



# 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  
Thursday, March 26, 2009**

Good morning Senator McDonald, Representative Lawlor and distinguished members of the Judiciary Committee. 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 concerning:

Committee Bill No. 646, An Act Excluding Sexual Assault and Other Violent Crime Victims From Jury Service in Certain Criminal Cases  
House Bill No. 6245, An Act Concerning the Recommendations of the Task Force on Domestic Violence in Immigrant Communities  
House Bill No. 6532, An Act Concerning the Statute of Limitations for Bringing an Action for Damages for the Sexual Assault of a Minor  
House Bill No. 6705, An Act Concerning Habeas Corpus Reform

Victims of violent crimes often suffer many years of trauma associated with the crime, particularly sexual assault cases. In some instances, the trauma experienced by victims does not surface and/or is often not diagnosed for a period of time. Symptoms can range from nightmares, anxiety, physical ailments and post traumatic stress disorder. Committee Bill No. 646 will establish a process for victims of violent crimes who have been called for jury service in certain criminal cases to be excused. I strongly urge the committee to support this important proposal for the well being of violent crime victims.

House Bill No. 6245 proposes many improvements to the way the criminal justice system responds to domestic violence, including domestic violence cases involving issues of immigration. However, the current response to domestic violence by the criminal justice system is severely inadequate. Violations of orders of protection are routinely ignored; violations of probation are overlooked; and repeat domestic violence offenders are enabled by a failed system. Of course the Office of the Victim Advocate (OVA) supports any and all efforts that truly improve the way the system views and reacts to domestic violence.

Having said that, the OVA has concerns regarding Section 3 of the proposal which will require the Judicial Branch to assign at least one victim advocate in each geographical area court where there is a dedicated domestic violence docket. Here is the issue: Currently, there is already at least one domestic violence victim advocate in every geographical area court; as many as five (5) advocates in some of the courts. The Judicial Branch, through the Office of Victim Services (OVS), contracts with the Connecticut Coalition Against Domestic Violence (CCADV), the lead non profit

domestic violence organization in the state, to provide these advocate services to victims of domestic violence in each of the geographical area courts. Therefore, if there is a need for more domestic violence advocates, then OVS should provide additional funds for CCADV to hire additional advocates. However, the OVS currently runs its court based victim advocate program with barely enough advocates to serve the general victim populations. The OVS provides victim advocate services, but only to those victims that sustain physical injury. The OVS has twenty-eight (28) victim advocates, two of which are assigned to the Board of Pardons and Paroles. There are a total of forty-six (46) criminal courts in the state. Put very simply, there are not enough OVS victim advocates to provide adequate services even to those victims who sustain physical injury. This archaic practice leaves not only the entire non-physical injury victim population without the benefit of advocate services throughout the criminal justice process, but those who receive the benefit of an advocate have to share that advocate with hundreds of other crime victims.

The OVA has submitted a proposal to this committee to rectify this problem. House Bill No. 6670, in part, establishes a Victim Service Advocate Program Fund. This fund, over time, would be used to provide all crime victims with a victim advocate throughout the criminal justice process. As part of the proposal, the Governing Board to oversee the fund would have the authority to allocate funds to non-profit organizations, such as CCADV, to fund victim advocate positions as well. The Victim Service Advocate Program Fund would be generated through a fine, \$75.00/felony conviction and \$50.00/misdemeanor, assessed to convicted offenders; the very individuals responsible for bringing crime victims into the criminal justice process to begin with. This committee voted to raise the proposal; a public hearing was held on March 16, 2009 and is now currently awaiting action by the committee.

Rather than burden an already financially stressed state, the OVA strongly urges the committee to consider support of House Bill No. 6670 and hold offenders accountable for the necessity of victim service advocates for all crime victims.

Throughout the country, we are seeing severe cases of the sexual assault and abuse of minors just now coming to light. In many cases, the perpetrators have died, and therefore, the victim will never have the ability to seek justice through the criminal process. The most recent case is that of Dr. Reardon of West Hartford, CT.

Newly discovered evidence, after the sale of his home in West Hartford, confirmed what many had suspected and others knew. Unfortunately for the victims of Dr. Reardon, the statute of limitations to seek damages in a civil action has expired. This proposal will allow a victim of sexual assault to bring an action for damages, even when the statute of limitations has expired, when there is newly discovered evidence. I urge the committee to support the proposal on behalf of minor victims of sexual assault.

It has come to the attention of the OVA that there is concern in both the criminal justice community and the victim community that the current habeas corpus system in Connecticut is flawed and is adversely affecting victims, prisoners and the judicial

system. Because of the multiple habeas corpus petitions that prisoners file, without apparent time limitations, victims feel further victimized because there is no finality in their case.

Likewise, due to the lack of structure for habeas corpus claims, some prisoners mistakenly believe that by simply filing numerous habeas petitions, they will be granted release from prison. While the OVA understands the importance of habeas corpus appeals, a restructuring of the habeas corpus system is a necessity. Excessive filings by prisoners, frivolous claims, judicial backlog and fiscal expense to the state are all indicators of the need to restructure the habeas corpus system in Connecticut.

In an effort to further understand the opinions of other criminal justice agencies regarding a restructuring of the habeas corpus system, the OVA formed a focus group in August of 2008 to study the issue and gather information. A fifty state survey was conducted by the Office of the Chief State's Attorney wherein thirty-one states and the federal government have adopted a statute of limitations for the filing of habeas corpus petitions. The majority of states allow for a one to two year statute of limitations; the federal government provides for a one year statute of limitations.

Most habeas corpus appeals are filed on a claim of ineffective assistance of council, among other claims. In some cases, the ineffective assistance of council claim is being filed as late as ten years and more after the conviction. This becomes problematic as witnesses, including attorneys, may have moved on or even died. Not only is it difficult for the state's attorney to investigate and litigate habeas corpus petitions that are filed after a long period of time, similarly the defense will also experience difficulties in proving their claim for the same reasons. In addition, the trauma of endless and often frivolous appeals, which are a constant reminder of the crime committed against the victim, leads to further harms and a feeling of helplessness for crime victims. Furthermore, in some cases our current system is a tool for the prisoner to abuse the habeas corpus system in order to further victimize the victim and/or their families.

It is important to point out that the habeas corpus proposal offered here today by the state's attorney, provides a safety hatch for claims of actual innocence as well as a mechanism for prisoners who have a valid explanation for their delay.

Connecticut is often ahead of other states with the passage of groundbreaking legislation; unfortunately, that is not the case with a statute of limitations for habeas corpus filings. I strongly urge the committee to support House Bill No. 6705 and bring finality for crime victims as well as the criminal justice system.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michelle Cruz". The signature is fluid and cursive, with a large, stylized "M" and "C".

Michelle Cruz, Esq.  
State Victim Advocate