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SENATORS: Bergstein, Kissel, Bizzarro, Bradley, Flexer, Haskell, Lesser, Sampson

REPRESENTATIVES: Blumenthal, Rebimbas, Carpino, Concepcion, Conley, Cummings, Currey, Dillon, Dubitsky, Fox, Godfrey, Harding, Hill, Horn, Labriola, Luxenberg, McGorty, Miller, O'Dea, O'Neil, Palm, Porter, Riley, Walker, Young

SENATOR WINFIELD (10TH): Good morning, good morning. I'm going to call to order this meet -- this public hearing of the Judiciary Committee. I believe I'm turning it over to Representative Stafstrom for an announcement.

REP. STAFSTROM (129TH): In the interest of Aviation Security I would ask you to note the location of and access to the exits in this hearing room. The two doors through which you entered the room are the emergency exits and are marked with exit signs. In an emergency the doors behind the legislators can also be used. In the event of an emergency please walk quickly to the nearest exit. After exiting the room go to your left and exit the building by the main entrance or follow the exit signs to one of the other exits. Please quickly exit the building and
follow any instructions from the Capital Police. Do not delay and do not return unless you are advised it is safe to do so. In the event of a lockdown announcement, please remain in the hearing room, stay away from the exit doors until an all-clear announcement is heard.

SENATOR WINFIELD (10TH): Thank you. So we will begin the first hour we will hear from those on the state agency head and elected official list and after that we will alternate between the public and those on that list. We will begin with Chief State's Attorney, Kevin Kane.

ATTORNEY KEVIN KANE: Thank you Senator Winfield, Representative Stafstrom and members of the Committee. My name is Kevin Kane. I'm here as the Chief State's Attorney. With me is Tim Sugrue. There's no seat for him and he might have better answers to questions than I have if you have questions. Would it be all right -- maybe he can just stand up -- so if you have questions I'll call him up if you don't mind if -- if we don't answer the --

SENATOR WINFIELD (10TH): That's fine.

ATTORNEY KEVIN KANE: We're here briefly I hope to talk about Senate Bill 970, AN ACT CONCERNING EVIDENCE SEIZED IN A CRIMINAL INVESTIGATIONS. And I don't ask you to think about this. It seems like what are we doing? Trying to protect the property of a depraved killer and deprive the public of the -- the interest for whatever that may be of reading the depraved killer's writings. That's not what this Bill is really all about, although it's a -- could be a collateral consequence of the law.
But think about this. During the course of investigations police find it necessary to get search warrants from the court, authorizing them to really invade people's privacy, property rights and privacy interests and seize property to see if it contains evidence relevant to a criminal investigation that can be used in court. The 4th Amendment of the Federal Constitution and our State Constitution, our whole legal history protects people's privacy, interests in their property, their records, their documents and their cell phones, and their computers. Lawfully the police properly seize those items. I in the entire time have been a prosecutor until the last few years, never considered that as something that would be subject to freedom of information. We know it can be introduced in court. When it's introduced in court, it becomes a public record and available to the public.

If it's not, think of a situation where the police get a search warrant and seize items like a cell phone. That cell phone can well belong to a victim, a witness or a totally unrelated individual. Just fortuitously the phone happens to be in the procession of the target of a criminal investigation. The idea that out of the contents of that phone or the contents of that record or the contents of that writing or the contents of those documents, whether they be financial records, checks, whatever would be subject to freedom of information just because the police have it is something this court should think about. I mean this court, sorry. It's been a long time since I've been in court -- the legislature, should think about and really needs to think about to try to find the
right balance. I think the issue is fairly -- at least it's obvious to me.

I hope it is to you folks and I'd be glad to sit down and we'd be glad to sit down and try to work and find a balance -- that's a proper balance that protects the privacy rights of innocent people. I don't know how many times I've seen over the years police properly conduct a search of a homicide scene and find evidence that's private that relates to a victim. We have to disclose it to the defense attorney. Maybe a diary of a victim that certainly contains private thoughts and ruminations that really shouldn't be available to the public vendor freedom of information unless a court finds there's a balanced need and a reason to make it available.

Here the -- as the way the Supreme Court interpreted the Freedom of Information Act, it provides that any property seized by the police, just because the police seized it and processed it, is now subject to -- can't be withheld from the public under the Freedom of Information Law. This Bill is designed to correct the balance. We'd be glad to work with anybody whose interested to see if we can find better wording or accommodate the interest here. Thank you.

SENATOR WINFIELD (10TH): Thank you. So for -- for clarification, I thought there were exemptions for privacy. There's none? Are you suggesting that?

ATTORNEY KEVIN KANE: There are certain exemptions. Those exemptions aren't sufficient to cover certain items like here. And Judge Humen and his trial court decision that was reversed by the Supreme Court noticed and described those exemptions are not adequate to protect the privacy rights of
individuals whose records and documents may be seized by the police.

SENATOR WINFIELD (10TH): Are there questions from others?

REP. STAFSTROM (129TH): Chief State's Attorney Kane, so I think you -- you sort of started to touch on this but I want to flush it out a little bit. So I mean really what this Bill -- the end result of this Bill is -- is trying to strike some sort of balance between privacy rights of someone who is charged with a crime, although it may end up subsequently being found not guilty of that crime versus the public's interest to disclosure. And are you suggesting that the language before us doesn't strike the right balance?

ATTORNEY KEVIN KANE: Yes. The language in this Bill I think strikes the right balance. The language of the Freedom of Information Act and the exemptions in the Freedom of Information Act do not strike the right balance.

REP. STAFSTROM (129TH): What was -- prior to the Supreme Court's decision had your office or any of the individual State's Attorneys to your knowledge had this situation arise prior to the Lanza case which ended up getting up to the Supreme Court where there was a request for documents from -- as -- as part of an investigation?

ATTORNEY KEVIN KANE: I have not on my -- no, I do not know of a case where we've had that. I mean the Lanza case was a sensation case. And there hasn't been anything like it. I mean for a whole variety of reasons. That was a horrible, sensational case. But no, we haven't had that problem before. But we
have had numerous cases where the police have executed search warrants or seized property and records that are really private and not just involving a defendant or an accused or a suspect, but involving victims, family members and unrelated third parties; totally innocent, uninvolved third parties that were private and really are something that ought to be -- ought to remain private but we've never -- I've never in my experience had direct requests like this one.

REP. STAFSTROM (129TH): 'Cause I guess what I'm -- what I'm questioning under FOIA law is the -- the property that's seized isn't state property, it's an in -- it's somebody else's property that just is temporarily in the custody of the state.

ATTORNEY KEVIN KANE: That's what we -- exactly. And that's what our first argument was. If this is not records of the state at all, it's private property belonging to an individual who has private property rights and that.

REP. STAFSTROM (129TH): Okay. But that -- that question, I mean it just strikes me as odd that that question sort of hasn't arisen prior to the last year or two. That the law was that unsettled in this area prior to that. Or are you suggesting that the Supreme Court's ruling in the -- in the Commissioner Despi case was a -- was a departure from prior precedent.

ATTORNEY KEVIN KANE: Well I would say, Tim Sugrue is a wiser man than I am, but the Supreme Court ruling surprised me very much. I thought that was a departure from any concept that I ever had over the years, but maybe Tim can explain this one better than I can.
REP. STAFSTROM (129TH): That'd be helpful, thank you.

TOM SUGRUE: I think it was -- it was unsettled law at the time and the Supreme Court just interpreted the FOIA Act and the statutes that we have that relate to search warrants, part of the other argument was that the search warrant statutes were a separate statutory scheme that regulated the procession and disclosure of these items, and that argument didn't work either.

REP. STAFSTROM (129TH): Thank you.

TIM SUGRUE: You're welcome.

SENATOR WINFIELD (10TH): Are there questions or comments from members of the Committee? Seeing none, thank you very much.

TIM SUGRUE: Thank you, Senator.

SENATOR WINFIELD (10TH): Next we will hear from Christine Rapillo, Chief Public Defender.

CHRISTINE RAPILLO: Good morning members of the Judiciary Committee. I'm Christine Rapillo, the Chief Public Defender. With me is Susan Hamilton, our Director of Delinquency Defense and Child Protection. I am going to speak briefly on 964 and then turn the rest of my three minutes over to Susan.

Raised Bill 964, AN ACT CONCERNING COURT OPERATIONS. I'm here to specifically speak in support of Section 3. This addresses a longstanding issue that we've had and we thank our partners of the Judicial Branch for raising this Bill. This would allow us to cost share the price of Interest of Justice Appointments in juvenile matters, which are appointments for
folks who would either not be financially eligible or who don't otherwise statutorily qualify for court-appointed counsel. There was a statutory provision that allows the court in the interest of justice to provide attorneys for them. We have worked with Judicial over the last year to figure out a way to share the cost since there is not an allocation to the Public Defender's Office to cover these and currently under statute we pay for them. I think this proposal addresses -- solves this problem. It provides us with a mechanism to cost share with the branch. It's necessary because we tried to do a memorandum of understanding and the statute was interpreted as prohibiting it. So I would ask the members of the Committee to support that Bill and I'm going to cede the rest of my time over to Susan.

SUSAN HAMILTON: Thank you. Good morning Senator Winfield, Representative Stafstrom and distinguished members of the Judiciary Committee. My name is Susan Hamilton and I am the Director of Delinquency Defense and Child Protection at the Public Defender's Office. And I'm -- I did submit written testimony so I won't read through that, but we are here to testify in support of the intent behind raised Bill No. 7189, which is an ACT CONCERNING THE RESTORATION OF TERMINATED PARENTAL RIGHTS.

This Bill in essence would provide an opportunity for older youth to safely, legally and planful reunify with their parents whose rights had previously been terminated under very limited circumstances. The goal of this is obviously to focus on kids who have been in -- older youth in particular who have been in foster care for a period of time and have not yet been adopted. Have been in
care for a period of three years or more. The parent needs to consent also to the restoration of parental rights, and it provides a way for these youth who are already reaching out to their biological parents and trying to reconnect with them as they are aging out of the foster care system. And this would provide -- provide a legal framework for them to be able to do that with some ongoing DCF oversight, transition planning and court oversight as well.

There are several states across the country that have enacted similar legislation. We do have some concerns about the existing language, the criteria in particular. There may be some fiscal concerns as well with the language as currently drafted. But again this would provide a framework for the kids who are already doing this on their own to be doing it with some support.

And I've had several cases on my -- on my caseload in the past where we have had to try to come up with a real creative way of assisting the child client with doing this on his or her own, and this would just provide a better way for them to do that. And the framework does allow for the court -- requires the court frankly, to make sure they're considering the child's best interest, whether the parent's circumstances have actually changed and that that this would be actually a safe plan for the young person. So with that, I would thank again the Committee for hearing our testimony today and I'd be happy to answer any questions.

SENATOR WINFIELD (10TH): Thank you. Are there questions, comments from the members of the Committee? Representative Stafstrom.
REP. STAFSTROM (129TH): Thank you both for being here. Just quickly on 7189. I was just looking at the testimony from the Judicial Branch who raised some concerns with this. I think sort of to sum it up they have some fiscal concerns, but substantively they seem to also suggest that the language here is unnecessary because currently statute DCF who in most every case would be appointed as the parent after termination has the right to request that custody revert back to the parent. Do you guys want to address that?

SUSAN HAMILTON: Yes, thank you for that question. I am aware of that provision in the statute. It does not allow currently as drafted the child to be the petitioner seeking that. And that existing language only allows DCF to petition to have commitment revoked, which would basically put guardianship back in the parent potentially. It does not reinstate parental rights. They're two separate legal concepts. So I don't think that section as currently drafted goes far enough.

But again, we do recognize that there are some I think opportunities to build some consensus language that would include all of these -- all of these issues. But that existing provision is -- is not sufficient I think to promote the intent of the Bill.

REP. STAFSTROM (129TH): Okay, thanks.

SENATOR WINFIELD (10TH): Are there questions, comments from others? Seeing none, thank you very much for your testimony.

SUSAN HAMILTON: Thank you.
SENATOR WINFIELD (10TH): Next we'll hear from Miriam Delphin-Rittmon.

MIRIAM DELPHIN-RITTMON: So good morning. Good morning Senator Winfield, Representative Stafstrom and distinguished members of the Judiciary Committee. I am Miriam Delphin-Rittmon, Commissioner of the Department of Mental Health and Addiction Services, and I am here today to testify on SB 939, AN ACT CONCERNING PSYCHIATRIC COMMITMENT EVALUATIONS. I am joined by Dr. Charles Dike, the Medical Director of DMHAS and I'm grateful for the opportunity to appear before you and testify on this Bill.

DMHAS is a healthcare agency providing services to individuals with psychiatric disabilities and substance use disorders. The individuals we serve come to our hospitals for care when their illnesses are unable to be managed through community-based care or when they need intermediate to long term care. During inpatient treatment if a patient's treatment team, which would include a psychiatrist determines inpatient care is still clinically indicated and a patient is not willing to remain in the hospital voluntarily, the treating hospital may petition the Probate Court for continued voluntary -- involuntary commitment. Current law requires a Probate Court to obtain two independent physician evaluations of the patient, one of which must be done by a psychiatrist before determining if a patient should remain to be involuntarily committed. This addition -- this is an addition to the original evaluation by the patient's treating psychiatrist. Should it be found that there is a continued need for involuntary commitment, the patient represented
by their legal counsel, may appeal the finding through the judicial system.

Senate Bill 939 will require an independent evaluation by a psychiatrist only, thereby reducing the number of evaluations required by the Probate Court to continue to involuntarily commit an individual from two to one psychiatrist. This one psychiatric evaluation is in addition to the one that was already done through the individual's stay in the inpatient setting.

Senate Bill 939 would provide psychiatrists with immunity from liability when performing court-ordered examinations in commitment cases. This provision adds a codified measure of the boundaries of medical responsibility in an effort to appeal to a broader cohort of psychiatrists willing to accept court appointments. So essentially this -- the other part of this Bill removes liability from -- from psychiatrists from testifying -- or who do court evaluations.

The language in this Bill was submitted to the Judiciary Committee for consideration following the collaborative efforts of the Department of Mental Health and Addiction Services, Connecticut Legal Rights Project, Connecticut Hospital Association, Connecticut Psychiatric Society and the Probate Courts. Happy to answer any questions you may have at this time.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments from members of the Committee? Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman. Good morning.
MIRIAM DELPHIN-RITTMON: Hi, good morning.

REP. REBIMBAS (70TH): Thank you for your testimony. Just some further understanding regarding the request for the immunity regarding any lawsuits. Could you give us an example of something that's taken place that has lead to this request?

MIRIAM DELPHIN-RITTMON: I'm going to ask Dr. Dike to answer that question, our Medical Director.

DIRECTOR CHARLES DIKE: Thank you very much and good morning distinguished members of the Judiciary Committee. As it currently stands the psychiatrist and the physicians who are employed by hospitals are covered by their malpractice insurance to perform work related to the hospital. But when the performed work unrelated to the hospital such as court evaluations, that malpractice insurance does not cover them and therefore the psychiatrist and the physicians are saying that they would not undertake that work because there's no coverage for the work.

I'm not aware where any of them has actually come into any difficulty in the past, but what it has done in practical terms is decrease significantly the pool of individuals from whom we can recruit for our probate court work and that is why even the probate court judges have requested -- support this because of the difficulty in recruiting doctors.

REP. REBIMBAS (70TH): So thank you for your response. Just I guess a followup, more of an educational question. Don't these individual psychiatrists carry their own malpractice insurance that then they would be able to, heaven forbid if there was something wrong, and it doesn't seem like
there's been many lawsuits or any lawsuits at least based on the testimony; that they would be able to use their own versus again -- I mean this is the whole point of this, is to have an independent individual, someone not connected to the hospital, someone not connected to the individual that's being evaluated and we would want a psychiatrist whose actually accredited and licensed, etc. So wouldn't most of them have their own malpractice insurance?

DIRECTOR CHARLES DIKE: Most psychiatrists do not have private, their own individual malpractice insurance. Most people, as I said before, are working under coverage of the hospital or some other entity. Now if you were in private practice then you would have your own malpractice insurance. If you are retired but you wanted to continue to do work like this, you would not have your own malpractice insurance because it's not -- it's not -- it's not cheap to have your own malpractice insurance. There's a cost to it. So most people who are covered by the hospital prefer to have the facility pay for the insurance. I think the only psychiatrist who would have individual malpractice insurance are those who are in private practice.

The difficulty is those in private practice may not have time to perform this time of assessment and so the pool gets really small. And in terms of the liability, the court issue, I don't know if it's because the people are not coming in and we're struggling to find them; that's why we have not had any major issues at this point in time.

REP. REBIMBAS (70TH): Okay. Thank you for your testimony. I guess I see many I guess sides to all this because when you say you're struggling to get
individuals, I can understand and appreciate that if this is certainly an issue. But the work has been taking place so there are some individuals that have availed themselves to the probate court.

I guess my other concern is if we're trying to target those who might be retired and no longer necessarily in a regular practice, I don't know how much they're keeping up with you know educational requirements and things of that nature as well. So I mean I'll certainly continue to listen to the testimony if there's any psychiatrists also that will be submitting or testifying here today as to the struggles that are leading to those requests. Thank you again for your testimony. Thank you, Mr. Chair.

SENATOR WINFIELD (10TH): Thank you. Are there others? Question for you. So the immunity that we're speaking of, I think the opposition that does exist in this Bill deals with that and how broad it is. Does it need to be so broad? So it seems at least if you read the opposition that the concern is not just that there's immunity but that someone could be negligent or even act in a willful way and still have immunity. Can you speak to that?

DIRECTOR CHARLES DIKE: I -- I can only comment on how we recruit the doctors and right now the probate -- probate court actually is the one who pays for them. So they are still independent from the hospital and independent from the individuals because they're coming straight from the probate court. My office keeps a list of these doctors. We review them, we review their qualifications, we make sure that they're up to date before we put them on the list. And so that list is maintained and
reviewed, and the probate court takes individuals from the list to perform this function completely unrelated to our view and not involved in that process.

And I think most doctors are worried about the fact that if they perform any evaluation what-so-ever that an individual might -- might have a -- have a difference of opinion from them and maybe sue them and so they're worried about that protection. I don't know how wide -- I don't know if I can respond to the width of the immunity but I just know that what malpractice insurance provides is what they are looking for.

SENATOR WINFIELD (10TH): Thank you. Are there others? Representative Stafstrom.

REP. STAFSTROM (129TH): Thank you, Mr. Chair. And just to follow up on this. There was a -- it's been several years, but there was a point in time where I actually did some legal work in this arena on behalf of certain hospitals and the -- my experience where -- and I assume it's still the case; is you maintain the list but in reality you know, Bridgeport Hospital or Hartford Hospital or Yale New Haven, they're using sort of the same physician or the same two physicians. When -- when those hospitals petition for a commitment, the probate court kind of has one or two people in New Haven and one or two people in Bridgeport and it's kind of the same -- the same person being used in -- in most cases. And I guess I wonder, do you know -- I know the probate court pays. Do you know how much the physician gets paid for each evaluation they do?
DIRECTOR CHARLES DIKE: Yeah, the -- the fees for the physicians actually went up recently from $175 to $250 --

REP. STAFSTROM (129TH): Okay.

DIRECTOR CHARLES DIKE: Per hour. And that was also in an attempt to try to recruit physicians.

REP. STAFSTROM (129TH): Okay. And has that helped?

DIRECTOR CHARLES DIKE: Well it has helped a little bit. We are really -- I think it has helped in bringing people in some but we still have a lot more -- in trying to address the concern you have about one or two people for whom you know, are available for one probate court judge, we think the best way to do that is to really have a lot of people that are available to them so that is not just one or two. And unfortunately we're not there yet, but this -- that's the goal.

REP. STAFSTROM (129TH): Right. Well I mean I guess -- 'cause this is -- I mean a commitment proceeding is one of the weightiness things a probate court can do. You know you are depriving somebody of their liberty and you're -- you're basically making the determination that someone is not fit to be out on the streets and should be you know, forcibly contained within a psychiatric hospital within the state of Connecticut. And it -- you know, it happens with relative frequency, especially at some of the major facilities; Yale Psychiatric in particular. And so I guess -- I guess I'm -- you know, I understand the need to beef up the list. I guess I'm a little leery of cutting back on the number of evaluations that are necessary before making that determination. But also I think if a --
if a doctor is going to sign a -- a sworn statement saying, you know in my determination yes, this person should be committed to a psychiatric hospital, sure there's an appeal right but that could take you know, days if not weeks if not months while somebody's deprived of their liberty and is contained in a hospital. You know not to have some sort of civil recourse against that hospital who may have overstepped their bounds seems -- seems like a pretty far reach and so I guess I'm -- I'm you know, I think I'm kind of hearing the same thing up here. Tell us what we're missing on that.

