



STATE OF CONNECTICUT
DEPARTMENT OF CORRECTION
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Testimony of Theresa C. Lantz, Commissioner
Department of Correction
Before the Judiciary Committee
March 13, 2006

Good afternoon Representative Lawlor, Senator McDonald and distinguished members of the Judiciary Committee. It is my pleasure to come before you today to speak on a number of proposed bills on the agenda, which have a bearing on the Department of Correction. They are:

H.B. 5540, AAC Staffing Standards of the Department of Correction
H.B. 5542, AAC The Rights of Inmates with Psychiatric Disabilities
H.B. 5612, AAC the Department of Correction
H.B. 5651, AAC Adopting the Recommendations of the Report of the Commission on Prison and Jail Overcrowding, and,
H.B. 5784, AAC The Board of Pardons and Paroles

Let me begin by speaking in **opposition to H.B. 5540, AAC Staffing Standards of the Department of Correction** – which I believe is not necessary nor in the best interests of my agency and state taxpayers.

My priority is the safety of the public, my staff and the inmates. My agency is at the present time appropriately staffed at a level that insures the safety of all involved and the security and order of our facilities.

Presently, the Department has 4,029 filled Correction Officer positions, with 158 vacancies. This equates to a vacancy rate of less than four percent for Correction Officers and a staffing ratio of approximately 4.5 to one.

Each year, and as operational needs change, the post or staffing plans at all 18 correctional facilities are reviewed to ensure that the staffing levels continue to be appropriate to safely carry out our mission.

Since the inception of a revised shift relief factor, which eliminated the consideration of inflationary factors to include sick time and workers' compensation, correction officer overtime, compared to last fiscal year, has been reduced by 10.34% or 187,021 hours.

In addition, holdovers or drafting of correction officers for mandatory overtime have been reduced by 36.40%.

The current shift relief factor stands at 1.6 staff required to fill each post on a facility's staffing plan.

The majority of our correctional line staff works a 5-3 schedule, with five (5) days on and three (3) days off in an eight-day period. In addition to these three regular days off, staff may take accrued time on their scheduled workday. Each facility has an established number of time-off allotments that may be granted.

This bill would artificially create a need for almost 1,400 additional correction officers through the inclusion of sick time and workers compensation utilization in the shift relief formula.

The cost of salaries for 1,400 additional correction officers equates to \$90,836,144 for the first year, \$94,336,927 for the second year and \$98,677,270 for the third year.

This bill is not necessary and is certainly not fiscally prudent and I ask that you oppose it.

The next bill that I speak in **opposition to is H.B. 5542, AAC The Rights of Inmates with Psychiatric Disabilities.**

This bill seeks to undo the Connecticut Supreme Court decision in *Wiseman v. Armstrong*, 269 Conn. 802 (2004), which held that The Patients' Rights Act does not apply to offenders in correctional institutions.

This bill seeks to make four provisions of the Patients' Rights Act applicable to "any correctional facility in which inmates who are persons with psychiatric disabilities are being treated." I cannot support this bill, as it will seriously and adversely affect my ability to maintain safety, security and good order within the correctional facilities. In addition, the costs of complying with certain provisions would be exorbitant.

As clarification, patients within DMHAS are confined because of their mental illness. That is, but for their mental illness, the patients would be at liberty in the community. In the DOC, the inmates are confined in relation to criminal actions. That is, regardless of mental health status, they are confined because they have either been convicted of committing a crime and/or are being held in lieu of bond as they are accused of committing a crime. As such, inmates are confined for completely different reasons than patients in DMHAS facilities.

