

PA10-058

HB5404

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STANDING
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**GOVERNMENT
ADMINISTRATION
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PART 2
351 – 699**

2010

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GOVERNMENT
ADMINISTRATION
AND ELECTIONS
PART 3
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**CONNECTICUT
GENERAL ASSEMBLY
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**CONNECTICUT
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Representative Hewett.

REP. HEWETT (39th):

Mr. Speaker, I move that this bill be referred to Finance Committee.

DEPUTY SPEAKER O'CONNOR:

Is there objection? Is there objection?

Hearing none, it is so ordered.

Will the Clerk please call Calendar Number 256.

THE CLERK:

On page 12, Calendar 256, Substitute for House Bill Number 5404, AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING CERTAIN EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT, favorable reported the Committee on Government Administration and Elections.

DEPUTY SPEAKER O'CONNOR:

Representative Jarmoc.

REP. JARMOC (59th):

Good afternoon, Mr. Speaker.

I move for acceptance of the Joint Committee's favorable report and acceptance of the bill -- or passage of the bill. I apologize.

DEPUTY SPEAKER O'CONNOR:

The question is on acceptance of the Joint

Committee's favorable report and passage of the bill.

Will you remark?

REP. JARMOC (59th):

Thank you, Mr. Speaker.

This bill exempts from disclosure under the Freedom of Information Act personnel, medical and other similar files in regard to current or former members of the Department of Correction as well as employees of the Department of Mental Health and Addiction Services. I move -- Mr. Speaker, I also have an amendment, LCO Number 3813. I ask that it be called and I be granted permission of the chamber to summarize.

DEPUTY SPEAKER O'CONNOR:

Will the Clerk please call LCO Number 3813, which will be designated House Amendment Schedule "A."

THE CLERK:

LCO Number 3813, House "A" offered by Representatives Aresimowicz, Hetherington and Jarmoc.

DEPUTY SPEAKER O'CONNOR:

The Representative seeks leave of the chamber to summarize the amendment.

Is there objection to summarization? Is there objection?

Hearing none, Representative Jarmoc, please proceed.

REP. JARMOC (59th):

Thank you, Mr. Speaker.

This amendment basically changes the effective date of Section 1 to effective upon passage instead of effective July 1, 2010. I move adoption.

DEPUTY SPEAKER O'ROURKE:

Question before the chamber is adoption of House Amendment Schedule "A."

Will you remark further on the amendment? Will you remark further?

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker.

The underlying measure is very much needed and if we pass this amendment it will have affect, as it says, on passage and will address several situations that are pending now. I urge adoption of the amendment. Thank you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Will you remark further? Will you remark further on the amendment before us?

If not, I'll try your minds.

All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER O'CONNOR:

All those opposed?

The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended?

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker.

Mr. Speaker, this is a very important bill for the entire state of Connecticut and especially for districts such as the one I represent, which is very rich in the men and women who serve for the Department of Corrections as correctional officers. In my district alone, we house the facility of Northern Correctional with about 450 of the hardest inmates that the state of Connecticut is holding on to. This is where death row is. This is where serial killers, accused rapist, the worst of the worst are housed in this facility.

We also have Osborn, down the road, with almost 2,000 inmates in that facility. And we have lots of prison guards that work in these dangerous jobs for

the state of Connecticut. The ability that inmates have to FOI information on the correction officers is a danger not only to them but to their families.

I do, Mr. Speaker, have two quick questions, through you, to the proponent of the bill.

DEPUTY SPEAKER O'CONNOR:

Thank you, Representative. Please proceed.

REP. BACCHIOCHI (52nd):

I am wondering if the inmates, who making an FOI request, have to pay any fees for that. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Jarmoc.

REP. JARMOC (59th):

Thank you.

Through you, Mr. Speaker, my understanding is no they do not. That is a cost that is absorbed by the state of Connecticut.

DEPUTY SPEAKER O'CONNOR:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you.

And also, I'm not sure the Representative would know the answer to this but I'm just curious to know,

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do the inmates have to pay any fees like regular residents of the state of Connecticut if they decide to file a lawsuit against an individual? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Jarmoc.

REP. JARMOC (59th):

Through you, Mr. Speaker, my understanding is no.

DEPUTY SPEAKER O'CONNOR:

Representative Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you.

And I thank the Representative for her answers.

I think -- I just want to illustrate how easy it has been for inmates to file FOI suits and how easy it is for them without any cost to file lawsuits without merit many times at the cost to the state taxpayer and this may be something we want to look at down the road.

Again, I just wanted to rise in support of this important legislation and I urge my colleagues to support it. Thank you.

DEPUTY SPEAKER O'CONNOR:

Thank you, Representative.

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Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

Just one question to the proponent of the bill.

DEPUTY SPEAKER O'CONNOR:

Thank you. Please proceed.

REP. GODFREY (110th):

Could you -- could you -- has the Freedom of Information Commission taken a position on this bill and if so, what is it.

DEPUTY SPEAKER O'CONNOR:

Representative Jarmoc.

REP. JARMOC (59th):

Thank you.

Through you, Mr. Speaker, yes the Freedom of Information Commission has testified in opposition to this bill.

DEPUTY SPEAKER O'CONNOR:

Representative Godfrey.

REP. GODFREY (110th):

Thank you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Will you remark? Will you remark?

Representative Spallone.

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REP. SPALLONE (36th):

Thank you, Mr. Speaker.

Just a few brief comments about this bill. This bill is unusual, not completely unusual, actually, in this building in that we have two parts of the state government that have taken opposing positions on the bill, on the one hand you have the Department of Corrections in alliance with corrections officers, who favor this bill because they're concerned about personal security and the security of their personal information. On the other you have the Freedom of Information Commission, a watchdog agency, that's in charge of making sure we have open and transparent government and they've opposed this now for two years.

And both sides have made an interesting case before the Judiciary and the GAE Committees regarding their positions and, in fact, neither side has seemed to be able to prevail on the -- on the intellectual merits to completely discount the other side's position. It should be known that while corrections officers and the Department have serious concerns about the abuse of FOI requests that have not lost a case beyond the FOI Commission and that there is pending -- there are pending court cases. On the

other, corrections officers made compelling case before two committees regarding their immediate concerns and regarding some information, which has actually gotten to the inmates and caused them distress.

Mr. Speaker, I'm not going to oppose this measure but I wanted to inject, again, a word of caution, as the chair of the GAE Committee, concerning the integrity of the FOI Act and the need to really look at this whole issue of personal information in the age of the Internet and the prevalence of that information, the availability of it to members of the public. And so I thank you for the few moments of the chamber's time.

And I also should add, Mr. Speaker, that it's good to see my colleague and friend from the adjoining district at the speaker's dais today and I congratulate you.

DEPUTY SPEAKER O'CONNOR:

Much appreciated. Thank you, Representative.

Representative Jarmoc.

REP. JARMOC (59th):

Thank you, Mr. Speaker.

And I thank the chair of the GAE Committee for

his support of this bill. Thank you very much.

Just for a point of information, there have actually been 13 FOI requests to the Department of Correction in regard to inmates requesting correctional officer's files. There have been 10 requests in regard to the Department of Mental Health and Addiction Services. There have all also been 10 hearings. And as a lawmaker, with a number of correctional facilities in her district and also a correctional officer who lives in my district, whose personnel file has been FOI'd by an inmate and the anguish and difficulty that he has experienced for himself and his family in regard to this, I am very much pleased to see this bill hopefully pass this chamber and I urge everyone else to please support it today.

DEPUTY SPEAKER O'CONNOR:

Thank you, Representative.

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Mr. Speaker.

And through you, a question, if I might, to Representative Jarmoc.

DEPUTY SPEAKER O'CONNOR:

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Please proceed.

REP. WILLIAMS (68th):

Thank you, Mr. Speaker.

Through you to Representative Jarmoc, the bill seems to indicate and I think through your explanation I've understood that it would exempt from FOI law certain requests from current inmates regarding current personnel of Department of Corrections. I guess I'm curious, through you, if this would also prohibit recently released inmates from filing FOI requests about current Department of Corrections officers. Through you.

DEPUTY SPEAKER O'CONNOR:

Representative Jarmoc.

REP. JARMOC (59th):

Thank you.

Through you, Mr. Speaker, to clarify, this applies to current and former employees of the Department of Corrections. So that's current and former employees but it does not apply to a former inmate. It applies to an inmate in the custody of the Department of Corrections.

DEPUTY SPEAKER O'CONNOR:

Representative Williams.

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REP. WILLIAMS (68th):

Thank you, Mr. Speaker.

I thank the gentlelady for her answer. I certainly support this legislation and like many of my colleagues here, I've had the opportunity to visit some of our correctional facilities here in Connecticut and have always said that I certainly would not want to do the job that many of our state employees do at these facilities. It is a very dangerous jobs. They take their lives into hands everyday just as much as police officers and other folks who would at Public Safety. And so this little bit of added protection that we can give to them certainly is required and necessary and I would urge adoption.

Thank you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Thank you.

Will you remark further on the bill as amended?

Will you remark further on the bill as amender?

If not, will staff and guests please come to the well of the House. Will the members please take their 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 by roll call. Members to the chamber please.

DEPUTY SPEAKER O'CONNOR:

Have all the members voted? Have all the members voted? Will the members please check the board to determine if your vote has been properly cast.

If all the members have voted, the machine will be locked and the Clerk will please take a tally.

Representative Lawlor, for what purpose do you rise.

REP. LAWLOR (99th):

Mr. Speaker, can I be recorded in the affirmative?

DEPUTY SPEAKER O'CONNOR:

Representative Lawlor shall be recorded in the affirmative.

Will the Clerk please announce the tally.

THE CLERK:

House Bill 5404 as amended by House "A."

Total Number voting	145
Necessary for passage	73
Those voting Yea	145
Those voting Nay	0

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Those absent and not voting 6

DEPUTY SPEAKER O'CONNOR:

The bill as amended passes.

Will the Clerk please call Calendar Number 186.

THE CLERK:

On page 27, Calendar 186, Substitute for House Bill Number 5448, AN ACT CONCERNING THE ADMINISTRATION OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES, favorable reported the Committee on Human Services.

DEPUTY SPEAKER O'CONNOR:

Representative Gentile.

REP. GENTILE (104th):

Thank you, Mr. Speaker.

Mr. Speaker, I move for acceptance of the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER O'CONNOR:

The question is acceptance of the Joint Committee's favorable report and passage of the bill.

Will you remark?

REP. GENTILE (104th):

Mr. Speaker, the Clerk has an amendment, LCO 3659. I would ask that the Clerk please call the amendment and I granted leave of the chamber to summarize.

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The Ayes have it. Senate B is
adopted.

Will you remark further on the bill
as amended?

Senator Gaffey.

SENATOR GAFFEY:

Mr. President, if there's no objection, I move the
bill to the Consent Calendar.

THE CHAIR:

Is there objection to placing this item on our
Consent Calendar? Is there objection?

Seeing none, so ordered.

Senator Looney.

SENATOR LOONEY:

Yes, Mr. President, thank you.

Mr. President, if the Clerk might call calendar page
12, Calendar 462, House Bill 5404.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar page 12, Calendar 462, File 451 and 631,
Substitute for House Bill 5404, AN ACT CONCERNING THE
NONDISCLOSURE OF CERTAIN INFORMATION REGARDING CERTAIN
EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT

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(As amended by House Amendment Schedule "A"), favorable report of the committee of Government, Administration and Elections.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes thank you, Mr. President.

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

THE CHAIR:

The Senate will consider acceptance and passage in concurrence. Will you remark further?

SENATOR LOONEY:

Yes thank you, Mr. President.

Mr. President, this bill will provide for a potential reduction in the number of -- of FOI requests involving the Departments of -- of Correction and provides that a personal or medical file or similar file concerning a current or former employee of Corrections or Department of Mental Health and -- and Addiction Services not be subject to FOI disclosure to -- to inmates in the

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custody of the supervision of the commissioner of
Corrections.

And the House amendment that was adopted, Mr. President, affected the -- made an effective date of July 1, 2010, making it effective upon passage so that the fiscal impact described above will have an impact in fiscal '10 as -- as well as future years.

THE CHAIR:

Thank you, Senator.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President.

I do believe I may be the clean-up batter here this evening but this was one of my top priorities this year and I'm so delighted that we're moving on it this morning here at 1:22 a.m. I want to thank Senator Gayle Slossberg and she has my deepest sympathies on the loss of her dad and Representative Spallone, the co-chairs of the GAE Committee.

We had a similar bill last year came out of Judiciary. But this year I had asked these co-chairs to raise this bill so there would be a full public hearing in the Government Administration Elections Committee and we also -- I want to thank Senator McDonald and

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Representative Lawlor for moving on an identical bill in the Judiciary Committee.

So this bill has been widely aired and discussed in both GAE and the Judiciary Committee and at the outset there's just some people that I think deserve an awful lot of credit for moving forward with this. Commissioner Brian Murphy spoke articulately, eloquently and passionately about the need for this bill. John T. Pepe and Joe Vecchitto of Local 391, the large correctional officer union up in my neck of the woods, Lieutenant Mark Lucy as well as Harry Ray Soucy in their testimony brought out the idea that there is a non-familiarity rule in the Department of Corrections and indeed what these inmates had been doing is they're trying to obtain personnel information about Corrections officers and then sort of dropping little tidbits of information in the correctional facilities making it appear that perhaps the guards were violating the non-familiarity rule.

So what this bill is all about and why it's so important for the men and women who work in the Department of Corrections is that these inmates were utilizing the Freedom of Information Act for untoward purposes to intimidate and harass correctional officers

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who maintain the safety and security within these facilities.

But the other folks that were at risk are also family members of our Corrections officers. I was so pleased that other individuals came and testified in favor of this bill including Michelle Cruz, the state's victim advocate and Kevin Kane, the Chief State's Attorney.

Other things that are -- oh and there's one other individual that deserves a tremendous amount of credit and that is Jennifer Sullivan. She is a brave, brave parole officer who testified passionately and articulately as well. Not only does this bill protect corrections officers but also parole officers. And when you have maybe 20, 30, 40, 50 people that you're monitoring and they are not behind bars and Ms. Sullivan monitors and is a parole officer for sex offenders.

These individuals do not like being monitored and sometimes they would offer intimidation and threats and so this will prohibit those folks from being able to obtain this information as well.

And also Casey Washington, James Gilbert, David Caron all folks who work in the Department of Corrections bringing different perspectives to this issue and,

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indeed, Mr. Casey Washington had served in our military forces and then came -- wanted to serve here as well and he also indicated that there are sometimes information in personnel folders that actually affected national security.

But because we have the relationship where he may have to get deployed or be trained or take certain time off, that could be in the personnel files and to allow inmates to get that information, who knows what they would do with it.

So ladies and gentlemen, my colleagues, this is a great day for corrections officers and those involved within the Department of Corrections and parole officers and all the other folks covered by this bill.

I'd like to thank my friends on the other side of the aisle for moving forward with this. It's had an ample hearing. We were hopeful that it could have passed last year. It'll pass this year. And again the amendment that the House adopted to make it effective upon passage that was a recommendation of the Department itself because there are some pending lawsuits and so the faster this gets signed by Governor Rell and passed into law the more safe and secure our state will be and it is

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a fine testimonial to the hard work and dedication of our corrections officers here in the State of Connecticut.

And with that, Mr. President, I strongly support this bill and would urge my colleagues to support it as well.

Thank you.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Looney.

SENATOR LOONEY:

Yes thank you, Mr. President.

Mr. President, if there's no objection, would move to place the item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Yes thank you, Mr. President.

If we might now move to a vote on the Consent Calendar.

THE CHAIR:

Mr. Clerk would you please announce that a roll call vote has been ordered in the Senate on the Consent Calendar?

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THE CLERK:

Roll call -- roll call vote has been ordered in the Senate on the Consent Calendar. Will all senators please return to the chamber? Roll call vote has been ordered in the Senate on the Consent Calendar. Will all senators please return to the chamber? And pay particular close attention to the call of those items placed on the Consent Calendar.

Starting with Senate Agenda Number 3, Substitute for Senate Bill 456; calendar page 2, Calendar 143, Substitute for Senate Bill 393; calendar page 12, Calendar 462, Substitute for Senate Bill 5404; calendar page 13, Calendar 475, House Bill 5402; calendar page 14, Calendar 479, Substitute for House Bill 5028; Calendar 480, Substitute for House Bill 5372; calendar page 23, Calendar Number 541, House Bill 5241; calendar page 25, Calendar 35, Senate Bill 12; calendar page 27, Calendar 106, Substitute for Senate Bill 318; Calendar 122, Substitute for Senate Bill 319; calendar page 29, Calendar 169, Substitute for Senate Bill 108; Calendar 170, Substitute for Senate Bill 109; calendar page 30, Calendar 195, Substitute for Senate Bill 414; calendar page 31, Calendar 206, Substitute for Senate Bill 382;

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calendar page 32, Calendar 218, Substitute for Senate Bill 302; Calendar 223, Substitute for Senate Bill 380; Calendar 230, Senate Bill 283; calendar page 33, Calendar 235, Substitute for Senate Bill 216; calendar page 34, Calendar 258, Substitute for Senate Bill 274; calendar page 35, Calendar 316, Substitute for Senate Bill 278; calendar page 36, Calendar 318, Substitute for Senate Bill 418 and calendar page 40, Calendar 546, Senate Resolution Number 17.

Mr. President, I believe that completes the items placed on the Consent Calendar.

THE CHAIR:

The machine is open on the Consent Calendar.

THE CLERK:

The Senate is voting by roll call on the Consent Calendar. Will all senators please return to the chamber? The Senate is voting by roll on the Consent Calendar. Will all senators please return to the chamber?

THE CHAIR:

Senators please check the board to make certain that your vote is properly recorded. If all Senators have voted and all Senators votes are properly recorded, the machine will be locked

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and the Clerk may take a tally.

THE CLERK:

Motion is on passage of Consent Calendar
Number 1.

Total Number Voting	35
Those Voting Yea	35
Those Voting Nay	0
Those Absent, Not Voting	1

THE CHAIR:

Consent Calendar 1 is adopted.

Senator Looney.

SENATOR LOONEY:

Yes thank you, Mr. President.

Mr. President, I would yield the floor to any
members for announcements or points of personal
privilege.

THE CHAIR:

Are there announcements or points of personal
privilege? Are there announcements or points of personal
privilege?

Seeing none, Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

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GOVERNMENT ADMINISTRATION
AND ELECTIONS COMMITTEE

10:00 A.M.

minute time limit on your testimony so when you -- when you hear the little kitchen timer go off, make sure that you wrap up what you were saying, wrap up your thoughts in a little extra time after that but don't go -- go on too far beyond that time.

Members will ask you questions possibly so be ready to answer questions. Not to tell you how to do your testimony but if you feel comfortable speaking extemporaneously no need to read the -- the write -- the things that's written, you can highlight the areas that you think are important for us.

I think that's about it. So we're going to get started. And as a reminder here in the GAE committee we -- we always -- almost always have members of the public speak first and we have a pretty long list today of sixteen signed-up speakers. Then we have legislators or agency heads or other elected officials and followed by lobbyists -- registered lobbyists are the last -- last set.

So to begin today our first speaker is David Carron.

Okay -- and we'll recall people if they're not in the room:

Claude Albert.

Good morning, welcome.

CLAUDE ALBERT: Good morning, Representative Spallone, members of the committee.

My name is Claude Albert. I live in Haddam and I am the legislative chair of the Connecticut Council for Freedom of Information. I have --

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GOVERNMENT ADMINISTRATION
AND ELECTIONS COMMITTEE

10:00 A.M.

