



Office of Chief Public Defender

State of Connecticut

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TESTIMONY OF
CHIEF PUBLIC DEFENDER GERARD A. SMYTH
**CONCERNING S.B. No. 1320 (RAISED), AN ACT TO INCLUDE STATE
PROSECUTORS WITHIN THE DEFINITION OF "HAZARDOUS DUTY"
MEMBERS FOR THE PURPOSES OF THE STATE EMPLOYEES
RETIREMENT SYSTEM**
Appropriations Committee
March 18, 2005

SB No. 1320 would include prosecutors in the definition of "hazardous duty member" for purposes of the state employees retirement system. If this bill is approved by the Committee, I would respectfully request that public defenders and public defender support staff be similarly included because of the real and substantial risks and hazards that public defender staff face in carrying out their duties.

As attorneys, investigators and social workers for accused persons, and as secretaries and clerks in public defender offices, employees of the Division of Public Defender Services work in close physical contact on a daily basis with clients and other individuals who may be violent, threatening, aggressive and sometimes mentally ill. This contact occurs in public defender offices, courthouse lockups, courtrooms, correctional facilities and in the community. In each setting, there are numerous examples of threats, assaults, health risks and other hazards to which our personnel are exposed.

Incarcerated clients are held in courthouse lockups, many of which require the public defender or support staff to meet with the clients under circumstances in which they are not physically separated and are sometimes in a room with multiple prisoners at the same time. In the courthouse lockup setting, numerous incidents or exposures have occurred, including:

- In 1976 a public defender was shot and wounded with a police officer's gun by a prisoner in the lockup in the Waterbury GA courthouse.
- Public defender in Danielson was vomited on by a female client who had tuberculosis, requiring in 7 months of treatment and x-rays resulting in the loss of feeling to some extremities.
- Public defender in Stamford was hit in the face by a client with his handcuffs, resulting in broken eyeglasses and facial injury.

- Public defender in the Bridgeport JD Courthouse lockup was punched in the head and knocked down after giving a client some bad news about his case.
- Public defender in Meriden was choked by a client in a jury room in response to bad news, requiring sheriffs to pull him off of her.
- Physical threat to public defender in Norwalk and attempt by an inmate to break a mesh screen with a chair to get at the attorney, resulting in an arrest.
- Assault and choking of a female public defender by a female client in Manchester GA.
- Public defender having a table slammed into him and being struck in the chest by a client in a lockup interview room, resulting in the arrest of the client for assault.
- Public defenders being caught in lockups in the midst of altercations amongst inmates or explosive behavior requiring intervention by marshals.
- Attempt by a client to attack his public defender in the Waterbury JD lockup, requiring the prisoner to be restrained.
- Personnel being threatened by a client in the lockup, including a threat to kill an attorney and investigator communicated by a psychiatrist.
- Being spat at in the eye, requiring a public defender to undergo HIV testing.
- Numerous other incidents of being spat upon, as well as exposures to TB, hepatitis and other communicable diseases requiring medical testing.
- Frequent threats by clients that have been communicated to personnel by other prisoners in the lockup.
- Frequent direct face to face threats by clients to public defenders, including threats to kill their attorney upon release from prison.
- Dealing with a high percentage of mentally ill clients in a confined setting.

In courthouses and courtrooms, personnel have been threatened, physically assaulted and seriously injured. Examples include the following:

- Public defender punched by client in front of the judge in New Haven GA, resulting in a broken nose, chipped tooth and mouth lacerations.
- Public defender punched by client in court in Norwich GA, requiring medical treatment and possible concussion.
- Public defender punched by client in the face in front of the jury during trial in Hartford GA.
- Public defender in New Haven GA being punched solidly in the throat by a client after requesting a competency exam, causing him to drop to the floor and be temporarily unable to breathe while sheriffs piled onto the defendant.
- In Waterbury a client broke loose from sheriffs and put his hands around his public defender's neck and attempted to choke him while being brought into the courtroom for a court hearing.
- A special public defender was sucker punched by his client during a sentencing in Milford, causing severe swelling and bruising around the eye.

- A public defender in the JD in Bridgeport was attacked by a woman who rushed the defense table and punched him after a not guilty verdict was read. A melee broke out in the courtroom.
- At least four additional incidents of attorneys being assaulted in courtrooms by clients.
- Threats by a victim to kill a public defender, resulting in additional courthouse security.
- Verbal threats of bodily harm by an individual with a violent history and serious paranoia, resulting in the public defender being given police protection. (The individual subsequently killed someone else in the community.)
- A prisoner who removed a razor blade from an arm cast in the courtroom in close proximity to the public defender.
- Numerous verbal threats of bodily harm requiring precautionary measures.
- Security precautions being required in situations where clients had made threats to “go off” if things didn’t go well.
- Threats and physical intimidation to a public defender by the parent of a juvenile client.
- A public defender having the mother of a juvenile client throw a soda bottle at her.
- An investigator in the New Haven courthouse physically intervening to protect a marshal who was being assaulted by an individual who had run through the metal detector.
- Clients getting enraged, losing their temper and becoming hostile and threatening when unfavorable plea offers have been communicated to them.

