STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR
PERSONS WITH DISABILITIES
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Testimony of the Office of Protection and Advocacy for Persons with Disabilities
Before the Public Health Committee

Submitted by: James D. McGaughey
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Good morning, and thank you for the opportunity to comment on two of the bills on your agenda today. I apologize for not being available to testify personally, but a long-standing obligation requires me to be in Washington, D.C. at a meeting with our agency's federal partners. Gretchen Knauff, Assistant Director, will present testimony in my stead. She and other members of our staff will also be present at the hearing to respond to questions.

The first bill I want to address is **Raised Bill No. 1194, AN ACT CONCERNING NOTIFICATION OF THE OFFICE OF PROTECTION AND ADVOCACY FOR PERSONS WITH DISABILITIES OF DEPARTMENT OF CORRECTION INMATE SUICIDES AND DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES CLIENT DEATHS.** This bill was requested by our Office, and I want to thank the Committee for raising it.

This measure would require that our Office be notified about deaths of people with psychiatric disabilities that occur in State facilities so that we can monitor or initiate investigations as envisioned in our federal authorizing legislation. Specifically, Section 1 would require the Commissioner of Correction to notify our Office of inmate suicides and apparent suicides, and to provide, in a timely manner, the medical and mental health records of inmates who commit suicide, along with any related video recordings. It would also require DOC to furnish a copy of any internal investigation reports within five business days of completion of those reports. Section 2 would require the Commissioner of Mental Health and Addiction Services to notify our agency of the deaths of any DMHAS clients who are inpatients in a state hospital, or a state-funded hospital bed in one of the private psychiatric hospitals.

The Office of Protection and Advocacy for Persons with Disabilities was established to safeguard the civil rights of people with disabilities. Many of these people are vulnerable to abuse and neglect, either because of the nature of their disabilities or because of the particular circumstances under which they are living or receiving services. In fulfillment

of our various federal and State legislative mandates, we approach our safeguarding role by conducting investigations and by pursuing various advocacy activities. However, to effectively fulfill the role of independent watchdog, we need to be consistently made aware of events that might raise questions about neglectful treatment or system barriers in the delivery of mental health services.

For instance, OPA's federally mandated Protection and Advocacy for Individuals with Mental Illness (PAIMI) program has authority to independently investigate suspected neglect or abuse of people with mental illness housed in facilities, including hospitals and correctional facilities. Over the past ten years we have conducted investigations into a number of deaths of people with psychiatric disabilities, including DMHAS patients and several inmates who committed suicide. While not every inmate who commits suicide is ultimately shown to have had a record of treatment for mental illness, the fact of committing suicide is considered sufficient "probable cause" under the PAIMI Act to initially presume that the inmate was mentally ill, and to initiate an investigation. (Please see, OPA v. Armstrong). However, because there is no current requirement that DOC provide our office with notice when an inmate commits suicide, we cannot be sure that we are initiating all of the inquiries that we should be. If we read about it in the newspapers or otherwise hear about it, we can initiate an inquiry; if we do not hear about it, we cannot do so. Similarly, if we receive information about an allegedly untimely death of a patient in a psychiatric hospital, we can initiate an inquiry. But, there is no systematic way of ensuring that information about the circumstances of patient deaths is being independently reviewed and that investigations are pursued into those cases that raise questions.

This bill would address this problem, at least with respect to people who are hospitalized or incarcerated. In addition, because we have experienced considerable delays in obtaining certain records related to DOC inmate suicides, the bill would also establish some minimum requirements for timely release of records and internal investigation reports. Again, I thank the Committee for raising this important bill, and urge you to act favorably on it.

The other proposal I want to comment on is **Raised Bill No. 7007, AN ACT CONCERNING THE DEPARTMENT OF MENTAL RETARDATION.** As I am sure everyone is aware, this bill is the result of a process involving considerable outcry from the Department's constituency and some very thoughtful analysis and recommendations by the Department itself. As I testified last year, the term "mental retardation" was adopted in a progressive attempt to move beyond pejorative clinical terms that had been used by professionals to classify people (e.g. clinical classifications such as "idiot", "moron", "hi-grade", "low grade", "feeble-minded", etc.). It is ironic that that term has also come to be used as a vernacular put-down. While the professional organizations that debate and ultimately define such things are moving toward conceptual alternatives (e.g. "intellectual disability") - alternatives that may or may not ultimately escape vernacular degradation - the least we can do is remove reference to the term "mental retardation" from the name of the agency through which people receive services. A newly named "Department of Developmental Services" accurately describes the type

of assistance people can currently expect from the agency, and allows for future expansion or clarification of eligibility mandates without requiring them, or creating the impression that they already exist. I urge you to support this measure.

Thank you for your consideration. If there are any questions about our position on these bills, or if Committee members would like to discuss my comments, please feel free to contact me.