And it seems to us that failure to improve -- to -- to take this opportunity to improve government access inevitably suggests certain questions. Are some towns just gripped by inertia or reluctant to make the information available or is glaringly obvious that some minutes are missing or poorly done?

So we recommend a short timeframe for implementing this and if a substantial delay is contemplated that it only be for the smallest towns.

I -- I heard the buzzer go off. Since I'm doing three, do you mind if I take another minute or so?

REP. SPALLONE: No not at all, please go ahead and -
- and give us your testimony on 5404.

CLAUDE ALBERT: Okay. On Bill 5404, we understand that the Corrections Department is proposing this exception, the FOI act, because it believes that allowing inmate access to any information from personnel or unspecified similar files is a security risk or a possible security risk to its employees or the good order of its institutions.

And I want to say right up front that we certainly recognize the difficult and hazardous job that Corrections personnel do and the need to be scrupulous in safeguarding their safety. We also understand, however, that the present law already has exemptions for personal privacy, for medical files, for the home addresses of Corrections personnel. And, in addition, the present law allows the Corrections Department to withhold any document when it has reasonable grounds to believe its release will jeopardize security.

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GOVERNMENT ADMINISTRATION
AND ELECTIONS COMMITTEE

10:00 A.M.

And we think that the current law thus seems to provide for the withholding of information that legitimately threatens security but stills allows for the release of information about prison conditions that may be of genuine public interest. It seems to us that that strikes a reasonable balance and we believe that the FOI commission is the proper arbiter of that balance and has a record of applying the law thoughtfully.

In a recent case the FOIC ordered the release of information about the disposition of criminal cases against DOC employees but ruled that the names of those employees and identifying information could be withheld. And we also understand that only about a dozen or so, or fewer than a dozen, of the kinds of requests that this bill would target have actually been appealed to the FOIC since 2006.

So in summation, Corrections we understand is a department that has a difficult mission and that mission has entitled it to some expansive exemptions from the Freedom of Information Act. The nature of its work undoubtedly makes many of those except -- exemptions prudent. But before this committee and the legislature enacts the blanket ban that the bill proposes, we would urge the committee to closely examine the protections in the present law, the way the FOIC has so far handled the requests at issue, what kind of information has ordered -- been ordered disclosed and whether serious security problems would actually be likely as a result of their rulings, and, if they found it necessary to propose a more targeted change to the law.

And that's all.

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March 8, 2010
10:00 A.M.

REP. SPALLONE: Thank you, sir.

And as representative for Haddam I welcome you here as a constituent as well.

CLAUDE ALBERT: Thanks.

REP. SPALLONE: Are there any questions for the -- for this witness?

Representative Floren.

A VOICE: (Inaudible.)

REP. FLOREN: Sorry, my finger must be tired today.

I watched your testimony before Judiciary on CTN and the underlying question that I don't think was answered is: what is the public good from knowing that information about the Corrections officer?

CLAUDE ALBERT: Well the -- the files at issue -- there -- there may not be any public good in -- in knowing the home address of a Corrections officer or -- or some kind of information like that -- that genuinely threatens security. We -- the public good is obviously in keeping Corrections officers secure, but there are other kinds of information about prison conditions, health and safety issues in prisons, the qualifications of some Corrections personnel that may well be of public interest.

And I think the challenge before this committee is to figure out a way to protect the information that is -- that puts anybody at hazard and protect the release of information that may be of genuine public fact.

REP. SPALLONE: Thank you, Representative.

Any further questions for Mr. Crosbie?

If not, thank you for your testimony. We appreciate it.

KEVIN CROSBIE: Thank you.

REP. SPALLONE: Our next speaker is Craig Washington followed by James Gilbert.

Good morning, welcome.

CRAIG WASHINGTON: Good morning.

My name is Craig Washington. I am assigned to MacDougall-Walker Correctional Institution in Suffield, Connecticut. I have been with the DOC for about four and a half years. I'm not only here as a DOC employee but also as a citizen but also as a Marine Corps Iraqi war veteran.

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I'm no longer in the service but, however, there are a few things that are attached to my personnel file such as my military orders. There are certain things I don't want inmates to see. Even though I'm not in the service right now, there are plenty of DOC staff members who are currently in the service. Things that were attached to my records -- to my military orders are times, dates, locations. I think those things could be compromised if they fell into the wrong hands, being that they're in my personnel records, my personnel records are confidential.

I feel as though some inmates do not like the government, do not like what we're doing and

they could use that information to harm my unit -- my previous unit or harm somebody else's unit being that the location and dates, times of where we're traveling could be compramated - - could -- could be compromised -- excuse me. Also our training exercises could be compromised.

This is my -- my opinion -- the reason why I think inmates should not have access to my personnel records.

Any questions?

REP. SPALLONE: Thank you very much for your testimony.

Has -- has a request been made for your records in particular? Have you had to deal with that and respond to that?

CRAIG WASHINGTON: I have an on-going case right now and they FOI'd my personal records to see if I was working on a particular day. As of right now I do not know how -- how far it went.

REP. SPALLONE: And have any of the colleagues that you work closely with been subject to such requests?

CRAIG WASHINGTON: Yes.

REP. SPALLONE: And just to be clear for the record, you're not sure what the status of your particular case is, what level? It's still before the commission, though, it's not in court or anything.

CRAIG WASHINGTON: No it's just before the commission.

REP. SPALLONE: Okay.

Any further questions?

Representative Aresimowicz, our Vice Chair.

REP. ARESIMOWICZ: Good morning and thanks for coming today.

And -- and I'll go through it a little bit with you. I'm not going to do it with everybody throughout the day. I do have some experience with Corrections through family members and in -- in my current employment.

Just to be clear for those in the room, when you go through the training academy, are you taught to keep all personal information away from inmates and out of the facilities?

CRAIG WASHINGTON: That is the number one rule. From the first day you step into academy, they speak about undue familiarity, giving personal information out to the inmates. That is the number one rule. They -- they can't stress it enough.

REP. ARESIMOWICZ: And isn't the Department's reason for that is that these inmates have nothing but time. They're going to sit there and try to find ways to manipulate you or your other coworkers to get what they want, whatever that might be, by relying on personal information that they got from you.

CRAIG WASHINGTON: That is correct. These inmates they -- I have one inmate spends all day with a journal writing down our every move, what time we toured, who was our partner. These -- these gentlemen may be in jail but they're not stupid. They're extremely smart.

REP. ARESIMOWICZ: And -- and you mentioned undue familiarity. That's -- that's a Department of Corrections policy, correct?

CRAIG WASHINGTON: Yes.

REP. ARESIMOWICZ: And -- and what is -- what is the -- the consequences for violating that -- that order that you said they give at the academy and you can't stress enough? If you violate that undue familiarity aspect of your job, what happens to you?

CRAIG WASHINGTON: Up to termination.

REP. ARESIMOWICZ: Yeah and -- and termination is more common than not, correct?

CRAIG WASHINGTON: Correct.

REP. ARESIMOWICZ: So it -- it really is their number one policy, it's not just in training. If you get out and you violate that, you become familiar with an inmate at a level that the Department doesn't feel is appropriate, and they deem what is appropriate, you will be fired, correct?

CRAIG WASHINGTON: That is correct.

REP. ARESIMOWICZ: Thank you.

CRAIG WASHINGTON: You're welcome.

REP. SPALLONE: Thank you very much.

Any further questions?

Representative Hetherington.

REP. HETHERINGTON: Thank you, Mr. Chairman.

Let me say first of all we thank you very much for your service to this country.

CRAIG WASHINGTON: Thank you.

REP. HETHERINGTON: And you're a hero as far as we're concerned.

In a request, in order to access your records - your service records, would that -- would your service records have to be identified specifically or would they -- would they come as a matter of course in response to a general request?

CRAIG WASHINGTON: That would just come with my personnel files. You don't have to give a -- a specific reason why they want my files. They're just asking to have access to it.

REP. HETHERINGTON: A general request generates all of your files -- I mean all of your file (inaudible).

CRAIG WASHINGTON: Yes.

REP. HETHERINGTON: I see. Okay, thank you very much

Thank you, Mr. Chairman.

Nope.

REP. SPALLONE: Representative Floren.

REP. FLOREN: Thank you, Mr. Chairman.

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GOVERNMENT ADMINISTRATION
AND ELECTIONS COMMITTEE

10:00 A.M.

Thank you for being here today and I had a question. Do you have any say over what could be redacted before its release?

CRAIG WASHINGTON: As of right now just my address.

REP. FLOREN: That's what I thought.

CRAIG WASHINGTON: Yes.

REP. FLOREN: Nothing else.

CRAIG WASHINGTON: Yes.

REP. FLOREN: Everything else is open -- free game. Well I don't think that's right. Semper fi.

CRAIG WASHINGTON: OO RAH

REP. SPALLONE: Any further questions for this -- this officer?

If not, thank you again for your testimony; for your service to the state.

CRAIG WASHINGTON: Thank you.

REP. SPALLONE: Appreciate it.

The next speaker is James Gilbert following by Nicole Szewc and you may correct my pronunciation.

Good morning sir, welcome.

JAMES GILBERT: Good morning.

My name is Officer James Gilbert of the Osborn Correctional Institution. I'm here to testify in favor of Bill 5404.

One day last year I ordered an inmate out of an area that he should not have been in. This inmate challenged my order at first. He didn't listen to me. He kept talking to his buddies. So I had to give that order, you know, I had to -- you know I had to -- you know give it again. At which time he turned to me and he, you know, he thought that I was kind of -- kind of talking down to him and he, you know, told me he was going to sue me and all that.

I didn't -- I didn't really think too much of it. Two weeks or so had passed and I received a letter that this inmate had requested to view my entire personnel file. And that was under the FOI. At which time I notified my shift commander and he, you know, he, you know -- this whole thing to me is just -- it's, you know -- I don't know -- upsetting to me.

You -- you know the only thing in my head that I can really think about is, you know, the whole Cheshire incidents and all that stuff and that just makes my, you know, myself and my family just very frightful. You know just the whole fact of an inmate knowing where I live, my -- you know my children's names and all that type of stuff, it -- it just for me, personally, it's just very, very fearful.

You know, I mean, I -- I don't really, you know, like this, you know, this type of drama and -- and all that type of stuff as you can probably tell. But, you know, for us it's -- it's just nervous for us. I mean that's -- that's pretty much all I have to say.

If you have any questions I'll be more than happy to answer them.

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AND ELECTIONS COMMITTEE

REP. SPALLONE: Thank you for your testimony and you shouldn't be nervous or worried about drama coming up here. It's your -- it's your house and your welcome to testify anytime as are all our citizens so thank you for coming.

Are there any -- any questions for Officer Gilbert?

If not, thank you for coming in today.

JAMES GILBERT: Thank you very much.

REP. SPALLONE: Officer, I'm going to allow you to pronounce your name. I'm not going to try again and mess it up and you'll be followed by Jennifer Sullivan.

NICOLE SZEWC: My name is Officer Szewc. I'm a correction officer assigned to Northern Correctional which is a -- a maximum security facility and I'm also here concerning Raised Bill 5404.

I've been with the department for about a year now and the Freedom of Information Act has already affected by life. Since starting at the facility, I've written number of tickets to a particular inmate for public indecency. On several occasions this inmate indicated that he would locate me once he was released.

A VOICE: (Inaudible.)

NICOLE SZEWC: Prior to the inmate being discharged, he actually obtained my first name from another inmate who had received information from the Freedom of -- yeah -- from the Freedom of Information request. Upon his discharge, the inmate made several attempts to contact me at the facility and he also used the information

obtained, my first and my last name, to locate me on a social networking site and leave me several messages there.

Since this time he's been rearrested and transferred back to my facility where the staff had noticed that he had two new tattoos, one being my last name on his arm and the other one being my first name on the inside of his finger. The information that was obtained through the Freedom of Information Act assisted this inmate in harassing and intimidating me. It also placed me and my family's safety at risk because -- because of the inmate's behavior before he was discharged, the comments he made pertaining to locating me when he got out and because of him being able to obtain my information from the Freedom of Information Act.

While he was released I was in a constant state of worry for me and my family and particularly my -- my younger sister who had been living with me at the time. And even with him currently re-incarcerated, I feel that my professional boundaries and my ability to do my job have been compromised due to the information that he now has and I'd like to see this bill passed.

REP. SPALLONE: Thank you very much.

I believe Representative Aresimowicz has a question or two.

REP. ARESIMOWICZ: And -- and I just want to expand upon what you hit on. I mean through FOI the inmate got your first name. I mean the policy in Department of Corrections -- policies -- you -- you -- they don't even want you to use your first name for the inmates to get, correct?

NICOLE SZEWC: Right.

REP. ARESIMOWICZ: But this inmate was able to circumvent that through the FOI and get your first name and now if there's not a committee member sitting on this committee now that hair didn't stick -- stand up on their arms and get the chills when that went through -- our heart goes out to you.

I -- being a new employee that's not something that we, as the State of Connecticut, want you to experience for your first year on the job and -- and we're taking this bill very seriously. But I just want to reassure you of that and thank you for what you do.

NICOLE SZEWC: Thank you.

REP. SPALLONE: Anything further?

If not, thank you for your testimony this morning.

NICOLE SZEWC: Thank you.

REP. SPALLONE: Jennifer Sullivan followed by Mike Winkler.

A VOICE: Good morning.

JENNIFER SULLIVAN: Good morning.

REP. SPALLONE: Good morning and welcome.

JENNIFER SULLIVAN: Thank you.

My name is Jennifer Sullivan and I'm a parole officer assigned to the Parole and Community Services in Hartford. I've been with the

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10:00 A.M.

Department of Corrections for the last eight and a half years. I'm here concerning Raised Bill 5404, AN ACT CONCERNING THE DISCLOSURE OF EMPLOYEE FILES TO INMATES.

I am here not only as a Department of Corrections employee but also as a constituent. I'm a parole officer supervising high risk sex offenders in the community. I manage them by making sure that they're abiding by their conditions of release. I supervise anywhere from 20 to 30 sex offenders at any given time in the community. Many of these offenders have criminal histories that include violent sexual acts against women and children. They've used weapons, firearms and violence to threaten their victims.

Many of these offenders have a history of impulsive offenses as well as calculated and well-planned offenses. I see these offenders in the office, at their residences, their places of employment and other locations in the community. I'm constantly meeting with members of their support system, some of them also involved in crimes.

Offenders have been manipulative, revengeful, they've attempted to cross boundaries with me, tried to intimidate me in these various settings. These offenders see me on a regular basis. They recognize my state vehicle. Also prior to releasing these offenders into the community, I interview them in prisons and, based on that interview, they may be released or not released.

In the course of my duty I return high risk sex offenders back into custody for violating their conditions of parole. I also make recommendations as to when they should get re-

released or if they should serve the remainder of their sentence. At these times their freedom is taken away by me and other staff when they violate their parole conditions, taking away somebody's parent, child, brother, et cetera.

Offenders remember and recognize who supervised them. Even offenders I don't supervise know who I am. I'm remanding them back into custody, I'm writing them up for misconduct in the community -- make many of them angry with this. I'm frequently seeing offenders I supervised years after they're released whether they're back into the Department of Corrections or if they're in the community.

It is an invasion of privacy to have access to my personal file. If any of this information was disclosed to these convicted offenders or any other offender in our custody, this invasion of privacy would compromise my ability to do my job and compromise my family's safety.

In the community these offenders and their known criminal associates have access to weapons. They're free, they can harass me, attempt to harm me and my family. Offenders already know where I work. They know what my vehicle looks like. There are enough risks that comes -- enough risks that come with my employment as a parole officer. Our personal information should be protected by these inmates and offenders.

Everyday I go to work, I know that I'll -- may be placed in a dangerous situation as it is. Nothing beneficial can happen from these offenders receiving my information. Information held by offenders within the correctional environment can be used to extort,

intimidate and harass me, my family and my coworkers.

In order to do my job to the best of my ability I need to know that my personal life will not become in jeopardy because of the job I perform everyday and the dangerous offenders that we're constantly trying to transition back into the community into positive, non-criminal lifestyles.

After doing my job everyday, visiting inmates in jail, seeing them in the community, I want to go home and feel safe at my residence with my family not wondering if someone has my personal information and might try to harm or harass me when I'm most vulnerable. As it is now I take every possible precaution I can. I take different routes to and from work. I don't go to areas that I know offenders live in, have family members in, that they work in just because I don't want anyone to see me when I'm unarmed and most vulnerable.

I'm dedicated to keeping our communities as safe as possible, from protecting our communities from future violent acts and crimes and I aim for not creating anymore victims. I certainly don't want to be a victim myself or my coworkers or their families to be victims of intimidation, harassment, potential violence by these offenders in our custody or when they're released from custody.

Thank you.

REP. SPALLONE: Well thank you very much for your testimony.

Are there any questions for this speaker?

Representative Hetherington.

REP. HETHERINGTON: Thank you, Mr. Chairman.

Do you -- where do you meet with the offenders when -- when you meet them outside of -- of the prison? Do you -- do they come to your office, is that how you meet with them?

JENNIFER SULLIVAN: They do come to our office.

REP. HETHERINGTON: Right.

JENNIFER SULLIVAN: We have different offices across the state, secured environments.

REP. HETHERINGTON: Okay.

JENNIFER SULLIVAN: We also meet with them at their residences, places of employment, school. If they have treatment, we might go to a treatment site to work with them.

REP. HETHERINGTON: Really.

JENNIFER SULLIVAN: They change residences frequently as well so we're going to numerous different places.

REP. HETHERINGTON: So you're often in unsecure facilities when you meet with them. Yeah.

And -- yeah I mean that must be very spooky that -- that these people have access to all your personal information.

JENNIFER SULLIVAN: Absolutely is.

REP. HETHERINGTON: Right. Okay. Thank you.

Thank you, Mr. Chairman.

REP. SPALLONE: Good morning and welcome.

DAVID CARRON: My name is -- my name is David Carron. I'm here for Bill 5404. I take Freedom of Information very personal due to the fact I did have an inmate file Freedom of Information against me. Right now I'm still in the process of appeals and it went before the Ju -- before the committee for FOI. We lost at FOI. Went to Superior Court and won at Superior Court. Right now FOI is appealing us at Supreme Court and that's where that case stands right now.

If an inmate was to get our information, it could be extremely harmful. I have an example of something that could happen if they got our information just out of pure luck. About four weeks ago I was at a father-daughter dance with my daughter, ran into an ex-inmate. The next thing I know about four days later I have DCF at my door knocking on the door. They had some false accusations. They had to come inspect my house, interview me, my wife, my children, at which point it was deemed, you know, frivolous and they left and thanked me for my time.

Now the only thing I can think that would have caused that to happen was the fact that I ran into the inmate. And as I was speaking with Representative Conway last week, I made a mistake, I never removed my information from the school's call list for my children. Obviously that's where he would have gotten my information and called me from.

And that's just one of the many things that an inmate could do even from inside if they called DCF annonos -- anonymously once they get your information. They -- even if they had no ill-intentions for getting your information, they

have no absolutely no way to secure the information. They don't have anywhere they could lock things up and their main thing is information is power. So they're actually going to sell the information to other inmates who have a problem with you.

So the inmate filing for Freedom of Information against you could have absolutely nothing to do with you but he knows inmate b wants it so, okay, let me file, get his information and then sell it to him. So information it's just a dangerous thing and as -- as we've all said we have our undue familiarity policy and Freedom of Information actually undermines that policy.

REP. SPALLONE: Thank you for your testimony and thank you for describing the procedural posture of your case.

What did -- in -- in your particular case did the inmate make a blanket request for your personnel file or did they make a more targeted request?

