATRICK CULLIGAN: I have -- I am not aware of any situation where habeas corpus has been legislatively not allowed for a death sentence.

REP. LAWLOR: As far as you know, has that ever been proposed in Connecticut by any individual member of the Legislature or by the State's Attorneys or anybody else to get rid of that right of habeas after a death sentence?

PATRICK CULLIGAN: No, Mr. Chairman.

REP. LAWLOR: And, let's assume you get through the state habeas process. Is there anything that happens after that?

SUSAN O. STOREY: Then you -- then if the habeas -- there's an appellate -- if the habeas is not won by the petitioner or defendant, then it would be appealed. You can appeal the habeas, and then if that -- if that's not successful, then the person would proceed on to federal habeas.

REP. LAWLOR: And, how does that work?

PATRICK CULLIGAN: Well, in federal habeas corpus, that would be at the District Court level, and it's a --

REP. LAWLOR: Federal court?

PATRICK CULLIGAN: Yes, in federal court -- in which claims which are relevant to the United States Constitution would be litigated as reasons why the individual's death sentence should be overturned. A trial would be held on that litigation. The District Court would issue a decision. If the decision was against the inmate, the death row inmate, the death row inmate would have the opportunity to appeal that District Court decision to the Circuit Court.

REP. LAWLOR: And, if the Connecticut State General Assembly enacted a statute prohibiting persons sentenced to death from pursuing a federal habeas corpus claim, would that have any effect?

PATRICK CULLIGAN: Well, I think it would make the state -- well, no. It would not have any -- the law would become an instant nullity. It would be clearly unconstitutional.

REP. LAWLOR: So, in terms of the list of options available to us, if we somehow wanted to limit the post-sentencing, post-Supreme Court appeal, habeas options of a prisoner sentenced to death, it seems like we definitely can't pass a law telling the federal courts what they can or can't entertain, and you're arguing that you don't think it's constitutional for us to pass even a state statute that says that.

PATRICK CULLIGAN: Well, that's correct. You could not select one particular group of convicted

individuals from all the other convicted individuals and say that those particular ones, those sentenced to death, did not have the right to a habeas corpus trial.

REP. LAWLOR: How about if we prohibited everybody from pursuing habeas corpus, can we do that?

PATRICK CULLIGAN: I don't think in light of the terms of the Connecticut Constitution you could, no.

REP. LAWLOR: Has that ever been decided by the State Supreme Court, do you know, as far as you know?

PATRICK CULLIGAN: I don't believe it's ever -- I'm not a habeas expert, but I'm not aware of any such case law or litigation.

REP. LAWLOR: I know both of you are career public defenders and you spent a lot of time monitoring what the Legislature is considering. Do you ever recall any individual Legislator proposing a bill to cut off habeas petitions, whether it's for condemned prisoners or anybody else, for that matter?

SUSAN O. STOREY: I know there have been suggestions that habeas be limited. I know that the State's Attorneys have a bill in this year, I believe.

REP. LAWLOR: Have you reviewed those bills?

SUSAN O. STOREY: Not in relation to the capital defense.

REP. LAWLOR: And, they'll be here in a minute to testify themselves. I'm just curious whether or not anybody has a specific proposal, and

we'll have a separate hearing on habeas reform. I, for one, certainly think it's important to have some reform here, but the question is what, if anything, can you do to accelerate the death penalty appeals?

By the way, on that topic, on the state habeas claims for condemned inmates, is there a typical argument that's being made? I mean, is it something to do with the food that's served on death row or is it something to do with the quality of representation? Is there a typical --

SUSAN O. STOREY: These are not conditions claims. These are -- basically, most of them would be ineffective assistance of counsel claims.

REP. LAWLOR: And, in your experience around the country, is that a typical claim that's made for condemned inmates, that --

SUSAN O. STOREY: Yes, yes.

PATRICK CULLIGAN: If I could, Mr. Chairman, also with respect to -- one cannot ignore the practical realities either of instituting a direct appeal in a successful death penalty prosecution. For example, the transcript itself, the preparation of the transcript, which is required in any direct appeal for any criminal conviction, is a much lengthier process following a death sentence because in order, first of all, for a death sentence -- for a death penalty trial to occur, the jury that's selected, which is usually 18 people, they have alternates, it's required that they go through a process of death qualification, and they're all individually voir dired or individually questioned in that death qualification process.

It is very typical that the process of selecting a jury in a death penalty prosecution takes at least four months, and six months is not at all an extraordinarily long period of time to select a jury for a death penalty prosecution. Once -- and then the trial occurs, and that trial is obviously a two-part trial because it's a trial on the guilt or innocence question, and then when the defendant is convicted, you have the penalty trial, which can also involve numerous, numerous witnesses and take three or four weeks itself.

So, the transcript is quite a long transcript. It's months of courtroom work, and there is no dedicated pool of Court Reporters to do capital felony trials. They are taken from the regular pool of the courtroom, court monitors and Reporters, so the Reporter or Reporters -- sometimes numerous Reporters -- will get appointed or told to do capital trials, and they'll kind of do them, they'll spread the work out amongst themselves over different weeks of the trial, but they have to produce a transcript after that trial in addition to continuing to do their regular daily work at the court house, so it takes a really long time. It can take a year to a year and a half just to get a transcript prepared in order to begin writing a brief.

REP. LAWLOR: So, you're saying part of the delay is just the mechanical process of compiling the actual transcript of what was said and done at the actual trial. Is that right?

PATRICK CULLIGAN: Oh, that's a definite reality. I mean --

REP. LAWLOR: A year and a half?

PATRICK CULLIGAN: Yes. I'm not exaggerating in the slightest.

REP. LAWLOR: How many pages are in a typical death penalty case trial transcript would you say?

SUSAN O. STOREY: I think in the most recent -- one of the most recent ones, it's 20,000 pages.

REP. LAWLOR: And, everybody involved has to read that, right? I would imagine --

SUSAN O. STOREY: Absolutely.

REP. LAWLOR: -- all the attorneys, then all the members of the Supreme Court.

PATRICK CULLIGAN: It can be as much as 20,000 pages in a transcript.

SUSAN O. STOREY: Right.

REP. LAWLOR: And so my last question, I just want to focus in on the first post-workable death penalty prosecution which involved Todd Rizo. He committed his crime on September 30, 1997. That's almost two years to the day of the effective date of the new law, and he was ultimately sentenced to death, according to this, on June 23rd, 2005.

So, what is the -- do you know what the status of that case is, not the merits, just the status of the case?

SUSAN O. STOREY: Yes. That case is now in its second appeal, direct appeal, after --

REP. LAWLOR: Why is it second?

SUSAN O. STOREY: -- after a retrial. Because the case was sent back for a second penalty phase.

REP. LAWLOR: And, he was sentenced to death the second time?

SUSAN O. STOREY: Again.

REP. LAWLOR: Is that correct?

SUSAN O. STOREY: Yes.

REP. LAWLOR: And so now that's on appeal?

SUSAN O. STOREY: Our brief has been filed.

REP. LAWLOR: And, is there a scheduled date for that argument to take place in front of the State Supreme Court?

SUSAN O. STOREY: It can't be scheduled at this time because once we file our appeal, then we have to wait for the State's brief, and then we would file a reply, if necessary.

REP. LAWLOR: How long -- do you know how long it's been since your office filed their brief on the appeal?

PATRICK CULLIGAN: Yes. We filed our brief at the end of July of this past year, 2008.

REP. LAWLOR: So, about eight months ago?

PATRICK CULLIGAN: Yes.

REP. LAWLOR: Nine months ago? And, do you know when the State's brief is expected on that case?

PATRICK CULLIGAN: No. They just recently requested an extension of time, which is not at all unusual. We requested several extensions of time in preparing our brief.

REP. LAWLOR: Extension of time until when? When do they --

PATRICK CULLIGAN: It's usually granted a month or two at a time, so that the State Supreme Court will grant extensions to get the brief in, and the State Supreme Court recognizes that preparing a brief in these cases typically takes at least a year, if not a year and a half.

REP. LAWLOR: Okay. So, now, this is the -- again, I think I understand the complexity of this, but just to be clear, we're talking about as much as a year just for the prosecutors to reply to your brief.

PATRICK CULLIGAN: That's not unusual.

REP. LAWLOR: And so -- and then even -- then how long after that would the Supreme Court typically hear the case?

PATRICK CULLIGAN: Well, then, there has to be an opportunity to write a reply brief. Usually the time line for that is much shorter -- it's three or four months -- and then according to their schedule, they would schedule it for a hearing, and that could be -- it depends on their schedule, but it certainly is usually within half a year or so of the reply brief being done. Right now, for example, the most recent decision we're waiting for is State versus Robert (inaudible), which, if I'm right, next month will be approximately a year since it has been argued to the Connecticut Supreme Court, and we are still awaiting a decision on that.

REP. LAWLOR: So, even after they have the argument in the Supreme Court, it's like another whole

year before you even find out what their decision is, right?

PATRICK CULLIGAN: Yes, and that's not unusual.

REP. LAWLOR: And then after that, assuming they uphold the death sentence, that begins these various habeas petitions which someone -- don't panic -- someone leaned up against the light -- okay. I'll come back. There's another light that needs to come on as well.

There you go. Give us one second. Some of our -- some of our staff I think could maybe help out with this one.

I think you have to go over.

(Inaudible.)

REP. LAWLOR: Thanks very much. So, I just wanted to finish this thought because now we're talking about under the new, the 1995 death penalty statute, the workable statute.

Has any of this been expedited, this process? So in no respect is this really different than what it was under the old statute except for this weighing of aggravating and mitigating, but everything else is the same, right?

PATRICK CULLIGAN: Well, everything else is the same in addition to, as I've indicated, you said in 1995 the passage of the new statute created new issues for litigation, and we have, in fact, raised those issues and, you know, included them in the cases, so they are, you know, claims that we have brought to the Connecticut Supreme Court.

REP. LAWLOR: And, let me ask you this. If we actually enacted some restrictions on habeas

petitions, state habeas petitions, in death penalty cases, would it not necessarily be the case that those would ultimately have -- whether or not that's constitutional would itself have to be appealed to the State Supreme Court and years from now, we'd find out whether or not it's even constitutional for us to do that and everything would be put on hold until that issue is resolved? Is that probably what would happen if we did that?

SUSAN O. STOREY: I think -- I think you're correct in assuming that. The other thing I want to mention is that the Connecticut Supreme Court ordered us to keep developing our database on racial disparities in the application of the death penalty, and, of course, our second study that we had commissioned came out in 2007, and nine of the ten death row inmates are participating in that litigation in the habeas court, and I don't think that's anything that you could legislate away, and that is -- that is continuing for nine of the ten. The case is in litigation. The State is conducting their own study based on the study that we did, a replication, or using their own experts to see if their study results in the same analysis that we assert, that the death penalty in Connecticut is applied in an arbitrary and capricious manner, and race does matter, not only the race of the defendant, but also the race of the victim, so that is ongoing as well. Their study is not completed.

REP. LAWLOR: And so my final question is, is there any statute that's been enacted by this Legislature in the last 20 years except for the one we've already mentioned, which is the 1995 attempt to make the death penalty more workable? Is there anything else the Legislature has done that you use as an

argument to further prolong or on the basis of an appeal in a death penalty case, is there anything in the statutes that you cite that's been, you know, passed here in the last 20 years to drag out these appeals? Is there anything like that?

PATRICK CULLIGAN: In addition to the death penalty statute?

REP. LAWLOR: The change in 1995.

PATRICK CULLIGAN: Yes. The change that was enacted in 1985, which --

REP. LAWLOR: That's not the last 20 years, but what happened in '85?

PATRICK CULLIGAN: In 1985, language was added to the statute which requires the jury to determine whether or not proposed mitigating evidence is, in fact, mitigating in nature, and we've taken the position since that change was made that that is unconstitutional language according to many, many United States Supreme Court decisions. That position has been consistently rejected by the Connecticut Supreme Court, but we are quite confident on our legal grounds that when it reaches federal court, that requirement of our statute that the jury determine whether or not mitigating evidence is, in fact, mitigating based on the facts and circumstances of the case will be overturned in federal court because it is in clear violation of several rulings of the United States Supreme Court.

REP. LAWLOR: So even with all of this that's been going on here for the past 25 years, it still may be that when one of these cases finally gets to the United States Supreme Court, that the whole thing will be thrown out? That's

your sense?

PATRICK CULLIGAN: I am exceedingly confident that will happen, yes.

REP. LAWLOR: And, the only case to get to the Supreme Court so far, the United States Supreme Court, was Michael Ross. Is that correct?

PATRICK CULLIGAN: That's correct.

REP. LAWLOR: And, that was a different issue; that was whether or not he could consent to his own execution?

PATRICK CULLIGAN: Yes. Essentially, whether or not he was competent to make that decision.

REP. LAWLOR: So, the United States Supreme Court has never once ruled on the constitutionality of the Connecticut death penalty statute, and you're saying here today -- and we've already indicated people keep track of what your predictions are -- your prediction is if and when that time ever comes, the United States Supreme Court is going to overturn a Connecticut death sentence, and we'll be back to square one even potentially with a case like Breton where it dates back to 1987? That's basically your position?

PATRICK CULLIGAN: Well, I expect that we'll win in federal District Court, but yes, I think if we actually got to the United States Supreme Court, we would prevail.

REP. LAWLOR: Okay. Thank you very much. Senator Kissel?

SENATOR KISSEL: Thank you very much, Chairman Lawlor.

SB 1027
HB 6578

Well, I think it's good that the Chairman went over some of the concerns -- I know a lot of my constituents have -- regarding why it just seems like Connecticut doesn't have a workable death penalty statute, but I would state that I'm looking at our agenda for today, and all I see are two bills before us, Senate Bill 1027, which is the legal standards in capital cases which we've already had testimony on, which has to do with the fact that the standard would be changed to this absolute standard which some of my colleagues have expressed some strong concern with, and the only other proposal is House Bill 6578 concerning the penalty in a capital felony, which essentially says that we wouldn't have a death penalty in the state of Connecticut at all.

And, so, as much as there's folks that are out there saying we don't have a workable one and how can we make it better, those are good questions, and I'm going to follow up on those questions, but we don't have any bills that say that we're going to try to make a more workable death penalty.

My first question is it's anecdotal at best, but I hear from my constituents all the time from when they watch the news, Florida, Texas, other states, whether you like those other states or not, it appears that the states that have a death penalty statute on the books, that it doesn't take such a long period of time for an individual who was adjudged guilty of those crimes to actually be executed, and I don't want to speak in the terms of any kind of blood lust or anything like that. People in this state have strong feelings pro and con. In campaign after campaign after campaign, I can tell you that I'm very confident that the people in north central

Connecticut, the vast majority, believe in the death penalty, want to keep it on the books, don't want to change it for fear that any changes at all, whether well intended or not, would be grounds for a host of new appeals, but my first question is: Is Connecticut a state where it just takes an enormous amount of time between the commission of the crime and the execution of the sentence, or is that just what people think, but it takes 20 years in Florida, and it takes 20 years in Texas, and it takes 20 years in all those other states as well, and that's just the way it is in the United States of America? Any one of you?

SUSAN O. STOREY: I don't have a definitive list for you. I haven't really thought -- I do know that in some other states there have not been executions in a very long time. I think in California, there hasn't been an execution in a very long time, and I believe they have over 600 people on death row.

SENATOR KISSEL: Okay. So the kind of strident defense work and good appeals and all these other processes seem to be working the same as in California as they are in Connecticut; they don't necessarily seem to be the same result in Florida.

Now, let's say -- or Texas or some of these other states. Whether one believes in that or not, whether one wants that kind of death penalty statute construct or not, I just want to set that aside for now, but aside from California where they have hundreds of folks on death row and no one is being executed, what about the states that actually seem to be carrying out death sentences? What makes those states different? What makes those states different as to how their judicial

system works, because I am assuming that their defense bar and their public defenders feel as adamantly about these issues as anyone in the northeast or out west?

PATRICK CULLIGAN: That's a thoughtful question that requires a very complex answer. Number one, in states such as Florida and Texas, which have executed quite a large number of people for at least 20 years, there has never been appropriate funding in those states to do the right kind of defense work that should have been done, and so consequently trials, a start-to-finish trial could occur in two weeks, a person could be sentenced -- found guilty on a Friday and on Monday be sentenced to death. I don't think anyone in the state of Connecticut would countenance such a trial here. Those trials have occurred around the country.

Many of the states you're referring to also have broader capital felony death penalty statutes, that is, broader in the sense that many more crimes of homicide or types of homicides are included, which increases the number of persons sentenced to death, and in large part, it's due to just numbers. I mean, when you start sentencing a lot more people to death, you're going to be executing a lot more people.

That has not been the situation in this state because we do have a more restrictive category of murders which are subjected to the death penalty, but an awful lot of the -- a great responsibility in answer to the question of why things may seem to be faster or happen sooner in other states has a lot to do with the level of funding for the defense of the people who are accused of capital felonies and then ends up on death row.

SENATOR KISSEL: Okay. I appreciate that answer, and, you know, I guess I could glean from that a couple of things. As much as it's burdensome and we have to make a public policy decision as to allocation of resources and Chief Public Defender Storey, you made an articulate and impassioned plea that you'd like to see these resources into another area, and you feel that it's very burdensome to the Public Defender's Office in the state of Connecticut, to the State's Attorneys, I mean there's any number of arguments folks that don't agree with the death penalty can make, but what, at least, I'm hearing is that at least the state of Connecticut has diverted or has directed enough resources into this area such that we have folks such as Robert Breton, who committed his crime in 1987, who hasn't been executed; Daniel Webb, '89; Cedric Cobb, '89; Richard Reynolds, '92; Todd Rizo, '97; Robert (inaudible), '98; Russell Peeler, '99; Jesse Campbell, 2000; and (inaudible) Santiago, 2000; and Lazale Ashby, 2002. Those are the dates when they committed their crime. I don't see that there's any executions for any of those folks on the horizon at all, and sort of my personal belief is that here in the Northeast, there's a predilection against the death penalty. I think we're one of the last, if not the last, New England state with it on the books. If it wasn't for the fact that Michael Ross absolutely demanded to be executed and fought a lot of the actions being taken on his own behalf by others adamantly opposed to the death sentence, that execution would never have taken place in Connecticut either.

I just think that's the perennial battle in this state whether we have a death penalty or not, but I am concerned about another aspect

of it. And, by the way, in relation to the funding situation, without changing the paradigm or the construct or the statutes -- because I agree completely with Chairman Lawlor that if we make any changes whatsoever, it's going to create yet another grounds for a whole slew of appeals, and if you're already basing it on -- and by the way, only in the Legislature could we look at something 14 years old as new; to me 14 years old is a pretty long time ago. And, if you're basing appeals on changing what took place in '85, God forbid that we make any more changes, but if there were additional resources directed either to the Supreme Court, the Judicial Branch, Public Defender's Office or the State's Attorneys or, in a perfect world, all three -- and I will grant you we are not in an environment to do that -- but would that, given the construct that we have and the fact that these statutes at least have been found to be, at least, thus far constitutional, would that at least expedite the process, if not necessarily end up in individuals actually being executed as has been the determination of the courts and the juries?

SUSAN O. STOREY: Senator Kissel, I think that it would in some instances expedite some of the cases, and the reason I say that is that one of the issues that was cited back in 2003 in the report but is also obvious to me is that it's getting very difficult to attract attorneys who are qualified as Special Public Defenders to serve as defense counsel in capital cases because the cases take so long to prepare, it takes them away from their practice for more than a year, and it's very difficult.

Also, our rates, state rates for handling capital cases up until like January were half

of what the rate is in federal court. The rate now is $100 an hour for defense counsel, for Special Public Defenders in capital cases, state rates. The federal rate is $170, so we're competing for that qualified defense counsel from the private bar to handle these cases, and when there are more prosecutions and when there are co-defendants, that becomes an issue.

As to the appeals, our appellate force has not grown for many, many years. I think we still have 12, possibly 13, appellate lawyers. Not all of them are qualified to do capital appeals, so it becomes very difficult to find outside counsel to take on these appeals as well.

So, as you see, these things grow exponentially, and there is a lag time in finding counsel to handle some of these cases, and I think will continue for as long as we continue in this manner.

SENATOR KISSEL: And, I think the concerns raised by folks in the private bar, whether they're Special Public Defenders or even within the dedicated staff, and, you know, both folks in the State's Attorney's Office have dedicated their lives to these cases and folks in the Public Defender's Office. You know, finality in some respects has got to be desired there as well, although what I have found in the state of Connecticut is those folks that are adamantly opposed to the death penalty, there really is no compromise, and they will use every effort -- and, actually, given what took place in the Michael Ross case, given the strong feelings of even certain members in the Judicial Branch, it would cause an attorney that was enlisted to participate in this process, it would cause them pause because you

can be attacked in the media, you can be attacked by one side or the other side, and, you know, no good deed goes unpunished.

I have one -- because we have so many people who want to testify -- one question sort of to the root of the issue, the public policy and, again, I'm confident that the folks in my neck of the woods whether it's because we have six correctional facilities or so many corrections officers, and you wonder if there isn't this death penalty, even though it's rarely, if ever used in the state of Connecticut, but you have it out there as at least something in case, you know, God forbid, it was there horrific crimes of a diabolical nature, and with the corrections officers I have in my district as well, and Representative Berger spoke eloquently about police officers, but I think the notion is that we all deserve to feel safe in our state.

But if we did not have this out there as rarely as it is utilized, what would actually cause someone in the Public Defender's Office to agree to a plea bargain that would -- and dealt with someone serving life without the possibility of parole, because from my perspective why not roll the dice and have a trial because you can't do any worse than that if you lose, and then you could have a whole slew of appeals to get maybe something less than that, and by that question what I mean to say is is there not the possibility of a domino effect? Take the moral issue aside; take the issue of that whether there are people who are philosophical, religious, or they just feel that it's wrong, wrong, wrong, set that aside, but if you don't have that out there, then what's to now then turn life in prison without possibility of parole, if not immediately, in the near future to be that

sentence that is fought over tooth and nail?

Because you did state, I believe,that there would be certain factual situations where it would even be by a plea agreement that someone would plead to life in prison without possibility of parole. I just can't imagine that fact scenario.

SUSAN O. STOREY: All I can say that in preparing for this, I did contact some people from other states, and also folks conducting some research cited from U.S.A. --it's in my written testimony, they're Brooklyn based -- and they said that they had in their research that prosecutors were saying that they were so able to extract plea agreements in these cases and hadn't noticed much of a difference in plea bargaining.

Not having experienced that myself, I'm not sure exactly how that would work, but the other policy argument in that respect is that when you do have the death penalty, that people who are not -- who are innocent do plead to avoid death, so there are two of the arguments here to take a look at. In fact, in Connecticut we are looking at just such a case now that was a capital prosecution where a client pled to life without the possibility of release that may actually be innocent.

SENATOR KISSEL: And, sir, I apologize. I have forgotten your name. You stated it when you first came to testify, but it looks like maybe you could add to that to answer my question.

PATRICK CULLIGAN: Well, it's Culligan, Patrick Culligan, Senator.

SENATOR KISSEL: Right.

PATRICK CULLIGAN: In addition to Chief Storey's remarks, I just wanted to add that as a public policy matter, if the punishment, the most extreme punishment is life in prison without the possibility of release, which is a very extreme punishment, if the defendant does not want to accept the plea to life without the possibility of release, then what the system is faced with is simply a murder trial, and murder trials happen monthly in our judicial district court houses, and the defense preparation is nowhere nearly as involved because we don't have to prepare to defend against the possibility of a death sentence. All we will be prepared to defend against is what is traditionally done by a criminal defense attorney in preparing to defend in a guilt-not guilt trial on murder.

The trial, usually a murder trial can happen -- most of them I think probably take a couple of months, and they're done, and then there's a straightforward appeal on the conviction, and that's the end of the story, so it's a much simpler criminal justice process in the event that the defendant does not wish to plead out.

SENATOR KISSEL: Right. I understand that, and I appreciate that. I just can't imagine a factual scenario where the defense bar would roll over on a plea agreement where it's life imprisonment without possibility of release when the alternative is a two-month trial or one-month trial, the preparation work done, and it can't be any worse if we do away with the death penalty.

Let me just shift gears to one other point that Chairman Lawlor in his in excess of half an hour of questioning -- far in excess of a

half hour of questioning -- provided to all you folks, and that had to do with habeas corpus, and obviously I don't think anybody in this Legislature would even countenance proposing legislation to do away with habeas corpus. It's constitutionally protected. I don't know the exact Latin transliteration, but it's like show me the body or provide the body, and the only person that I know that actually made institutional inroads against habeas corpus was the Great Emancipator, Abraham Lincoln, when he did away with it during the Civil War.

So, talk about a new bill being 14 years old, I mean, I think that trying to undermine the notion that there will be habeas corpus rights for individuals out there, you'd have to go back -- jeepers, what now is that -- 100 and 59 years ago, 69 years ago, and if somebody was serving life in prison with possibility of release, do they not still have the right to petition for habeas corpus and would those be heard by the court in any event?

SUSAN O. STOREY: Yes. If there was a -- they would have that right to claim ineffective assistance of counsel.

SENATOR KISSEL: I appreciate -- I just want to -- I appreciate the impassioned pleas that you've made that you feel that it stretches your resources. We as a legislature have not provided from what I can hear adequate resources to make sure this is done as expeditiously as possible, but above and beyond that, the perennial debate on the philosophical nature of our justice system, should Connecticut have a death penalty or not, and I think it really sort of comes down to that public policy determination that we as a legislature will have to make once again,

but I appreciate all your testimony.

Thank you, Mr. Chairman.

REP. LAWLOR: Further questions? If not, you wanted to talk about juvenile justice, right?

CHRISTINE PERRA RAPILLO: I'll be fast.

REP. LAWLOR: All right.

CHRISTINE PERRA RAPILLO: For the record, my name is Christine Rapillo, and I'm the Director of Juvenile Delinquency Defense for the Chief Public Defender's Office. I also sat on the JJPOCC with a number of the other people that you've seen today.

HB6386

I'm here to speak on Bills 674, 636, 674, 6575 and 6580. I'm really only going to talk about two of them.

Raised Bill 6575 is the bill that talks about the technical revisions and other changes necessary to implement the raise-the-age bill, and we support this with one exception. Although there's been much testimony today about how it would compromise a consensus, we were one of the main people in the room that opposed the addition of Section 15. As you've heard, this would allow 16- and 17-year-olds to be questioned without their parents being present.

When the Legislature made the choice to pass Public Act 7-04, it was based on science, the science of adolescent brain development, and mostly the science that talks about how kids don't make good decisions and how they need guidance to make good decisions. I'd argue to the Committee that there is no scientific basis to draw a line between 16- and

REP. ROLDAN: (Inaudible.) Thank you, Mr. Chairman. Thank you for your testimony.

REP. LAWLOR: Further questions? If not, thank you again.

JIM FINLEY: Thank you, Mr. Chairman.

REP. LAWLOR: Next is Mary Wolff. Is Mary still here? And Ms. Wolff will be followed by -- is Taby Ali still here? Taby Ali? Okay, you'll be next, and then Bill Tuthill will be next.

Can I -- I'd just like to point out it appears as though some type of demonstration is taking place?

MARY MORGAN WOLFF: You have nothing to worry about.

REP. LAWLOR: I'm only pointing out that our rules say that there can be no demonstrations in the hearing, so --

MARY MORGAN WOLFF: This is not a demonstration.

REP. LAWLOR: I understand, but everyone is standing up, so -- but I just wanted to say it's not allowed under our rules.

REP. LAWLOR: It's noted that a number of people are standing up, but if you could have a seat, that would be consistent with our rules.

MARY MORGAN WOLFF: Okay. Good afternoon. My name is Mary Morgan Wolff, and I'm here to ask you to repeal Connecticut's death penalty law, to abolish capital punishment and to replace it with life in prison without the possibility of release.

HB6578

I retired from the Connecticut Department of Correction in 2002 as a Deputy Warden. I did my time, 27 years in Connecticut's correctional facilities from volunteer to counselor to deputy warden, to warden. For the record, neither I nor the Department of Correction retirees who were standing behind me are here representing the Department of Correction. We are not here to represent the Department of Correction, but we do want you to abolish the death penalty in Connecticut.

My friends are former Captain Carbone, Bob Carbone; Ed Davies, a Warden; Roger Everson, a Warden; Bob Gillis, Director of Parole and Community Services; David Marcial, a Warden; Peter Matos, a Deputy Commissioner of Operations; Peg Pinton, a School Teacher at USD 1; Georgio Pinton, a School Teacher at USD 1; Ed Quinlan, Director of Community Services; Kathy Taylor, a Counselor Supervisor; Bill Tuthill, a Warden and Assistant Deputy Commissioner; and, Bill Wilson, a Deputy Warden.

We all worked with lifers. We ensured public safety, witnessing that life in prison without the possibility of release is a civilized response to serious crime. We worked hard to ensure the safety of staff and offenders and to keep down the cost of incarceration.

Years ago when the Northern Correctional Institution was targeted for death row and the execution chamber, I was asked by my Commissioner to be the Warden of that facility. I declined his offer. Ethically, I could not oversee an execution of another human being. I could not be part of a state-sponsored execution in which the death of one of our own citizens is planned, deliberated, timed, witnessed and carried out

with precision. I would have been required to have the inmate extracted from the cell, have him or her strapped to the gurney, give the order to release the killing chemicals through the IV, ensure that the inmate is dead and have the body removed. My Commissioner did understand and instead promoted me to Warden of another maximum security facility.

Ladies and gentlemen, the time is now to cut costs and abolish the death penalty; to stop following in the footsteps of the criminal who has committed a heinous crime by committing another heinous, but legal, act; to stop wasting money while trying to decide which crime is heinous enough for the death penalty and which crime isn't. The time is now to stand with the 14 other states and the 135 countries that have already rejected the death penalty.

Clearly, support for your Raised Bill 6578 is a good step to place ourselves on the right side of history. I, we, thank you.

REP. LAWLOR: Thanks, and I apologize at the outset. You know, we did -- we have a rule about these demonstrations only because people come here with different points of view, and in the hearing room itself, it can be intimidating to people who aren't necessarily on the same side, so that's the reason, just for orderly process.

MARY MORGAN WOLFF: I apologize.

REP. LAWLOR: I didn't know that there were -- that's okay. You don't have to explain. It's my job to keep things under control --

MARY MORGAN WOLFF: Sure.

REP. LAWLOR: -- and I just wanted to explain why that was the case, but I did note it seemed like there was approximately ten people standing behind you and --

MARY MORGAN WOLFF: Probably about a dozen.

REP. LAWLOR: A dozen, and your testimony is each of them is a retired DOC employee. Is that right?

MARY MORGAN WOLFF: That's correct, yes.

REP. LAWLOR: And nobody's currently working at DOC?

MARY MORGAN WOLFF: No.

REP. LAWLOR: You know, four years ago when we actually conducted the one and only execution in the last 50 years of the inmate who had spent ten years trying to get himself executed, apparently he was more afraid of spending the rest of his life in prison than he was of being executed, which is an interesting twist on this punishment that we're discussing today. But, nonetheless, when that was happening --and you may or not know this information, but my sense is you probably have a good idea -- I was told that on the two separate nights that we set aside for the execution, it was the first time, and then it was called off at the last second -- the United States Supreme Court issued a stay -- and then, of course, it was carried out I think four or five months later.

I was told that both nights, the entire Department of Corrections was put on alert and was concerned about unrest in the facilities throughout the state, and as a consequence, there was an extraordinary amount of money

spent on overtime, both the corrections officers, but also for state police. I believe that search teams had been assembled, et cetera, et cetera. Why would such a thing be ordered and how does it actually work? I'm not asking you to give away any confidential security information, but just the dimensions of such a thing. What is that all about?

MARY MORGAN WOLFF: Well, I'm not sure. I was not working in the department at the time. I do understand that all of what you just said occurred. My feeling as to why it occurred is that it was the first time in a long, long time that Connecticut had put somebody to death.

REP. LAWLOR: 1960 was the previous time.

MARY MORGAN WOLFF: Right, and that's a long time ago. So, I think that the department -- I'm sorry to say this -- I think we were afraid, afraid that there might be unrest in other facilities with this going on. It was so very special that other inmates in other facilities might -- might not like what was going on. I think probably the officials felt it was a good precaution just to be sure that things were quiet. Everybody else was locked down, I believe, I heard, in their facilities. Just as a precaution that nothing riotous would occur in any other facility. That's just an educated guess.

REP. LAWLOR: In essence, that's the way it was explained, and this is not confidential. This was publicly discussed at the time.

MARY MORGAN WOLFF: Right.

REP. LAWLOR: I'm just asking about your insights into this, and, you know, we have a fiscal

note that's been prepared by our non-partisan Office of Fiscal Analysis, talking about the relative costs of having a death penalty, not having a death penalty, and in there -- and I think many people here have this; the members of the Committee certainly have this fiscal note -- and it talks about spending hundreds of thousands of dollars that night for overtime. I believe it was just for the Department of Corrections personnel that were asked to come in, stayed over, I believe. All of the Wardens and Deputy Wardens were held over that night, and there's no reason to indicate that was a one-time event, because it actually happened twice in the case of that execution, and whether or not that's a good idea, I think it's interesting people start learning about the dimensions of this public policy,what really happens. It begins to change people's view from the philosophical issue to the very practical side of this, which is, you know, how disruptive is this to our prison system and what does that cost the taxpayers when that happens, and things like that.

Do you have any other insights into this issue?

MARY MORGAN WOLFF: I really wish I did, Mr. Lawlor. I don't. I think you've got all the insights. If you have the money business in terms of overtime for the Department of Corrections, for the Department of Public Safety, and maybe towns and cities involved in that area, you would have a good -- a good insight into the cost dimension of carrying out the death penalty. I don't have that information.

REP. LAWLOR: You know, you're all retired, and I think in general you're speaking of everybody

who stood up behind you, right?

MARY MORGAN WOLFF: Yes.

REP. LAWLOR: I think everybody is probably generally agreeing with what you're saying.

MARY MORGAN WOLFF: Yes, I am.

REP. LAWLOR: Like you, I certainly over the years had plenty of conversations with people who were in the Department of Corrections and still are at very high levels, and I think that the apprehension you're conveying today is a pretty widely held view, I would have to say, based on my experience. I could be wrong. I'm sure there's people there who are 100 percent in favor of the public policy and would be ready, willing and able to participate when called upon to do so.

MARY MORGAN WOLFF: Absolutely.

REP. LAWLOR: But, I got the impression that there was widespread disenchantment with this -- I mean the practical side of this, and I'm just looking to you to tell me what your impressions were about the general view,let's say, in the management level of the Department of Corrections on this topic.

MARY MORGAN WOLFF: Well, I really think that I need to be confidential here. I know it's a public hearing, but confidentially, certainly there were pros and there were cons at the managerial level. I know that. I know people suffered very much being close to that, that execution.

REP. LAWLOR: Well, that was directly conveyed to me by many people involved. I just wondered -- I'm not mentioning any names --

MARY MORGAN WOLFF: (Inaudible.)

REP. LAWLOR: -- but I think it's important that people understand this. This is -- you know, it's one thing for the Legislature to talk about. It's another thing to actually do it, and I think --

MARY MORGAN WOLFF: Correct.

REP. LAWLOR: And on the medical level itself, I mean, the medical professionals who were directly or indirectly involved in this, I think it would be fair to say who were working with and for the Department of Corrections, it was an extraordinarily traumatic time for a lot of different reasons, and I think --

MARY MORGAN WOLFF: I'm sure.

REP. LAWLOR: -- if you have any insight you want to add to that, I'd be interested to hear it.

MARY MORGAN WOLFF: I can tell you that I am sure that it was traumatic for a lot of people who were closely involved with the execution of Michael Ross, very traumatic.