DIRECTOR CHARLES DIKE: Let me describe first the two doctors who are appointed by the probate court. One is a psychiatrist and one is a regular doctor, not a psychiatrist. And most probate court judges would tell you that the regular doctors do not have the requisite psychiatric training to understand the assessment that goes into -- which is really a risk assessment of an individual who is so severely mentally ill that as a result of their mental illness, they become a danger to themselves or others. Those assessments are exactly the type of assessments that experts in psychiatry are trained to do and other medical doctors are not trained to do that. And in fact, most of the time in the emergency room if somebody comes up with something close to this type of presentation they would ask for a psychiatrist to do the assessment. So having that additional doctor who is not a psychiatrist does not add any value at all to this assessment.

REP. STAFSTROM (129TH): Let ask you, how much is that -- right now, how much is that additional doctor being paid to do their assessment?
DIRECTOR CHARLES DIKE: Same amount.

REP. STAFSTROM (129TH): Okay. So they're being paid $250 and the other doctor is being paid $250. So you know, money seems to be -- generally seems to be a motivator for most people. If -- if right now it's costing $500 to hire the two doctors rather than eliminating the immunity, if you paid the psychiatrist $350 to do their evaluation or $400, you still have a cost savings but would that not be another way to try to incentivize folks to sign up to do this work that wouldn't eliminate the -- the civil route for someone who wanted to claim that -- that doctor without side of the balance of medical best practices?

DIRECTOR CHARLES DIKE: So I would like to split the two issues. One is immunity, which is --

REP. STAFSTROM (129TH): Right.

DIRECTOR CHARLES DIKE: -- a separate -- but the issue about do we need two doctors? That's the first question. Do we need an additional doctor who doesn't have the expertise to do this? And the probate court judges would also invite the psychiatrists to come in for testimony but not the other doc. So that's the first issue.

The issue about immunity is really an understanding and recognition by the courts that that is one limiting issue for the doctors to come in.

REP. STAFSTROM (129TH): I understand. On the first issue your argument is the second doctor is not necessary. On the -- on the immunity issue your argument is it's needed to encourage to more psychiatrists to sign up to perform this work. What's I'm suggesting is wouldn't it seem to make
more sense that if we're going to say the second doctor isn't necessary and we're spending $250 per application for no apparent reason -- and I think that money, I think the probate court hires the person but I think that fee is actually paid by the -- that fee is actually paid by the applicant which in most cases is the hospital; wouldn't it make sense to say we're paying a total of $500 here for the two doctors, right? So by getting their one doctor we're going to save $250. Let's roll that $250 or at least a big chunk of it into what we would pay the psychiatrist and rather than trying to incentivize the psychiatrist to do this work at $250, now the psychiatrist is going to get paid $400. They can go out and buy you know, a limited malpractice insurance based on what they're making by doing the volume with these $400 when they're used to make a buck 75 and that might be a first way to try and incentivize people as opposed to removing the ability of civil litigation by someone who may or may not be aggrieved by that doctor, maybe not using the best standards.

DIRECTOR CHARLES DIKE: I understand.

SENATOR WINFIELD (10TH): Representative Blumenthal.

REP. BLUMENTHAL (147TH): Thank you, Mr. Chair and I would just echo Chairman Stafstrom's comments. In my practice I've seen the opposite side of that decision where somebody perhaps should have been civilly commented is not and ends up hurting themselves or somebody else I would just say that I think that the decision is -- is a -- is an extremely serious one and I think there would perhaps be a better way to attract more participants if we increase their remuneration rather than by
removing the potential consequences for not making that decision with the intended seriousness and competence, so that's all I would say on that.

SENATOR WINFIELD (10TH): Thank you. Other questions, comments? If not, thank you very much for your testimony.

DIRECTOR CHARLES DIKE: Thank you.

SENATOR WINFIELD (10TH): Next we will hear from Mary Schwind, the Acting FOI Commissioner. There she is.

MARY SCHWIND: Thank you and good morning, Senator Winfield, Representative Stafstrom and honorable members of this Committee. My name is Mary Scwind. I'm Managing Director of the Freedom of Information Commission. The Commission has filed written testimony as well and we appreciate the opportunity to testify this morning on raised Bill 970, AN ACT CONCERNING THE CONFIDENTIALITY OF EVIDENCE SEIZED IN A CRIMINAL INVESTIGATION.

The Bill is raised in response to the recent Connecticut Supreme Court decision and Commissioner of Emergency Services and Public Protection versus the Freedom of Information Commission, which was issued in October 2018. Under that ruling records seized in connection with the Sandy Hook investigation were found to be public records subject to disclosure. The underlying records informed the law enforcement investigation into the shootings. There was intense certainly public interest in understanding the motives of the shooter and it had been quickly determined by law enforcement that would be no criminal prosecution since the perpetrator was deceased.
The state police issued an investigation summary which was made public and which referenced many of the seized records. The Commission believes that especially in instances where significant public resources are spent on investigations of great public concern such as the Sandy Hook investigation, the public has a legitimate interest in the evidence which informs the investigation.

The Commission also recognizes however, that there may be certain private documentary property that is seized from an individual's home in the course of a criminal's investigation that is not pertinent to the investigation. In such cases, disclosure of such records may not be appropriate.

The Commission is also concerned that the term property in this statute is very broad. For example, it can include public records which may be seized from a public agency in the course of a fraud or correction case, records which would otherwise be public. Surely such previously public records should not lose their public record status because they were seized in the context of an investigation.

The Commissioner has reached out to the State's Attorney on the Bill and would welcome the opportunity to work with the Committee, staff and all stakeholders to iron out some compromise language that would safeguard both legitimate public interest and legitimate private interest. I thank you for the opportunity to speak today and I'd be happy to answer any questions if I can.

REP. STAFSTROM (129TH): Thank you. You were here when Chief State's Attorney came and testified?

MARY SCHWIND: Yes.
REP. STAFSTROM (129TH): A little while ago. So I heard him use the term balance a number of times and trying to strike the right balance here between public interest and public right to know and -- and certainly privacy rights of an individual and particularly an individual who may have -- eventually be found to have been falsely accused of a crime or the victim of that crime as the case may be. So I assume -- I hear from your testimony that you don't think the current language strikes that right balance but you think there's a way to strike that balance?

MARY SCHWIND: I think there -- there must be. There should be, yes. I think the language as it stands today is broad and it could be narrowed to suit -- to suit everyone's needs.

REP. STAFSTROM (129TH): Okay. Well I would certainly encourage folks to talk in the hall after this and set up that meeting. Further questions from the Committee? Representative Blumenthal.

REP. BLUMENTHAL (147TH): Thank you, Mr. Chair and thanks for your testimony. Just a brief question. It seems like one of the primary concerns with this Bill or the current language is the idea that it would prevent the disclosure of otherwise foible material? Is that the primary concern or are there others that you could get ready for us?

MARY SCHWIND: That -- that's the concern. I believe our written testimony did suggest that some of the language is somewhat vague. I believe it -- it speaks of -- of documents seized in connection with an investigation. It's hard to know exactly what that means. I think the term property is very broad. Seized even can be subject to interpretation
so I think it should be narrowed and better defined if possible.

REP. BLUMENTHAL (147TH): Okay, thank you. Thank you, Mr. Chair.

REP. STAFSTROM (129TH): Further questions? Seeing none, thank you for your testimony.

MARY SCHWIND: Thank you very much.

REP. STAFSTROM (129TH): Next up will be Representative Mike France.

REP. FRANCE (42ND): Thank you, Representative Stafstrom, Senator Winfield and distinguished members of the Judiciary Committee. I'm here to represent three Bills from the House Caucus. They are House Bill 5525, 5526 and 5527 dealing principally with various aspects of the Risk Reduction Program. And I want to acknowledge -- I'm Mike France. I represent the 42nd district of Ledyard, Preston and Montville and I would acknowledge that I have in the past submitted Bills to eliminate this program and have -- because there was an reason that a sentence was issued and that people should fill out that sentence, however, what I've come to realize is this program is now in place. There's an expectation of those that are sentenced that it will be there and now since it is there we need to ensure that there's appropriate oversight and the integrity of that system is maintained.

So the proposals that the House put together here in these three Bills principally deal in ensuring the appropriate oversight of the program and that the credits are applied appropriately and that there is reporting actually back from the Board of
Corrections to this Committee and others in the legislature to provide oversight of that program. I know that there are people that have submitted requests to DOC for data and that data has been lacking honestly to be able to have this Committee and others in the legislature provide appropriate oversight of the program.

We've also had examples of people who have been released and then relatively soon after their release, have committed crimes again, some with very tragic consequences which indicates that there are issues with oversight of those that are being released. Not post release but as they're being prepared for release. And I'm not certain that there are you know appropriate measures being placed within the Department of Corrections to ensure that those that are being released early are prepared for that process. I think that is something this Committee ought to be looking at, and the data that is provided by DOC would be helpful in that.

The other aspect of the program as I look at it, one of the things that I don't have good -- good insight and have asked questions about is the waiting list aspect of it. To me it appears that if you -- you know, you try, that you get credit. And to me it ought to be something that you take a positive action on it. And it wouldn't surprise me if those that are incremented know which programs have a large waiting list and they then can deem credit for not really effectively doing anything and how we're monitoring that.

So there are some things that need to be tightened up in the program. I think these three Bills provide the mechanisms for that and I would
encourage the Committee to take them and apply them and then also to look to DOC to provide data back to the Committee on the effectiveness of the program and then provide appropriate oversight. Thank you.

SENATOR WINFIELD (10TH): Thank you. Comments or questions? Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you for coming in. Very much appreciate it. Thank you -- thank you, Mr. Chairman. You got the three different Bills. Do you believe that they work together or is one more important than the other? Are they duplicative?

REP. FRANCE (42ND): They actually -- you know three different aspects of it. So 5526 takes -- essentially merges the Legacy Program if you will that was prior to 1993, the Good Time Credit System and rolls that into the new Risk Reduction Program. There are currently still as I understand it, people incarcerated who have advantage of that program, which has greater benefit if you will to the -- to those incarcerated and having a consistent program to manage I think would be prudent so that's that particular aspect of it.

The Bill for 5525 deals in ensuring that there's appropriate oversight and credit in their sentences and while we understand their incentivizing inmates to you know, behave if you will or execute their accountability program, we don't feel there's sufficient consistency if you will in that program and how it's implemented. And part of that is their -- I think the oversight of this Committee and the reports that should be coming to this Committee from the Department of Corrections would provide that.
So I think they deal with three different aspects of it and not being duplicative in any way.

REP. DUBITSKY (47TH): Okay. Would you anticipate that as this moves forward these three Bills would be merged into something or do you anticipate a separate airing of each one in a separate vote?

REP. FRANCE (42ND): I think they could be merged together because they all really deal with different aspects of risk reduction but they are three distinct parts, but they're not duplicative so they could be merged together into some blend of the concepts. Basically it's getting to one program instead of two in the case of the Good Time Program and then to -- essentially ensure oversight, appropriate oversight but this could be when the consistency of the Department of Corrections and how the program is implemented.

REP. DUBITSKY (47TH): Okay. Well thank you. Thank you for coming in and I encourage you to get a lozenge. (Laughing) Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Senator Sampson.

SENATOR SAMPSON (16TH): Thank you very much, Mr. Chairman and thank you for being here today, Representative. I'm pretty familiar with these three Bills. I co-sponsored them also. But just since I got you up here, curious if you can answer a couple of questions for me on 5525. This is the one requiring inmates adhere to their offender accountability plans. Just one thing that I've -- I've always wondered about and I don't -- I don't even know if you can answer this question. I don't mean to put you on the spot or anything, but what
type of plans or programs are there? Are they classes? Are they religious based? Are they education based? What type of programs are there that are provided to create this eligibility?

REP. FRANCE (42ND): Yeah, I'm not familiar with the accountability plan specifically. That's within the Department of Corrections from the oversight of this Committee. I think one of the concerns that I highlight in my testimony is this waiting list provision; is that if you -- if you're not actually participating because there is a wait list, you get credit. So how is that really meeting the intent of a risk reduction program if whatever the class is, whether it be education based or any other basis, if you're not participating in that why are you getting credit? It's kind of like I showed up therefore I get -- I get credit. And I think that that's one aspect of the program that I think needs to be tightened up because if the intent is that I sit in a class and I learn something, therefore my risk for when I'm released is reduced, then why do I get the same level of credit by sitting on a wait list and not participating in the program? And I do understand that there are challenges with that, but if that's the case then we ought to be providing sufficient programs to allow everybody to participate and get the benefit so that the risk is actually reduced upon release.

SENATOR SAMPSON (16TH): Yeah, I agree completely. My -- it sounded very similar to my college years when they did not give me credit for just sitting in the classroom unfortunately. (Laughing) Is there retroactivity contemplated in this Bill? In otherward I know in your testimony you mention that you know, there's a history of people getting credit
for not actually doing the -- the class or whatever it is. Is that contemplated in this -- this 5525 that we might retroactively look at what they have actually completed?

REP. FRANCE (42ND): That is how the program was implemented actually when it was introduced in 2011 was you went and looked back for those that were you know, after 2006. And so you were able to look back and do a five year lookback in the program and they get credit for time. And what I would argue with that, and we've kind of largely moved out of that realm now, but the challenge with that is you know while the inmates or those that are incarcerated were participating in these programs, there was not the mice that this was getting them to something in the sense of early release based on their -- the behavior that -- in while they're incarcerated. And so that leads me to believe is what was the intent or what were they getting out of those classes other than enhancing themselves potentially and what they were interested in was that really the intent to then go back and say for five -- for the last five years you did something that now we think is valuable to your early release as opposed to just being proactive and perspective.

REP. SAMPSON (80TH): Excellent. Thank you very much. So just a final question. As far as this program in its entirety, I know that quite a few of us have made proposals in the past to repeal the whole thing or to modify it in some way and I'm just curious about your opinion about the whole philosophy behind the notion of giving people credit for good time or participating in these programs? I think it's a good idea if it's implemented properly but I think that's -- that's always been the
question. Do you think that there's value in the Risk Reduction Program at all if it's implemented properly or it should just be done away with 'cause it doesn't seem to work?

REP. FRANCE (42ND): Well I think there are -- there is value in it for the provider with appropriate oversight and appropriate consistency of implementation. Not having obviously been an Department of Corrections officer and seeing how that program is implemented, it's challenging to know with the consistency that is being there. From hearing from corrections officers, they believe it has value. There is some merit to it.

I think the challenge is that you know, this legislature and particularly this community needs to provide appropriate oversight and part of that equation is ensuring that the Department of Corrections provides the data that's required for this Committee to provide that oversight without data, without the information that this could be needs from the Department of Corrections, it's very challenging for us in the legislature to provide the appropriate oversight that's needed to ensure consistency and how a program is implemented and ensure the value is appropriate to what happens.

And some of that is in measuring the metrics for those that do earn early release and what are the outcomes? And then trying to define or derive if they don't succeed in their -- when they're released, what were the reasons behind that and can we identify a root cause? And is there something that we should be changing in the process as they prepare to leave the prison to better prepare them to be successful upon release.
SENATOR SAMPSON (16TH): Very good. Thank you very much, Representative. I appreciate your answers today very much. I think it sheds a lot of light on this program and ways we can improve it so it's actually a worthwhile endeavor. Thank you very much, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Representative Stafstrom.

REP. STAFSTROM (129TH): Thank you, Representative France for your testimony. Just one quick question. Is it your understanding that -- you discussed in your testimony that there are folks who have been released who have gone through the Risk Reduction Program and have reoffended, have been repeat offenders. Do you -- is it your understanding that the recidivism rate for folks who have gone through the Risk Reduction Credit is higher than that of the general prison population?

REP. FRANCE (42ND): I don't know whether it is or is not.

REP. STAFSTROM (129TH): (Crosstalk).

REP. FRANCE (42ND): I don't know -- I don't know what the -- I don't have the numbers in front of me or whether it is or is not.

REP. STAFSTROM (129TH): Okay, thanks.

SENATOR WINFIELD (10TH): Are there others who has a question or comment? Seeing none, thank you very much for your testimony. Next we'll hear from Dr. William Petit.

DR. WILLIAM PETIT: Good morning Chairmen Stafstrom and Winfield, Ranking Members Rebimbas and Kissel; and distinguished members of the Judiciary and my
new colleague from New Britain, Senator Bizzarro. Thank you for raising House Bills 5525, 26 and 27. First I'm going to talk to 5525 and 27. Both of these bills are an attempt to ensure that these programs truly measure serious attempts by those who are incarcerated to better themselves and earn credits that are appropriate for the individual inmates. They ensure that these are not just post-conviction attempts to diminish sentence without a particular strategy or goal in place.

5525 addresses the issue that I feel that credits must be truly earned. This Bill requires that inmates fully participate in their inmate accountability program and requires that they complete a program or activity; not merely enroll. The Bill would also cause inmates to forfeit all earned credits if they test positive for drugs while being incarcerated. These are common sense changes that I believe the public would assume are already being done. The common man would assume that once someone is convicted and incarcerated, any plan to allow a decrease in sentence would require good behavior and full participation in these educational offerings while also complying with institutional rules and regulations.

I am told that inmates can earn credit for enrolling and being placed on a list without any active participation in said programs. You are all well aware that the purported purpose of said programs is to educate and rehabilitate those incarcerated and thus allowing Inmates to enroll and not participate creates a farce that is a disservice to all those involved.
5527 adds certain violent offenders to those ineligible to earn risk reduction release credits and I won't list them all. They are in my testimony. I would point out it would now include several sexual assault offenses and employing a minor in obscene performance. I think these crimes are particularly serious and I think anyone who looks at these crimes would think so and those convicted of such offenses as having earned the full severity of their court-imposed penalty. I urge Judiciary to pass 5525 and 5527.

For 5526 I would note that this passed through Judiciary in 17 and 201208 and the House in 2017. This bill makes a sensible reform to this system by which inmates earn credit towards their sentences. The House Republican caucus and Representative Klarides have outlined an example in their testimony.

I would close with a general statement. I believe Judiciary should reviewing this entire process and reevaluate. The purpose of our Judicial system is to protect and prosecute. Victims have rights that are well enunciated in our constitution and I feel it is a primary role of government to protect the public. Programs where true education and rehabilitation do not occur or a disservice to all inmates, the public and especially victims. At times I wonder if all this, what I call whittling at the edges, is counterproductive and insulting to all those involved. We have a very expensive system of law enforcement, State's Attorney office, Judiciary, private and public defender, and on occasion juries that painstakingly review charges and decide cases at a cost of hundreds of millions of dollars to us the taxpayers. I'll try to finish up quickly
A verdict is reached and a wise judge, who you all have reviewed and we have all voted on, makes a decision along with a jury at times. The victims at the trial hear the sentence passed and think if they have been sexually assaulted or been a victim that the person is going to get one year, three years, five years, only to find out later on that sometimes the sentence is reduced by 15% - 50%. Who pays the price? The next victim of that person who has been released and who has not been truly rehabilitated. Your friend, your mother, your brother, your cousin.

I also realize there are some that will never be rehabilitated but if the state cannot do a better job of representing victims and protecting potential future victims, it has failed terribly in its role. I would notice that by cutting these sentences you're cutting the perpetrators that people has convicted but the victims, especially those of sexual assault that have come to me say that they remain victims whenever they are released prematurely. They worry about retribution. They become worried and for them it's a life sentence after they've been sexually assaulted. So I urge you to consider these important proposals and thank you for your time.

SENATOR WINFIELD (10TH): Thank you. Questions, comments from members of the Committee? Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman. And good morning, Representative. Thank you so much for your testimony. I don't know if you'll be around later but I'm looking at the different testimony for all the different Bills and it strikes me that specifically regarding the ACLU who is scheduled to
testify a little bit later in the day has submitted the exact same testimony on all three proposals. And as I review their testimony they're in opposition to all three. And predominantly the two reasons that they highlight is they say that there should be no reducing or setting limits on Risk Reduction Credit Program, but what I hear in the testimony and the proposal for this is truly that those programs be completed the way that they were proposed and set out to be implemented, which is you participate in the program, you get the reduction. If you don't participate in the program then you shouldn't be allowed the reduction. So is that correct through your testimony?

REP. PETIT (22ND): That is by an understanding that people are being allowed reduced sentences without participating fully in the programs that have been set up to do so. In addition, the legislature passed a law in 2015 that the DOC had to report these recidivism rates and as far as I can tell the actual recidivism rates have not been -- have not been forthcoming from the DOC and it's been difficult for people to find out exactly what the results of these programs have been in terms of statistical analysis.

REP. REBIMBAS (70TH): Thank you. And I would also concur that this would be common sense. If you put a program in place for a purpose that it be completed. One of the other main things that they also point out again is regarding select individuals not being benefiting from certain programs and again I think through you testimony and the testimony earlier is that we want individuals to be able to actually participate in a program that have multiple
benefits allotted to them. Could you just speak a little bit to -- towards that topic?

REP. PETIT (22ND): Typically when you're providing an educational program for someone you're trying to provide a basis for someone to -- I think this is where you're headed, trying to turn their life around so they need to -- if they don't have the basic skills they need to learn about reading and writing and communicating, they need to learn about interpersonal relationships. They need to how to -- learn the skills necessary to live in society in an appropriate fashion, so there obviously is a variety of core strategies through which that can be -- be obtained and if you -- if you just sign up for random programs or are on a waiting list and don't participate or if you participate in a program where you're not learning basic skills of -- of communication of interpersonal relationships then we're failing. But I assume part of this is corrections and punishment, but part of it, if it's to be rehabilitation that rehabilitation has to be structured much as we structure our learning for all of our students in schools for them to be able to go forth in the world and function -- and work as functional members of society.