DAVID CARRON: No he just wants my whole master file. I was conducting the duties of my job doing a cell search at which point he wasn't happy at the fact that I conducted the cell search so the next day he had filed a Freedom of Information case against me. And it -- it's purely out of -- it's out of harassment, retaliation. This particular inmate he was fired from a job in -- inside of Corrections and at which point when he was fired from that job he filed Freedom of Information against those two individuals that fired him from his job. At which point he was transferred to my facility. He wasn't happy I conducted a cell shakedown, searching his cell. He filed FOI against me.

Within two weeks after that another officer had wrote him a disciplinary report, he filed a Freedom of Information request against that officer. Now at which point you had the same assistant state attorney general helping all of us with the same inmate so he filed a Freedom of Information against the assistant attorney general.

It -- it's just pure harassment and that's all they really mean to do with it is harassment.

REP. SPALLONE: Now a -- a personnel file would contain -- what -- what's in it? It would contain your address, emergency contact information (inaudible).

DAVID CARRON: There was a cutout made for our name and our address but there's still so much other information in there that -- that you just don't want them to have. You can get disciplined for missing work and what's to say -- say I miss work because of some medical condition so if I got written up for that, in the comments section maybe I might write, you know, what my medical condition was and that was my reason.

So now there's all this medical information in it and that wouldn't be covered by HIPAA because it's not an actual medical form but it still has my medical information on it.

There -- it has your hostage card in it which has your emergency contacts. It has your insurance beneficiaries in it. There's -- anything that's ever been brought into the department about you is in that file. The -- the cutout that was previously made it -- it's

KEVIN BRACE: Good morning. My name is Kevin Brace and I am the chair of the correctional staff health and safety subcommittee. I am a correction officer at Northern with over 15 years of service.

I am here today to testify about HB 5404. The correctional staff health and safety subcommittee strongly urges the passage of this bill. Our subcommittee was established last year to look at issues that directly impact the safety of correctional staff. Inmates having access to staff's personnel files is currently the single greatest threat to staff safety faced by all Connecticut Department of Corrections staff.

Inmates are using the Freedom of Information Act to harass and intimidate correctional staff. By gaining access to staff files inmates would have access to home addresses, emergency contact information, spouse and children's names and contact informa -- and their contact information.

This information could be used to intimidate staff and keep them from doing their job. Inmates at Northern, using FOI, have gained a list of staff's first, last and middle names. Most inmates do not have to pay for access to FOI so they can continue to make request after request. It's our fear that inmates will now be writing municipalities in an informational fishing expedition to place liens on staffs' property, requesting their property tax bills that contain vehicle information, spouse's names and home addresses.

Inmates or co-conspirators could show up at staffs' residences to commit crimes against

just too narrow, there's not enough stuff cut out.

REP. SPALLONE: You mean a carve out, okay.

DAVID CARRON: Yes.

REP. SPALLONE: A carve -- you mean a carve out in the law protecting your address.

DAVID CARRON: Yes.

REP. SPALLONE: So you're saying it's meaningless if all this other information is somehow made available.

DAVID CARRON: Yes.

REP. SPALLONE: Okay.

DAVID CARRON: Now days with the way the internet is, if they get your first name, your last name, they can pretty much find anything they want. They just do a Google search or a Yahoo search.

REP. SPALLONE: All right, well thank you very much for your testimony.

Any further questions for Officer Carron?

If not, thank you again for coming in.

DAVID CARRON: Thank you very much.

REP. SPALLONE: Our next --

You're welcome.

Our next speaker is Kevin Brace followed by John Pepe.

staff and their families. We are trained as cadets in the correctional academy to -- never to share any personal information with the inmates. Allowing inmate staffs -- allowing inmates access to staffs' personnel files is not only dangerous to staff but to our families as well.

In order to keep the public safe we, as correctional staff, need to be able to do our jobs without fear of being retaliated against by the inmate population and making our families a target.

Thank you.

REP. SPALLONE: Thank you for your testimony.

Are there any questions?

Representative Fleischmann.

REP. FLEISCHMANN: Thank you, Mr. Chairman.

Your good testimony raises a question for me. With all of these FOI requests that have been going on and been described by you and other COs, have there been instances of the sort that you're fearing where inmates have shown up at people's homes or done things to their cars or used the information in a way that was, in fact, intimidating or dangerous to COs?

KEVIN BRACE: Well I -- I will tell you based on personal experience, I had an inmate at Northern, used my last name, first name and middle name which I never use my middle name and he got that list through FOI. So the next step is to say, okay well, you know, Kevin Brace he works at Northern and they'll just start writing local towns and they'll --

they'll do a -- they'll do a search. And it's only a matter of time; I mean you can only keep your information private for so long.

But the fact that, you know, he was given that initial starting step of, you know, having my last name and -- and first name and middle name -- you know -- you can do internet searches on people but inmates don't have access to internet and it -- it just -- yeah they could get their family members to do it but it's just -- it makes it that much harder. You know right now we're making it very easy for them.

REP. FLEISCHMANN: Right and -- and just to clarify a question, so obviously upsetting for you to have some inmate using your full name including middle name which you wouldn't expect him to have.

KEVIN BRACE: Right.

REP. FLEISCHMANN: But in terms of the greatest fear that you would have that any CO would understandably have of something happening to their personal property, to -- to their family, are you aware of any instances where that has occurred through use of the Freedom of Information Act?

KEVIN BRACE: Well I don't know if you were here when Officer Szewc testified but the inmate had gotten her first and last name and tried to contact her on social networking sites and we've had inmates call the facility when they're not locked up looking for officers. So they -- they are -- I mean it's -- it's only a matter of time before somebody, you know, before an inmate takes that next step. That's the next step that we're all holding our

breath. You know hopefully that -- that doesn't happen.

REP. FLEISCHMANN: Thank you.

REP. SPALLONE: Representative Aresimowicz.

REP. ARESIMOWICZ: And Kevin thanks for coming today and thanks for your work on that legislatively established commission that you -- you guys are doing some good work there.

KEVIN BRACE: Thank you.

REP. ARESIMOWICZ: Just one question and more for, you know, somebody that's been on -- on the blocks and in the facilities, and you mention that it's -- it's a way of harassing the staff and, you know, like maybe if I'm going to write you -- or you're going to write somebody up, I threaten you with FOI or something and you just say it's just not worth it, I'm not going through all the other stuff. But in the end when the inmate does get the information, I mean, how have your staff dealt with it up there? I mean there's got to be a level of -- of anger, number one, towards that inmate, to putting him through that (inaudible).

Can -- can you speak to that at all, some of -- some of the folks that you deal with and what their reaction is?

KEVIN BRACE: Well I -- I will say more fear because, you know, we have to be at work eight hours a day, sometimes 16 hours a day and it's when -- when we're at work and our families are at home that's when we get really nervous. And, you know, no disrespect to the person that testified before from FOI but when it comes to my personal information, I would rather have

the union or the commissioner decide what's appropriate for an inmate to have rather FOI, the folks at FOI, because the -- the littlest thing like a middle name which might seem very harmless to someone at FOI, like oh what's the big deal if an inmate gets, you know, a -- a staff member's middle name.

Well the -- the folks that work in the prison system they know that that's huge. I mean that's, you know, that's the beginning of -- of the search and, as you heard before, the inmates are now selling -- using this information as a commodity which is, you know, it's wild in itself that, you know, my information and -- and the rest of the staff's information is now generating money within -- in the -- between the inmates at Northern.

REP. ARESIMOWICZ: And -- and Kevin just to add to that I mean I don't know if you've been a part of the tours. Every year or so we're offered tours, as a legislator, to go around to the different correctional facilities and, although I wasn't here for FOI's testimony, I was running a little late this morning, I would have liked to extent them that opportunity because I know, even as legislators, we've gone out to the facilities and I'm a little bit more familiar with them but each legislator slides back towards the wall a little bit more, kind of careful where they're walking and who's around.

I -- I just want it to be very clear the safety concerns, not only when their out because they're -- multiple by whatever number you can come up with, even while they're in the facility you folks operate each and every day with a -- a certain amount of healthy fear to

keep yourselves and the other inmates safe, correct?

KEVIN BRACE: Yes and -- and, you know, while we're at work our awareness level is through the roof. You know we watch -- make sure the inmates don't get behind us. When we go home it's like a light switch. You want to shut it off because it's not good for your body physically to have that much stress so -- but, you know, now it's, you know, well what's this car pulling down my street. I've never seen this car before. You know it -- it gets to be nerve-racking.

REP. SPALLONE: Thank you.

Any further questions?

If not, we appreciate your testimony.

KEVIN BRACE: Thank you.

REP. SPALLONE: Next Jon Pepe, Luke Leone and Dwayne Bickford had asked to testify jointly and we welcome them to come forward at this time.

DWAYNE BICKFORD: Good morning, Mr. Chairman - -

REP. SPALLONE: Thank you (inaudible.)

A VOICE: Morning.

DWAYNE BICKFORD: -- and all members of the GAE committee. My name is Dwayne Bickford. I am the president of Local 387. Our union, along with AFSCME, Locals 391 and 1565 represent nearly 5,000 front-line correctional employees in the State of Connecticut. I am here to speak in favor of House Bill 5404, AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN

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GOVERNMENT ADMINISTRATION
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10:00 A.M.

INFORMATION REGARDING DEPARTMENT OF CORRECTION
EMPLOYEES TO INMATES UNDER THE FREEDOM OF
INFORMATION ACT.

This bill is vital to the correction officers and the employee's safety. It will prohibit the disclosure of personal, medical and similar information of current and former employees of the Department of Corrections or Whiting Forensic Division.

Inmates do not have any good reason for asking for this information. Such inmate information requests about staff have been used to harass staff members. Information is traded in prison almost as a commodity. Information on staff is sometimes highly sought after.

A female correction officer who just recently testified before the legislature about an inmate who tattooed the first and last name of this officer on his arm and finger. Correctional staff jobs are very stressful. The two different actuary reports that found that the average mortality rate -- age for a correction officer is 58 years of age. The high mortality -- mortality rate is due to the effects of the stress of the job.

Inmates FOIing our personal information is more stress factor that we don't need. We know that when we become correction officers that there will be a risk with the job. We accept that fact. But our families should not have to put up with the risk because an inmate can access information that can eventually lead to the discovery of our families' names and addresses.

Currently we have attached the Hartford Courant article that was put out on March 1st about a U.S. district judge who found her husband and

mother shot dead in the basement of a house and that just shows you the kind of things that these criminals can find out and retaliate against your family members and that's in the chicagotribune.com.

And we ask you to please pass this bill. It will make the correction officers' safety what it should be and it would make the public safer.

Thank you. Any questions, we will be -- feel free to ask

REP. SPALLONE: Thank you. Do the other gentlemen wish to add anything at this time?

Okay, well thank you. We appreciate efficiency as well. I appreciate your testimony.

Any questions for these gentlemen?

If not, thanks again for coming in.

Next speaker is Joe Vecchitto followed by Al Checaurello.

JOE VECCHITTO: Hi, I'm Joe Vecchitto, vice president of Connecticut State Prison Employees Union Local 391, also a correctional officer at MacDougall Correctional Institution. I'm just going to say a few things real quick and, you know, plenty of testimony that I could basically say ditto on all.

Two things, one, as vice president, when our staff are notified that there's a request for their information, personal information, receive numerous phone calls. The stress level starts right there, whether or not they want that information obviously to be issued,

numerous phone calls from staff, petrified, what if this happens. And this has been going on for some time. And they just can't understand that.

And just the -- the -- what I'm going to finish up with is, you know, it was hard at times no matter what testimony was given for the hearing officers of Freedom of Information to understand why an inmate would do something like that if -- what -- what they would do if they had that information.

I'm going to give you one example where an inmate was able to have some information that anyone can have and that's a newspaper, obviously they can have newspapers. And in our facility an officer lost his son tragically to a -- a -- an illness. That officer came back to work, continued obviously his grieving process but was put in a confined area, what we call a bubble, a control center, where there's no inmate contact and an inmate saw the obituary in the paper, cut the obituary out. As he walked by, slipped it into what we have a little like drawer for passes and things and it was his son's obituary and he kept on walking. Obviously before the officer looked, the inmate kept on going, now he views his son's obituary. Needless to say he went home.

We'll never for -- I'll never forget that as long as I, you know, live of what it meant. And again what was the reason for it, just to get into his head, just to get into his head, just to affect him in a negative fashion. That's one of the things I've thought about. You know I've had -- written -- spoke before that really hits me so that's all I have today.

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REP. SPALLONE: I have a question that may be pertinent to -- to this proposal. For example, the -- the officer who lost a child, I assume he took some time off after that event occurred.

JOE VECCHITTO: Correct.

REP. SPALLONE: Would that be information that would be contained in a personnel file?

JOE VECCHITTO: Oh absolutely. If he -- if he's requesting time off that's absolutely documented.

REP. SPALLONE: And it would say why.

JOE VECCHITTO: Yeah, oh absolutely it would, sure. You have to give -- if it's a -- a death in immediate family, you have to obviously let -- let the facility know.

REP. SPALLONE: And if a person had to take time off because they were emotionally impacted by let's say a divorce, would the fact of their divorce be contained in their personnel file?

JOE VECCHITTO: It can very well be because, if there is discipline involved, let's say you -- you miss X amount of days and maybe you felt it was too personal to bring up, it could lead to discipline. Obviously if the department doesn't know why you've been gone and you have that chance in the process at a Loudermill hearing to give any mitigating circumstances. And that would be a point maybe where the staff member would say, you know what, this is what I've been going through and I've been trying to keep it to myself so absolutely that could be in the file.

REP. SPALLONE: Or if you were sued.

JOE VECCHITTO: Sure.

REP. SPALLONE: Civially.

JOE VECCHITTO: Yup.

REP. SPALLONE: All right thank you very much for your testimony.

JOE VECCHITTO: You're welcome.

REP. SPALLONE: Any further questions?

JOE VECCHITTO: Thank you.

REP. SPALLONE: Yes, Representative Aresimowicz has a question.

REP. ARESIMOWICZ: Just -- just one question. I know you were in the room before when the testimony came of the -- the officer that talked about the anonymous DCF complaint and DCF came in there. And just -- I want to talk hypothetically here. If DCF filed a claim of abuse against the children based upon their initial investigation and whatever phone call they got, and there were criminal charges against the parents which typically happens in -- in abuse cases, are those criminal charges now contained also in the personnel file?

JOE VECCHITTO: If you are charged you are required by directive to obviously notify the facility, so yes.

REP. ARESIMOWICZ: Okay so that's a DOC policy.

JOE VECCHITTO: Yes.

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REP. ARESIMOWICZ: Now six months down the road, charges end up getting dropped because they just -- there was no foundation for the charges or whatever, that information still remains with the personnel file, the original charge, correct?

JOE VECCHITTO: It can be, sure.

REP. ARESIMOWICZ: And that -- the Department of Corrections within that would do its own investigation into the abuse charges, correct?

JOE VECCHITTO: Correct.

REP. ARESIMOWICZ: And their investigation would probably have the kids names involved, the wife's name, at least the town that it was -- the event it essentially happened at or could have happened at.

JOE VECCHITTO: That's right.

REP. ARESIMOWICZ: So when those charges are dismissed, nolle, whatever, that still stays with the personnel file and if I'm an inmate two years later making a request of you, I'll have all that information if it's -- even it's just a general thing about criminal charges.

JOE VECCHITTO: It would be in the investigation, yes.

REP. ARESIMOWICZ: Okay, thank you.

REP. SPALLONE: Any further questions?

If not, thank you for your testimony again.

Al Checaurello followed by Harry Soucy.

A VOICE: (Inaudible.)

REP. SPALLONE: Is Harry here? Yes.

HARRY SOUCY: Good morning Senator Slossberg,
Representative Spallone and the rest of the
members of the GAE committee.

My name is Harry Soucy. Most of you know me as
a union official. Today I'm here as an
individual to speak out how I have been
personally affected by inmate FOI harassment.
That is why I support House Bill 5404.

Many of you know my family and you have the
written testimony in front of you but the big
thing I want to point out is -- it's been said
before, when we sign on to this job, we know
there's a risk. We accept that risk. There
should not be a risk to our wives, our children
and the rest of our families. It's nothing but
pure harassment. Some of these inmates, that's
all they do.

In my case I was one of the first staff members
to be FOI'd. That particular inmate was
transferred from my institution up to Walker-
MacDougall where low and behold he started
doing FOIs there. Then he was transferred
again and low and behold more FOIs. The costs
of this, not only to me, to you, but to the
taxpayers of Connecticut is outrageous.

REP. SPALLONE: Thank you for your testimony.

Are there any questions?

If not, thanks again for being in here today,
we appreciate it.

We now move on to our government officials, legislators, elected officials and agency heads list. The first is Brian Murphy of the Department of Correction.

Good morning, Commissioner, and welcome to the GAE committee.

COMMISSIONER BRIAN MURPHY: Good morning. Senator Slossberg, Representative Spallone and honorable members of the Government Administration and Elections Committee, my name is Brian Murphy. I am the acting commissioner for the Connecticut Department of Corrections. I am here this morning to speak in strong support of the concept of Raised Bill Number 5404, AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING DEPARTMENT OF CORRECTION EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT.

You have before you my written testimony so I will cut and splice in the -- in the respective time. But I -- I got to say, Representative Spallone and Senator Slossberg, today you've seen the face of the Connecticut Department of Corrections, the men and women who inside keep Connecticut safe, keep themselves safe and the parole officers who work the streets of Connecticut keeping released offenders safe.

So please allow me to be firm and direct in response to the efforts currently underway by a portion of inmates to obtain the personal information of my staff. As commissioner of the Connecticut Department of Correction, I will not allow inmates to harass, threaten, coerce or retaliate against my staff in this or any other manner.

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In fighting this I am upholding our mission of protecting the public, protecting my staff and their families as well as maintaining the safety and security and good order of our correctional facilities. Over the course of the last six years the Connecticut Department of Correction has seen an increased use of the state's FOI laws by the inmate population in our correctional facilities.

In a growing number of instances, the inmates are attempting to utilize these statutes as weapons against my staff. Inmates are seeking personal information about my staff through state records as a means of retaliation and intimidation. I do not believe that is what these laws were intended for.

Let me be clear that I consider this misuse of these laws to be a direct, clear and present threat to the safety and security of my staff whom I am obligated to protect as well as their families. The information that is being requested by offenders through the FOI laws also constitutes a threat to the security of my correctional facilities and, therefore, ultimately to the safety of the public.

It is becoming part of the inmate culture that if a correctional officer files a disciplinary report against you or confiscates contraband in your cell, a means of getting back at that staff person is to file an FOI request of his or her personnel file. As you've already heard today these files contain confidential information. I hope I don't need to explain why an inmate should not have a correction officer's home address or his or her telephone number, social security number or personnel information but it goes beyond that.

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Any personal information, the officer's disciplinary file, their performance ratings, the names of their children, even the officer's first name as you've heard today, is something that the inmate population can use to undermine the authority of that officer. It is against our rules and regulations to give inmates personal information and I think my staff today made that loud and clear. It is referred to as undue familiarity and our staff are strenuously trained to avoid it.

Fighting these requests has taken an increased amount of time and effort, not only within our facilities, but also at the FOI commission and, unfortunately, in the courts. This, despite the fact that Section 1 210-b-18 states that nothing in the Freedom of Information Act shall be construed to require the disclosure of records, the disclosure of which the Commissioner of Corrections has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of escape from or disorder within a correctional facility.

The law recognizes my expertise in making that determination as to which records an inmate should be provided with. The courts have reaffirmed my expertise but still we are faced with a continuing battle. The safety and security exemption allows the commissioner, by the legislature, with regards to reasonable grounds, is never met except in one recent case despite the fact that the staff and the members of the commission have no correctional experience.