The bill states that the provisions of the Patients Rights Act would apply to "...any correctional facility in which inmates who are persons with psychiatric disabilities are being treated." This definition is inexplicably broad and unmanageable. We have many offenders who may be on medication, including over the counter medication such as Benadryl, to help them sleep or relax, merely because of anxiety related to incarceration. Does this mean that the requirements of the Patients Rights Act would apply to these offenders? We also have many offenders who are quite high functioning and are clinically stable when on medication. The psychiatric illness of these offenders is well controlled and they are confined throughout various facilities within our Department. Would the four provisions of the patients' rights act apply to every inmate who is on medication and/or who sees a mental health professional throughout the Department? If so, this bill could apply to many thousands of inmates throughout the Department and would adversely affect staff's discretion as to where inmates should appropriately be housed and how to appropriately maintain safety and security in our facilities. This bill would have the effect of creating two different sets of inmate rights that apply within a correctional facility depending upon whether an individual is receiving treatment for a psychiatric condition or not.

Given confidentiality requirements, correctional staff cannot always be expected to know whether an inmate is receiving care for a psychiatric condition. This is particularly so, when staff has to respond to situations involving inmates to enforce control and good order. If there is a disturbance, such as a fight, escape, a riot or even an evacuation of a housing area, it would be impractical and unreasonable to forbid correctional staff from restraining an inmate without a physician's order as the third provision of this bill suggests.

The four provisions of the Patients' Rights Act that this bill seeks to make applicable within correctional facilities are the following:

First, provide that no patient could be put into a mechanical restraint or seclusion unless there is imminent physical danger to the patient or others and a physician so orders. (§ 17a-544)

With regard to this first provision, the Supreme Court in the Wiseman decision noted, “It is simply not always possible within a correctional institution to wait for a physician's order before restraining an inmate. Indeed the very nature of a correctional institute often requires individuals to be restrained in some manner or to be placed in seclusion under immediate and unexpected circumstances”.

Currently, our use of restraints is specifically and strictly regulated by agency Administrative Directives and can be carried out only with the approval of a supervisor. There are often situations, when for the safety and security of the inmate, staff, other inmates and the general public, it is not possible to first wait for a physician's order. The Connecticut Supreme Court recognized this fact and I would ask this committee to acknowledge and not allow this provision applicable to corrections.

The second provision of the Patients Rights' Act that this bill seeks to make applicable to inmates would require that we provide inmates with psychiatric disabilities the right to actively participate in the planning or execution of a discharge plan. (§ 17a-542)

This curtails our discretion as to where an inmate can and should be appropriately housed while incarcerated. When we transfer or assign an inmate to a correctional facility, we have to take in account many factors, such as program and treatment needs, security requirements, separation issues, medical needs, and protective custody needs. This bill would result in us losing the necessary discretion as to where to assign and appropriately house inmates. Again, in the Wiseman decision, the Connecticut Supreme Court noted that the authority to transfer an inmate to any correctional facility is reserved to the Commissioner, and could not be limited by an inmate's discretion. I would ask that you not subjugate my authority and that of my staff, and allow us to continue to solely determine an inmate's custody and housing assignment.

The third provision relates to how we would have to administer medication to offenders, specifically if it was necessary to do so involuntarily. This provision is overly burdensome and costly, and would necessitate the utilization of psychiatrists not assigned at the facility the inmate is being treated, as well as would require an

order from a Probate Court if medication needed to be administered involuntarily after 30 days. (17a-543)

The last provision of the Patients' Rights Act, which this bill seeks to make applicable to the DOC, is to allow a patient to bring suit for money damages if any of these provisions are not complied with. (§ 17a-550) This will certainly increase costly litigation from inmates challenging their treatment and conditions of confinement.

In my role, the state statute (Sec. 18-81) mandates, "The Commissioner of Correction shall administer, coordinate and control the operations of the Department and shall be responsible for the overall supervision and direction of all institutions, facilities and activities of the department." This is not a responsibility that should be shared with inmates. I believe this bill would seriously impair my ability as Commissioner to manage the offender population within a correctional setting and would jeopardize the safety and welfare of my staff and inmates. I strongly urge opposition to this bill.

I would next like to speak in **support of H.B. 5612, AAC the Department of Correction** as this is one of our agency bills. It encompasses a number of initiatives that I will briefly explain.