I realize that's a heavier lift in the Department of Corrections but if logically behind these programs, there really has to be a serious attempt to have programs that will benefit these -- these folks fully in a very functional, functional way. I don't know if that answers your question but that's how I would view it just as a -- as a citizen.

REP. REBIMBAS (70TH): Thank you for your testimony, and I acknowledge my question was not very clear so
thank you for that. And certainly thank you for being here and also highlighting during your testimony you had indicated you know, certainly victims and nowhere in the ACLU testimony do I see highlighting or emphasis on victims and I think your testimony just now went perfect to the point that what we're trying to do is making sure that when these individuals are released that they too have a better way of being able to be productive citizens in society. And that's a public policy for society, the community at large; but most importantly also for the individual to make sure that they certainly don't reoffend and hopefully then that the victim won't be revictimized or there won't be other future victims.

It's just disappointing when I read through some of these testimonies that the emphasis is early release, early release, early release, cost effectiveness, cost effectiveness. I think that there's also a benefit in that cost effectiveness and not having people reoffend. So thank you for your testimony here today. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Are there other comments, questions? Just -- just a question. It seemed that you were talking about the sentence and 15 whatever percentage that might come off a sentence and I just want to make sure I'm clear on what you are suggesting. Are you suggesting they should go all the way to end of sentence?

REP. PETIT (22ND): I was suggesting is that we have laws and penalties. We have judges that we presume are pretty well educated so if you're sentenced to five years for a sexual assault; the victim's in court and says, okay this is five and then they find
out several years later that the sentence is now four years they're dismayed. It's like, what about my rights? We went through all this trouble of testifying, collecting data, we had a prosecutor, we had defenders, public defenders. This was a sentence that was felt to be -- many times as you well know, plea bargained. Sometimes through jury, a sentence like 97 percent of cases are plea bargained. So this is what the system -- intelligent of all the system thought was fair and all of the sudden now we're changing it after the fact. And the victim, the person who has been most affected by this has absolutely no input into it.

So my point is, if you think that five years is wrong then change the law. If the -- if the penalty for that shouldn't be five, if it should be three to ten then give the judges who you deemed to be educated and bright people more leeway to assess the situation and give sentences that they feel -- feel are appropriate. It just seems to me that changing the sentences after the fact are the wrong way to -- to approach it and I think does a disservice to victims and does not allow them -- allow them a voice at any level and that's been -- my experience has only been two years but most this stuff I hear in Committee and on the floor of the House has to do with the people that commit crimes and not with victims or victims rights or -- and it's very tough for victims.

Victims, especially those that are -- have been sexually assaulted, who have been beaten, they're not real excited about getting in their cars and driving to Hartford and sitting here, being on CTN, going through the lobby, getting their picture taken so that the person who victimized them at whatever
level sees their picture in the paper, sees them, knows they're out there. So they -- yeah, they do have -- they have the ability to come up here but they're in a -- they're not in a strong position to -- to want to do that and I hear that over and over again with victims groups that I -- that I speak with and deal with. So I hope -- I hope that answers your question. It's really from my -- my point of view as a citizen and a victim and I -- I'm obviously not a lawyer so there's probably legal issues that I'm not explaining well but I think from a common sense and a justice point of view, I think they're important considerations.

SENATOR WINFIELD (10TH): Thank you. I think you're doing a good job. I'm just trying to get your perspective because it seems to me -- and I agree with you about the perspective a victim is likely to have and why they might not want to engage in certain ways. But I'm just trying to -- as I listen to you, it seems to me that what you're suggesting leads to a suggestion that they should go to end of sentence, so I'm trying to fair it out because as I listen to you respond to my question, it still seems to me that that's what you're ultimately suggesting whether you meant to or not. And I'm just trying to fair it out as someone who has been as everyone knows, a victim and someone who now occupies a seat representing people; is that really what you're testifying to? Because my question then becomes how -- how is that helpful for victims? Because if we put them to end of sentence and they're completely out of custody, we have no control over what they do.

REP. PETIT (22ND): I think point well taken, Senator. I -- and I heard your point. I guess it
would involve more communication on the front end saying this person has been sentenced to five years and you need to be, whether the victim's advocate or the judge in the courtroom that says you need to know Senator Winfield that your aggressor has been sentenced to five years. But under the current laws of the state of Connecticut they could be out in 3.5 years.

And that discussion probably needs to be done ahead of time as well when there's plea bargaining and other things going on in terms -- and obviously it's complicated. The attorneys and the police with the evidence decide what charges they're going to pursue and what penalties they carry so I think it's -- and I realize and people told me with what happened to me, people would say to me, say Petit this isn't about you. This is the State versus such and such and I say, what do you mean it's not about me? It's my family. But I heard that from a lot of people. It's not about you, it's about the state. Most victims feel it's about them and their families.

SENATOR WINFIELD (10TH): Thank you and thank you for always being willing to come and testify and give your perspective. Are there others? Seeing none, oh, Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman. I want to take this opportunity to thank you again Representative Petit for being here and testifying before this Committee and I think your testimony was loud and clear for me in the sense of we've had these discussions in this Committee on many times that the information needs to be forthcoming and clear so that everyone has all of the information when decisions are made and that's something that we
need to improve and continue to improve moving forward. And I think that you know, anyone unfortunately that says to any victim that any particular case is not about them but about let's just say the law or the state stepping in, that is a false statement. All our laws are created on behalf of situations. And sadly enough a lot of criminal laws are based on, I would hope not just the penalty on the criminals but also trying to protect the citizens and further protect the individual that was victimized.

So certainly I don't know what context that was but I can certainly assure you that in my mind and I know of many others, as we move forward and I continuously say it in this Committee and I will continue to say it, the voices of the victims need to be heard loudly and clearly and they have a right to all of the information. So once again, thank you very much for being here before this Committee here today. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. We have one more for you, Dr. Petit. Senator Kissel.

SENATOR KISSEL (7TH): Thank you very much, Mr. Chairman. Representative Petit, you and I have worked together prior to you becoming a legislator when we battled to try to have an enforceable death penalty and that eventually was repealed and many of us had stated that the whole notion that it would only be prospected was essentially a sham the way it played out and that was unfortunate.

Over the last two years the leadership of this Committee, both Chairs and Ranking met with representatives of the Department of Corrections. We explained to them that many of us did not feel
that it was appropriate that people would just sign up for a course, never get actually in the course and yet get credit for that. I will say that there are courses in the Department of Corrections that are very helpful. GED, Becoming a Good Parent, things that would allow an individual upon release back into society to be able to be a better person.

The other salutary benefit of having some of these programs is that it creates an incentive which actually helps the corrections officers in the facilities and you know that my district has more correctional facilities than other district in the state of Connecticut. And so my COs actually appreciate the fact that this program if done properly has a beneficial aspect as to reducing violence within the institutions.

But I agree with you wholeheartedly that victims need to know what's going on at the front end. Even though we have victim's rights right in our State Constitution, it's almost a right without a remedy because we just keep having a hard time. If a victim is -- if they're unintentionally ignored or didn't get an appropriate notice as to a particular proceeding, probation, parole, things like that; there's really nowhere for them to go to reverse that. So we need to just strive mightily to make sure that at the front end individuals like you said know that if it's a five year sentence, it may end of three and a half years and I think that as long as people know at the front end what they could anticipate it actually bolsters their belief in our system of justice.

I don't think any -- I know could never understand what you've been through. The fact that you're
actually come here and testify this morning with everything that's taken place and it's just amazing that you've turned this into a positive not only for yourself but for other victims groups. And so I think that with new Administration, new Corrections Commissioner, maybe we can revisit some of these things. I know that there's some people that just want to throw it all out but if we are going to indeed have these programs and this policy I think that we need appropriate supervision. I think that we need appropriate discussions at the time of sentencing so that victims know what they can expect and I think that we need to -- and I agree that I don't think that one should get credit unless one actually takes the course. And so thank you for your bravery and your courage and your being here to testify this morning. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you, Senator Kissel. With that, thank you for your testimony. We have surpassed the one hour mark so we will alternate between the public list and the elected officials list although I will say there's only one person left on the elected officials list. We will begin with Barry Hawkins. I will remind those testifying you have three minutes. There is a sound of some sort that you will hear that will tell you your three minutes have expired. If you choose to keep going I will try to gently remind you to summarize.

BARRY HAWKINS: Thank you, Senator Winfield, Representative Stafstrom, Senator Kissel, Representative Rebimbas and Members of the Judiciary Committee. Thank you for the opportunity to appear before the Committee at this public hearing to support the enactment of the Uniform Commercial Real Estate Receivership Act, HB 7271 which I will refer
to as UCRERA. My name is Barry Hawkins. I'm a resident of Bridgeport, Connecticut. I'm a past President of the Connecticut Bar Association and past Chair of the Real Property section of the Bar which is the sponsor for this Act and on whose behalf I am speaking. I'm also a member of the Connecticut Delegations of the Uniform Law Commission which is the group that drafted this statute.

In my written testimony to which I refer you to, there is an explanation of what is a Rent Receivership Act and it's a four-page primer on what it is and what we're talking about. And I'm not going to try and read that testimony but I'll give you an even shorter version of what we're talking about.

This is an act to bring unity -- unity -- uniformity and consistency to all of Connecticut courts and to provide a statutory remedy for someone trying to collect on a -- on a mortgage or debt secured by real estate -- commercial real estate.

What we're talking about is when someone develops and borrows money from a lender to develop real estate, commercial matter they typically execute two documents. One in a mortgage and if they fail to pay the debit, if they fail to pay on a regular basis the remedy of the lender is to foreclose on the property and take the property back. Along with that action they also sign typically an assignment of rents so that if -- if it's an office building that's collecting rent from the tenants of the office building or shopping center and they're collecting rents from the tenants or it's an apartment building and they're collecting tenant --
rents from the tenants. All of that rent is assigned to the lender as a backup for the failure of the developer, the borrower to repay the debt on a timely basis.

Unfortunately in Connecticut a foreclosure procedure takes a very, very long time. They're almost all in court. They typically take many months and sometimes years to execute a foreclosure. In the meantime the borrower is still in charge of the office building or in charge of the shopping center or in charge of the apartment building, still collecting the rents and still able to use those rents to pay for other projects in other states or other parts of Connecticut or to provide services through captive companies that he or she control. In otherward, in order to use that money that's coming in for the rent the borrower has the ability to take that money and use it as they will.

Now they just started saying the lender has the ability with the assignment of rents to actually get that rent and to make sure that the building is being maintained with the rents being used to maintain the building and keep it fully rented. That does not happen automatically unfortunately. Connecticut has no statutory remedy for an assignment of rents. What it has is a loose collection of court judgements over 250 years, equitable powers of the court and they vary from court to court, from state to state, from city to city, from judge to judge.

A statutory remedy provides for the enforcement of exactly what the borrower agreed to do in a commercial situation. If I don't pay you back, if you are foreclosing on the property because I have
failed to pay back the property I assign to you the rents that I'm collecting to a receiver. A receiver would be appointed to collect those rents and make sure that the rents are being used for the purposes that the party has agreed upon. To actually keep up the building, to make sure that the building is fully rented, to make sure that the insurance is paid, that the taxes are paid, to make sure that the utilities stay on, fix the puddles in the parking lot, all of that is important and it doesn't happen automatically.

With a statutory remedy --

SENATOR WINFIELD (10TH): Please summarize.

BARRY HAWKINS: -- which we now provide -- I'll wrap it up.

SENATOR WINFIELD (10TH): Thank you.

BARRY HAWKINS: With a statutory remedy you have the ability to have a set of rules for the appointment of a receiver guiding the court and guiding the parties as to what should be done when the borrower fails to pay back the lender.

SENATOR WINFIELD (10TH): Thank you, very much. Are there questions or comments from members of the Committee? Representative Stafstrom.

REP. STAFSTROM (129TH): Just real quick, thank you Mr. Chair. Barry, it's great to see you and thanks for being up here. You know I just want to take the opportunity to thank you. I had a chance to review what is always your thorough testify on -- on the Bills you bring before us and certainly the statutory language here that the Uniform Law Commission and the Bar Association has worked on and
behalf of the Committee I just want to continue to thank you and thank the Bar and thank the Uniform Law Commission for your continued work to bring some parity and some consistency to what sometimes can be a patchwork system of common law we have between the various judicial districts and try to formalize some issues into statute, which certainly appears to be the attempt here and I think -- I think we've got another good product. So, thank you.

BARRY HAWKINS: Thank you very much for those remarks.

SENATOR WINFIELD (10TH): Thank you. Are there others? Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. Thanks for coming in. We get a lot of -- a lot of Bills and a lot of requests to impose the Uniform Act of one thing or another here. To what extend is this Bill actually just adoption of a Uniform Act that's enacted in other states around the nation or is this something different?

BARRY HAWKINS: No, it is a Uniform Act and it's being introduced in all 53 jurisdictions. The 50 states, the District of Columbia, US Virgin Islands and the Commonwealth of Puerto Rico. It has actually been adopted now by seven states. It's being considered by this session by five others and 12 states actually have been identified as having their own acts in existence now that had been passed prior to or during the process of drafting this act so that it is -- in those 12 states it's probably not likely to be passed, but we're certainly seeking to have the other 41 jurisdictions pass an act like this.
It is uniform but it also is respectful to Connecticut procedures and differences. That's why we have it on a state by state basis rather than a matter of national law because the states are uniquely positioned to craft their own laws, governing their own real estate so there have been a number of changes made in the drafting of this to reflect the fact of Connecticut. For example, it makes reference in the Uniform Act to domestic partnerships for example being a defined term and in Connecticut we don't have defined partnerships. We have -- we don't have domestic partners. We've abolished that word. We have marriage. It's been change in a number of respects to reflect the actual experience in Connecticut.

REP. DUBITSKY (47TH): So who developed the Uniform Act?

BARRY HAWKINS: It's drafted by the Uniform Law Commission which is a national organization. It's been existence for 130 years. All lawyers, all volunteer, nonprofit. It has drafting committees which all the lawyers on the draft -- on the Uniform Law Commission serve as drafters of different types of Committee. Lawyers are appointed by -- or the members of the Uniform Law Commission are appointed either by the state legislatures or by the Governor or by some combination of both. My appointment comes from the Governor at the suggestion of the Senate, 20 years ago now.

REP. DUBITSKY (47TH): Okay. So you served on that?

BARRY HAWKINS: I serve on that national committee. I am a member of it's executive committee. I've been on the Uniform Law Commission as part of the Connecticut delegation for 20 years. We have eight
a total of eight Commissioners from Connecticut. They draft in meetings around the country held by the -- the particular drafting committee. They get input from the American Bar Association Advisors. They get input from constituent organizations that would be interested in the subject matter of the particular act. Landlords, tenants, developers, bankers, etc., would send observers to this open drafting session. Typically a drafting committee takes about two years to finish its process. Holds a minimum of four meetings, all public, all available online and you can read and have input through material that's available online. Then twice a year -- once a year excuse me, once a year all the Commissioners get together for an annual session over the summertime usually. We'll have everyone in Anchorage, Alaska this year for six days which we will read line by line the various proposed acts on different subject matters and all the members of the Commission get a chance to ask questions, make input, and basically have a vote of the states so that only when its been through that deliberate process of two years, does an act become a uniform law that we -- a uniform act which basically then gets promulgated to the state legislators for adoption.

REP. DUBITSKY (47TH): Okay. So to what extent were -- what was the input from developers or commercial property owners considered when drafting this? Was there any input from them?

BARRY HAWKINS: Yes, there was. There were observers from all the -- all the above basically that participated in that two-year process.
REP. DUBITSKY (47TH): And what'd they say? What did they say?

BARRY HAWKINS: Basically --

REP. DUBITSKY (47TH): Did they support it?

BARRY HAWKINS: Most -- well the lenders basically support it very strongly. It's considered to be very favorable to lenders and to businesses because it promotes realistic expectations and reliability of those expectations. The only people that -- that were really opposed to it would be someone who is borrowing money and wants to be able to use the money that comes from a commercial property in a way which is not permitted by their own documents. And there's a real shortage of people that are willing to come in and testify and say, I really want to borrow a million dollars and not repay it and use it in some way that's not allowed by the loan documents.

So we don't have any testimony from people that wanted to basically game the system and not repay the lender.

REP. DUBITSKY (47TH): Okay. Thank you. Thank you, Mr. Chair.

SENATOR WINFIELD (10TH): Thank you. Are there others who have questions? If not, thank you very much. We'll next hear from Judge Knierim.

BARRY HAWKINS: Thank you very much.

JUDGE KNIERIM: Good morning Senator Winfield and Members of the Committee. I'm Paul Knierim. I'm Probate Court Administrator. I'm here to testify on three Bills. I've submit -- submitted written testimony on them and I'll briefly summarize. I
would like to put principal emphasis on a Bill the Committee heard prior testimony on concerning psychiatric commitment evaluations so I'll talk very briefly about the other two Bills first and come back to -- to that Bill.

Raise Bill 941 concerns probate fee liens and estate tax liens. That proposal is the product of work with the Bar Association and my office to provide a means by which a person who owns real estate that is encumbered by liens associated with an estate that wasn't properly probated, that owner has a means to get those liens released. The proposal as we see it is win-win when the property has an avenue to get the liens released, the probate court system has a means to collect the fees that would have been due had the estate been properly probated, and I think all of you know that I'm serious about collecting the probate fees that you've set by statute and that we need very much to operate.

Raise Bill 938, AN ACT CONCERNING STATE AGENCY COMPLIANCE WITH PROBATE COURT ORDERS. This has been before you previously. I've always testified in support of it because I think it codifies the law. It simply says that when a Probate Court issues an order and a state agency is a party to the Probate Court proceeding, the state agency is bound by the Probate Court order. The Act makes it very clear that the state agency must be a party, must have a right to appeal, must have received notice of the proceeding. It is entirely consistent, the proposal before you, with the recent decision of the State Supreme Court in 2018, Valliere in which the Department of Social Services sought to disregard a
Probate Court order and the Supreme Court ruled that the Probate Court order was binding. I see it as a codification.

Switching to 939 concerning psychiatric evaluations. We also are in support of this measure. It is the work product of about two years' worth of effort on the part of DMHAS, the Hospital Association of Psychiatric Society Probate Courts and Connecticut Legal Rights Project. I think there are a couple of things I heard in the inquiries and Commissioner Delphin-Rittmon's testimony that -- that I'd like to emphasize for your consideration.

First let me speak to the immunity portion of the proposal. That in my way of thinking is codification of existing law. A court-appointed psychiatrist performing services in the context of a judicial proceeding in my view would be eligible for quasi-judicial immunity under current common law. I can't site you a case that deals specifically with the psychiatrist scenario but our Supreme Court has ruled for example, with respect to guardian -- guardians ad litem in judicial proceedings appointed by the court, having an official capacity, needing to be able to be entirely objective and speak freely to the court about that person's professional opinion. So it's my view that if a case were to go to the Supreme Court on the question on whether a psychiatrist appointed by a Probate Court would be immune or not, quasi-judicial immunity would apply.

The problem of not having enough psychiatrists for Probate Court preceding's is serious. The list at the moment has 11 psychiatrists across the state and there are areas of the state where it's nearly -- I shouldn't say impossible. It's very difficult for
courts to find psychiatrists to appoint in these proceedings. I agree entirely with the Committee's perspective that commitment proceedings are among the most sensitive and important things that the Probate Courts do. We support the proposal because we think it's practical and common sense. We don't find added value from a second opinion -- from a second evaluation. The tendency is for them to be duplicative and as you heard from Dr. DK, the tendency also is for the second evaluation to be coming from someone who is not trained in psychiatry. We're making the appointment to comply with the statute but it's not adding much value to the preceding.

One last point. Even with the suggestion of one independent court-appointed psychiatrist keep in mind the court also has the benefit of the petitioning hospital and its psychiatrist, which is bringing forward the commitment petition. So there's still our two sources of evidence for the court to consider in determining whether a person should be involuntarily treated.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments from members of the -- Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman and good morning.

PAUL KNIERIM: Good morning, Representative.

REP. REBIMBAS (70TH): Thank you for your testimony. And I guess I'm -- I'm kind of comfortable with making the two exams, the evaluations into one for all of the reasons you just stated. The immunity aspect, and I can understand the quasi-immunity but
I think there is a different level of actually putting it statutorily the way it's being proposed. It almost does allow some type of veil or cover for the individuals who you know are purposely negligent in some way and again, not that we ever anticipate that happening. And -- do you know of any scenarios or actual cases where a psychiatrist was sued?