Additionally nothing in the Freedom of Information Act requires the disclosure of personnel or similar files which would

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constitute an invasion of privacy. The Freedom of Information committee's interpretation of this statute is that staff personnel or similar files do not meet the personal privacy criteria and, therefore, are public records. I don't believe it was the intent of the legislature to allow the Freedom of Information Act to be used by the inmate population as harassment and an intimidation tool.

It has been asked repeatedly and it was brought up today at hearings -- at the FOI hearings, who has been hurt and what problems has this release of information created at the correctional facilities? My answer is very simple, none, and I intend to keep it that way. That's my job.

The Department of Correction is committed to preventing security threats such as this before they occur. We are not reactionary. We do not wait for a bad incident to happen. We are proactive. And I take utmost the responsibility that I -- that I have as acting commissioner to keep my staff safe. I owe it to them.

It is also being suggested by utilizing the Freedom of Information statutes inmates are better able to identify and bring attention to issues within the correctional environment. Again, I don't believe this is what these laws were intended to do.

It makes to have a great variety of methods by which to bring attention to issues, legal and otherwise, and to seek redress for them. They have a legally mandated grievance procedure which is recognized by the courts. They have private attorneys and legal access to courts

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that is afforded to them and paid for by the State of Connecticut.

They have access to mail, telephones and written correspondence. Believe me the offender population is well-versed at bringing any issue, real or imagined, to light if they so choose.

In short, there is no, and I repeat no, legitimate "penalogical" interest for inmates using our state's Freedom of Information statutes to attack my staff. It is estimated that last year approximately over \$1 million is expended to respond to all the information requested by inmates through FOI and that's including other state agencies and municipalities.

The department believes that the passage of this language would result in cost savings to the state. In a recent inmate case, the staff cost to the state taxpayer for just the hearing process exceeded \$10,000. I would respectfully request that you consider the attached proposed substitute language which gives explicit statutory authority to deny disclosing specific, sensitive information regarding any current or former employee of the department to an inmate.

I appreciate the opportunity to come before you today and I'd be happy to answer any questions that you may have.

REP. SPALLONE: Thank you very much, Commissioner, for your testimony.

Commissioner, I may ask this question of other witnesses later but I want to ask -- I -- you -- you cited directly the statute that states

that personnel or medical files and similar files through disclosure of which would constitute an invasion of personal privacy are not to be disclosed or the -- the act is not to be construed to require their disclosure. And then there's a -- a longer section specifically related to Corrections.

Do you know the reasoning behind interpreting those sections in such a way as to require you to disclose the records?

COMMISSIONER BRIAN MURPHY: First of all I think the statute is clear. It gives the commissioner of Correction and myself for instance -- I'm a 29 year professional in the field of corrections. I've seen everything that can happen inside a facility and outside a facility. I think that the statute is clear. However the recent decisions by FOI in a request for personal information, I -- I think in their decisions they're citing that the personnel records or any other files are not included in that.

So again I would not want to speak for FOI but the information I have is they believe that the statute is not specific enough to say personnel or other files.

REP. SPALLONE: Now have you ever lost a case in Superior Court?

COMMISSIONER BRIAN MURPHY: Not yet. We have won a case in Superior Court and I think the case that most of the officers were talking about is that case. So we have a precedence in -- in Superior Court. The FOI commission, even after that case was settled, has decided against us.

REP. SPALLONE: The case was settled or resolved?

COMMISSIONER BRIAN MURPHY: It was resolved in our favor. There was a decision in our favor.

REP. SPALLONE: Okay I wanted to make sure when you said settled that there wasn't some agreement.

COMMISSIONER BRIAN MURPHY: I -- I appreciate you clarifying that, sir.

REP. SPALLONE: Okay, thank you.

Any further questions for the Commissioner?

Rep -- Senator McLachlan.

SENATOR McLACHLAN: Thank you, Mr. Chairman.

And thank you Commissioner for your testimony today. I'm -- I'm trying to understand really why we're here if it's clear to you and your legal counsel that you should not have to disclose this information and yet there still seems to be a lot of questions.

So for clarification if you would, you mention the Taylor case and Taylor versus Commissioner of Corrections seem to clarify this issue very well. Can you elaborate on why that hasn't settled the issue and why -- why we're here today talking about new legislation?

COMMISSIONER BRIAN MURPHY: Let me -- let me say first of all we respect the FOI commission and the job they do for transparency. Working in a correctional environment folks is -- is a unique experience and these folks, day in and day out, face a number of challenges and I agree wholeheartedly what they said about they shouldn't have to go home and worry about their families.

But I -- I think and -- and again you're going to hear from FOI today and -- and -- but I think they have a different opinion of what -- what their authority is versus what our authority is in relate -- as it relates to the statutes that now exist. That's why we're asking for explicit language to make it crystal clear so there is no question what this means, that this information should not be released to an inmate, because obviously we have eight appeals pending and it's not clear in their minds.

SENATOR McLACHLAN: Thank you, Commissioner.

Thank you, Mr. Chairman.

REP. SPALLONE: Thank you, Senator.

Representative Aresimowicz.

REP. ARESIMOWICZ: Commissioner, good to see you again.

COMMISSIONER BRIAN MURPHY: Good morning.

REP. ARESIMOWICZ: Just for clarification, I think you've strongly stated your position and just for those in the room, I happen to have been at a couple of the FOI hearings. I mean your staff or yourself testified to that fact that -- at -- at those cases also, correct?

COMMISSIONER BRIAN MURPHY: That is correct.

REP. ARESIMOWICZ: And either you or -- or your staff at certain points, what transpired is the inmate was actually on the telephone and was asking questions to where you were begging for FOI to step in and saying you just -- you're not going to answer that question because that

question in itself would be a serious safety and security risk.

COMMISSIONER BRIAN MURPHY: That is correct.

REP. ARESIMOWICZ: In your past history and your knowledge of the cases, do you think -- cancel that -- I was going to say do you think it's a fishing expedition. I'm not even going to make you answer that because I think I already know but -- so -- so -- you've been -- your administration and the previous commissioner's admin -- administration has been stringent on this rule and will go to whatever ends necessary to protect your staff, correct?

COMMISSIONER BRIAN MURPHY: Absolutely. As I stated in my testimony there is no valid "penological" interest. And, you know, the other -- the other point -- and you're all asking some very valid questions, do -- do inmates have access to report any quote/unquote wrong doing? They have a multitude and trust me they write to you, they write to the state police, they write to the FBI. They have numerous activities to get to the outside.

As a matter of fact I was on a -- a channel -- I shouldn't say the channel but a -- a local station on a talk show about Corrections with a -- a union counterpart and guess who we got a call from, an inmate to talk about, you know, conditions.

So -- in our -- you know our doors are open. Someone mentioned the legislative tours. I -- I really welcome you to -- to take a tour through our facilities. And, you know what, Corrections is about being fair and most of the inmates know me, they know a few other people. We have to be fair and these folks are held

accountable, our staff are held accountable and the inmates are held accountable.

But, you know, their job, both the parole officers and the correctional officers is very difficult. It takes a unique individual and anything we can relieve to -- to not -- one -- one less headache for them, one less thing to worry about. Because they do worry about their safety, they worry about their family's safety even more importantly. It's very important that we support this bill and we get this bill through.

Thank you.

REP. SPALLONE: Thank you.

Any further questions?

If not, we appreciate your testimony, Commissioner. Thank you for being here.

Next speaker is Bob Farr, former member of the GAE committee. Welcome. To be followed by Catherine LaMarr.

ROBERT FARR: Good morning, Senator Slossberg, Representative Spallone and -- and members of the committee. I'm here this morning to support the passage of bill 5404.

Inmate abuse of info -- FOI process is a new and growing issue with Departments of Corrections and other systems across the country. Eleven states have already amended their FOI statutes in order to limit inmate's access to records. Washington State most recently amended their law in March 2009 to eliminate inmate access. I concur with Commissioner Murphy's testimony where he stated

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that inmates who are seeking personal information about DOC staff through FOI are doing so as a means of retaliation and intimidation.

For that reason I would request that the legislation be amended to mirror the statutory -- the substitute language in SB 221 as reported out by the Judiciary Committee which would protect members and employees of the Board of Pardons and Parole as well as members of -- employees of the Department of Corrections.

Whereas Freedom of Information requests have been levied against Correction staff, they can also be directed against members or officers of the Board of Pardons and Parole. Many inmates who are not happy with the board as the decision-making process where officers who present cases to the board can seek to retaliate against my -- my fellow members and staff as well.

Given that the Department of Corrections has seen an increase in the usage of FOI by inmate population in our corrections facility, I fear that only -- it's only a matter of time before many of the requests are levied against our agency. I do not believe that this is what the Freedom of Information was established for.

I would just want to add to my written testimony that the -- comments have been made about whether or not the information could otherwise be obtained. Even if we pass this bill and say you can't get it through FOI, obviously there are other ways that people could obtain this information. The -- the language doesn't prohibit inmates from finding somebody on the outside that could file an FOI.

But I would point out that if you lock your car and lock your house, it doesn't mean that you're not going to be burglarized or have your car stolen. But most of us lock our car and lock our house when we leave. You particularly do that if you live in a high crime neighborhood. While I would suggest to you there's no more -- no higher crime neighborhood than our corrections facilities. And so there's no reason to make it easy for inmates who abuse the system and be able to use FOI to intimidate and harass employees of the Department of Corrections or employees of the Board of Pardons and Parole.

We have about 22 institutional officers who work full-time in the institutions and they don't want to be harassed anymore than the corrections officers do.

And I'd be happy to answer any questions, if there are any.

Thank you.

REP. SPALLONE: Thank you for your testimony.

Are there any questions for Mr. Farr?

ROBERT FARR: Thank you.

REP. SPALLONE: If not, good to see you here, thank you.

Our next speaker is Catherine LaMarr followed by Senator John Kissel.

CATHERINE LaMARR: Good morning.

agreement where we have a thirty-day, we -- we can fire the manager, would be - -

REP. HETHERINGTON: Right.

CATHERINE LaMARR: -- disruptive but we could still be compliant. It's the long-term contracts that I -- that -- where I have the problems.

REP. HETHERINGTON: Yes I see and -- yea I see that wouldn't really respond to your concerns in this.

Okay, thanks.

Thank you, Mr. Chairman.

REP. SPALLONE: Thank you, Representative.

Any further questions?

If not, thank you for being here today.

CATHERINE LaMARR: Thank you very much.

REP. SPALLONE: Next speaker is Senator Kissel followed by First Selectman Ralph Eno.

Good afternoon, Senator, and welcome back to the GAE committee. I know you were a member here some time ago.

SENATOR KISSEL: It really does bring me back.

Chairman Spallone, ranking members McLachlan and Hetherington and esteemed members of the Government Administration Elections Committee. I'm delighted to be here. I have a lot of great memories of the Government Admin -- Administration and Elections Committee and I'm here in strong support of House Bill 5404, and I

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want to thank your staff and the leadership of this committee for raising this bill at -- I -- I'm sure others requested it but I did as well.

Let me bring you back to the mid-nineteen nineties though when I actually served on the Government Administration and Elections Committee and we were in the middle of building correctional facilities throughout the State of Connecticut. At that time it was brought to my attention that, under the current constructs of the Freedom of Information laws then, folks could use that law to obtain schematic diagrams of our new facilities. And so we had to plug that unfortunate loophole to make it very clear that those diagrams and those layouts could not be obtained by members of the public.

Made an awful lot of sense and yet the way it was set up at that time we were very concerned that someone could use that to try to figure out the layout of places like Northern, our super-maxed facilities. Now we fast-forward about fifteen years to now. Inmates are beginning, and they have over the last three to four years, increased dramatically, utilizing the Freedom of Information Act to obtain or seek to obtain information on correctional officers.

By way of background, in my district I have six correctional facilities, over 8,000 inmates and hundreds of correctional officers live and work in north central Connecticut. It's very rare that we see a proposal in this building where folks like my friends Mr. Pepe and Mr. Vecchitto of Local 391 and Acting Commissioner Murphy and other correctional officers all come to you united in expressing their concern regarding inmate access to personal information.

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Chairman Spallone, you serve on the Judiciary Committee with me and you know that we voted out a similar bill just last week unanimously regarding this topic but it's certainly a matter that comes under the purview of the Government Administration and Elections Committee as well. I will state that I believe that probably the best set of laws and protections that we have is our adherence to transparency in government.

The Freedom of Information Act is critical in so many areas but in this specific instance given the policy that we have in Corrections of non-familiarity, and actually I had just learned for the first time in the judiciary hearings why correctional officers don't even have their first names on their uniform, that if an inmate even obtains information that to you or I does not seem critical, perhaps the name of a spouse or the name of children and addresses are all redacted, but there's other key information that the inmate possess. They can use it either to try to intimidate or harass the correctional officer him or herself, but also what they can do is they can slip that information into the internal investigatory network that they have in Corrections and if there's enough credibility to that, in other words saying, hey that officer is very friendly with inmates. By the way I found out this bit of information about him or her, this other piece of information.

Then Commissioner Murphy, as he is duty-bound to do, will authorize an investigation of that CO. So this information can be used by the inmates themselves or they can slip it into the system's own policing network to bring trouble on a correctional officer. And why would they

do that, because the correctional officer enforced the rules, because the correctional officer took them out of his or her cell, got contraband out of there, something like that.

I encourage all of you -- you're all more than welcome to visit any of the correctional facilities in my neck of the woods. You would be pleasantly surprised at how professional they all are. But I recall distinctly, it was a parole officer to be honest, a woman that was supervising 30 sex offenders that came before our Judiciary Committee and she says that she has up to ten different ways to get home at night because she's fearful.

So there are bad folks out there. The vast majority of inmates want to get on the straight and narrow, turn their lives around, but there's an unfortunate minority of them that will use anything that they can come up with to try to push back in the system and create a dangerous situation for folks that already have a dangerous job.

And so I applaud your efforts in raising 5404 and I urge you that this is the year that we need to pass this law. They're out there in 11 other states and my guess is at the end of the day it will save upwards of a \$1 million which we desperately need for other more appropriate areas of state government.

Thank you, sir..

REP. SPALLONE: Thank you, Senator.

Any questions for Senator Kissel?

Senator McLachlan.

SENATOR McLACHLAN: Thank you, Mr. Chairman.

Senator, thank you for your testimony and -- and hearing that you sat in -- in Government Administration and Elections many years ago, did this issue come up way back when?

SENATOR KISSEL: You know to be very honest back in -- in the nineties this wasn't a hot issue. Whether the inmates were aware of it not, they just weren't abusing the system. Certainly though there were issues regarding the Freedom of Information Act as I had indicated. Pretty much there was a wide open policy and when we were designing new correctional facilities those plans were actually available and we had to -- to limit what people could access. You can't access those plans right now but they're on -- they're in a file somewhere probably in the Department of Public Works.

But this particular issue really has come to the floor I would say in the last five or six years and it just gets more -- more and more problematic and it's really reached a point now where I think we have to be proactive.

SENATOR McLACHLAN: And -- and what was your experience with -- well let me back up. You're thinking that we can save a million dollars; certainly money is important but Freedom of Information is important too. But trying to balance the two and security and safety of our employees is very important. Isn't an em -- isn't an -- an inmate still allowed to file for Freedom of Information should this legislation pass and there's still going to be administrative costs to shut down that request?

SENATOR KISSEL: My belief would be that for a while, should this bill or the bill that passed

out of the Judiciary Committee pass into law, that there's always that sort of learning curve, so there will be applications, requests made. But my guess is when they're summarily dismissed that after a while the inmates are just not going to bother anymore.

Typically they will follow the path of least resistance. And so, as with anything, you won't experience an immediate drop off until they learn that they're not going anywhere. But my belief is -- is that we will still save, even with those applications being filed, hundreds of thousands of dollars, hundreds of thousands of dollars that we desperately need.

And as Commissioner Murphy so eloquently pointed out, there are a variety of avenues that inmates can use to bring to the public's attention any problems within these facilities.

Unlike other states, and I will grant you there are other states where quite often correctional facilities are way out in rural areas and hardly ever visited by anyone in authority, in Connecticut if any legislator wants to visit any facility, I have never in my life encountered the administration saying no. They will -- they will go out of their way to make sure that you get see what's going on, so we have a very wide open system of corrections and we're proud of that in our state and justifiably so.

I -- I have gone all over this country talking about our corrections system and it is held to be one of the best in our nation.

SENATOR McLACHLAN: Thank you, Senator Kissel, and that you for your advocacy on behalf of our

corrections officers and probation officers.
Thank you.

SENATOR KISSEL: Thank you, Senator.

REP. SPALLONE: Thank you, Senator McLachlan.

Any further questions?

Thank you, Senator.

SENATOR KISSEL: Thank you, Mr. Chairman.

REP. SPALLONE: And good afternoon.

Next speaker is Ralph Eno followed by Carol Carson.

Good afternoon. Welcome the GAE committee.

RALPH ENO: Good afternoon, Chairman Spallone, members of the committee. Thank you for this opportunity to testify before you today.

My name is Ralph Eno. I'm first selectman in the Town of Lyme. I'm also a member of the board of directors of the Connecticut Council of Small Towns and my remarks here this afternoon reflect COST's position on Senate Bill 365, AN ACT CONCERNING THE POSTING OF PUBLIC AGENCY MINUTES AND LEGAL NOTICES ON THE INTERNET WEB SITE OF A MUNICIPALITY.

Basically, and to keep it short, COST favors this bill and we are particularly pleased with the section permitting municipalities to post legal notices on their internet websites. All of our member towns spend significant amounts of money each year posting such material in their newspapers of record. Providing a website posting alternative offers some much

SENATOR SLOSSBERG: Okay I just want to make sure that we do because it was a mouth full.

CAROL CARSON: I'll make sure -- make sure that that gets to you if in fact it was (inaudible).

SENATOR SLOSSBERG: Thank you very much, appreciate it.

CAROL CARSON: Thank you.

SENATOR SLOSSBERG: Our next speaker is Gail Johnson followed by Kendall Wiggin.

Good afternoon, Gail.

GAIL JOHNSON: Good afternoon.

My name is Gail Johnson. I'm the director of administrative services for the correctional managed health care program for the University of Connecticut Health Center and I'm here to speak in support of House Bill 5404, AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING DEPARTMENT OF CORRECTION EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT.

The University of Connecticut Health Center, through a memorandum of agreement with the Department of Correction, provides all health services, including medical, mental health and dental, to inmates housed in the Department correctional facilities; this is within the 17 correctional facilities, the halfway houses and at the John Dempsey Hospital.

In -- in -- as of June of last year, direct services were provided by approximately 800 employees to about 19,000 inmates. The

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majority of our staff are located within the correctional facilities providing direct care. They provide comprehensive services from admission to discharge. There are over 200,000 visits to psychologists, social workers and psychiatrists. We also see approximately 600 inmates at sick call on an average day. They care for 189 inmates in facility-based infirmaries and then there are about eight inmates housed at John Dempsey -- excuse me -- John Dempsey Hospital.

Given the direct care provided to inmates by the University of Connecticut Health Center and correctional managed health care employees, we would request that these employees be covered by the same nondisclosure provision proposed by the -- for the Department of Correction employees in this legislation and ask that the bill be amended to include our staff.

We are aware that a similar bill was recently voted out of Judiciary, Senate Bill 221, and have also requested to be included in that bill. As I heard the earlier testimonies so you know our employees do attend the DOC training academy. They are subject to the same undue familiarity rules that DOC employees are subject to. So we really think given their contact with the inmates and their provision of care that they should be included in this bill.

So thank you for the opportunity to speak today in support of the bill and in the inclusion of the University of Connecticut Health Center employees. I'd be happy to answer any questions.

SENATOR SLOSSBERG: Thank you, Gail, for being here.

I -- I'm just curious you know -- DOC came and testified that they have eight appeals pending. Have you had FOI requests from inmates regarding any of the persons -- any of the staff that you are addressing?