REP. LAWLOR: Well, thank you. Are there further questions? Representative Holder-Winfield?

REP. HOLDER-WINFIELD: Good afternoon. In looking at the death penalty, I think a lot of people tend to see people on one side or the other and think that some of those on my side are pro-abolition of the death penalty, and some are more caring of the lives of the people who are on death row or potentially on death row than the people who are the victims.

I'm concerned about both sides, and I'm just

wondering as someone who has taken the time to come here, who I believe has thought about this, how do you think we approach the people on the other side of the issue, the people who have lost family members, who are victims? How do we approach them, because I think when we deal with this, we have to be cognizant of the fact that those people are still around.

MARY MORGAN WOLFF: Very good question, and it was sort of asked by somebody sitting over in that area earlier this afternoon, and I thought, well, what would I say, what would I say. I thought hard, and I said to the person sitting next to me I would definitely say to the victim's family I am so sorry, simply that.

I also remember the last public hearing that we had, there was somebody sitting next to me that I didn't know. She happened to be a family member of a victim, and she said to me in conversation I am -- how can people say that the offense which was committed in my family against my family member is less heinous than what was committed against somebody else in another family. What you say is so sorry to anyone, anyone and everyone who's been the victim of a crime or a family member related to the victim of the crime. What do you say?

What does the government say when they come home and they say I'm really sorry your son just died in Iraq, I'm so sorry.

REP. HOLDER-WINFIELD: Thank you for your response. Thank you, Mr. Chairman.

REP. LAWLOR: Are there further questions? If not, thank you again, and thanks to all of your colleagues.

MARY MORGAN WOLFF: Thank you. Again, I apologize for --

REP. LAWLOR: There's no problem.

MARY MORGAN WOLFF: I didn't mean it.

REP. LAWLOR: There's no penalty for that offense so -- they're asking me to stop.

MARY MORGAN WOLFF: Thank you.

REP. LAWLOR: Next is Taby Ali? Is Taby Ali here? Okay. And then Bill Tuthill, and then Kevin Kane. Good afternoon. Please go ahead.

HB6580
HB6575
SB 674
HB6574

TABY ALI: Great. Thank you, Representative Lawlor and members of the Judiciary Committee. My name is Taby Ali, and I'm a policy fellow with Connecticut Voices for Children. We're a state-wide research and advocacy organization for children's issues.

I'm here today to testify on the various bills that relate to (inaudible) matters, and in general Connecticut Voices opposes any of the proposals that seek to delay implementation of the law or seeks to compromise the intent of the legislation, and one of the things I do remember from the (inaudible) he's gone through sort of the research and the data, and we want to sort of restate that, that we know that adolescents are different than adults. They process differently; they make decisions differently than adults; and, we also know that Connecticut is one of the last two states that remain to lock up 16- and 17-year-olds, and as a result of that, we have one of the highest incarceration rates for youth under the age of 18.

And, I say all this -- I say all this because

and Chris Francis and then Joanna Chaplin.

BILL TUTHILL: Chairman Lawlor, members of the Judiciary Committee. I will be brief. You have my testimony. My name is Bill Tuthill and I'm a retired Warden and Assistant Deputy Commissioner in the Connecticut Department of Correction. I retired from the state in 1992 and currently work for a nonprofit organization that has contracts with the state. I worked with offenders for almost 40 years. I'm here to support Raised Bill 6578.

The fact that I worked in the criminal justice system for so many years does not confer any special qualification to have an opinion regarding the death penalty except that I am sure that I've spent more time than most in the thought about this subject. The views I express are my own alone.

There's ample evidence that the death penalty does not deter crime. In fact, the opposite may very well be true. We know of death row exonerations based on DNA or other evidence. We know that poor and minorities are disproportionately represented in our prisons and on death row. If we are honest, we recognize that you get as much justice as you can afford and that race is a significant factor in the criminal justice system.

We know that our judicial districts within Connecticut disproportionately apply the death penalty. We know that the death penalty will always be imposed in a random fashion that defies fundamental fairness due to the innumerable variables that affect the outcome of any given prosecution.

We have heard of botched execution in spite of the best efforts of officials. We have heard

of the reluctance of health professionals to be involved in the execution of death sentences. We have all heard of the states that have suspended executions due to concerns for fairness and other humane concerns.

What possible rationale for the existence of the death penalty remains? Should we justify capital punishment based on our most retributive impulses?

Our law enforcement apparatus cannot and never will be able to fairly and without possibility of error administer the death penalty. The existence of the death penalty debases us all, and it should be abolished.

I urge you to eliminate the death penalty in Connecticut. The legislative action under consideration is a step in the right direction.

Those are all my prepared remarks, but I would, since I still have time before the bell, also respond to Representative Holder-Winfield's question, even though he is not here, and my answer to the question is there is no good reason except our primitive retributive impulses to have the death penalty, and if you think that's sufficient reason to have it, then that's your opinion. I don't share that.

If there are any questions, I'd be glad to try to answer them.

REP. LAWLOR: Thank you very much. Are there any questions? If not, thank you.

BILL TUTHILL: Thank you.

REP. LAWLOR: Kevin Kane?

KEVIN KANE: Good afternoon, Representative Lawlor, and members of the Committee. Thank you for this opportunity to speak to you this afternoon. My name is Kevin Kane. I'm the Chief State's Attorney, and I'm here to speak about two bills in particular, H.B. 6578, which would change the penalty for a capital felony, ostensibly for any capital felony committed after the effective date of the Act. And, I'm also here to speak to you concerning Senate Bill 1027, which would apply a standard of reasonable -- of absolute certainty to the guilt phase of a capital felony prosecution.

I'm speaking on behalf of the division, and we are against both of these bills without regard to the underlying issue as to whether or not we should have a death penalty.

First of all, I think it's important with regard to that first bill, 6578, for everybody to be very clear what will happen. That bill purports to abolish the death penalty for any capital felony committed after the effective date of the Act. That -- what that would do would actually nullify the death penalty for anybody who has not yet been executed.

The State could not and would not, could not constitutionally and would not as a matter of public policy seek to execute somebody for a crime they committed today when they could not be executed for committing the same crime tomorrow. I don't think that would stand up as a matter of constitutional law. I don't think the courts would permit that, and I'm sure this Legislature would not want us to be doing it.

If the Legislature wants to abolish the death penalty, do it upfront and do it

straightforward by abolishing the death penalty for anybody who hasn't been executed. Don't create a situation where the families of victims of pending cases or families of victims of people for whom the death penalty has been imposed but not yet carried out, don't put them in a situation that leaves them in hope -- if that's the way they feel -- that those executions will be carried out.

That would be very wrong to do to those people. Debate the issue right on. If the Legislature chooses -- if this Legislature believes that the community, that the public in the state of Connecticut no longer wants the death penalty, then abolish it. If that's not what this Committee is going to consider, don't do it this way because that would be wrong.

The other bill, S.B. 1027, would require an absolute certainty as the standard of guilt. That sounds good on its face. That sounds good on its face, and that sounds like a course that we ought to be absolutely certain of, but think about what you're doing. Number one, the Supreme Court, our Supreme Court in Connecticut, the United States Supreme Court and many other courts, most of the jury instructions -- I've had maybe all of them over the years, and they all run together -- have included a phrase when the judge is instructing the jury: Absolute certainty is something that can never be attained. Not only that, it's arbitrary. Your absolute certainty may not be your absolute certainty; yours may not be my absolute certainty; we may have twelve different ideas of what absolute certainty is.

That will lead to not only arbitrary standards but one impossible to attain.

Now, listen to this: Pretend for a minute you're jurors. Our standard in Connecticut, our standard of proof in Connecticut and in every state in the United States is beyond a reasonable doubt. What does beyond a reasonable doubt mean? That's a high standard, much higher standard. I've spoken to you before and talked a bit about the difference between probable cause and beyond a reasonable doubt. It's a high standard.

Here's what a judge would be instructing you. Pretend you're sitting in a jury box right now in a courtroom after having heard the evidence, after having heard the arguments of counsel. The judge will instruct you as to the law in the case, and then he'll instruct you as to the burden of proof, and this is what the judge would say: Proof beyond a reasonable doubt is proof that precludes every reasonable hypothesis except guilt, and inconsistent with any other rational conclusion. That's the standard of proof the state of Connecticut has to meet to convict anybody of a crime, any crime.

Any standard higher than that, what would be the difference between beyond a reasonable doubt and absolute certainty? Only one difference: An unreasonable doubt, an arbitrary doubt, speculation. Do we want to have the legal system in which the most serious crime that this Legislature has ever established, capital felony, is determined and is decided by a speculation, a whim, or an unreasonable doubt? You don't want to do that to the public. You don't want to have a standard like that applicable to the most serious crimes.

Think of what beyond a reasonable doubt really

means: Proof that is inconsistent with any other rational conclusion. That's the standard we have; that's sufficient; that's a time-honored standard; and, that shouldn't be tinkered with by the General Assembly.

If the idea of this Legislature, of this Committee, is to recommend, is to decide that the death penalty should be repealed, do it head on. That's a moral and ethical issue really, fundamentally a moral and ethical issue that depends on your analysis of what the evolving standards of the public in the state of Connecticut are.

That's my job and the prosecutor's job, and our sworn oath is to carry out the laws that you people pass, not to comment on a public policy of a fundamental issue like this. This probably is the most important issue that goes right to the core of why we have governments. It may be the most important issue that any of you will decide individually.

I understand what it's like to look into the eyes of jurors and tell them that the evidence amounts to proof of an aggravating factor and that there is insufficient evidence of a mitigating factor. I understand what it's like to look into the eyes of those jurors and tell them that, and I know how they feel when they're listening to that and when they're thinking about it, and I know how they feel when they debate, and I've talked to them after the verdict as to what a serious decision it is, and how hard it is for them to make.

In many cases in Connecticut, jurors come back and find either that there is no mitigating factor -- I'm sorry -- there is no aggravating factor or, more likely, there's a mitigating

factor, and they don't impose the death penalty. I know what you people are thinking now, at least, I hope you're thinking of it because I know you recognize what a hard, hard decision this is, and it's one that shouldn't be put aside.

I don't think the questions of cost or the questions of whether or not this is a deterrent or other questions we've talked about are the factors that should lead you to decide this issue. We could debate about whether or not the death penalty is a deterrent. There are many recent studies which are very good studies which say, indeed, it is a deterrent. That may be a factor that falls into the moral and ethical issue, but there are many studies that say, indeed, it is a deterrent. There are other studies that say it's not.

If you're going to think about that and really go into that, you've got to look at some of those studies and understand them and determine if that's the issue that you want to -- if that's the issue that you want to decide this question on. Think about that.

Cost: The costs to the division in prosecuting a capital felony case throughout the trial stage and even the appeal stage are probably a bit higher than prosecuting a regular murder case. The issues are the same. If we don't have a death penalty, these cases that we prosecute -- and really the prosecutors are very careful about deciding whether or not to charge capital felony in the first place, and in the second place, whether or not to seek the death penalty if we do charge capital felony.

There are many cases where we charge capital

felony and decide it's not appropriate to seek the death penalty for any number of reasons. There are those cases where we decide to charge capital felony and to proceed with the death penalty. We narrow them out just as the structure of our statute says. Our capital felony statute that you people have enacted is a very, very good statute as far as it's intended to be. It's narrowing; it narrows those people who, A, qualify for the death penalty, and then it narrows further those people who do qualify who can be executed.

The legal issues have been really resolved by many of the Supreme Court cases. At first, it took a long time. State versus Ross involved a lot of them, and the legal issues have been involved and been narrowed. The trial and the appeal process is expensive. I don't think it's as expensive as the opponents of the death penalty claim by any means.

Those cases that do qualify as the worst of the worst would still be litigated. They would still be charged. We would still be looking for a natural life sentence unless you have absolute certainty as the standard that we'd have to prove to get it. The efforts that are made now to save people from the death penalty would continue to be used to save people from natural life, and we would be litigating those.

The real problem that exists and the thing that I've seen over the years that's terrible is the length of this process, the length of time that this whole entire process takes. Now, from arrest to trial, from trial even to the end of the direct appeal is a little bit long, but it's important and it's necessary, and it's important to have those issues be addressed and resolved the way it is.

You've heard Attorney Culligan describe what they have to do in order to investigate to determine whether or not there's a mitigating factor. The State doesn't oppose reasonable requests for continuances, even sometimes you may think they are a little bit lengthy, but we give them the benefit of the doubt. It's important that they be allowed to investigate and raise those issues so that the trial issues -- so that evidence is properly preserved at time of trial.

The briefs are long. We get briefs from defense attorneys that are three or 400 pages long. It takes a while to respond. I think the bulk of the length of time is really taken up by the defense preparing their brief and waiting for their trial transcripts. The appellate process, as I said, is lengthy, but it's not impossible.

It's the post-conviction process that is just unconscionable and inexcusable. It goes on and on and on, and there are no parameters to it. The bulk of our expense lately has been dealing with a case in which we have hired experts in order to get the information which the petitioners claim to support their claim of racial bias. We had to fight like mad to get, A, the first report, which they said they had which supported that claim and wouldn't disclose. Then we had to fight to get their second report, and then we had to fight to get the data which supposedly supports that second report. And, that's taken years and money.

Now, there could be parameters. That's reasonable, and there are reasonable ways if this Legislature chose that it was proper to have a death penalty, there are ways this Legislature could narrow and modify the

post-conviction process, and that is what should be done. It's unconscionable to have to have victims. In the Ross case, seeing those victims, I was there near the beginning in 1985, and I was with that case until the very end that night, and I saw time and again I'd have to talk to families, and I saw what they were going through. They all felt differently about the ultimate issues; they all felt differently about what they wanted; but, the process was just absolutely horrendous and, if anything, when you talk about cruel and unusual punishment, I don't think anybody sort of thinks about the cruel and unusual punishment inflicted on the families of people who are victims of capital felonies or the result of our post-conviction process which is without restriction. That's what's wrong, and that can be fixed, and these costs can be reduced.

I talked too long. I know you have questions and you have good questions, and when I listen to your questions, I said I was going to talk for a few minutes and then shut up and let you ask good questions. I'm sorry I didn't earlier. Go ahead.

REP. LAWLOR: Thanks, Attorney Kane. And, just a couple of technical questions at the outset because I'm a little bit intrigued on this question of whether if we just change the penalty prospectively necessarily have we actually eliminated it retroactively, in fact, you know, so it's not unprecedented that the Legislature might change the penalty for a crime prospectively. More often than not, we increase the penalty; sometimes we decrease the penalty; sometimes we make something that's been legal or illegal legal overnight, and the most recent example which I can think of is when we changed the -- for statutory

rape. We went from two years age difference to three years age difference, saying that that's an exception to the statutory rape statute, so my question is: When we did that, did that necessarily invalidate all the pre-existing sentences for persons convicted who had-- convicted of statutory rape involving someone who was within, you know, that two- to three-year range?

KEVIN KANE: Who had been sentenced?

REP. LAWLOR: Who had been previously convicted, sentenced, serving a sentence, whatever. What was the impact of that change on people who had been convicted under those circumstances that suddenly became legal?

KEVIN KANE: Two changes. The first one is it had an impact on us prior to conviction in deciding whether or not we should prosecute somebody for something that was no longer -- that the Legislature had made no longer a crime, but for the prior convictions, my recollection was that sentences -- some sentences were modified, maybe not all. The difference between that and this is this: Our Connecticut Supreme Court and the U.S. Supreme Court have ruled that -- in Connecticut that the death penalty is not cruel and unusual punishment. One of the important factors that our Supreme Court considered is the evolving standards -- I don't have the exact language -- the evolving standards of the community with regard to that.

They recognized that that changes over the years. What was cruel and unusual punishment -- what is cruel and unusual punishment today may not have been a few years ago, or what was not a few years ago may well be today, and that depends on the evolving standards of the

community.

What our Supreme Court looked at and what the U.S. Supreme Court looked at as to how to determine what the evolving standards of the community are are the actions of the State Legislators. One opinion said that clearly the number of State Legislatures that have adopted the death penalty have not repealed it or have amended it and improved it is indicative of the community standards and, therefore, said this is not a denial of due process -- I mean of cruel and unusual punishment. It's not cruel and unusual punishment I mean.

That is what one of the things the court will look at, and if this court decides to abolish the death penalty for a crime that's committed later on, I think the Connecticut Supreme Court would decide that in effect that the community standard is such that this is now cruel and unusual punishment.

REP. LAWLOR: But, that's not a certainty.

KEVIN KANE: It's not a certainty. It's a prediction just like a prediction of whether or not a jury's going to find somebody guilty. It's an educated guess, maybe a little better educated guess.

I can tell you how I as a prosecutor would feel. If you decided to repeal the death penalty effective for any crime committed after passage and we had a crime -- we were prosecuting a crime today, would you expect me to seek the death penalty? Forget about me as an individual. Would you expect the responsible prosecutor to seek the death penalty for committing a crime prior to the date when you repealed the death penalty?

REP. LAWLOR: Well, I guess I fall back onto the question of what happened after we made that type -- that discrete statutory rape situation legal and there were cases pending for people or people serving sentences for that conduct. Did prosecutors -- I'm just asking. I don't know. Did prosecutors immediately say okay, that's it; no more prosecutions for this?

KEVIN KANE: I haven't taken a survey, but I believe we did. I remember at a meeting right after this was passed when we talked about we'd better rethink how we're dealing with these cases that are pending, charging a crime that is not going to be a crime in the future. That's not fair. It's really just plain out and out not fair. I mean, you don't need to go into a high moral discussion or anything like that. It's not fair, is it?

REP. LAWLOR: I understand that. I'm just -- the question is what would prosecutors do, and the fairness issues could be retroactive in a number of ways. I mean, I remember we talked about this, and we said that people could potentially come in and apply for pardons and cite that as an argument.

KEVIN KANE: Yes.

REP. LAWLOR: But my understanding was it wasn't like automatic. It wasn't obvious that this should happen. I mean, I suppose I would hope it would happen, but I don't think it was clear-cut or automatic, and I just -- your original statement was that it was sort of obvious and automatic, and I'm not so sure that it is if we repeal the death penalty prospectively that it would necessarily be retroactive. I mean, it might; maybe it probably would; but, it's not clear-cut, and

it would rely on decisions of you and your colleagues and what to do under the circumstances.

KEVIN KANE: It would, and I can't guarantee you we'd all be uniform on it, but I can tell you what I would do, and what I would do is not seek the death penalty for a pending case if you repealed it for future cases.

REP. LAWLOR: Now, does the --

KEVIN KANE: I suspect other prosecutors or other prosecutors would agree with me. I'm not absolutely certain because I haven't taken a vote on that issue, but --

REP. LAWLOR: Going to the clear-cut issue of repeal it prospective, retroactive, does the division have an official position on the public policy of the death penalty in and of itself? If the bill simply said retroactively and prospectively no executions in Connecticut, does the division have a position on that, because through amendments, we might end up in that position, too, so do you have a position on that?

KEVIN KANE: As to the ultimate question whether or not it should be repealed?

REP. LAWLOR: Correct.

KEVIN KANE: To say that is a decision for you collectively, all of you, to make, not for us. We have an obligation and we've taken an oath to enforce the laws that you pass, to apply the laws that you pass. That's inherently a public policy question which you people who are elected, you know your constituents, you know your own thoughts, in some ways your constituents elect you to do what you think is

right. Other times clearly you may feel you have to do exactly what your constituents think they want. I know that's a fundamental question of a democratically elected Representative to decide. I'm not a democratically elected representative. I'm a public official appointed who took an oath to apply the law, and the rest of the division, and that's basically the division policy, that this is a question of public policy for you.

I've had some discussions with this. Again, we didn't take an official vote. I can't guarantee that there's not another State's Attorney who is going to appear and take another position, but I don't think there is.

REP. LAWLOR: I think I've asked you this question before because to me this is a very interesting question. It's almost like an ethical thing for prosecutors. You know, we know what the statistics are for the death penalty in Connecticut. It's been almost 50 years since the last person was executed against their will. The one guy that was executed, we know about that whole story, how he had sought for ten years to be executed, and we know there's ten people on death row that --

KEVIN KANE: No, we didn't. There was a part of that period where he fought very hard not to be executed, but at the second penalty phase, I was the prosecutor, and he certainly didn't roll over and not fight. There were times when he fought very hard not to be executed.

REP. LAWLOR: But, he ultimately changed his mind, and as I understand it --

KEVIN KANE: Yes, he did.

REP. LAWLOR: And, since you mentioned it --

KEVIN KANE: Yes, he did.

REP. LAWLOR: And I think -- were you Chief State's Attorney when that execution took place?

KEVIN KANE: No. I was the State's Attorney in New London County.

REP. LAWLOR: Because I believe at the time that the deal was that had he at any point up until he was actually executed, including when he was strapped on that gurney with a needle in his arm, I believe the Commissioner of Corrections, the Attorney General and the Chief State's Attorney at the time had all agreed that if at any point he said I've changed my mind, I want to pursue my appeals, that execution would not have taken place, and you may or may not know the answer to that question, but --

KEVIN KANE: Well, I do know the answer.

REP. LAWLOR: What was the answer to that question?

KEVIN KANE: That's exactly -- what we done, we didn't -- I didn't know what -- I was State's Attorney in New London County, and like that or not, I thought that was my responsibility to decide what to do after considering a lot of people. Ultimately, how we -- how I decided what to do was went back and look at what happened with Joseph Taborski when he was executed in 1959. At that time, he had decided not to pursue his appeals to the United States Supreme Court. A decision was made that if he changed his mind at any time prior to being electrocuted, that they would hold off the -- that they would stop the process.

REP. LAWLOR: And that was because --

KEVIN KANE: Because of that, that's exactly what we did with Michael Ross.

REP. LAWLOR: And, as it turns out, he didn't express --

KEVIN KANE: He did not.

REP. LAWLOR: All right.

KEVIN KANE: And, he was there. The Warden asked him if he had any last words. He said no, thank you.

REP. LAWLOR: And, that was it?

KEVIN KANE: And then that was it.

REP. LAWLOR: So, here's this question that to me is very interesting, and I think it's very relevant especially at the present time, and that is as a prosecutor -- and I'm not talking about any specific case or any case that you're directly involved with -- but this is the question: If a victim, a survivor in a death penalty eligible crime is meeting with a prosecutor and says what is likely to happen in this case, assuming conviction, assuming the death sentence is imposed after the penalty phase, how long is it going to take before this person is actually executed, and what are the odds that they're actually going to be executed? What does a prosecutor say to a victim in that situation?

KEVIN KANE: Well, you start out earlier. You talk about the trial process first and what are the ups and downs involved in the trial process like you do in any other case. Is there a

risk of a not-guilty verdict? Of course, there is. You go into and explain all of that.

Now, with the death penalty, it's much worse, obviously, because you go through that process. The answer is if the jury does come back and finds both an aggravating factor and no mitigating factor and the death penalty is imposed, it makes the executives to carry out.

REP. LAWLOR: And, even that -- I mean, is there any -- I mean because we have these guys, these murderers committed their crimes in the 1980's --

KEVIN KANE: Yes.

REP. LAWLOR: And, they're still on death row. As far as I know, there's no like deadline coming up or there's no date that's been set for the execution, I mean, how do we know -- how do you know whether or not there will actually be a death penalty, and how do you advise a victim in that situation? Do you say, you know, look, whatever we want to see happen, we know what the law is, we know what the practice is, what are the odds that this will ever actually happen? I mean, can you answer that question for a victim?

KEVIN KANE: The odds are I think we can answer it pretty -- we can make a pretty good estimate just like we do as to the likelihood of a jury coming back with a verdict and, as I said, there's no guarantees. We can say it's likely that if the jury imposes the death penalty in this case, it ultimately will be carried out. Will it be carried out in our lifetime? I've gotten to the age where I think probably not in mine, but other people's, maybe so.

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REP. LAWLOR: And, do you think that victims who are in the situation are aware of this, that we're really talking about 30, 20, 30 years, 40 years? I mean --

KEVIN KANE: It's hard for victims to accept the fact that the situation is as ridiculous as that, isn't it?

REP. LAWLOR: Right.

KEVIN KANE: Now, the remedy, though, is if this Legislature feels that we should have this death penalty, it's possible like other states have done to put reasonable restrictions on post-conviction proceedings so that defendants have an ability to legitimately raise issues such as actual innocence or other claims. There are restrictions that can be put on post-conviction proceedings that could reduce this and make it much more realistic than it is today. Today, it's totally out of control.

REP. LAWLOR: So, now, you and I have known each other for a long time.

KEVIN KANE: Yes.

REP. LAWLOR: And I've been involved in this process for 22 years, and I believe it's accurate to say that not once has any prosecutor apart from our discussions about the general concerns about habeas corpus, any prosecutor has ever come to this Committee and said with regard to death penalty cases, here are some restrictions on appeals that would speed up the process, and maybe I'm wrong in that, but -- because I'm going to ask you in a minute what these specific ideas are because I don't believe we've got a bill that incorporates them other than the general

habeas corpus restriction proposal that you and I have been talking about.

Am I wrong in that? Is this a new suggestion that's popping up about restricting death penalty case appeals?

KEVIN KANE: I think it's new, and about the habeas, I didn't want to mix these two issues of the habeas reform, because I think we're in drastic need of habeas reform for its own reason, for separate reasons. I was afraid to tie that too much to the death penalty --

REP. LAWLOR: I agree.

KEVIN KANE: -- causing all the death penalty opponents to thank the habeas reform bill.

REP. LAWLOR: I agree, and --

KEVIN KANE: And now it's out in the open, and we might as well talk about it together.

REP. LAWLOR: Which is fine, but for now, because I think the death penalty cases are sort of a different entity altogether.

KEVIN KANE: Yes, they are.

REP. LAWLOR: Would you agree with that?

KEVIN KANE: Yes, I do.

REP. LAWLOR: Okay. And, we're going to have an opportunity to talk about the general habeas reform, which I think is a different focus, but let's just treat this as a discrete area because here's why I think this is so important. There are people watching these proceedings here and on CTN that are -- regardless of what their views are about the

death penalty, I think they're very frustrated by the fact that the legal process takes so long to play itself out, and I think some people assume that there are some changes the Legislature can make that would put an end to that, and maybe there are. I'm not sure, but all I know for sure is that -- and I'm not questioning the motives or the integrity or the abilities of anybody who supports the death penalty, but we've never seen them come here before this Committee. I can honestly say that, and if they did, I was sick that day, and I don't think I was sick on any of these particular days, so this is a new suggestion being thrown out here, and if it's a serious one, I as an opponent of the death penalty would kind of just think let's just do it because as was said 14 years ago the last time we were trying to make the death penalty workable, whatever it is that needs to be done, why don't we just do it so we can finally get to the final argument about whether or not the death penalty is a good public policy and forget about all these arguments it's not workable, there's too many complications.
Let's just get to that discussion.

I'm not sure there are solutions to the problems you've identified. You seem to have a few, so why don't we just take them one at a time and talk about them now, so give me some ideas of what we can do legislatively to change this appellate process.

KEVIN KANE: Okay. I think we can put a statute of limitations for filing a habeas petition and make it one year after the final appeal is resolved.

REP. LAWLOR: Okay. What is the current situation with that?

KEVIN KANE: There's no limitation whatsoever.

REP. LAWLOR: And, as a practical matter, are there habeas petitions filed in state court initiated more than a year after the final appeal is decided by the Supreme Court?

KEVIN KANE: I don't know.

REP. LAWLOR: Okay.

KEVIN KANE: I don't know the answer to that.

REP. LAWLOR: I got the impression from talking to the defense attorneys that there are pretty standard arguments that are made, for example, ineffective assistance of counsel, that are almost routine in death penalty cases, and that the United States Supreme Court has more or less said you have to work your way through that process in the state court before you come into the federal court.

So, am I missing something there, or is this just a guess that maybe this one-year statute of limitations would solve this particular problem?

KEVIN KANE: I think that -- I'm not sure that the habeas petitions have been filed more than one year after the final appeal or not. I haven't checked those dates, but that is one important way because now it could be filed at any length of time after the final appeal, and there would be no limit unless we had the execution faster.

The other issues are -- and that's one important thing to look at hard. Ineffective assistance of counsel claims in the death penalty cases we have in Connecticut, the

capital felony cases, I would bet that we have the best defense bar trying those cases than exists in any other state in the United States. They're lawyers who are as capable -- you've seen they have a capital felony unit, they're excellent lawyers who do terrific jobs, who do thorough preparation. That's why they take so long.

We should be able to resolve the -- we don't see ineffective assistance claims on habeas cases out of death penalty cases. Right now, we're caught up in this racial disparity claim in which we can't even get the data on which they base -- they claim that their studies are based on. We've had to fight for years to get that.

I think that racial disparity claim was first filed in 2003. Very soon after that, there were claims made that we have a study that shows there is racial disparity. We didn't get that study until a very short time ago. After I became Chief State's Attorney, I asked for it, couldn't get it, and finally we ultimately got the court after a long battle to order that they give us that first study. That first study was -- they had abandoned it and sought a new expert to do that. We finally got that study from them, but we couldn't get the underlying data on which that study was purportedly based.

Most of our fight has been over discovery, just to find out on what it was that they were basing this claim so that we could proceed to litigate it. Now, that doesn't make sense.

REP. LAWLOR: And, I'll take your word for that, but the real issue is if we had a restriction of no habeas, no state habeases filed unless within a year after the final judgment in the

Supreme Court, how would that -- if we had such a thing in effect for the last 20 years, would that actually change any of these realities that we're all lamenting today; that is, these things are hanging around for so long?

KEVIN KANE: No. The next step is we would have to find a way to have the procedural rules then in place to resolve the habeas proceedings -- and I don't want to use the words in an expedited fashion -- but in a reasonable fashion. In order to do away with these discovery disputes, in order to have these claims, any claims that are going to be made be presented as quickly as reasonably possible and addressed by the courts, I think there are procedural rules that could be established to do this. The Connecticut Supreme Court attempted to do this back in 2003 when the Supreme Court ruled -- and I forget whether it's State versus Cobb or State versus Webb;I can't remember the name of it -- the Connecticut Supreme Court decided that habeas claims with regard to racial disparity should be made in a petition for write of habeas corpus and that they also be consolidated.

There is a consolidated case that has been taking -- going on and on and on, I think, and the petitioner's attorneys will disagree vehemently with me. I think all they've done right now in this phase, the best thing a defense attorney can do is delay. Delay is victory. All they're doing is delaying the execution for as long as they can. They put all their efforts and all their money into delaying, delaying, delaying. I think we have to set up a procedure which overcomes that and takes away somehow the incentive to delay so that these issues are addressed and decided.

REP. LAWLOR: So, the question really is -- I mean, your assertion is that we should do it, which is a public policy decision we can all make -- but my question is do we -- if we actually did that, would it work?

KEVIN KANE: Right.

REP. LAWLOR: I mean, one thing we heard just a few minutes ago, that would set up a new construct for the death penalty and its appeals, right, so could we do that retroactively to apply to all of these cases, these ten guys on death row already? Do you think we can do that?

KEVIN KANE: Yes, you could. You could do it, and it's not the appeals. I don't want to tinker with the appeal process. The appeal process is too important. It's a bit cumbersome; it's a big long; but, it's right. I don't think you should tinker with the appeal process at all.

The post-conviction process, yes. I think it should be required that any claims be made in one petition, consolidated at the beginning -- unless there's newly discovered evidence or something, there would have to be an exception -- so that all claims can be addressed and litigated soon. It could be done, and it could be done properly, and it could be done constitutionally and has been done.

REP. LAWLOR: And if such a thing happened, wouldn't that specific provision be necessarily challenged and end up with probably the State Supreme Court ultimately to determine whether or not the Legislature has the constitutional authority to impose such a restriction? Isn't that sort of predictable?

KEVIN KANE: I'm sure it would be found, yes, and that would be a very good discrete issue. That issue itself would be a discrete legal issue that could be addressed with reasonable -- and when I talk about reasonable promptness, I'm comparing to the 21 years that it took to execute Michael Ross after he raped and murdered Wendy Barlow. We could do that with reasonable promptness so that an issue like that could be addressed, not only by the Connecticut Supreme Court, but also by the U.S. Supreme Court.

It was amazing what happened in that winter after Michael Ross had decided to waive any further appeals how the opponents of the death penalty attempted to intervene and said we have evidence that he's incompetent and can't do it, claiming, claiming, claiming. Well, what's the evidence? They wouldn't tell us.

The Connecticut Supreme Court did a terrific job ultimately. They bit the bullet when Chief Justice Sullivan was there, and the Supreme Court said if you have evidence, get it to us by next week -- I forget what the date was. It was routine. They then finally -- that was the first time that anybody made them bit the bullet and produce the evidence. They produced the evidence, the Connecticut Supreme Court didn't accept it, it went up to the Second Circuit, the U.S. Supreme Court, and the end was the same.

There are ways to make petitioners' attorneys produce the evidence that they have that supports the claim they support, but there has to be a will to do it, and sometimes there may have to be a procedural rule to require because if I were representing somebody on death row, all I'd want to do is delay. Delay is victory, and I would do my best to delay

it, and these are competent and imaginative lawyers who thought of ideas that I never imagined when this was going on, and they did a terrific job of it until the Connecticut Supreme Court said that was it, it's time to show us what you have, okay, and there are ways that can be done, and I think we have to find a procedural rule to do it, and we worked together to draft a statute before. If that's what you want, let's roll up our sleeves and go to work.

REP. LAWLOR: Well, first, I just want to make clear because I know some people observing the process seem to suggest that somehow the Legislature has thrown some obstacles in the way of these executions by rewriting the rules, or something like that, and nothing you said so far talks about an obstacle, at least, in the last 20 years or so that's been in the way by the Legislature. These are longstanding procedures, rules, that have been the case in Connecticut, and I think we agreed earlier on that not only is it nothing new that's been added as an obstacle to the process, but to this moment, no one seems to have suggested a specific solution to that problem until now.

And, if I'm wrong in saying -- because there are people watching this who are trying to figure out who do we blame, what's the explanation, et cetera, so I want to get directly from you how we got to where we are today. We got to where we are today because the system as it's always been is the way it is today in this respect, and there actually hasn't been until this very moment discussion before the Legislature about a solution to it suggested by anybody in particular.

Is that true or not?

KEVIN KANE: That's true, and I'm not blaming the Legislature -- don't get me wrong at all -- or the judicial. Here's what I think. As to why this happens, I think because there is a huge ambiguity in what we think the public of the state of Connecticut wants. There are those of us at times that think they want the death penalty (inaudible), but then when it comes the time to have the will to set up a really effective process to bring it about, either that's not the issue of the day, that's not our immediate concern, it gets put on the back burner, and it hasn't been addressed.

REP. LAWLOR: You're speaking of the Division of Criminal Justice?

KEVIN KANE: No. I'm speaking for the entire institution of the government of the state of Connecticut, legislative, judicial and us all.

REP. LAWLOR: So, are you saying --

KEVIN KANE: I'm saying this --

REP. LAWLOR: Could I just ask a question? This is an important question.

Are you saying that you've never been asked by a member of the Legislature to come up with a solution to this endless appeals problem? Is that what you're saying, that no one has ever asked you, no one has ever reached out to say, hey, we're concerned about these endless appeals; can you guys think of a solution to the problem? I suspect that's true, but since you're --

KEVIN KANE: It is true. Nobody's asked me, and I don't know whether anybody asked any of our predecessors.

REP. LAWLOR: There you go.

