

CONNECTICUT LEGAL RIGHTS PROJECT, INC.

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JUDICIARY COMMITTEE

Testimony of Thomas Behrendt Regarding Raised Bill No. 5651:

**AN ACT ADOPTING THE RECOMMENDATIONS OF THE REPORT OF THE
COMMISSION ON PRISON AND JAIL OVERCROWDING.**

March 13, 2006

Senator McDonald, Representative Lawlor, and members of the Committee:

I am the Legal Director of the Connecticut Legal Rights Project (CLRP), and am here to comment on Raised Bill No. 5651: An Act Adopting the Recommendations of the Report of the Commission on Prison and Jail Overcrowding. CLRP is a statewide non profit agency that provides free legal assistance to low income adults with psychiatric disabilities on matters related to their treatment and civil rights.

I am testifying today to emphasize the need for measures that will assure that existing alternative incarceration programs for adults are modified to allow equal access for persons with psychiatric disabilities. As the Prison and Jail Overcrowding Commission and others have repeatedly observed, Connecticut systematically excludes persons with psychiatric disabilities from AIC's. From the latest PJOC Report:

Due to their psychiatric disabilities or co-occurring disorders, individuals who would otherwise qualify for alternatives to incarcerations are excluded. This cohort of individuals also serve the maximum amount of their sentence.

[T]here still exists a significant population of 3,012 inmates (2,167 sentenced and 845 pre-trial) identified by DOC with a mental health score of 3 who remain incarcerated often due to a lack of appropriate community-based resources.

Individuals with psychiatric disabilities... have limited access or are denied access to Alternative to Incarceration Centers due to the lack of programming to address their clinical needs. As such, this population typically remains incarcerated through the pre-trial process and more often serves a greater proportion of their sentence with the Department of Correction.

The indisputable fact is that this state excludes persons with mental illness from alternative incarceration programs and is failing its citizens. Such exclusion constitutes illegal discrimination in violation of the State and Federal Constitutions and under the Americans with Disabilities Act. It is inhumane and unconscionable.

We support the bill. The PJOC recommendations and the legislation before you are on the right track; however, though they do not go far enough. Similar recommendations were made and came before the legislature in the past, and there is scant evidence of progress.

We have all been aware of the problem for a number of years. Although there have been laudable studies, reports, recommendations, and legislation, the state has failed to take significant action to address the harmful, needless, and discriminatory incarceration of people with serious psychiatric disabilities. What we have learned from the studies and work groups is that many of these people stuck in prison are pre-trial defendants; many are indigent and confined on relatively minor offenses with low bond amounts. It is clear that were it not for having a serious mental disability they wouldn't be there – they would be “doing their time” in the community.

Together with the ACLU of Connecticut, the Office of Protection and Advocacy for Persons with Disabilities, the Bazelon Center for Mental Health Law, and a number of other organizations, we have met and corresponded with Commissioners Lantz and Kirk, Judge Pellegrino, and Bill Carbone, of Court Support Services Division, as their agencies are responsible for administering the AIC programs and mental health services. The meetings have been useful and informative. But despite thoughtful collaboration between agencies, and despite the good efforts of the PJOC's Behavioral Health Work Group and constructive recommendations that found their way into PJOC annual reports, our clients have seen minimal progress.

One problem may be the failure of the state to allocate sufficient resources to implement the recommendations of the PJOC and its Alternative Incarceration and Behavioral Health Committees and Work Groups.

But a larger problem is the almost exclusive emphasis on developing small segregated programs for persons with psychiatric disabilities while there is little or no movement (or will) to provide equal access to existing AIC programs for persons with psychiatric disabilities.

The segregated programs, called Mental Health Alternative Incarceration Centers (MHAICs), are envisioned as small and well staffed. They are for “mental health 4's” (moderate impairment from psychiatric condition, mental illness of sub-acute or chronic nature) and, if they get off the ground (there have been zoning problems thus far), would be a significant step toward addressing the exclusion of a limited number persons with psychiatric disabilities. However, the state should broaden its focus and look to the excellent, less segregated models elsewhere in the country that provide longer term solutions for a much larger number of individuals.

As the January 2006 PJOC Reports states, there are still “3,012 inmates (2,167 sentenced and 845 pre-trial) identified by DOC with a mental health score of 3 (mild or moderate impairment with latent or chronic mental illness) who remain incarcerated often due to a lack of appropriate community-based resources.” If we are truly resolved to address this problem and eliminate the programmatic discrimination that has been tolerated for far too long, then the state must place

greater emphasis on making modifications to existing programs to afford equal access for individuals with disabilities.

Thank you for your attention to this matter and for the opportunity to testify.

H.B. 5542: An Act Concerning the Rights of Inmates with Psychiatric Disabilities.

I also wish to briefly address H.B. 5542, An Act Concerning the Rights of Inmates with Psychiatric Disabilities. We strongly agree that individuals confined in correctional institutions as prisoners or detainees who have been diagnosed with, develop, or are at a risk of developing psychiatric disabilities have the right to receive clinically appropriate, individualized, culturally competent services. They deserve protections similar to those found in Section 17a-540 – 17a-550 of the General Statutes – the patients’ bill of rights for persons in psychiatric facilities.

However, rather than amending Section 17a-540 et seq., we believe it advisable to have these protections codified in the statutes governing Department of Corrections facilities. In addition, new protections should be consistent with the provisions of the settlement agreement in *Connecticut Office of Protection and Advocacy for Persons with Disabilities v. Choinski, et al.* (United States District Court, District of Connecticut, Civil Action No. 3:03CV1352, March 8, 2004).

Thank you very much.

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