GAIL JOHNSON: Yes we have had FOI inquiries. I'm not sure of the status of those right now, but yes we do get requests for the personnel records of our employees, as well the nurses, the doctors, the social workers who care for these inmates.

SENATOR SLOSSBERG: Are there any further questions?

I don't see any other questions, so thank you very much for coming to testify today.

GAIL JOHNSON: Thank you.

SENATOR SLOSSBERG: Our next speaker is Kendall Wiggin followed by Susan Bysiewicz.

Good afternoon.

KENDALL WIGGIN: Good afternoon, Senator Slossberg, Representative Spallone and members of the committee.

My name is Kendall Wiggin. I'm state librarian. You have my written testimony and I'd really like just to point out that the state library is here in support of Section 1 of Senate Bill 30. I won't address the other sections.

Specifically this would add judicial and legislative records under the public records program that currently applies to local government agencies and state agencies (Inaudible.) the executive branch. I'd like to

just point out that I -- I believe firmly that a records retention policies, records management policies ensure the public's right to know and provide consistency across all three branches in terms of how we deal with records in particular when it comes to transparency and accountability that we have a process for the destruction of records that is uniform and one that the public can trust.

In the executive branch and the local records - - municipal records we have a -- we track all of that so if anybody is ever questioning whether a record was destroyed properly or not we can attest to that and I think this protects both the agencies and the public.

Without belaboring this point and taking too much of your time, I'll defer to my written testimony and take any questions you might have.

SENATOR SLOSSBERG: Are there any questions from committee members?

I see no questions.

Thank you very much for your testimony, sir.

KENDALL WIGGIN: Thank you.

SENATOR SLOSSBERG: Okay I do not see the Secretary of the State so she's not here.

Next is Colleen Murray -- Murphy -- sorry.

Good afternoon, Colleen.

COLLEEN MURPHY: Good afternoon, Senator Slossberg, Representative Spallone and members of the GAE committee. I'm Colleen Murphy, executive

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SB30
HB5404

And now on to the third bill which is Raised Bill 5404, I'd like to express the Commission's opposition to that bill, AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING DEPARTMENT OF CORRECTION EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT. And as you have heard today this bill is very similar to Senate Bill 221 that was heard and voted out of the Judiciary Committee.

The FOIC objects to the proposal in this bill that would exempt personnel files including disciplinary and other performance related records from disclosure to inmates.

Is it okay if I proceed?

I hope to show you that this is not a one dimensional issue as you may think that it is. It is one that has many facets and deserves a closer look. There are already two well thought out exemptions to disclosure and you've heard a little bit of testimony on them that strike the balance between accountability and privacy and security.

The first is the exemption for personnel, medical and similar files in 1-210-b-2 and this is the exemption that all public employees have to live under if there's a request for their personnel type records. This -- this statute recognizes the privacy rights of public employees because it says that if their -- if disclosure would invade privacy the records may be withheld. And it's a time tested exemption. The Supreme Court has issued standards that the commission utilizes in applying that exemption that have worked for many, many years for all public employees.

The other exemption is 1-210-b-18, the security based exemption, and you heard some testimony on that. The commission was here back in 1999 with the Department of Correction urging passage of that bill. And we recognized then that there were certainly significant security concerns in the prison -- in the prison setting and the commission fully supported and worked with the Department of Correction on that proposal. And that allows the Commissioner of Correction to withhold if there are reasonable grounds to believe that disclosure of any record, not just personnel, would pose a security risk.

And it's important to note that when the legislature passed that exemption there was actually -- there was -- there is actually legislative history that talks about the fact that that exemption is not absolute, it is not to be viewed as a blanket exemption. The construct was set up so that the prisoners would have an opportunity to have review before the FOI commission. And that's what has been happening since the passage of that bill with regard to all records that pose a security risk.

There's also an exemption in 1-217 if you've heard that addresses are being disclosed by the Freedom of Information commission of correction officials. There is a straight-forward exemption in the law that says that that is not the case. The FOIC has not ordered disclosure of most of the items, and maybe all of the items, that you have heard talked about today. Things like children's names, social security numbers or other personal information and I just want to make a distinction between personal versus personnel information.

There's been a lot of talk about release of personal information and the Commission has not, to my knowledge, ordered disclosure of personal information, information related to one's personal life. The Commission has had some cases where the Commission has had to deal with requests for personnel -- I'm going to say personnel-type records because typically they're disciplinary records, but there have been a few requests for disciplinary records, by in large not requests for personnel files in total. And in limited circumstances the Commission, looking at the exemption, has ordered disclosure.

And I also want to tell you that I don't think this problem is as big a problem as you've -- as you've been hearing. Yes, prisoners due cause us to do work in response to their requests and then their appeals to the Commission. In this personnel area we have tracked our complaints and we've come up with the number of nine, nine complaints to the FOI Commission in the past six years where any prisoner has made any kind of request for a personnel kind of record. And of those nine complaints, six complaints the Commission did rule in favor of the requestor.

And just again to tell you there -- a couple of them were for disciplinary histories. One request was simply for the name or -- I'm sorry not the name -- the reason somebody was dismissed from employment so that person was no longer working at the Department of Correction. That too was denied.

And most recently we had a case that involved the criminal -- a request for any criminal matters that DOC employees might have had pending. The Commission, after much -- much

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back and forth with the Department of Correction, issued a ruling that ordered the disclosure of the charges against the DOC employees and the outcome of those charges. The Commission was careful, ordered the -- the nondisclosure of records that were erased by operation of law and simply ordered the nature of the charges and the -- their disposition.

So that -- those are the kinds of cases that you've -- that we've had so far. We have also -- we also object to the bill because we feel it's an end run around some court decisions that are testing these exemptions that we have right now and we believe that we ought to say, hold on a minute, let's see how those come out, let's see if we need to further craft exemptions for disclosure.

The existing exemptions as I said I think work. The Commission, in some cases, has ordered -- has felt -- has found in favor of the Department of Correction. Most recently there was a request for a personnel file and the Commission found under that b-18 exemption that it should not be disclosed.

We also want to point out, as some have said, that the proposal can achieve its goal because it can be so easily circumvented. Some have said that, on the one hand, that prisoners are so industrious, they have so much time on their hand we -- hands, we can all understand that, that they have nothing better to do than do this, but on the flip side, they then say -- when we say that others can simply get access to the records if they request them that that would require a lot of effort on the part of prisoners and that they're not up to the challenge of doing that.

I just want to close by saying that -- by saying that we think it's a little bit difficult to believe that people are suggesting that prisoners can never request records that might be in the public interest and we think that that statement doesn't make any sense because there are many instances in other states where prisoners have requested records that have shed light on the activities of government.

In the State of Connecticut we don't really know what's going to happen because no records have been released. So I'd like you -- I'd like to urge rejection of this bill and I'm certainly happy to answer any questions you may have.

REP. SPALLONE: Questions from the committee?

Representative O'Brien.

REP. O'BRIEN: Thank you.

About -- about the -- the issue of -- of personnel records. I mean I know from operate -- from being a municipal official that -- that discussions about personnel matters are -- are typically held in executive session with the IDI that they are not for public disclosure.

What elements of -- of personnel records as -- in a -- as a general principle are -- are open for -- for public disclosure right now?

COLLEEN MURPHY: Generally information that shed light -- sheds light on how public employees perform their duties. The Supreme Court has said, under that exemption, that matters relating to the performance of public employees are presumptively a legitimate matter of public

concern because we, as public employees, are carrying out the public's will and the public -
- and duties on behalf of the public.

So typically the things that are released are how well or how poorly people are doing their jobs, not things about people's personal life unless somehow it impacts or interferes with how they've performed their public duties.

REP. O'BRIEN: And what in -- in -- specifically related to the -- the case involving corrections employees what -- what did the Commission rule was -- was -- what did the Commission rule should be disclosed? What were the specific things that the Commission ruled in those cases?

COLLEEN MURPHY: The things at this moment that I can think of in the few cases that we've had are a disciplinary history and, as I said, the -- the reason why somebody was dismissed from their -- from their position at the prison. It was a religious elder who had been dismissed. So that's the nature of it and in this most recent case information about the criminal information DOC employees.

REP. O'BRIEN: But it's items that are from -- there are items from their personnel file as opposed to the operation of the -- of the -- the public policy operation of the department.

COLLEEN MURPHY: Right. Personnel -- the exemption is for personnel or similar files and that's what these have fallen into that category.

REP. O'BRIEN: Are there -- are there requests -- can you give me examples of requests that have been rejected by the -- by the Commission? Are there types of information that have -- have

been requested about corrections personnel that the Commission has -- has rejected for -- for cause and why -- what -- what was the cause?

COLLEEN MURPHY: Well most recently that one for the personnel -- for the personnel file where there was a request for the entire personnel file, the Commission -- the Commissioner heard the matter, felt that the agency, the DOC, had proved that there was a security risk in the contents of that file and the Commission ordered that it shall not be disclosed.

REP. O'BRIEN: In other words the -- the request was for the file in total - -

COLLEEN MURPHY: That's my belief, yes.

REP. O'BRIEN: -- and that -- that it was rejected for that reason. I mean where would the -- where is the line, in your mind, between what is -- what's the legitimate -- in terms of what the public policy -- the public policy interest in knowing things out of the personal rec -- personnel records of -- of a -- of an employee. What's the -- what is the -- the compelling public interest in having it disclosed?

COLLEEN MURPHY: Well there's always line drawing and it -- and how it's worked is that it's a case by case basis and we have multitudes of -- of both Commission decisions and court decisions that analyze that exception and, as I said, the court has come down and said that in matters relating to how public employees perform their duties they're legitimately a matter of public concern and, therefore, they don't fall into the exception. But matters relating to one's personal life - family, marriage, sexual relations, things like that,

that those are not to be disclosed under that exception.

And other matters, you know, people's financial situation, their tax history information, child custody issues, things like that don't fall into the public realm because the public interest in those isn't -- isn't well-served.

REP. O'BRIEN: Does the Commission's decision-making around these things take account of the -- the rules that corrections officers themselves are required to follow and that with the policies -- we heard testimony that even the -- even disclosure of their first names is -- is -- they're not -- they're not specifically allowed to do that for certain very specific reasons. Is that encompassed in the -- in the decision-making right now of the FOI Commission?

COLLEEN MURPHY: Well I -- I think so. I think though the feel is that they're somewhat two different animals. That the -- as we've heard or described the undue familiarity rule that's in operation at the Department of Correction which, as described to us, is a rule against having basically inappropriate relationships with the inmates versus a -- a law that requires disclosure of public records. So I think the Commission has heard that testimony and has, you know, weight it in the balance but unbalance against a statute that has a lot of history behind it in terms of disclosure has, on occasion, ruled the other way.

REP. O'BRIEN: I guess -- and I'm -- I -- I had similar surprise to some of the other legislators who spoke about -- about this because I would have thought going in that those -- these records -- that these personnel records were not discloseable at all under any

circumstances under some laws that were passed previously.

Is there -- what -- would you agree that there would be a -- that it would be good for the legislature as a matter of public policy to -- to be proscriptive about -- about what types of records should and should not be disclosed so that we can, as a matter of public policy, make the decision about what we consider to be in the interest of public safety and the safety of our personnel?

COLLEEN MURPHY: Sure, I think the exemption that exists in b-18 tried to take into account those kinds of things that we were trying to make sure did not get into the public realm.

REP. O'BRIEN: I mean do you think -- we hear the Commissioner of Corrections say that he didn't think that that -- that that was being honored to the degree that it needed to be. Do you feel that some of the information that -- that the Department wanted to withhold was not properly withheld from the public?

COLLEEN MURPHY: Yes.

REP. O'BRIEN: Okay, thank you.

REP. SPALLONE: Anyone else? Any further questions?

I -- I have a couple of questions and I think that Representative O'Brien went down this path a little bit but I just want to make sure I -- I have this clear in my mind.

1-210-b-2, as you know, provides for the nondisclosure of personnel, medical or similar files that, if disclosed, would constitute an invasion of personal privacy. And you said

that there are Supreme Court cases that have interpreted that to require their disclosure of records from those files if it's in the public interest, is that correct?

COLLEEN MURPHY: Right. The -- the way the statute works, no disclosure occurs if the information is highly offensive to a reasonable person and there -- and there is no legitimate public interest in the records or -- or at issue.

REP. SPALLONE: Does that balancing test that the court has employed and I assume this has been in place for decades?

COLLEEN MURPHY: That particular test since 1993.

REP. SPALLONE: Okay. Does -- does the balancing test at all, in the court's language, take into account a legitimate public interest in -- in safety and security of the state employee or within a facility like a corrections facility, does it have a balancing test that includes that?

COLLEEN MURPHY: To date there have been no court pronouncements on that -- on the b-2 analysis. The closest probably we came didn't involve -- it didn't involve the prison setting at all but about address information and I think that led to a series of statutes being passed to protect addresses.

REP. SPALLONE: Now has the court, the Supreme Court, had any opportunity to rule on 2-10-b-18, the -- the corrections section?

COLLEEN MURPHY: No, I -- I believe not. I -- I believe these two cases that are pending at the Supreme Court are the first two to take a look at this.

REP. SPALLONE: And have they been argued yet?

COLLEEN MURPHY: No, they are awaiting argument.
They've been briefed and await argument.

REP. SPALLONE: And do you expect argument to be
during this session of the legislature?

COLLEEN MURPHY: Well I did hear, I haven't verified
it, that it -- that it wasn't scheduled for the
next round.

REP. SPALLONE: Now earlier you testified that an
inmate had requested -- an inmate (Inaudible.)
had requested disciplinary information
regarding corrections officers. I believe you
were here for most of the hearing today and you
heard -- and you were at Judiciary I know as
well where you heard the testimony of the
corrections officers concerning sort of a
culture within the facilities. And I believe
that, if you piece together their testimony and
the Commissioner's testimony, they believe that
information about disciplinary actions or the
criminal history of an in -- of a corrections
officer, if any, become currency within the
corrections culture, within the prison culture,
that the inmates can use to manipulate the
corrections officer.

Do you have any comments regarding their
concern about that issue?

COLLEEN MURPHY: Well at this point I would have to
say that, that from our vantage point, it's
speculative because there have been no -- no
instances where there has been disclosure or no
-- no instances cited to the Commission where
disclosure of a -- of a record, pursuant to
FOI, has caused that to occur.

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REP. SPALLONE: Now the two cases pending at the Supreme Court, have they been consolidated together?

COLLEEN MURPHY: Yes.

REP. SPALLONE: Okay and -- and in those cases did you loose at the trial court level -- the Commission - -did the Commission loose?

COLLEEN MURPHY: Yes we did under -- under the b-18 analysis but there is some very interesting language in the Superior Court decision decided by Judge Cohn that is supportive, in some ways, of the things that I've said to you today. For instance in terms of the undue familiarity rule and also in terms of that exemption where Judge Cohn acknowledges that the construct is for there to be a review by the Commission.

I think some of the Commission's frustration with the Department of Correction has been that the Department of Correction believes that it was a blanket exemption for whatever records the department felt should be withheld from disclosure. But if you look at the legislative history, it was clearly designed to have -- to have a review process and what we're doing here today, if this bill passes, would be to provide, obviously, provide that blanket exemption and it's going to depend on what everybody feels about that, whether that's the right way to go.

REP. SPALLONE: Thank you very much.

Any further questions?

A VOICE: (Inaudible.)

REP. SPALLONE: Oh okay, thank you, Senator.

Well thank you for your testimony.

COLLEEN MURPHY: Thank you.

REP. SPALLONE: Next speaker, Secretary of the State, Susan Bysiewicz.

Welcome, I think this is the first time we've had you here this year in the GAE.

SUSAN BYSIEWICZ: Well, good afternoon. It's great to be here with the Committee again and I am here to testify for HB Number 5427, AN ACT CONCERNING THE OFFICE OF THE SECRETARY OF THE STATE AND THE OFFICE OF STATE ETHICS and we're here this afternoon because we have an opportunity to save approximately \$100,000 or more and I know in this economic climate everyone is focused on cost savings and streamlining. I think also this would save paper and reduce our carbon footprint.

This legislation does a number of things. It eliminates the requirement that our office bind and distribute file copies of bills to seven libraries. Also it eliminates the requirement of a certificate of mailing for notices of special or reconvened sessions. It transfers the statements of financial disclosure that are filed by the commissioners of the DPUC from the -- our office to the Office of Ethics; I think that's a more appropriate filing venue and it also lessens the requirements that we distribute public acts to town clerks around the state and it saves an incredible amount of printing and paper.

So again the total cost savings is over \$100,000 and I was glad that the Ethics

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REP. SPALLONE: So you're looking for the -- I -- I -- my computer has lost its power and I can't find the bill in my bill book. So that's why I was asking -- are you looking for the addition of the word regular?

PATTI SHEA: Yes, regular, usual, customary. I'm not sure what the right word is but that word has to -- has to precede scope.

REP. SPALLONE: All right, thank you.

Any further questions?

If not, thank you for your testimony today.

PATTI SHEA: Thank you very much.

REP. SPALLONE: We're going to go back now to the elected official list for Representative Karen Jarmoc before we finishing our lobbying list.

Good afternoon. Welcome to the GAE committee.

REP. JARMOC: Good afternoon, thank you for fitting me in. I appreciate it.

And I -- I have submitted some testimony. It's actually quite honestly the testimony that I also submitted to the Judiciary Committee in regard to a similar bill. This is -- I'm -- I'm speaking in support of House Bill 5404 regarding the personnel files of correctional staff being FOI'd by inmates and, as some of you might know, I actually chaired the Correctional Staff Health and Safety Task Force.

I have prisons -- a number of prisons in my district and -- and obviously this is a very important issue to me and I just wanted to

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provide my support to this bill. Quite honestly I'm -- I'm more comfortable with what's coming -- or what was proposed in the -- voted out of the Judiciary Committee but just to keep in mind, the relationship that a correctional officer has with an inmate is different from other relationships that people might have who work in this type of profession.

For instance a correctional officer is going to have interaction with an inmate on a day-to-day basis. And so an inmate, quite often, is looking to find opportunities to undermine that relationship to intimidate, to try to control and trying to get the personnel file through Freedom of Information has become sort of a new way of doing this.

And, you know, it's -- it's a concerning situation. I know that, through the hearing process, inmates haven't necessarily been able to get that information necessarily but the fact that this is becoming an ongoing growing issue feels that there really needs to be legislation to protect correctional employees.

And (Inaudible.) any questions.

REP. SPALLONE: Any questions for Representative Jarmoc?

Representative Aresimowicz.

REP. ARESIMOWICZ: Representative Jarmoc, thanks for coming today.

REP. JARMOC: You're welcome.

REP. ARESIMOWICZ: Your commission -- I said it to Kevin Brace that was in earlier, I think it's -
- it's done a lot of great things.

And -- and do you account for the increase in the FOI cases as, you know, inmates going from one facility to another, saying, hey guess what they're doing over here. This is one of the things you can do to get under the guard's skin or -- or, you know, harass them, because it really has. I mean is it -- has your commission looked at it? There's been a huge increase in the amount of FOI claims from the inmates, hasn't there?

REP. JARMOC: Well the -- the subcommittee is actually -- it now -- it falls under OPM and so I haven't -- it's -- it's -- I introduced the legislation to create the subcommittee but -- and now it's sort of separate from the legislature but you're correct. There has been a sig -- what I would call a significant increase and I think that within the inmate community there's obviously a lot of discussion that goes on and -- and communication and so they're able to share ways that -- to -- what you were saying, intimidate an officer, manipulate the system and -- and they're -- they have the time to do that because they have the time to do that.