PAUL KNIERIM: Thank you, Representative. I am not aware of a circumstance in which a psychiatrist was sued in connection with a Probate Court Commitment preceeding. Having worked with the Psychiatric Society however, I am very aware of how concerned physicians are about liability. And when I tell you how serious an issue it is to us to only have 11 psychiatrists available for Probate Court proceedings statewide, the thought with this Bill was to have a practical approach that would enable us to have high-quality proficient, independent psychiatrists able to perform these evaluations for us.

So back to your question is, the reality is the concern that psychiatrists have about the potential for liability -- keeping in mind we already agreed how sensitive these cases are. We're talking about proceedings in which a hospital is seeking a commitment order for involuntary treatment because if you as a patient with mental illness is being dangerous to self or others, the stakes are therefore very high in this sort of preceeding. And I think if -- if psychiatrists were to have the sense, psychiatrists on the current list were to have the sense that if a judge relied on the psychiatrist's opinion and released someone that psychiatrist would be liable for harm that
happened to a third party, or to the patient, we'd have this many psychiatrists on that list.

I think the belief that the quasi-judicial immunity exists is a help right now. My thinking on this was explicitly codifying it so that there was a statute rather than my opinion to rely on, would be appropriate. Might it be suitable to craft language that has some exception for willful misconduct, intentional misconduct, that's certainly worthy of consideration. I will emphasize though that the law of quasi-judicial immunity is pretty powerful. It extends the same immunity that judges have to those who are acting as agents of the court. And judges immunity is very broad. So long as the judge is acting within the scope of her subject matter of jurisdiction all -- immunity applies to all forms of liability. So it's worthy of considering more specific language but the concept in quasi-judicial immunity is very powerful.

REP. REBIMBAS (70TH): And I want to thank you for your testimony and certainly I want to thank you for bringing this to our attention because we also don't want to wait for those worse-case scenarios in order to be reactive but obviously to do something beforehand. But I think it definitely does merit some further conversation regarding if there is some wording that would be fitting in that regard, but completely understanding and respecting the quasi protection that already exists as well, so thank you. Thank you, Mr. Chair.

PAUL KNIERIM: Thank you, Representative.

SENATOR WINFIELD (10TH): Thank you. Representative Stafstrom.
REP. STAFSTROM (129TH): Thank you and thanks Judge for being with us. So quick followup on this quasi-judicial immunity issue. So has there been a -- I know you said you're not aware of any Supreme Court authority. Are you aware of any Superior Court authority where your theory has been tested at the Superior Court level?

PAUL KNIERIM: No, but in making that ascertain before the Committee I'm relying on a -- a case that site in my written testimony. It's with respect to guardians ad litem. So the case is Carrubba versus Moskowitz and the analysis of the Supreme Court in that case is essentially that when the court appoints a person to have an arm of the court role, agent of the court role, where the expectation of -- of that court-appointed individual is to have absolute independence and objectivity from the parties in the case and to make a report to the court that serves as evidence on which the court can rely on making its judgement, that a person in that role has quasi-judicial immunity.

So I'm making the ascertain to you based on that analogue. There are other cases that I'm not as well versed in. I believe the State's Attorneys in Connecticut enjoy that immunity. I believe the Public Defenders do not. Conservators in Probate Court do not. They're Supreme -- State Supreme Court jurisprudence on that. But I think the Carrubba case is the best analogy we have.

REP. STAFSTROM (129TH): So I guess where I'm going, I'm not asking you speculate or predict what the Supreme Court may or may not decide. I'm not sure any of us are able to do that, but -- but I -- I guess where I'm going with this is it strikes me
that there hasn't been a case that folks are aware of to point to where a court-appointed psychiatrist has been sued and then has tested this theory. So if -- are there -- are there cases out there? Are you aware of cases pending in the last several years where a psychiatrist has been sued by someone who has been subjected to involuntary commitment?

PAUL KNIERIM: You're asking me to go pretty far into my memory bank. I'm going to try law school recollection now because I'm not aware of a current case in Connecticut. But there's a very prominent California case in which a psychiatrist was held liable for the harm that the psychiatrist's patient caused to a third party. And it was associated with a situation where that third -- where the patient had disclosed --

REP. STAFSTROM (129TH): Well I guess --

PAUL KNIERIM: I'm sorry?

REP. STAFSTROM (129TH): No, go ahead.

PAUL KNIERIM: Where the psych -- where the patient had disclosed intentions of violence or thoughts of violence as to a third party. My sense in working with the Connecticut Psychiatric Society on trying to recruit more psychiatrists for these proceedings is that that group of physicians lives in fear of that kind of liability. That a patient does something and they are held liable for the patient's action.

REP. STAFSTROM (129TH): And I guess that's -- I mean that's the bottom line, right? Is where I'm going with this. Is -- is the fear truly that psychiatrists are going to get sued, and if so what is that fear based on if there's not sort of a -- a
pattern of suits against you know those handful of psychiatrists who are willing to take on this work? Or is it more function of if we simply don't pay those psychiatrists enough to perform this vital function and therefore they don't want to take the work on because it's just not lucrative enough?

PAUL KNIERIM: Something I shouldn't do is speak for other groups. All I know is how severe the problem is in our system in recruiting psychiatrists to this role. I don't know whether another couple hundred dollars would relieve someone of the concern about millions of dollars of potential liability. I wouldn't -- as much as I wouldn't want to speculate how the Supreme Court would rule on a case I don't want to put myself in someone else's head. I just know that the immunity issue is a -- is a central concern.

May I suggest, think of it in these terms. Probate judges are really in the same role. They're the ones ultimately making a decision whether an individual should be committed or not based upon the evidence presented. Judges enjoy judicial immunity. Would you ever contemplate not having that be clear for the person who's charged with making those decisions. I don't think we would. We wouldn't have probate judges if judges felt they would lose their homes over an error in judgement. And I -- and I think it's the equivalent in this situation. A psychiatrist is serving as an agent of the court and the independence and objectivity of that psychiatrist are what we're after.

If they have a real concern about liability you're not going to get that objectivity. You're going to get overly cautious opinions. Everybody is going to
be considered dangerous I think. I do want to clarify for the record also that the payment arrangement for psychiatrists in probate court proceedings is an hourly amount. So when we were speaking about $250 -- the increase from $175 to $250, that's an hourly amount. They're compensated based on the time.

REP. STAFSTROM (129TH): That amount is paid for out of the filing fee that the commitment applicant pays to the court, correct?

PAUL KNIERIM: It's close to that. So the responsibility for payment of the psychiatric evaluation is on the part of the petitioner. As you said earlier, most of the petitioners are hospitals. Not entirely, but most. So the statute provides for payment by the petitioner. In terms of sheer volume the Department of Mental Health and Addiction Services is the most volume oriented petitioner in the Probate Court system. Furthermore if a private hospital is petitioning for commitment of an individual to a DMHAS facility; so let's say a hospital in Bridgeport believes their patient needs long-term care and ultimately should be transferred to Connecticut Valley Hospital, DMHAS would be responsible for the payment. So it's a mix of private hospitals and DMHAS.

REP. STAFSTROM (129TH): Okay. I just want to switch gears real quick to 938, Senate Bill 938. I don't know if you had a chance to review the testimony that's submitted by the Attorney General's Office. I don't know if they're going to testify later or just submitted written testimony but they've raised some concerns with this Bill as they have in the last year as in previous years with --
and particularly with respect to the issue of Medicaid funding eligibility and I didn't know whether you wanted a moment to address that point or not.

PAUL KNIERIM: Thank you, Representative Stafstrom. I would. This actually -- this point became relevant in the Belaire case at the Supreme Court where the Attorney General argued that the sheer volume of matters would make it impossible for the office to represent the interest of the state in the Probate Court proceedings. My office was asked to file an Amicus Brief on this and we reviewed our statistics. If memory serves the average number of petitions that were related in that area was about 16 per year and the Supreme Court in its opinion found -- found actually persuasive, it's not an overwhelming amount of work for the Attorney General's Office to appear in the Probate Court proceedings in which the state's interests are at stake.

REP. STAFSTROM (129TH): Okay. Thanks.

SENATOR WINFIELD (10TH): Thank you. Are there others? See -- Representative Fox, thank you.

REP. FOX (148TH): Thank you, Senator. Thank you, Mr. Chairman. Morning Judge. Just a quick question.

PAUL KNIERIM: Good morning, Representative.

REP. FOX (148TH): On Senate Bill 941, my understanding reading the Bill is very limited scope as to who it can potentially effect; is that correct?
PAUL KNIERIM: Thank you, Representative. That is absolutely correct. So it doesn't apply if there would be an estate tax associated with the estate. It doesn't apply if there was a probate preceding. I believe it applies only if the real estate was held in survivorship or a retained life of state. It is very limited; you're absolutely correct.

REP. FOX (148TH): Thank you very much. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Are there others? Seeing none, thank you very much for your testimony.

PAUL KNIERIM: Thank you.

SENATOR WINFIELD (10TH): We'll next hear from Carolyn Cavolo and then Matt Seagull.

CAROLYN CAVOLO: Good morning members of the Judiciary Committee. My name is Carolyn Cavolo. I am a resident of Darien, Connecticut. I am the Chair of the Legislative Committee and the current Treasurer of the Connecticut Bar Association Real Property Section and I am submitting this testimony on behalf of the Section and the CBA to request your support of supporting Raised Bill No. 941, AN ACT CONCERNING THE DURATION AND RELEASE OF ESTATE AND PROBATE FEE LIENS AND THE REPEAL OF THE SUCCESSION TAX. We -- our section worked with the Estate and Probate Section and also with Judge Knierim for the better part of the last two years to get this language in front of you.

The purpose of this Bill is to provide a mechanism to clean up old title issues on property where a person has died owning the property or a reserved life use in property. Connecticut law imposes both
an estate tax and a probate fee lien on the property. And normally this is cleaned up as part of the probate process and because no actual lien is recorded on the Land Records, they are sometimes overlooked and the property is mortgaged or sold without these liens being released.

The issue with this is, several years later the next owner or series of owners has no connectivity to the original deceased person from which these liens and fees derived, they go to sell the property, and the issue of the unreleased liens is raised. They until now have not had the mechanism to approach the Probate Court to process these and get them released and to pay the fee. Because they have the lack of connectivity and also the lack of knowledge to reopen these issues.

This Bill establishes a procedure for someone to obtain a release of the estate tax and probate fee liens by reporting to the Probate Court what they do now and to make an application for this narrow situation. It is not a substitute for proper settlement of a decedent's estate. It is limited only to situations where the liens arise out of survivorship property or a retained life use as Judge Knierim just said, the decedent has been dead for more than 10 years, no estate has previously been opened, and the petitioner must include an affidavit that they did not receive the property directly from the decedent and that they made a diligent search to locate the decedent's heirs or those with the information to file a complete estate tax return. So probate fees and interest are paid to the Probate Court and a $200 administrative fee is paid to the Department of Revenue Services.
The other purpose of this Bill is to complete the repeal of the old Succession Tax, which applied to people who died prior to January 1, 2005. Section 4 of Public Act 18-26 had previously discontinued enforcement of the Succession Tax and the language of this Bill makes it clear that the Succession Tax is repealed. This would only apply to estates of people who died prior to January 1, 2005, more than fourteen years ago.

Thank you for your consideration of this Bill.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments? Representative Fox.

REP. FOX (148TH): Thank you, Mr. Chairman. Good afternoon. Thank you for being here today. Just a quick question just to clarify quickly. Upon payment on the $200 administrative fee to the Department or DOS, payment of probate fees and interest to the court, the court issues before it releases; what are we looking at in terms of the probate fees and interest to the court? What types of fees are we referring to there?

CAROLYN CAVOLO: Um -- I'm not sure of the exact dollar amount. And I'm sorry, I'm not exactly aware of that but possibly David Slepian who will be testifying for States and Probate might have that information.

REP. FOX (148TH): Okay. Thank you very much.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments from others? Seeing none, thank you very much for your testimony. We will hear next from Matt Seagull and then we will be followed by Charles Della Rocco.
MATT SEAGULL: Members of the Committee, hello. My name is Matthew Seagull. I live in Shelton, Connecticut. I am here representing my wife, Michelle Seagull as well as our 4-month-old son, Adam Seagull. Adam was killed on March 22, 2016 by Carol Cardillo when she administered a dose of Benadryl to get him to go to sleep while he was in her care at an unlicensed home daycare in Fairfield. Mrs. Cardillo is currently serving a 30-month jail sentence for second degree manslaughter, reckless endangerment, and intent to harm a minor. We have a civil case pending for wrongful death which is scheduled for July of this year.

I could talk for hours about the impact Adam had on our lives in the short time he had on this earth but in the limited time I have to speak, I want to focus on the woman who took him from us and the steps she has taken to evade justice and punishment. So I am here in opposition to Raised Bill 7236 and to make sure you understand the effects that the passage of this Bill will have on helping criminals like Mrs. Cardillo and hurting victims like my family.

Since the moment my wife and I received the call that Adam was being sent to the hospital because he was having trouble breathing, the goal of Mrs. Cardillo has been to get away with the crime of killing our son. With no evidence of foul play, we were told by investigators that they believed his death in her home was caused by SIDS. It wasn't until the initial toxicology results came in a couple weeks later that we learned the horrible truth about what happened that day. Adam's death was officially ruled a homicide and the investigation against Mrs. Cardillo was re-opened.
She immediately issued a statement that she had never had Benadryl in her home.

Investigators subpoenaed her CVS card and found that from January 1, 2014 until the week before our son's death, Mrs. Cardillo had purchased 90 bottles of children's Benadryl that she was using to get the children in her care to go to sleep. She was arrested that August. At her first court appearance when her charges were read to her, she threw her head back and scoffed at the charges. She also potentially committed fraudulent conveyance by taking out a second mortgage on her house that she co-signed with her son in order to pay her bond and her legal defense.

Mrs. Cardillo pled no contest to the charges in November 2017. Her potential 10-year prison sentence was reduced to only 30 months, not nearly enough time to make up for the graveness of her actions. She also paid a reduced fine to the Connecticut Department of Public Health for running an unlicensed daycare, with her attorney claiming that any assets needing to be paid to DPH would be taken out of the pockets of my family and me in any potential civil judgment.

A couple of months ago our civil attorney received an email from Mrs. Cardillo's family attorney asking if we were intending to continue with our civil claim, as Mrs. Cardillo could no longer afford legal representation. We responded that we were intending to continue with our claim. We fully expect that Mrs. Cardillo will accept a default judgment, declare bankruptcy, and then fight it out in the courts on whether she'll have to pay us on our judgment. Raised Bill 7236, as it stands now,
without any exceptions for willful, wanton, or reckless misconduct, will allow her to keep her house, which we believe is the only asset she has that might allow my family to collect on any judgment regardless of how much we are awarded. In essence, Mrs. Cardillo would be able to kill our son and keep everything she has and we would end up with nothing but this heartbreaking loss.

My family and I implore you to vote no on this Bill. Thank you all for listening. I'm available to answer any questions you all might have.

SENATOR WINFIELD (10TH): Thank you for your testimony. Are there questions or comments from members of the Committee? Seeing none, thank you very much for your time. We will next hear from Charles DellaRocco followed by Sotonye Otunba-Payne.

CHARLES DELLAROCCO: Good afternoon Chairpersons Stafstrom and Winfield, Ranking Members Rebimbas and Kissel, and members of the Judiciary Committee. My name is Charles DelloRocco and I am the President of AFSCME Local 749. Our union represents more than 1,500 Judicial Branch, Office of the Public Defender and Division of Criminal Justice employees. I am here to speak on SB 964, AN ACT CONCERNING COURT OPERATIONS.

Local 749 memberships includes more than 200 recording monitors who are the unheralded backbone of any court proceeding. SB 964 had contained language that would enabled the Judicial Branch to outsource the transcription work performed by the monitors we represent. The union and has always been willing to bargain the necessary changes to implement the Judicial Branch's mission.
Court Monitors earn a modest pay that is much lower than that of the old court reporters. This was a position that was eliminated. Monitors perform the bulk of their typing of transcripts at home and in lieu of overtime. This a vastly female workforce, and additional income they earn, they pay Connecticut taxes on that supports themselves and their families. Taking this work away from them would not only slash their pay, it would lead ultimately to the elimination of their jobs. Again, let me emphasize. Monitors do not get a penny of overtime. The supplemental income they earn is a per page fee set by statute. Trust me - this is -- this is a bargain.

This is not a fight about money. Truthfully, I'm not sure what has motivated the Branch to explore outsourcing transcription work to a private vendor. What I do know is this. Losing transcription work would not only devastate our court monitors, it would compromise the integrity of every judicial proceeding in every court case. Let me say that again. The integrity of the Judicial Branch would be compromised. You would be amazed at the speed and efficiency and dedication of these employees. I urge you to spend some time with them and see what I mean.

In conclusion, please ensure that SB 964 safeguards the highest quality public service performed by state court recording monitors. Our union looks forward to working with you to achieve this. Thank you for listening, and I am available for any questions.

SENATOR WINFIELD (10TH): Thank you very much for your testimony. Are there questions or comments
from members of the Committee? Seeing none, Thank you.

CHARLES DELLAROCCO: Thank you.

SENATOR WINFIELD (10TH): We'll next hear from is Sotonye Otunba-Payne followed by Lincoln Woodard.

SOTONYE OTUNBA-PAYNE: Thank you so much, thank you.

SENATOR WINFIELD (10TH): How'd I do with the name?

SOTONYE OTUNBA-PAYNE: Good afternoon Chairpersons Stafstrom and Holder-Winfield, Ranking Members Rebimbas and Kissel, and members of the Judiciary Committee. My name is Sotonye Otunba-Payne. I am a Court Reporting Monitor assigned to the Judicial District in New Haven. I am proud to have over two decades of dedicated service to the people of Connecticut. I am also member of AFSCME Local 749. Our union membership includes more than 200 of my colleagues who perform vital court transcription services. I am here to speak on SB 964, AN ACT CONCERNING COURT OPERATIONS.

I am not here to speak against the Bill as a whole. I do want to speak against language that opens the door to outsourcing our court transcription work.

This is work that must be performed outside of the normal hours of daytime court operations. Court recording monitors perform the duties with utmost precision, integrity, timeliness and professionalism. My colleagues and I believe the Branch's pursuit of outsourcing would lead to the elimination of our court transcription work and ultimately our jobs. I would also like to point out that court recording monitors are nearly 100 percent female. Outsourcing to a private corporation would
be devastating to us, to our families, and to the communities where we live, work and pay taxes.

Most important of all, outsourcing transcription would also compromise the integrity of the legal process. Nobody understands what happens in the courts better than we do, certainly not a private corporation. We are invested in our work. We interact with judges, attorneys and many others who are part of the judicial proceedings. We are the eyes and ears of the system. We work nights and weekends to ensure that court transcripts are flawless. We hold ourselves to very high standards. There is accountability.

In closing, I ask that you to protect the quality and integrity of our work as court recording monitors. Please ensure that any language that referencing hiring and employing outside parties is prohibited. Thank you for listening. I am happy to answer any questions you may have at this time.

SENATOR WINFIELD (10TH): Thank you for your testimony. Are there questions or comments from members of the Committee? Seeing none, thank you. Oh, well Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. Thank you for coming in. I -- the court monitors in putting together these transcripts is always very necessary for any court preceding and I give you all the credit in the world for being able to do that. Let me ask you. You're saying that most of the work is done not on state time; is that right?

SOTONYE OTUNBA-PAYNE: Absolutely.

REP. DUBITSKY (47TH): Is there -- does anybody do the transcription on state tie?
SOTONYE OTUNBA-PAYNE: The state work is done on state time. Some of them are done on state time because the state requires us, we're mandated to do 20 pages a day of appeals on mostly criminal proceedings. Anytime there's -- there's -- there's a conviction and sentencing it automatically generates transcripts, so that is appeal work that must be done, 20 pages a day. And most people work more than 20 -- do more than 20 pages a day because we have thousands and thousands of pages in the criminal courts. But mostly the work is done outside of work hours. We come in early in the morning, we stay late at night. I go to work on the weekends to do work.

REP. DUBITSKY (47TH): Okay. So the -- the 20 hours a day that is done on state time --

SOTONYE OTUNBA-PAYNE: It's when you're not in court, mostly during lunch hour or early in the morning when you come in because we get to work at 8:30 and sometimes courts don't start until 9:30, 9:15, 10:30.

REP. DUBITSKY (47TH): Okay. But it's done on state time though?

SOTONYE OTUNBA-PAYNE: The state transcripts.

REP. DUBITSKY (47TH): Okay. While -- while the monitor is being paid by the Judicial System.

SOTONYE OTUNBA-PAYNE: Yes, but you have to recall -- you have to remember it is $2.00 a page that must be done. When we signed up for this job it was our understanding that we needed to work and do this extra work. We're mandated by law to do this extra work. So in order to have -- people have their transcripts for criminal proceedings, we do that;
but most of the work is done outside of work hours I can tell you that.

REP. DUBITSKY (47TH): Okay. So --

SOTONYE OTUNBA-PAYNE: Because it takes much more than you think.

REP. DUBITSKY (47TH): I'm just trying to take it one step at a time. So -- so there are -- so 20 pages a day is done on state time.