KEVIN KANE: Part of the reason -- well, part of the reason, yes, there we go, and I think that gets back to do we really want a death penalty in the state of Connecticut or do we not really want a death penalty in the state of Connecticut? Up or down on that basic issue, if there's an insistence that we have it, if we should have it, then let's start doing it in a way that doesn't leave victims and survivors hanging for 10 and 20 years, wondering if ever it's going to happen. I've seen fathers die when they were waiting for what they perceive to be justice to occur. I've seen families torn apart during this. I've seen families go through things that families should never have to go through -- well, they shouldn't have to go through the death that occurred in the first place, but we can't do things about that, but I've seen the process cause pain and anguish that is far beyond anything that we ought to do to people.

REP. LAWLOR: I think there are ways to do it faster.

KEVIN KANE: No. To get back to the direct point, no, nobody's asked us, but it could be done.

REP. LAWLOR: Well, let's talk about that because I think what really needs to happen in the Legislature is debate about specific proposals to limit these appeals. We can have a public policy debate on whether or not it's a good idea, but at least then we'd be where I thought we were 14 years ago, which is like if you like the death penalty, let's figure out a way to make it workable, and certainly the appeals are part of the workability issue.

There was a green light 14 years ago to do -- we had a Governor and a Legislature who were majority support for the death penalty, and they could have written it any way they wanted to, and they came up with what we have today absent any mention at all about any of the appeal procedures, and this was debated because I was sitting right here during these very hearings. I think it took place in this very room, and there was an open invitation to come up with whatever is the perfect death penalty and no one took that offer up, and they could have done anything they wanted, and here we are now, 14 years, 14 years later in the same place we were then, and it's just -- it's very frustrating for someone who is opposed to the death penalty for a whole variety of reasons to sit here and say, you know, how long is it going to be until anybody's actually executed so we can finally decide -- I mean against their will -- whether or not this is a good public policy. It just seems like it exists in theory, not in practice, and a lot of people including a lot of surviving family members are being, in my opinion, misled about what's going to actually happen here.

KEVIN KANE: Yes.

REP. LAWLOR: That's my -- that's my concern.

KEVIN KANE: Now, and one of the reasons is, and I've been --I've been somewhat on the periphery of legislative debates sometimes and not in the middle of it until the last two years, but I do know back years ago when we were talking about the capital felony statute and setting up an adequate and enforceable and a workable death penalty statute, we were all focusing on the capital felony statute itself, 53a-54 -- I can't remember numbers anymore --

on that statute, and there was a weighing process whether it was 385, or whatever -- I forget -- we were focusing on that capital felony statute itself. There were issues and language in the statute that the Supreme Court had to deal with and work out. None of us thought about the post-conviction proceeding. We all thought about the appeals and the appellate process and the cost of transcripts and the lengthy hearings. Those were all something we thought of. We didn't think about the post-conviction proceeding. We hadn't gotten into that.

There was no jury that had ever come back -- no jury in Connecticut since 1958 or whenever Taborski was convicted -- no jury in Connecticut had come back with the death penalty verdict until Michael Ross in 1987. I remember a case before that in Norwich where I thought if a jury won't come back with the death penalty on that case, no jury will ever come back with the death penalty.

Our thinking for most of us as prosecutors in the early eighties was that Connecticut juries aren't going to impose the death penalty, and then Michael Ross came along, and a jury in Bridgeport did, and at first I thought that, well, gee, that was because it was, you know, New London; it might be a little different, and they might not be inclined to impose the death penalty. Well, when we came back to New London, it happened in New London.

Then this is all relative -- when you think of it -- relatively soon, 1986, and we're caught up in the appeal process, all of the appeal issues, the trial issues. We weren't thinking ahead to the habeas corpus petitions that would be filed.

When after --when Michael Ross came in and sent a letter saying that he was going to waive his right to appeal -- it's a long story, and I'm not going to get into the details -- but all of a sudden, the defense attorneys started raising issues and appearing on behalf, and I said, oh, I never saw this before. I was astounded. You know, years when I did a little work and opened my eyes a bit, I discovered these issues had been raised another six years ago, and they're all waiting to be raised here in Connecticut.

And, yes, this caught us by surprise. The use to which the post-conviction proceedings would be put, I was very much surprised. It caught me by surprise very much, and I think if we are going to continue to have the death penalty in this state, we have to focus on it. We can't do this to families anymore.

REP. LAWLOR: And I agree. I mean, to me I would say we're either going to have the death penalty or we should just abolish it if it's never going to actually happen. I'm personally opposed to it, but I think just for the sake of the criminal justice system, if it really is a false hope, we should make that not the public policy of the state of Connecticut. We should either do it or get rid of it, and the question is is it actually possible, all factors considered? I'm not sure you can change the fact that there's a lot of very -- as you say -- very smart and very creative attorneys who can figure -- I mean, we can't change that, I wouldn't want to, but that's not going to change. That's a reality that's there.

Whether or not we can change the rules, the procedural rules that govern these things is an open question, and whether or not it's even

constitutional is a question we won't know the answer to for years, I would guess.

KEVIN KANE: I think we'll know -- I think we can know and will know sooner than that, and don't say -- it's not a false hope. A false hope means something that would never be achieved. Unless -- if the law stands as it is right now, we will go on with these proceedings. It's our duty -- I'm saying it's our duty as a division of criminal justice -- it's our duty to pursue these and do the best we can to carry out our responsibility under the law, and ultimately people will be executed (inaudible). They won't be executed because they decide they want to be.

Ultimately, this process is going to play out, and people will be executed.

A couple of other things are going to happen. As this process is played out, the legal issues will be resolved. The legal issues that have not been decided before today will be decided as this process goes on, and the legal issues that haven't been decided will become fewer and fewer and the process will become quicker and quicker.

So, it's not a false hope. It may be an ordeal; it may be a long ordeal; but, it's not a false hope to use the word hope, which may be certainly the hope on the part of some people.

REP. LAWLOR: Well, will you commit, then, to use specific proposals which are emerging today seemingly as an afterthought. It's not a criticism. I'm just saying it seems like listening for the concerns and trying to figure out what, if anything, can be done, can you get some specific proposals to us in the

next few weeks that we can -- I'll confer with my colleagues and the leadership of the Committee -- that we can take a look at, because I actually would just like to cut to the chase, you know, can we actually come up with a deliverable death penalty in Connecticut. As I said, I'm opposed to it, but in fairness to the people who are directly affected, the surviving family members, I think the Legislature ought to weigh in on this, right, and so can you come up with something --

KEVIN KANE: Yes.

REP. LAWLOR: -- that (inaudible)?

KEVIN KANE: Yes, we can, and yes, we will.

REP. LAWLOR: And, if we ended up doing that -- let me -- here's a question for you -- could we pick some date out into the future where if we get to that and notwithstanding all of these herculean efforts, nobody actually gets executed, again, I'd like a sunset on this thing to put this out of its misery as a public policy? I mean, if it comes to that, I mean, can we say ten years from now, 20 years from now, 50 years from now, if it turns out that it is a false hope at that point, we can stop this, because that's what I was thinking 14 years ago, and even though I said the same thing, I probably thought that maybe by the time we got to 2009, I might be proven wrong, but it's just not -- it seems -- if I were in that position, I'd be extremely frustrated, put it that way.

KEVIN KANE: Oh, of course you would.

REP. LAWLOR: And, I think we all have an obligation to the people who are in that

position to, at least, put it out there for a debate and figure out whether it's a good idea or not, and see what happens. I'm kind of pessimistic, you seem to be optimistic, but at a minimum we should take a look at it. Right?

KEVIN KANE: As to -- I'm not answering your question as to a sunset law, whether we ought to have a date. I don't know that that's a good idea or not. I tend to think it's not, but that's another -- once again, that's a question for you. You're a Legislator; I'm just a journeyman prosecutor.

REP. LAWLOR: But, it's a special kind of cruelty to let this go on for 30 years.

KEVIN KANE: Yes. It's wrong to have this never-ending post-conviction process. That's wrong. It's very wrong and, yes, we can come up with a proposal which should narrow it and limit it and make the process reasonable and protect the -- protect the rights of the defendants Yes, it can be done. It's been in other states. We can do it.

I don't think it's -- and I really didn't want to tie this to the need for habeas reform, but it's been done. I don't think the proposal would be too much different than our habeas reform. Then we could tie some maybe -- and I don't want to get into the midst of the battle between the Legislature and the judicial with regard to rule-making authority, but I think maybe the judicial, there are ways to deal with the discovery and the process to make this have some reasonable limits on it that don't exist today.

REP. LAWLOR: Thank you, Kevin. Are there other questions? Senator Kissel?

SENATOR KISSEL: Thank you very much. I really appreciate the dialogue, and first of all, I want to thank you because I think your testimony this afternoon has been a breath of fresh air. Nothing against Chairman Lawlor; he doesn't hide anything. It's like a chess game. All the pieces are right there, but forgive me if I do not put a lot of faith and confidence in coming up with reforms by an individual who clearly hates this policy, does not believe in the death penalty whatsoever.

It strikes me as that old parable about, you know, the very clever rabbit saying don't throw me into the briar patch, don't throw me into the briar patch, and then all of a sudden into the briar patch the bunny goes, and all of a sudden nobody can get that rabbit. Smart rabbit. And, at the end of the day, my concern is if we do anything legislative with this death penalty statute that we have, it will create another new basis for a slew of appeals.

I agree with you, and we haven't agreed on everything, we haven't agreed on the nuances of three strikes and you're out, but I think on these issues, you are right on, and we're probably three-quarters of the way down the road, and maybe we have several more years to go, but I think the dialogue between you and Chairman Lawlor regarding false hope and there's hope is an important consideration.

I think mergers and acquisitions is the term a poison pill provision. In other words, entities will create provisions within themselves so that they can get gobbled up in a merger or acquisition with another business entity. It will work to undermine that entity that gobbled them up.

Given what you stated thus far this afternoon -- and I say this with the utmost respect to Chairman Lawlor because he stated it quite clearly 50 ways to Sunday -- he is against the death penalty. I'd have to go back and check the transcripts, but my recollection is -- and I have the highest respect to Richard Tulisano -- when he was cochair of this Committee, I don't think he was real keen about the death penalty either, and we can keep setting up constructs that create on paper and in statute a death penalty statute, but it works to undermine and then after the fact one year, ten years, five years, fifteen years after the fact, we'll say see, it doesn't work.

So, we've got to get rid of it. See, it doesn't work. We've got to get rid of it.

And, so, would your advice to us to be this afternoon, given the fact that we don't have anything before us, there's not a bill before us today at this public hearing, and I want to commend you for responding to a lot of these questions, not having prepped for this. The only bill we have is changing the burden of proof beyond a reasonable doubt to this absolute provision, which so many of my colleagues have said unworkable because who knows what that is, and there's nothing absolute in this world, and then the other one, the House bill, is just a complete repeal of the death penalty, and we're going to make it life without the possibility of release.

So, given the fact that -- and we heard testimony from Attorney Culligan, Chief Public Defender Storey, that not only had they predicated some of these very creative appeals on reforms that took place all of 14 years ago, but that there are some creative appeals or bases for appeals based on reforms that

took place in 1985, and so I'd love -- I'd love to work with Chairman Lawlor and others on this Committee to come up with a more workable death penalty statute, but I don't have confidence that at the end of the day we'll do anything but muddy the waters and create another whole slew for those folks who oppose the death penalty for a variety of reasons to hang their hat on and set a whole other decades and decades of appeals going forward.

And, so, I appreciate your willingness to work with the Chair, but we don't have any proposals on paper right now, and I don't want to create false hope for my constituents either, and do you have any feelings that we could come up with anything that would change the current legal constructs that the loyal and dedicated defense bar wouldn't use to not only for all cases going forward create a whole new set of appeals for new terms, new provisions, but then reach back to things that might almost be settled right now for matters that --for crimes that occurred in the beginning of the nineties, that maybe we're almost there, and that any changes we make to that death penalty statute, they're going to be able to go around and start building a new set of appeals.

KEVIN KANE: That's why I made the -- and that's why I'm sure it was Steve Sellers who was in charge of the appellate unit at the time. He came back and said don't tinker with the death penalty statute itself unless -- I don't know whether he said unless you're going to repeat it. I'm saying --

REP. LAWLOR: Wouldn't you say for accuracy it was Harry Weller that said that?

KEVIN KANE: Okay. It might have been Harry. Yes, it would have been. The 543a or 54, whatever it is, the capital felony statute and then the penalty phase statute leave as is. I'm not suggesting to change that, and you shouldn't change it.

The post-conviction proceedings, however, either setting up a post-proceeding, special post-proceeding, post-conviction proceeding procedure for death penalty cases, that could be done without jeopardizing those issues, and that could be done properly, and that could be done in a way that wouldn't create a whole, new, long-lasting and lingering set of appeals.

SENATOR KISSEL: Well, actually --

KEVIN KANE: Now, would people agree to it? I'm not going to predict that one. I mean, I predicted many people will disagree badly. The opponents -- that's the trouble with this issue, I think, and maybe it's a reality with this issue, and maybe that's why it's not trouble, maybe that's life, and that's the life we have to address.

The up-and-down issue is should we have a death penalty or not. If the answer to that question is clearly yes and if there really is that support for it in the state of Connecticut, then I'm sure there would be the support to make it work and make it work right and properly, protecting the rights of defendants, protecting the rights of the innocent, and making it work. If there's a real genuine will to have a death penalty, there will be the will to do it right.

That's the question, and that's when I said there's an ambiguity there. I think there's a

feeling at times that there's the need for a death penalty, but then when it comes down to reality, well, let's think about this, or well, let's let the process take care of itself, or well, let's let time go on, or well, let's let a jury go with that, or well, maybe a death penalty can be imposed but it will never be carried out, so why really worry about it because we don't have to worry about it because we know if we say the death penalty is going to be imposed, well, it won't be carried out in our lifetime.

Well, that's wrong. If we decide it's going to be imposed and it should be imposed, then we'd better have a way to do it, and I'm not too sure what the reality -- that's why you're here and that's why you're wearing -- and this time it's yours. It's not a jury that's going to have to make a hard decision. It's really your hard decision to make.

What do the people of Connecticut really, really, really want, not just what do they say they want at the moment they're thinking of a horrendous crime. That's not it. You can't decide that. I think we in law enforcement learn to deal with it. We see horrendous crimes; we have reactions to those crimes at first, and we learn to deal with those emotions.

But, when you think in terms of a death penalty, you think in terms of a horrendous crime and say of course it needs the death penalty, but is that really what the public really wants in its hearts? You have to decide that. If it is and if the will is there, yes, I'm sure we can enact a post-conviction proceeding. There are smarter people. Together everybody can put their heads together and come up with something that

will work.

SENATOR KISSEL: Oh, I agree with you completely that I think the public -- I think the general mood in this state waxes and wanes, and I think there's some people that to the end of the day are going to be opposed to the death penalty no matter what, and there's going to be other people that are supportive of the death penalty no matter what, and then -- and I don't even say that the other folks are in the middle. I don't think it's even as clear as that. I think it waxes and wanes, and I don't necessarily feel that it waxes and wanes with what's the issue of the day on the front pages of the papers.

I'm saying that there's real mixed emotions, and I think that you hit that nail on the head, and it's not just with the public. And, I agree with you, this is our decision, not your decision. This is why we run for election, to represent and articulate these opinions. But, just in how the system itself deals with these cases, I think sends real different signals. I mean how they traverse through the court system, not necessarily how the State's Attorney or the Public Defender handles these matters, but we're still in flux regarding it, and that's why if you felt that all that time and effort could be put in coming up with legislation that would not jeopardize the underlying, underpinnings of our current death penalty statutes, I'd be willing to invest the time and effort to look into that with you to try to hammer out a proposal.

I get concerned -- and it is certainly not a criticism of Chairman Lawlor because as much as we don't agree on a lot of things, we agree on a lot of other things, and I have the

utmost respect for him, but I have this sort of trepidation when someone who absolutely has publicly stated, I oppose this policy, but I'll help you do it. It just causes me concern, and if we can get there, that's great. I'd rather have that bill debated in the House or the Senate than these other bills, which leads me to my last point.

With the previous speaker, the judge who had proposed the Senate bill where there was this two terms, one is this absolute certainty, if we had anything other than beyond a reasonable doubt across the board, it strikes me that that would raise constitutional issues and I threw out their equal protection, due process, and things like that. It's been a long time since I took constitutional law in law school, and I'm not up arguing cases before the Appellate or Supreme Court on constitutional grounds, but it just strikes me that if you had these two different standards that on the one hand as a defense attorney, depending on the fact scenario -- let's say there's no DNA or anything else -- hey, give me this higher standard because I know the State's never going to meet that.

Conversely, if I have a criminal defendant and I'm charged to represent them zealously and the State's Attorney says I'm not going to charge you with this capital offense, I'm going to charge you with this lesser one, and all of a sudden it's just beyond a reasonable doubt which, by the way, I think is a very high standard, beyond a reasonable doubt. It's probably improper to just say just beyond a reasonable doubt, but I'd almost have a -- I'd have a very difficult time saying to my client, well, that's the burden for you, but had you been charged with this even more horrible offense and they were pursuing the

death penalty, I'd have a better feel for your case and you being able to beat the rap because I don't think they could meet that burden.

So, do you see that that notion, as interesting as it is, has all sorts of constitutional problems with it and then it would be completely unworkable, and while it's interesting for today and this afternoon, that really doesn't bear any further serious consideration after today?

KEVIN KANE: I'm not sure about the constitutional issue with regard to that. It might be. I hadn't thought of it before. I do think without regard to that claim it's completely unworkable and might well be arbitrary, and certainly is irrational.

SENATOR KISSEL: So, really, all we have before us, if we just set that one aside as completely unworkable, is repealing the death penalty, and that's what we have squarely before us, and it's that age-old battle in this building, the feeling of the State as articulated by its elected Senators and Representatives to repeal the death penalty or not to repeal the death penalty, and that's all that we're really about this afternoon when it comes to that issue.

KEVIN KANE: And, I don't think that's -- I don't think we should just say -- and I'm not -- don't take this the wrong way. I don't think we should be saying, well, that's all we're here for is this time-old battle. I think you have to take it this way, and I would hope that what you don't do is postpone making that hard decision about really making that decision.

This is the time. Do we want it or do we not want it, and don't say, well, I don't think I have to decide that thing, let's see if everybody can put together a workable post-conviction proceeding, and postpone making that hard decision. You're going to have to bite that right hard and do it right, and we shouldn't waste or spend more time now. If the answer is yes, we should have it, then let's go to work. If the answer is no, then there's no reason to go to work on that.

I think that hard core issue has to be decided: What's the right thing to do for the people of Connecticut today on this issue? You're right. It has been debated; it has gone back and forth. What's the right thing to do about that? If the right thing to do is that, we want a death penalty, yes, we can set up a post-conviction procedure that won't -- that will reduce the agony that people have to go through before it's imposed.

But, don't say I'm not going to really address that issue. It's a hard decision to make. It's a very hard decision to make. It's a hard decision for jurors to make who have to make that decision. It's a hard decision for prosecutors to make who have to decide whether or not to charge somebody. It's a decision that under the law we can't avoid when it comes time to make it because we have to make that decision.

What I hope you don't do is say, well, let's not really make that decision, let's see if some post-conviction procedure can be made to take care of that problem.

I don't think cost is a worthy issue to debate. If it's right to do it, it doesn't cost that much to do it. You can get arguing

about deterrence and read the studies, yes, it's a deterrent, no, it's not a deterrent, and in your heart you'll have to decide are any of those studies worth anything or are they based on people who think we ought to -- how -- that's not it. It's really what I said. It's a fundamental moral and ethical decision about who we are in the state of Connecticut today and what we want.

There are those who say if we really do value life as we say we do, then why don't we impose the highest penalty on somebody that takes a life. There are those who say we shouldn't take lives in the state of Connecticut in this day and age, we shouldn't be taking people's lives. That's the decision. It really is a moral and ethical fundamental position that goes to our very core as a people. I don't know.

SENATOR KISSEL: I think that voting on these proposals up or down gets to that. I do have concerns when we go back because the lessons that I've gathered over the last -- I've been here 17 years -- is that when we did want to make it a better bill, and while that was debated, I think at the end of the day the majorities in both the Senate and the House and the Governor that signed the bill thought we were making a better death penalty bill, and it turns out that it backfired, so we can have the best of intentions and we can go down the road of trying to come up with post-conviction appeals addressing that, I think we haven't caused to undermine the process, but at the end of the day perhaps we shall.

But, I have no problem standing up -- just as Chairman Lawlor says he opposes the death penalty, I clearly in my views of longstanding

support it. In the last year, I've walked death row and seen those inmates twice, and I know what it's like, and gone back and looked at the crimes that those individuals committed, and it is difficult. It is difficult to get in prison in this state in many instances. It is extraordinarily difficult to find yourself on death row, and nobody is debating the innocence of these individuals.

Whether we can actually get to a construct that is effective and timely and reasonable in light of the opposition and how folks that are opposed to the death penalty in our state will utilize every appellate procedure possible and be creative and zealous, I don't know whether we can speed it up. Maybe I'm a bit more jaded. I'd like to be optimistic and think that we could go in there and make it better, but every time we try to make it better, it ends up undermining the ultimate goal, and I'm almost to the point -- and I think it's a rational approach -- that it may be a year, it may be two years, it may be three years, but for this state to really face this issue squarely in the eye, it may take the imminent execution of an individual who does not wish to be executed to focus the state on this issue.

Either that or just dedicating more resources as Ms. Storey indicated would be helpful to her area with the Public Defenders, would be helpful to you folks with the State's Attorney's Office, we can dedicate those resources and we can marshal them and prioritize them from other areas, but to try to fix this, I'm just -- I'm cautious because every time we try to fix this and we're brought into that argument, throw me into the briar patch, that's where I hate going there

and I don't want to go there, and all of a sudden, the rabbit's in the briar patch, and that's exactly where the rabbit wanted to be, and we're no better off at the end of the day. I just -- I have that leeriness about the whole situation, so I appreciate your willingness to work with us, but at the end of the day, I'm not so sure that we can fix what we have on the books.

KEVIN KANE: There's something else to think about. You just said there will come a day when we execute somebody who doesn't want to be executed and then we'll face the decision. Is that really -- when Michael Ross decided he wanted to be executed, did people really say, oh, what the heck; he wants to be executed; let him go? Is that what the public thought and they didn't become concerned about the death penalty because they said oh, well, he wants to be executed.

He committed horrendous crimes. He committed absolutely horrendous crimes, and if anybody -- well, that's another -- did the public really say, well, what do we care; he wants to be executed? Did we not bite the bullet them because we executed a human being? We executed a human being because that was the law of the land, and if anybody deserved to be executed -- I was the prosecutor, one of the -- Bob (inaudible) chose me for me. I chose after him to pursue the death penalty and took the second -- if anybody deserved to be executed under our law, he did, and we executed a man.

Whether he wanted to die or not doesn't relieve us of the responsibility for having done what we did. We executed him because under our law, the law called for him to be executed, and that was the lawful thing to do.

SENATOR KISSEL: Well, I think -- I have -- I understand where you're coming from as someone who's been through the death chamber and watched what it was going to be like for when Michael Ross walked in there, and has spoken to his constituents, and, again, maybe because I have six correctional facilities and 8,000 inmates in my district, that my constituency seems acutely aware of these issues. I don't know if that's the case in the 35 other Senate districts in the state of Connecticut. I don't know how close to home these issues are for people who may not be that close to criminal activities or the victims of crimes or know the family members of the victims of crimes.

I think this state sort of stepped up to the plate in many ways when we had Michael Ross coming down the pike whether he wanted to be executed or not. Governor Rell had to be on board, and she had to come forward and say if you veto -- if you send me a bill stopping this, I'm going to veto it because I support the current construct of our state statutes.

What concerns me though -- and I'm not afraid; I'll vote on this bill any way to Sunday -- what concerns me, though, is how adamantly the opponents of the current death penalty feel about the issue, and that almost any grounds to undermine its effective utilization in our state are fair game, because as you indicated, it's running out the clock. Running out the clock is victory.

For folks in the opposite position philosophically, morally, ethically, legally, religiously, or for whatever reason or ground, to try to make the system more effective or more timely or more reasonable is far more

difficult, and every effort we make in that direction gets flipped on its head by the opponents who want to continue to just drag it out, drag it out, drag it out, and that's the difficulty.

So, I don't think anybody's running from the issue. I think that's the difficulty that we face, and my guess is this is the year that they'll be strongly articulated debate in either the House or the Senate or both chambers, but all I have before me here are two bills that want to get rid of the death penalty in the state of Connecticut.

REP. LAWLOR: Thank you. And, Attorney Kane, I just want to say that I thought your sort of political science analysis of this phenomenon amongst citizens in general of having these two minds on the death penalty I think is very accurate actually based on my experience. You know, there's a lot of people who philosophically seem to be okay with it, but have these reservations nonetheless when it comes to -- it's a very interesting issue to think about,to talk to people about, and I think in many ways you hit the nail right on the head and I can only imagine what a difficult position that puts prosecutors in, trying to figure out what's the right thing to do, given this sense that maybe the support isn't quite as strong as it seems to be. I mean, because it does seem it's in flux, that people have two minds about it.

Nonetheless, I thought it was interesting what you said.

KEVIN KANE: When I said difficult position it puts prosecutors in, that's part of our job to decide what the facts and the law, what the facts and the law require us to do. It's a

decision that takes hard work and hard thought and analysis of the evidence, but don't get me -- don't misunderstand. It's not something where we get queasy about it, if that's what you mean. We go about doing our job as best we can, and the dedication of the prosecutors who I've seen working on cases has been terrific. I've seen prosecutors who may not really themselves agree that the death penalty is right, but work day and night without taking extra time off for vacation time to do the job that they have to do to meet a deadline.

The amount of work that went in on both sides in the Michael Ross case, which was as intensive an experience as I've ever had as a lawyer on the last few months, was phenomenal, and it wasn't people saying gee, this is a hard decision for us to make. It was people saying this is what we have to do under the law because this is our obligation to do it, and people worked harder than you'd ever imagine to do what they thought their duty was.

REP. LAWLOR: And, that's my sense, too. I mean even though I'm opposed to the death penalty, if I was a prosecutor, I'd enforce the law and would have no reservations about doing that. But, all I'm saying is it's sort of popular. The public opinion about this seems to be more complex than just for it or against it. I get that impression from talking with people, and that's why I think these debates are so interesting, and by all accounts for the past 30 years, this has always been sort of the highlight of the debating season, let's say, in the Legislature, this particular issue.

But, also, it's complicated because people are agonizing over all these different aspects of

it, so it's a very interesting problem for us as policy makers, and I'm sure in many ways for prosecutors as well as people who are charged with executing the law of Connecticut. It's complicated, but it's interesting.

Representative Fox?

REP. FOX: Thank you, Mr. Chairman, and thank you, Kevin, for your testimony today. You traditionally are one of the longest individuals who come before us in terms of your testimony, and it's because we have the most questions for you, not that you're the most -- you speak the longest, but I think it's -- you do have a lot of experience and expertise that we value.

My question involves this issue surrounding absolute certainty versus beyond a reasonable doubt, and I think when someone initially hears absolute certainty in the context of a death penalty case, they would say, well, of course, because I don't think anyone no matter where they stand on the issue wants there to be any doubt as to whether or not we're going to execute a potentially innocent person, but then I started thinking a little more, and I was thinking in the context of DNA evidence where there's one-tenth of one percent chance that an individual may not -- the DNA evidence may not match, and I wonder would that alone be sufficient to void out absolute certainty, and I don't know the answer to that, but I'm just -- those are the kinds of questions that I'm thinking as we debate this topic.

And, my question for you then would be -- because I was reading through a criminal charge where it specifically states in a section of proof beyond a reasonable doubt, that the jury does not have to find absolute

certainty.

KEVIN KANE: Right.

REP. FOX: And they do not have to prove guilt beyond all doubt or to a mathematical or absolute certainty, and my question would be is there a way to increase the standard without reaching that level of absolute certainty in a capital case? Is there a way to go beyond proof beyond a reasonable doubt to make certain that we're not going to or at least more certain that we're not going to execute somebody wrongfully, yet we don't go to that level where we, you know, even a DNA, positive DNA finding could somehow be questioned because of the mathematical minute chance that it may not be the person?

KEVIN KANE: Not if you want to keep our system a rational system of justice, which I think we have to do. I don't think there's any way you can divine. If you read carefully that reasonable doubt standard or just the portion of it that I read earlier, that is as certain as you can get in a rational, logical system of justice that is the only kind of system that we can -- we as human beings can have.

If you're asking for anything like absolute certainty, there is no absolute. Even that 100th of a million or whatever figure, that's not absolute, is it? You're going to have other arbitrary -- one person's absolute certainty is not going to be another person's absolute certainty. That beyond a reasonable doubt statute charge, when you read it, proof beyond a reasonable doubt is proof that precludes every reasonable hypothesis except guilt and is inconsistent with any other rational conclusion.

How can you get anything beyond that, which is not irrational, and how could we say that in order to convict somebody of a crime, we have to prove beyond an irrational doubt? I don't think you can do anything other than the reasonable doubt standard that we have that is honored and jurors understand. I don't think you can get any higher. Yes, can we make-- are mistakes made? Hopefully, very, very few are. We're never going to be perfect; we're never going to be -- we're never going to have a system that is absolutely right either. We're never going to have a system that is absolutely right in it. We have a system now that is weighed heavily toward letting a guilty person go free rather than convicting an innocent person.

This standard is the best we can have, and I don't think we can step over -- any step we take beyond it will be irrational.

REP. FOX: Are you aware of any other jurisdictions that have gone beyond this standard?

KEVIN KANE: No. That doesn't mean there aren't any either, but I don't think there are, and I don't see how there could be and, no, I'm not aware.

REP. FOX: Okay. Well, thank you, and thank you, Mr. Chairman.

REP. LAWLOR: Senator Gomes?

SENATOR GOMES: I was going to ask the same question that Representative Fox asked about how do you get to absolute certainty. I accept your answer, but I also want to comment on what has happened here today about the testimony you've give and the back-and-forth between attorneys. There are more attorneys

on this Committee, and us lay people try to understand what is going on in the meanwhile, and I don't want you to throw me in the briar patch, but I've always been against the death penalty since years ago when I read a book called The Solidad Brothers and they spoke of death-oriented juries, and this is what a lot of minorities faced in the past.

Now, when we talk about the Michael Ross decision and would it have affected anybody one way or the other, I don't think in my community they gave a damn about Michael Ross' decision to whether he wanted to be put to death or not. There was an overriding certainty that we in my community are mainly against the death penalty because we're the ones that suffer the most under it.

Whether or not -- in conclusion, I just have this to say, that I'm always going to be against the death penalty because there's no certainty at all that somebody is going to be guilty, and I don't know how anybody can go past that and say from a reasonable doubt, absolute certainty. That's not even something that I'm even interested in. I'm interested in abolishing the death penalty altogether, and I just wanted to tell you I really enjoyed your testimony because I know sometimes you go out, you go overboard when you make public statements or anything, but I like your answers because they're straightforward and they aren't half-baked or whatever, and I got more out of it than I've ever gotten out of some testimonies I've heard about different things here. And, it just comes down to whether or not you want the death penalty or you don't want the death penalty, and I think we ought to abolish the death penalty because it has no value, it has no value to prove that it does anything to deter crimes of killing

people whatsoever.

So, I just wanted to say that, you know, like I only had one question, and you answered it when you answered Representative Fox. I thank you for your testimony.

KEVIN KANE: Thank you, Senator.

REP. LAWLOR: Further questions? If not -- I'm sorry -- oh, Senator Labriola. I'm sorry.

SENATOR LABRIOLA: Thank you, Mr. Chairman. Just a few clarifying questions, Attorney Kane.

If we were to abolish the death penalty, you're fairly certain that it would be very rare that a defendant would take a plea to a life without parole sentence?

KEVIN KANE: I didn't say very rare. Certainly, defendants don't plead guilty just because they are guilty and they come in, wanting to plead guilty. Defendants who plead guilty do so because they perceive and their lawyers advise them that they will be better off because -- if they do plead guilty, and that means they're getting something better than they would risk if they go to trial and are convicted.

I do know that defendants have pled guilty to maximum life or to murder charges with high sentences because of the prospect that they might be exposed to the death penalty if they didn't do that. There are studies which show --there are studies which show that there are a higher number is guilty pleas in those states that have the death penalty. There are a higher number of guilty pleas to either natural life sentences or very high sentences in those states which do have the death

penalty.

SENATOR LABRIOLA: Of course. Right?

KEVIN KANE: Yes.

SENATOR LABRIOLA: How often does a person plead guilty to a capital crime? Ever?

KEVIN KANE: Oh, I've known some who have done it, yes.

SENATOR LABRIOLA: Very rare, though, right?

KEVIN KANE: Rare, yes, but I've seen some who have done it.

SENATOR LABRIOLA: If the most severe penalty were life without parole and there were no death penalty, it would be rare?

KEVIN KANE: We'd been trying more -- yes. We'd be trying -- if the death penalty was removed, that doesn't mean we would be trying fewer cases. In fact, probably we'd be trying more cases.

SENATOR LABRIOLA: And, those cases would be vigorously defended, just as the death penalty cases are vigorously defended now. Isn't that right?

KEVIN KANE: Absolutely. I think I said that earlier and, yes, you are right.

SENATOR LABRIOLA: And, so there really wouldn't be a tremendous cost savings because that's the ultimate penalty? If we got rid of the death penalty, the most severe penalty you could get would be life without parole, without possibility of release, so, of course, they would be just as vigorously defended as the

death penalty is right now. Correct?

KEVIN KANE: Right. Yes.

SENATOR LABRIOLA: And, you're clear that -- you're fairly certain that it would be very rare for a prosecutor -- very unlikely that a prosecutor would seek the death penalty if this bill passed because it would be the law of the land and even though it's supposed to be prospective, just constitutionally it would be very hard for a prosecutor to prosecute a death penalty case if the act occurred before passage of the law. Right?

KEVIN KANE: Yes.

SENATOR LABRIOLA: And, this report that we got from OLR listing the ten people who are on death row, as far as you know, none of them is claiming actual innocence. Isn't that right?

KEVIN KANE: That's correct.

SENATOR LABRIOLA: And, each of them were very ably represented. Correct?

KEVIN KANE: Yes.

SENATOR LABRIOLA: Now, I just want to conclude with the fact that when we last debated the death penalty in the House of Representatives -- and I guess it was five years ago -- I talked about how we could streamline the appeal process just as the state of Florida does by assigning cases to a single judge, by setting definite parameters on when different -- when different parts of the appeal have to be filed, other states have workable death penalties like Florida with reasonable expectations for the victims' families, so that there can be some expectation that the

death penalty will, in fact, be carried out unlike our current situation.

I mean, it's certainly possible that of course we could streamline the appeal process and do it in a constitutional way because other states are doing is. Isn't that correct?

KEVIN KANE: Yes.

SENATOR LABRIOLA: Thank you.

REP. LAWLOR: Further questions? Representative Walker and then Representative Hetherington.

REP. WALKER: Good afternoon, sir.

KEVIN KANE: Good afternoon, Representative Walker.

REP. WALKER: I was -- I was totally fascinated. As Senator Gomes said, there are some of us up here who are not lawyers,and listening to the debate that you had with Representative Lawlor was extremely informative, educational and enlightening because you made some very strong statements that sort of resonated in my mind, and you said that this wasn't a moral or ethical fundamental decision; it's about what the people want, and it's about -- this is a statement about Connecticut is all about.

And, I closed my eyes for a moment, and I said, hum, wouldn't that be the same thing that we would be saying about raise-the-age? Isn't this a moral and ethical issue? Isn't this something that what Connecticut wants -- and you also said in your beginning statements that it's not about cost.

KEVIN KANE: Yes.

REP. WALKER: So, I think that we need to hear that

a little bit more from more people because this is an issue about what is Connecticut and what does Connecticut say about its children in the same tone that you had in the same vigorous conversation that you had about the death penalty. Thank you.