Section 1 creates an annual transfer of funds in the amount of \$350,000 to the DOC from revenue generated from the DOIT contract with MCI for the inmate phone monitoring system. By way of history, let me say that we had once received this money through the budget through Special Act 01-01. The money would be utilized for education and re-entry initiatives, such as the Relapse Prevention Re-entry Program, which is delivered just prior to an inmate's release, and the Program Integration Pilot Project, which supports offender efforts to obtain employment. The primary goal of these programs is to enhance the transition from incarceration to the community and to reduce both technical violations and recidivism.

I would also like to highlight an area of interest for the families of inmates, as well as being of special interest to Senator McDonald, since it was championed by his mother when she served in the Senate, in regards to Public Act 02-104. This Act directed the Commissioner of Correction to "...establish a pilot program to allow an option, to be made available to inmates of a unit under said commissioner's control, for payment of telephone service by use of a debit account system or other similar system, in lieu of collect calls, under which funds may be deposited into an

inmate's account in order to pay for station-to-station telephone service for such inmate."

This program allows people who are on an inmate's "call list" to establish an account into which they deposit funds to be used, instead of traditional billing for collect calls. The rates for use of the service are 25% lower than the existing long distance collect call rates.

I am pleased to report that the pilot program went into effect on June 23, 2004 at Brooklyn CI, has been subsequently offered at Enfield CI and will be rolled out to Cheshire CI in the near future with further agency expansion.

Section 2 includes the Department of Correction and the Board of Pardons and Paroles to the list of criminal justice agencies authorized to purchase and receive delivery of body armor. It also authorizes DAS to purchase for and deliver body armor to the Department and the Board.

Section 3 is a technical revision regarding the calculation for earning presentence confinement credit for unpaid fines. The new calculation will reflect the average daily cost of incarceration and is consistent with the changes made in Sec. 12 and Sec. 13 of Public Act 04-234, AAC Prison Overcrowding regarding the payment of fines.

Section 4 repeals two statutes and they are as follows:

§18-87m regarding the Alternatives to Incarceration Advisory Committee is now obsolete. The Committee's statutory mandate expired June 30, 2005.

§18-62 repeals another somewhat obsolete statute having to do with co-correctional facilities at the Hartell/ DWI Correctional Unit (Windsor Locks) and the Western Substance Abuse Treatment Unit (Newtown), which no longer exist. The Northeast Correctional Center (Mansfield), now named Bergin Correctional Institution, only houses low security, adult male inmates. All female offenders are housed at the York Correctional Institution in Niantic.

Let me be very clear, by repealing this statute, there is no intent to establish co-correctional facilities. However, in the event of an emergency evacuation involving life safety, we would need the ability to temporarily house female inmates at male facilities, but in totally controlled and separate areas. The statute as it presently reads would prohibit this.

Next, I would like to address and **support H.B. 5651, AAC Adopting the Recommendations of the Report of the Commission on Prison and Jail Overcrowding.**

This year's PJOC report dated January 15, 2006 encompasses many broad, comprehensive, inter-agency initiatives to support the success of the criminal justice system. Because it is the final report of its kind, the members of the Commission took great efforts to provide recommendations that could be seen as short- and long-term strategic goals to enhance public safety. Realistically, and in light of the fiscal note to each, I don't think any of us expected that all of the recommendations would be implemented in this current mid-term budget session. We look forward to the implementation of the OPM Criminal Justice Planning Unit in July of this year. Any recommendations that are not adopted this session may certainly be further explored within the new context of the PJOC.

I am pleased that the Governor's budget for the DOC did address parts of the PJOC Report Recommendation # 4 by including two additional parole officers, 30 GPS monitoring units, \$500,000 as a collaborative share of a mental health alternative incarceration center, and the funding for eight part-time schoolteachers for Manson Youth Institution, all of which support the DOC comprehensive re-entry strategy and will enhance our offender re-entry efforts.

