



# STATE OF CONNECTICUT

OFFICE OF VICTIM ADVOCATE  
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**Testimony of Michelle Cruz, Esq., State Victim Advocate  
Submitted to the Judiciary Committee  
Wednesday, March 9, 2011**

Good morning Senator Coleman, Representative Fox 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:

**Raised Senate Bill No. 954, *An Act Concerning the Electronic Recording of Custodial Interrogations***

**Raised Bill No. 6344, *An Act Concerning Eyewitness Identification***

The Office of the Victim Advocate (OVA) opposes Raised Senate Bill No. 954 as it proposes to bring forth more up-to-date interrogation practices, while simultaneously neglecting to address the financial climate of many of our police departments. As we learned in the investigation of the murder of Jennifer Magnano, some police departments lack sufficient funding to provide police dispatchers 24/7. Unless funds are appropriated for the implementation of electronic recording devices for all of the state and municipal law enforcement departments as well as providing appropriate equipment for the State's Attorneys and Assistant State's Attorneys to review this evidence, the proposed bill is simply another unfunded mandate. The end result of the proposed legislation is that it will place a financial burden on many cash strapped law enforcement departments. Departments who simply cannot afford the required recording equipment will then endure the added costs of sending officers from their department to provide testimony as to why the department did not record the interrogations, wasting precious funds to respond to motions to dismiss and/or suppress by the defense bar. The proposed legislation would likewise create more legal issues for defense attorneys to challenge the investigation of our state's law enforcement officers and delay the criminal proceedings yet again.

Rather than creating a law requiring law enforcement officers to electronically record all custodial statements for certain felony offenses, the OVA strongly recommends that state and local law enforcement departments create a committee to seek out federal and private grants for law enforcement officers throughout the state to receive additional education, training and equipment to enhance our state's custodial interrogations practices.

The OVA certainly understands the intent of Raised House Bill No. 6344, which is aimed at standardizing the eyewitness identification practice in all of the law enforcement departments in the state. The Committee should nonetheless consider that the proposed statutory "checklist" may have the unintended consequence of hampering the law enforcement community from responding to and investigating crimes in an

efficient and timely manner. First, it is common knowledge that in the majority of criminal cases, the offender is someone the victim knows, as opposed to a stranger. Hence in these cases, the "identification process" would be straight forward and the issues that have plagued many of the high profile false identification cases would not be relevant. Nonetheless, as a result of codified statutory eyewitness identification procedures, each and every case would become bogged down with "procedural" requirements, even if unnecessary. Photo arrays and live lineups are not necessary or relevant in a large percentage of the criminal investigations. Therefore, each and every "eyewitness" case would become a checklist, and for the sole purpose of safe guarding the officer's liability and the future prosecution of the criminal case. The police departments would be required to adopt and update scarcely used procedures. For example, in some of the smaller police departments where staffing is limited, it may be fiscally impossible to comply with paragraph (2) of the proposed bill which would require, when practicable, a law enforcement officer who is not aware of which person in the photo lineup or live lineup is suspected as the perpetrator, to conduct the identification procedure. The criminal prosecutions of these cases, if this legislation were to be adopted, would require law enforcement officers to commit copious amounts of times testifying in court as to the feasibility of complying with the requirements of paragraph (2) and the like.

Additionally, the framework of the proposed legislation stems from the 1999 United States Department of Justice, Office of Justice Programs, National Institute of Justice's "Eyewitness Identification Guide for Law Enforcement Officers". Although many of the practices suggested by the National Institute of Justice make good sense, the issue is that the foundation for this legislation is over twelve years. What happens when this guide is updated in the future? We will have codified guidelines that are out of date and have to enact new laws. The language of the guide forecasts that the guide is just that, a guide. As Janet Reno stated, "Although factors...vary among investigations, including the nature and quality of other evidence and whether a witness is also a victim of the crime, may call for different approaches or even preclude the use of certain procedures described in the Guide." With this in mind, I urge the Committee to reconsider codification of these proposed standards as they are merely a framework to guide officers in their investigations, rather than a hard fast set of rules. Law enforcement officers should be informed of the existence of these policies and yet officers must be free to focus on their investigations, applying practices and procedures from these policies that are applicable to their case.

Perhaps the better route would be for the state to seek grant funding in collaboration with the OVA to sponsor a one day training for witness identification procedures, including the best practices for each situation. The OVA could provide a training on the importance of creating a safe environment to take a crime victim's statement, including the reality that often times crime victims and witnesses for that matter, feel rushed or like they are bothering the police when they give their statement, which only serves to harm the integrity of the investigation and subsequent prosecution later on. In my previous life as a state prosecutor, I cannot tell you the numerous times during a trial when a victim would disclose a fact or facts that were not included in the victims' original statement. In the aftermath of the trial, I would inquire

of the victim what had occurred that caused their statement to be less detailed and inevitability, the victim would describe feeling rushed, scared, foolish, shamed or like they were bothering the officer when providing their statement. This is the cornerstone to changing the criminal justice process in the nation and in CT.

Therefore, the OVA urges the Committee to reject Raised Senate Bill No. 954 and Raised House Bill No. 6344. Thank you for consideration of my testimony.

Respectfully submitted,

A handwritten signature in black ink that reads "Michelle A. Cruz". The signature is written in a cursive, flowing style.

Michelle Cruz, Esq.  
State Victim Advocate