REP. LAWLOR: Representative Hetherington and then Representative Conway.

REP. HETHERINGTON: Thank you, Mr. Chairman. I also found extremely enlightening the colloquy you had with Chairman Lawlor, and I certainly thank you for your presence here today and your comments.

KEVIN KANE: Thank you.

REP. HETHERINGTON: But I wanted to make sure that I understand one point that you made clearly. If this law were to pass, then someone who was sentenced and who now is on death row or who -- someone who committed a crime after -- I beg your pardon -- prior to the effective date of the legislation, the argument perhaps successfully could be made to the Supreme Court that unlike other legislation which changes or removes the criminal status of a crime with respect to acts committed after its effective date, this changes the penalty so that in appealing to the Supreme Court, the Court might say -- and an advocate would say -- well, the popularly elected Legislature of Connecticut passed this; therefore, the sense of the community is that this is cruel and unusual punishment.

Is that correct?

KEVIN KANE: Yes. Not exactly like that, but yes.

REP. HETHERINGTON: Okay. So it was unlike in the

changes in the rape law that I think were referenced earlier because this isn't a change in the criminal status of particular acts, it is it is legislation addressed to the penalty --

KEVIN KANE: Yes.

REP. HETHERINGTON: -- for those acts.

KEVIN KANE: Yes.

REP. HETHERINGTON: Okay. Do I have that right?

KEVIN KANE: Yes, I think you do, and I think you actually hit the nail on the head in a way that I hadn't thought about or been thinking about it at the time, but that's the distinction. The court would have to decide whether or not this punishment is cruel and unusual punishment, and a factor that it would look to to decide that question would be the action of this Legislature, so yes, there's a distinction between the two. That's a good distinction. I hadn't thought of it like that.

REP. HETHERINGTON: Okay. Thank you for clearing that up. Thank you.

REP. LAWLOR: Thank you. Representative Conway?

REP. CONWAY: Thank you, Mr. Chairman. We've heard a lot of testimony today on the cost of things, people's philosophical views on it, and numerous other things, and putting all that aside because I think the cost thing, as we just heard additional testimony on, it would just get transferred to the cost of defending somebody who was sentenced to life without possible chance of release, and so there probably wouldn't be any savings from

either your office or the defense in that particular case, which I think is where we bear most of the cost for this particular legislation.

But, if we get back to the victims and those that are getting brought through the system because of our current process of appeals and habeas, and get brought back through time after time over a period of 20 or 30 years, would those people who are most interested in hearing from you, I guess, say to you after that process, after being -- going through it, that if they were offered again the opportunity for this individual to be sentenced to life without the possibility of release for the next 60 or 120 years until he dies in prison, to be sentenced to a six by eight cell with all liberties stripped, what would they say to you after having been through maybe 10, 20 years of holding onto the fact that this individual may be sentenced -- may be put to death at some point, and then which is more -- sounds more humane to them, somebody taking a needle and they're done with it, or somebody actually then living out that 60 or 80 years in a six by eight cell with all liberties stripped?

KEVIN KANE: The answer to that question is as different as there are individuals that go through that. I've seen people who lost a family member and a loved one through a horrendous, horrendous crime who didn't want to see the death penalty imposed or who felt God will do justice or who said you do the right thing. I've seen other people who wanted the death penalty understandably and wanted it very intensely, and would go through anything for as long as it took to see it out.

I have seen people who have gone through it

for years and years and 20 years and would do it again because they lost a loved one, they said what my loved one went through, I'll go -- I don't care, I will go to whatever it takes to see it out. The reactions of people who feel that way are completely understandable, but they are as different as there are people, as people are different.

REP. CONWAY: Thank you. Thank you, Mr. Chairman.

KEVIN KANE: There are most people who couldn't say I'm not going to seek the death penalty because I'm going to preserve you from this pain. That would be an awful thing, and that would be wrong to do that because they're willing to go through the pain; they don't care about their own pain; they lost a loved one, they're grief-stricken, it was a horrendous crime, they understandably feel that they want the death penalty, and you can't say we're not going to do this just to serve you. That would be wrong to do and (inaudible).

The other side of the coin is we can't decide what we're going to do based solely on the wishes of the victim other than -- we'd have a truly arbitrary system. If we seek the death penalty only where a victim wanted us to seek the death penalty and didn't seek the death penalty where a victim's family didn't want us to seek the death penalty, that would be arbitrary as could be.

We have to consider their wishes. We have to consider strongly and factor that into our decision, but we can't -- we can't do -- make our decision based entirely on what the victim wants or doesn't want.

REP. CONWAY: Thank you. Thank you again, Mr. Chairman.

REP. LAWLOR: Representative Holder-Winfield?

REP. HOLDER-WINFIELD: Good evening.

KEVIN KANE: Good afternoon.

REP. HOLDER-WINFIELD: I have a question. Representative Labriola just talked about the cost and how the cost would simply be shifted. Is that true? Would you still -- would we still have to maintain the Public Defender's Office, the level of staffing? Is this actually true because I didn't actually hear you respond to that and say whether you thought it was true or not, so I just want to hear your opinion on that because it was said it is true, and I'm not sure that it is.

KEVIN KANE: That we'd save a lot of money on this if we saved the staffing? I don't think we would save anywhere near the money that people are predicting we would have.

REP. HOLDER-WINFIELD: My question is -- my question is Representative Labriola was saying that if we went to life in prison, that the cost savings we're talking about by abolishing the death penalty would disappear because of what we would have to do -- because of transferring everything into defending against the life imprisonment sentence, and I'm asking you because I didn't hear a response from you, and since you're sitting here, you're the only person I can ask. I'm asking you what do you think the reality is in that situation?

KEVIN KANE: I think the reality is if we were to abolish the death penalty, we'd still be spending money prosecuting people and trying

cases where the maximum sentence was natural life. Then there still would be great litigation, the same kind of litigation, especially with post-conviction litigation challenging the natural life sentences.

I don't think the Public Defenders would take their 14-person capital felony unit and eliminate those 14 positions. They'd all be put to use in other cases, and I don't see the cost saving anywhere near what people predict.

REP. HOLDER-WINFIELD: I won't pursue that with you anymore, but I'll you another question.

Representative Hetherington just talked about basically whether -- if we were to do this thing, what effect it would have in terms of the people who already are on death row or potentially going to death row, and it seems to me if this is the right thing to do or if this is what we envision, if we see ourselves as the state of Connecticut doing this thing because it's the will of the people as enacted through the Legislature, whether or not it puts us into situation where there will be cases that come up later, it seems to me it's a strange argument to make to say that maybe we won't do this because we will get into that situation if we see it as the right thing to do.

I'd just would like you to weigh in on that, and I guess -- I said earlier that the victim is important, and I think that the reason that we would be doing what Senator Hetherington is alluding to is mostly because of the victim, because if we decided as a state that this is an important thing to do or it's the moral thing to do, or whatever reason we decide to do it, I can't see another reason to not do it for that reason, and it seems to me that at

that point, it's exactly what you just said, it's arbitrary.

So, I'm just wondering what you think.

KEVIN KANE: Well, the one thing I want to make clear is that don't think by repealing the death penalty prospectively for crimes committed in the future that the death penalty is going to stay intact for those cases that are pending now or where it has been imposed because by repealing it prospectively, I believe that that would be the end of executions. Nobody would be executed whether it's been already ordered and they're on death row or whether it's in regard to a pending case.

REP. HOLDER-WINFIELD: I'm not sure that you've actually answered my question, and I'm not -- I'm not -- I'm trying to get you to -- you're sitting here as a person who has much experience in this area. You're an expert for all intents and purposes, and I'm trying to find out if what Representative Hetherington is saying is true. From your perspective, is that a reason not to do what we potentially could be doing if we were to pass that bill?

KEVIN KANE: It's a reason not to pass that bill. I'm saying --

REP. HOLDER-WINFIELD: So your answer is yes?

KEVIN KANE: I'm saying it's a reason -- don't pass that bill and leave it without addressing -- do it right. Don't pass that bill repealing the death penalty prospectively and then leave it in the hands of prosecutors and the courts to deal with all of those pending cases in a way that I have told you we'd probably have to deal with them.

I'm saying if you're going to pass a bill repealing the death penalty, do it right and repeal it immediately.

REP. HOLDER-WINFIELD: Thank you. Thank you, Mr. Chair.

REP. LAWLOR: Any further questions? If not, thank you very much, Attorney Kane. I know it's been a lengthy session, but I think has indicated you have given us a lot of interesting and important information for us to chew one while we think about this public policy decision, and also we hope you will get back to us when your colleagues come up with revisions to the habeas appeal process (inaudible), and we'll try and be sure that we have a hearing on that as soon as possible.

KEVIN KANE: We will. Thank you.

REP. LAWLOR: Next is Reverend Brown followed by Christopher Francis, Johanna Chapman, Michael Culhane. Is Reverend Brown here? Is Christopher Francis here? Hello, Mr. Francis.

CHRISTOPHER FRANCIS: Thank you, and greetings, honorable Senators and Representatives, members of the Committee, Representative Walker, thank you. My name is Christopher Francis, and I'm a student at the UConn School of Social Work and a former correction officer who has had the opportunity to work with 16- and 17-year-olds in prison.

I'm here in regard to H.B. Number 6386, An Act Delaying Implementation of Legislation Raising the Age of Juvenile Jurisdiction.

I urge you to reject the proposal to delay raising the age of juvenile jurisdiction on

REP. LAWLOR: So you worked with female inmates who --

CHRISTOPHER FRANCIS: That's correct, sir.

REP. LAWLOR: -- 16- and 17-years old. How long did you do that for?

CHRISTOPHER FRANCIS: I did that for three years.

REP. LAWLOR: Okay, great, and now you're a full-time student, are you? Is that right or are you still --

CHRISTOPHER FRANCIS: I'm a full-time student, sir, and I also still work for the State in a different capacity.

REP. LAWLOR: Great. Good for you. Thanks. Any further questions? Representative Walker?

REP. WALKER: I want to thank you for your testimony. I think you kind of said the same thing that we sort of heard in the other debate with Mr. Kane, that this is a moral and ethical issue, and we need to make it something that Connecticut can be proud of, so I agree with you, and thank you for your testimony.

CHRISTOPHER FRANCIS: Thank you very much.

REP. WALKER: And enjoy law school.

CHRISTOPHER FRANCIS: Thank you.

REP. LAWLOR: Further questions? If not, thank you very much, Mr. Francis. Next is Johanna Chapman and coming up Dr. Petit.

JOHANNA CHAPMAN: Good evening, Representative Lawlor, and Judiciary Committee. Thank you

for the opportunity to speak today, and thank you for allowing my brother and I to share our minutes.

I'm here to speak about Bill 6578. I'm against repealing the death penalty because I believe there must be personal responsibility in a civilized society. There must be appropriate consequences for one's own actions. The death penalty is not about revenge. The death penalty is about justice, and justice is about enforcing consequences.

Executing people for their actions in my mind is not murder. It's a consequence for an action, nor is it violence. Again, it's a consequence for one's own action. To say otherwise is to abuse semantics.

The Judiciary Committee is against the two-three strikes law, one which would forever lock up criminals who have committed and been convicted of three violent crimes, and if the Judiciary Committee is against pursuing the death penalty against criminals who have tortured, raped and murdered our loved ones, just what is the Judiciary Committee protecting? Criminals?

What is the state of Connecticut standing for? Criminal's rights? What kind of message does this send? I know what kind of message it sends to me and my family. It says that the State of Connecticut does not care about our safety. It says that the State of Connecticut is more concerned with criminal rights than those of victims, and it says that the State of Connecticut is soft on crime.

When criminals commit crimes which are so heinous and so horrendous, the State of Connecticut goes to great lengths and expense

to protect those criminals from themselves and from the general prison population. If the state budget crisis is a reason to turn our backs on common sense and the safety of our citizens -- that's actually a question -- is the state's budget crisis a reason to turn our backs on common sense and the safety of our citizens?

In the January 2009 edition of the New Haven Advocate, supporters of abolishing the death penalty said: Obviously, cost is not a reason to repeal it, but if that's what gone through to somebody, why not? Well, I'll tell you why not.

When we allow financial interests to dominate common sense, we all lose. Back in 2007 when the Parole Board decided it was too expensive to get pre-sentencing reports and sentencing transcripts, my brother, Bill, lost big time. He lost his wife, Jennifer; he lost his two daughters, Haley and Mikala. They lost the right to live. We all lost. We all got a life sentence. We are a throw-away society. When we see something that no longer works, we tend to throw it away. We're learning that this is harmful to our world, and we're working on recycling and preserving to combat that harm.

The death penalty in Connecticut may not work efficiently, but I appeal to you today to now throw it away. The arguments to abolish the death penalty in Connecticut are inane, insensitive and insulting to the citizens of Connecticut. Instead, do what the citizens of Connecticut have elected you to do. Fix it so it does work efficiently. Work to restore the belief that our government in Connecticut can keep us safe. Send the message loud and clear that you do care about our safety.

Thank you very much.

WILLIAM PETIT: Good evening, Chairman Lawlor, Chairman McDonald, Ranking Member Kissel, and other members of Judiciary who have pretty good stamina.

Thank you for the opportunity to provide testimony in opposition to House Bill 6578, An Act Concerning the Penalty for Capital Felony. I'm here to make a statement in support of the death penalty. I realize that there is debate about the deterrent effects of the death penalty as well as its cost, I think well enunciated by Attorney Kane, but when all is said and done, I support the death penalty because I believe it is a matter of justice.

Lord Justice Denning, Master of the Rolls of the Court of Appeals in the United Kingdom, stated: The truth is that some crimes are so outrageous that society insists on adequate punishment because the wrong-doer deserves it irrespective whether it is a deterrent or not.

I firmly believe that we morally should have a death penalty. The truth translation from the Bible for those who care to look of thou shall not kill is actually closer to thou shall not murder. That is for thousands of years we've had strict societal prohibition against unlawful killing. Unlawful killing, not any killing. Certain people today have attempted to equate execution with unlawful killing which I think is completely wrong.

Society needs our government and specifically in Connecticut we need our Judiciary Committee to write laws that protect us as well as preserving justice and dignity for victims. We all have dignity and an inviolable right to

life with dignity and respect. By committing murder, that is, unlawful killing, a person has forfeited his right to this inviolable right and, in fact, Rousseau in the 18th century said that a person also forfeited their right as a citizen, which was a word that a previous person used. In fact, this person who has committed murder has shown a complete disregard for his victims and himself.

Death penalty opponents speak of -- also speak of the inviolable sanctity of life. They love slogans such as do not kill in our name, and the like. Thus, I assume that death penalty opponents value the lives of murderers more than their victims. Specifically to me as a victim, they value murderers more than children: Mikala, who was eleven years old, Haley seventeen, as well as women, Jennifer who was 48. Because men murdered Mikala, she cannot make home-made sauce, play with her friends or kiss me goodnight. Because men murdered Haley, she cannot -- excuse me -- experience her college years at Dartmouth, row on the Connecticut River, or sit and chat with me. Because men murdered Jennifer, she can no longer comfort a student at Cheshire Academy, talk with her parents and sister, or sit with me on our porch.

If you allow murderers to live, you're giving them more regard, more value, than many people who have been murdered in this state including these three women who never hurt a soul and played by all of society's rules for all of their short lives.

My family got the death penalty, and you want to give murderers life. That is not justice. Any penalty less than death for murderers is unjust and trivializes the victim and the

victim's family. It is immoral and unjust to all of us in our society.

Thank you for your consideration.

REP. LAWLOR: Well, thanks for both of you coming today and obviously for sitting through the proceedings so far. You know, I think it was 1996 the voters of the state passed a crime victim's rights amendment to the State Constitution, and one of the most fundamental rights in there was the right for victims to be treated with dignity and respect and to have full access to information, that they would be a full player in the proceedings in the courthouse even with the prosecutors, the judges, et cetera, and I'm just curious.

So far -- I know you've had a fair amount of interaction with the court system, the prosecutors, et cetera, what has your experience been to-date in that respect? Do you feel like you're getting the information that you're entitled to? Do you feel like you're being treated appropriately by all the people in the court system?

JOHANNA CHAPMAN: I think that we do get a fair amount of information. I think that the State's Attorney's Office treats us very fairly and shares a lot of information with us. At the same time, as it's been said over and over again I think most eloquently by Attorney Kane, it's painfully slow, and there's a lot of time where there's absolutely nothing happening, you know, nothing at all, and we're already prepared for the time after the trial, the after period, the appeals and that. I know that was another one of your questions. I heard you asking if the victims are informed of that, and we absolutely have been informed of that, and that's even more

frustrating.

REP. LAWLOR: And, have you had the opportunity to talk to, I guess, the prosecutors are the obvious ones, about options that you have in that respect and potential things that could be advocated for here at the capital in terms of speeding up the process that would give you some sense of what the choices are, and things like that, or not?

WILLIAM PETIT: Well, it's -- Michael Dearington, the prosecutor in New Haven, whom I'm sure you know well, he said this crime warrants a capital felony trial and deserves the death penalty, and that he would listen to my opinion and Jennifer's family's opinion, but it was his decision because this is not about vengeance and this is not about our decision, it's about using the law correctly in a just society, and that it was his considered opinion that the appropriate approach was capital felony with the death penalty. And, to some extent, even if I disagree, he was going to go ahead with what he thought was the most appropriate course of action. I think he did that because of the responsibility he feels. I suspect he wouldn't admit it, but I suspect he did it probably to take some pressure off him and other family members in terms of the decision-making.

They've been very forthright. Some issues that have occurred in the Department of Corrections, the prosecutor's office doesn't communicate with the Department of Corrections, doesn't talk with the State Police, doesn't -- so certain things happen, and Connecticut's a small state, so things get around, and we obviously after this event have developed a huge network, so we have found out a number of things via the underground,

so-to-speak, that people weren't going to tell us, weren't going to bring to our attention, until we found out by other means and then called up and said hey, is this really true, did this really happen a month ago?

So, I would say that the district attorney's office has been great. The Victim's Advocate Office, Attorney (inaudible) who is our lead advocate, has been very good to us. Michelle Kruz in the Office up here in Hartford has been wonderful and invited us -- another issue that came up --this may be somewhat tangential to your question, but the Freedom of Information advocacy forum that we had, and we want to introduce some legislation to change some of the wording, and I think that's supposed to come up in a couple of weeks, but we were amazed to find out that people could file a request for FOI and try to find every little last detail of what happened so they could print it in the paper and talk about it in the news, and no one told us. No one talked to us.

You know, when I asked, they said you have no standing. I said -- like a lot of the people here, I'm not an attorney. I said, what do you mean, I have no standing? It was my house; it was my property; it was my family that was killed. I have no standing? (Inaudible.)

I thought that was pushing the letter of the law to a point of inanity, and so we would hope that in terms of the Freedom of Information that victims would be held in a little bit high regard. There were some interesting cases last year that we discussed, and four or more people made fairly bizarre requests that were going to be granted until people sort of stepped into oppose it, but it

seems like victims should be involved when people are quoting the intimate details of their life and what happened, not just for, you know -- it shouldn't all just be released for the prurient interest of general publications, so that was difficult.

Does that answer most of your question?

REP. LAWLOR: Yes. That's amazing. I mean, I think the common sense would go a long way and, after all, not only is it the right thing to do to give -- I mean, lawyers would call it standing, but, I mean, normal people would say you just have a right to know that this is happening and the right to come in and object to it. I mean, that's just common sense, and -- but it's also in the State Constitution, and I think that's one of the reasons why we created the position that Michelle Kruz now holds, the State Crime Victim Advocate, because we wanted to make sure there's a person to step up to the plate when those kinds of things happen to advocate on your behalf and to bring the full force of the State behind you because -- I mean, it's not just a statute. It's in the Constitution that you have the right to be notified and to be treated with dignity and respect, et cetera. It's such an important part of our judicial process, and we are going to be having hearings about this whole issue to make sure the statutes are clear, but I would think the Constitution is pretty clear on that one, and I would hope -- and I'm not speaking to you now. I'm speaking to the agency people who told that to you and others -- that they need to respect what the Constitution says about the rights of crime victims.

WILLIAM PETIT: Well, you bring up the

Constitution. Unless I'm mistaken, it also says something there to the effect that victims have a right to a speedy trial.

REP. LAWLOR: That's right.

WILLIAM PETIT: I have to agree with Attorney Kane. It's delay, delay, delay, for no apparent reason. I don't know if anyone else in the room thought it peculiar, and if I'm misquoting they can come up and slap me and correct me. Two and half to three years of preparation for the defense, and the most common cause for appeal is inadequate defense. That somehow rubs me the wrong way, that you could prepare for two and a half or three years and then the number one cause for appeal is that the defense is inadequate. That seems to me a huge hole in the legal system that puts the rights of criminals far beyond the rights of victims.

REP. LAWLOR: It's an interesting question, and I think -- that's why I think we're trying to pull out information so that we can understand it better, so that we can make informed decisions about what, if any, changes to make, and on that topic -- and, again, there's a pending case, and the last thing I think any one of us want to do would say anything in public that would in any way undermine that, but in general, you know, I'm aware that that case won't even start the first trial in January, and do you get a sense that -- is it -- have you asked for like a speedier trial and the prosecutor said --

WILLIAM PETIT: Yes, we did. We both wrote letters to Judge Damiata. I can tell you that the prosecution was ready to go with its case, zipped up, March 2008, one year ago, so they were ready eight months after the fact.

Johanna and I wrote letters to Judge Damiata and said this really goes beyond the pale. The prosecution -- we sent the letters in December that the prosecution's been ready for nine months, and all we hear is monthly or every two-monthly meetings, delay, delay, delay, and we ask what happened, and they go really nothing, there was a couple of things talked about, and nothing happened, and he said to us -- I thanked him for coming out, and they were doing everything in chambers, so it didn't even matter if we were there or not, but the day that we brought the letter, we actually hand-delivered the letters, he came out and addressed us in court, which I appreciated, and he said it wouldn't make us happy, but it probably wouldn't start until December of '09 or January of '10 -- that's selecting a jury? -- and that at some level, we should be a little bit happy that that was only two and a half years as opposed to three and a half or four years, which I think most of the citizens of Connecticut think to be ludicrous way to run a legal system.

REP. LAWLOR: Are there prosecutors objecting to these continuances in the courtroom, or how is that working?

WILLIAM PETIT: Well, it's in chambers. They push. They tell me that they've been pushing to go ahead, but we're you know -- you know, I don't know what I can say. I certainly don't want to do anything that causes an issue for our case, but --

REP. LAWLOR: Okay.

WILLIAM PETIT: -- but there is sort of a due diligence kind of issue at some level, like I think Attorney Kane admitted to and Attorney Culligan and Ms. Storey up here -- they'd

almost rather give the defense rein to take as long as they can so there's not a group for appeal. And, the people who suffer are the victims.

REP. LAWLOR: Well, thank you. I know that people have questions, but just let me say thank you for coming up here again today. I know it's not the first time you've been here in public and we've had the opportunity to talk privately a few times, but thank you for your input on this, Dr. Petit.

Senator McDonald?

SENATOR McDONALD: Thank you, and let me echo Representative Lawlor: Thank you very much for being here, for your patience today, and for, frankly, listening to all of the testimony before you. As we approach this subject in perhaps a larger public policy setting, I suspect it's very difficult for you to hear us talk about it in an overall context as you've experienced the trauma and devastation on such a personal level, but I appreciate you being patient with us as we undertake these difficult issues. And, sort of like what Mr. Dearington said to you, Legislators represent our constituencies as a whole, not any particular one individual within that constituency, but it's certainly important for us to have input from all of our constituents as we formulate these positions.

But, Dr. Petit, my question to you is I heard your testimony, and I'm just curious. Has your position on the applicability of viability of the death penalty evolved over time or have you always maintained the position that you've maintained before the Committee today?

WILLIAM PETIT: I've always been pro death penalty. Certainly, I do not want to see it inflicted in cases where there's circumstantial evidence or doubt, as there is in some cases, and we spent a lot of time talking about different kinds of certainty, but I think there's -- I don't think it's applicable at all. I used the term murder in my testimony. I really should have said capital felony, so it's probably not applicable in all murder cases per se if you're using lawyer speak, but yes, I've always been -- I've been pro death penalty. Have I at times wavered through this in terms of saying, you know, let's cut to the chase and try to plea bargain and, yes, I'm human and I've bounced back and forth on it on a number of occasions, but at this point, I'm pro death penalty.

SENATOR McDONALD: Okay. And I certainly can understand or at least appreciate, perhaps not understand, because I've certainly never been ever faced with a tragedy -- I don't think anybody on this Committee has ever been faced with a tragedy like you have, but when you say that you wavered, is that because -- well, do you think that if there was a much speedier process where the defendants were incarcerated for the natural -- for the rest of their natural life that that would bring any closure for you as opposed to this long, drawn-out process, or I'm just trying to figure out what has gone through your thought process in formulating that decision or that position.

WILLIAM PETIT: I don't believe that if we plea bargain to life without the possibility of parole or got to a death penalty and execution in 12 months, I do not think that would bring me closure. I'm not sure any more what that word means, and that's the issue that I think everybody involved, although, again, I'll have

to give it to Attorney Kane, he was the person who most consistently mentioned victims in his testimony, which is very irritating to -- he spent a lot of time talking about a guy named Ross today, and there was one mention of one of the women he admitted that he murdered and raped, a guy who was just a terrible, terrible person, and people forget the victims and play legal games and stretch things out and appeal and appeal and appeal.

Have I from the point of view of not having to deal with the system, I'm sure a lot of people want to plea bargain because although they're very nice at the DA's office and Victim Advocate's office, it's not really the place that you want to spend a lot of time.

SENATOR McDONALD: Well, and let me just say, you know, when I use the word closure, it's -- I mean that only in the context of your experience with the criminal justice system, not obviously with respect to your loss, but this stage of the judicial process is what I meant by closure. I hope that was clear to you.

WILLIAM PETIT: No, no. I understand. I think the -- you know -- mostly you swing back and forth. You say, oh, it's much easier to attempt to plea bargain, but you really have to do what is right,and what I thought before this happened to me and my family, I would have wanted the death penalty if this had happened to someone else's family, and with my family, I want the same thing, and I think it's right, and I wish I could say that I think it will make me feel better and it will give me closure. I don't think it will. I don't think it will, but I think it's what's right. If we're to live in a structured,

reasonable society with a strong set of morals, we have to have certain standards, and people who commit these capital felonies completely violate the sanctity of life and forfeit -- forfeit there, I think, their chance, their ability of their role to be here and be a citizen.

SENATOR McDONALD: And, as we were talking earlier, the system, if you will, is geared toward an overall justice system for the state, but certainly having the input of victims is extraordinarily important, and we need as Legislators, need to hear victims such as yourself.

Out of curiosity, if you know, does our late wife's family have any position on the issue to your knowledge?

WILLIAM PETIT: I don't believe they're here. If they're here,I don't want to --

SENATOR McDONALD: No, no.

WILLIAM PETIT: Her sister, Cynthia Wren and brother-in-law, Bill Wren, are both pro death penalty, I believe. Her parents, Marybelle and Richard Hawker, both are anti death penalty.

SENATOR McDONALD: And just finally, you testified about this one bill in particular that we've been focusing on, but you were very patient in listening to others talk about the other bill relating to the death penalty. Given your experience and given what appears to be a open and shut case with respect to the two defendants in the murder of your wife and two children, do you have any opinion on the difference between proving capital felony by an absolute certainty versus by a reasonable

doubt?

WILLIAM PETIT: I agree with the person or persons who said it's an implausible concept. I don't -- I think it would create more problems than solutions by attempting to attach a standard of absolute certainty. I wish it were not the case, but I think it would probably create more problems.

SENATOR McDONALD: Okay. I certainly appreciate your opinion. Frankly, from what I have read both in the media and from official government-type documents, I couldn't conceive -- personally couldn't conceive of a situation under which the defendants in your case would certainly be able to be proven to have committed the capital felonies by an absolute certainty, so it doesn't seem implausible to me under that -- under the scenario of the extraordinary facts of this tragedy. Certainly, we've heard of other situations, but in this case it seems abundantly clear that it would be absolute certainty. Do you still think it would be a difficult thing for the State to prove, given these facts?

WILLIAM PETIT: I think in enough cases it would be, but I think it would create more problems. It's nice when you catch people coming out of the place where they committed the crime or have them on camera, but that obviously isn't always the way things happen, so I think it would create more issues, but that's a citizen doctor's opinion as opposed to a legal scholar's opinion.

SENATOR McDONALD: Well, I suspect over the time since the tragedy, you've learned more about legal speak than you ever hoped to learn in your life, but I certainly appreciate your time and attention tonight.

WILLIAM PETIT: I appreciate your talking to me because actually on the Internet there's been a number of people who said that if I wasn't a lawyer, they didn't want to trade e-mails with me because I didn't fully understand certain concepts.

SENATOR McDONALD: Well, that's a shame if they said that.

WILLIAM PETIT: That was an interesting awakening, corresponding with some people in different parts of the country.

SENATOR McDONALD: Thank you very much, Dr. Petit.

WILLIAM PETIT: You're welcome.

REP. LAWLOR: On that topic, it has always been my experience that the non-lawyers are much more insightful than the lawyers because we tend -- the trees get in the way, and sometimes other people can see the forest when we just see the trees, so I know I've read many of your e-mails, Dr. Petit, and we've exchanged a few over the months.

Further questions? Senator Kissel?

SENATOR KISSEL: Thank you very much, Mr. Chairman.

Ms. Chapman, my deepest sympathy on your losses.

JOHANNA CHAPMAN: Thank you.

SENATOR KISSEL: And Dr. Petit, you have the deepest sympathies from me on the loss of your daughters, Haley and Mikala, and your wife, Jennifer.

I think that Chairman Lawlor's concept regarding lawyers versus non-lawyers is well taken by me. Prior to you coming to testify, I had to step out briefly, and I was on the phone with my wife, who happens to be -- got home from work and caught the tail end of my discussion with Chief State's Attorney Kane, and it's very humbling that at the end of the conversation I had with her on the phone, she goes now, John, are you still in favor of the death penalty or not; I couldn't really tell in your exchange with the Chief State's Attorney, and so my wife has duly noted that somehow I've been inarticulate in this debate this afternoon, and perhaps that's the lawyer in me getting caught up between the trees and the woods.

But, clearly and without a doubt, I support this. It is unfortunate that we live in a society where in my view we have to have this. There are constituents whom I represent that clearly for a variety of reasons will always oppose the death penalty and feel it should not be the law of the land in the state of Connecticut. Nonetheless, I firmly believe, despite the well intentions of those who are opposed to it, that it is, indeed, the law of the land. I think the majority of my constituents strongly support it, but they share with both of you the fact that it is a tortuous, cumbersome and problematically painful process for victims because there's no end in sight, and when the Chief State's Attorney says maybe not in his lifetime, I don't even know if in my lifetime.

The problem that I have -- and at the outset, I appreciate your opposition to both bills -- I think clearly the Senate bill is an interesting concept not considered in any other jurisdiction in our country, unworkable

at best. I think after today, it's just off the table.

The other bill clearly before us, there is no bill before us that says let's fix it. There is no bill before us that says let's take better consideration of you folks, the victims. None of that's out here before us, but I want to know your view on this. The only bill before us is are we going to do away with it, and it always rankled me a little bit, riles me a little bit, that the folks that are most opposed to the death penalty are the ones that tend to throw things underneath the wheels and say, look, it doesn't work.

Well, it doesn't work because people who are opposed to it undermine its efficacy in our state in many respects, so my concern is -- and it's not a criticism of those folks who don't believe in or support the death penalty if they believe wholeheartedly that they are doing the right thing, but for those of us who believe in the death penalty, whether it's a deterrent or not or whether it's just simple justice, it's a very frustrating process, and my frustration is dwarfed by the frustration you must feel already, already in this situation, and trust me. I have death row in my district at the maximum security prison in Somers, and I've walked death row, and not only have I seen those folks convicted of the death penalty, but I've seen some folks awaiting trial on very, very serious charges, and it's frightening, and I almost don't even want to make eye contact for fear of what's in those individuals' souls, and even though they're innocent until proven guilty, I think in many instances we know who the perpetrators of many of these horrendous crimes are.

So, my simple question is this: Being in the

situation that you've been in and knowing that you have no end in sight and understanding that State's Attorney Kane indicated that he felt without any language in front of him, without any bill proposed by anybody that has met our deadlines, if the notion is now floated that we're going to try to fix the death penalty to make it fairer, to try to expedite the process, my fear is that we went into this with the best of intentions 14 years ago, and it didn't seem to expedite the process at all, and it created a new level of grounds for appeal.

As harsh a system as it is right now for victims, do you think we should take a chance to discuss this with the Chief State's Attorney and other scholars that may have some ideas as to how we can create a statute that is fair to victims and the families of victims that at the end of the day will expedite this process, knowing that perhaps with all the best of intentions, the end result of that will create a system that will delay the end result and perhaps will work to topple the system so that people throw up their hands and say we just can't solve this conundrum here in Connecticut, let's do away with this.

Should we take that chance and try to fashion a bill that's workable in your views, and I'd like to start with you, Ms. Chapman, with your view and then Dr. Petit, with your view.

JOHANNA CHAPMAN: I think that the conversation is always warranted and, frankly, I'm sort of surprised that it hasn't taken place in the last 14 years. I'm surprised that it took Attorney Kane sitting here today at the hearing to talk about it -- correct me if I'm wrong -- but it almost sounded like this is the first time you really talked about it,

like, wow, that's really a problem, you know, maybe we should address it, when I think everybody knows that the appeal process and the after process is a problem, so I think that the conversation is always warranted. I don't think that it is going to delay anymore. I'm not sure how you can delay it anymore than 20, 30 years, you know. Are you going to issue the death penalty and then say, you know, we're going to carry it out in 40 or 50 years? I don't really see that happening, and if the conversation happens and it's at the risk of toppling the death penalty so-to-speak, then I think -- I still think that the conversation is warranted. I think that the conversation needs to be had because he sounded pretty confident, and he's been on the job for many, many years, and as all you attested to, he's pretty much an expert at what he does. He seems to think that there's some hope there. He seems to think that there is a fix there.

That all being said, I don't think it's something that you should jump into, you know. I heard about this hearing last night at about 10:00 o'clock, and, you know, my last paragraph was about fixing it, you know, not getting rid of it, not throwing it away, but fixing it because that's my thought on it, and I don't know anything about it, you know, so I think that I agree with Attorney Kane on that, and I think we should have a conversation.

SENATOR KISSEL: I think you bring a lot of common-sense to this discussion. I have to say I was a little bit surprised. Perhaps no one had asked Attorney Kane specifically on his recommendations to fix it. I actually believe several bill proposals by House Republicans, by other Legislators, Senators, as to the appeals process, having a more effective death

penalty statute, to my mind -- and I've been lucky enough to be elected to this position for the last 17 years -- it seems like almost annually Legislators come up with proposals as to how to have a more efficient death penalty. I don't know they've been raised for a public hearing. I don't know whether these ideas have been bounced off the Chief State's Attorney, but I do feel that it's not quite accurate to say that this Legislature or that the Legislature in years past hasn't at least discussed these measures.

But, I'm with you when you say that we should always have that conversation. If we can get something concrete on paper and then have it disseminated so that we can have another public hearing on it and still remain within the rules of this Committee, I think that that would get us much farther down the road. While somebody may not have in recent memory asked Chief State's Attorney Kane as to how to expedite this process, I distinctly remember bill proposals when we were doing criminal justice reform in no small part in response to the outcry that was voiced by people throughout the state of Connecticut in response to the horrific tragedy that befell your family.

