

STATE OF CONNECTICUT

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

Michelle S. Cruz, Esq.
State Victim Advocate

Testimony of Michelle Cruz, State Victim Advocate
Submitted to the Judiciary Committee / Appropriations Committee
Thursday, October 16, 2008

Good afternoon Senator McDonald, Senator Harp, Representative Lawlor, Representative Merrill and distinguished members of the Judiciary and Appropriations Committees. 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 provide testimony regarding the implementation of the Criminal Justice Reform Bill (Public Act No. 08-01) as well as the effects that the budget crisis has had, and no doubt will continue to have, on the criminal justice system. While the Criminal Justice Reform Bill does not directly affect the operations of the Office of the Victim Advocate (OVA), the OVA is required to evaluate the delivery of services provided to crime victims by state agencies and other entities. In that, the OVA has a significant interest and responsibility for ensuring that the implementations made by the respective agencies in response to the Criminal Justice Reform Bill are fair and equitable for crime victims in Connecticut.

I would like to share with all of you my impressions of Connecticut's criminal justice system as I have focused on it for the last year. I have traveled around the state, visiting many state's attorney's offices, victim advocates, victim service providers, law enforcement officials and others working within the criminal justice arena. The issues raised by many professionals in the system are the same issues being faced across the country. Those of resources, heavy criminal dockets and prison overcrowding are among the most prevalent, certainly not unique to Connecticut.

I have also had the opportunity to meet with many victims of crime this past year. Likewise, crime victims have expressed similar frustrations with the lack of resources, heavy criminal dockets, issues of public and community safety and, still report that they feel a lack of recognition or inclusion within the criminal justice process. I have spent a great deal of the last year conducting programs of public education and outreach to the community in an effort to raise awareness about victims' rights, the services that are available to crime victims and the existence of the OVA. Although, Connecticut is a leader in the victims' rights movement, we are not immune to the nationwide problems that inadvertently impact crime victims and the criminal justice process.

In response to the horrific tragedy in Cheshire last year, this legislature passed Public Act No. 08-01. The classification of "home invasion" as a separate crime honors the memory

of the Petit family; however, like many laws passed as a result of tragedy, the impact of the law will be measured by its usage. Equally, the improvements to the persistent offender statutes will also be measured by usage. Too often, sentencing decisions are made, not based on an offender's history of previous conduct and the facts of the case, but on pressures of an overburdened system. Defendants reaching the classification of "persistent offender" must be recognized for this achievement; not rewarded for the misplaced fiscal responsibility of the rising prison population. My hope is that the new legislation regarding persistent offenders will prove to be a workable tool for States' Attorneys throughout Connecticut to hold offenders accountable for their acts and consistent disregard for the criminal justice system.

The overhaul of the Board of Pardons and Paroles (BOP), along with the enforcement of existing laws that require critical information be provided to the board, brings the professionalism and experience necessary for the difficult task of deciding whether to release an inmate into the community. The addition of two full-time victim advocate positions within the BOP will undoubtedly enhance the process of victims' participation at parole hearings. However, I must reinstate my objection to the addition of subsection (c) of section 13 of Public Act No. 08-01. As I interpret this statute, the only apparent benefit of this section is to **limit** victim participation, the opposite of its intended purpose. Subsection (a) defines a crime victim for the purposes of a parole hearing. Once that determination has been established, subsection (b) permits "any victim" to appear before the panel for the purpose of making a statement for the record. Prior to the addition of subsection (c), the BOP did not have the discretion to limit the number of victims permitted to address the panel; the definition of crime victim in subsection (a) satisfies that purpose. My understanding of the history regarding the purpose of this legislation was to clarify for the BOP who could offer statements at a parole hearing; the end result, however, addressed the BOP's concern but has the potential negative effect to limit victims' participation, which may not have been foreseen at the time. It is contradictory to provide two victim advocates for the BOP while, at the same time, granting the BOP the discretion to limit victim participation in these important hearings. During the next legislative session, I strongly urge the Judiciary Committee to consider the unintended consequences of subsection (c).

The issue of financial resources is life long. There will never be enough money to fund every program, to satisfy every agency, to correct every deficiency and to secure financial stability to every resident of the state. I applaud the efforts of those of you who work so passionately and diligently to accomplish the insurmountable task of deciding where the money goes. There is no question that dedicating financial resources to proven effective programs will benefit the long-term goals. In terms of the criminal justice system, there is a responsibility to ensure that there are enough prosecutors, enough public defenders, enough court staff, enough victim advocates, enough judicial marshals, enough probation officers, enough parole officers, enough correction staff, enough police officers, etc. for the administration of justice as well as the protection of citizens of the state. The simple fact is that the needs will always outweigh the available financial resources.