SOTONYE OTUNBA-PAYNE: On state time, yes.

REP. DUBITSKY (47TH): During the time that the -- the monitor is being paid by the state?

SOTONYE OTUNBA-PAYNE: Some of it is -- the state might be paying.

REP. DUBITSKY (47TH): Okay. So when -- when the monitor puts together that transcript and bills for that, who do they bill?

SOTONYE OTUNBA-PAYNE: We bill the different agencies within the state that pay. So the judge orders a transcript from me, which I do mostly on my time. Most of the time, 99 percent of the time is on my time. It is sent to Transcription Services so the state pays for it. For the -- for the criminal cases, there are different agencies. Could be prosecutors sharing with the public defenders because when the prosecutors order transcripts the public defenders get their free copy so they share the -- the transcripts. They charge for the transcripts, so those two agencies pay for those transcripts.

REP. DUBITSKY (47TH): Okay. And they -- and they pay you directly?
SOTONYE OTUNBA-PAYNE: And they pay us through our paychecks or -- or Express Stubs, yes.

REP. DUBITSKY (47TH): So is it paid through your paycheck or is paid separately?

SOTONYE OTUNBA-PAYNE: The judges are paid -- there are different agencies that pay. Some come through our paychecks and some do not. The agencies pay separately, yes.

REP. DUBITSKY (47TH): Okay. Now if it -- now any -- like if you're -- if you're doing a civil case like a civil trial or something like that, when is that transcript made?

SOTONYE OTUNBA-PAYNE: So I just did one last night, a civil transcript. I went home and I transcribed and I emailed that transcript at approximately 1:25-1:30 this morning.

REP. DUBITSKY (47TH): Okay.

SOTONYE OTUNBA-PAYNE: That's what I did.

REP. DUBITSKY (47TH): And -- and do you consider that part of your job?

SOTONYE OTUNBA-PAYNE: Absolutely. But -- because that was what I was told from the beginning when I got the job, over two decades ago.

REP. DUBITSKY (47TH): Okay. Doesn't that put you well over 40 hours a week?

SOTONYE OTUNBA-PAYNE: We get paid for the transcripts and this -- this was our understanding from the beginnings. This is all we know.
REP. DUBITSKY (47TH): Okay. So outside of normal hours you put together the transcripts and then you bill the parties for that?

SOTONYE OTUNBA-PAYNE: I bill the parties for that, yes. And you have to understand it's an on-demand job. So the attorney -- attorneys are expecting the transcripts. It is now sent by email. So it's not like they are waiting for the next day because I wasn't at work today. It's not like they're waiting at the office. I have to print it out and all of that. It's all email now.

REP. DUBITSKY (47TH): Understood but -- so they -- so you email it to them and then they pay you?

SOTONYE OTUNBA-PAYNE: And eventually they pay us. And you have to remember, not all -- not all law firms are equal. So we work with the attorneys, the single solo attorneys that -- that sometimes take time to pay us and that is fine. Sometimes it is a month to two months before we get paid, so it's not immediate. We are not holding the transcript hostage because they don't have the money to pay. So it is whenever we get the payment, we get the payment and we are fine with that.

REP. DUBITSKY (47TH): Okay. So does the -- do the parties get a choice of who to do their transcription?

SOTONYE OTUNBA-PAYNE: Well I -- usually you do the transcripts that you have sat on in the case. So if you are the court monitor in a particular case, you do it. But if there are -- there's a demand to have it done overnight then we share the transcripts amongst ourselves. We divide it up so that we can get it done overnight and deliver it -- send it by
email to the attorney. So say there's a trial that is a week, which happened. Three -- three people shared each day and they went home and typed overnight and emailed it to the attorneys and then in the morning printed it for the attorney so they had it -- had it in court.

REP. DUBITSKY (47TH): Okay. Now are you -- are you certified in some way like private monitors are?

SOTONYE OTUNBA-PAYNE: We don't have certification. I've been there over two decades. But I did go to court reporting school to train for this so I could do this.

REP. DUBITSKY (47TH): Okay. But aren't -- aren't court reporters in the private sector, aren't they certified in some way?

SOTONYE OTUNBA-PAYNE: They are certified because they -- they -- it's a separate -- it's a different skill. So the court reporters that we have within the state that have been turned into court monitors are certified court reporters. So that's a different skill. They have to take exams before they can be certified.

REP. DUBITSKY (47TH): Okay. So in the private sector they're certified, but in -- the court monitors are not?

SOTONYE OTUNBA-PAYNE: We have been sworn. We have to take tests in order that we may be able to do this job, yes. We do take tests to take -- to be able to do this job.

REP. DUBITSKY (47TH): Okay.

SOTONYE OTUNBA-PAYNE: With typing skills and English exams -- examinations.
REP. DUBITSKY (47TH): Okay. Is there some deficiency in the private sector that they're -- they're not as good as you?

SOTONYE OTUNBA-PAYNE: You know, I will not say they are not as good as us. I won't be so bold as to say that, but I can say that based on our experiences and the fact that we're sitting in the courtroom and we know the procedures, we are able to type accurate transcript when they ask their questions. We have access to their exhibits that they use in the courtroom. Sometimes we have cases that -- for me, it's not familiar to me. Like agriculture is not something that I know anything about. I don't know anything about a yacht. I doubt I will ever buy a yacht in my life so if somebody is talking about a yacht and it's switch and bait and it has to be will all the context of a yacht, I have to look for spellings because this is not language that I'm familiar with. So there's a lot of Googling and looking for information and looking at exhibits and calling attorneys to ask for -- for spellings of things and what does this mean. And there's a case about something in India and we're in America and we have to call the attorneys so it's various topics that we do. So because we're sitting there we can ask the questions when we are there. We can look at the exhibits. We can produce more accurate transcripts, yes I believe so.

REP. DUBITSKY (47TH): If you transcribe a hearing for example, and one of the parties wants it; you charge the for that?

SOTONYE OTUNBA-PAYNE: Yes.

REP. DUBITSKY (47TH): Okay. Now what if another party also wants a copy?
SOTONYE OTUNBA-PAYNE: So we -- we -- our job is mandated by law and the fees we charge -- the fees we charge are mandated by law as well. So if a party comes and gets it for $3.00 -- let's say just in civil for example. It's $3.00 per page and somebody wants it and they get it for $1.75 -- $1.75 a copy. For state if we do a transcript it's $2.00 per page. All of this is mandated by law. And if the judge and if the other side wants it, they get it free if it's a state agency; they get it free. And so the judges get all transcripts that we do free. On special --

REP. DUBITSKY (47TH): And in a civil case --

SOTONYE OTUNBA-PAYNE: Judges get the transcripts free. Yes, unless the judge wants it and the attorneys don't want it, then the state pays for it.

REP. DUBITSKY (47TH): So each party has to pay for the same thing?

SOTONYE OTUNBA-PAYNE: Yes. Because it takes time to do this work.

REP. DUBITSKY (47TH): Okay. But --

SOTONYE OTUNBA-PAYNE: It's time consuming.

REP. DUBITSKY (47TH): But once the work is done, does it cost twice as much to send a copy to another party?

SOTONYE OTUNBA-PAYNE: Doesn't cost twice as much, but it is -- there's been labor -- it's labor intensive.

REP. DUBITSKY (47TH): I'm sorry?

SOTONYE OTUNBA-PAYNE: It -- it's labor intensive to do the transcripts. I dare anyone to sit down and
try and type a 20 minute transcript with four attorneys speaking at the same time and see what happens, so it's mandated by law what we charge. We don't just pick up a number and charge.

REP. DUBITSKY (47TH): So it's mandated by law that each party has to pay for the same thing?

SOTONYE OTUNBA-PAYNE: Yes.

REP. DUBITSKY (47TH): Okay.

SOTONYE OTUNBA-PAYNE: Not the state. The state doesn't pay for the same thing.

REP. DUBITSKY (47TH): I mean in a civil action.

SOTONYE OTUNBA-PAYNE: In a civil action.

REP. DUBITSKY (47TH): Okay. All right. Thank you very much. Thank you for your time.

SOTONYE OTUNBA-PAYNE: Thank you.

REP. DUBITSKY (47TH): Thank you, Mr. Chair.

REP. STAFSTROM (129TH): Any other question or comment? Next witness is Lincoln Woodard.

LINCOLN WOODARD: Good afternoon Vice-Chairman Blumenthal, members of the Committee. My name is Lincoln Woodard, I'm President of the Connecticut Trial Lawyers Organization. We are a membership of 1300 attorneys representing many more thousands of injured victims who are mostly concerned with preserving the individual rights and those harmed by others.

I'm here -- briefly I'd like to comment on raised Bill 939. We did submit written testimony on that Bill involving the Psychiatry -- Judicially appointment psychiatrists and the commitments. I
would simply state that we are opposed to the immunity provision in that Bill. We do not think it is necessary. I think there was a comment earlier about -- and some discussion about the existing quasi-judicial immunity that psychiatrists would have in these commitment orders and I think that that -- the context of the common law and analysis of cases on individual facts is important for all of the rights involved. Those committed, those that are -- those that are not committed and may harm others and that the scope of that quasi-judicial immunity is broad and it should really be the controlling factor in the analysis and to legislate as drafted, this broad sweeping over -- overarching immunity just would not be -- not be appropriate and would be sort of unprecedented in our laws and amongst psychiatrists and physicians otherwise.

I am here primarily to oppose the language as it exits in raised Bill 7236, which involves the raising of the Homestead Exemption. While mostly our association represents individuals who are harmed by acts of negligence, we are also involved in representing individuals who are harmed by acts that are reckless, intentional assaults and sadly those cases like Mr. Seagull who reported here about his -- the loss of his child and pursuing a criminal perpetrator. These -- this Bill seeks to raise the homestead exemption from up to $250,000 from what it is now at $75,000 and CTLA opposes the proposed Bill because it fails to distinguish a judgement obtained by a victim against perpetrators and by that I mean those who shoot and kill someone, sexually abuse a child, drunk drivers who recklessly kill another. From those who are judgement creditors in the more classic sense of failing to pay their bills. Those
two -- those two categories of judgement creditors should not be treated the same and under the existing language they are.

We would simply seek to carve out those exceptions -- an exception for intentional actors, reckless actors and so that they cannot be protected by the equity invested in their home. Thank you. I'm happy to answer questions.

REP. BLUMENTHAL (147TH): Thank you, Mr. Woodard. Any questions? I would comment that I think you know, it's significant that in our court system one of the purposes is to apportion the risk of injury and I think it's qualitatively different to think about someone who is guilty -- or not guilty, liable potentially for a significant, potentially intentional, willful conduct or reckless conduct than someone who is negligent or is you know, otherwise liable. I would just ask you Mr. Woodard, with the addition of the proposed language, would CTLA or you have any objection to the proposed Bill as it stands?

LINCOLN WOODARD: No. With the insertion of the -- of that carveout for those types of cases, we would not. Because also it's you know, it's important to remember that insurance does not cover acts that are intentional. You can purchase insurance to protect yourself from mistakes but if -- if you assault another person that's an intentional act that's not protected and often times in these set -- most egregious type of cases the only asset is in the home. So with the carveout I think that the CTLA would not oppose. It's not taking a position on whether to leave the exemption -- the homestead exemption at $75,000 or go up to $250,000.
REP. BLUMENTHAL (147TH): Thank you, Mr. Woodard. Any other question or comment? Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chair. Is it your understanding that at the federal level, like in bankruptcy the intentional torts and things like that cannot be discharged?

LINCOLN WOODARD: Yes, that's correct. There -- under the federal bankruptcy code the willful and malicious conduct I think is the language that's in -- within the bankruptcy code and that is not something subject to bankruptcy. So you can -- so in a situation like this -- in Connecticut for example, if someone had a large judgement against them in bank -- for an intentional act, they would not be able to gain any protections from the bankruptcy code and have that judgement excused whereas if it was caused by negligence, I think that would be able to be excused in bankruptcy in the event of that kind of judgement. But in -- but that same person, and that same intentional actor in Connecticut would be allowed to keep all of his equity in his home up to $250,000 which would be the vast majority of people. And you know in situations involving the most -- most commonly this comes up in the context of sexual abuse cases and while they can't claim bankruptcy, often times that is -- that asset is still protected because they don't have more than the $75,000 in equity now. And the Bill -- -- and even in its current state, it's silent as to this -- these particular types of judgements.

REP. DUBITSKY (47TH): And is it your feeling that that carveout or that exemption should be added regardless of the number?
LINCOLN WOODARD: Yes.

REP. DUBITSKY (47TH): Whether the number is increased or not?

LINCOLN WOODARD: Yes, because I again, I think that it's just such a -- it's such a clear distinction when you have a situation where someone has act -- where their actions cause harm to someone by their intentional acts or their reckless disregard of that person's safety; you are in a -- it a different set of facts. It is often uncovered by insurance and protecting someone's home; Mr. Seagull's example you know -- his family's example is a -- is a classic statement of a circumstance where there's no insurance coverage to compensate them in any way and that the only potential asset would be the equity that the person -- perpetrator has in their home. That seems to be the only asset that's out there.

REP. DUBITSKY (47TH): Thank you. Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you. Further questions from the Committee? Seeing none, Attorney Woodard, thanks for being with us again.

LINCOLN WOODARD: Thank you.

REP. STAFSTROM (129TH): Next up will be Stacy Schlief.

STACY SCHLIEF: Good afternoon distinguished members of the Committee. My name is Stacy Schlief and I' a Senior Staff Attorney for the Center for Children's Advocacy, the largest children's legal rights organization in New England. I'm here today to ask for your support on House Bill 7189, AN ACT
CONCERNING THE RESTORATION OF TERMINATED PARENTAL RIGHTS.

Before returning home to Connecticut I spent over 12 years as a public defender in Massachusetts representing mothers, fathers, and children involved in the child welfare system in cases where the DCF sought custody following allegations of abuse or neglect. Many of those cases ended with petitions to terminate parental rights, what are often referred to as the civil equivalent of death penalty. I can count on one hand the number of cases I've had in my entire career where the parents involved acted in such an excusable way that the need to terminate their rights was obvious. Many parents, however, especially those dealing with substance use issues, simply run up against the federally-Implemented time standards and fail to rehabilitate within that requisite amount of time.

As you are aware 7189 is intended to provide an avenue for parental rights to be restored where a few key circumstances are met. First and most significant is that has not yet found permanency for a child after at least three years of lingering In the foster care system and the child is either 14 or older, or the younger sibling of such child who also meets the relevant requirements. There is not a situation more heartbreaking than representing a child who the system has termed unadaptable, usually one with significant enough needs, or who has reached an age no longer considered desirable for adoptive families to invest in. Those are the kids who need their parents in the long run for better or worse, to be there for them as they mature to age 18 and beyond. This Bill provides some measure of hope to those kids that one day when their parents are in
a better place, they can petition the court to return home to them.

Second, this Bill leaves the decision in the hands of the youth with his or her attorney to file the petition to restore parental rights, to which the parent must also consent. This is obviously an empowering process for a child.

Third, once the petition is filed, this Bill requires DCF to get involved -- re-involved to reassess the situation; it will not simply provide a backdoor way to get around the department's rehabilitative requirements. As we have all witnessed over the past few years, the rise of social media has had a large impact on maintaining ties between friends and families. Children will find a way to stay in touch with their parents and other family members if they want to, regardless of any court-imposed legal connections. Rather than pretend that this does not occur, and instead acknowledge that a child who wants to return to his family once he is old enough to have the resources to do so, this Bill provides a respectable legal mechanism for a youth to do that. There are many children involved with the child welfare system that this Bill will not affect. Those who have been lucky enough to find loving, permanent homes. But for those handful of teenagers who linger in the system, bouncing between group homes, proven to be unadaptable, those parents -- whose parents have since reformed their ways, this Bill will make a world of difference. Thank you for your consideration.

REP. STAFSTROM (129TH): Thank you. Questions from the Committee? Seeing none, thanks so much for being
with us. Next up I have Len Suzio. Wait a minute. I'm sorry Len. I -- I skipped over Dave McGuire. I don't know how I did that. I'm so sorry. Dave McGuire, then Len Suzio. Sorry about that, Dave.

DAVE MCGUIRE: No problem. We get mistaken for each other a lot. (Laughing)

REP. STAFSTROM (129TH): Yeah, I was going to say, it doesn't normally happen.

DAVE MCGUIRE: Good afternoon Senator Winfield, Representative Stafstrom, and distinguished members of the Judiciary Committee. My name is David McGuire, and I am executive director for the American Civil Liberties Union of Connecticut. I am here today submitting this testimony in opposition to Senate Bill 970, AN ACT CONCERNING THE CONFIDENTIALITY OF EVIDENCE SEIZED IN A CRIMINAL INVESTIGATION and also suggest that the Bill be amended to address another issue that's somewhat related, civil asset forfeiture. Our organization opposes this Bill as we do most exemptions from the FOI Act under the idea that full transparency is important. Full transparency is especially important in the criminal justice context and essential for a democracy to work and to make sure law enforcement is in fact doing their job appropriately.

I understand the intentions of this Bill, but I want to point out that there are several existing FOI exemptions that in our estimation meet the needs that are being sought to be filled here. Specifically there are already two exemptions that deal with privacy. If there is a legitimate concern of personal invasive of privacy and the issue is not a matter of public concern, which in many cases the
kind of evidence that is trying to be addressed here would be not a matter of public concern, there is an existing exemption for that.

There's also an exemption that would allow law enforcement to withhold documents that would hinder the investigation. So we suggest instead that this Bill be amended to address another issue around seized evidence, and that's closing the loophole on civil asset forfeiture. In 2017 the General Assembly unanimously passed a Bill that now requires a conviction or a plea before law enforcement could actually take title to property and sell it. Unfortunately shortly after the Bill passed many policy makers and advocates realized that there is a loophole that allows state law enforcement to go to the federal government and use a program called Equitable Sharing which allows them to sidestep that condition requirement.

We are hoping that the Committee will insert some language in here that would make sure that unless there's legitimate cooperation with the federal government that all seizures made by local enforcement go through the law that you all passed two years ago. I'm happy to answer any questions that you might have.

REP. STAFSTROM (129TH): Senator Sampson.

SENATOR SAMPSON (16TH): Thank you very much, Mr. Chairman and thank you for being here, David. Just a couple of quick things. First I want to say that I'm with you 100 percent regarding this civil asset forfeiture issue. It's something that we worked together on a couple of years and I would like to see that be restored as the law in Connecticut.
I haven't looked at the language too closely in 970 and I'm kind of -- I heard both the testimony in favor and opposed now. The exemption you mention; I just want to understand this pretty clearly. So if the police obtain someone's cell phone for instance as evidence related to some sort of criminal act and it turns out there's only one bit of evidence on that phone that they retain it; do the FI -- FOI laws currently give them -- give the public access to everything that is on that phone or does the exemption you're talking about apply? And how does that work exactly?

DAVID MCGUIRE: If the exemption is used they would only need to give over that small piece that's relevant. So if it's a diary for example, a physical diary the one page about that crime or the one page that's used in that investigation would be disclosable if other exemptions don't apply but the rest of it that is not relevant would fall under that invasion of privacy piece.

SENATOR SAMPSON (16TH): And so -- I guess what -- my question is, who applies for that exemption? Does the law enforcement agency ask for the exemption to not release or does the owner of the private -- or of the property?

DAVID MCGUIRE: So I can't speak to the -- to all the reasons for this Bill coming into existence but what I take this as is the -- is the government and the prosecutors wanting to essentially have a blanket to keep things like this private for a long period of time and be able to enforce it themselves. So that's what I see this as addressing.

In most cases it really depends on the jurisdiction and the agency that's being asked for the
information. In most cases, the departments and I have this experience myself, are very quick to use exemptions in trying not to disclose information and that's generally the reaction. So most of the time it would be put forward by the -- the agency that the document is being requested of.

SENATOR SAMPSON (16TH): Is there a mechanism for the judge to -- or not the judge, the owner of the -- the property to ask through some legal means to have that exemption?

DAVID MCGUIRE: That -- that is a great question. I don't know the answer and I can find that out for you. I mean I would think in many cases the person whose property it is won't even know that that's been requested and that there's some adjudication around it at the FOIC. I don't know the answer to that though.

SENATOR SAMPSON (16TH): I'd like to find a good solution to this problem. I mean back during the Lanza case that was mentioned earlier, I was one of just a couple of people that agreed that the information should be made public as horrific as it is because I think the citizens of our state have a right to know exactly what occurred because of the -- the seriousness of the crime and everything else. But at the same time I want to make sure that we protect the civil liberties, not only of people interested in that information but the owners of their own private property that may or may not be related to the criminal offense. So, thank you very much for being here. I appreciate it. And thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Thank you. Further questions? Mr. McGuire, I don't know if you've had
a chance to look at any of the testimony on this but the Connecticut Criminal Defense Lawyers Association weighed in on -- in support of this Bill and they have made the argument that this Bill is necessary in order to help ensure that folks are getting a fair and impartial jury and that jurors -- juries are not being unfairly tainted by evidence that is released pursuant to an FOI request that ends up getting out into the public sphere and could unfairly color a juror's opinion about someone when that evidence is not going to presented at the actual trial itself. You know, basically it's -- it's -- you know as much as we try to tell jurors, don't read the newspaper, don't do any independent research about this case, human nature being what it is -- but the safeguard against that is, you know the judge obviously is a gatekeeper pursuant to the rules of evidence and deciding what evidence is actually viewed by a juror or not.