Dr. Petit, I'm interested in your perspective on this as well.

WILLIAM PETIT: Well, I've thought about it more than the last 20 months of the proceeding, 52 years, so, and read quite a bit of material on it, and I think that the death penalty is needed in civilized society to maintain a just and moral society, so I would agree that I would -- I think the big issue is that it's the way it's administered is broken, it's turned into a game, it's parsing of phrases

and it's legalese, and it's gone far beyond -- far beyond common sense. I think it needs to be fixed in a major way. I do not, obviously have the background and training to say exactly where and how, but a lot of it appears to be in the appeals process where people can appeal for years and years and years for reasons that most of us do not understand when someone has been shown guilty several times with multiple victims, so I would try to do things -- I would be in favor of trying to fix it.

SENATOR KISSEL: That's a great position to take, and I appreciate your candor regarding this. I'm just going to conclude with this.

There's nothing in my life that is even remotely close to what you must have to go through each and every day. I can say that I offer both of you my sympathies, but I can't for the life of me ever put myself into your shoes. I just can't imagine it. Nonetheless, whenever we have folks come before this Committee in particular that have either gone through a great tragedy themselves or know someone that has, I'd like to believe that some good can come out of that, and I've stated publicly -- and I didn't know your wife and daughters personally, your sister-in-law, I met (inaudible) -- that the loss of Haley, Mikala and Jennifer that I think in Connecticut already a huge amount of good has come out of that great tragedy, it's a horrific world that we live in when that kind of loss has to motivate an entire state to re-examine everything from top to bottom in its criminal justice system.

It shouldn't have to be that way, and it brings me back to just, you know, the Old Testament and the Book of Job. Many tragic,

horrible bad things happen to good and innocent people, especially if one believes in a kind and loving God, and I'm still wrestling with all of those philosophical issues, but I can tell you this. The fact that you have come to these hearings and that you constantly speak about these issues and you're unafraid to talk about this very horrible thing that took place is helping all of us in the state of Connecticut come to terms with a lot of things that we probably should have come to terms with a long time ago, and I appreciate all your efforts on this behalf and, again, all I can offer you as a human being is my sympathies and the sympathies of my family from the very bottoms of our hearts. Thank you.

REP. LAWLOR: Representative Winfield?

REP. HOLDER-WINFIELD: Good evening, Dr. Petit. Unlike Senator Kissel, I've been pretty clear about where I am this evening. I think you know that. You were in the room when I was speaking earlier, but I'm also concerned about victims,and I made that clear, also. I don't have a question for you. I just want to make a comment, and it's because of your testimony.

I think that it's important that you come here. I think it's important that we hear what you have to say and, at least, in my mind, unlike what you testified to, your presence in the room matters. I'm not so sure that what I say to you will matter in the same way because what I want to say to you is that you may feel as though those of us on this side don't understand, don't take into account -- and I won't say that I understand, but it does matter to me what you have to say and what other victims have to say, but I have to say that as a person who sits here, looking at

constructing the law and analyzing the law, I also represent people who may not have your particular experience, but they have experiences losing people, and those people don't -- some of them do, but not all of them share your opinion.

So, I think that when we look at doing what we have to do here, we to take all of that into account, and I just want to make sure that you understand that because I'm on the opposite side of this issue with you -- because some of the other people in the room are on the opposite side of the issue -- it's not because we think that the lives of those who committed these crimes are more important than the victims -- I actually don't believe that and no way do I believe that, and I just think it's important for those of us on the opposite side to make sure that we really articulate that it is not that thing that makes us be in the position that we're in, and that at least in my mind it's that we're trying to be careful about what we do, and I think that's as important as taking into account the fact that you came here and the fact that you have the circumstances that you have, and that's why I make the decisions I make, and I just wanted to make that point to you.

WILLIAM PETIT: Well, I thank you, and I'm a pretty careful listener, and I was very happy to hear you speak about victims on several occasions today, so that was well noted.

I'm sorry I don't know what town -- you're from Hartford?

REP. HOLDER-WINFIELD: New Haven.

WILLIAM PETIT: New Haven. I'm sorry. And I obviously can only speak for myself, but I

agree. I've been in a position to make some statements, and I thought I should stand up for victims because every night or every other night on TV there's another victim, be it from Hartford or New Haven or elsewhere, eastern Connecticut, one of the town towns, you know, Winsted. Somewhere there's another victim, and until it's happened to you, you don't know how it strikes home every night. A young woman was killed in our town, Plainville, this past week, and Johanna has communicated with her dad already, and we really -- we know we can't speak for everybody, but we feel we should come out and make statements and try to represent the interests of at least some of the victims that are out there who may not be comfortable in doing so or be able to do so.

REP. HOLDER-WINFIELD: And, I thank you for that. Thank you, Mr. Chair.

REP. LAWLOR: Thank you. Are there other questions?

REP. MORRIS: Thank you, Mr. Chairman. Good evening, Ms. Chapman and Dr. Petit. I along with everyone else extend deepest sympathies. I don't even know how to extent them enough for all that we know that you've already gone through. With that being said, I want to follow up, if I can, on a line of questioning I think that Senator McDonald had a little earlier.

It was in terms -- for you, Dr. Petit -- of your evolution, your position, being for the death penalty. I was understanding that you were for the death penalty, always have been, and you shared with the family that you have some family members that are pro, some family members are con. I remember so vividly when this tragedy happened to your family opening

my newspapers one day. It was shortly afterwards, and there was a beautiful picture of your family, and there was an article about your wife, your kids, and the church that they attend, and I remember that the article as I best recall said that she was against the death penalty, so while I was here today, I just kind of Googled that to look for something, and I found an article in the New York Times dated October 28th -- you're probably familiar with it -- death penalty tests churches and (inaudible), and the article based on what I'm going to say, that the members of the church said that your wife was against the death penalty and that she had signed a declaration of life that, in effect, says that even if she were a victim of a capital crime, she would not want the prosecutor to prosecute. I understand, at least, from that article that such a document wasn't found, but I'd just like your insight that you shared earlier, your insight. She's your wife; you knew her better than we ever could or would. You know, was she against the death penalty? Was she an activist? Everything I read kind of indicated to me she was a pretty vocal activist against the death penalty and the church was.

So the question is was she -- as far as you know, did she sign such a declaration? If you don't know whether she did or not, do you think she would have?

WILLIAM PETIT: Obviously, it -- or maybe not obviously, but it didn't come up on a frequent basis as a topic of conversation with young girls in the house, raising a family, being busy with work. I would say that in general she was probably against the death penalty but was not vehement about it, was not an activist, did attend one session that I did

not attend at the church. If she signed a document, I never saw it. If it could have been found, the perpetrators burned down the house, so it wasn't in a safe deposit box when I opened it six months later, so I don't -- I honestly don't know if she did sign a document.

REP. MORRIS: Do you think it's something that she would have done?

WILLIAM PETIT: It's something that she could have done, yes. I don't know if I'd say would have, but could have. And, I wonder, like many people, I think it's easy to be academic about these issues. I wonder if things were switched and it was her sister and her sister's two children in North Carolina that suffered the same fate, I can't tell you for a certainty that she would have stuck to her guns, obviously. We may have to catch up with her at some point and get the real answer, but I think a lot of people have academic opinions, and the question is when reality slaps them hard in the face, what do they really believe.

REP. MORRIS: And, I know from the article that it's quite apparent that, you know, a lot of people in the church who were certainly against capital punishment, some have reassessed that position, and it is difficult when you walk in your shoes, and that's why you received my sympathies. You know, it's tough walking in your shoes, being in the position that you've been in, but I just needed to have that respect that I always wanted to hear from you to know, you know, for certain where she was.

The last thing being said is just commentary, but I'd like to add certainly I thank

Representative Holder-Winfield for all his comments. This is difficult, but I certainly personally am against the death penalty, but just as a matter of commentary to help, if I can, you and anybody else who is listening to understand the perspective that it's something that I shared on the floor when we were talking about three strikes, and, you know, stiffer and tougher penalties, and I come from a town where you have people making millions of dollars and there are people who are immigrants and have very little money, but it was shortly after your situation that I had a woman whose husband -- they raised two kids; they were a wonderful family; they did all the right things -- on Christmas Eve, he was visiting his mother in a housing tenement while two guys were outside getting high, smoking marijuana, and he went to go stop them and ended up being shot in the chest and died.

A tough situation, a mom, it was really bad, you know, she's got to raise the kids by herself and, unfortunately, these are the kinds of things that happen in different communities, but this woman handled things in a way that as I read this story about, you know, the church life and everything that your wife kind of went through (inaudible) I got a chance to meet this woman, and the first thing she wanted to do, and she was very clear about doing, was forgiving the young men who shot her husband and basically came to the funeral and did that, you know.

Representative Kissel talked about, you know, that sometimes out of bad things good things can happen, so I kind of share that just as another perspective for everyone to consider because I've heard, you know, some references to Old Testament scriptures and things like that, and there is another one that's in the

New Testament, and this woman was an example of that, forgiveness in the middle of a really hard time, and I've seen her within the last year, and she still (inaudible) forgiveness, and the kids are doing well, they're struggling and she's still without a husband, but it doesn't mean that she doesn't want the young men to go without being punished because certainly taking a life is a different consideration, so this is something for everyone to think about.

It's why I go there because there's so many people that do lose their lives to violent crimes, and when we begin to talk about -- and we've heard it today -- the disproportionality in those who end up getting the death sentence, we need to consider the equity. In our criminal justice system right now, persons of color are disproportionately affected in sentences than persons who are not of color, so while we want to certainly make certain that victims are taken care of, there are victims in the society who are not treated fairly with justice.

So, that's the only comment I want to leave with you and, again, I cannot begin to say how much I feel for you in your pain and your loss.

WILLIAM PETIT: Well, certainly it's a comment that I've thought about and I agree. You can certainly forgive someone, but it doesn't mean they're not punished. People do it with their children every day, so I think they're actually two separate issues.

REP. LAWLOR: Thank you very much. We have a number of other members who want to ask questions, so we've actually had the privilege on this Committee of having an opportunity

when we have our Committee meeting to share personal viewpoints. If you could please keep it to questions of the witnesses because we have a number of other people who have been waiting very patiently all day to ask questions, so if you have a question, please frame it, and I believe the next person who had a question was Representative Gonzalez, then Representative Hetherington, then Senator Gomes.

REP. GONZALEZ: Good evening, and my sympathy for you and your family.

WILLIAM PETIT: Thank you.

REP. GONZALEZ: I think we learned something today from Representative Morris that maybe your wife was against the death penalty. I've got a question. Are you planning to go after the system because in my opinion, after I heard all what happened to your family, I believe that maybe the system failed to you and your family.

Do you have any action pending against the system, the judicial system?

WILLIAM PETIT: No.

REP. GONZALEZ: No. Okay. And, you said before that nothing that happened will make you feel better. That's what you said before (inaudible; it doesn't matter what happened, the death penalty or not, nothing will make you feel better. Is that what you said before?

WILLIAM PETIT: I don't think you can replace a wife and two children.

REP. GONZALEZ: And, I agree with you. Fifteen

years ago -- I don't know if you heard my story -- fifteen years ago, my step-son got killed by a gang member, and they confused him with somebody else, and he was a good kid, very quiet, very well educated, and he was married. His wife was expecting a baby. She was five months pregnant at that time, and I remember there was a lot of pain in the family. My husband, it was his first son, and there was a lot of pain, and people had different opinions, and I know, like I said before, that at that time, maybe my husband and his family maybe were saying this thing to me, saying today I really believe in that, I think that's justice, but time passed, and I asked my husband today, and he said the death penalty is not an answer, and the death penalty is not justice.

You don't think that a person that is going to be lying in jail for the rest of the life, their life, is that enough, that's justice like, you know, knowing that that person is going to live day by day, thinking what they did, the remorse, the nightmares, and they're going to die slowly day by day in prison. You don't think in a way knowing that your wife was against the death penalty, maybe there will be something that she will say they'll be okay, you know, that person's going to be in jail for life, and that person's going to pay day by day, you know, in jail. You don't think that will be maybe an answer?

I know there's a lot of pain. I felt that with my family, so I think that yes, maybe they'll have the life --

JOHANNA CHAPMAN: Can I make a comment?

REP. GONZALEZ: Yes.

JOHANNA CHAPMAN: I want to clarify what my brother said to Representative Morris wasn't that my sister-in-law, Jennifer, was in favor of the death penalty. He said do you think she could have signed such a proclamation. He said he thinks that she could have, but not necessarily that she would have.

REP. GONZALEZ: Okay, but --

JOHANNA CHAPMAN: That's the death penalty, and there's a difference. He never came out -- this is the kind of stuff that newspaper articles are all about. That was never said here, and he said it was never discussed.

REP. GONZALEZ: But, she was -- she was -- she was a church person, and she was a very religious person, you know, had faith, and she used to go to church every day maybe, and I believe that knowing that a person -- you know, at least your family has something that we don't have today, and when you have it, then you know who killed your family, and those people are going to pay for it. On my side, we never -- thirteen years later, we're still looking for it, and we don't know who or why, and we're still saying the death penalty is not an answer.

WILLIAM PETIT: I guess my only response would be is that I think they're two separate issues as to how a person survives a tragedy and moves along in their live psychologically, socially, et cetera, versus what is the responsibility of the government state to do to protect society for us to create a just and moral society, so I have separated the two in my head. I don't -- I don't think of the death penalty as revenge. I think of it as the way a just and moral society should act whether or not it's a deterrent. I think it's been

something that's been spoken about in religions for thousands of years, and I'm not sure I agree with some of the newer philosophies over the last half century that have evolved.

REP. GONZALEZ: My last question is if they get -- you know, if they happen to get the death penalty, do you really believe that in your heart after that happened you're going to feel better?

WILLIAM PETIT: No.

REP. GONZALEZ: No. Thank you.

WILLIAM PETIT: But, I think it's what a just and moral society should do.

JOHANNA CHAPMAN: The difference between revenge and justice. If it was for revenge, then you would feel better once the acts were done, once they were put to death, but the feeling is not that it is out of revenge, it's that it's justice, so I won't feel better, but I will feel that justice has been served because there are certain people that commit heinous crimes like that that don't have remorse. You're painting everybody in a picture where they're all sitting in their cells and they're feeling very, very terrible about this when you have no way to know how anybody's feeling.

REP. GONZALEZ: You are saying we don't know.

JOHANNA CHAPMAN: We don't know.

REP. GONZALEZ: We don't know.

JOHANNA CHAPMAN: No.

REP. GONZALEZ: Thank you.

REP. LAWLOR: Representative Hetherington followed by Senator Gomes.

REP. HETHERINGTON: Thank you, Mr. Chairman. Allow me just to preface my question by saying that I appreciate your coming here, both Ms. Chapman and Dr. Petit, and speaking with forthrightness on a subject that obviously is scrolled with controversy, and I also thank you for demonstrating the enormous strength that you have to be here and visiting a subject -- revisiting a subject which must be just terribly painful to you, so thank you.

But, what I wanted to ask you is this: A number of people when I've heard this discussed have said to me, well,you know, I hear about life imprisonment,but I somehow don't believe it is really assured; I mean, society changes in its attitudes, laws are adopted, changed, people who are not personally acquainted with the victims or the incident forget, they put it out of their minds and move away, and the system, in fact, makes mistakes. I mean, the system made a mistake when those men were set loose who did this terrible thing.

So, these people who have spoken to me said well, I just don't have a hard and certain belief that life imprisonment without parole means life imprisonment without parole.

Is that something that troubles you, too?

WILLIAM PETIT: Very much so. There's certainly many examples from many other states across the country where judiciary committees have changed, legislatures have changed, governors have changed. The famous 20 years ago, Mike Dukakis' furlough program caused him some

points on the national scene, so, yes, I am quite concerned that life in prison without the possibility of parole that 20 years from now somebody might say, gee, the budget's bad, we're going to start letting people out, like California I think is going to be forced to do, too many people, tens of thousands perhaps, so yes, that's a big fear, and there's examples of it from across the country where people's sentences have been commuted, people have been let out and gone out and murdered again.

In fact, Mr. Horton, the judge who sentenced him for his further crimes on his own furlough in Maryland refused to extradite him to Massachusetts for fear of Massachusetts bungling it again and letting him out on the unsuspecting public, so that's a definite fear.

REP. HETHERINGTON: Thank you very much. Thank you, Mr. Chairman.

REP. LAWLOR: Senator Gomes and then Senator McLachlan.

SENATOR GOMES: Good evening. I know you sat here for a long time and you listened to a lot of different opinions. We've listened to yours, and my heart really goes out to you two for what has happened to your family. It's bad enough when you lose somebody under normal circumstances of death, but when it happens the way it happened to your family, I understand how you must --I don't understand how you must feel. It's kind of hard to put your arms around that until it happens to you.

We all have our own philosophies about different things like you said that you've been pro death for years, and just because

this happened to your family, that didn't make you pro death, you were that way for years, and now you understood you heard my testimony a little while ago, and I've been that way for years, too, for certain reasons.

I feel certain things about other people -- I've come into contact with a lot of victims. I live in Bridgeport, and I know a lot of people there, and some of the things that have happened to people there. I knew some of these people personally, and they went through a lot of the things that you went through, like a little kid named B.J. where two criminals --

WILLIAM PETIT: Russell Peeler.

SENATOR GOMES: Peeler. I know the Peelers, fine family, believe it or not, two rotten kids, two rotten kids. I know the Peelers personally. The father of one of them used to hang with my brothers and come in my mother's house and refer to her as Mom, you know. He was a fine person, fine family. The mother was a police officer, uncle was a police officer and a fireman. I knew the grandfather. There's no accounting for how they got to where they were.

But, I wanted to read something to you from somebody else from Bridgeport, and his son, he says here: My son was murdered in Bridgeport, Connecticut, in 1987; I lived for a year with intense rage, rage that was destroying me emotionally and physically. He says: In my own case, I ultimately forgave the offender and thus began my path -- began the path to my personal healing.

Then he goes on to say: I realize that many people are unable to consider forgiveness, yet

another option, that of life without parole, would give murder victims, family members the opportunity to begin healing at a much earlier date shortly after hearing the sentence meted out.

What I wanted to ask you is I know that you're looking for justice, as you said; in your mindset, the death penalty would be justice. In my mindset, putting somebody in prison for the rest of their life without parole I would see as being justice. Sometimes, just like this gentleman here, he had the same feelings that you had. The only thing he could deal with was a death penalty because his son had been murdered, but he came to believe something different because it was just doing him in, so-to-speak.

Do you feel like any time in your life that maybe in the future that if this to happen and he was to get life imprisonment without parole, this would give you any sort of a feeling of -- I don't know if you'd call it something that you could deal with more, more than you can deal with it now; in other words, maybe he didn't get the death penalty, but he got life in prison, would it make your family's heart feel a little better, or not accepted, but, you know, just let you get on with your life?

WILLIAM PETIT: Would it make a difference?

SENATOR GOMES: I know it won't in your mind right now, but do you think anytime in your life that this could happen?

WILLIAM PETIT: Well, I think -- I think it does for most people because then people get back to some sort of rhythm of life, the usual rhythm of life, and unless you're a prosecutor

or defense attorney, it's not going to courtrooms, speaking to DA's and Victim's Advocates, so once you can reestablish some rhythm in your life, which happens after there is some finality in sentencing, yes, I think that probably makes many people a bit better in general.

SENATOR GOMES: I kind of felt that would be your answer because when you lose somebody out of your family just by normal death, then that same rhythm has to come along before you accept it. I lost a brother a month ago. I haven't accepted it yet.

You have a more extraordinary situation where you not only have to accept the loss of your loved ones, you have to deal with the manner in which they were lost, and that's why I say my heart really goes out to you.

WILLIAM PETIT: Thank you.

SENATOR GOMES: Thank you.

REP. LAWLOR: Any further questions? Senator McLachlan?

SENATOR McLACHLAN: Thank you, Mr. Chairman. Ms. Chapman, Dr. Chapman, Dr. Petit, I want to thank you for being here today, and honestly and sincerely applaud your incredible faith and your courage to advocate for these issues that are important to you. I don't think there's anyone that has met you or read about you that can comprehend where you found the strength to do that, but I do believe it must be a faith in a higher power to allow you to keep doing that, and I pray that you'll continue in that advocacy role because this citizen government relies so heavily on citizen participation, and so your presence is

very important.

You know, advocates of the death penalty argue that it deters crime, and it's a good tool for prosecutors in the plea bargain process, and that it assures that violent criminals won't offend again, and that it provides closure to victims' families, and I think I'll start at that last section, that you've already pretty much clearly stated that this would not, in fact, provide closure, and I appreciate that, but what do you feel about the death penalty? Is it truly a deterrent? And then second to that, how do you feel about the death penalty being used as a tool in the plea bargain process?

WILLIAM PETIT: Well, probably like most people here, all I know about deterrence is what I read from the various studies, and I think like Attorney Kane said, you probably can pull out studies from either side. I'll quote Carl Spence from Texas A&M who said that while some death penalty abolitionists try to face down the results of their disastrous experiments to argue to the contrary, the data concludes a substantial deterrent effect has been observed; in some months, more Americans are murdered than have been killed by execution in this entire country; until we begin to fight crime in earnest by using the death penalty, every person who dies at a criminal's hands is a victim of our inaction.

So, I found six or seven different studies that suggested that it was a deterrent. I'm sure the anti death penalty people will find six more, and it's a pretty common issue in medicine as well, which is why I didn't want to make that a major construct because I'm not -- I don't think that's why I've never been for it. I've been for it for what is right

and what is just, what is moral.

The second part, death penalty plea bargaining.

SENATOR McLACHLAN: Used as a tool for plea bargaining, as it does seem to be the common practice to threaten prosecuting the death penalty in hopes of a plea bargain. As I understand, that's pretty common in the process across the country.

WILLIAM PETIT: You know, again, it's not what I do. I suspect there's beleaguered and understaffed district attorney's offices and public defender's offices where plea bargain is often the way to go as a matter of the path of least resistance. It may be the path to go when the evidence is not very clear. I think in the best of worlds you'd like to have -- I think we as citizens of the state of Connecticut would like to have prosecutors who pursue a charge on the penalty that they think is correct, that they think is just and moral for the crime. That's sort of the academic optimistic side, and there's always the real world to contend with, but I would hope that many of our prosecutors would -- who would charge in this role would make a decision based on what they think is just and what is correct.

So, as a tool, I understand that people will use it. I think -- I would think that the best of people would do what they think is best and not game the system, but I suppose that's inevitable, given the strains on the system locally and nationwide.

I'm not sure if that answers the question but, again, that's an opinion from long distance.

SENATOR McLACHLAN: Thank you both and, again, I pray you have the strength and wisdom to continue what you're doing and speaking out about these important issues.

REP. LAWLOR: Further questions? If not, thanks again to both of you, and you're always welcome here, and you know that.

Next is Michael Culhane and he'll be followed -- is Lisa Griffiths still here? Yes. Okay. William Dyson, Representative Dyson. He's around here somewhere I think. Please go ahead, Mr. Culhane.

MICHAEL C. CULHANE: Thank you, Representative Lawlor, and members of the Judiciary Committee. My name is Michael Culhane, and I'm the Executive Director of the Connecticut Catholic Conference. I'm here today to support the passage of Raised Bill Number 6578, An Act Concerning the Penalty for a Capital Felony.

The Catholic Conference supports this legislation based on our faith and because the moral teachings of the Catholic Church mandate that we must respect all life from conception to natural death. It is for this reason that the Conference has always advocated for the abolition of the death penalty, and I'd like to share with you some of our thoughts sin the hope that you might use them to examine and re-examine your own thinking on this obviously very difficult and contentious issue.

In discussing this subject, I wish to make clear at the outset that we as a Catholic Conference are deeply concerned for the just and fair treatment of all parties in this matter -- from the victims to their families, to those who have been accused of grave

crimes, and to those who have been convicted of them. While criminals who constitute a serious danger to the wellbeing of other citizens must be impeded from their criminal activities, justice is not served when the rights of anyone, victims or transgressors, are compromised in any way.

We are not comfortable with the fact that so many of those in prisons today and on death row are poor, young and minorities and, therefore, less likely than others to be able to avail themselves of effective legal talent to defend themselves within our court system. We are also mindful of the fact that there's a growing conviction among experts in the field of criminal justice that such means of punishment as life imprisonment and long-term sentences can be as strong a deterrent to crime as capital punishment itself.

We also wish to make clear that in accordance with the teachings of Pope John Paul, II., our respect of human life must be profoundly consistent. Consequently, those of us who serve as advocates for the elimination of the death penalty must also oppose all other threats to human life such as abortion, euthanasia, physician-assisted suicide as well as the ill-considered cuts in social service programs which may harm the poor, the sick and the elderly.

In conclusion, while conceding that the state has the absolute duty and obligation to maintain public order, as well as the right to punish convicted criminals, the Connecticut Catholic Conference must express its support to abolish the death penalty within the state of Connecticut.

And, I thank you very much.

REP. LAWLOR: Thank you, Mr. Culhane, and thanks for your patience today through this lengthy hearing. Are there questions? If not, thank you once again.

MICHAEL C. CULHANE: Thank you very much.

REP. LAWLOR: Next is Lisa Griffiths and then Bill Dyson -- next after Lisa Griffiths -- is Andrew Schneider still here? Just give me one second. Let me call a few names to see who is here so we can see who's coming up.

Is Melissa Aiello still here? Yes. Scott (inaudible)? Lorenzo Jones? Susan (inaudible)? Is Ed Gavin still here, I think? Antoinette Bosco? Ben Jones? Walter Everett -- I think I saw him just a moment ago. Ingrid Swanson? Rene Fleming? Bob (inaudible)? Shelly Fortier? Gail (inaudible)? Cheri Bragg? Marilyn (inaudible)? Alexis Williams? Is there anyone else planning to testify tonight that we don't have their names? What's your name, sir?

(Inaudible.)

REP. LAWLOR: Got it. Okay.

(Inaudible.)

REP. LAWLOR: Okay. Thank you. I apologize, Ms. Griffiths. I just wanted to get a sense of who's still to go, so please go ahead.

LISA GRIFFITHS: Hello. My name is Lisa Griffiths. I am the Program Director of the Wheeler Clinic Family Support Center in Hartford. I'm providing testimony today in opposition to House Bill 6386, An Act Delaying

she had become anxious and fearful, and her self-esteem was extremely low.

She did not feel safe within the school environment and was heading towards dropping out. Our team at the center worked with this youth, her mother and the school and developed a plan to allow her to successfully return to school. We connected the family with a psychiatrist who was able to provide medications to help quell the teen's anxiety, and the youth attended a group at the center especially designed for girls to enhance their self-esteem.

These types of services can be extended to 16- and 17-year-olds if the raise-the-age legislation is not delayed and the Family Support Centers are expanded throughout Connecticut.

Thank you for allowing me to testify.

REP. LAWLOR: Thank you. Are there any questions? Thanks again for your patience today.

Bill Dyson?

WILLIAM DYSON: Good afternoon. It's a pleasure being here, and I know you guys have been here a long time, and you'd much rather get out of here, but let me tell you what I'm going to do. HB6578

I have a statement from a young man who couldn't be here whose brother was killed here in Hartford about seven years ago over at the soup kitchen here, and his name was -- I think it was David Laffin or Paul, rather, Paul Laffin, and Art Laffin is his brother who was going to be here to give testimony regarding his brother, and he couldn't be here, so I

volunteered to do it for him, so I'm going to read his comments, if I might, and then I'd like to comment on a couple of other things as well:

To the Chairs of the House Judiciary Committee and to the Chair of the Senate Judiciary Committee, both Chairmen:

My name is Art Laffin -- and so I'm not Art Laffin, but this is the guy's name -- my name is Art Laffin, and I am a murder victim family member. I am also a Hartford native who lives and works at a Catholic Worker house in Washington, D.C.

Nine years ago, my younger brother, Paul, was murdered in Hartford, Connecticut. On September 20, 1999, as Paul was leaving Mercy Housing and Shelter where he'd worked for ten years, he was stabbed to death by a mentally ill homeless man, Dennis Soutar, who often frequented the soup kitchen at the shelter. My family and I were consumed with a sorrow that defies words. I still can't believe what happened to my kid brother. My family and I and all who knew Paul still grieve his senseless, horrific death. My brother truly gave his life for those he served.

Dennis Soutar was ultimately deemed incompetent to stand trial for killing my brother. Had he been deemed competent to go to trial and was convicted, he could have faced the death penalty. He is now serving a 60-year sentence at the Whiting Forensic Division of CVA Hospital in Middletown.

After Paul's highly publicized death, my dear late-Mom and I, through God's amazing grace, appealed to the public to show mercy toward Dennis and to pray for him. We recall that

Jesus said blessed are the merciful for they shall obtain mercy; forgive and you will be forgiven. As Jesus is being executed, He said to His persecutors Father forgive them. My Mom and I were able to meet with members of the Soutar family -- Dennis' brother and sister-in-law, and ask them to convey to Dennis our prayers for his healing. I pray for Dennis Soutar's healing and that he will experience God's forgiving love. I also ask everyone here today to pray for Dennis' healing.

What happened to my brother is not uncommon and has tragically occurred elsewhere in Connecticut and across the country. It is a societal disgrace that some of the mentally ill homeless, who fall through the cracks and are not properly cared for, end up committing violent lethal acts. During my eulogy for Paul, I asked that all necessary resources be made available to provide a continuum of care for Dennis and all other mentally ill homeless so that future tragedies like that, like what happened to my brother, might be averted.

My prayers go out to all family members throughout our society and world who are grieving the loss of loved ones who have been murdered. I know their pain and pray for their healing.

There are many people who believe that we have to kill the murderer in order to bring closure for the victim's family. I believe that killing people who kill will never bring true closure and healing. Killing Dennis Soutar will never bring my brother back. It will never bring healing or closure to me and my family. The pain of Paul's murder will always be there.

Certainly, individuals and even corporations and governments who commit violent acts must be held accountable for their actions and make restitution to the victims' families, but we must never sanction killing those who kill, no matter how brutal the crime. Rather, we must always seek the way of restorative justice.

As of February 13, 2009, 1,100 people have been executed in the United States since the death penalty was reinstated in 1976. I ask how can we break the cycle of violence and killing? How can we promote healing for everyone who has experienced the unspeakable pain resulting from murder? I believe that the best way to honor my brother is to work for the prevention of violence, not to replicate it. I believe the way to true healing is not through vengeance and retribution but through compassion and reconciliation. Martin Luther King, who opposed the death penalty, said that capital punishment is society's final assertion that it will not forgive. I totally agree with Archbishop Desmond Tutu who declared: There's no future without forgiveness.

Ultimately, I oppose the death penalty because it violates God's command: Thou shalt not kill.

The remaining portion I won't read because it will go into the -- I think you have copies of it for the record, but I'd like to comment on some things that I heard today if you don't mind, to the members of the Committee here?

I have a report here done by Professor John Donahue, Yale Law School, in which he emphasizes a few things that I think might be pertinent to the Committee as it relates to death penalty, and I wanted to make mention of

a couple of things that I think have been touched on today.

One, the issue of race has been brought up in relationship to the death penalty, and it's pointed out in this report as part of one of the arbitrary aspects of it, there's a class issue at work here as it relates to the death penalty, that certain people of (inaudible) have to fear having the death penalty imposed upon them, and I think it's fair to assume that the State has indicated its own arbitrariness in relationship to the death penalty. If the issue is murder and the acts committed are many, I think the State should have about 35 people in prison, life without any chance of parole, who have killed, and in some instances more people than the people who are on death row.

To cite an example of one man who killed three people -- and I think it was somewhere near Madison or Guilford, and he's on -- he's in for life without chance of parole, and some of those who are on death row now may have only killed one, so I point that out to just make you aware that there is arbitrariness that takes place. There's a racial issue that's involved. There's a class issue that's there. Justice in this instance is not why, and I think all of those issues should be considered when we look at the issue of the death penalty, and I for one think the death penalty should be abolished.

And lastly, raising the age. I think if we we're going to do anything about raising the age and there's a bill that we passed before that's supposed to go into effect in January, there's some things you could look at to make this happen if you want it to, the issue of capacity, ascertaining the difference between

DCF beds and judicial beds because I think I heard Judge Keller say today there are about 161 empty beds, and my guess would be is that we're paying for those beds now, and we are paying for them as resources being wasted because we're under contract in all likelihood for those beds, so it's not as if we don't have the resources. The resources are there.

Another example would -- not example, but one other thing that we could do is phase in. I was curious today that you talked about by age group for the phase-in, and I'm not sure that the age group does it or how you would do it, and the other would be you can delay implementation, and I think what the Committee probably needs to do -- and I'm not going to necessarily suggest how you should go about doing it -- but I think if the Committee got a bill out soon with some suggestions or recommendations about what could be, I think it sends a message to a lot of people who need to hear it that you're willing to take a look at it, and I think it would then cause positive responses, and I think that's something that you probably ought to do.

So, I'll stop with my advice to you, and you have this report for your consumption, and if anybody's got any questions, feel free. I would love it if you didn't have any.

REP. LAWLOR: Well, thank you, Bill, and we normally apologize to people that have to wait around so long, but I know you're more than accustomed to this, so --

WILLIAM DYSON: I'm used to it.

REP. LAWLOR: There you go. Are there any questions? Representative Morris?

REP. MORRIS: Again, very briefly. In regards to the report that you have here, it sounds like you're talking about the egregiousness of certain crimes, murders is a comparison. Does that report suggest to you, give us some kind of numbers in terms of the vast number of people who are discharged with murder as opposed to capital murder?

WILLIAM DYSON: It does. I think it's a very good report, and I would offer this report for the Committee's consumption just to look at it. I mean, you may have some questions about methodology, or you may have some questions about the data that's there, but I think it's something worthy of being looked at just so you can get some idea as to what Professor Donahue's found at Yale as he did engage in his research on this particular issue, and he highlighted some of the things that I mentioned: The issue of race, the issue of class, arbitrariness that's there, egregiousness of the crimes committed and how they are dealt with, and most especially, I point out one here that -- let's see -- the one that deals with the issue of race, and I just need to do that if I might.

In summing it up, I find that it does not support the statement that the death penalty is imposed only on the worst of worst cases. Approximately 40 percent of the worst cases end up with zero punishment. After that, it is a roll of the dice as to what the sentence will be, but within the class of death-eligible murderers, the discretion exercised throughout the post-arrest criminal justice system leads to arbitrary, irrational and discriminatory outcomes.

That's me saying this as I read it from here, but I think it would be very useful if any

others would take it upon themselves to do this. And, lastly, it says here: A careful examination of probabilities of advancement from one stage of the death penalty pathway provided further evidence of arbitrariness of capital decisions at various points in the process and the significance of victim's race where killers of white victims are treated more severely than killers of non-white victims.

And so, normally when we talk about the application of the law on a high plane, there is a tendency to ignore the kind of what results from its application, you know, and some of us have known this for a long time. Depending upon who you're killing makes a difference, you know. I won't give you examples, but you know what I'm talking about, so -- yes?

REP. MORRIS: A final question if I can. I listened to a lot of the conversations done earlier today. I heard State's Attorney Kane, and you were here when he was talking about costs. Certainly, public safety is a primary concern, but the cost was on the table, and it sounds as though you're saying that the cost kind of were a trade-off.

I recall having conversations with you a year ago where you were saying that cost of life imprisonment to the state is less than the cost of capital punishment. Can you expound upon that for the record today?

WILLIAM DYSON: Well, yes. I'd like to respond this way. I read the report that was prepared for Chairman Lawlor --

REP. MORRIS: Can you share that report with us?

WILLIAM DYSON: I have it right here someplace. I read that report, and I thought it made sense, but it's a report dated March 4th, and I assume most members of the Committee would have access to it, and it states -- in the first paragraph it states that the State would save approximately four million annually in defense and prosecution costs due to the repeal of the death penalty.