Lastly, I would like to speak in **opposition to H.B. 5786, AAC The Board of Pardons and Paroles.**

Over the course of the last three years, I have established as a priority for my agency the enhancement of public safety through the implementation of the Re-entry Model. With the support of the Governor, this and other legislative committees, and many others in state government, we have been working to better prepare offenders for a successful re-entry back into law-abiding society. As you know, at least 95% of offenders will be discharged from incarceration and they will in almost all instances return to the community from where they came. It is clear that discharging offenders into the community with no support does not engender success.

As an agency, we have committed ourselves to the creation and implementation of a comprehensive re-entry strategy that will enhance public safety, impact recidivism, decrease our prison population, and insure that our finite correctional

budget is prioritized towards those who require a secure prison bed because of the risk they pose to the community.

One of the major tools that has been essential in our ability to carry out this strategy was the consolidation of the community supervision component of the former Board of Parole with the Department of Correction, which was authorized in Public Act 04-234. We joined as one of 36 states that currently have this organization structure of parole supervision under the commissioner of correction.

For my agency and more importantly for the offender, this has insured a continuum of custody, care, treatment and expectations to be law abiding, from the first day of incarceration, to the last day of supervision in the community. From that first day, re-entry is now the focus for my staff, and for the inmate.

Inexplicably, H.B. 5786 seeks to undo all of the time, resources and effort the Department and the Board of Pardons and Paroles has put forth to implement the provisions of P.A. 04-234. I strongly believe to reverse course now would be the wrong decision, and would adversely impact our re-entry efforts and the progressive and positive benefits that it holds for our State and the offender population.

This bill would create the full establishment of a “new” agency. This will inevitably have considerable fiscal implications. In effect, this bill diverts the attention and concentration of limited state resources from the direct delivery of services to the community and the offenders, and invests it in the establishment of a redundant bureaucracy. Better to invest in parole officers, probation officers, our community providers and institutional programs than to replicate the DOC’s already established and accomplished organizational infrastructure.

As Dr. James Austin noted in his presentation last week, successfully implemented reforms have already averted future correctional costs keeping the Department of Correction budget relatively stable. But as he also stressed, further re-investment in the targeted communities needs to be realized.

With the merger of parole oversight in the community within the Department of Correction, we have successfully implemented a unified and uniform approach to managing offenders in the community. It took time, collaboration, planning, and great efforts just to get to where we are today. There were bumps along the way. But we continue to address and resolve any issues, and more importantly, we continue to invest in our front line staff and services and their success. We took

two distinct community supervision systems and formed a comprehensive, more efficient and I believe more effective supervision model for the state. In fact, for the most part, we adopted the former Board of Parole supervision model. So what was, is today. But we know that's not good enough, so we will continue to build upon our successes, learn from the best practices of other agencies, and work on our deficiencies.

In collaboration with the Board of Pardons and Paroles, we have increased the number of offenders discharged to the community under supervision without negatively impacting the crime rate. In fact, the most recent Bureau of Justice Statistics report for 2004 cites Connecticut as having an 8.9 percent increase in parole, a reduction in the overall violent crime rate in Connecticut, and a reduction in the incarcerated population. In 2005, many of these trends were sustained. We also dramatically increased our community residential services, and ensured that each offender is now provided with an individual discharge plan prior to full community release.

And I will point out, that we successfully carried out this merger and increased our community supervised population, at the same time, something you will recall that Dr. Tony Fabelo stressed is very difficult and is certainly not the optimal path to climb.

I will honestly tell you that implementing the many provisions of P.A. 04-234 came with many challenges. It has been no small feat to merge two agencies and their distinct cultures and create one community supervision model. Not everyone likes change, and I can respect that not all staff embraced the idea of working for the largest state agency. But we are all public servants, and we all must stay focused on what is right for public safety. Having experience with instituting major organizational change, I know it takes time and an unwavering commitment to see it through. Let me state very clearly today, that I and my agency are fully committed and motivated to the success of the Re-entry model, public safety and the goals of PA-04-234.