And I thought you know, that's an interesting perspective on this Bill and as we -- you know we talked this morning about balancing the rights of the public's right to know versus privacy rights and I understand your organization tends to favor much more significantly on the public's interest as opposed to the privacy rights it sounds like from your testimony. How do you -- how do you reconcile sort of that concern about the right to a fair and impartial trial with the public's right to know?

DAVID MCGUIRE: That's a very legitimate concern but I do think in most of these cases as they are being played out now, law enforcement and prosecutors are using that exemption that it would hinder the -- the hinder the investigation and ultimate prosecution of the case pretty broadly so I don't think there is an
occurrence happening often that I know of where in fact the prosecuting authorities are giving over evidence that is publicly splashing in the news and hindering a fair right to trial. But I do see the point. I think that there can be some more conversation on how to potentially narrow this and have some -- a truly narrow exemption but as this is currently put, this gives basically carte blanch authority to the prosecutors to sit on information for an indefinite amount of time.

REP. STAFSTROM (129TH): I don't think the issue -- I don't think the concern is the prosecutor/attorney information over to the public but it's a FOIA request from a -- from a news outlet that then can decide what if any information they want to put out into the public's sphere as opposed to limited amount of information that's presented to a jury pursuant to the rules of evidence.

DAVID MCGUIRE: I think the almost uniform response to those requests from media to the prosecutors is that they're not giving it over. Then that -- and that's what we've seen and that's why we've seen litigation on these issues come from major newspapers and online outlets in Connecticut recently on that, so I don't downplay the need to ensure that everyone gets a fair trial. I just don't think that that is a very large issue here as the way it plays out right now.

REP. STAFSTROM (129TH): Yeah. I guess -- I guess like you said, it sounds like from the Chief State's Attorney's testimony this morning that they're open for tweaks and suggestions on language so this might be one of those Bills where it's helpful for folks to get in a room and talk about it.
DAVID MCGUIRE: We'd be happy to do that.

SENATOR WINFIELD (10TH): Any other members of the Committee with questions or comments? If not, thank you very much. Len Suzio for real this time. (Laughing)

LEN SUZIO: Good afternoon Chairman Winfield and Co-Chair Stafstrom and all the esteemed members of the Judiciary Committee. I'm here to speak out in favor of proposed Bills 5525, 5526 and 5527 in particular, which 5527 would add 11 crimes to the list of crimes not eligible for early release under the law as it currently is existing in Connecticut. The crimes that are added are particularly heinous crimes and some of them of the sexual nature, having a high degree of recidivism and I think it's appropriate that those crimes be added to the list of ineligible crimes for early release credits.

For the last five years I have been collaborating with the Department of Corrections through the Freedom of Information Act arrangement whereby I obtained data from the Department of Correction on all inmates discharged since the beginning of the early release program in September of 2011. To me the evidence after seven years and four months of experience is overwhelming that the program fails far more often than it succeeds and when it does fail, the failures are spectacular and catastrophic for thousands of innocent victims of criminal activity.

The evidence I will share with you -- evidence that the DOC itself and OPM are mandated to share by a law, PA15-216 but they have refused to distribute the information or develop it for reasons that they haven't disclosed, at least not publicly. But let
me just highlight some of the -- that data that are file -- that to me are shocking. And again I have far more data than what I'll just recite.

But there were 42,325 unique inmates discharge during this period of time release, one Risk Reduction Credit and there were 28,026 unique readmissions having committed or been charged with 37,135 crimes. The first cohort released from October 1, 2011 through September of 2012, there were 9,410 discharge prisoners who have subsequently been readmitted 9,960 times. That's right, they were readmitted more often than they were discharged. This is a recidivism rate or a readmission rate of 105.8 percent. If you calculate the recidivism for this group, if you stick to just discharged, it was nearly 68 percent.

Some of the crimes committed by these inmates who have participated in this so-called Risk Reduction Program include murder, homicide and manslaughter; 139 crimes committed for which they were incarcerated of that nature and nearly 200 sexual assaults. This comes out to basically one murder or sexual assault every eight days. And when you look at the rest of the crimes which I'll leave open to questions it's not only the nature of the crimes but the frequency with which they're committed that to me is very stunning. I'd be happy to answer your questions.

SENATOR WINFIELD (10TH): Senator Sampson.

SENATOR SAMPSON (16TH): Thank you very much, Mr. Chairman. And thank you Senator for being here. And also for your personal crusade on this issue. I share many of the same concerns that you do. The first thing I want to ask you is, I mean do you
believe in the -- such a program, Good Time Credits or Risk Reduction Credits if it's implemented properly?

LEN SUZIO: No, and again the statutory Good Time Credits is a separate program that was terminated back in 1994 and between that and 2011 when the early release program was implemented there was really nothing. So -- and the problem with the Early Release Program is that it was not only poorly conceived but it was poorly executed. When it was implemented initially back in September of 2011 the Department of Correction was mandated to review the criminal -- the inmate records of over 17,000 inmates in a very short period of time going back five years and they had to make a determination as to what Risk Reduction Credits they would award retroactively. And so it started off the wrong foot to begin with and I think that was nearly an impossible task to do in such a short period of time.

By the way, one of the blatant examples of where they failed is Frankie the Razor Resto who was -- was discharged 199 days early in 2012 having received that many Risk Reduction Credits. Within 60 days he was robbing a story in Meriden and murdered the elderly store clerk. He received 129 days Risk Reduction Credits retroactive even though during the -- the proceeding years he had applied for parole and was denied by the Board of Pardons and Paroles numerous times because of his behavior in prison. He had set his jail cell on fire. He was involved with gangs and drugs and everything else but under the Risk Reduction Program once he was awarded those credits he had to be discharged
early. So my point is just that the program I don't think was properly executed to be begin with.

SENATOR SAMPSON (16TH): Right. And I agree with you wholeheartedly. You're here to testify in favor of the three Bills that you mentioned; 5525, 26 and 27 and each of these don't do away with the Risk Reduction Credit Program that -- but they intend to improve it by making changes. And I'm just -- I guess I'm curious if you believe in the concept at all about you know rewarding inmates for behaving as a concept, not necessarily as in practice as it has occurred over the last seven years that this program has been in effect.

LEN SUZIO: Well I do believe that we should make every attempt we can to rehabilitate people who are predisposed to criminal behavior. It can be a daunting if not impossible task sometimes because a lot of people, it's just ingrained in them for a long period of time. But on the other hand the Risk Reduction Program as been implemented, for example you sign up for a course. Even if you didn't take the course while you're waiting for the course you're getting credits. A lot of the courses have nothing to do with social misbehavior or anything like that. Michelle Cruz would have been the former victim advocate pointed out some of the programs he cited; for example History of the Philippines is one of the courses that qualified for earning Risk Reduction Credits.

So I think that it's possible to rehabilitate people but thinking that the motivating factor here is, you're getting out of prison early. Well that will motivate you while you're in prison. The question is what happens once you're out of prison. The
motivating factor is gone at that point in time. And I think again with over 15,000 violent crimes that we've identified, having been committed over these seven years by early release inmates who have participated in the program designed to make them less risky to the community, I think every single one of those crimes, 15,433 violent crimes prove that the program failed in every one of those circumstances. That's a crime of violence every -- six crimes of violence every day for seven years. To me it's damning testimony and damning evidence.

SENATOR SAMPSON (16TH): I agree with you. And the numbers that you have come up with here are -- are shocking. I mean anyone who looks at this has got to be appalled that this program exists in the current way that it does.

How does that relate to the total number of violent crimes that are committed in the state; do you know? I mean 15,000 over seven years, that's a little over 2,000 a year it sounds like to me. I mean is that -- I didn't even know we had that many violent crimes in Connecticut period, and to see that 2,200 a year are being generated by folks that are actually out of prison before they've served their complete sentence is -- I just -- I'm blown away by it. How does that relate to the total number of violent crimes committed?

LEN SUZIO: Well I didn't collect data on the total criminal activity in the state of Connecticut but we know that many criminals are career criminals. They just go out and they offend over and over again so that that -- there's a lot of crimes being done a few number of people.
And one thing by the way I wanted to make sure I get out in front of the Committee is that in these days of the Me Too Movement where women are rightfully concerned about sexual crimes, nearly 1,000 inmates who had been incarcerated, convicted and incarcerated for sexual assault were discharged early from Connecticut prisons under this program.

I was contacted by -- I'm going to guess at least a dozen women over the last few years who are terrified that their sexual assailant was being discharged from prison way ahead of schedule. They felt betrayed by the system. They felt there was no sense of justice and they felt extreme anxiety for their own safety and wellbeing in light of the fact that it was their testimony that convicted the -- their sexual assailant to prison.

So I know that the proposed Bill, one of the crimes -- a couple of the crimes involve sexual assault and it doesn't cover all sexual assaults. A lot of people think by the way that rape is ineligible for early release. That's wrong. It's only first degree aggravated sexual assault, which is a form of rape that's eligible for early release but there's at least four or five other forms of rape where the criminal is eligible to get out of jail early.

SENATOR SAMPSON (16TH): Wow. So thank you for bringing that to the attention of the Committee. I -- I saw the numbers for rape listed in your -- in your testimony that you submitted but that's shocking information. Over 1,000 crimes, as you just said sexually related crimes. Or no --

LEN SUZIO: They were sexual assault crimes that had been committed by inmates they have been convicted
for and then they were eligible for early release and they did get early release credits.

SENATOR SAMPSON (16TH): And I think it's 5527 is the Bill that actually takes and eliminates certain types of crime from eligibility.

LEN SUZIO: Yes.

SENATOR SAMPSON (16TH): And that's -- and that's the purpose of that Bill is to -- is to cut down on that number?

LEN SUZIO: Yes it does eliminate sexual assault of the first degree and let's see, assault in the first degree, assault of the elderly, blind, or disabled or a pregnant person or intellectually disabled person, assault of a pregnant woman resulting in the death of her child, sexual assault in the first degree or threat of force to a victim under 16 or under 13 if the actor is at least five -- two years older, sexual assault in the third degree for a victim who is under 16, and then we've got kidnapping and sexual assault in the third degree with a firearm.

SENATOR SAMPSON (16TH): And all those are currently eligible?

LEN SUZIO: Yes, that's right.

SENATOR SAMPSON (16TH): Okay. So you touched in your testimony just a little bit about recidivism. Can you just expand on the -- on the people that are actually being released under this program; what the recidivism rate is?

LEN SUZIO: Well again it depends on which cohort you're looking at and what you're defining recidivism. The first cohort as I say, they --
there were 9,410 discharges in that first year and they've been readmitted to prison for having committed another crime 9,960 times. And if you go down -- I could go down cohort by cohort but to -- again, it's not only the frequency of the failure, it's the nature of the crimes that are being committed. If someone is offending and doing something like picking a pocket, well okay, that's not such a -- it's a bad thing but it's not violent in nature. But we are talking about over 15,000 crimes of a violent nature being committed. And again, the program has been in existence for seven years and four months. That's about 2,600 days or so. So when you divide 15,000 and change by 2,600 that's 6 violent crimes every day being committed in Connecticut by inmates who had been released early from prison. That to me is damning evidence that the -- the program is not working and whether it's poor in its execution or poor in its concept, probably a little bit of both.

And by the way, I'll point out too; with the budgetary problems that we have I know the DOC's budgets been squeezed. If anything I think the resources that are available to rehabilitate prisoners are probably shrinking these days as well. So the experience that we've seen is likely to get worse because what -- what resources that are available may disappear.

SENATOR SAMPSON (16TH): (Crosstalk) Yeah, so reverse incentive to let folks out even earlier than they're supposed to. So why are we not hearing about this? I mean, Len forgive me. I mean you're bringing this to the attention of this Committee and basically single-handedly making the world aware of these kind
of numbers. You mentioned something about Public Act 15-216?

LEN SUZIO: Yes.

SENATOR SAMPSON (16TH): Why do you think it is that we're not hearing about this and we're relying on -- on you to fill in the public?

LEN SUZIO: Well I actually asked the people at the DOC about that and they told me there were two reason. One they said is that their database is so complex and so difficult to work with that it wasn't easy for them to get the information but I work for my brother-in-law we wrote programs to go through the data that they gave us. They gave us millions of records. I'm not talking about just a few hundred or few thousand records. We have literally millions of records dumped on us and we were able to write programs to go through it and filter the data out and do the analysis.

So their excuse that it's too complicated, well it can be done. We did it. The other reason they gave was, they thought that the law itself was not clear about what it mandated. And I have a copy of the Bill here or the Act, Public Act 15-216 and what they're doing is, it mandates that the DOC and/or OPM publish this data on a quarterly basis. It was supposed to have commenced in January of 2016 and they did start doing it after I made it a big issue at the time 'cause they didn't do it when they were supposed to originally do it. But with the reports they're issuing have basically contained only part of the data that's mandated by the law. It doesn't contain any information at all about the recidivism and about the nature of the crimes being committed by these inmates who have been discharged early.
And it says specifically it's -- okay, the report shall include dot, dot, dot, dot, dot, dot, dot, dot. And any recidivism data regarding inmates who were released early pursuant to such credit including any data such as rate of reentry into correctional system, elapsed time between release and such reentry and the crimes for which such inmates were convicted that resulted in such reentry. To me it's pretty crystal clear but that was the excuse I was given when I asked them about it. I said fine, give me the data and I'll start making certain the public is aware.

SENATOR SAMPSON (16TH): Well, thank you very much for doing that. And I appreciate you being here today and thank you very much for your efforts. Please continue to share this information with the public. I think people have a right to know. And thank you very much, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Are there other? Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. Thank you for coming in. You're certainly one of the loudest and most active crusaders on this issue. One of the things that I hear a lot when I talk to people about this issue is, I hear the words on the other hand. So on the one hand we've got recidivism rates that you decided which are staggering. I can't even imagine how you could have a recidivism rate above 100 percent. You're readmitting more people than you're admitting. It doesn't -- it doesn't even sound like it's possible.

On the other hand, you've also got what many people feel is over incarceration and the -- and the effects that that has on the -- the incarcerated
people, the communities from which they come. So there's a balancing act with regard to criminal justice and corrections. We've got all the different reasons for incarceration. We've got keeping them off the streets for safety. We've got retribution. We've got rehabilitation. You know there are many different reasons why we do this.

Looking at these three Bills that we've got in front of us, how do you think that these Bills and the whole concept of the Risk Reduction Credit system balances that? How -- how -- how does that work into the whole balancing of you know, we've got interest on both sides. Does this -- does this help get us there to the right place in the middle?

LEN SUZIO: Well I think it certainly first of all addresses some particularly violent and heinous crimes that would not be eligible for early release, crimes for which there's usually a very high rate of recidivism themselves. Most crimes of a sexual nature have a higher incidence of recidivism than other forms of crime. And so I think making these -- these crimes ineligible for early release is going a step closer to basically making the community safer, which is the first and primary job of the criminal justice system, is to protect the community from those who would prey upon it. So that's number one.

But you know, I also think -- when I say that I don't like the way the program has been executed and I don't think that giving an incentive in the form of early release affects their behavior after they're released, which is a big important consideration; it doesn't mean that we should give up on them. It doesn't mean that we should not try
to rehabilitate them. I am not against that at all. I think we should make every effort that we reasonably can do. But at the same time, we have to take a look and say, the safety of the community is the priority -- or should be the number one priority of the legislature and our criminal justice system. And when you have a program that's been in effect; not for seven weeks or seven months, but over seven years right now, it's time for the experiment to end. Too many people -- over 15,000 victims of violent crime in Connecticut have paid the price of a system that failed over 15,000 times.

Yes, it succeeded in certain occasions too, but you talk about a balancing act; to me you have to air on the side of the community safety, not that you don't have sympathy for criminals at all. They're human beings like all of us are, but to me the priority has got to be to air on the side of safety.

You know, I used to sail a lot and when you sail in a fog and you're going through a very dangerous area, narrow area -- this is before -- it tells you how old I am because this goes before GPS by the way, okay? So you have a -- you're going through an area and you can hear the buoys and the bells. Well the buoys and the bells, the sound bounces off the fog so you don't really know if you're going through a narrow passage, so what do you do? You deliberately air to one side or the other so that you know that the danger is off to your port or off to your starboard. Well what we're doing is we're navigating in a way with some potentially dangerous people. People who are not only potentially dangerous, they are dangerous. They're in prison because they did something bad and we're talking
again about the violent crimes that have been committed.

I'm not opposed to being a little more relaxed about the non-violent crimes. But when you're talking about people who have a criminal record, convictions of assault, sexual assault, burglary, robbery, all kinds of crimes which I identify in the testimony I gave you in writing; to me they've proven that they can't be trusted and they've got to prove that they can be trusted again and in the meantime it's our -- it's our duty to air on the side of protecting the community. If there's any doubt at all we owe it to the community to air in favor of the safety of the community, not the criminal.

REP. DUBITSKY (47TH): Thank you. Thank you, Mr. Chair.

SENATOR WINFIELD (10TH): Representative Horn.

REP. HORN (64TH): Thank you, Mr. Chair. And thank you Senator for your testimony and for all the details that you provide in this, which I think is helpful. It's always helpful to have more facts. I had a question about recidivism rates in particular and whether you had data that could compare say the recidivism rates of those incarcerated who had been released on the early release program relative to those who had served full terms.

LEN SUZIO: We have the data but I didn't bother analyzing it and I'll tell you why. 'Cause I felt the analysis would be worthless, and the reason is this. Almost all criminals are eligible for the early release program. There's only a few people who are not eligible for it. And those who are not eligible are either those who had committed one of
the horrific crimes that doesn't qualify for early release credit, or they were people who committed crimes a long time ago and they were under the statutory Good Time Provisions, which precede 1994. So you're talking about a much smaller group of prisoners or inmates and you're talking about kind of a special group of inmates who might have already committed even more horrific crimes than normal. So I thought that the comparisons would not necessarily be helpful. They might even be confusing.

The critical thing is, look at the -- focus on the program itself. Is it rehabilitating people? How often does it fail to rehabilitate people? What the consequences when it does fail to rehabilitate people and again, I can tell you many women have contacted me over the years because they know I've been high profiling this thing and they have been terrified about their sexual assailants you know, being let loose from prison years ahead of schedule and when they thought they were safe for at least a few more years.

And so you know, again I -- to go back to your question. If someone wanted me to go back and really that information up, I'd do it but I don't -- I don't think it would be particularly helpful and you know what? Let's say it shows a higher recidivism rate than the -- than the statutory -- than the Risk Reduction Credit group, then people would say well yeah, we expected that because those are inveterate criminals. They did really bad stuff or they'll old time criminals, they did it a long time ago. So I don't know again if -- if the size of the sampling as well as the nature of the sampling would be particularly meaningful.
REP. HORN (64TH): Thank you. I wonder though if you're evaluate -- if we're trying to evaluate or come to grips with the -- the success or not lack of success for a program like this, there has to be some level of comparison because I can't believe that anyone here would expect such a program to have a 100 percent success rate in otherward. And everybody who has been in this program is suddenly you know 0 percent recidivism; that would be I believe beyond reach. So -- so how do we assess that? I mean there has to be -- to me to be a comparison, some way to analyze it as opposed to just looking at you know (crosstalk).

LEN SUZIO: Yeah, that's a great question. Because it's not only a question, in my opinion anyway, of how often this succeeds or fails but it's also a question again of the consequences of when it fails. Now if it turns out that the recidivism rate is dramatically reduced but the crimes that are being committed are rape and murder, well I think you look at it you know, one way. If on the other hand it's not succeeding and you know let's say -- again my -- my numbers show that that first cohort -- again it was 2 to 1 it was failing. And by the way, this is based on discharges. Not to get too technical and I'm also talking about readmissions to prison. When they go into recidivism they can measure it different ways. They can base it on arrest. They can base it on conviction. They can base it on incarceration. What I have is the incarceration records so that's what I'm constrained to look at basically; people who have been apprehended and put back into prison having already been there and been discharged, having received early release credits.
And there's another technicality. There's what are called discharges and there's releases. A discharge, someone's discharged for having served their end of sentence or they're put on probation. Whereas someone released into the community, that's on parole. And that was a critical thing for example in this murder that occurred in Meriden with Frankie Resto murdering Ibrahim Ghazal. He had been let -- he had been discharged from prison because they were forced to discharge him from prison when they applied the Risk Reduction Credits, he reached his time served. And he was let go on probation, not on parole. That is critical because he was violating his conditions of probation. He was taking drugs. They did drug tests on him. They knew it. They had issued an arrest warrant for him. They had to go through a court proceeding -- when you're trying to re-apprehend somebody who is on probation. If someone was on parole he could have looked cross eyed at the parole officer and the parole officer could have apprehended him again. So -- so I'm going back to this idea.