In regards to the OVA, this fiscal year we suffer the loss of \$4000.00 to our budget. Although, at first blush this reduction to our budget appears to be minimal, the reality is that the OVA has operated, since its inception, on a tiny budget. Additionally, the OVA is facing additional budget cuts for the fiscal year 2010. Now I realize that the economy has taken a steep downward turn and every agency is facing cutbacks, and I appreciate that I have not been faced with the L word, layoff or such. However, despite the drop in the economy, the sad truth is that crime will continue to climb and, some have even suggested an increase due to the economy. Any further reduction to the OVA's budget will have the effect of limiting education and outreach, limiting assistance in court for crime victims, and reducing educational materials to crime victims, to name a few repercussions. This may not seem like a large loss, but as I have traveled the state and met with many of the key players in the criminal justice system, I have been routinely asked to describe the difference between the OVA and the Office of Victim Services. I have routinely answered the calls of crime victims who have suffered years in darkness only to find, on a whim and by chance, that the OVA exists and can address their needs, but, sadly, we cannot turn back the time and repair the damage done. One of the key elements to moving Connecticut further in the field of victims' rights is and will always be education and outreach. Additionally, I currently have three full time staff persons and one part-time staff person. I am grateful for the dedication, drive, and passion of my staff. When I first arrived at the OVA, the office was run by only myself and Merit Lajoie. I can tell you that the two of us, although full of energy, passion and dedication to this very important cause, could not produce the quality and type of work that the OVA is currently producing. The main reason for this added efficiency is the ability to delegate tasks, have an office assistant to answer the phone which never stops ringing, and have the ability to really work up our cases and plan our strategies to address the needs of Connecticut crime victims.

As the State Victim Advocate, I can definitively identify two specific areas of deficiency that have a significant impact on the services available to crime victims. The first is the lack of appropriately staffed court based victim advocates. When it comes to court based victim advocates, we fall so far short of what is appropriate and necessary to handle the ever growing court dockets in the state. There are a total of forty-six criminal courts in Connecticut; there are currently twenty-six court based victim advocates. In addition to that, the existing court based victim advocates are limited to providing services to victims who sustain physical injury only. Translation, victims of burglary, larceny, arson, kidnapping, identity theft and even the newly defined crime of home invasion, absent any physical injury, will be left to navigate the criminal justice system without the benefit or services of a court based victim advocate. Now I must state, for the record, the twenty-six court based advocates are doing a tremendous job at handling their caseloads; however, in order for justice to be provided to the crime victim, Connecticut simply needs to properly staff the court with advocates for all victims. This is a gap in services for which I proposed legislation last year and I will continue to work with both the Judiciary and Appropriations Committees to resolve the issue. Section 14 of Public Act No. 08-01 ensures that crime victims participating in the parole process have the benefit and assistance of a victim advocate. We currently ensure that all crime victims have the benefit and assistance of a victim advocate at the end of the criminal justice process but

not at the beginning or during the journey through the criminal justice system. I know we can do better.

The second is victim notification. I applaud the inclusion of the establishment and implementation of a state-wide automated victim information and notification system (SAVIN) to provide notice of relevant offender information and status reports (section 31 of Public Act No. 08-01) and the recent allocation of funds for SAVIN. Soon after my appointment in November of 2007, I was invited to participate on the Governing Board for the establishment and implementation of SAVIN, led by Linda Cimino, Director of the Office of Victim Services, Judicial Branch. Through the discussions of the Governing Board, it appears that there is a heavy focus on strict adherence to section 32 of Public Act No. 08-01, with regards to the types of notification provided to crime victims through SAVIN. Section 32 of Public Act No. 08-01, states that a victim of crime who has requested notification will receive notification through the SAVIN system prior to acceptance of a plea agreement by the court. There are many, many important events, beginning with the arrest of an offender, all through the criminal justice system, until the eventual end of sentence and release of the offender, where crime victims have a constitutional right to notification.

I recently attended the National Organization for Victim Assistance Annual Conference, which was co-sponsored by Appriss, the only agency which provides automated notification technology. I had the opportunity to learn a great deal more about the capabilities of the SAVIN system and of the benefits and assurances that are available to crime victims and the community. I also had the distinct honor and privilege of meeting Pat and John Byron, founders of the Mary Byron Project, named after their daughter whose life was taken as a direct result of lack of notification. Mary's ex-boyfriend kidnapped and brutally raped her; he was arrested and later released from prison on bond. Sadly, neither Mary, nor her parents, were notified of his release. On Mary's 21st birthday, unaware of his release, Mary was murdered by her ex-boyfriend. Pat and John Byron became the face of automated victim notification and helped to launch, through the Mary Byron Project, the first SAVIN system. We've made a commitment to establish and implement the SAVIN system. We now need to make the commitment to maximize our investment by providing crime victims and the community with notification that is timely, meaningful, accurate and life saving.

Currently, crime victims have the opportunity to register for notification of a defendant's release with the Victim Services Unit, Department of Correction (VSU/DOC). Crime victims can register once the arrest has taken place and will receive notice of the defendant's status but only if the defendant remains incarcerated. There is no system to provide notification of pre-trial hearings, motions, plea bargains, sentencing hearings or other pre-conviction events. Notification provided by VSU/DOC is operational 24 hours a day; 7 days a week. Post conviction notification, only if the defendant is incarcerated, includes notice of parole hearings, transitional supervision release, sentence review/reduction petitions, escape, death, other sentence modification petitions or end of sentence release dates.

