Office of Chief Public Defender
State of Connecticut

30 TRINITY STREET, 4TH FLOOR
HARTFORD, CONNECTICUT 06106
TEL (860)509-6429
FAX (860-509-6499
susan.storey@jud.ct.gov

ATTORNEY SUSAN O. STOREY
CHIEF PUBLIC DEFENDER

Testimony of
Deborah Del Prete Sullivan, Legal Counsel, Director

Judiciary Committee Public Hearing - March 23, 2016

Raised Bill No. 5640
An Act Concerning Compelled Disclosure of
Cellular Telephone and Internet Records

The Office of Chief Public Defender supports passage of *Raised Bill No. 5640, An Act Concerning Compelled Disclosure of Cellular Telephone and Internet Records.* Over the past year, this Office has met with the Division of Criminal Justice to draft legislation that comports with not only new developments in technology, but also developing caselaw. The original legislation passed in 2005, codified as *C.G.S. §54-47aa, Ex Parte Court Order to Compel Disclosure of Certain Telephone and Internet Records,* was a collaborative effort between this office and law enforcement agencies.

However, the rapidly evolving technology has resulted in cellular telephones, tablets and laptops becoming items that everyone possesses, uses daily and relies upon to maintain important information pertaining to one's personal, financial and professional lives. Social media sites possess a wealth of personal and business information. The original legislation provided for limited access to information pertaining to the identity of the subscriber to be disclosed through the ex parte process. It did not authorize disclosure of the content of emails or postings to Facebook and other social media utilizing this exparte process. Nor did the original legislation authorize the tracking of an individual. The tracking ability of cell phones is endless through its programs and applications.

This raised bill defines "geo-location date" and clarifies that the long standing constitutional requirement of probable cause be established to the court before the court can order disclosure of content or geo-location data. If exigent circumstances exist, the bill provides that law enforcement may apply directly to the telecommunications carrier or service provider to obtain geo location date and provides a limited time for such

access as well as criteria that must be met and affirmed under oath. The bill provides a limited retention period and also disclosure to defense counsel in prosecutions. Lastly, the bill provides for the reporting of the number of applications and orders by law enforcement to the General Assembly. Therefore, the Office of Chief Public defender supports this bill and asks that this Committee vote favorably upon this work. Thank you.