So when you comingle, I distinguish discharge recidivism from discharge and release recidivism. When you look at it and you say, well what is it with discharges and releases? It's higher. Because when someone's released that means they're -- they haven't really served their full sentence yet and they're more likely -- compared to people who are discharged, to be reoffenders.

REP. HORN (64TH): Thank you. And I -- and I do agree that doing these statistics is important to compare apples to apples, which I think is the point you're making. I don't think it answers the question of comparative statistics; I think just
answers the question of we've got to make sure you're comparing --

LEN SUZIO: Apples to apples, right.

REP. HORN (64TH): Which I think is complex, the criminal justice system is complex. I have experience there but -- but I don't believe it's impossible to write this done as is clear from the you know, lots of evidence that you've presented us. So thank you.

LEN SUZIO: Sure.

SENATOR WINFIELD (10TH): Representative O'Neill.

REP. AUTHUR O'NEILL (69TH): Sort of following up on the earlier -- recent line of questioning. The data that you -- you gathered, you got the source data from the department and then -- as I understand it. And then you subjected it to some sort of filtration programming to try to pull out information from this rather large quantity of data?

One of the things that strikes me, even if you support the program that you would want to know for example, if certain people convicted of certain crimes -- a certain amount of data that you have in the prison system so you know that someone is in for a particular offense. And if that correlates to a much higher or a higher rate of recidivism you might want to think of taking that offense off the list of eligible. And I'm wondering first off -- it doesn't sound like you did this, but did you do any kind of analysis like that to see what the offenses were or what the other criteria or other attributes of the people were -- who were the higher or more serious recidivism. Did that come up at all in the analysis you did?
LEN SUZIO: We actually looked at a few crimes like drug dealing just to see if people who had been incarcerated for drug dealing and then were discharged; were they readmitted to prison for yet another drug charge? We didn't look at -- I mean there's dozens of crimes you can be looking at so we didn't slice and dice it to every specific crime. It's something I would like to get into more but I know this. Again, there were almost 200 sexual assaults committed by inmates who had been -- who had been discharged from prison early having been convicted of another violent crime beforehand; whether it was sexual assault or something else. And I know there was almost 900 inmates who have been discharged who were readmitted for having committed a crime against a child. That -- we all know that when it comes to pedophilia, the rate of recidivism is -- is well documented to be very high.

So if the Committee wants, I mean I'd be happy to get into -- if the Committee wants to send me some requests for more information I could see if we could pull it off. It's a pretty daunting task because the databases -- we're given I think it's seven or eight different files and they have to relate them to one another. You've got the master file over here, you've got discharges over there, you've got a movement file here, you've got a sentence file over there and the challenge is to bring this all together and coordinate it so that you can pull for inmate one, two, three, four, five what his sentence record, what his discharge record is, what his readmissions were, when they occurred. It is complex. It does take a while to do and we have been continuing to work on -- we've been doing this now going on five years and every time we go
through it we develop more queries to refine the data and get more granular.

So your question is a good one. It's one we've been talking about and we've done it on just a couple of limited crimes, but not on a broad list of crimes yet. That'd be something I'd be inclined to do next I think.

REP. AUTHUR O'NEILL (69TH): Because -- I mean you said that under PA 15-216 the department was supposed to be providing these kinds of reports on a fairly granular level of analysis from what you read and they're not doing that. You said that they gave -- they gave you explanations. Were those explanations in writing or was that just a phone call? How did that explanation come to you?

LEW SUZIO: I remember a specific meeting we had with the people that work at the DOC who are involved with this stuff, with the databases. And one of them said to me, well the data -- the databases are very complex. They're old. This can said by the way of the lot of the systems here in the state legislature. There's very integrated systems and the databases are pretty complex. And -- and the other thing is that they claimed that the law wasn't clear. Well I just read it to you. It's pretty clear. It says recidivism and it says what crimes they committed and you know, when they were readmitted and the time difference between release and readmission. I don't see anything ambiguous at all about it but you know.

REP. AUTHUR O'NEILL (69TH): I guess my question was --

LEN SUZIO: I didn't get anything in writing though.
REP. AUTHUR O'NEILL (69TH): You didn't get a written statement from them?

LEN SUZIO: I will check my emails to double check that because I've got a voluminous file of emails between myself and the DOC and I will check to see but I just remember clearly the meeting when they told me that; I can remember kind of -- kind of a smile on the other guy's face basically. I think they were -- in my opinion, they don't -- they don't want to do it. That's my opinion, and it's just an opinion for whatever it's worth. I don't think they want to do it because I don't think they want people to know about it. That's my opinion.

REP. AUTHUR O'NEILL (69TH): Right, okay. Well if you could, I'd be curious to see if they put something in writing. Obviously any one of us can make a request for the information that's not available on here and find out if they had given a similar answer in writing as to why they cannot provide the information. It seems to be called for by the statute, and what the ambiguities are and what it would take to clarify those ambiguities since this is a 2015 statute and here we are in 2019. And they've been telling you apparently for the better part of five years that somehow ambiguous and they can't answer -- they don't know how to implement the statute because of these ambiguities or they're not required to give information that seems to be under the statute required. And that all ought to be resolved.

Because even if you don't -- even if you do support the program, it would seem to me that understanding how it's working and/or where it's not working well would be important in order to be able to make the
program more successful so that you could continue the program at a minimum. And unless you're suspicion about why they're not disclosing this information is correct, which is they already know that it is a terrible program, that it doesn't work and can't be fixed, but they don't want to give it up because of other factors, presumably budgetary. Because allowing all these people out saves the system a lot of money. So -- but I think you know, having information and this actually relates to some of the other things that came before, other Bills today; it's really important for us to know how these programs are working and whether we want to get rid of them or we want to fix them, but you need to know what's going on in order to make a rational evaluation.

LEN SUZIO: You're right. And my goal is to stimulate discussion about it by calling to the Committee's attention the facts and the experience, the data that I've been able to extract. And by the way, the data that they do publish is on the OPM website and on the DOC website and when I went there the other day to look and see they did -- there was something on there saying that they're developing some recidivism data. So it wasn't clear exactly what it was but there's something apparently in the works whether it will fulfill their statutory responsibilities under 15-216 remains to be seen. But I would urge the Committee to demand that they honor their statutory responsibility and develop a report to present the data requested under this Act.

Not the incomplete data that they've been doing. They have been putting some data, but it's the most critical that's being left out. The stuff -- the information related to crimes being committed post
discharge. They're giving you information about crimes for which the criminals were originally incarcerated. Nothing at all about what they've been committing after they've been discharged and readmitted.

SENATOR WINFIELD (10TH): Thank you. Are there others? Thank you very much.

LEN SUZIO: Thank you. It's my pleasure. I almost made the mistake of calling you colleagues again. But it's been a pleasure to be back here today. Thank you very much for your time.

SENATOR WINFIELD (10TH): Thank you. We'll hear next from Marie -- Marianne Heffernan followed by Colleen Birney.

MARIANNE HEFFERNAN: Good afternoon. My name is Marianne Heffernan and I am from Southbury, Connecticut. I'm here to speak regarding 5526, AN ACT CONCERNING GOOD TIME CREDITS AND EARNED RISK REDUCTION PROGRAM, as well as House Bill 7186, AN ACT CONCERNING INMATE FURLOUGHS. Both of these Bills have personal meaning for me and my family and some of you may remember me 'cause I have been here before over the past couple of years. I wish I didn't have to reference every time I come here because there are many, many other families who have been affected by the unbalanced situation that these two issues in our criminal justice system created.

Regarding Good Time Credits and the Earned Risk Reduction Program. While introduction of these programs may have been well intended as a way to reward good behavior by inmates and perhaps help to decease the overcrowding in our state prisons, it seems that the system has allowed that good
intention to go too far. Now because of these so-called credits, thousands of violent crimes are on the books in Connecticut committed by those who have won early release through these programs. I don't think that's what the legislature had in mind when it tried to do something positive with regard to our prison system.

Just a few days ago my family and I marched the two year anniversary of the release from a life sentence of the man who killed my 19-year-old sister almost 35 years ago. It's a hell of an anniversary to realize very year but now we have that one too.

I mention this because I'm hoping that a real life example of the impact this has will help you to take a close look at this issue and support reform by supporting this Bill. The impact actually can be measured -- I'm sorry, can't be measured unless you count the sleepless nights, the anxiety, the sheer feeling of abandonment that we feel about our state government every day and for as long as we will live. It's a complication as to why the Good Time Credits issue played a part, but it did in fact play a part in the release of a convicted killer who had been sentenced to life in prison, and the impact from a personal perspective has been significant.

What no one seems to consider when laws like this are made are the other side of the story. Do victim's families have any say? Maybe only if we choose to come here, to speak up and to beg for help in making our system just and compassionate to victims and the others in our state who do not commit crimes. In the meantime, we are all at the mercy of the law. All anyone can ask for is fair treatment and a process that compels criminals to
work for these credits, to earn them through ways that require to proactively change their behavior for the better. Not in a way that is manipulative of the process.

Regarding furloughs, House Bill 7186. I have to mention because my family's personal situation again is meant to be an example of what other victim's families are subject to. In our case discretion was shown to a convicted murderer so that he could attend the wake of his mother. And discretion is a word I have a really hard time. It's too squishy. It's not -- it's not a rule. It's somebody's decision based on whatever their impression is. And from what I've learned in nearly 35 years in being part of this system, deviance and criminals know how to fool people so manipulating the system with discretionary opportunities is really easy for them.

Adding insult to injury we did not know of this until years later that he had gone to his mother's wake. The secret privileges are salt in our wounds of grief. And if prison is meant to hold criminals accountable for their crimes, shouldn't that mean that they're not entitled to all the freedoms that law abiding people have earned?

And just one other thing I'd like to mention. I know I'm running over but I just wanted to bring up the fact that as I said, I've been here before over the past couple of years. I keep coming back to support reform in our system and one of the things last year that actually did happen was the -- the passage of -- to create a task force for habeas reform and some of you may be familiar with it. It's a really big issue that make it through the wickets last year but so far has not gotten off the
ground this year and my understanding is it was supposed to get started; a committee was to be formed. There are still some roles on that committee that have not been filled and the committee has not yet met, and here it is already almost the middle of March of a new year and there's been no action. And I'm hopeful that somebody will take note of that and do some followup because certainly there's a lot of opportunity to improve our system and make things better for all of us.

So again, I just want to urge you to please support House Bills 5526 and 7186 and I appreciate you listening. Thank you.

SENATOR WINFIELD (10TH): Thank you for your testimony. Are there questions, comments from -- Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman. And I just want to first and foremost thank you once again for being here. I -- I wish I could say it's a pleasure seeing you but the fact that you keep coming back is because you're still needing to advocate. A lot of these proposals to me are certainly common sense ones. It's unfortunate that there's still the need to continuously have to advocate for these commonsense provisions. So with that said, thank you. I hope we won't have to see you again, but certainly your advocacy is being heard and hopefully will continue to be heard.

And just a note regarding the task force, I think you know for -- for many people they believe, well a task force will eventually get us the information we need but exactly what you just said, there's so many well-intended task forces that haven't even been, as you had indicated, individuals appointed to them for
the necessary good work to start and unfortunately we can't continue to wait. We need to start obviously listening to people such as yourself coming before us. And I think, and hopefully we'll continue to hear from the victims because I think along the way they have been forgotten, but it's time that that changes as well. So thank you again for being here. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Representative O'Neill.

REP. AUTHUR O'NEILL (69TH): I also want to thank you for coming up from Southbury. And I know you're been here before. I've heard your testimony before on different pieces of legislation and that you remain committed to seeing change occur so that what your family went through doesn't have to happen to other families going forward. And I think that you know, it's probably one of the things that might be most effective as was just mentioned is to keep reminding people about the task force for the habeas reform I served on an effort to do habeas reform probably a decade ago so this is something we've gone through on numerous occasions to try to change things and to improve things and there's a lot of difficulty in doing that, and it's not easy. But certainly nothing is going to happen if no one starts actually implementing it.

And it's one of the sad things about this -- this building is that someone can work as you have done for years to get this legislation passed, it gets passed and then it never gets implemented because the institutions either are unwilling or unable to pull themselves together to actually take action to make the changes that the legislature tells them to take, actually take effect in law. We just heard a
little bit before about information that was supposed to be generated by the Department of Corrections. Years later, apparently it's not being generated, at least not in the form and content that it was supposed to.

So unfortunately you know if you're -- you are probably going to still have to continue to raise awareness of these issues but I think that you are very effective in doing that and so I hope you will continue.

SENATOR WINFIELD (10TH): Are there other members? Seeing none, thank you very much for your testimony. Colleen Birney followed by Houston Putnam Lowry.

COLLEEN BIRNEY: Good afternoon, Mr. Chairman and members of the Judiciary Committee. My name is Colleen Birney and I am a Court Recording Monitor in the Fairfield Judicial District. I have been a Monitor for just under eleven years. I am here today to comment on SB 964, AN ACT CONCERNING COURT OPERATIONS. I am concerned this legislation could open the door to outsourcing court transcription work. I welcome the opportunity to educate all of you about the Court Reporting Monitor position and the negative impact that outsourcing of transcription would have on the integrity of the entire judicial process.

When I was hired over ten years ago, I took a sworn oath to not only produce the record but to ensure that said record is accurate. Unbeknownst to most people, this requires so much more than just listening and typing. It requires time spent in the courtroom for which there is no substitute. We Monitors familiarize ourselves with the parties present in order to distinguish the voices on the
record, and learn the terminology used in each case, all while thoroughly and completely monitoring the quality of the audio being recorded. Our physical presence in the courtroom provides us access to the parties, attorneys, and judges with whom we often interact off the record. Through these interactions we often obtain certain case details such as exhibits, witness lists, and other court documents containing the information necessary to facilitate and ease the transcription process if and when the transcript for a particular hearing is ordered and more importantly certify its accuracy.

There have been recommendations by some that the transcription process be outsourced to third parties. Other than compromising the accuracy of the transcripts, I am at a loss as to what this would accomplish. Simply stated, an outside vendor is not capable of doing the job of a Court Recording Monitor. I encourage everyone to listen to portions of audio from a busy courthouse in the state and attempt to transcribe what they hear. It is not a simple process, and it takes years to perfect. I myself am immensely proud of this skillset I have earned during my time as a state employee, and to take away the ability to earn desperately needed supplemental income because of miscommunication and misperceptions of what happens on a day-to-day basis would be devastating.

I am not here to oppose SB 964 in its totality. I am here to ask that you please make sure the final product does not contain language that would facilitate outsourcing. I am happy to answer any questions the panel may have regarding these issues. I will do my best to offer clarification and insight from the perspective of someone who
actually does the job and whose life would be irreparably altered if the recommended changes were to be implemented. Thank you.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments? Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. Thank you for coming in. When you say -- use the word outsourcing --

COLLEEN BIRNEY: Yes.

REP. DUBITSKY (47TH): What I understand this Bill is supposed to do or at least this portion of it, is to allow parties to choose a Certified Court Reporter to do court reporting and transcribe a -- a tape. How is that outsourcing?

COLLEEN BIRNEY: It's not the person sitting in the courtroom as a Court Reporting Monitor that would be producing the transcription.

REP. DUBITSKY (47TH): It would be a reporter of the party's choice.

COLLEEN BIRNEY: It's still not the monitor sitting in the courtroom recording the audio.

REP. DUBITSKY (47TH): Okay. I asked the -- one of the previous witnesses on the issue, when -- if a court -- how much of that -- how much of the reporting work is done on state time?

COLLEEN BIRNEY: The recording or reporting, I'm sorry I didn't hear you.

REP. DUBITSKY (47TH): The reporting. The -- the transcribing.
COLLEEN BIRNEY: The transcription? I do almost all of my transcription work after hours. The only time I even have time to get anything done on state time would be maybe 10 to 20 pages a day if I even have an appeal -- a criminal appeal to do.

REP. DUBITSKY (47TH): Okay. So you're doing it on your own time?

COLLEEN BIRNEY: Yes, sir.

REP. DUBITSKY (47TH): And you're not being paid by the state for that work?

COLLEEN BIRNEY: For the work that I'm doing transcription?

REP. DUBITSKY (47TH): Right.

COLLEEN BIRNEY: No, I'm not.

REP. DUBITSKY (47TH): So you're doing it as an independent contractor?

COLLEEN BIRNEY: That's correct.

REP. DUBITSKY (47TH): So what interest does the state have in directing all the work to you as an independent contractor as opposed to somebody else whose an independent contractor?

COLLEEN BIRNEY: Well like I said, being in the courtroom has an immeasurable amount of pros to it. I'm able to engage with everybody present, find out the correct way to spell their name, find out the subject matter they're talking about. I have access to the exhibits and the witness lists. All that information, somebody from you know, even down the street who wasn't present in the courtroom wouldn't have that same amount of access and accuracy.
REP. DUBITSKY (47TH): Okay. There are times when these transcripts are made days, weeks, or even years after the -- after the hearings, right?

COLLEEN BIRNEY: Yes.

REP. DUBITSKY (47TH): Okay. So would you have any advantage on access to those things a year or two years later?

COLLEEN BIRNEY: Yes. I'm sorry, I didn't mean to interrupt.

REP. DUBITSKY (47TH): How would you have better access than anybody else?

COLLEEN BIRNEY: I'm still stationed in the courthouse. So I can go ask the clerks to look at the file. I can call attorneys and ask them certain questions if I have any questions. Also the notes that I take in the courtroom on a daily basis help me to transcribe an accurate and efficient way.

REP. DUBITSKY (47TH): Okay. Let's say a year or two later you've sat in a courtroom and heard the case and then you're off somewhere else; you're at a different court and somebody else has to do it. So it would be another Court Monitor that hasn't sat through that hearing, right?

COLLEEN BIRNEY: Right.

REP. DUBITSKY (47TH): So how -- why -- why -- in that instance why wouldn't the party -- or why shouldn't a party have the option of hiring anybody they want?

COLLEEN BIRNEY: I don't see the correlation between me being in a different courthouse and a party
having the ability to hire whomever they want for a certified transcript.

REP. DUBITSKY (47TH): Well because -- because you wouldn't be doing the transcript, somebody else would be doing it.

COLLEEN BIRNEY: Presumably that person would be certified as well. So they're --

REP. DUBITSKY (47TH): Well my -- the other witness said that you're not certified.

COLLEEN BIRNEY: Certifying the transcript, not certify as a person; does that make sense?

REP. DUBITSKY (47TH): Okay. But that other person that is -- is -- is typing the transcript would not have sat through the hearing.

COLLEEN BIRNEY: No.

REP. DUBITSKY (47TH): So how would it benefit the parties if they had -- if they were compelled to use a Court Reporter as opposed to -- a Court Monitor as opposed to a private Court Reporter?

COLLEEN BIRNEY: I think -- I don't really know how to answer your question. I'm sure that everybody that is passionate about their job and does their best will give their best work. But presently the branch has skilled workers willing and able to do the job that they were tasked to do so that's what I'm here to defend.

REP. DUBITSKY (47TH): Okay. When you transcribe a -- a hearing transcript, you type it up; what is -- what is the charge that you can charge for that work?
COLLEEN BIRNEY: It depends on how quickly the party needs it. It goes anywhere from $3.00 per page all the way up to $10.00 per page.

REP. DUBITSKY (47TH): Okay. Based on what?

COLLEEN BIRNEY: Time in which the party needs it. So if you need it by 9:00 tomorrow I can charge you $10.00 per page.

REP. DUBITSKY (47TH): Okay. So on a normal case where there's no rush, $3.00 a page?

COLLEEN BIRNEY: That's correct.

REP. DUBITSKY (47TH): Okay. And that compensates you for the time you spend typing it up?

COLLEEN BIRNEY: Yes, sir.

REP. DUBITSKY (47TH): And if there are two parties that each want a copy, what do you charge them?

COLLEEN BIRNEY: The first party who ordered would be $3.00 per page. The second copy would be $1.75 per page.

REP. DUBITSKY (47TH): Okay. And how about if there are ten parties that each want a copy?

COLLEEN BIRNEY: Each copy that has my signature on it, certifying it as an official document is $1.75 a page.

REP. DUBITSKY (47TH): Okay. That -- that sounds like a lot more money than the time that you're spending.

COLLEEN BIRNEY: I spend probably about three times the amount of time transcribing than the actual hearing time was.
REP. DUBITSKY (47TH): Okay. And you make that back when you -- when you sell the first copy, right?

COLLEEN BIRNEY: Well presumably, yes. It just depends. Every hearing is different. Every bit of terminology is different. Every schedule is different.

REP. DUBITSKY (47TH): When you get paid, is that through the court?

COLLEEN BIRNEY: May salary is paid through the Judicial Branch. When a state transcript is ordered, depending on the agency it either goes into my paycheck or I get a separate state check from the agency; it really just depends. A private party will pay me by check or money order.

REP. DUBITSKY (47TH): Okay. And is that on W2 or 1099?

COLLEEN BIRNEY: The private work is 1099, which I file taxes on every year. And the state work is W2 obviously.

