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**TESTIMONY OF
SUSAN O. STOREY, CHIEF PUBLIC DEFENDER**

**JUDICIARY COMMITTEE PUBLIC HEARING
CRIMINAL JUSTICE REFORMS
NOVEMBER 27, 2007**

The Office of Chief Public Defender appreciates the opportunity to testify on the various Judiciary Committee proposals which have been drafted in response to the tragic events in Cheshire. It is my understanding that these proposals have been drafted principally for the purpose of targeting those individuals who are considered to be the most dangerous to society and to segregate them from society for lengthy periods of time if not indefinitely. While the protection of society is certainly a consideration for this Committee, these proposals are drafted in the broadest sense and will also result in the incarceration of people who may not have a history of violence or be an actual threat to society.

For more than a decade, Connecticut criminal justice agencies and this Committee have been discussing prison overcrowding and the wisdom of funding for increased re-entry services for non-violent inmates to safely reintegrate into their communities. However, these proposals relegate re-entry and pre-trial alternatives to incarceration to a minimal role due to the enormous costs of building more prisons and incarcerating people for longer periods of time. If judges will be mandated to sentence violent offenders to longer terms of incarceration, then they also must be provided with a wider array of community programs to choose from and they must have the support of this Committee to sentence non-violent offenders to them. Community service, mental health and substance abuse programs are still under-utilized for non-violent offenders, who take up prison bed space that should be reserved for the most dangerous offenders.

It is also true Connecticut incarcerates more people per capita and more children and adults of color than almost any other state. Our own experience and that in other

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states has shown us that mandatory minimums and 3-strikes legislation increases the likelihood that more minorities will be targeted and incarcerated, and family structure destroyed. Such facts should concern all of us when additional statistics show that one in six of Hartford's children has a parent or parents in prison and research shows that this single fact puts children at increased risk of entering the criminal justice system.

The proposals also provide for large increases of financial resources to DOC, CSSD and Parole for the purpose of monitoring people on probation and parole. The Office of Chief Public Defender requests that this Committee also consider that these changes in legislation would necessitate increased resources, staff, and funding for public defender offices representing persons charged with persistent offender and 3-strikes offenses, and domestic violence crimes. This request is made in anticipation of the increased caseloads and trials which the Office of Chief Public Defender believes would result from legislative proposals carrying increased mandatory minimum and life sentences which under Connecticut law will necessitate a hearing in probable cause. Currently prosecutor staff in the Part A Judicial Districts outnumber public defender staff at a ratio of two to one. Furthermore, while not opposed to more funding for victim services, our Office has received no funding for additional staff comparable to that provided to Criminal Justice for the rapidly growing domestic violence dockets in New London, Norwalk, and New Britain. Recently, both the American Bar Association and the American Council of Chief Defenders re-affirmed the caseload limits as established by the National Advisory Commission on Criminal Justice Standards and Goals in 1973 which are lower than those established by the settlement agreement in *Rivera v. Rowland*.

The Office of Chief Public Defender also requests that it be included in the list of state agencies designated to create the *SHIELD Criminal Justice Information System*. The intent of the system is to facilitate information sharing between "all state agencies". The Office of Chief Public Defender requires access to much of this information in carrying out its state and federal constitutional obligation to provide effective assistance of counsel to indigent persons accused of crimes. To further this obligation, The Office of Chief Public Defender is included on the Governing Board of CJIS. The Connecticut Practice Book and Connecticut Statutes require that defense counsel have access to copies of warrants, police reports utilized by the court to establish probable cause, copies of documents and exculpatory evidence through the discovery process, and pre-sentence investigation reports. Exclusion of the Office of Chief Public Defender now, in the planning stage of a new and advanced technology system, would be shortsighted and would require prosecutors and clerks to supply paper documents to the defense rather than electronic copies of evidence that the defense is entitled to as a matter of right.

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The Office of Chief Public Defender would be opposed to certain proposed legislation as follows:

- *Three Strikes* legislation which requires the imposition of a life sentence upon persons convicted of any felony, including less serious non-violent felonies and drug possession offenses; a recent Quinnipiac Poll noted that only 35% of voters support a "third strike" law where a person convicted of three violent felonies automatically is sentenced to life in prison and 63% said that the sentences should be decided on a case-by-case basis;
- *Elimination of court discretion* to determine whether "such person's history and character and the nature and circumstances of such person's criminal conduct indicate that extended incarceration will best serve the public interest. . ." when a person is charged with violating any of the persistent felony offender statutes;
- *Requiring a statement on the record* by the prosecutor and judge "concerning such person's history and character and the nature and circumstances of such person's criminal conduct" whenever a person is convicted of a felony as the legislation appears to substitute such statements for the exercise of discretion by the court pursuant to current law;
- *Mandatory Minimum Sentence* legislation which eliminates all discretion from the court to consider any mitigating information pertaining to the defendant and requires that the court impose a mandatory sentence regardless;
- *Consecutive sentences* for convictions of certain offenses which arise from the same incident for the same reasons as articulated in regard to mandatory minimum sentences;
- *Internet Access* to certain information pertaining to a person on parole and probation as such impacts negatively upon the re-entry efforts of the person in obtaining housing including public housing, employment, and education;
- *Appellate and Habeas Corpus* time constraints in capital felony cases where a person is sentenced to death in regard to the filing and/or briefing deadlines of such; and
- *Elimination of Parole* legislation for offenses other than Capital Felony, as lack of parole oversight does not enhance public safety upon a person's release.

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The Office of Chief Public Defender has **concerns** and requests inclusion in the discussions pertaining to the following proposals as drafted which would:

- Allocate substantially more financial resources for *construction of new prisons* (1000 bed medium security and 1200 bed medical and mental health unit) while allocating substantially less financial resources for *re-entry services* and for only 3 Connecticut cities;
- Allocate financial resources for *staff secure residential sex offender treatment* facilities which are undefined under the proposal;
- *Create a Parole Registry* and a *new Felony* for failure to register with the Commissioner of Public Safety and maintain current information while on parole; and,
- *Require a mandatory psychiatric examination* of a person prior to release from incarceration on parole and other release programs if convicted of sale or possession of controlled substances, even if a non-violent offender.

Thank you for the opportunity to address the proposed legislation.