Now, clearly, the State being in a jam now, four million might not -- but I won't go there with that, but I would like to reference comments made by the Governor of Maryland. The Governor of Maryland commented, I think, about two weeks ago that to do away with the death penalty would result in about a $45 million saving, you know, for the state of Maryland.

Now, obviously, that's driven by the population, the population in Maryland as opposed to the state of Connecticut, but I think it's something that we ought to be concerned, and let me tell you why I say we ought to be concerned with it.

There were discussions today about -- extensively about making it work, the death penalty, and there was a discussion about how things wax and wane, and then the cost issue kind of got, well, we shouldn't concentrate on that, and the driving force seemed to have been we need a rational system of justice.

Well, arbitrariness, egregiousness, the class issue, the race issue, its application, ain't nothing rational going on here, ain't nothing rational going on, and what happens here is that it sounds as if we are punishing those who commit this hideous act, this crime, but we don't do that. We do it for some -- again,

we're back to arbitrariness -- we don't do it for all, and depending on who the crime is committed on and who the perpetrator is has a lot, an awful lot to do with it.

So, there are just -- I got so much here, but this -- okay.

REP. LAWLOR: Thank you. Thank you very much, Representative Morris.

WILLIAM DYSON: Hang on a second.

REP. LAWLOR: Representative Dyson, how is the new guy doing down in New Haven, all right?

WILLIAM DYSON: He's fine; he's fine.

REP. LAWLOR: Okay. Just checking.

WILLIAM DYSON: Yes, he's fine. He's fine. Thank you. Yes, he's fine.

REP. LAWLOR: Representative Holder-Winfield, did you have a question?

REP. HOLDER-WINFIELD: I don't have a question. Former Representative Dyson indicated he would like to get out of here, and I will allow him to do that.

WILLIAM DYSON: Thank you, thank you. I appreciate that.

REP. LAWLOR: It's good seeing you again, Bill. Thank you.

WILLIAM DYSON: (Inaudible.) Thank you.

REP. LAWLOR: Next is -- Andrew Schneider's not here, correct? Okay, he is here. Here he is, and next will be Melissa Aiello.

ANDREW SCHNEIDER: Good evening, Senator McDonald, Representative Lawlor, and members of the Judiciary Committee. My name is Andrew Schneider, and I'm Executive Director of the ACLU of Connecticut. I'm here today to express or support the Raised Bill Number 6578, An Act Concerning the Penalty for a Capital Felony.

Because it's late in the evening and because you've heard a lot of testimony over the course of today, you all are probably now experts on the death penalty, and there's probably little more that I could share except I want to stress a perspective that may not have been emphasized quite as much as we would emphasize, and that is about the awesome power of government, the fact that the government has the power to put someone to death, and how we live with a judicial system that is an imperfect system, that makes mistakes, and with such an irreversible punishment, we ask the question should we be putting people to death when mistakes can be made?

And, after all, capital punishment is the ultimate denial of civil liberties. There's really no worse, more extreme denial than that. It's costly, it's irreversible, it's the epitome of cruel and unusual punishment, and so I ask this Committee to consider very carefully the option of repealing the death penalty, of abolishing this practice, and restoring Connecticut to the other jurisdictions around the world that have done away with capital punishment and the other states like New Jersey and states that are now considering it. Let's be a leader and restore the proper balance of justice to our American constitutional system.

Thank you very much.

REP. LAWLOR: Thank you. Are there questions? If not, thank you very much.

ANDREW SCHNEIDER: Thank you.

REP. LAWLOR: Next is Melissa Aiello, and just to be clear, Scott (inaudible) is not here, right? Lorenzo Jones is gone. Susan Phelan is gone, right? So, next will be Ed Gavin, and Antoinette Bosco is no longer here. Is that right? So, Ed Gavin will be followed by Ben Jones.

MELISSA AIELLO: Senator McDonald, Representative Lawlor, and other members of the Judiciary Committee. Thank you for the opportunity to speak to you today. My name is Melissa Aiello. I live in the town of Bloomfield. I'm a student at the University of Connecticut School of Social Work. I'm currently employed at a local therapeutic group home for adolescent females with severe trauma histories who are a part of the juvenile justice system.

I'm here today to offer my opposition to the House Bill 6386, An Act Delaying the Implementation of Legislation Raising the Age of Juvenile Jurisdiction.

A 16-year-old in the state of Connecticut is prohibited by law to purchase any tobacco products and alcohol beverages, they cannot vote, and they cannot register to participate in the armed forces. But, yet, at 16 they can be processed as an adult for minor and non-violent crimes in the judicial system. According to the Federal Bureau of Justice Statistics, Connecticut locks up more children in adult prisons than any other state in the

EDWARD J. GAVIN: Chairman Lawlor, Chairman McDonald, members of the Judiciary Committee. My name is Edward Gavin. I'm the President of the Connecticut Criminal Defense Lawyers Association. With me this evening is Michael Fitzpatrick, past-President, and Jennifer Zito, and we appreciate the Committee's indulgence. Jennifer was number two, as you know, on the juvenile justice bill, so she's been waiting here this morning.

We are here in support of Bill 6578 and, as always, we thank the Committee for the good work and the effort that you put in on this long day today. We are here on a sort of unique perspective, I think, for you. Our organization is part of the Connecticut Network to Abolish the Death Penalty. We're in support of Bill 6578, the prospective abolishment of the death penalty. We think that is a major step, and we thank you for your good efforts in that regard. We've submitted written testimony. I'm not going to go through it. We've discussed the costs involved in the death penalty, the factors here in Connecticut, the cost of housing inmates, and that's been addressed by others.

What we do have is this perspective. Michael and I both handle death penalty cases. We're both graduates of the college, the death penalty college in California. I was the amicus in the Ross case. Michael represented Mr. Ross for ten years. We had tried these cases, we've handled them, and we have some answers to, I think, the very relevant questions that were raised here by the Committee, and we're really here to answer those questions as best as we can, so what I'd like to do is have just some comments from Michael and then see if we can help out, clear up any of the issues that were raised today.

Thank you.

HB6578

MICHAEL FITZPATRICK: Good evening, Representative Lawlor, Senator McDonald, and Committee members. Much of the discussion today, although it wasn't anticipated, has been on fixing the death penalty, that we don't have a workable death penalty in Connecticut.

However, that is far from the truth. We may not have a speedy death penalty, but we do have a workable death penalty, and the Connecticut experience has not been much different from the Connecticut experience nationwide.

Now, one of the earliest questions today we why in its early stages did it only take a capital case in Connecticut two years to go from arrest to conviction, and now we're up to approximately three to four years from arrest to conviction.

When the death penalty was enacted by the Connecticut Legislature in 1973, we only had a handful of people that were exposed to capital punishment. Of course, we had Michael Ross, we had Jerry Daniels, we had Steven Wood, we had Robert Breton, and we had Kevin Usury. That's only five people in the early seventies that were prosecuted in the state of Connecticut for the death penalty.

Of course, it only took two years. It shouldn't take much longer than two years to work five men through the system, but now in 2009, we're trying to work somewhere between 20 and 30 capital cases through the system, through the same number of courts and, quite honestly, if you want a 2009 case to proceed with the same speed that a capital cases proceeded with in the late seventies and early

eighties, you're going to have to fund it. You're going to need more courthouses, more judges and more prosecutors.

Habeas corpus reform, that was another issue today. There was talk about whether or not habeas corpus in Connecticut can be scaled back. Habeas corpus is part of the Connecticut Constitution. You'll have to amend the Constitution, but beyond that, you have to deal with the United States Constitution, and within the last 18 months, the United States Supreme Court ruled that enemy combatants have habeas corpus rights, so if a detainee at Guantanamo Base has habeas corpus rights, you can bet that a man on death row is going to have habeas corpus rights under the federal Constitution.

So, even if you were of the notion to try and scale back the Connecticut Constitution in order to speed up executions, you still would have to deal with the fact that the person on death row, whether it's a man or woman, is going to have certain remedies available to him or her in the federal courts.

Now, I want to move as quickly as I can because I know your time is limited. There were questions today about the cost, specifically on the Public Defender's side, and they weren't put to the Public Defender's Office as I hoped they would have been. Instead, they were put to Mr. Kane,so he wasn't really the best person to answer.

Here's the bottom line. In 2003, there was a death penalty commission report issued by the Chief Public Defender's Office, and it cost them $380,000 to defend a case where the death penalty is sought. These are capital felonies. These aren't the run-of-the-mill

murders. These are all capital felonies. If the death penalty is sought, it's $380,000.

If a capital felony is charged but the death penalty is not sought, the cost to the Public Defender's Office is 80,000, so when Mr. Kane testified earlier -- and although I have great respect for him -- that the savings were not significant, he's very wrong in that regard. It's a savings of $300,000 per case for the Public Defender's Office when they do not have to defend against the death penalty.

One of the other things that Mr. Kane also asserted today is that we've never really had a discussion about post-conviction reform, and that we need to have some post-conviction reform in order to speed these cases along. Well, that's not correct.

In 1995, the Legislature passed a bill which scaled back appellate review of death penalty cases. You may recall that in 1995, the Legislature eliminated proportionality review because the Legislature found that it was, number one, it wasn't a constitutionally mandated procedural safeguard, but secondly, because of our rigid statute, it wasn't necessary and, thirdly, that it was causing undue delay, so this notion that's been floated out here today that there never has been any meaningful discussion about post-conviction reform is not correct.

Now, can there be additional post-conviction reform, particularly in the habeas corpus arena? That is difficult to achieve for all the reasons that have been explained to you earlier. Simply put, you've got too many U.S. Supreme Court decisions that you're up against where you can really substantially scale back habeas, even on a state level.

One of the things that Mr. Kane really urged in his testimony was that the Legislature ought to think about imposing a one-year statute of limitations with regard to the filing of habeas corpus petitions in capital cases, and if there's any one thing that you leave this building tonight and you think about with regard to my testimony, I want you to think about this.

What Mr. Kane said to you is -- it's sort of illogical, and let me explain to you why. A defendant is sentenced to death; he appeals to the Connecticut Supreme Court; he loses. He now has 90 days to appeal to the U.S. Supreme Court. He files a petition for certification; the Justices consider it, and they deny it; or, they grant the petition and they actually hear the case, and then they rule against him on the merits.

Within a week of the United States Supreme Court's decision, whether it's on cert petition or on a hearing on the merits, the case is going to be remanded to the Connecticut state courts to set an execution date, and an execution date is going to be set. You know why it's going to be set? Because you've got John Connolly or Mike Dearington or any of the other Chief State's Attorneys who are passionate and vigilant about these cases. Do you think for one minute the United States Supreme Court is going to decide a case in favor of the State and against the defendant, send it back, and the prosecutor is going to fail to ask a judge to set an execution date?

It's not going to happen. An execution date is going to be set, and with and absolute certainty, it's going to be set within 90 days

of the date the case has been lost in the Supreme Court.

So, to put a burden on the defendant to say that two years after you've exhausted your appeals you can't file a habeas is a meaningless provision because he's going to be dead by then. He's going to be dead by then. You don't need to get stuck on this question of a statute of limitations. There is no delay, but to the extent a delay is perceived, it's not because there's some lack of a statute of limitations. That is just totally irrelevant.

The problem nationwide in death penalty cases is successive petitions in habeas corpus. In other words, you've exhausted all your direct appeals, now you file a habeas corpus petition alleging ineffective assistance of counsel, you lose. Six months later, you file a second habeas corpus petition, alleging that the prosecutor withheld evidence, you lose. A year later, you file a third. That's been the national experience, and that's why nationally people are up in arms about the death penalty, but that's not the Connecticut experience because here's the numbers.

Since 1973, we have not had one capital case where we've had to deal with successive petitions, and while we have pushed over 100 capital cases through the courts and while we have 10 people on death row, we've only had two habeas corpus petitions litigated, and we only have two others pending, so for Kevin Kane to come in and say the problem here isn't with the judges; the problem here isn't with the Legislature; the problem here isn't with the defense lawyers; the problem is that we have habeas corpus and we need reform. That's not correct, and I was so glad, Representative

Lawlor, that you put him on the spot and said exactly explain what type of reform is needed, and although he did a great job fielding questions that he didn't anticipate, I think when he goes back tonight and he thinks about his testimony and then he talks to his colleagues tomorrow, he's going to realize that some of the concerns that he expressed are not legitimate.

REP. LAWLOR: Could I just follow up on that for a second because --

MICHAEL FITZPATRICK: Yes.

REP. LAWLOR: And, you know, granted he was kind of caught offguard, I think, by the turn that we took in terms of what we were discussing, but I did ask him this question because I guess the real question is -- and you just put it; I just want to make sure we're on the same page in terms of what we're saying -- and that is, are there actually any cases where a habeas petition was filed more than a year after the final judgment, I guess, in the State Supreme Court, and he said he wasn't sure.

And, so, what you're saying is you are sure that that's never actually happened, there haven't been these successive habeas petitions in any Connecticut capital case, so whatever has been filed in terms of a habeas was actually filed within that first year, and those are still being litigated to this day. Is that the case?

MICHAEL FITZPATRICK: Let me be very specific. First of all, I define a successive petition as two habeas corpus petitions filed by the same defendant, one after the other. If Kevin Kane -- here's the way you have to measure whether or not something's been filed within a

year. You can't -- your start date isn't the date you lose in the Connecticut Supreme Court. Your start date has to be the date you lose in the U.S. Supreme Court, and your case may be in the U.S. Supreme Court for 13 or 14 months, so you wouldn't file your habeas corpus petition, which is a petition out to the right or the left when you're still going up the ladder on direct appeal to the U.S. Supreme Court.

So, if he believes that -- if he believes that a habeas corpus petition was filed over a year after it was litigated in the Connecticut Supreme Court, he's picking the wrong start date. That could be true, but that's not the proper start date.

REP. LAWLOR: So, let me just ask because we're going to ask our research office to try and sort this out in some useful way -- sorry, Chris -- but -- so, in effect, I guess the true final judgment in a death penalty case comes when the Supreme Court issues its -- either denies cert or takes the case up and decides it.

MICHAEL FITZPATRICK: That's correct, and here's another extremely important point. You're not entitled to even file a habeas corpus petition in state court or federal court until you've exhausted your remedies on direct appeal.

REP. LAWLOR: And just so we're clear about what Kevin Kane was talking about -- of course, he's not here --

MICHAEL FITZPATRICK: Yes.

REP. LAWLOR: -- but, you know, we'll obviously have another opportunity to talk about all these things, but if we set a one-year sort of

deadline for filing habeas after the death penalty case is final -- so, you've gone to trial; you've been convicted; you've been sentenced to death; you've appealed it up to the State Supreme Court; you lost there, and then you took the next step of seeing redress in the Supreme Court, and that got resolved; so, if we said a year from the end of that, which is pretty much the only -- I mean, if we're going to have a one-year deadline, it's from that -- the end of that point, right? The question is would that have any effect on any of these 10 cases currently pending, and in the future, what difference would it make, I guess, because it's been suggested here this would be a big difference, and my gut told me I'm not so sure it would, and what you're telling me is you know for a fact it would not, and so is that what we're saying?

MICHAEL FITZPATRICK: I know for a fact it would not. You could pass legislation calling for a one-year statute of limitations after you've exhausted all your remedies on direct appeal, but there won't be a defendant around who's alive to file the papers because every one of them will be dead. They'll be dead within 120 days.

REP. LAWLOR: And, I think just for clarity, I think he did mention almost in passing, but he did mention that he would have an exception to that for new evidence or actual innocence-type allegations.

MICHAEL FITZPATRICK: Well, you know, we have a new evidence statute. It says within three years you can bring a claim for relief if you have new evidence, but it doesn't much help the fellows who've been executed.

REP. LAWLOR: How about -- wouldn't it affect --

and apparently this doesn't happen in Connecticut, but theoretically it would affect the case where you've got to the point where you could file your first state habeas, and you filed it, and you lost on that, and then you filed a successive one, so in theory, at least, if we had such a one-year limitation, it would affect that, although you're saying it's never actually happened, so what difference does it make?

MICHAEL FITZPATRICK: Well, you could have a one-year statute of limitations, but then, I mean, habeas corpus law is as complex as it gets.

REP. LAWLOR: Yes, I'm sure.

MICHAEL FITZPATRICK: No matter how you draft the statute, there's always going to be an issue about -- unless you put a provision in there specifically dealing with successive petitions, I think you're going to face successive petition litigation.

REP. LAWLOR: And then after you're done with all of that, then you get into the federal habeas practice, and there's no law we can pass here that's going to affect that one way or the other. Right?

MICHAEL FITZPATRICK: That's correct.

REP. LAWLOR: I know this point's going to come up. Let me just read to you what it actually says in the Connecticut Constitution, and I think I understand what it means, but I'm sure it's much complicated than it appears to be from the simple language in the Constitution, but it does say --it's just one line -- it says: The privileges of writ of habeas corpus shall not be suspended unless when in the case of

rebellion or invasion, the public safety may require it; nor in any case but by the Legislature.

Does that mean the Legislature could suspend the writ of habeas corpus? Is that what that says? I'm not sure.

MICHAEL FITZPATRICK: You know, I haven't researched that question, but certainly if the Legislature had that power, they couldn't use it in such an arbitrary way as to exclude a certain class of people such as death row defendants. I think the way the Legislature would have to go would be to pass a constitutional amendment, eliminating habeas corpus.

REP. LAWLOR: Okay.

EDWARD J. GAVIN: But, it wouldn't have impact federally, though.

MICHAEL FITZPATRICK: Because you'd still have your federal habeas rights, so I think your suspicion is right, right on point. I think that in theory to go ahead and try to modify the Constitution to limit habeas rights state-wide will cause appeal of that issue in the federal courts.

REP. LAWLOR: Well, let me ask you a favor then and, of course, we'll have to bounce this off, you know, you won't be the authoritative source, but to the extent you have information, if you could make that available to our Office of Legislative Research just so we can attempt to figure out if the ten pending death penalty cases appeals -- however you want to characterize them -- in any of them, has a habeas petition been filed more than one year after the end of the state

proceedings including the appeal or the petition for cert to the United States Supreme Court, just so we can get that question answered so that we can later determine what, if any, impact would it have if we established such a one-year limitation, so that would be really helpful, and then we could see if State's Attorney Kane disagrees with it and go from there.

MICHAEL FITZPATRICK: I think there's another part, there's another part to that answer. As you know, not the Legislature but the courts, in fact, the Connecticut Supreme Court appointed a Special Master to examine the question of whether the application of the death penalty was being affected by race, and I also -- and some other arbitrary factors.

It was established in the Cobb case and when the Connecticut Supreme Court issued the ruling, they indicated in the opinion that other death row inmates could become part of the class, and I think that what Mr. Kane is talking about, Mr. Kane is confusing a traditional habeas corpus application. He's confusing a traditional habeas corpus application with applications made by some of the ten death row inmates to become part of the class that the Special Master, part of the class of inmates that the Special Master is looking at, this issue of race and its effect on capital punishment.

Now, whether you want to call it an application or you want to call it a habeas corpus petition, whatever name you want to put on that vehicle, they had to file something to become part of that class, and Mr. Kane when he talks about post-conviction delay and certain legal filings more than a year afterwards, I believe he's actually talking

about the applications that were filed by some of the death row inmates to become part of the class subject to the racial disparity review being conducted by the Special Master appointed by the Connecticut Supreme Court.

EDWARD J. GAVIN: That's former Chief Justice -- former Chief Justice Callahan was appointed as the Special Master.

MICHAEL FITZPATRICK: And, of course, that's not a longstanding problem. Even if it's a slow process, it's eventually going to resolve itself.

REP. LAWLOR: Thank you. Attorney Zito, did you -- are you testifying about the juvenile bill or are you passing on that?

HB6386

JENNIFER L. ZITO: No. The juvenile bill. Chairman Lawlor and Senator McDonald, thank you for the accommodation. I was due to be here first this morning. The dump truck accident on I-84 delayed me, so I appreciate your allowing me to talk now. I'll try to be brief.

CCDLA supports the passage of most of 6575 in the Raised House Bill, the act concerning revisions of raising the age of juvenile jurisdiction, but we have serious problems with the controversial provision set forth in Sections 15b and c, allowing the statements of 16- and 17-year-olds to be admissible if reasonable efforts are made to contact a parent and that parent cannot be found or located.

The concerns that I've heard from the Chief of Police and other people who have testified today are that we are balancing budgetary and administrative concerns against a

JENNIFER L. ZITO: Thank you, Senator.

REP. LAWLOR: Are there further questions? If not, thank you all.

JENNIFER L. ZITO: Thank you.

MICHAEL FITZPATRICK: Thank you.

EDWARD J. GAVIN: Thank you.

REP. LAWLOR: Next is Ben Jones.

BEN JONES: Chairman Lawlor, members of the Committee, good evening. My name is Ben Jones, and I'm the Executive Director of the Connecticut Network to Abolish the Death Penalty, or CNADP.

The CNADP's mission is total abolition of Connecticut's death penalty. We strongly support Raised Bill 6578. This measure will dramatically limit the death penalty's scope and move the state toward eliminating this dying, wasteful, and ineffective practice.

When terrible violence occurs, the citizens of our state deserve a response that fairly punishes the guilty, prevents further violence, and attends to victims' needs. On all these counts, the death penalty is an utter failure.

First, the death penalty continues to be applied in a discriminatory, capricious and arbitrary manner. Though we have advanced beyond the days when Blacks would end up on death row for thefts of only a few dollars, race and socio-economic standing still play a disturbing role in the death penalty's application.

One of the best predictors of who receives the death penalty is the victim's race. Specifically, cases involving white victims result in death sentences at higher rates than those involving Black or Latino victims. Furthermore, the death penalty is a punishment reserved primarily for the poor. Ninety-five percent of those on death row cannot afford their own attorney. Sadly, capital punishment remains a cruel lottery biased against marginalized groups.

Second, the death penalty fails to keep us more secure. There's no compelling evidence -- there has been a lot of debate on whether or not it is a deterrent if you look at studies on both sides, but from my investigation, there's no clear evidence that's a deterrent.

Reasonable people can disagree on this. The key point, though, is can we be spending money better ways. Are there other deterrents out there that are better, and I think the clear answer is yes. Money that's used on the death penalty could go to police officers, drug prevention programs, which police chiefs consistently say are better deterrents that the death penalty.

Finally, the death penalty increases the pain of those impacted by violence. Victims have to be at the center of any talk about the death penalty, and when a death penalty gets passed, that ensures the case will be in the public eye for years and years, and there's an incredible amount of pain that families unnecessarily go through because of that.

One answer is a shorter appeals process which has been mentioned. Some states have been

thrown out there like Florida and Texas. Their system seems to be more efficient, people get executed quicker, but I would point out that there are problems with these systems. If you look at Florida, Florida has had more exonerations than any state in the country. Texas, you see lawyers falling asleep; you see -- there's a very compelling case when an innocent person was executed in Texas, Camber Willingham, who was executed based on arson theories that have later been disproved, and this is what happens in those states.

I don't think that's the route we want to go. The answer is life in prison without parole. You got that route, you stick people in jail, you lock them up, you secure society, you don't put victims through all that unnecessary pain, and you also don't run the risk of executing an innocent individual, which we never want to do.

So, for those reasons, the CNADP urges the Committee to recommend Raised Bill 6578.

REP. LAWLOR: Thanks, Mr. Jones, and you're new to this position, right?

BEN JONES: Yes.

REP. LAWLOR: What do you think of the first go-round here at the capital on this topic?

BEN JONES: It's been a baptism by fire organizing (inaudible) first job, but, yes, it's good.

REP. LAWLOR: Better luck next time on the lottery, though, okay?

BEN JONES: Yeah, yeah.

REP. LAWLOR: Are there questions? Here you go. That's true. Well, thanks again.

BEN JONES: Thank you.

REP. LAWLOR: By the way, Kim Harrison speaks very highly of your talents, he did let me know tonight.

Walter Everett and Ingrid Swanson is still here? You'll be next, okay?

HB6578

WALTER H. EVERETT: Cochairman Lawlor and members of the Committee who had the fortitude to stay here this long, I thank you. I was also greatly appreciative of the opportunity to hear Dr. Petit's and his sister's testimonies, and my heart went out to them. I can't possibly know how they feel. Everybody says after an event like this, oh, I think I know how you feel, or, I know just how you feel. Nobody knows. I can't possibly know their hurt. I can only understand the pain I felt when my son was murdered in Bridgeport in 1987, and I thank Senator Gomes for reading a portion of my statement. That shortens what I have to say. We're getting a little more time.

At any rate, I lived with a tremendous sense of rage for a year until I finally came to the point of forgiveness. That rage was fueled by a justice system that allowed for a plea bargain. I never wanted the death penalty, but I did want a long sentence. I was called in by the State's Attorney who said we'd like to discuss the case with you. I sat down, and he said we've come to a plea bargain with the person that killed your son. I said what are the terms, and when he told me, it was tremendously short, and I was furious. He said, well, we know you don't like it, but in

the first place, the State is the injured party, the State prosecutes, you're just a bystander, and any system that looks on victims as bystanders is flawed. The State has to begin to look at the healing of victims.

My healing came in a self-initiated way after the person as a result of his plea bargain was able to say I'm sorry, and I responded by writing to him and telling him I forgive you. Those were the hardest words I've ever written. I didn't feel good, but that was the thing that began to lead to my healing.

We need a system of restorative justice rather than the State's retributive justice. Who committed the crime and how do we make that person pay with no thought given to the victim. Restorative justice begins with the victim. How do we provide healing? Secondly, how do we encourage a sense of accountability on the part of the offender? Third, how do we restore trust to the community after a violent crime, and fourth, how do we change society so that we reduce the conditions that lead to violent crime?

I'm convinced that a system of restorative justice would be much better than the system of retribution, which the death penalty includes. I believe we can save money by abolishing the death penalty, and the money that is saved could be used for the benefit of victims.

New Mexico just a couple of weeks ago had their House pass a bill abolishing the death penalty. It goes to the Senate now, and the Governor has indicated that he would sign it if the Senate passes it. New Mexico could soon become the fifteenth state without the

death penalty. Others are considering it seriously, but in New Mexico, one of the key things that led to the passage of that bill was a recent poll that said when people are asked, do you favor the death penalty if the alternative is life without parole plus, plus restitution to the victims. Fully 68 percent of the people said I favor the latter, life without parole plus restitution to the victims. Clearly, people want something that's healing and strengthening for victims. The death penalty does not do it. People five, ten, twenty years later are saying why don't I feel any better?

I'm sure most of you read The Hartford Courant. On the day after the execution of Timothy McVeigh, the banner headline read It Still Hurts, and there were quotes all over the front page from families of the victims of the Oklahoma City bombing. Today, I am well acquainted with one of those victims, and he tells me that while every person who had a family member killed initially wanted the death penalty. Gradually, that began to change, and today some two-thirds of the family members are opposed to the death penalty. They feel it did not do them any service.

So, I maintain that if we can abolish the death penalty and begin to look at alternative ways of ministering to the victims, we'll have a much more just and restorative system.

I thank you very much.

REP. LAWLOR: Thank you, Walter, and I know this is not your first visit before the Committee expressing those same sentiments, and we appreciate it each time and, of course, we're terribly sorry for the loss you suffered 20

years ago, but it seems that your coping skills are better than mine and most people's, and so for that we thank you as well.

WALTER H. EVERETT: I might just say that while the Petits today can't forgive -- and I understand their anger -- maybe someday they will, but at least they should be getting the help, and the death penalty will not help them heal. They should be getting the help that they need.

I thank you for your time.

REP. LAWLOR: Are there any questions? Senator Gomes?

SENATOR GOMES: I just wanted to thank you for being here. I want to thank you for your testimony. I used part of it because it just struck me so that a person could lose their son and still forgive somebody, and now I understand the way you explained it when you talked about restorative justice, and I just wanted to thank you, and I know, like we were talking to the Petits and like you said, nobody could put their arms around how much pain they felt, and nobody could also for yourself for losing a son, and I guess it must be some sort of a -- I don't know what would cause somebody to take that much of a loss and come back and forgive somebody, but your testimony -- that's why I use it -- sort of like plagiarize your testimony -- that's why I used part of it when I talked to the Petits.

I want to thank you for being here.

WALTER H. EVERETT: (Inaudible.) It's not copyrighted.

SENATOR GOMES: I know. Plagiarism is when you publish something, right?

WALTER H. EVERETT: Right.

SENATOR GOMES: Thank you.

REP. LAWLOR: Thank you. Representative Morris?

REP. MORRIS: Thank you, Mr. Chairman. Just a very brief comment.

I just want to thank you as well for just putting a different face on the challenge. I look at you, you know, and I'm sure you have your nights and you think about, you know, your child, but there's a sense of peace that I get just looking upon you, and is that your wife sitting in the back as well? Both of you, just seeing the smiles and seeing that, you know, you're still dedicating your life to some degree to public safety, to justice, I thank you just for putting a different face on it. You remind me of a woman that I met in Norwalk, and she's moving on in a better way.

And, certainly, we need to consider that our system, how we can certainly make, again, people safe, but find a better way to manage the situation for everyone, so thank you so much for your testimony and personally coming out with that same commitment. You could have just moved on and forgot it. Thank you.

WALTER H. EVERETT: Thank you.

REP. LAWLOR: Further questions? If not, thanks again, Walter.

Ingrid Swanson? Is Rene Fleming still here? You'll be next, Rene, and Shelli Fortier is here, too? Okay.

INGRID SWANSON: Chairman Lawlor, other Committee

SB1057

just raise-the-age. We have to deal with the financial implications, but I think if we can iron out some of the other smaller details, this is the direction Connecticut's going, and in conjunction with families with service needs and the Family Support Centers, as you very aptly just pointed out, we can really create not only huge cost savings going forward, but huge quality of life savings for the people in the state of Connecticut. Lives turned around, people being productive citizens, less victimization, so I understand that we may not necessarily end up going quite as fast as people would hope, but I think we're pointed very much in the right direction, and it's hard to stay here all day and do public speaking, and you did a fantastic job.

ALEXIS WILLIAMS: Excellent. Thank you.

REP. LAWLOR: Further questions? If not, thank you once again. That was great. Thanks.

Last is Roger Everson and John Kadaras. Is anyone else planning on participating? What's your name?

(Inaudible.)

REP. LAWLOR: Sherri (inaudible). Thanks.

HB 6578

ROGER EVERSON: Good evening. Gentlemen and ladies, I'm going to try to read this as quickly as possible. I think that listening to all the previous testimony, some of the things I was going to talk about are covered, but some things I'm going to expand on.

But, let me tell you something about myself first. My name is Roger Everson. I'm a retired prison warden, state of Connecticut,

also former Executive Director of the Hill Neighborhood Corporation which was a model cities program in the city of New Haven. I don't know how many of you are familiar with that. That was (inaudible) in order to develop, you know, services in poor areas, in blighted areas in the country, and New Haven was designated as one of those model cities of the hill. My job as Executive Director was to develop citizen participation in all those programs.

Before that, I was a health planner for the South Central Connecticut Conference of Health Planning Projects, which developed some of the environmental and health proposals for the model cities at that time.

I stand here today before you, a 74-year-old Black man born and raised in New Haven, Connecticut. As a young Black boy growing up in the housing projects of the inner city without a father present from six years old on, I lived a life of poverty without at that time realizing what was wrong with the world. Although my mother provided most essentials my brother and I needed, there were times in school and on the playgrounds that other kids my age had little tidbits that I had no money to buy.

In school, some of the other kids came from other neighborhoods whose parents saw to it that they had spending money. That hurt. As a young boy, I would steal little things that I wanted. God bless you, young man, but for the grace of God, okay.

At age 15, I got caught. I haven't stolen a thing since then. The worst thing that happened to me at that time was when I got home and my mother took care of me, I mean

real good.

In high school, there wasn't even a thought about me going to college. This was in 1952 when I graduated from Hillhouse High School, so I joined the Army at 17. I graduated in June; I set September 17; I was in the Army serving in the Korean conflict. I went to Korea that January at the age of 18.

To me then it was kill or be killed. That sounds strange coming from a man 74 years old, and that happened almost 60 years ago, but I was a kid then, and war is not meant for 18-year-olds. I came back to my community as an angry Black man when I found out it wasn't just me as a young Black boy being denied, but in the 1950's and sixties, the whole country was engulfed in active racism. Just as I did during the war, I thought I needed to gain as much psychic knowledge as possible to begin to understand this native enemy and to do everything in my power to destroy it.

I began then to involve myself in people programs. Without a college education, I had to do a lot of reading, particularly those efforts being made to rip the cover off and destroy the enemy of all kinds. I was angry at that time.

Many forms of racism exist today. Because we are here to address the death penalty, we need to understand the improprieties of its application. Some people think a life for a life. If that were the case, then every time someone was killed in an accident, regardless of who or what was at fault, quote-unquote, let's find someone and zap them.

Just as there are many ways to kill someone, there are as many reasons why they are killed

or die from injuries caused by accidents. I believe the worst penalty for any crime should be life without parole.

Let's ask ourselves a question. What role could poverty and race play in a person's conviction of a crime or acquittal or a lenient sentence? Here are some -- here are some: One, money; race; who you know; quote-unquote, equitable treatment for all. I think Bill Dyson spoke well about that earlier.

Easier said than done. How do you get people who believe in fairness over greed? Quotas. The more you convict, the better you are. And promotions as well as the aforementioned reasons, race and poverty.

Let's take a look at race and poverty. When I first began to work in anti-poverty programs, one important factor was discovered. Because the majority of poor people were minorities, the local health center which provided free service for children -- this was part of the model cities program for the Hill neighborhood and the Hill -- began to find many with a strange illness, many children with a strange illness. It was called lead poisoning which was caused by infants eating lead-based paint that was falling off of the walls in dilapidated houses throughout our community.

By now I'm sure most in this room -- and there aren't many anymore -- are familiar with that problem. Well, it still exists today. For example, take any young person in his teens today who just happened to be a victim of lead poisoning as an infant which might have caused any level of severity of brain damage then, simply said, the lead went away, but the brain damage didn't.

And, the brain damage was permanent. They were labeled bad kids. If an adult of any age today were to receive any form of brain damage as a result of an accident and as a result of brain damage were to take someone's life, regardless of how heinous it might seem, that person with the right resources would probably be found incompetent.

You must pose the question. What's more dangerous, a teen with a gun or a crazy driver with a cell phone? God has the only right to kill. Let's get it straight. Cut off the errors, and that speaks to how many people have been convicted over the years and been put to death and then later on because of DNA have found that they were innocent, and there are a lot of people because of lack of resources are found guilty in our courtrooms today because they don't have the type of -- I'm not knocking Public Defenders, but if you can get three lawyers from some of the big law firms in the city of Hartford or the city of New Haven, I'm pretty sure they'd find some way to get you off.

But, if you have to deal with just Public Defenders -- and some of them are really -- I don't know how much they get paid; it's not much -- you haven't got much of a chance, particularly the way racism is today, it's kind of, you know, like covert I guess is the best word, but it's there.

The last time I was in a courtroom in a trial and I watched the jury, and out of six jurors there was one that was a minority, God knows there are more people out there that want to be on jury duty, but the selection of jury duty comes from what? People who have driver's licenses, people who pay taxes,

people who are worth it, that's where they get them from. People who don't have jobs, they don't know about, they're not going to select them for juries, so it's not proper because you're not being, you know, judged by your peers, but that's the way they say justice is today.
And, justice sometimes is an injustice.

Thank you very much.

REP. LAWLOR: Thank you, Mr. Everson. Tavin would like to ask a question, and I'm sure I won't get thrown out for doing this, but everybody's okay? All right. Go for it, Tavin.