And it's concerning. It -- it -- what I would hate to have happen is that there's something very serious happens because an inmate was able to get personal information and then utilize that information to harm an officer or other employee of the Department of Correction or their family.

We don't want that to happen. There's -- there -- you know there are other mechanisms. If an inmate is feeling unjustly treated by an officer there are other mechanisms for them -- for them to utilize in order to go through a

process of having that address. It's not by -- by getting the personal information of an officer, that's not how you address that situation. If -- if that's sort of an argument that is made out there.

REP. ARESIMOWICZ: Thank you. My question is why do you like the Judiciary Committee bill more? What's -- what's it contain that -- that this one does not?

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REP. JARMOC: I like the -- the language in the Judiciary Committee was the sort of -- the exact language that we -- we were looking for in terms of not allowing an inmate to obtain that file. I think it was more clear that really weren't excuses for it and it seems that there's some -- some sort of safeguards to prevent on the other side from that happening. Does that make sense?

And my feeling is there really should be no sort of reason for an -- an inmate to obtain the personnel file of a correctional employee and no safeguards in place that would give them the opportunity to do that under certain circumstances. Because again if an inmate has a -- a situation, there is a process and -- for their protection as well, this is not the process.

REP. SPALLONE: Any further questions?

If not, thank you for your testimony.

REP. JARMOC: Thank you for fitting me in.

REP. SPALLONE: No problem.

Chris Phelps followed by Brooks Campion.

free speech as far as I'm concerned and I appreciate your testimony.

REP. SPALLONE: Thank you, anything further?

If not, well we'll see you around the building. Thank you.

BROOKS CAMPION: Thank you (inaudible).

REP. SPALLONE: The next speaker is Andrew Schneider followed by Kevin Hennessy.

Please proceed. Good afternoon.

ANDREW SCHNEIDER: Good afternoon, Representative Spallone and members of the Government Administration and Elections Committee.

My name is Andrew Schneider. I'm executive director of the ACLU of Connecticut and I'm here to oppose Raised Bill 5404 which would block inmate access to personnel, medical or any similar records of employees of the Department of Correction.

Prisons are public institutions funded with taxpayer money, managed and regulated by government officials and overseen by the state legislature and other governmental bodies. Prisons and jails in Connecticut cost hundreds of millions of dollars each year and house thousands of people. It is critical that such institutions be subject to the same, if not more, public disclosure as any other public institution.

Over the years Connecticut has seen case after case of gross abuse in our prisons and jails including serious violations of constitutional rights. Prisoners need to be able to protect

themselves from the abuses of government officials and the public has a right to know what happens behind prison walls. Inmates are sometimes the only ones who know and can bring to light the problems of the prison system.

One of the only tools prisoners have to seek protection from abuse is through the state Freedom of Information Act, also known as FOIA laws. The state FOIA law is a tool for all citizens to use to keep government accountable to the people. Prisoners may be behind bars but they are still citizens and the state is still accountable for its conduct -- conduct towards them.

The FOIA law already protects critical private information from being released to the public and sets forth particular information that is excluded from FOIA disclosure. If there are documents that would create a security risk not covered by already existing exceptions, then exempt those documents from FOIA. Wholesale exclusion of an entire group of people, like prisoners, from their rights as citizens of this state to seek information about government activities is gratuitous and unnecessary.

Such exclusion simply creates a -- simply creates state-approved discrimination against a disfavored group. Requests for personnel files of DOC employees by incarcerated individuals are a tiny fraction of the FOIA requests that agency responds to each year. While the DOC may see FOIA requests as something designed to annoy state workers and burden the system, such burdens are necessary to ensure that our democracy remains transparent and accountable.

We need FOIA to shine light into the darkened corners of government -- government agencies.

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Some of the darkest corners exist behind prison walls. Therefore I urge this committee to reject Raised Bill 5404.

Thank you.

REP. SPALLONE: Representative Aresimowicz.

REP. ARESIMOWICZ: First thank you for coming today. I -- I understand where you're coming from but I don't know if you were present -- present in the room for some of the earlier testimony, were you?

ANDREW SCHNEIDER: I was for some of it.

REP. ARESIMOWICZ: All right. I mean how do you -- how do you answer those -- the -- the claims of, you know, that the officers' first names given out based upon an FOI request and then the inmate gets reincarcerated some two months later and now not only has her first name but her last name tattooed on his -- her -- his body?

ANDREW SCHNEIDER: Well I think that's personal information that should be redacted. I mean I think we need to distinguish between the personal and the personnel.

You know personnel information is -- is public information and -- and can be extremely important to the public including individuals who are incarcerated in certain situations.

REP. ARESIMOWICZ: So what would you think, even taking that into consideration, what in the world would an inmate need personnel or personal information of a corrections officer for?

One -- I just can't think of one single area but -- and that's why I think I'm asking you.

ANDREW SCHNEIDER: Sure that's a -- that's a -- absolutely fair question. I think that, you know, if an inmate has a claim of -- of abuse that that claim can be corroborated by disciplinor -- disciplinary actions that have been taken against that correctional officer that is -- that exists in their personnel file. I think that's a -- an absolutely reasonable FOIA request to corroborate that kind of information.

REP. ARESIMOWICZ: Okay now -- now, and maybe you don't know this, when there is a claim by an inmate through the many areas that they currently have -- Department of Corrections has what they call a security division. The security division then does an -- an investigation and, speaking from personal experience, there is no tinted glasses. They're not siding with the side of the employee. Some -- some would argue, including myself, that it's the exact opposite; it's a witch hunt to get the employee.

So with that being said, they do their investigation, that's all part of the record. Any previous things that that individual employee has done is part of the record. So it's not like they don't consider that. The security division walks in, they're saying, okay, Representative Spallone over here, this is the second time with him and we've got that previous incident and we have all that information and we're carrying this forward, we're going to look at all that.

What does the inmate need to know because the situation I see more so than not is, I don't

March 8, 2010

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GOVERNMENT ADMINISTRATION
AND ELECTIONS COMMITTEE

10:00 A.M.

like Representative Spallone who's a corrections officer, so I'm going to request his personal or personnel file to find out what he's done in the past. And as soon as I get that whatever is in there that I think has a little juice to it I'm going to say Representative Spallone did that exact same thing to me and now it's his second time so you better find him guilty.

These people -- these inmates don't become inmates by accident. In rare case, maybe not rare, but in some cases there are innocent people that are locked up. But you're -- you're not there because you were an all-around good fellow or good lady and you ended up in prison by no fault of your own. You're there for a reason.

And for us to allow them to manipulate the only gatekeepers we have between them, there for a reason, and the public by going around threatening, trying to come up with this information, I think it's a travesty at large. And still given -- they're not -- maybe I'm being a little bit biased but even if we consider them whistle blowers and to find things that are wrong with the system, I'm not going to trust a word they say.

So given that why I am going to hand over a jacket of information that they can manipulate, talk to their friends about, talk to their family about, get additional information, to an inmate? That reason you gave -- maybe that's just -- maybe my threshold is so high you're never going to come up with a good enough reason, but convince me. Knowing how I feel and how passionate I am about it, convince me that it's a good thing and it needs to be done.

ANDREW SCHNEIDER: Well given -- given recent history, I don't think there -- that the system is being overwhelmed by such requests. It's been mentioned already that -- that only ten of -- of those kinds of FOIA requests have been made within the last four years. So I -- I don't see this being a -- a, you know, the -- the kind of problem that perhaps that you're -- you're outlining where -- where inmates are manipulating the system and -- and havoc is being raised by it.

REP. ARESIMOWICZ: Thank you. Thank you very much for coming today.

ANDREW SCHNEIDER: Sure.

REP. SPALLONE: Thank you for your testimony.

ANDREW SCHNEIDER: Thank you.

REP. SPALLONE: Um another quick question would be if there were a claim made against the state for abuse or deprivation of medical services or any other claim that a -- a prisoner might make, could they -- they could obtain relevant information through the discovery process, couldn't they?

ANDREW SCHNEIDER: Yeah I believe so.

REP. SPALLONE: All right, I don't have any further questions for you.

ANDREW SCHNEIDER: Thank you.

REP. SPALLONE: Anyone else?

Yes, Representative Hetherington does.

REP. HETHERINGTON: Thank you.

So, if I understand you correctly, you would allow certain information to be redacted?

ANDREW SCHNEIDER: Sure, absolutely, and the law -- the law makes that -- makes that distinction.

REP. HETHERINGTON: Your objection is to a general exclusion of --

ANDREW SCHNEIDER: Of a certain group of people.

REP. HETHERINGTON: -- Certain group of people, yeah. Okay, thank you.

Thank you, Mr. Chairman.

REP. SPALLONE: If there are no other questions, thank you for your testimony this afternoon.

ANDREW SCHNEIDER: Thank you.

REP. SPALLONE: The next speaker is Kevin Hennessey and Kevin is the last signed-up speaker that we have at this time.

Good afternoon.

KEVIN HENNESSY: Good afternoon, Representative Spallone, members of the committee.

My name is Kevin Hennessey. I'm here to testify in support of House Bill 5403 which you've -- you've heard a little bit about already. So I -- I'll try and bring up maybe some new viewpoints.

First a little bit of background. This first came to my attention November of 2008 when a draft advisory opinion was asking who must register as a lobbyist came before the

**FREEDOM OF INFORMATION COMMISSION STATEMENT IN
OPPOSITION TO RB 5404,
AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION
REGARDING DEPARTMENT OF CORRECTION EMPLOYEES TO INMATES
UNDER THE FREEDOM OF INFORMATION ACT**

**PRESENTED BY: COLLEEN M. MURPHY, EXECUTIVE DIRECTOR & GENERAL
COUNSEL (860-566-5682)**

The Freedom of Information Commission (FOIC) submits this statement in opposition to Raised Bill 5404 concerning the personnel records of Department of Correction (DOC), for the reasons set forth below. This bill is very similar in content to SB 221, AA Prohibiting Disclosure of Employee Files to Inmates, which has also been opposed by the FOIC.

1. Current law provides an appropriate balance for access, privacy and security. The bill would provide a blanket prohibition, absent a court order, on the disclosure of "personnel or medical files or any similar file" of DOC employees (both current and former) to incarcerated individuals. The proposal is unnecessary because there are already two exemptions contained in the Freedom of Information ("FOI") Act that can be utilized to withhold these kinds of records under appropriate circumstances. Section 1-210(b)(2) provides for the non-disclosure of personnel, medical or similar files that, if disclosed, would constitute an invasion of personal privacy. Similarly, §1-210(b)(18) provides an exemption, specific to DOC and Department of Mental Health and Addiction Services (DMHAS), for records that the Commissioner of either DOC or DMHAS reasonably believe may result in a safety risk, if disclosed. Thus, both privacy interests and the unique safety and security concerns faced by correctional institutions are already taken into account under current law.

2. The proposal circumvents FOIC decisions that are currently on appeal before the courts. There are cases on appeal that involve personnel-type records of DOC employees, requested by incarcerated individuals, wherein the DOC essentially took the same approach before the FOIC that it now seeks to have codified by the legislature. It argued that personnel records should never be provided to an inmate. The FOIC feels that this is the wrong approach and that each case ought to be handled on an individual basis, applying existing law.

The FOIC has ruled in very fact-specific cases (see, #FIC 2006-502, Taylor v. DOC involving disciplinary records of correction officers; #FIC 2006-537, Quint v. DOC involving records revealing the reason for dismissal of a Native American Religious Elder, a former employee; #FIC 2007-069, Taylor v. DOC involving records concerning the disciplinary history of a DOC employee); #FIC 2008-029, Taylor v. DOC involving disciplinary records of two correction officers) that the DOC failed to prove the applicable exemptions (DOC did not even offer the records at issue for in camera inspection by the FOIC to support their claims). DOC's approach in each of these cases was to argue its general concerns and fears about releasing personnel-type records, without demonstrating a particularized concern or fear about the specific records or requestor at issue. The DOC appealed those decisions and they are pending in court.

One additional appeal was filed recently by the DOC of #FIC 2009-020, Stevenson v. DOC, wherein the FOIC ordered limited disclosure of records listing the disposition of criminal cases against certain DOC employees (excluding any records that had been erased by operation of law, and with the names and other identifying information redacted).

Clearly, the DOC is unhappy with the FOIC decisions in the cases it has appealed. Rather than wait for a determination on the status of these issues by the Supreme Court, where the first two cases await argument, the DOC seeks to undo them with proposed legislation, both in this bill and in SB 221.

3. The DOC's security claims have been upheld by the FOIC, where appropriate, under existing law. It should be noted that the FOIC's case-by-case approach has, where proved by the DOC, resulted in rulings upholding DOC's claims of exemption for certain records pertaining to DOC personnel and prison security. (See e.g., Docket #FIC 2004-428, Henderson v. DOC; Docket #FIC 2006-467, Zapaia v. DOC; Docket #FIC 2007-317, Baker v. DOC; Docket #FIC 2008-105, Jones v. DOC; Docket #FIC 2008-507, Elliott v. DOC; Docket #FIC 2008-627, Elliott v. DOC; and Docket # 2009-090, Sylvia v. DOC).

4. The goal of this bill is illusory. RB 5404 is also flawed because the prohibition on disclosure could be thwarted easily. All an incarcerated person need do is ask someone else who is not incarcerated to request the records for him or her and the exemption would disappear. Some have claimed that people on the outside would "think twice" before making such a request, but it is unclear why they would need to do so, because they would not be violating any rule or law by simply asking for public records. Other proponents have stated that it would require a lot of effort on the part of inmates to ask someone else to make such a request and that the initiative to do so is lacking. Of course, such claims are belied by the fact that these same proponents alternately claim that inmates are incredibly industrious and will pursue any avenue they can to access these records.

5. The arguments describing the need for this proposal are overstated. In addition to stating safety concerns, supporters of this legislation cite increased workload for their agencies due to inmate requests and various costs associated with complying with such requests. However, in reality, requests for personnel file records of DOC employees by incarcerated individuals are very small. To date, access to personnel files has been a very minor area of interest among the inmate population. Approximately 9 complaints brought to the FOIC since 2006 have involved inmate requests for DOC employee personnel records and those complaints were brought by five inmates. Generally, inmates are more interested in obtaining records about their personal situation (i.e., records related to their arrest, conviction and incarceration), than they are in obtaining personnel-related information about correction employees.

6. The proposal overlooks the countervailing public policy interest in disclosure. There is an additional public policy reason why this proposal should be rejected. There are problems within correctional institutions that only the inmates know and can bring to light, highlighting the need for at least some of these kinds of records to be made available. For example, at least one of the pending court cases referenced above involves allegations of health and safety violations by employees of a correctional institution. Surely there is a public interest in this information. As previously stated, the exemptions that exist under current law strike the appropriate balance between the public interest and safety and security. The blanket exemption proposed under this bill would eviscerate those considerations.

For the reasons set forth above, the FOIC urges rejection of RB 5404.

Claude Albert, Legislative Chair, Connecticut Council on Freedom of Information

In Opposition to Raised Bill 5404, An Act Concerning the Nondisclosure of Certain Information Regarding Department of Corrections Employees to Inmates Under the Freedom of Information Act

Monday, March 8, 2010

Senator Slossberg, Representative Spallone and Members of the Government Administration and Elections Committee:

My name is Claude Albert. I live in Haddam, and I am the legislative chair of the Connecticut Council on Freedom of Information. I am here today on behalf of CCFOI to oppose Bill 5404.

We understand that the Department of Corrections is proposing this exception to the Freedom of Information Act because it believes that allowing inmates access to any information from personnel or unspecified "similar" files presents a security risk to its employees or to the good order of its institutions.

We at CCFOI certainly recognize the very difficult and hazardous job done by corrections personnel and the need to be scrupulous in safeguarding their safety.

We also understand, however, that present law already provides exemptions for personal privacy, medical files and the home addresses of corrections personnel. In addition, present law allows DOC to withhold information whenever it has reasonable grounds to believe that its release will jeopardize security.

Presently exempt from disclosure are "Records, the disclosure of which the Commissioner of Correction, or as it applies to Whiting Forensic Division facilities of the Connecticut Valley Hospital, the Commissioner of Mental Health and Addiction Services, has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction or Whiting Forensic Division facilities."

Current law thus seems to provide for the withholding of information that legitimately threatens security but still allow for the release of information about prison conditions that is of genuine public interest. That seems to us to strike a reasonable balance. We also believe that the Freedom of Information Commission is the proper arbiter of that balance and has a record of applying the law thoughtfully.

For example, in a case in which the FOIC ordered the release of information about the disposition of criminal cases against some DOC employees, the FOIC ruled that the names of those employees and identifying information could be withheld. We

also understand that fewer than a dozen information requests of the type targeted by this bill have been appealed to the FOIC since 2006.

Corrections is a department with a difficult mission that has entitled it to expansive exemptions from the Freedom of Information Act. The nature of its work undoubtedly makes many of these exemptions prudent.

But before enacting the blanket ban this bill proposes, we would urge the committee to examine closely the protections in present law, the way the FOIC has so far handled the requests at issue, what kind of information has been ordered disclosed and whether serious security problems would actually be likely as a result of the FOIC rulings. A more targeted change to the law could be offered if it proved necessary.



STATE OF CONNECTICUT

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

Michelle S. Cruz, Esq.
State Victim Advocate

Testimony of Michelle Cruz, Esq., State Victim Advocate
Government, Administration and Elections Committee
Monday, March 8, 2010

Good morning Senator Slossberg, Representative Spallone and distinguished members of the Government, Administration and Elections Committee. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to submit testimony in **SUPPORT** of:

Raised House Bill No. 5404, An Act Concerning the Nondisclosure of Certain Information Regarding Department of Correction Employees to Inmates Under the Freedom of Information Act

The Office of the Victim Advocate (OVA) has heard from many corrections officers of the Department of Correction (DOC) who have been assaulted by inmates while in the performance of their duties. Incidents range from serious physical assaults, such as the recently reported violent assaults, to inmates spitting on DOC staff, as well as other unacceptable behaviors. Some inmates face criminal charges while others face consequences internally. These are often the almost daily occurrences that are not reported widely. Unfortunately there are some inmates that look for retaliation against the DOC staff and attempt to use the Freedom of Information Act to obtain personal information about the staff. I think we can agree that providing personal information contained in the personnel files of DOC staff to disgruntled inmates is not a legitimate use of the FOIA; after all, the FOIA was created as a means for the public to gauge the inner workings of government. This abuse of FOIA can only be interpreted as a mechanism for inmates to continue to harass and intimidate correction officers.

Regardless of the disciplinary action taken after there is an assault on a staff person, the DOC staff person is a crime victim. Crime victims have a constitutional right to be reasonably protected from the accused. Releasing sensitive information about a DOC staff not only jeopardizes the safety of the victim but additionally hampers the DOC staff to effectively supervise the inmate population.

Raised House Bill No. 5404 will provide the necessary protection to DOC staff, and his or her family, from abuse of the FOIA, and at the same time, avoids further victimization to the crime victim. Unfortunately, at times, there are requests for information submitted by inmates to an agency, pursuant to the FOIA, that should not be available to the inmate, such as the information contained in "a personnel or medical file or similar file" of an employee of DOC or the Department of Mental Health and Addiction Services.

I urge the committee to support this important proposal. Thank you for considering my testimony.