I think it's important that I share with you some of the efforts we are undertaking or plan to implement to further our success. We are currently implementing the Offender Accountability Plan in our system. It sets clear expectations with the offender throughout incarceration and into the community. It allows us a formal opportunity to set goals with the offender, monitor the progress of the offender and to reinforce the offender's accountability to be productive and law-abiding.

We have hired, extensively trained and fully outfitted 53 new Parole Officers, more than doubling the complement since the time of the merger. A training committee comprised of parole and DOC academy is currently developing enhanced in-service training, to include real-life scenarios, use of force, and motivational interviewing and counseling techniques. We have developed policies and procedures, implemented a Field Operations Manual and a Program Services Manual, and we have decreased the average caseload of parole officers to support their efforts in appropriately managing offenders with emphasis on reducing technical and criminal violations.

The Department, in collaboration with the Board of Pardons and Paroles, has funded two research projects with CCSU. The first is a revalidation of the Salient Factor Risk Assessment instrument, which we expanded to include those with short sentences, and the second is a recidivism study that will give us the necessary benchmark data to measure our performance. This gives us the baseline to measure our performance as it relates to the goal of achieving a 20% reduction in technical violations in support of PA-04-234. I am confident that our performance in parole supervision will be an improvement over the national failure rate of parole supervision, which has been at 55% over the last decade.

We have also developed unprecedented collaborations among our state agency partners. On a near daily basis, representatives or services from Judicial's Court Support Services Division, The Board of Pardons and Paroles, The Department of Mental Health and Addiction Services, the Department of Social Services, the Department of Labor, the Department of Children and Families, the Department of Veterans' Affairs, the Office of the Child Advocate, and others are in our correctional facilities. We all recognize that serving the citizens of Connecticut include supporting the needs of offenders and their families, and that working together, we can improve efficiency and enhance public safety.

Also, our relationships with our non-profit providers of both residential and non-residential services have grown considerably over the past few years with collaboration that has been extraordinary, to the benefit of everyone, most importantly, the offenders. We could not be successful in our efforts without their commitment and dedication to us and their communities.

In Connecticut, we have turned the tide on prison expansion. For 15 years we experienced constant growth in our incarcerated population, the type of growth that the majority of other states continue to experience today. But, in the last 3 years, we have seen a significant and sustained reduction in the incarcerated population

that Dr. Jim Austin noted last week has taken our daily count far below what was forecasted, with fiscal savings that approach many, many millions. But as our learned statesman Bill Dyson points out, we can do better.

Based on the success of the CSSD pilot related to reducing probation technical violations, we will replicate that pilot by designating one parole officer at each district office to manage a special caseload of those who are targeted as violators. Instead of returning them to confinement, our staff will provide the intensive supervision and support needed to redirect the offender. This, in conjunction with all parole staff training on “best practices” supervision techniques, should show promising results. In addition, we are seriously exploring the concept of a “halfway back” program in the community with a non-profit provider. This pilot would divert offenders destined to be returned to incarceration and provide intensive residential supervision and services.

I am proud of my staff both in the facilities and in the community, and all that they have accomplished. I have asked them to do more than they have ever been asked to do in their careers. They continue to amaze me with their dedication to public safety, public service and drive to earn public confidence. I am grateful and appreciative of the continuing support of the governor, the legislature, our sister state agencies, the non-profit community providers, and most importantly, my staff.

I recognize that there is momentum to separate the parole supervision component from the Department of Correction, as this bill proposes. I would ask that you carefully scrutinize all of the ramifications that this bill proposes and not support it. Let us continue to invest our efforts in public safety, our staff, the direct delivery of services to the offenders and the community, and maintaining the continuum of custody, care and supervision under one agency. It makes little sense to focus time, energy and resources on the establishment of a costly, redundant and unnecessary infrastructure. Please allow us to continue to build upon and enhance the system we have worked so hard to create.

Thank you for your time and I welcome any questions you may have.