TAVIN FORTIER: Did you have people behind you, pushing you, pushing you to do better when you were young?

ROGER EVERSON: Yes. Yes. When I came out of the service, I was 21, and I happened to meet a lovely young lady, okay, and her family, and I got married, and I changed my ways then, because I had a child after I was 10 months into my marriage, and I had a family. I wound up having 16 grandchildren, four children, 16 grandchildren, and now I have four great-grandchildren, and they were life, the love of my life, and that became more important than anything that could happen to me at that time.

TAVIN FORTIER: Thank you.

REP. LAWLOR: All right. I have Senator Kissel and Senator Gomes.

SENATOR KISSEL: First of all, I want to thank you. We're now past the eleventh hour of this hearing. It started at 10:00 a.m., and I'm seeing it's about five past 9:00, so that's

awesome, and also you pursued a life in corrections you stated at the beginning, and I'm sure in response to Tavin, you're not saying he should get married.

ROGER EVERSON: Pardon?

SENATOR KISSEL: You don't want Tavin to get married too young.

ROGER EVERSON: No, no, no, no, no. Don't get married too young.

(Inaudible.)

ROGER EVERSON: I didn't go to college. I went into the service. I grew up in the service. As a matter of fact, I'll tell you a little story.

When I graduated from high school in '52 in June, I was five eight and weighed 148 pounds. When I came back from Korea, I was six two and weighed 230. I was diesel, okay, but I was mad, and I could fight, and that's all I loved to do then, but my wife changed my mind about that, and my kids, and I finally calmed down a little bit.

SENATOR KISSEL: But I guess my last point is this. I just think it's interesting. I mean, it's a lot of folks, and over the years I've seen different folks a number of times on both sides of this issue, but I don't believe, at least, in my recollection you've come and testified on the death penalty issue, and you had indicated that once upon a time, you were a warden.

ROGER EVERSON: Yes.

SENATOR KISSEL: And, I was wondering what

facility, and it's just interesting that you bring that perspective to this issue.

ROGER EVERSON: Well, let me explain to you that I had worked in all these programs prior to working for the Department of Correction. As a matter of fact, in 1976 I was drafted by about 16 people, and Bill Dyson happened to be one of them -- and if he was here, he'd attest to that -- to run for the Mayor of the City of New Haven. It was pretty good. My program was worth $10 million back there in the model cities program, so I had a lot to do, and I had a lot of administrative skills, okay, and I just was self-taught at that time.

How did I become a warden? I was a good CO, and when I was a good CO, I became a good lieutenant, and when I became a good lieutenant I became a good captain, the best you can get, so I made warden. I was having a little help from a friend, but that's all right, too.

REP. LAWLOR: Senator Gomes?

SENATOR GOMES: I was listening to your testimony. Going all of the way back to '52, we're probably the two oldest things in this room.

ROGER EVERSON: I know that.

SENATOR GOMES: I'm one year behind you. I was 17 years old, and I was too young for the Korean War. My mother wouldn't sign me in.

ROGER EVERSON: Do you remember Bill Piper, the cop, the first Black cop?

SENATOR GOMES: Yes.

ROGER EVERSON: That's my uncle, my mother's

brother.

SENATOR GOMES: I knew Piper very well, from Bridgeport.

ROGER EVERSON: Right.

SENATOR GOMES: And, I listened to all that testimony, you know. I wanted a big career, but I got drafted in '58.

ROGER EVERSON: I joined.

SENATOR GOMES: But, it's nice to hear your testimony and all the things that you've done so that you can get things done without -- once you get settled. Thanks a lot for your testimony.

ROGER EVERSON: Okay. Thanks for having me.

REP. LAWLOR: Senator Gomes, were you five eight, 160, when you showed up in Korea, too?

SENATOR GOMES: I was about five eight. I weighed 139 pounds (inaudible).

REP. LAWLOR: I've got to try this Korean food. It sounds good.

(Inaudible.)

REP. LAWLOR: There you go.

ROGER EVERSON: There you go.

SENATOR GOMES: I was 160 when I got out of basic training (inaudible).

REP. LAWLOR: John Kadaras?

JOHN KADARAS: Good evening, members of the

HB 6578

Committee. I'm here today to speak in opposition of the death penalty.

I think it is an antiquated vestige of our system that is in our system along with drawing and quartering and tarring and feathering, castrating, amputation, ranting, the whipping post, all of which nobody seriously today proposes that we keep in our system. And, in my lifetime, the whipping post was abolished in the United States as a judicial punishment in Delaware in 1965, and I think people were castrated up until the fifties in certain states as punishment.

At the time of the death penalty initially, people as young as eleven were executed, and the Supreme Court didn't rule until the eighties that you had to be 16 to be executed. Today, recent Supreme Court opinions have now raised the age to 18. That is what they consider the evolving standards of decency.

Bill Clinton while campaigning for the presidency left the New Hampshire primary to go execute Ricky Ray Rector who left the dessert from his last meal behind because he wanted to finish it after his execution because he was that developmentally disabled. These are things that are happening.

The state of Connecticut, you can be executed at 18, but you're not old enough to drink until you're 21, so you're responsible enough to die, but you're not responsible enough to drink. I think this vestige is something of our past, and our state needs to be like the other New England states that don't have the death penalty with the exception of New Hampshire, which doesn't even have anybody on death row.

When I've heard justice today spoken by a number of other witnesses, my understanding in our system is that justice is a process. It is not the result of a particular case. It is the process one is afforded, and I submit to you that our system is broken and it cannot be fixed. Despite all of the changes, despite all of the tinkering that is continually done by this Legislature in the last 20 years, we can't get it right. We shouldn't use it.

The death penalty is not about the victims or about the perpetrators. It's about who we are as a people. It says more about us than it says about anything else, and I don't want to as a citizen of the state whose people are killed in my name, I do not want to be a killer. I don't want my daughter to be a killer. I think we can be better than that. We can join the rest of western Europe and the rest of every other democracy except for Japan and Jamaica that have the death penalty as a possible sanction.

The first person in Connecticut who was executed was a man in Guilford, and his crime was bestiality. The evidence of his crime is that he had a sow that was born that had piglets with milky eyes, and this gentleman had a milky eye. That was the evidence that was used to convict and execute him. That is part of our past.

Connecticut was executing teenage girls as witches in the 1600's. We can do better than that, and I ask this Committee and I ask the Legislature to make us a state that no longer engages in this behavior because, again, the death penalty says more about us as citizens and as a state than it says about who the victims are or who the perpetrators are.

I'm not a killer. I don't see you gentlemen as killers. Please don't kill in our name and let us be better than that. I have a 16-year-old daughter, and I want to teach her, and I want her to be better than that, and I ask in her name as well that we finally get rid of this vestige of our antiquity and be a more progressive state, more in terms of the 21st century than the last.

Thank you.

REP. LAWLOR: Are there questions? If not, thanks again.

And last but not least.

HB 6386
HB 6580

CHERI BRAGG: Good evening Representative Lawlor and members of the Judiciary Committee. My name is Cheri Bragg, and I'm Coordinator of the statewide Keep the Promise Coalition. The Coalition was formed ten years ago to ensure that a comprehensive community mental health system was created and sustained. That promise has not been kept and nowhere is that more apparent than in our criminal justice system.

We know that 20 percent of people incarcerated in Connecticut have been diagnosed with a mental illness, and according to the Department of Corrections, 1,428 with moderate or serious mental illness are there due to very low level, non-violent crimes.

We realize this session brings unprecedented fiscal challenges, but it also brings with it a huge opportunity, I think, to change the way we're doing business. If we treat people with mental illness early and in the community instead of institutions, we can save money and we can save lives.

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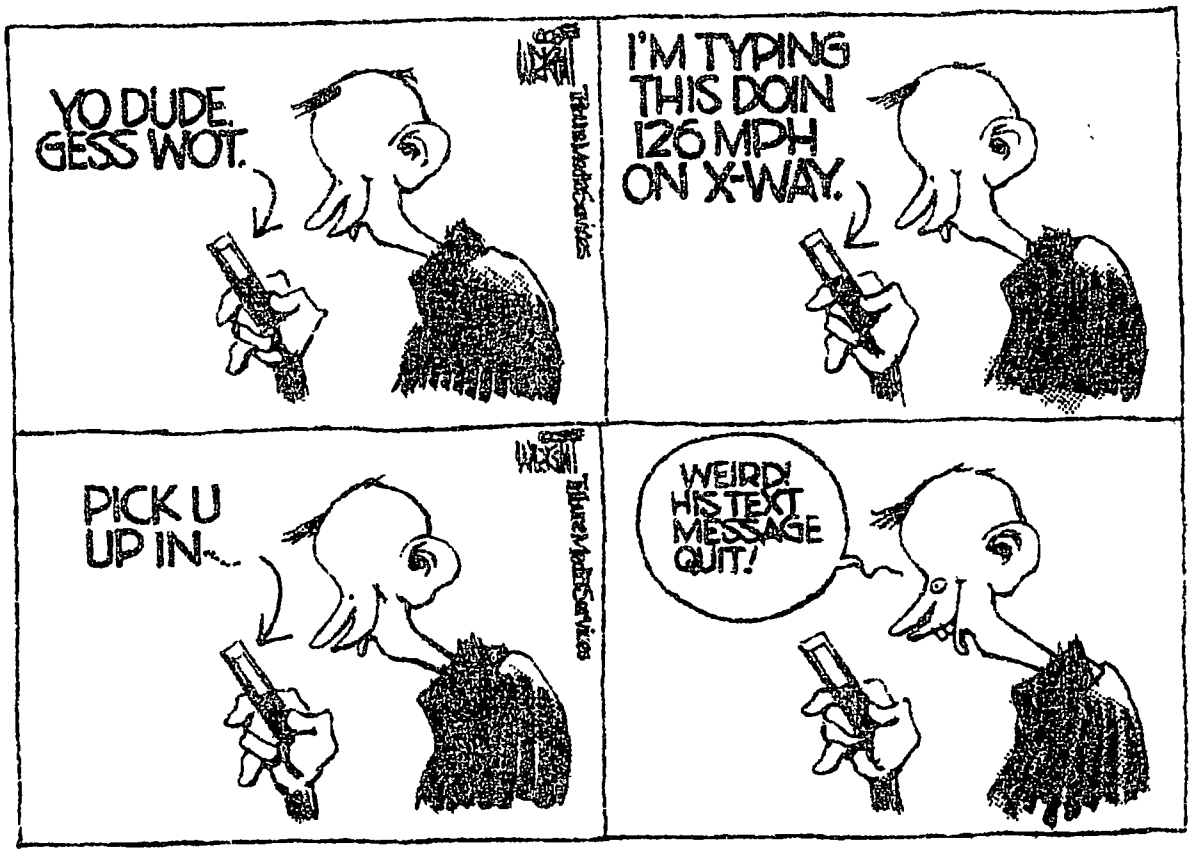
FRIDAY, SEPTEMBER 26, 2008

COMMENTARY

HB6578



LETTERS FROM OUR READERS

Death penalty must be re-evaluated

After years of DNA evidence leading to the exoneration of persons wrongly convicted and imprisoned, it is time to re-evaluate the death penalty.

There is little doubt that hundreds of innocent people have been executed and will continue to be executed, as DNA is not always available.

Recently a Connecticut man and two Florida men were exonerated by DNA evidence after serving lengthy sentences. Clearly, the required burden of "proof of guilt beyond a reasonable doubt" to convict in criminal cases is not infallible.

Since abolition of the death penalty is not politically feasible in most states, I would recommend raising the burden of proof to convict in capital cases from "beyond a reasonable doubt" to "absolute certainty." I have tried many murder cases in my 30 years as a Connecticut judge, using the Connecticut-approved jury charges that define "beyond a reasonable doubt" as specifically not requiring "absolute certainty to convict." Why not "absolute certainty" to execute?

As we know from the Duke rape case, politics and publicity drive many cases, which can lead to wrongful convictions.

Raising the burden of proof in capital cases would result in those few prosecutors who are more concerned with publicity and winning than justice to be reluctant to charge a capital offense unless they themselves were absolutely certain of guilt.

Life without parole is not a walk in the park, but would leave a defendant the opportunity to correct an injustice. Those recently exonerated men in Florida and Connecticut would be dead if they were convicted of a capital offense some 20 years ago.

How can anyone oppose being "absolutely certain of guilt" before putting someone to death?

Harold H. Dean
Norwalk

Have your say

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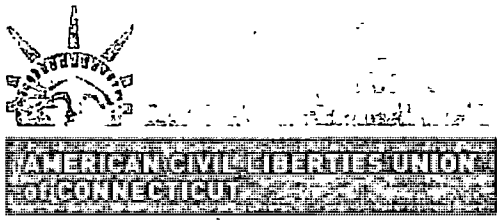

2074 Park St., Suite L
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Good afternoon Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Andrew Schneider and I'm Executive Director of the ACLU of Connecticut. I am here today to express our support for Raised Bill no. 6578, An Act Concerning the Penalty For A Capital Felony. Capital punishment, the ultimate denial of civil liberties, is a costly irreversible and barbaric practice, the epitome of cruel and unusual punishment. It's implementation is grotesquely unfair and it does not deter crime.

Regardless of one's viewpoint about the morality or constitutionality of the death penalty, most people would agree that if we are going to continue executing people in the U.S., we should be doing it fairly and rationally. However, three factors, unrelated to the crime itself greatly influence who gets executed and who does not: race, geography, and poverty.

In Connecticut, seven out of ten or 70 percent of death row inmates are African-American or Latino. Whereas only 9 percent of Connecticut's population is African-American and 10 percent is Latino In fact, the racial disparity of our death row is much higher than that of the country as a whole. The most important factor in levying the death penalty, however, is the race of the victim. Those who kill a white person are more likely to receive the death penalty than those who kill an African-American person or Latino person.

Sadly, where you live often determines where you die. Whether someone convicted of a capital crime receives a death sentence depends not just on the state they live in but also the county in which the trial and conviction takes place. Some prosecutors are more zealous in seeking the death penalty than others. This pattern exists in Connecticut with a higher representation of people on death row from the Waterbury and Hartford areas than other areas.

Most capital-crime defendants are indigent when arrested and cannot hire their own counsel. Wealthy people who can afford a private attorney are generally spared the death penalty, no matter how heinous their crimes. Poor people do not have the same opportunity to buy their lives.

Social Science research has discredited the claim that execution deters murder. The majority of murders are committed in the heat of passion, and/or under the influence of alcohol or drugs, when there is little thought given to the possible consequences of the act. States that have death penalty laws do not have lower murder rates than states without such laws. And states that have abolished capital punishment or reinstituted it, show no significant changes in either crime or murder rates.

The irreversibility of the death penalty is especially significant in light of the percentage of innocent people put on death row in recent times throughout the country. In the last 35 years, 130 people have been released from death row with evidence of their innocence. From 1973-1999, there was an average of 3.1 exonerations per year. From 2000-2007 there has been an average of 5 per year.

Capital punishment costs our state lots of money we cannot afford - much more than keeping someone in prison for life without parole – and Connecticut has carried out only one death sentence in the last four decades, it seems like a high price for a system we rarely use.

So it is with good reason that other states are starting to seriously consider abolishing their death penalty. New Jersey just did so last year and in New Mexico and Montana, abolition bills have a strong chance of passage. It's time for Connecticut to do the same.

Thank you.

HB6578

I am Harold Dean. I served as a Connecticut judge for 30 years before retiring in 1999. I served in the U.S. Air Force as a fighter pilot and later in the Air Force Reserves as a Judge Advocate, retiring as a Lt. Colonel. Since retirement I have been of counsel to the Philip Russell's law firm in Greenwich.

Ninety per cent of my judicial career was spent in the criminal courts where I presided over dozens of homicide cases.

I distributed to your committee a copy of a letter to the editor published in The Connecticut Post expressing my concern with the use of the "beyond a reasonable doubt" burden of proof to convict in capital cases. Ten years ago, I wrote a similar letter, which, I recall was published in The Connecticut Law Tribune.

I have always been troubled by the approved jury instruction that a jury does not have to be "absolutely certain" to convict in a capital case.

During the past ten years, DNA science has exonerated numerous people who were wrongly convicted of crimes they did not commit, many after serving more than twenty years in prison. Other convicted men were exonerated when witnesses recanted or new evidence was discovered—sometimes decades after they were sent to prison. This is proof that the existing burden of proof of guilt beyond a reasonable doubt to convict in criminal cases is not infallible. There is little doubt that many have been executed for crimes they did not commit. Since exoneration of an innocent person after he has been executed is meaningless, the burden of proof to convict in a capital case should be as close to infallible as possible.

This bill, if enacted, would avoid the controversy of eliminating the death penalty altogether, as occasions remain where a death sentence is appropriate such as in the cases of killings for hire, terrorist killings, as well as in the cases of those who kill with no conscience or remorse. Even in these cases, no one should be executed unless his guilt has been proven with absolute certainty.

I urge you to raise the burden of proof in capital cases from beyond a reasonable doubt to absolute certainty.

I note that State's Attorney John Connolly in opposition to raising the burden of proof stated that he would not pursue the death penalty unless he was "absolutely certain" the person committed the crime. Raising the burden to absolute certainty codifies his statement and insures that a jury applies the same standard. Mr. Connolly's statement has no binding effect on other prosecutors nor would it have any effect on a capital case jury properly instructed to apply the existing "beyond a reasonable doubt" standard.

Harold H. Dean
Superior Court Judge, retired

PHILIP RUSSELL, L.L.C. • ATTORNEYS AT LAW
59 FIELD POINT ROAD • P.O. BOX 1437 • GREENWICH, CT 06836 • (203) 661-4200 • JURIS #305739

March 4, 2009

Chairman Michael Lawlor, Chairman Andrew McDonald, and other distinguished Members of the Judiciary Committee:

Thank you for the opportunity to provide testimony in opposition of ***HB 6578, An Act Concerning the Penalty for a Capital Felony.***

I am here to make a statement in support of the Death Penalty.

I realize that there is debate about the deterrent effects of the death penalty as well as its costs. But when it is all said and done, I support the death penalty because I believe it is a matter of justice.

Lord Justice Demming, Master of the Rolls of the Court of Appeals in the United Kingdom stated, "...the truth is that some crimes are so outrageous that society insists on adequate punishment, because the wrongdoer deserves it, irrespective or whether it is a deterrent or not."

I firmly believe that we morally should have a death penalty. The true translation of THOU SHALL NOT KILL, is actually closer to THOU SHALL NOT MURDER- that is for thousands of years we have had a strict societal prohibition against unlawful killing, unlawful killing- not any killing.

Society needs our government and specifically in Connecticut our Judiciary Committee to write laws that protects us as well as preserving justice and dignity for victims.

We all have dignity and an inviolable right to life, with dignity and respect. By committing murder- that is unlawful killing- a person has forfeited his right to this inviolable life- he in fact has shown a complete disregard for his victims and himself.

Death penalty opponents also speak of the inviolable sanctity of life- they love slogans- "Do not kill in our name" and the like, thus I assume that death penalty opponents value the lives of murderers more than their victims, specifically to me as a victim you value murderers more than children, Michaela, 11 years old, and Hayley, 17 years old, and more than women, Jennifer, 40 years old.

Because men murdered Michaela, she cannot make homemade sauce, play with her friends, or kiss me goodnight. Because men murdered Hayley, she cannot experience her college years at Dartmouth, row on the Connecticut River, or sit and chat with me. Because men murdered Jennifer, she can no longer comfort a student at Cheshire Academy, talk with her parents and sister, or sit with me on our porch.

If you allow murderers to live you are giving them more regard, more value than three women who never hurt a soul and played by all of society's rules for all their short lives.

My family got the death penalty and you want to give murderers life- that is NOT JUSTICE. Any penalty less than death for murder is unjust and trivializes the victim and the victims family. It is immoral and unjust to all of us in our society.

Thank you for your thoughtful and careful consideration of this proposal.

Sincerely,
Dr. William Petit

A Better Way Foundation is a Connecticut non-profit organization that is dedicated to a sensible shift in drug policy from one of incarceration to substance abuse treatment and public health.

March 4, 2009

Testimony of Lorenzo Jones in support of Raised H.B. No. 6578:
An Act Concerning the Penalty for a Capital Felony to the Judiciary Committee

Hello Judiciary Committee members, Ranking members, and Chairs. Thank you for the opportunity to submit a favorable testimony for Raised House Bill 6578 - An Act Concerning the Penalty for a Capital Felony.

Currently I serve as the Executive Director of A Better Way Foundation based in Hartford, CT. A Better Way Foundation is a statewide not for profit that advocates for reform of Connecticut's criminal justice system from incarceration first to a public health, education and treatment.

I submit this testimony today not only as an advocate for reform but also as a parent of three who believes that despite our criminal justice system best efforts to protect me and my family, mistakes happen. These mistakes coupled with the problem of limited resources to defend people coming from marginalized communities can have drastic results on our local cities and state.

The Judiciary Committee, better than most, know examples of people being wrongfully convicted in Connecticut. Most recently the case of James Tillman, a man wrongfully convicted of rape and served eighteen years in prison is a prime example. While this is one of the most recent and a popular case, the reality is that the criminal justice system is subject to human error and not only Mr. Tillman but also our cities and towns bare the brunt of that human error. You all have worked tirelessly to address these inequities for nearly twenty years and those efforts as well as James Tillman are valuable to me. We lost him for 18 years. We could have lost him forever. While the Mr. Tillman's case may seem extreme it really did happen. It happened to him, it happened to my community, it happened to us. Very rarely are we in a position to see the ultimate unintended consequence of our actions but today we can see them and we all can do something about it.

I do not have a family member on death row, nor do I know anyone on death row or know Mr. Tillman personally, but I have family members who have been victims of violent crimes. I do have many family members whom have been murdered in cold blood, physically violated, and abused and while revenge is still a fleeting thought, the perpetrators death never appealed to me as a solution. To be more frank I say this having never known those violations of my children and God forbid I would ever but should I do

and my personal feelings clouded my faith the reality would still be the same, state sponsored execution is not a solution or a credible rationale for revenge.

In closing, my faith in God rebukes the notion that "an eye for and eye" is a human right or should be a law. Thus the death penalty can never be an appropriate response to violence. I believe the right to determine if a person lives or dies rest with God even if the person to be executed ignored that right. With the realities of human error, systemic inequality and limited resources mental or monetary an absolute decision like execution puts us all at risk of continuing many of the unintended consequences we have all fought so hard to end. The death penalty is absolute but the criminal justice system shouldn't be.

Thank you for your time.

Lorenzo Jones
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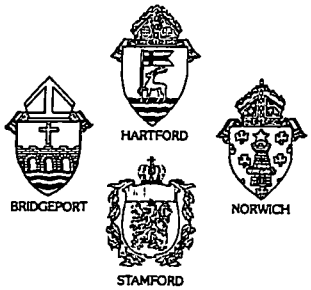

CONNECTICUT CATHOLIC CONFERENCE
134 FARMINGTON AVENUE
HARTFORD, CONNECTICUT 06105-3784

MICHAEL C. CULHANE
EXECUTIVE DIRECTOR

DEACON DAVID W. REYNOLDS
LEGISLATIVE LIAISON

Testimony for the Judiciary Committee
Wednesday, March 4, 2009
On HB 6578, An Act Concerning the Penalty for a Capital Felony

My name is Michael C. Culhane and I am the Executive Director of the Connecticut Catholic Conference. I am here today to support the passage of Raised Bill No. 6578, An Act Concerning the Penalty for a Capital Felony.

The Connecticut Catholic Conference supports this legislation basically because the moral teachings of the Catholic Church mandate that we must respect all life from conception to natural death. It is for this reason that the Conference has always advocated for the abolition of the death penalty and I would like to share with you some of our thoughts in the hope that you might use them to re-examine your own thinking on this very difficult and contentious issue.

In discussing this subject, I wish to make clear at the outset that we are deeply concerned for the just and fair treatment of all parties in this matter – from the victims, to their families, to those who have been accused of grave crimes, and to those who have been convicted of them. While criminals who constitute a serious danger to the well being of other citizens must be impeded from their criminal activities, justice is not always served when the rights of anyone – victims or transgressors – are compromised in any manner.

In the recent past, highly publicized court cases have raised serious doubts in the minds of many about the effectiveness of our criminal justice system in detecting

the true nature of crimes that have been committed, and in protecting the rights of those who have been accused of them. Aware of the very fallible nature of our criminal justice system, we are deeply concerned about the possibility of the State calling for the execution of an individual who is, in reality, innocent.

Additionally, we are not comfortable with the fact that so many of those in prisons today – and on death row – are poor, young, and minorities, and therefore, less likely than others to be able to avail themselves of effective legal talent to defend themselves within our court system.

We are also mindful of the fact that there is a growing conviction among experts in the field of criminal justice that such means of punishment as life imprisonment and long-term sentences can be as strong deterrents to crime as capital punishment itself.

We also wish to make clear that, in accordance with the teaching of Pope John Paul II, our respect of human life must be "profoundly consistent." Consequently, those of us who serve as advocates for the elimination of the death penalty must also oppose all other threats to human life such as abortion, euthanasia and physician-assisted suicide, as well as the ill-considered cuts in social service programs which might harm the poor, the sick and the elderly.

In conclusion, while conceding that the state has the duty and obligation to maintain public order – as well as the right to punish convicted criminals – the Connecticut Catholic Conference must express its support to abolish the death penalty in the State of Connecticut.

Michael C. Culhane
Executive Director

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Judiciary Committee Public Hearing

Wednesday, March 4, 2009

TESTIMONY OF BEN JONES, EXECUTIVE DIRECTOR OF THE CONNECTICUT NETWORK TO ABOLISH THE DEATH PENALTY

In SUPPORT of HB-6578
AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY

Chairman McDonald, Chairman Lawlor, distinguished members of the committee: My name is Ben Jones, and I am the executive director of the Connecticut Network to Abolish the Death Penalty or CNADP. Though the CNADP's mission is total abolition of Connecticut's death penalty, we strongly support raised bill 6578. This measure will dramatically limit the death penalty's scope and move the state toward eliminating this dying, wasteful, and ineffective practice.

When terrible violence occurs, the citizens of our state deserve a response that fairly punishes the guilty, prevents further violence, and attends to victims' needs. On all these counts, the death penalty is an utter failure.

First, the death penalty continues to be applied in a discriminatory, capricious, and arbitrary manner. Though we have advanced beyond the days when Blacks would end up on death row for thefts of only a few dollars, race and socio-economic standing still play a disturbing role in the death penalty's application. One of the best predictors of who receives the death penalty is the victim's race—specifically, cases involving white victims result in death sentences at higher rates than those involving black or Latino victims. Furthermore, the death penalty is a punishment reserved primarily for the poor: 95% of death row inmates cannot afford

their own attorney. Sadly, capital punishment remains a cruel lottery biased against marginalized groups.

Second, the death penalty fails to keep us more secure. There is no compelling evidence that the death penalty deters crime more effectively than life in prison without parole. Though reasonable people can disagree on the magnitude of the death penalty's deterrent effect, one point is clear: there are smarter ways to fight crime than by spending millions of extra dollars on the death penalty, a punishment consistently shown to be more costly than life imprisonment. When asked the best ways to deter violent crime, police chiefs overwhelmingly recommend drug abuse prevention and more police officers over the death penalty. In this time of budget shortfall, our wasteful system of capital punishment makes no sense as a response to the serious problem of violent crime.

Finally, the death penalty increases the pain of those impacted by violence. Whenever a prosecutor wins a death sentence, victims' families lose. The death penalty keeps cases in the public eye for years and deprives families of the privacy they often need to heal. A shorter appeals process cannot be the answer, given that it takes over nine years on average to exonerate the innocent on death row. Cut short the appeals process, and the state will execute innocent lives. The appropriate response is life imprisonment—it addresses the needs of victims' families, keeps society secure, and avoids the irreversible error of executing the innocent.

For these reasons, the CNADP urges the committee to recommend raised bill 6578.

Testimony of Arthur J. Laffin Regarding HB-6578: An Act Concerning the Penalty for a Capital Felony March 4, 2009 (Read by William Dyson)

To the Chairman of the Judiciary Committee:

My name is Art Laffin and I am a murder victim family member. I am also a Hartford native who lives and works at a Catholic Worker house in Washington, D.C.

Nine years ago my younger brother, Paul, was murdered in Hartford, Connecticut. On September 20, 1999, as Paul was leaving Mercy, Housing and Shelter where he had worked for ten years, he was stabbed to death by a mentally ill homeless man, Dennis Soutar, who often frequented the soup kitchen at the Shelter. My family and I were consumed with a sorrow that defies words. I still can't believe what happened to my kid brother. My family and I and all who knew Paul still grieve his senseless horrific death. My brother truly gave his life for those he served.

Dennis Soutar was ultimately deemed incompetent to stand trial for killing my brother. Had he been deemed competent to go to trial, and was convicted, he could have faced the death penalty. He is now serving a 60-year sentence at the Whiting Forensic Division of Connecticut Valley Hospital in Middletown.

After Paul's highly publicized death, my dear late-Mom and I, through God's amazing grace, appealed to the public to show mercy toward Dennis Soutar and to pray for him. We recalled that Jesus said: "Blessed are the merciful for they will obtain mercy." "Forgive and you will be forgiven." As Jesus is being executed He says to his persecutors: "Father forgive them." My Mom and I were able to meet with members of the Soutar family--Dennis' brother and sister-in-law -- and asked them to convey to Dennis our prayers for his healing. I pray for Dennis Soutar's healing and that he will experience God's forgiving love. I also ask everybody here today to pray for Dennis' healing.

What happened to my brother is not uncommon, and has tragically occurred elsewhere in Connecticut and across the country. It is a societal disgrace that some of the mentally ill homeless, who fall through the cracks and are not properly cared for, end up committing violent lethal acts. During my eulogy for Paul, I asked that all necessary resources be made available to provide a continuum of care for Dennis and all other mentally ill homeless so that future tragedies like what happened to my brother might be averted.

My prayers go out to all family members throughout our society and world who are grieving the loss of loved ones who have been murdered. I know their pain and pray for their healing.

There are many people who believe that we have to kill the murderer in order to bring closure for the victim's family. I believe that killing people who kill will never bring true closure and healing. Killing Dennis Soutar will never bring my brother back. It will never bring healing or closure for me and my family. The pain of Paul's murder will always be there.

Certainly, individuals, and even corporations and governments who commit violent acts must be held accountable for their actions and make restitution to the victims' families. But we must never sanction killing those who kill, no matter how brutal the crime. Rather, we must always seek the way of restorative justice.

As of February 13, 2009, 1149 people have been executed in the United States since the death penalty was reinstated in 1976. I ask: how can we break the cycle of violence and killing? How can we promote healing for everyone who has experienced the unspeakable pain resulting from murder? I believe that the best way to honor my brother is to work for the prevention of violence, not to replicate it. I believe the way to true healing is not through vengeance and retribution, but through compassion and reconciliation. Martin Luther King. Jr., who opposed the death penalty, said that "capital punishment is society's final assertion that it will not forgive." I totally agree with Archbishop Desmund Tutu who declared: "there is no future without forgiveness." Ultimately, I oppose the death penalty because it violates God's command: "Thou shalt not kill."

I also oppose the death penalty because:

* It is racially biased.

* Innocent people are sentenced to death. Since 1973, over 130 people have been released from death row across the U.S. because of evidence showing their innocence. I've come to know a number of these people, and some are now my good friends.

* Poor defendants do not receive adequate legal representation.

* It costs more to execute a person than it does to impose a life sentence.

Fourteen states in the U.S. do not have the death penalty. Most countries worldwide, including all European countries, oppose the death penalty. It is time to abolish the death penalty in the U.S.

I lend my support to the proposed legislation in HB-6578 which prohibits the death penalty for people convicted of a capital felony.

I join many in praying that Connecticut will become the next state to follow New Jersey's lead in abolishing the death penalty.

February 27, 2009

Dear Members of the Judiciary Committee,

My name is Bill Tuthill and I am a retired Warden and Assistant Deputy Commissioner of the Connecticut Department of Correction. I retired from the State in 1992 and currently work for a nonprofit organization that has contracts with the State. I have worked with offenders for almost forty years. I am here to support raised bill #6578.

The fact that I worked in the criminal justice system for so many years does not confer any special qualification to have an opinion regarding the death penalty except that I am sure that I have spent more time and thought on the subject than most. The views I express are mine alone.

There is ample evidence that the death penalty does not deter crime. In fact, the opposite may very well be true. We know of death row exonerations based on DNA or other evidence. We know that the poor and minorities are disproportionately represented in our prisons and on death row. If we are honest, we recognize that you get just as much justice as you can afford and that race is a significant factor in the criminal justice system. We know that our judicial districts within Connecticut disproportionately apply the death penalty. We know that the death penalty will always be imposed in a random fashion that defies fundamental fairness due to the innumerable variables that affect the outcome of any given prosecution. We have heard of botched executions in spite of the best efforts of officials. We have heard of the reluctance of health professionals to be

involved in the execution of these death sentences. We have all heard of the States that have suspended executions due to concerns for fairness and other humane concerns.

What rationale for the existence of the death sentence remains? Should we justify capital punishment based on our most primitive retributive impulses?

Our law enforcement apparatus cannot and never will be able to fairly and without possibility of error administer the death penalty. The existence of the death penalty debases us all and it should be abolished. I urge you to eliminate the death penalty in Connecticut. The legislative action under consideration is a step in the right direction.

Thank you.

William L. Tuthill

71 Beekman Pl.

Madison, CT 06443

Wesleyan Democrats

Presented to Judiciary Committee

March 4, 2009

In **Support** of Proposed **H.B. No. 6578** An Act Concerning the Penalty For a Capital Felony

Chairman McDonald, Chairman Lawlor, and Distinguished Members of the Committee,

The Wesleyan Democrats find the death penalty in the state of Connecticut to be unconscionable and therefore strongly endorse this bill to abolish it for those who are convicted of hereafter committing felonies that are presently considered capital.

The death penalty carries far too great a risk of executing innocent people. 130 American death row inmates have been found innocent since 1973. The ongoing legal struggle over the life of Troy Davis in Georgia, whose guilt is far from certain, reminds us of capital punishment's chilling irreversibility.

We are disturbed by the death penalty's unjust toll on the poor and on racial and ethnic minorities. Seven out of ten Connecticut death row inmates are persons of color. Nationwide, since 1976, 79% of homicide victims in cases resulting in capital punishment have been white. According to data published by the Bureau of Justice Statistics, African Americans have ranged from 6 to 7 times more likely than whites to be victims of homicide in that same period. This signifies clear racial discrimination in death sentences, which we find intolerable.

Furthermore, the death penalty is ineffective in deterring crime and places an unnecessary financial burden on the state. A recent New York Times article outlined ongoing several state abolition efforts being propelled by budget concerns, and cited a study showing that in Maryland, death penalty cases cost nearly three times as much as non-death penalty cases.

We advocate retroactive death penalty abolition for current death row inmates, which is not included in this bill. Ultimately, Connecticut must join with the two-thirds of the world's countries that have ceased this inhumane practice. However, we feel that enacting H.B. No. 6578 would signal powerful progress in securing human rights and justice, and we offer our strong support.

Thank you for your consideration,

Dan Fischer, Secretary
Brad Spahn, President
Corrine Duffy, Vice President
Vignatha Reddy, Treasurer
Liza Conrad & Max Rothstein, Social Chairs

President Brad Spahn

bspahn@wesleyan.edu
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Dear Members of the Judiciary Committee: March 4, 2009

My name is Mary Morgan Wolff and I'm here to ask you to repeal CT's death penalty law through HB6578, to abolish capital punishment, and to replace it with life in prison without the possibility of release.

