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Testimony of Michael Alevy
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Judiciary Committee Public Hearing – March 1, 2013

**Raised Bill No. 871, An Act Concerning Revisions to Various Statutes
Concerning the Criminal Justice System**

The Office of Chief Public Defender (OCPD) is opposed to the changes as proposed in Sections 4, 5 and 6 of *Raised Bill Number 871, An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System* which would make significant changes to the laws related to the notice pertaining to the presentation of DNA in proceedings and the crime of Voyeurism under C.G.S. §53a-189a.

Section 4 of the bill would impose increased probationary periods of 10 to 35 years for a violation of any section, existing or proposed, of C.G.S. §53a-189a, the voyeurism statute. Such increased probationary periods are currently permissible for conviction of only a limited number of sex or sexually related offenses under C.G.S. §53a-29. The Office of Chief Public Defender opposes the inclusion of voyeurism for this expanded probationary term. Passage of this language would mean that anyone convicted of violating the voyeurism statute, including those who violate it pursuant to conduct that is not sexually related under subsection (1) of the statute, would be subject to the increased probationary term.

If this committee is inclined to permit any type of expansion in this regard however, the Office of Chief Public Defender urges that such expansion be expressly limited to violations of sexual offenses and not to violations of the ‘malice’ subsection of 53a-189a (1) and that language be added that clearly eliminates subsection (1) of C.G.S. §54-250 from this extended period of probation that would be imposed.

Section 5 of the bill will create a new “nonviolent sexual offense” by expanding the definition of such an offense currently found in C.G.S. §54-250. Currently, subsection (1) of the voyeurism statute which proscribes only voyeuristic conduct that is committed with “malice” and *not* for sexual purposes is not classified as a “nonviolent sexual offense”. However, under

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subsection (2) of the voyeurism statute, intentional conduct that is committed with the intent to "arouse or satisfy sexual desire" is classified, under C.G.S. §54-250, as a sex offense. This bill would remove this important distinction between an offense committed for malice versus an offense committed with the intent to arouse or satisfy a sexual desire and combine all voyeuristic conduct to create a new sex offense without requiring any requisite sexually related intention by the actor. As a result, the Office of Chief Public Defender is opposed to classifying an offense that is not a sexual offense as a "nonviolent sexual offense" and requests that language be added that clearly eliminates subsection (1) of C.G.S. §54-250 from classification as a nonviolent sexual offense.

In regard to **Section 6** of the bill, the Office of Chief Public Defender is opposed to the deletion of subsection (c) of C.G.S. §54-86k as proposed. Currently, any party intending to offer DNA evidence in a proceeding must "notify" the opposing party in writing at least 21 days in advance of the proceeding of his/her intention to do so and must also "provide or make available copies of the profiles and the report or statement to be introduced". If the 21 day notice is not complied with, the court has the discretion to bar the presentation of the evidence or grant a continuance to the opposing party.

The deletion of the 21 day time frame will cause delay in court proceedings. Without a time frame, there is nothing to prohibit the prosecution from moving to admit DNA evidence during the trial. This would greatly impact upon the constitutional right to notice of the evidence against the accused and the right to effective assistance of counsel as guaranteed by the federal and state constitutions. Without a time period, the defense's ability to prepare is greatly hindered if not made totally impossible.

If this Committee is intent upon deleting this time frame, the Office of Chief Public Defender requests that the following language be added to the bill as substitute language:

Any party intending to offer the results of a DNA analysis must notify the opposing party of its intention to do so in writing and shall provide or make available copies of the profiles and the report or statement to be introduced. If the notice provided is less than 21 days prior to the commencement of a proceeding, the court shall grant the opposing party a 30 day continuance, upon request.

Thank you for your consideration.