Respectfully submitted,

Michelle S. Cruz

Michelle Cruz, Esq., State Victim Advocate

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STATE OF CONNECTICUT
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES
A Healthcare Service Agency

M. Jodi Rell
Governor

Patricia A. Rehmer, MSN
Commissioner

Memorandum:

TO: Government Administration and Elections Committee

FROM: Patricia Rehmer, Commissioner

DATE: March 8, 2010

SUBJECT: **H. B. No. 5404 (RAISED) AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING DEPARTMENT OF CORRECTION EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT**

Sen. Slossberg, Rep. Spallone and distinguished members of the Government Administrations and Elections Committee, thank you for the opportunity to submit written testimony on **H. B. No. 5404 (RAISED) AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING DEPARTMENT OF CORRECTION EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT**

DMHAS is in support of the legislation before you. This bill would prevent personal information about staff members being used to hurt, threaten or harass certain state employees. We would respectfully ask that that you give the same protections to the individuals that work in the Whiting Forensic Division of Connecticut Valley Hospital. We ask for their addition to this bill because the staff of Whiting serves a population of individuals requiring treatment under secure conditions (per CGS 17a-561), including detainees awaiting trial and sentenced inmates in the custody of the Department of Correction. There was a similar bill heard by the Judiciary Committee last week and that bill included our employees. Thank you for your time and attention to this matter.

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March 6, 2010

Rep. Gayle S. Slossberg, Co-Chair
Rep. James F. Spallone, Co-Chair
Government Administration and Elections Committee
Room 2200, Legislative Office Building
Hartford, CT 06106

RE: Hearing on HB 5404

Dear Rep. Slossberg and Spallone:

As Editor and Associate Editor of *Prison Legal News* (PLN), a non-profit monthly publication that reports on corrections and criminal justice-related issues, we are contacting you to comment on HB 5404, which is the subject of a March 8 hearing before the Government Administration and Elections Committee.

PLN has extensive experience in regard to public records requests involving prison operations. We have utilized public records requests to obtain information about corrections-related issues nationwide during the past 19 years that PLN has been publishing, and based on our knowledge and experience we object to HB 5404 for the following reasons.

HB 5404 would restrict prisoners from obtaining through Freedom of Information Act (FOIA) requests specified records related to Department of Correction employees, including personnel or medical files, or records relating to departmental security and discrimination investigations, absent a court order.

We would initially note that there are already existing provisions in Connecticut's FOIA law to prohibit the release of employees' personnel and medical files and records that may jeopardize institutional security. For example, § 1-214(b) includes safeguards for requests for employee personnel or medical files that an agency reasonably believes would constitute an invasion of privacy. Those safeguards include notifying the employee who is the subject of the request and his or her union representative, and prohibiting disclosure of the records if the employee or the union representative objects to the disclosure, unless the agency is ordered by the Connecticut FOIA Commission to produce the requested documents.

Rep. Gayle S. Slossberg, Co-Chair
Rep. James F. Spallone, Co-Chair
March 6, 2010
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Also, the residential addresses of Department of Correction employees are exempt from FOIA requests under § 1-217(3), as are records that the Commissioner of Correction "has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility," under § 1-210(b)(18). Furthermore, prisoners' FOIA requests must be reviewed by the Commissioner of Correction before any records are produced, pursuant to § 1-210(c). Therefore, HB 5404 is redundant and unnecessary, as Connecticut's FOIA statute currently includes exemptions and safeguards that largely restrict the records that HB 5404 seeks to make unavailable to prisoners.

Further, prison officials retain the ability to censor records produced through FOIA requests when they are mailed into correctional facilities. In *Livingston v. Cedeno*, 186 P.3d 1055 (Wash. 2008), Washington State's Supreme Court held that prison officials may censor public records released under the state FOIA law based on security concerns, independent of FOIA restrictions or exemptions. It is likely that Connecticut courts would reach the same conclusion.

We understand that the purported reason for HB 5404 is that a Connecticut prisoner requested arrest records for Connecticut prison employees. We would note that this type of information is regularly requested by newspapers, and articles on that topic by media in Florida and South Carolina revealed that 15% of prison employees in those states had criminal convictions. The Dept. of Correction is a law enforcement agency and its employees should be held to the highest standards. This begs the question of how many Connecticut prison employees have arrest and conviction records. Do you know? We think this is a question of legitimate public concern and we understand the *Hartford Advocate* has requested this information from corrections officials and it has yet to be provided. State agencies and employees who have nothing to hide and who meet the highest standards of professionalism, honesty and integrity should not fear public scrutiny; they should welcome it, whether it comes from within prison walls or without.

Additionally, a Democratic government should be more concerned with making public records more accessible to members of the public, thus increasing transparency, rather than restricting access to information about government employees and operations. This applies to prisoners as well as to non-incarcerated citizens, as prisoners do not lose their citizenship status when they are imprisoned. Limiting access to public records for prisoners – who have no political voice or constituency and thus cannot easily oppose such legislation – is the start of a slippery slope that threatens to restrict access to public records for non-incarcerated citizens.

For example, the most obvious way that prisoners could circumvent the restrictions proposed by HB 5404 would be to have their family members or friends request Department of Correction personnel files or security investigation records on their behalf. Will the Legislature then attempt to prohibit non-incarcerated citizens from obtaining such records, in case they are provided to prisoners? How will it be determined if citizens are requesting such records for themselves or for a prisoner? If the Legislature does not plan to restrict public access to Dept. of Correction records for non-incarcerated citizens, then HB 5404 serves no useful purpose as its proposed limitations could be easily circumvented.

Rep. Gayle S. Slossberg, Co-Chair
Rep. James F. Spallone, Co-Chair
March 6, 2010
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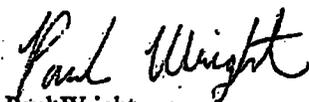
Lastly, it should be noted that prisoners have legitimate reasons to request records from the Dept. of Correction – including security and discrimination investigation reports. For instance, in the case of a prisoner who is physically or sexually assaulted by a prison employee, and such abuse is verified through an internal investigation, under HB 5404 the prisoner would not be able to obtain a copy of the investigative report that substantiates such abuse. Similarly, if a prisoner files a discrimination complaint against a prison employee due to racial, religious and/or gender discrimination, under HB 5404 the prisoner could not obtain a copy of the investigative report into his or her own discrimination complaint.

The Legislature should not ignore the fact that physical and sexual abuse of prisoners occurs in the state's prison system. For example, on May 25, 2009, state prison officer Megan Schnitzler was arrested and charged with sexually assaulting prisoners at the Osborn Correctional Center. Also, in August 2007, the Dept. of Correction paid \$500,000 to settle a federal lawsuit filed by state prisoner Robert Joslyn, who alleged he was brutally assaulted by ten prison officers. The assault was recorded on surveillance video. A Department of Correction investigative report concluded that the officers had used "excessive force" and "failed to follow proper procedures and protocols," and that the use of force on Joslyn "was planned." The report also found that one officer, who had been previously disciplined for assaulting a prisoner, was "less than truthful" in the investigation. However, had HB 5404 been in effect at the time, Joslyn would not have been able to obtain – through a FOIA request – a copy of the Dept. of Correction investigative report concerning the assault that he suffered at the hands of prison employees.

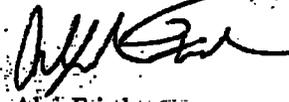
Based on the foregoing, we object to HB 5404 and ask the Committee members to vote against this legislation because it is redundant and unnecessary based on existing FOIA provisions; it unjustly restricts prisoners' access to otherwise public records; it serves no useful purpose as it is easily circumvented; and it prohibits prisoners from making legitimate requests for records related to investigative reports involving abuse and discrimination by prison staff.

Ordinarily we would be happy to testify in person before the Committee and respond to any questions from Committee members, but we are in the process of moving our office and unable to attend any legislative hearings in Connecticut over the next two to three weeks. Please accept our apologies and this written statement in lieu of our in-person testimony.

Sincerely,



Paul Wright
Editor, PLN



Alex Friedmann
Associate Editor, PLN

cc: Connecticut FOIA Commission



State of Connecticut
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MEMBER
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 PUBLIC SAFETY AND SECURITY COMMITTEE

Testimony from State Representative Karen Jarmoc (D-Enfield)

IN SUPPORT OF HB 5404
 AN ACT PROHIBITING THE DISCLOSURE OF EMPLOYEE FILES TO INMATES

Good morning. Representative Spallone and Senator Slossberg and members of the Government Administration and Elections Committee. I come before you today to speak in favor of HB 5404, AN ACT PROHIBITING THE DISCLOSURE OF EMPLOYEE FILES TO INMATES. This measure would prohibit the disclosure of personnel, medical and similar files concerning current or former employees of the Department of Correction, or the Department of Mental Health and Addiction Services to inmates and other persons in the custody of, or under the supervision of, the Commissioner of Correction or confined in a facility of the Whiting Forensic Division.

As the former chairperson of the legislature's Task Force on Correctional Staff Health and Safety and as a lawmaker with prisons in my district, I would like to speak specifically today in regard to why this bill is important for the safety of correctional employees and their families.

Using the Freedom of Information Act, inmates may currently request correctional employee files, whereby they are able to learn the home addresses and disciplinary records of these state Department of Correction employees. Connecticut law allows them to access the information unless the department can prove that the request would threaten the correctional employee's security.

Correctional staff, and in particular, correctional officers, have a unique role and relationship in regard to their supervision of inmates. As many of you know, these officers come in contact with the same inmates on an almost daily basis while performing the difficult duties of their job. If an inmate were able to obtain personal information about an officer and his or her family, not only would this be inappropriate but also potentially dangerous. Inmates would clearly have an opportunity to threaten and intimidate the correctional staff, charged with authority over that individual, with knowledge of personal or job related information. I truly cannot think of any compelling reason why an inmate would have the right to the personnel file or a correctional employee. Yet, more and more inmates are utilizing this opportunity to threaten officers and manipulate the system.

It has been said that on the inside of a correctional facility, information translates to power. The power to do their job in an effective way, without the concern that an inmate may work to endanger their lives or their family, should belong to the correctional staff. It is my understanding that there have been approximately a half dozen complaints by inmates - requesting an officer's personnel file - which have resulted in an actual hearing before the Freedom of Information Commission. To me, this is a half dozen too many.

Good morning Senator Slossberg, Representative Spallone and the rest of the Committee. My name is Harry Ray Soucy most of you known me as a Union Official but today I am here to speak to you as an individual personally effected by inmate FOI harassment. That is why I support H. B. No. 5404 (RAISED) AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING DEPARTMENT OF CORRECTION EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT.

Many of you know my family to the point that some of you have told my wife that you were sorry she was married to me and that my daughter was lucky to have taken after her mother. This bill would protect them just like you would want your families protected from anyone who might harm them, which is what this bill will do for my family and the families of the entire DOC personnel. I understand that when I took this job in Corrections that there would be personal risk for me. But there should not have to be a risk factor for my family. When an Inmate can gain personal information about us such as address, phone numbers, names of our family, and any other various personal things through what they have been requesting it becomes a danger not only to me but also to my family and the public. They would be able to pass this information to friends on the street and only bad things would result.

As an employee of the DOC you can be terminated for undo familiarity. By not passing this bill you would allow inmates to have access to information that could lead to undo familiarity thus not only putting employees at risk but also the public. I urge you to pass this bill to protect our families and the public. Thank you for your time I am willing to answer any questions you may have.

Department of Correction**Testimony of Brian K. Murphy, Acting Commissioner****Government Administration and Elections Committee*****Raised Bill No. 5404, An Act Concerning the Nondisclosure of Certain Information Regarding Department of Correction Employees to Inmates Under the Freedom of Information Act*****March 8, 2010**

Good morning, Senator Slossberg, Representative Spallone and honorable members of the Government Administration and Elections Committee. I am Brian K. Murphy, Acting Commissioner for the Department of Correction. I am here this morning to speak in strong support of the concept contained in Raised Bill No. 5404, *An Act Prohibiting the Disclosure of Employee Files to Inmates An Act Concerning the Nondisclosure of Certain Information Regarding Department of Correction Employees to inmates Under the Freedom of Information Act.*

Inmate abuse of the Freedom of Information (FOI) process is a new and growing issue for the Department of Correction and other systems across the country. Eleven states have amended their FOI statutes in order to limit inmates' access to records. Washington State most recently amended their laws in March 2009 to limit inmate access.

Inmates are seeking personal information about the DOC staff through the FOIA, as a means of retaliation and intimidation. Over the course of the past six years, the agency has seen increasing usage of the FOIC by the inmate population in our correctional facilities. In a growing number of instances, inmates are attempting to utilize these statutes as a weapon against my staff. It is becoming part of the inmate culture that if a correctional officer files a disciplinary report against you, or confiscates contraband in your cell; a means of getting back at that officer is to FOI his or her personnel file. I do not believe that this is what these laws were intended for.

In fighting this and speaking in strong support of the nondisclosure of DOC employee files to inmates, I am upholding the agency's mission of protecting the public, protecting my staff and their families as well as maintaining the safety, security and good order of our correctional institutions.

FOIC has taken the position that inmates use the FOI process as a means to air grievances about the correctional system. Inmates have appropriate avenues, both internally and externally, to file grievances. There are a number of

administrative and legal remedies readily available to and regularly used by inmates to address complaints about the agency and the staff.

Additionally, nothing in the FOIA requires the disclosure of personnel or similar files which would constitute an invasion of privacy. The FOIC interpretation of this statute is that staff personnel or similar files do not meet the personal privacy criteria and are public records. I don't believe it was the intent of the legislature to allow the FOIA to be used by the inmate population as a harassment and intimidation tool.

I respectfully request the passage of legislation that would provide essential statutory protection that would protect my staff from disclosure of personal information to inmates. The majority of the Department's employees are classified as hazardous duty and have regular *daily, direct* contact with the inmate population. They work with accused and sentenced offenders in correctional facilities and with offenders in the community. Even those employees who do not work directly with the offender population have exposure to and can be affected by those who are incarcerated through their work in facilities and by decisions they may make in the course of their employment.

Gates and wires are security mechanisms to maintain order and safety but the most important tool is the correctional staff. It is the staff that maintains control and order within the facilities and in the community through their interpersonal skills and professionalism.

The safety and security of staff and the facility are severely compromised when inmates have access to an employee's files – whether they are personnel, medical, disciplinary, affirmative action or security investigative files. Providing any information about an employee to an inmate undercuts the training that the Department provides for all new and current employees not to divulge information about themselves or another employee to an inmate. For the Department to be ordered to release such information to inmates places the Department in the untenable position of committing a violation of its own policy – something for which a staff person would certainly be disciplined and more likely be suspended or terminated from state service. Personal information that I have described about staff can be and is used to harass, manipulate and extort staff.

The following is an example of how an inmate uses FOI for harassment and intimidation purposes: Inmate T. has requested personnel or similar files on any staff member who issues him a disciplinary report, poor work report or shakes down his cell for contraband—all within the realm of their official duties. The staff member is then placed in the position to defend his personal information from the inmate population.

The Department is currently appealing eight FOIC decisions in which it was ordered to release employee files or information to inmates. In one case, *Taylor /*

(2007),¹ the hearing officer recognized the danger in releasing the employee record and found the documents exempt under C.G.S. §1-210(b)(18).² He based his findings and decision on the testimony presented by me and based on my 26-year history as a correctional professional with special expertise in gang management.

Despite the hearing officer's findings, the full Commission stripped the decision of these findings, did not acknowledge my expert testimony, stated no evidence was presented to support the Department's position and ordered the release of the requested records. The Superior Court sustained the Department's appeal of this order.

That same inmate brought another appeal requesting staff files (*Taylor II*).³ In its final decision in this case the FOIC acknowledged that it lost the appeal of the first case (*Taylor I*). It nevertheless again ordered the release of staff files to the inmate. The FOIC maintained that its decision in *Taylor I* was correct and that, pending final resolution of *Taylor I* by the Appellate Court or Supreme Court, it was bound in *Taylor II* by the same standard of proof applied in the earlier decision. That case, too, is being appealed.

The FOIC's decision in *Taylor I* not only undermines Departmental policy and compromises safety and security within our state's correctional facilities, it ignored a prior Superior Court decision⁴ that recognized the legislative intent of C.G.S. Section 1-210(b)(18), which gives me, as Commissioner of Correction, the authority to deny disclosure of records that I have "reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility..."

There continues to be requests from the inmate population for staff personnel and similar files. The arguments presented by the Department and the testimony and witnesses put forth by the Department remain the same in all subsequent cases. The safety and security exemption allowed to the commissioner of correction by the legislature with regards to "reasonable grounds" is almost never met, with the exception of one case despite the fact that the staff and members of the Commission have no correctional experience. The outcome from the Freedom of Information Commission does not change.

¹ *David Taylor v. Commissioner, State of Connecticut, Dept. of Corr.*, Docket #FIC 2006-502, (9/12/07)

² C.G.S. 1-210(b)(18) exempts "Records, the disclosure of which the Commissioner of Correction...has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction..."

³ *David Taylor v. Commissioner, State of Connecticut, Dept. of Corr.; and State of Connecticut, Dept. of Corr.*, Docket #FIC 2008-029 (12/10/08)

⁴ *State of Connecticut, Department of Correction, v. Quint & The FOIC*, Conn. Super. LEXIS 1742 (J. Levine).

It is estimated that approximately \$1 million per year is expended to respond to all inmate FOI requests for the Department as well as other state agencies and municipalities. The Department believes that passage of this language would result in cost-savings to the state. In a recent inmate case, the staff cost to the state taxpayer for just the hearing process exceeded \$10,000.

In order to continue to protect the safety of our community, staff and other inmates, we are calling upon the legislature to insure that inmates cannot obtain personal information of correctional staff.

I urge your support for Raised Bill No. 5404 and respectfully request your consideration of the attached proposed substitute language. Passage of proposed substitute language will ensure not only the safety and surety of our correctional staff and their families but also our correctional facilities.

Thank you for giving me this opportunity to speak on this very important issue. I will be happy to address any questions you may have.

Department of Correction
Proposed Substitute Language for HB 5404

AN ACT PROHIBITING THE DISCLOSURE OF EMPLOYEE FILES TO INMATES.

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

Section 1. (NEW) (Effective July 1, 2010) A personnel or medical file or similar file concerning a current or former employee of the Department of Correction or the Department of Mental Health and Addiction Services, including, but not limited to, a record of a security investigation of such employee by the department or an investigation by the department of a discrimination complaint by or against such employee, shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200 of the general statutes, to any individual committed to the custody or supervision of the Commissioner of Correction or confined in a facility of the Whiting Forensic Division of the Connecticut Valley Hospital. For the purposes of this section, an "employee of the Department of Correction" includes a member or employee of the Board of Pardons and Paroles within the Department of Correction.

Council 4 AFSCME Testimony - March 8, 2010 - GAE Committee

HB 5404, An Act Concerning the Nondisclosure of Certain Information Regarding Department of Correction Employees to Inmates Under the Freedom of Information Act

Good morning Chairman Slossberg, Chairman Spallone and members of the GAE Committee. My name is John T. Pepe. I am the President of AFSCME Local 391. Our union, along with AFSCME Locals 387 and 1565, represent nearly 5,000 front-line correctional employees in Connecticut. I am here to speak in favor of HB 5404, An Act Concerning the Nondisclosure of Certain Information Regarding Department of Correction Employees to Inmates Under the Freedom of Information Act.

This bill is vital to correction officers' and employees' safety. It will prohibit the disclosure of personnel, medical and similar information of current and former employees of the Department of Correction or Whiting Forensic Division.

Inmates do not have a good reason for asking for this information. Such inmate information requests about staff have been used to harass staff members. Information is traded in prison, almost as a commodity. Information on staff is sometimes highly sought after. A female correction officer recently testified before the legislature about an inmate who tattooed the first and last name of this officer on his arm and finger.

Inmates are aware that staff must follow a strict policy of no "undue familiarity" with inmates. There have been incidents where inmates have tried to get staff in trouble with superiors by pretending that a staff member gave their personal information to an inmate.

Correction staff jobs are stressful. Two different actuarial reports found that the average mortality age for a correction officer is 58. This high mortality rate is due to the affects of job stress. Inmates FOI'ing our personal information is one more stress factor that we don't need.