Crime victims may also register for notification with the Office of Victim Services, Judicial Branch, but only after the conviction. And likewise, the notification of the defendant's status, including certain post conviction remedies sought by the defendant, would occur only if the defendant is incarcerated. At this time, there is no process in place for a crime victim to receive notice when a defendant files an appeal of their conviction or a habeas corpus petition wherein the petitioner is challenging his/her underlying conviction. In fact, the OVA has had reports of cases where a defendant has filed an appeal, had their appellate hearing and, unfortunately, the victim receives notification of the status of the appeal, such as an overturned conviction, from a media source. The SAVIN system has the capability to provide all of the types of notification I have discussed, and much more. Connecticut has always been a leader in the area of victims' rights and a model for other states; to under-utilize the SAVIN system would not only be a missed opportunity for the state but would also be a paradox to Connecticut's leadership role across the country.

In light of the social economic climate across the country, the state, private citizens, and the business industry are each seeking ways to save, skimp and stretch their financial resources. When an individual is victimized by crime, there is an additional financial burden placed upon that victim and generally at no fault of their own. In some cases, crime victims may be eligible for assistance through state and federal resources. Others, however, are not afforded the same luxury, such as in cases of property offenses. The burden can be as modest as a broken window caused by vandalism. Yet, a family already struggling to pay their bills may not have the 3, 4, or 500 dollars needed to repair that window. At present there is no fund available to assist the property offense victim. Additionally, in cases where there is some financial assistance to the crime victim, often the assistance cannot properly cover the costs to the family. One instance of this is the cost of funeral expenses in the case of a homicide victim. Although, there is some assistance available to crime victims for funeral expenses, the total financial cost to the surviving family member of a homicide victim is well over the allotted reimbursement. These are issues that we, as collaboration, need to address.

The OVA was fortunate enough to have a summer intern conduct a study of offender versus victim funding. The intern was asked to seek out all funding sources for offenders and likewise, for victims. The numbers, while not surprising, are astounding. Please understand that I am in no way suggesting or advocating that the funding for offenders and the funding for victims should be equal. I understand all too well that organized, structured, appropriately supervised, and accountable re-entry programs are a good investment and provide needed safety for crime victims when their offenders are released, especially since the majority of offenders will be returning to our communities. However, the financial resources and programs committed to offenders, and paid largely by the tax payers of the state, should be reexamined carefully. Now more than ever people are concerned about where and how **their** money is being spent. At the same time, the public is very concerned about their personal safety and that of their family.

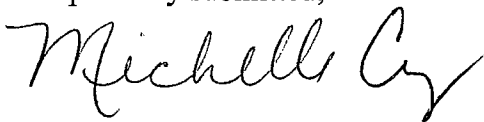
As I stated earlier, there will never be enough money to fully fund every program for every need. Nevertheless, the state has a significant responsibility to its residents,

especially during such economic turmoil, to ensure that the money being expended for programs is money well spent. I bring to your attention the recent news articles of the nearly \$1 million dollar a year contract being spent on GPS tracking systems to assist the probation department in the supervision of sex offenders. The public has freely expressed overwhelming support for this program, as they should. Although not every program can be guaranteed successful; the public confidence is challenged and shaken when these types of mishaps occur. The end result is that the public not only feels the loss of safety and security for themselves and their family, but also the financial loss. The GPS tracking system is an important program as it serves as a tool for gauging compliance and accountability of dangerous offenders and I support its use in the future. However, the glitches need to be addressed so that crime victims as well as the public can continue to support reentry strategies of offenders. Furthermore, I believe we need to continually evaluate Connecticut's offender programs, address issues quickly and ensure the original goals established when funding for these programs was delegated are being met. We also should have the courage to discontinue programs that are no longer successful or the goals are no longer desired.

It should be known, that the OVA's mission is not only to address gaps in services to crime victims and address problems in services rendered to criminal victims, but also commend individuals and agencies that are in the field, working hard, and restoring integrity to the criminal justice process by taking that extra step. I have made it a point to write letters of acknowledgement to individuals and agencies who have conducted themselves in a way that restores crime victims' faith in the system. Today, in the Hartford Courant there was an article about the Hartford Police solving a cold rape case from 1994. The victims' relative contacted the police, requested they take a second look at the case, and as a direct response to both the urging of the victims' family members and the dedication of the Hartford detectives there was a DNA hit and an arrest. It is my experience that there is a lack of recognition for the good work that is being done. I believe that we need to address problems, but also highlight accomplishments. Everyone can point out short falls, but we also need to become better at supporting each other.

Thank you for the opportunity to testify and for your consideration of my comments. I would be happy to answer any questions that you may have.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michelle Cruz", with a stylized flourish at the end.

Michelle Cruz, Esq.
State Victim Advocate