Incidents have also occurred in correctional institutions. Examples include:

- A social worker being attacked by an inmate in a private interview room. The assault was stopped by a co-worker and another inmate who pulled the attacker off her in response to her screams.
- Frequent incidents of being locked in interview room alone with an inmate and being unable to get a correctional officers attention for an extensive period of time in order to be let out.
- Being threatened while alone with a client while visiting at a correctional facility.
- An incident at Walker Reception Center where a client got upset and out of control, requiring intervention by a correctional officer.
- An appellate lawyer being threatened with death in anti-Semitic tones by a client after losing an appeal.

There have also been serious incidents in the community:

- Attempt by a client to run two public defenders down on the street with his automobile, resulting in his arrest.

- Incident of a female public defender being stalked by a client, requiring State Police protection.
- Assault of an investigator by an individual while interviewing a witness in her home.
- Phone calls threatening to kill a public defender, followed by an investigation that revealed maps to the public defenders house in the suspect's home and warnings of danger by the individual's psychiatrist.
- Death threats involving an alleged "hit" ordered by a victim's family against 2 public defenders, resulting in an investigation by the State Police and one attorney wearing a bullet proof vest during the sentencing hearing.
- Two known incidents of female employees being stalked by clients near courthouses, requiring law enforcement intervention.
- An attorney and an investigator being approached in an intimidating manner in a housing project by two young men who appeared to be armed.
- Attorney being surrounded in a house by a group loyal to a victim while conducting an investigation.
- An investigator, while serving a subpoena in Bellevue Square in Hartford, having a juvenile throw a caustic solution in the direction of her face, resulting in a skin irritation and pitting of her eyeglasses.
- An investigator, while investigating a larceny case for Juvenile Court in Hartford in 1980 or 1981, was attacked in the parking garage of G. Fox in an attempted purse snatch. She was pushed down the stairwell and cut, requiring stitches.
- An investigator receiving a bomb threat at his house, requiring notification of the State Police bomb squad and New London States Attorney's office.
- Two investigators in Father Panik Village, Bridgeport being surrounded in their car under frightening circumstances by a group of approximately 20 drug dealers who stayed around the car as they attempted to back out and leave the area
- An investigator driving in Hartford on Albany Ave while on a case when the driver of the car in front of me was struck by a bullet in a drive-by shooting and crashed. A large crowd formed and she had to seek refuge in a store.
- An investigator, while serving a subpoena for a witness in a trial, was trapped between the witnesses van and her house with only an inch between her and the van as the witness tried to hit her with the van.
- An investigator, while in the Gowanus Housing Project in Brooklyn NY was at a traffic light when a male suddenly lunged at the car, reached in and put his hand around her neck in an apparent robbery attempt.
- An investigator and a public defender had their car pelted with rocks while investigating a drug case in Father Panik Village in Bridgeport.
- A public defender in Milford received a call at home from a fugitive client who was being sought by the Fugitive Task Force and was known to be dangerous. Police were sent to the attorney's home to provide protection for his family and the suspect was shot and killed by police when apprehended at another location.

There are other risks and hazards associated with this work:

- A secretary being threatened by clients and their relatives who are furious about something, and picking up an object on the counter and throwing it at her, just missing her eyes.
- Unarmed investigators routinely going into high crime neighborhoods to investigate cases
- Threatened retaliation against an attorney by gang members for representing a gang member who testified against another gang member in Hartford.
- Vulgar and intimidating sexual references directed at female employees by inmates.
- Two letters received in 1998 by an attorney in Bridgeport from a sentenced client threatening to kill him upon release. The client remains incarcerated but is eligible for release in 6 years.
- Feeling threatened by a paranoid-schizophrenic murder client's loud voice and demeanor while interviewing him in an isolated visiting room at the Bridgeport jail.
- A public defender receiving a phone call from DOC internal security at Northern CI, warning that they had intercepted a phone conversation in which his client, a Latin King gang leader, told a family member that when he came to court that morning the attorney would be killed.
- Several incidents of HIV and AIDS testing due to exposure from bleeding clients.
- Investigators being exposed to unfriendly dogs, IV needles, hostile witnesses and other hazards when going into homes to conduct investigations.
- Voice mail threats to kill or injure being left on office telephones, causing considerable fear and anxiety.
- A New Haven public defender was contacted by a psychiatrist from a state hospital and warned that a female client was having homicidal ideations towards her.
- A public defender being told by a client that he would kill him, his family and burn his house down while revealing his knowledge of where the public defender lived.

All of these are examples of the types of risks, dangers and hazards that employees of the Division of Public Defender Services are exposed to on a daily basis in carrying out their duties. Other incidents too numerous to detail have occurred. Of their nature, they clearly demonstrate that public defender employees are engaged in "hazardous duty" and should be so classified for retirement purposes.

As to the attorneys in particular, it is also extremely important that they remain in parity with prosecutors for retirement purposes. By statute, public defenders are granted salary parity with prosecutors and are paid under exactly the same salary schedules. If the Division of Public Defender Services is to continue to be able to recruit and retain attorneys on an equal basis with the Division of Criminal Justice, it is important that the retirement benefits for both agencies remain the same. Otherwise, we will be disadvantaged in our ability to attract skilled and talented lawyers who are needed to maintain balance and fairness in the criminal justice system.