We know when we become correction officers that we will be at risk on the job. We accept that. But, our families should not have to be put at risk because an inmate can access information that can eventually lead to the discovery of our families' names and addresses. I have attached a Hartford Courant article about the murder of a federal judge's family that has all the earmarks of a retaliatory killing, because the judge handled the case of a leader of a criminal enterprise. Our staff deals with members of criminal enterprises all the time.

Please pass this bill. It will make the correction staff and the public safer. Thank you.

www.chicagotribune.com/news/nationworld/chi-0503010123mar01,0,4913954.story

chicagotribune.com

Federal judge's family killed

Husband, mother found slain in basement

Jurist had been a target of white supremacist

By David Heinzmann and Jeff Coen

Tribune staff reporters

March 1, 2005

U.S. District Judge Joan H. Lefkow found her husband and mother shot dead in the basement of her home Monday night, less than a year after white supremacist Matthew Hale was convicted of trying to have her murdered for holding him in contempt of court.

Michael F. Lefkow, 64, an attorney, and Donna Grace Humphrey, 90, were lying in blood with gunshot wounds to the head when the judge arrived to a darkened house at 6 p.m., a source close to the investigation said.

Police said they were conducting "death investigations," and cautioned about drawing any connections to Hale, who is awaiting sentencing for trying to solicit the judge's murder. Sources said Michael Lefkow and Humphrey were found together, each was shot once in the head. No weapon was recovered, but police found two .22 caliber casings.

Security at the Lefkow home--including a camera mounted outside the home and guards posted on the block in unmarked cars--had been beefed up after the allegations against Hale emerged in January 2003. But neighbors said the extra measures tailed off about the time Hale was convicted in April 2004.

Investigators say there was a sign of forced entry, a broken window, at the family's three-story gray-sided home in the 5200 block of North Lakewood Avenue in the Edgewater neighborhood.

Neighbors on Monday night said the judge ran into the street screaming after discovering the bodies and was consoled by police officers who put a blanket over her. She was taken to the Belmont Area headquarters while detectives, evidence technicians and federal agents worked the scene in and around the home.

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Friday February 26, 2010

Good Morning,

My name is Kevin Brace and I am the Chairperson of the Correctional Staff Health and Safety Sub-Committee. I am a Correctional Officer at Northern Correctional with over 15 years of service.

I am here today to testify about HB- 5404 **AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING DEPARTMENT OF CORRECTION EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT.**

The Correctional Staff Health and Safety Sub-Committee strongly urges passage of this bill. Our Sub-Committee was established last year to look at issues that directly impact the safety of Correctional Staff. Inmates having access to Staff's personnel file is currently the single greatest threat to Staff safety faced by all Connecticut Department of Correction Staff.

Inmates are using the Freedom of Information Act to harass and intimidate Correctional Staff. By gaining access to Staff files inmates would have access to home addresses, emergency contact information, spouse and children's name and contact information. This information could be used to intimidate Staff and keep them from doing their job. Inmates at Northern using FOI have gained a list of Staff's first, last, and middle names. Most inmates do not have to pay for access to FOI, they can continue to make request after request. It is our fear that inmates will now be writing municipalities in an informational fishing expedition to place liens on Staff's property, requesting property tax bills (that contain vehicle information, Spouse's names and home addresses). Inmates or co-conspirators could show up at Staff residences to commit crimes against Staff and their families.

We are trained as Cadets in the Correctional Academy to never share any personal information with the inmates. Allowing inmates access to Staff's personnel files is not only dangerous to Staff, but to our families. In order to keep the public safe, we as Correctional Staff need to be able to do our jobs without fear of being retaliated against by the inmate population and making our families a target.



2074 Park Street, Suite L
 Hartford, CT 06106
 860-523-9146

Good morning Senator Slossberg, Representative Spallone and members of the Government Administration and Elections Committee. My name is Andrew Schneider, I am Executive Director of the ACLU of Connecticut, and I am here to oppose Raised Bill 5404 which would block inmate access to personnel, medical, or any similar records of employees of the Department of Correction (DOC).

Prisons are public institutions funded with taxpayer money, managed and regulated by government officials, and overseen by the state legislature and other governmental bodies. Prisons and jails in Connecticut cost hundreds of millions of dollars each year and house thousands of people. It is critical that such institutions be subject to the same, if not more, public disclosure as any other public institution.

Over the years, Connecticut has seen case after case of gross abuse in our prisons and jails, including serious violations of Constitutional rights. Prisoners need to be able to protect themselves from the abuses of government officials and the public has a right to know what happens behind prison walls. Inmates are sometimes the only ones who know and can bring to light the problems of the prison system. One of the only tools prisoners have to seek protection from abuse is through the state Freedom of Information Act (FOIA) law.

The state FOIA law is a tool for all citizens to use to keep government accountable to the people. Prisoners may be behind bars, but they are still citizens and the state is still accountable for its conduct towards them.

The FOIA law already protects critical private information from being released to the public and sets forth particular information that is excluded from FOIA disclosure. If there are documents that would create a security risk not covered by already existing exceptions, then exempt those documents from FOIA. Wholesale exclusion of an entire group of people, like prisoners, from their rights as citizens of this state to seek information about government activities is gratuitous and unnecessary. Such exclusion simply creates state-approved discrimination against a disfavored group.

Requests for personnel files of DOC employees by incarcerated individuals are a tiny fraction of the FOIA requests that agency responds to each year. While the DOC may see FOIA requests as something designed to annoy state workers and burden the system, such burdens are necessary to ensure that our democracy remains transparent and accountable..

We need FOIA to shine light into the darkened corners of government agencies. Some of the darkest corners exist behind prison walls. Therefore I urge this committee to reject Raised Bill 5404.



**State of Connecticut
DIVISION OF CRIMINAL JUSTICE**

Testimony of the Division of Criminal Justice

In Support of:

**H.B. No. 5404 (RAISED) An Act Concerning the Nondisclosure of Certain Information
Regarding Department of Correction Employees to Inmates Under the Freedom of
Information Act**

*Joint Committee on Government Administration and Elections
March 8, 2010*

The Division of Criminal Justice supports H.B. No. 5404, *An Act Concerning the Nondisclosure of Certain Information Regarding Department of Correction Employees to Inmates Under the Freedom of Information Act*. We would note that the bill seeks to accomplish the same goal as S.B. No. 221, *An Act Prohibiting Disclosure of Employee Files to Inmates*, which was favorably reported by the Joint Committee on Judiciary on March 3, 2010.

As we stated in our testimony in support of S.B. No. 221, H.B. No. 5404 would extend important protections to employees of the Department of Correction and the Department of Mental Health and Addiction Services with regard to their personal records. The bill would prohibit inmates in the state's prison system or individuals committed to the Whiting Forensic Division of Connecticut Valley Hospital from utilizing the Freedom of Information Act to obtain personal medical records and other personnel records of correction officers or employees at Whiting.

The Freedom of Information Act was never intended to serve as a vehicle for abuse and harassment, yet this is another example of a disturbing trend among some inmates to utilize any and every aspect of the legal system in an unending effort to take advantage of the rights and privileges afforded to law-abiding citizenry to abuse the system. The bill is carefully drawn to protect employees who work in potentially dangerous and sensitive positions from harassment by those over whom they exercise supervision. Correction officers and Whiting personnel have a difficult enough job to do without being subjected to the additional harassment or threats that this bill seeks to prevent. The State of Connecticut owes a debt of gratitude to these dedicated public servants and we owe them the protection envisioned in this bill.

Respectfully submitted,

**Kevin T. Kane
Chief State's Attorney**

Government Administration and Elections Committee**Testimony re: Raised Bill No. 5404**

An Act Concerning the Nondisclosure of Certain Information Regarding Department of Correction Employees to Inmates Under the Freedom of Information Act

**Submitted by Robert Farr, Chairman - Board of Pardons and Paroles
March, 8th, 2010**

Good morning, Senator Slossberg, Representative Spallone and honorable members of the Government Administration and Elections Committee. I am Robert Farr, Chairman of the Board of Pardons and Paroles. I am here this morning to support the concept contained in Raised Bill No. 5404, An Act Prohibiting the Disclosure of Employee Files to Inmates An Act Concerning the Nondisclosure of Certain Information Regarding Department of Correction Employees to inmates Under the Freedom of Information Act.

Inmate abuse of the Freedom of Information (FOI) process is a new and growing issue for the Department of Correction and other systems across the country. Eleven states have amended their FOI statutes in order to limit inmates' access to records. Washington State most recently amended their laws in March 2009 to limit inmate access.

I concur with the Commissioner Murphy's testimony where he states that inmates that are seeking personal information about the DOC staff through the FOIA, are doing so as a means of retaliation and intimidation.

For that reason, I would request that this legislation be amended to mirror the substitute language in SB 221 as reported out by the judiciary committee, which would protect members and employees of the Board of Pardons and Paroles.

Whereas Freedom of Information Requests have been levied against correctional staff, they can also be directed toward members and/or officers of the Board of Pardons and Paroles. Many inmates who are not happy with the Board and its decision-making authority or officers who present cases to the Board can seek to retaliate against my fellow members and staff as well.

Given that the Department of Corrections has seen an increase in usage of the FOIC by the inmate population in our correctional facilities, I fear that is only a matter of time before many of these requests are levied against our agency. I do not believe that this is what the Freedom of Information was established for.

Thank you for your attention. I would be happy to any questions you may have.

Sincerely,

Robert Farr

Robert Farr, Chairman.



State of Connecticut

SENATE

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SELECT COMMITTEE ON AGING

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GENERAL LAW COMMITTEE

Government Administration and Elections Committee

John A. Kissel, State Senator, 7th District

***Re: HB 5404 – An Act Concerning the Nondisclosure of Certain Information
Regarding Department of Correction Employees to Inmates Under the Freedom of
Information Act***

Good morning Senator Slossberg, Representative Spallone, Senator McLachlan, Representative Hetherington and members of the Government Administration and Elections (GAE) Committee. Thank you for the opportunity to testify on behalf of HB 5404 AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN INFORMATION REGARDING DEPARTMENT OF CORRECTION EMPLOYEES TO INMATES UNDER THE FREEDOM OF INFORMATION ACT.

As you are likely aware, the Judiciary Committee just last week voted unanimously in support of a very similar proposal. I am encouraged that the GAE Committee has also recognized the importance of this legislation and has raised it for a public hearing. As a ranking member on the Judiciary Committee, I did not have the opportunity to testify in support of the bill and this is a welcome opportunity.

In talking with correctional officers who have been targets of inmate hostility, it became clear to me that we need to take every possible precaution to protect correctional officers from possible retaliation and that's why I have been a lead proponent of this legislation. Not only is the safety of correctional staff being threatened through misuse of the FOI process, but the safety of their families and other private citizens is also at risk. I worked hard last year to get everyone on the same page and I have already started speaking with key players again this year. I am also happy to report that in a somewhat unusual fashion, the Department of Correction and the COs are on the same page. Now that many more legislators are aware of this problem, I feel confident that this legislation will garner the necessary votes in both the House and Senate and am committed to working toward that end.

Our COs deserves the protection this bill offers and no one is more aware of that or working harder than me and I am very grateful for the opportunity to sepak in support of it. Last week's vote in Judiciary was a huge victory and should the GAE Committee look favorably on this bill as well, I will be even more optimistic that this important proposal will be enacted into law before the end of session. I will be happy to answer any questions you may have.



University of Connecticut Health Center

TESTIMONY

Government Administration and Elections Committee
March 8, 2010

HB 5404, An Act Concerning the Nondisclosure of Certain Information regarding Department of Correction Employees to Inmates under the Freedom of Information Act.

My name is Gail Johnson, Director of Administrative Services for the Correctional Managed Health Care program for the University of Connecticut Health Center. Thank you for the opportunity to testify in support of **HB 5404, An Act Concerning the Nondisclosure of Certain Information regarding Department of Correction Employees to Inmates under the Freedom of Information Act.**

The University of Connecticut Health Center, through a Memorandum of Agreement with the Department of Correction, provides all health services, including medical, mental health, pharmacy and dental, to inmates housed in seventeen DOC facilities statewide and at 38 halfway houses and at the John Dempsey Hospital. As of June 2009 direct services were provided by approximately 800 employees to a population of 19,657. The majority of staff is located in the correctional facilities to provide direct care. They provide comprehensive services from admission to discharge. These services include intake and suicide assessments, specialty and chronic care clinics, laboratory, radiology and dental visits. There are over 200,000 visits to Correctional Managed Health Care social workers, psychologists and psychiatrists per year. In addition, Correctional Managed Health Care employees see approximately 600 inmates at sick call on an average day and daily care for 189 inmates in facility based infirmary beds. On average approximately 8 inmates are housed on a daily basis at the John Dempsey Hospital.

Given the direct care provided to inmates by University of Connecticut Health Center and Correctional Managed Health Care employees, we would request these employees be covered by the same nondisclosure provision proposed for the Department of Correction employees in this legislation and ask that the bill be amended to include our staff. We are aware that a similar bill was recently voted out of the Judiciary Committee, **SB 221**, we have also requested to be included in that bill.

Thank you for the opportunity to speak to you today in support of this bill and the inclusion of University of Connecticut Health Center employees who work directly with the inmate population.

other testimony from Luther Weeks, from Connecticut Voters Count about the specific language.

I'm more from the experiential side, not the legal side, and I know, unfortunately, you have to parse all those -- all those words in the documents. I can only tell you what I experience hands-on with the Registrars as they go through these audits.

REP. SPALLONE: Well, that makes a big difference to us to hear what it's like in the field, so I thank you for -- for coming up to tell us about that.

TESSA MARQUIS: Thanks for working on this. It's exciting, fun work, actually.

REP. SPALLONE: Okay, thank you.

TESSA MARQUIS: Thank you.

REP. SPALLONE: Next speaker is Kevin Brace.

In addition, just wanted to let the speakers know this, when -- identify yourself for the record. And also, it's always good at the outset to let us know which bill you're discussing for the purpose of the transcript.

KEVIN BRACE: Good morning. My name is Kevin Brace, and I am the chairperson of the Correctional Staff Health and Safety subcommittee. I am also a correction officer at Northern with over 15 years of service. I am here today to testify about Raised Bill Number 423.

As you have heard in last week's testimony about H.B. 5404, our state's correction staff

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AND ELECTIONS COMMITTEE

March 12, 2010
10:00 A.M.

are very worried about inmates obtaining our home addresses through Freedom of Information. The danger to corrections staff and their families is very real.

I am here strongly urging changes to this bill before you vote this bill out of committee. This bill does not protect correctional staff from the disclosure of addresses on land records, maps and surveys, trade names certificates, dog licenses, vital records, lists of appointed and elected officials, meeting minutes, petitions and, most importantly, registry and enrollment lists of voters.

Thank you for allowing me to testify.

REP. SPALLONE: Thank you very much for your testimony.

I think that, you know, maybe we'll hear from town clerks or other recordkeepers about this, but as you know, the Freedom of Information law requires disclosure of anything unless it's exempted by a state agency upon request.

It doesn't really speak to recordkeeping per se, and I think you may get some reaction from recordkeepers that it would be almost physically impossible to suppress addresses and names from public documents, like land records and things.

Has that been brought to your attention?

KEVIN BRACE: It has. I've talked to my town clerk, and we have a difference of opinion on this bill, obviously, but is it more difficult to -- to go -- you know, take the time to redact home addresses from information that

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AND ELECTIONS COMMITTEE

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they give out for correctional staff or is it harder for me and the rest of my correctional brothers and sisters to protect our families?

You know, every -- I've taken a big risk even coming here and testifying. The inmates know that I'm here. They know that I'm against FOI. They read the paper. And, you know, I can't help but to wonder every time a car drives down my street that doesn't belong there. I mean, your guard goes up a little bit.

You know, if the inmate -- if the -- if the -- if the request is coming from an inmate, that should raise an alarm bell in the town clerk's mind that, well, wait a minute, this is coming from a correctional facility, because all of -- all the envelopes that leave correctional facilities are marked as such.

So while it might be difficult, I don't feel that it's impossible.

REP. SPALLONE: Thank you very much for your testimony.

Any further for Mr. Brace? Any questions? If not, thank you for coming up today.

KEVIN BRACE: Thank you.

REP. SPALLONE: Next speaker is William Jenkins.

WILLIAM JENKINS: Good morning.

... that's the one where it requires the Elections Enforcement Commission to respond in writing within ten days to any question from a treasurer.

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AND ELECTIONS COMMITTEE

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REP. SPALLONE: Anything -- anything further?

Okay.

Any further questions? All right, well, thank you for coming in today.

WILLIAM JENKINS: Okay. Thank you.

REP. SPALLONE: That concludes our public list, at least as it currently stands. So we move over to legislators and agency representatives.

First would be Eric Turner from the Freedom of Information Commission. All right. We'll recall names when people aren't present.

The next would Sandra Sharr from the Department of Correction.

There we are. Thank you, good morning.

SANDRA SHARR: I think we're on here. Okay. Thank you.

Good morning, well -- Representative Spallone and honorable members of the Government Administration and Elections Committee, I'm Sandra Sharr, legal director for the Department of Corrections, and I'm here this morning to speak against Section 1 of Raised Bill 423.

HB5404

Commissioner Brian Murphy would have been here today, but he had a conflict, so he sends his regards.

In 1995, the legislature recognized the importance of shielding addresses of judges, magistrates, policemen, DOC employees, prosecutors and public defenders.

Over the years, the legislature saw fit to afford other employees this protection, employees of the Division of Criminal Justice, the Judicial Branch, DCF, et cetera, because they found that these particular public employees are uniquely at risk as to their safety and security by virtue of their employment. The need for this protection has not dwindled.

The law, when it was passed, had a carveout for DMV records. Now eight additional carveouts are being proposed. These proposed carveouts, in effect, would strip the protection that previous legislators felt were so vital to these specific classes of employees. The DOC takes exception to the release of these documents without redaction of staff names and addresses.

Prior testimony was provided to this committee on Raised Bill 5404 regarding inmate access to staff personnel, medical or similar files. As stated in the earlier testimony, inmates access staff information for intimidation and harassment purposes. A current example of why some inmates are seeking home addresses of staff is to file a lien against an individual's property.

This filing of false liens as a means of harassment against public officials and employees is a practice employed with some regularity nationwide by inmates, criminal defendants and disgruntled litigants.

Inmates copyright their names, obtain a UCC filing number from the Secretary of State's office, then, upon locating the residential address of a staff member, place a fraudulent

March 12, 2010

My name is Kevin Brace and I am the Chairperson of the Correctional Staff Health and Safety Sub-Committee. I am a Correctional Officer at Northern Correctional with over 15 years of service.

I am here today to testify about Raised Bill No. 423

**AN ACT CONCERNING RECOMMENDATIONS OF THE
CONNECTICUT TOWN CLERKS CONCERNING
DISCLOSURE AND ELECTIONS LAWS.**

As you heard in last weeks testimony about HB-5404 our State's Correctional Staff are very worried about inmates obtaining our home addresses through Freedom of Information. The danger to Correctional Staff and their families is real.

I am here strongly urging changes to this bill before you vote this bill out of Committee. This bill does not protect Correctional Staff from the disclosure of addresses on:

(c) The provisions of this section shall not apply to Department of Motor Vehicles records described in section 14-10, or to any municipal clerk or registrar of vital statistics who discloses any of the following documents that may contain the residential address of a person described in subsection (a) of this section:

- (1) Land records, maps and surveys;
- (2) Trade names certificates;
- (3) Dog licenses;
- (4) Vital records;
- (5) Lists of appointed and elected officials;
- (6) Meeting minutes;

(7) Petitions; and

(8) Registry and enrollment lists of voters.