I retired from the CT Department of Correction in 2002 as a Deputy Warden. "I did my time," 27 years in CT's correctional facilities, from volunteer to counselor to deputy warden, to warden. I am not here today representing the Department of Correction, but there are a number of "RETIRED DOCers" with me today, who also want you to abolish the death penalty. They are:

Bob Carbone, a *Captain*,
Ed Davies, a *Warden*,
Carol Dunn, a *Warden*,
Roger Everson, a *Warden*,
Bob Gillis, *Director of Parole and Community Services*,
David Marcial, a *Warden*,
Peter Matos, a *Deputy Commissioner of Operations*,
Peg Pinton, a *School Teacher* in USD#1,
Ed Quinlan, a *Director of Community Services*,
Kathy Taylor, a *Counselor Supervisor*,
Bill Tuthill, a *Warden and Assistant Deputy Commissioner*, and
Bill Wilson, a *Deputy Warden*.

A number of other former DOCers would have been here if they could. Among them are:
Larry Albert, *Acting Commissioner during the Governor O'Neil administration and Deputy Commissioner for 14 years thereafter*, and
Lynda Rowan, a *Warden*.

We all worked with 'lifers'. We ensured public safety, witnessing that life in prison without the possibility of release is a civilized response to serious crime. We worked hard to ensure the safety of staff and offenders and to keep down the cost of incarceration.

Years ago when Northern CI was targeted for death row and the execution chamber, I was asked by my Commissioner to be the Warden of that facility. I declined his offer. Ethically, I could not oversee an execution of another human being. I could not be part of a State-sponsored execution in which the death of one of our citizens is planned, deliberated, timed, witnessed and carried out with precision. I would have been required to announce a death warrant, have the inmate extracted from the cell, have him/her strapped to a gurney, give the order to release the killing chemicals through an IV, ensure that the inmate is dead and have the body removed. My Commissioner understood and instead promoted me to Warden of another maximum security facility.

The time is NOW:
to cut costs and abolish the death penalty,
to stop following in the footsteps of the criminal who has committed a heinous crime, by committing another heinous, but "legal" act,
to stop wasting money, while trying to decide what crime is heinous enough for the death penalty and what crime isn't. The time is NOW
to stand with the 14 other states and 135 countries that have already rejected the death penalty.

Clearly, support for HB6578 is to place ourselves on the right side of history! I, we, thank you.

Mary Morgan Wolff
108C North Turnpike Road
Wallingford, CT 06492

Judiciary Committee Public Hearing

March 4, 2009

Testimony in SUPPORT of HB-6578
AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY

I come today to urge you to abolish the death penalty, for the many reasons that others have given, but also for the benefit of victims' family members.

My son was murdered in Bridgeport, CT, in 1987, and I lived for a year with intense rage – a rage that was destroying me emotionally and spiritually. I met other murder victims' family members who had been struggling with this same debilitating anger for 15, 20 or more years, waiting for promised "closure". Of course, when an execution takes place, the families do not find that "closure" that they had sought. Consequently, they have wasted many years of their lives waiting and then, when the relief doesn't come, they must finally begin to seek a way to find some measure of healing.

In my own case, I ultimately forgave the offender, and thus began the path to my personal healing.

I realize that many people are unable to consider forgiveness. Yet another option, that of life without parole, would give murder victims' family members the opportunity to begin healing at a much earlier date, shortly after hearing this sentence meted out.

Moreover, studies have shown that the initial cost of trying a capital case is far more expensive than the trying of any other case. Additionally, the cost mounts up when we consider the many necessary appeals.

The money saved by abolishing the death penalty could be well used for programs to meet the needs of victims' families. In fact, New Mexico's House recently passed a bill to abolish the death penalty, with the understanding that the money saved would be used for programs for victims' family members. One of the deciding factors was a recent poll indicating not only decreasing support for the death penalty, but also the fact that fully 68% of those polled favor abolition of the death penalty if the alternative is life without parole *plus restitution of some kind for victims' family members.*

I urge you, therefore, to vote to abolish the death penalty for many reasons, but especially to provide assistance toward healing for family members of victims.

Respectfully submitted,
Walter H. Everett

Judiciary Committee Public Hearing

SUPPORT of HB-6578
AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY

Wednesday, March 4, 2009

THE DEATH PENALTY MUST GO!!!

The death penalty is

Ineffective as a deterrent;
Expensive (it costs more than incarceration for life);
Unfairly applied (the racial and socioeconomic data are appalling!)
(for all of these there is more-than-ample evidence),

as well as cruel and inhumane, in my opinion, not just to the person in question but also to his or her family, and perhaps also very painful -- and, very importantly, Irreversible in case of a mistaken conviction of an innocent person – of which there have been many.

To the best of my knowledge there is Not One valid reason for the death penalty. The death penalty represents revenge and retribution, not justice; killing person A does not bring back person B. Please, Please vote to end this blot on the face of the whole United States – we are in the company of which other countries when we continue to use this?

Sincerely yours,

Elizabeth B. Gardner
Professor Emerita, Fairfield University

Judiciary Committee

SUPPORT for HB-6578
AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY

March 4, 2009

Testimony of Dr. Antoinette Bosco

In the Fall of 2005, I was greatly honored when I received an invitation from the Catholic Bishops to come to Washington, D.C. to participate in the work they called the "Catholic Campaign to end the Use of the Death Penalty. At their meeting in Washington, D.C. Bishop Nicholas DiMarzio of Brooklyn , set the tone, asking: "What does the death penalty do to us? What kind of society do we want to be?" He noted that this is "not a liberal issue, but a life issue." And he underscored, "In the matter of life and death, no mistake is acceptable. Death is irreversible."

The Bishops had invited me because I am the mother of murder victims. My son John and his wife Nancy were killed back in August 1993 as they slept in their newly purchased home in Montana, blown away by the 18-year old son of the people from whom they had just bought the house.

The Bishops wanted me to speak out and say why I and my family had become outspoken opponents of the death penalty. We gave our heart-deep, honest answer—that unnatural death is an evil, no matter whose hand stops the breath. We can punish killers by taking away their freedom, nor their breath.

I well remember when the Catholic Bishops first called for an end to the death penalty some thirty years ago. I was proud of my Church then, and ever since for its never wavering stand on how we must be people who always affirm life.

Now they are "renewing this call to seize a new moment and a new momentum…to bring about an end to the use of the death penalty in our land."

They have put out a booklet titled "A Culture of Life, and the

Death Penalty." Here are their own words on why our nation should forgo the use of the death penalty:

*The sanction of death, when it is not necessary to protect society, violates respect for human life and dignity.

*State-sanctioned killing in our names diminishes all of us.

*Its application is deeply flawed and can be irreversibly wrong, is prone to errors, and is biased by such as race, the quality of legal representation, and where the crime was committed.

*We have other ways to punish criminals and protect society.

It is my hope that not only Catholics, but everyone, will hear what our Catholic Bishops are saying, respect them for their unwavering stand on supporting life, and follow them.

Antoinette Bosco
23 Stony Hill Road
Brookfield, CT 06804
203-775-2612

DEATH PENALTY FACT SHEET

The Death Penalty in Connecticut

- After the Supreme Court declared Connecticut's death penalty unconstitutional in 1972, the state adopted a new death penalty statute in 1973.
- Since 1973, there have been over 4,700 murders, 13 death sentences, and one execution. Currently, 10 individuals sit on Connecticut's death row.
- A 2007 Quinnipiac university poll of Connecticut voters found that 47% favor the death penalty and 44% favor life without parole for someone convicted of murder.

Innocence

- Nationally, since 1973, 130 prisoners on death row have been exonerated.
- The average time spent on death row by an exoneree is 9.5 years.
- DNA has played a role in exonerating 17 death row prisoners. But in many death penalty cases, DNA testing proves impossible because of a lack of testable evidence.
- Causes of wrongful conviction include: eyewitness misidentification, police coercion, perjury, prosecutorial misconduct, and inadequate representation.

Fairness

- Nationally, 50% of murder victims are white. In death penalty cases, however, the murder victim is white 79% of the time. Studies in North Carolina, Maryland, and California found that one's odds of receiving the death penalty increase significantly when the victim is white.
- Geography plays a critical role in deciding who receives the death penalty. In Waterbury, for instance, death sentences are handed down at a rate seven to eight times higher than in the rest of the Connecticut.

Costs

- Because of the additional resources and preparation required in death penalty cases, the separate sentencing phase, post-conviction appeals, and the added costs of death row facilities, studies consistently find the death penalty to be more costly to implement than life without parole.
- MARYLAND: A capital-eligible case resulting in a death sentence costs taxpayers $1.9 million more than a capital-eligible case where the death penalty was not sought. Since 1978, the death penalty has cost the state at least $186 million.
- NEW JERSEY: Between 1983 and 2005, the state spent $253 million on the death penalty, despite never executing a single person during that period.
- CALIFORNIA: The death penalty costs taxpayers $137 million a year, a price tag that would drop to $11.5 million if replaced by life without parole.

The Death Penalty in the US

- The death penalty remains in 36 states and the US government and military. 14 states and the District of Columbia do not have the death penalty.
- After a high of 98 executions in 1999, the number of executions in the US has decreased over the past decade, dropping to 37 executions nationwide in 2008.

PREPARED BY: *CT American Civil Liberties Union, CT Catholic Conference, CT Conference United Church of Christ, CT Criminal Defense Lawyers Association, CT National Association for the Advancement of Colored People, CT Network to Abolish the Death Penalty*

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Testimony before the General Assembly Judiciary Committee
March 4, 2009

In Support of Proposed Bills: H.B. 6578 - "An Act Concerning The Penalty For A Capital Felony"

We, Sister Mary Alice Synkewecz, RSM and Sister Linda Pepe, CSJ, the Director and Associate Director of the Collaborative Center for Justice, speaking on behalf of the six congregations of women religious who sponsor our Center, and our membership of approximately 800 women religious and their associates, add our voices to the growing numbers of individuals and organizations in the State of Connecticut that support the elimination of the Death Penalty.

We support the aforementioned bill because the death penalty, the premeditated and "legal" execution of a person, is simply wrong for us, as civilized individuals and as a community The long drawn out process of appeals to arrive at the court-sanctioned killing of another individual, diminishes our respect for life, and for the families of the victims, who must suffer through numerous legal appeals

The death penalty is not a deterrent, but the execution is final, and we must acknowledge that mistakes are possible. As long as mistakes remain a possibility, and exonerations continue, the death penalty should be abolished

Neither is the death penalty an appropriate means of "retribution" as some proponents of the death penalty claim All too frequently, the arguments heard to impose the death penalty sound more like justifications for seeking "revenge." This is an inappropriate use of our Judicial System, and we oppose the use of laws and our courts as instruments of revenge. We further oppose the wasting of valuable resources that could be applied toward preventing violence and/or meeting the needs of those affected by violent acts

We ask the members of the Judiciary Committee to allow the debate to go forward. We state unequivocally, "Do Not Kill in Our Name!"

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Judiciary Committee Public Hearing
RAISED BILL NO. 6578
AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY
March 2, 2009

TESTIMONY OF EDWARD J. GAVIN, PRESIDENT OF THE CONNECTICUT CRIMINAL DEFENSE LAWYERS ASSOCIATION, IN SUPPORT OF RAISED BILL 6578

Chairman McDonald, Chairman Lawlor, and Distinguished Members of the Judiciary Committee:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is a statewide organization of approximately 350 licensed 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

We support passage of Raised Bill 6578.

CCDLA OPPOSES THE IMPOSITION OF CAPITAL PUNISHMENT IN ALL CIRCUMSTANCES:

CCDLA is firmly committed to the abolishment of the Death Penalty in Connecticut and nationwide. We believe that the imposition of Capital Punishment is never appropriate. We believe that Capital Punishment is unconstitutional, risks the

execution of the actual innocent, is disproportionally applied, is morally and ethically wrong, is clearly not a deterrent to violent crime, and is an egregious waste of ever limited taxpayer dollars. We believe that the appropriate sentence in the most serious of criminal cases is the imposition of a sentence of Life without Parole (LWOP). In 2005, prior to Michael Ross's execution, CCDLA passed a resolution noting our Collective Opposition to Capital Punishment. CCDLA presented our opposition at a Press Conference held at the LOB on January 13, 2005. Then President Michael Fitzpatrick called on the Connecticut's state legislature to abolish the death penalty in the state and called on Governor Rell to stay the execution of Michael Ross pending action by the General Assembly. CCDLA has been active in our judicial system, opposing the imposition of the Death Penalty. We have opposed the imposition of the death penalty as Amicus at the Connecticut Supreme Court and our members have served as counsel of record in Capital cases.

CCDLA has been active in the legislative process testifying against capital punishment before the Judiciary Committee. We have previously submitted written testimony in opposition to the death penalty and we are committed to opposing capital punishment until it is abolished. CCDLA has partnered with the Connecticut Network to Abolish the Death Penalty (CNADP). CCDLA supports the vision of the Connecticut Network to Abolish the Death Penalty and supports it's mission statement that:

"CNADP stands strongly opposed to the death penalty, as it is poor public policy. The death penalty does not deter crime, it is not cost efficient, it kills the mentally ill, it is economically and racially biased, it kills the innocent, and it does not provide closure to families - it is simply revenge, not justice."

FACTS REGARDING CAPITAL PUNISHMENT IN CONNECTICUT:

The execution of Michael Ross on May 13, 2005 was the last execution to take place in Connecticut . Prior to Michael Ross's execution, the last execution in Connecticut took place in 1960. Following the overturning by the U.S. Supreme Court in 1972 of the death penalty provisions in all states, the Connecticut State Legislature revised the statutes defining capital felonies and established new procedures for the imposition of the death penalty. These changes were enacted into law, effective October, 1973. Life imprisonment without the possibility of release has existed here as a statutory alternative to the death penalty since 1985. The minimum age to receive the death penalty is 18; a new provision to forbid the execution of the mentally retarded was enacted into law effective July, 2001. The last bill introduced to abolish the death penalty was House Bill 6012 in January, 2005. It was passed by the Judiciary Committee and by the Appropriations Committee and debated on the floor of the House of Representatives on March 30, 2005 where it failed by a vote of 60-89.

There are currently 10 individuals on Death Row. After the Supreme Court declared Connecticut's death penalty unconstitutional in 1972, the state adopted a new death penalty statute in 1973. Between 1973 and 2008, there were approximately 4600 murders, 13 death sentences, and one execution.

ACTUAL INNOCENCE:

Since 1973, 130 prisoners on death row have been exonerated. The average time spent on death row by an exoneree is 9.5 years. DNA has played a role in exonerating 17

death row prisoners. Yet in many death penalty cases, DNA testing proves impossible because of a lack of testable evidence. The causes of wrongful conviction include eyewitness misidentification, police coercion, perjury, prosecutorial misconduct, and inadequate representation. (Staff Report, House Judiciary Subcommittee on Civil & Constitutional Rights, Oct. 1993,with updates from DPIC). From 1973-1999, there was an average of 3.1 exonerations per year. From 2000-2007, there has been an average of 5 exonerations per year. 17 people had been sentenced to death before DNA proved their innocence and led to their release.

Connecticut has familiarity with cases of actual innocence. After being released from prison on June 6, 2006, James Calvin Tillman was officially exonerated by DNA testing on July 11, 2006. With the assistance of the Connecticut Innocence Project, a voluntary organization and part of the Public Defender Services for the State of Connecticut, Tillman walked out of prison after serving 16 years on a rape and kidnapping conviction. On May 16, 2007 the Connecticut legislature unanimously voted to present Tillman with $5 million to assist him in living comfortably following his wrongful imprisonment.

Miguel Roman, served 20 years in Connecticut prisons before he was freed based on similar DNA tests. Mr.Roman had been behind bars since 1988 for allegedly killing 17-year-old Carmen Lopez. Authorities reopened the case after the Connecticut Innocence Project, which represents Roman, asked them to conduct DNA testing on evidence from the crime scene. The test results excluded Roman and pointed to another man, Pedro Miranda, who authorities charged with Lopez's murder and two other unsolved murders from 1986 and 1987. Mr. Roman awaits final disposition of his case.

COST TO THE DIVISION OF PUBLIC DEFENDER SERVICES :

The following information indicates the immense expense incurred by the Division of Public Defender Services in representing individuals accused of Capital Crimes. We are currently spending a disproportionately large percent of the Divisions budget on a very small percentage of the overall cases. The prosecution and defense of capital cases is fiscally irresponsible.

"The increasing number of death penalty cases has continued to have a significant cost impact on the Division of Public Defender Services. In 2007-08 the annual cost of the Capital Defense & Trial Services Unit alone was $1,412,860. This does not include the expenses of expert witnesses or payment for legal services to Special Public Defenders who must be retained in many of these cases."

When these expenses are added, along with the costs attributable to field offices for the trial and appeal of capital cases, the best estimate of the major portion of the cost of defending capital cases in 2007-08 **was $2,383,334 or 5%** of the entire public defender budget. At the same time the total number of capital cases, sixty-one (61) cases handled at the trial level or on appeal and in habeas matters, represented .066% of the Division's total caseload. Thirty (30) of these cases were death penalty cases pending at the trial level or on appeal, as well as seven (7) habeas corpus cases in which the petitioner was under sentence of death.

"In addition to the millions of dollars expended by the Division's own staff, there are capital cases which require the services of Special Public Defenders where a conflict of interest exists between multiple accused. There were twenty-three (23) such cases in 2007-08. In accordance with Commission policy and accepted national ABA professional standards, two (2) attorneys must be assigned to represent each defendant charged with a capital crime." **SOURCE: COST OF PUBLIC DEFENDER SERVICES, JANUARY, 2009**

COSTS TO HOUSE DEATH ROW INMATES-OFFICE OF LEGISLATIVE RESEARCH ANALYSIS:

In a February 13, 2008 ORL report (2008-R-0099), Christopher Reinhart, Senior Attorney, wrote concerning the COST OF INCARCERATION AND COST OF A CAREER CRIMINAL. Attorney Reinhart's report is summarized below. The annual cost to incarcerate an inmate in Connecticut in Fiscal year 2006 was $44,165. Capital inmates are incarcerated at Northern. The cost to house an inmate at Northern is $100,385 or an increase of over $56,000 per year.

SUMMARY

According to information provided by the Office of Fiscal Analysis, the annual cost to incarcerate an inmate in Connecticut in FY 06 was $ 44,165. This figure includes fringe benefits, statewide cost allocation program distribution (which the Department of Correction (DOC) must pay other state agencies to provide services), building depreciation, equipment depreciation, bond interest, and miscellaneous revenue. A chart below displays the annual costs for an inmate in specific facilities.

Annual Cost to Incarcerate an Inmate in Specific Connecticut Facilities in FY 06

Facility	Annual Cost Per Inmate
Bergin Correctional Institution	$ 31,008
Bridgeport Correctional Center	$46,923
Brooklyn Correctional Institution	$34,564
Cheshire Correctional Institution	$41,476
Corrigan/Radgowski Correctional Institution	$39,745
Carl Robinson Correctional Institution	$34,455
Enfield Correctional Institution	$41,576
Garner Correctional Institution	$86,694
J. B. Gates Correctional Institution	$38,288
Hartford Correctional Center	$48,794
MacDougall/Walker Correctional Institution	$44,663
Manson Youth Institution	$65,855
New Haven Correctional Center	$45,654
Northern Correctional Institution	**$100,385**
Osborn Correctional Institution	$34,121
Webster Correctional Institution	$35,123
Willard/Cybulski Correctional Institution	$29,493
York Correctional Institution	$54,090

[1] John J. Donohue III, *Capital Punishment in Connecticut, 1973-2007: A Comprehensive Evaluation From 4600 Murders to One Execution*, 2008, http://works.bepress.com/john_donohue/55.

Cumulative Average Inmate Rate	**$ 44,165**
Cost to house Capital Inmate	**$100,385**
Extra Cost per Inmate Per Year	**$56,220**

CONCLUSION:

The Connecticut Criminal Defense Lawyers Association strongly supports the elimination of Capital Punishment. While proponents of capital punishment argue that the death penalty deters crime, scientific studies have consistently failed to find convincing evidence that the death penalty deters crime more effectively than other punishments. Indeed, opinions by an overwhelming majority of criminal experts affirm that the death penalty has no deterrent value. (Radelet & Akers 1996). Housing a convict for life without the possibility of parole equally deters criminal misconduct and serves to more humanely protect society.

Raised Bill 6578 is a substantial step by the legislature to eliminate the death penalty. We applaud those sponsors and supporters. CCDLA recognizes the gravity of the issue and supports passing of Bill 6578 as a major step in the elimination of Capital punishment in Connecticut.

Respectfully submitted,

EDWARD J. GAVIN
PRESIDENT -CCDLA
On behalf of the Connecticut
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Association

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TESTIMONY OF SUSAN O. STOREY, CHIEF PUBLIC DEFENDER

RAISED BILL NO. 6578, ***AN ACT CONCERNING THE PENALTY FOR A CAPITAL FELONY***

JUDICIARY COMMITTEE PUBLIC HEARING

MARCH 2, 2009

The Office of Chief Public Defender strongly supports the abolition of the Death Penalty in Connecticut and therefore supports the passage of HB No. 6578. The abolition of the Death Penalty in favor of a sentence of life without the possibility of release is currently under consideration in several other states for a variety of reasons, including the national economic crisis. Whether or not Connecticut continues to pay the enormous financial costs of death penalty litigation is an important policy choice that must be made by the Legislature and the Governor.

Despite our support for this bill, it is important to stress our position that total abolition is a preferable goal from both a moral and economic perspective. While this bill would accomplish abolition in future capital cases, it would do nothing to commute the death sentences or eliminate the enormous costs of death penalty litigation in the 61 capital cases now pending at various stages of pretrial, trial, appeal or habeas corpus.

The Death Penalty's enormous drain on state resources is extreme and longstanding. The financial and personal impact of capital punishment was recognized and discussed at length in a 1993 Connecticut Law Tribune article entitled, "*Death Be Not Cheap.*" In that article, both the late Chief State's Attorney Jack Bailey and Attorney Gerard Smyth, then Deputy Chief Public Defender, expressed their mutual deep concern for the economic and personal toll that death penalty litigation caused on both sides of the criminal justice system. Jack Bailey prophetically stated, "The State will throw more and more criminal justice resources at capital cases. Every dollar we spend on a capital case is a dollar we can't spend anywhere else." Bailey also indicated that, primarily as a result of the Michael Ross case, the Division of Criminal Justice had started tracking costs of death penalty cases and was requesting a line item in the budget for capital prosecutions

so that the public and legislators could confront the costs head-on. He said, "We have to let the public know what it costs."

Currently Connecticut and New Hampshire are the only New England states that retain the death penalty as punishment in capital cases. New Hampshire is currently reviewing their statute and New Jersey abolished the death penalty in 2007. Several other states are also considering abolition: Maryland, Colorado, Kansas, Nebraska, New Mexico, Montana, and Washington. While economic concerns are major, other factors favoring abolition cited include:

- There is no compelling evidence that the death penalty is a deterrent.
- A sentence of life without the possibility of release adequately protects public safety.
- Abolition of the Death Penalty will eliminate the risk of executing the innocent.
- There is increasing evidence that the death penalty is inconsistent with evolving world and national standards of decency.
- The enormous and enduring costs of death penalty litigation could be better spent on other important criminal justice issues, such as establishing cold case units and ensuring adequate services for the families of murder victims and other victims of crime
- Individual state budgets cannot support the cost of the death penalty in the current budget crisis

The late State Representative Richard Tulisano was also quoted in the same Connecticut Law Tribune article. When questioned about his opinion of capital punishment he stated that "resources available to state agencies are finite. Life without possibility of release is better and cheaper." Realizing that the Death Penalty would be a considerable and continuing drain on our Agency's resources, the Division began to track results and expenses in capital cases. Annual costs for capital defense consistently average 5% to 6% of total Public Defender Budget for only .066% of total Public Defender caseload.

FY 05	$1, 990, 224	5%
FY 06	$ 2, 586, 177	6.1%
FY 07	$ 2, 336, 315	5.4%
FY 08	$ 2, 383, 334	5%

Costs for capital defense FY 09 are again projected to be 5% of our total appropriation i.e. approximately $2, 511, 978.

While prosecutors may not necessarily have the same constitutionally required trial preparation and expert expenses as public defenders in litigating death penalty cases, the cost to Criminal Justice must also be considerable. In the same 1993 article, appellate prosecutor Harry Weller stated that he spent 9 months working 6 days a week, 10 to12 hours a day to complete the State's 299 page appellate brief in the Michael Ross case. State's attorney Steven Sellers was quoted as having spent 7 months distilling the 10,000 page Ross transcript (which transcript itself cost the Division of Criminal Justice

$19,000) into a 1,000 page outline. Three additional appellate staff were said to have assisted with the brief for a total staff expenditure of about 15 months. As an example of continuing costs, the nearly 20,000 page trial transcript in a recent Hartford death penalty case, State v. Lazale Ashby, which resulted in a death sentence, will alone cost the Division of Public Defender Services approximately $40,000.

Many expenses in the defense of death penalty cases arise from the constitutional requirements that the defense prepare for and present mitigation evidence in the penalty phase of a capital trial. These costs would be eliminated if the Death Penalty were abolished in favor of life imprisonment without the possibility of release. American Bar Association Guidelines (4.1), Public Defender Services Commission policy, and the U.S. Supreme Court, (see Wiggins v. Smith, 539 U.S. 510, 524 (2003)), also stress the importance of appointing two highly qualified defense attorneys to represent clients in capital cases where the state is seeking death. Recently, in order to attract qualified members of the private bar, Special Public Defender rates for capital cases were raised from $85 to $100 per hour. Despite this recent hourly rate increase, defense lawyers in federal capital cases are now paid $170 per hour, and it has become increasingly difficult for our Agency to enlist sufficient numbers of competent counsel for state death penalty appeals.

All relevant data would seem to indicate that imposition of a sentence of life without possibility of release versus execution is more cost effective for the state and does not jeopardize public safety. Our records indicate that in the past two decades, approximately 61 defendants plead to or were sentenced after trial to life without the possibility of release. None of these inmates will ever be released from DOC custody to their communities. They will die in prison. Furthermore, a life sentence allows these prisoners to be housed in DOC facilities other than Death Row at Northern Correctional. A recent OLR report indicates that the cost of inmate incarceration at Northern exceeds $100,000 a year compared to less than half that amount for most other DOC facilities other than Garner.

The ability for a defendant to plead to life without possibility of release, especially early on in a case not only saves incarceration costs, but all other expenses involved in preparation for trial, subsequent automatic appeal, and federal and state habeas corpus proceedings. Many clients currently serving life terms after trial or under sentences of death would have plead guilty to life without possibility of release if they had been given that option by the prosecution. For example, in 1993, Public Defender Ramon Canning stated that "the capital case of Terry Johnson could have been over in 15 minutes –done- No one would have spent a penny." Instead the case went to trial and Johnson was sentenced to death. The case was subsequently overturned on appeal by the Connecticut Supreme Court, and Johnson is now serving a life term. Defendants in several cases where the state was and now is seeking a death sentence filed motions with the court stating that they were ready to plead to life without the possibility of release. This was also true in the New Haven death penalty prosecution of Jonathan Mills who, despite his expressed willingness to plead early in the case, was forced to stand trial through the penalty phase, at substantial expense to state taxpayers. The jury's verdict at the end of

the penalty phase resulted in the imposition of a sentence of life without the possibility of release.

Some legislators and members of the public have expressed the concern that if Connecticut abolished the Death Penalty, then the public could not be assured that defendants would plead to life without the possibility of release. Recent data and studies on this subject would seem to indicate that states without the death penalty still have some of the highest rates of prisoners serving life without possibility of release, citing Massachusetts as an example where 7.9% of the prison population is serving such sentences. Studies also indicate that prosecutors in New Jersey have seen little difference in the number of guilty pleas in murder cases. This study, performed by the Brooklyn based organization, Equal Justice USA, also indicates that using the death penalty as a threat risks conviction of innocent persons who feel compelled to confess under duress or in order to save their own lives. The study cites several cases including the rape and murder of a woman in Nebraska, where 6 defendants were threatened with the death penalty. Several confessed and plead guilty, spending more than 20 years behind bars before DNA evidence recently exonerated them.

Further reason to abolish the death penalty is that any risk of disproportionate sentencing will be eliminated. The Division of Public Defender Services continues to study the way that death-eligible cases are prosecuted throughout the state. The Division hired Professor John J. Donahue, Esq. from Yale University to perform a follow-up study to the Division's earlier study to determine whether racial bias exists in the application of the death penalty in Connecticut. Donahue concluded that "the evidence suggests that race of both the defendant and the victim play a significant role in determinations of whether or not the state pursues and achieves a death sentence for capital eligible defendants." He further concluded that "[i]n no sense can it be said that Connecticut has limited its use of the death penalty to the 'worst of the worst' since many equally egregious or more egregious cases receive non-death sentences." He also noted that "in the 34 years since the adoption of the death penalty [in Connecticut], there as been a steady erosion in the percentage of murder cases that are unsolved. As a result roughly 40% of Connecticut murderers go free." In conclusion, he found that "[w]ithin the class of death-eligible murders, the discretion exercised throughout the post-arrest criminal justice system leads to arbitrary, irrational, or discriminatory outcomes."

The results of Professor Donahue's study are now being challenged by the Division of Criminal Justice, and there is ongoing litigation on behalf of 9 of 10 current Death Row inmates. All Death Row clients are represented by Special Public Defenders. Total expenditures for experts in the Racial Disparity in Death Penalty Cases study equal $334, 331 to date. In addition the Division has incurred $17,667 in ongoing litigation expenses.

In conclusion, the Office of Chief Public Defender supports this bill, but I would ask this Committee to also seriously consider abolition of the Death Penalty in all cases.

State of Connecticut
DIVISION OF CRIMINAL JUSTICE

Testimony of the Division of Criminal Justice
Joint Committee on Judiciary – March 2, 2009

In opposition to:

- **S.B. No. 1027 An Act Concerning Legal Standards in Capital Cases**
- **H.B. No. 6578 An Act Concerning the Penalty for a Capital Felony**

The Division of Criminal Justice strongly opposes both H.B. No. 6578, An Act Concerning the Penalty for a Capital Felony, and S.B. No. 1027, An Act Concerning Legal Standards in Capital Cases, and would respectfully request the Committee reject both of these bills.

S.B. No. 1027 would make the entire capital felony statute unenforceable. This bill would create a standard of proof that would be subjective and arbitrary if not impossible to meet. The bill would require the standard of absolute certainty rather than the standard of beyond a reasonable doubt for the guilt phase, but not the penalty phase, of a capital felony trial. Proof beyond a reasonable doubt, in the United States, is the standard of proof that must be met before a defendant may be found guilty of committing a crime. "Proof beyond a reasonable doubt is proof that precludes every reasonable hypothesis except guilt and is inconsistent with any other rational conclusion." The only difference between proof beyond a reasonable doubt and absolute certainty is an unreasonable doubt. Under our law defendants are presumed innocent and the burden rests entirely upon the state to prove beyond a reasonable doubt each and every element of the crime charged. Further, the jury must be unanimous in its verdict. Raising the standard of proof to the impossible and arbitrary standard of absolute certainty would make the capital felony statute useless thereby depriving the state of the ability to obtain sentences of either natural life or death.

H.B. No. 6578 purports to abolish the death penalty only for capital felonies committed after its effective date. That is a fiction. In reality it would effectively abolish the death penalty for anyone who has not yet been executed because it would be untenable as a matter of constitutional law or public policy for the state to execute someone today who could not be executed for committing the same conduct after a date in the future. The state could not seek the death penalty in any pending case that is presently eligible for the death penalty and any death penalty that has been imposed and not carried out would effectively be nullified.

If the proponents of these bills intend to abolish the death penalty and, in the case of S.B. No. 1027, effectively repeal the capital felony statute as well, they should be forthright and offer bills expressly doing that, so that the real issue can be debated and effectively considered. Whether the death penalty should be repealed is a moral and ethical issue that depends on the evolving standards of the people of the State of Connecticut. It is the elected members of the General Assembly who must determine these standards.

There are those who claim it is not a deterrent, but there are numerous studies published in peer-reviewed journals establishing that executions do deter the crime of murder and

therefore save lives. There are those who argue that its cost makes it prohibitive, but the great bulk of the costs come as a result of the long, drawn-out post-conviction litigation. Furthermore, those who argue that the death penalty is too expensive ignore not only the studies that conclude that the executions do prevent additional murders, thus saving the expense and prosecution of those crimes, but they ignore other studies that show that the possibility that the death penalty may be imposed has a positive effect on the willingness of defendants to plead guilty and accept a life sentence or other substantial sentence that protects the public and saves the cost of trials and post-conviction proceedings as well as the anguish to the families and friends of victims caused by the nature and duration of those proceedings.

Consider the fact that the death penalty is not sought in all capital felony cases and imposed in even fewer. Most cases where capital felony is charged do not end with the imposition of a sentence of death, but rather with a sentence of life in prison without the possibility of release. This fact alone shows how carefully each case is examined by prosecutors who carefully decide when to seek the death penalty and by the sentencing jury or judges in those cases where the prosecutor does seek a death sentence. Further, because of the very strict conditions established in our law, it is also apparent that the sentence more often than not will be life without the possibility of release and not death.

This is also evidence of that the current death penalty law and its implementation reflect the public will. Polls find that when given the choice, the public supports the sentence of life without the possibility of parole over the sentence of death. This is exactly what the prosecutors, jurors and judges in capital cases do – they make that choice based upon the unique details of the crime, the defendant and the victims in that case and that case alone. By law and by practice, the death penalty in Connecticut is clearly reserved for the worst of the worst crimes and offenders.

It also must be stressed that the State of Connecticut differs from other jurisdictions in one more very important way. The debate over the death penalty in Connecticut is not about the actual guilt or innocence of the individuals sentenced to death. It is an unchallenged fact that there is no claim of actual innocence by any of the individuals currently under sentence of death in the State of Connecticut. To reiterate. there are no innocent people on death row in Connecticut. The only issue is when the rightfully ordered sentence of the court is carried out and the law as enacted by this General Assembly is enforced with regard to these individuals. Ours is a very limited, very restricted death penalty law that is applied only in a minute percentage of cases. There is no need to set a higher standard for the determination of guilt in a state where there is no question of the guilt of those now under the sentence of death and there is no evidence that the law is being misused. Those who are under sentence of death are there through no fault of anyone but themselves and despite the tremendous obstacles that rightfully must be surmounted in order to secure a death sentence.

The trial process and the direct appeal process in death penalty cases are rigorous and thorough and they should be. The post-conviction process after the final appeal has become a wasteland into which excessive amounts of money are dumped and through which the families and friends of victims are forced to wander as the cases go on for years without apparent end. Death sentences take too long to impose and result in unnecessary costs resulting from unnecessary and unwarranted delay. It is inhumane that the innocent families of innocent victims of violent and unspeakable crimes should be subject to the terror of decades of legal maneuvering before the punishment lawfully ordered by our judicial system can be carried out. Rather than encouraging all parties to work for the

lawful and efficient resolution of claims, our lack of legal and procedural boundaries on post-conviction proceedings permits and even encourages the defense bar to prolong these cases for as long as possible and to spend as much as possible to prevent a final resolution. The sole reason for the reported high cost of capital litigation is delay for the sake of delay and not incompetent counsel or overzealous prosecutors. In effect, the argument becomes that it costs too much to execute a guilty person, but that it can never cost too much to save that same guilty person from execution. Despite years of litigation by the ten individuals now on death row none of the post-conviction proceedings has resulted in a reversal of a death sentence. If the Committee wants to reduce the costs of capital litigation, it should do so by reducing the excruciating delays in post-conviction proceedings that only serve to deny the finality the victims of these horrendous crimes and their families so rightfully deserve.