REP. DUBITSKY (47TH): Okay. Do you or other Court Monitors have their own companies, LLCs?

COLLEEN BIRNEY: I personally do not have an LLC but I do have a tax ID.

REP. DUBITSKY (47TH): Okay. And are there monitors that have an LLC?

COLLEEN BIRNEY: I can't speak for anyone else; I don't know.

REP. DUBITSKY (47TH): You don't know anybody that does?

COLLEEN BIRNEY: No sir.
REP. DUBITSKY (47TH): All right. Thank you. Appreciate it.

COLLEEN BIRNEY: Thank you.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman.

REP. STAFSTROM (129TH): Let me follow up on this real quick because I think -- I think this is an important point. The way -- when you consider your compensation at the end of the year; when you look at what your -- you're willing to do the job of a Court Reporting Monitor as and provide food for your family and you know what you're taking home at the end of the month, you're not relying just on your state salary. Part of the reason you're agreeing to work for whatever rate the state is paying you is you know you've got the opportunity to earn additional income over and above that from providing private transcription; correct?

COLLEEN BIRNEY: That's 100 percent correct.

REP. STAFSTROM (129TH): Okay. So you -- I mean you're looking at your -- and it may fluctuate from year to year, from month to month, depending on whether you're working on a big trial or whether you're getting a lot of requests for transcripts and the like. But you know when you're looking sort of over a five-year, ten-year average and you're considering whether there's a little extra at the end of the month, it's because of those jobs that you're doing and that's why you're willing to work for whatever you're working for and getting paid from the state to sit there from 9 to 5; correct?

COLLEEN BIRNEY: That's right.
REP. STAFSTROM (129TH): Okay. Just real quick on the Bill itself and this may not be a fair question for you to answer so if it's not, just say so. But you testified you're not here in opposition to the Bill per say but more kind of the general concept of outsourcing and certainly that's not really the purvey of this Committee. This is the Judiciary Committee. There's other Committees that deal with labor issues and collective bargaining agreements and the like and that's -- that's really not our purvey per say. So on the Bill itself and the language itself, I know the Judicial Branch from sort of their initial proposal has changed the language some. Do you have a position as to whether the current language is still problematic as the Bill is drafted that we're sitting hearing today or you just don't want to see it be a slippery slope to something down the road?

COLLEEN BIRNEY: Well I will always say I don't want to see it be a slippery slope, but to be perfectly frank I haven't seen the newest language.

REP. STAFSTROM (129TH): Okay, okay, that's fair. Like I said, I didn't -- I didn't know whether you had or not. I just -- so that's why I posed my question the way I did.

COLLEEN BIRNEY: Thank you.

REP. STAFSTROM (129TH): Further questions from the Committee? Seeing none, thank you very much.

COLLEEN BIRNEY: Thank you.

REP. STAFSTROM (129TH): Next up will be Houston Putnam Lowry followed by Dana Neves.
HOUSTON PUTNAM LOWRY: Good afternoon. May it please the Committee, my name is Houston Putnam Lowry. I am testifying in opposition to Raised House Bill 7236, AN ACT CONCERNING PROPERTY THAT IS EXEMPT FROM A JUDGEMENT CREDITOR. I am testifying not only on behalf of myself but also the Connecticut Creditors Bar Association. I have submitted written testimony which may or may not have reached the file because I emailed it last night for which I apologize. But I'm not going to read it and I'm not going to rely on it, but I'm just going to raise a couple of points that may have gotten lost and seemed to have been raised when other people testified about the Bill.

Based upon my inquiry of Zillow.com the average price of a Connecticut house is $242,000 which means 50 percent of the houses in Connecticut will not be available to enforce a judgement lien on them regardless of whether or not there is a first mortgage. There usually is a first mortgage. And if it's jointly owned at that point you're up to half a million dollars. I haven't run out to see what percentage of the market you're eliminating but I'm -- it's over 50 percent.

Credit is what makes the world go around. In light of that fact I think you're going to adversely impact the cost of credit. I think you're going to adversely effect the availability of credit. It wouldn't surprise me if creditors will say, sure I'll give you a credit card but it's not going to be unsecured, it's going to be tied to a home equity line of credit. I don't think that's a good result so I'd be very concerned this will have a negative impact on the cost of credit, making it more expensive for people.
Two other points regarding the bankruptcy issue. If you get a judgement, and I don't represent people who chase consumer creditors, I am basically a commercial creditors lawyers, at least for the purposes of today's speech. Sometimes we get judgements under Connecticut General Statute Section 52-564 which is the theft statute. So one point I got a judgement for a -- regarding a cello, the conversion of a cello. It would -- and because the cello had a name, that's how most people know once an instrument has a name it's a very valuable instrument. We had a half million dollar judgement. Under the bankruptcy code that is not dischargeable under 11USE Section 520 fee, 23 Subsection 4. So if you're going to say, oh, let's not apply this exemption to people who cause physical harm to others, how about saying let's not have it apply to deaths that are not dischargeable in bankruptcy. So what you're doing by enacting this law is making it dramatically harder to enforce a judgement. We're going to from $75,000 per perversion if it's joint tenants it's $150,000 and I -- I just would oppose it. I'll be happy to answer any questions.

REP. STAFSTROM (129TH): Thank you. Attorney Lowry, you -- are you aware that the Homestead Exemption Massachusetts is $500,000?

HOUSTON PUTNAM LOWRY: I understand in Massachusetts and in Rhode Island it is $500,000, however I don't know the precise parameters. I believe they have what I would call a fulsome, a full homestead exemption statutory scheme and Connecticut doesn't have one. This just basically appeared out of nowhere when no one was expecting it in 1999. So I don't think it's comparable to compare the two.
REP. STAFSTROM (129TH): Why not?

HOUSTON PUTNAM LOWRY: Because in Connecticut you can put the lien on, you just can't enforce it. And if you try to enforce it the mechanism for enforcing it is not clear. So what they've done is said, probably at that point you should have a foreclosure by sale, which then raises everybody's cost. There is -- but if the property is sold outright then it's still enforced directly against the proceeds. So I think the whole mechanism we have for enforcing homestead foreclosures should be the subject of a lower vision commission study and I think we ought to have a rational way of handling it. I think simply raising the limit in light of the experience in the past 20 years is not the appropriate way to handle it.

I understand there's a superficial affinity because other states have such a high number. I can tell you some other states have no limit, like in Texas. There's no limit. So if you live a skyscraper and you own skyscraper, it's all entirely exempt. I think that is also not appropriate.

REP. STAFSTROM (129TH): Okay. Do they -- do credit card companies offer unsecured credit in Massachusetts or Texas then?

HOUSTON PUTNAM LOWRY: I'm pretty sure they do.

REP. STAFSTROM (129TH): Okay, thanks. Further questions? Seeing none, thank you very much.

REP. STAFSTROM (129TH): Next up will be Dana Neves followed by Susan Kelly.

DANA NEVES: Good afternoon.

REP. STAFSTROM (129TH): Good afternoon.
DANA NEVES: My name is Dana Neves, and I am the Vice President and General Manager of WFSB. Today I represent not only WFSB, but all of the television and radio stations of Connecticut. But more importantly, I'm here to represent the citizens of Connecticut who rely upon the media to be their eyes and ears so I thank you for allowing me to discuss this issue with you.

I'm here today in opposition to SB 970. I have lived and worked in this market for 45 years. Before becoming General Manager, I was a working journalist for 25. Now my responsibilities are still to advocate for journalists and the public they serve which are also your constituents and our viewers. As members of the media, it is our responsibility to provide the public with critical information on subjects like politics, government, crime, and law enforcement.

We're able to do that because there is a longstanding body of law that establishes the principles of freedom of information. This Bill would set back Connecticut's freedom of information back by decades with little benefit in return. In short, we believe this Bill would irreparably impair the public's current right to know.

Through access to public records and information, government and news media provide the public with as much transparency as possible into the inner workings of publicly-funded government. At the same time, the law currently allows for the redacting or withholding of certain information to protect the privacy interests of individuals under legislatively defined circumstances. Currently there is an appeals process for challenging freedom of
information decisions, a process that effectively balances the privacy rights of individuals with the interest of the public's right to know and our court system provides yet another venue by which freedom of information cases can be argued. SB 970 would take us backwards. It would do nothing more than undermine the principles of freedom of information and transparency we currently enjoy.

The current law requires government to operate in the sunshine, in full view of the public. And under SB 970 Connecticut would create less transparency, not more. In our modern world, access to primary source materials allows for trust, reliability, and straightforwardness. It limits rumors and innuendo when there are first party primary documents available.

We ask that you reject SB 970 as it is written, let freedom of information work for the news media of Connecticut as it is intended to do and has done for decades. I'm available for any questions.

REP. STAFSTROM (129TH): Thank you. You -- you mention at the end there reject 970 as its written and I think there's been sort of uniformly, I think even the proponents of the Bill very early on kind of recognized that the Bill as currently written is too broad and -- and should certainly not leave this Committee as what we would call a JF and you know, kind of in it current form. So I'm wondering sort of in that vein and as other folks have testified today, is there -- is there some language, is there some tightening to the current FOIA law that needs to be done in order to -- in that limited instance, protecting someone who is charged with a -- who may have had their property seized as part of a criminal
investigation but they're not actually charged with the crime, to be able to retain that information? Or is it your belief that current law already allows for that information to be withheld?

DANA NEVES: So can I say that I believe it's both.

REP. STAFSTROM (129TH): Okay.

DANA NEVES: I think that we are open to tweaking the language. I think there is plenty of leeway, let's just say if we were going to talk about a law enforcement agency; that they currently have some very good standards in place that they can reject an FOIA request in its totality. They can decide to redact certain pieces of information and depending on the requesting party, they may be satisfied with that rejection in part or in whole, and then they can have the means to go forward and challenge it if they choose.

But I also think for a lot of us the idea that absent an arrest, those documents wouldn't be public is troublesome. And so I've heard a lot of the testimony so I won't repeat that which you've already heard. I'll touch on the absent of an arrest. It's one thing to have someone's documents and evidence, their life pulled into an arrest warrant and they had nothing to do with it. That seems to be a very clear and arguable circumstance in which someone shouldn't have their stuff disclosed. But the idea that arrest wouldn't happen calls into questions like this.

If there was a crime committed and a police officer had to make the unfortunate and difficult choice to kill someone, no one would have been arrested. So are we to believe that none of those documents and
no evidence in that case would ever come to light? 'Cause that should bother everybody. What if there was an extraordinary amount of warrants in a certain neighborhood issued and people were complaining and as the media we had no right to ask why and how many and what was the circumstance and why were no arrests made? I think what concerns journalists is that we're being asked to let go of that which we don't know. So then we're agreeing to say, well we didn't know about it so it must not be important. That -- that's the troublesome part; that idea that the arrest didn't happen.

REP. STAFSTROM (129TH): Well but could you -- couldn't you -- couldn't you always report in that distance, there may be more to this, we just didn't have access to whatever information that is. I mean I've seen reporting to that effect before.

DANA NEVES: Yep, correct.

REP. STAFSTROM (129TH): And then -- then it's really up to the reader or the viewer to determine well, okay you know, is that -- is that info -- is that material or not to my overall understanding of the case before us.

DANA NEVES: Right.

REP. STAFSTROM (129TH): I mean 'cause I guess -- I mean the -- you know this is -- I really -- I think actually this is just from a purely intellectual standpoint. It's one of the more interesting Bills we've heard here just because it wrestles with you know, very competing fundamental Constitutional rights, right? And -- or if not Constitutional, significant public policy rights, you know? The public's right to know, the right to free speech,
but also on the other hand a right to privacy and you know, in testimony we've seen, a right to a fair an impartial jury and so I guess you know I'm struggling as we sit here to figure out sort of, is the current state of the law the right balance or has the pendulum swung too far one way or the other?

DANA NEVES: I have not, and as I said I've worked at it for a while, and am not aware of a circumstance in which someone's privacy was violated to that degree. And people often call us and complain about things that we put on the air about them or wrote about them. I have not seen this instance, and I was listening to testimony earlier; I don't think that's a big enough problem, which is part of what concerned us. We didn't understand what precipitated this Bill. It didn't feel like there was an issue. Victims rights groups weren't forward, you know. So it felt like it was so broad and difficult to understand what we were trying to get to.

REP. STAFSTROM (129TH): Yeah, and I guess that's kind of where I'm going with my questioning. Because I mean, you know I tend to agree. If you're -- if you're arrested for -- if you're arrested for an offense, you know there's been some sort of finding of at least probable cause by a police officer to effectuate the arrest; I mean that probably is newsworthy. But I guess my bigger concern like I said, is sort of that -- that you know -- a raid of an apartment and a bunch of evidence is seized and you know, one roommate is charged with a crime, the other roommate isn't charged with a crime but you know his you know notebooks are seized as part of that raid and
there's a FOIA request for all information seized in that raid.

DANA NEVES: Correct, right.

REP. STAFSTROM (129TH): Would that non-arrested victim's notebook -- not victim. That non-arrested roommate's notebook be subject to public disclosure or not?

DANA NEVES: I heard you ask that earlier. I think it depends on the agency that's going to fulfill the FOI request. I have physically seen -- let's say it was a warrant released to us with redacted information concerning parties that were not involved so clearly done and well done by agencies saying, you're going to see a lot of redactions. That is -- I won't say -- said the roommate. That is a third party that had nothing to do with the case in the end. So I think that current law allows for those agencies to decide this wasn't related to the case. This person was never a suspect. We didn't think they had any involvement but in that moment of the search items were collected to preserve potential evidence.

REP. STAFSTROM (129TH): Sure, 'cause you're -- you're going to air -- the agency -- the arresting agency is going to air on the side of what's in support of the evidence.

DANA NEVES: Yeah, 'cause they can't go back. Right. So I think they're currently protected under current law and past practice on that. We don't tend to say; well they must be lying or what is this? Things get redacted for that reason a lot and that makes good sense.
REP. STAFSTROM (129TH): All right. Thanks for your testimony.

DANA NEVES: Sure, thank you.

REP. STAFSTROM (129TH): Further questions from the Committee? Seeing none, thanks for being with us.

DANA NEVES: Thank you.

SENATOR WINFIELD (10TH): We'll next hear from Susan Kelly followed by Rafi Podwoski.

SUSAN KELLY: Good afternoon Senator Winfield, Representative Stafstrom, and members of the Judiciary Committee. Thank you for the opportunity to testify. My name is Susan Kelley, and I am the Advocacy and Policy Director of NAMI Connecticut, the National Alliance on Mental Illness. I am here to testify today in opposition to SB 939 concerning psychiatric commitment evaluations.

We oppose SB 939 because having two physician evaluations is appropriate standard procedure in involuntary commitment proceedings. Currently in Connecticut two physician evaluations (one must be by a psychiatrist) are required by the Probate Court for involuntary commitment proceedings. 939 would reduce this requirement and would require only one evaluation by a psychiatrist. Many states including New York, require evaluations by at least two physicians who agree regarding commitment standards. Other states such as Massachusetts require at least one physician evaluation and one other evaluation either by a physician, qualified psychologist, psychiatrist nurse mental health specialist or an independent LCSW.
Regardless of whether the evaluation by a non-psychiatrist medical doctor is viewed as "extra" compared to the psychiatrist evaluation in current commitment proceedings, having two evaluations is appropriate and should be continued. Involuntary commitment proceedings have grave consequences of taking away a person's freedom based on the determination that a person is dangerous to himself or others. To ensure that this determination is impartial and appropriate there should always be two physicians, two sets of eyes agreeing that the person to be committed meets this standard. This requirement protects against having one possibly tainted evaluation being the basis for commitment and ensures integrity in the commitment process. Keeping this fundamental protection in place outweighs any costs that the Probate Court would save in having only one psychiatric evaluation.

I think you all have heard about the issue of immunity so I'm not going to get into that. I do believe that partial judicial -- what is the term of it -- there is partial immunity for psychiatrists who are appointed and I think based on that current immunity that extends to judges as well that that is sufficient in that this current language would be superfluous and I would also say that currently in Connecticut in terms of trying to get psychiatrists to practice, there is a complete shortage of psychiatrists in all different types of mental healthcare for children and adults completely outside of commitment proceedings.

And I'm not saying -- just to summarize -- I'm not saying that those proceedings are -- or those treatments are on the same level as commitment proceedings which are grave proceedings, but I think
that we really need to keep in mind the big picture and if we're proving incentives for -- in psychiatrists, we should be doing it in other areas as well. So thank you very much and I would answer any questions.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments from members of the Committee? Seeing none, thank you very much for your testimony. Next is Rafi Podwoski followed by Stacey Sebel. Okay. Stacey Sebel, Sebel, Sebel.

STACEY SEBEL: Good afternoon, Chairman Winfield and Chairman Stafstrom and members of the Committee. I am Stacey Sebel, resident of Southport, Connecticut testifying regarding Bill No. 964, AN ACT CONCERNING COURT OPERATIONS with a suggestion to improve the Bill. As Executive Director of the nonprofit Child Advocates of Southwest Connecticut, we ask that language that was previously drafted by Senator Kelly, it's two brief sentences and we will submit in writing, be added to the Bill to ensure implementation of the 2016 Connecticut CASA Statute.

Three years ago we sat in this very room testifying before the Judiciary Committee about the CASA Bill. Seated right here was James Comey, then Director of the FBI and is wife Patrice Comey was seated here to testify. Patrice testified about why it was crucial that Connecticut adopt the CASA legislation. The CASA law permits all abused and neglected children in Connecticut's Child Protection system to be helped by a CASA court-appointed special advocate volunteer. The law brings Connecticut in line with the rest of the nation. Thank you to this Committee for the wisdom to unanimously pass Connecticut's CASA law in 2016, but although the law was passed
unanimously by this Committee, unanimously by both houses of the state legislature and signed into law by the Governor, the 2016 law has yet to be implemented by the Judicial Branch.

For three years we have sought permission from the Judicial Branch to provide a no-cost CASA volunteer advocate for over 1,100 abused or neglected children with cases in the Bridgeport Superior Court for juvenile matters. For three years thousands of Connecticut's most vulnerable children have not had the opportunity for the caring support of a community volunteer to advocate for their best interest.

CAC is the only CASA member organization that can provide CASA services in the Bridgeport Court. CAC is not requesting any funding to provide CASA volunteers for vulnerable children.

So in conclusion, three years ago the law was passed by this legislative branch and signed into law but is yet to be implemented. Over 1,000 abused or neglected children served in the Bridgeport court are not receiving the services and support of a no-cost CASA volunteer and over 8,000 abused or neglected children in Connecticut statewide are not receiving the support and services of a volunteer CASA, the same services that are provided nationwide. So we ask for your help in implementing the CASA statute. Children in the Bridgeport court are waiting for our help. CAC has a list of volunteers waiting to help and waiting to be trained.

As an example of the kind of work we do -- (Ringing) I'll finish. Do you want to hear the example?
SENATOR WINFIELD (10TH): How long is the example?

STACEY SEBEL: An adolescent young woman who ran away from her foster home three days ago and was missing called our volunteer last night at 10:00 at night. The only person she reached to on the case was the unpaid volunteer advocate, so the work that we do is meaningful and significant and really is a soft place to land in the community for young -- young people who are -- who have been victimized by abuse or neglect.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments? Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman.

Good afternoon.

STACEY SEBEL: Good afternoon.

REP. REBIMBAS (70TH): Just a quick question. You just stated a statistic of children who have gone unrepresented; is that correct?

STACEY SEBEL: Not by attorneys. All children in Connecticut receive legal representation by attorneys. This is a separate program called the Court-Appointed Special Advocates Program, the CASA Program. We are unpaid volunteers who are trained and recruited and trained and supervised by a member of the CASA organization to serve as court-appointed special advocates in child protection matters. They're volunteer -- community volunteers. No paid, no cost.

REP. REBIMBAS (70TH): So if you could just explain to me what type of advocacy you're offering in addition to the attorney.
STACEY SEBEL: That's a great question. We provide advocates who advocate in the community and in the courtroom for the best interest of an abused or neglected child. So the things that we can do in the community is we might attend a PPT meeting. We might go to their basketball games. We might be there when they work with their foster parents. We might interview the therapist. We might interview the teacher. We'll interview the after-school program and provide a written report to the judge on what's in the best interest of the child. So we work in the community as -- the most important thing is we get to know the child. At least once a month our volunteers visit with their child and provide almost like a -- more than a mentor, an advocate, an advocacy relationship.

So it's a value added program. It's extremely successful throughout the nation. Connecticut sort of lagged behind in adopting the program but we are providing it in the Stamford court. It is the first court in the state that has the program and it's been very successful and we're hoping to implement it statewide.

REP. REBIMBAS (70TH): So it is being done in the Stamford court?

STACEY SEBEL: Yes, Stamford court is the only court in the state right now that has the CASA program.

REP. REBIMBAS (70TH): And are you appointments through the Stamford court -- this is family court or juvenile?

STACEY SEBEL: Juvenile, only juvenile. We do not work in the family court.
REP. REBIMBAS (70TH): So in the juvenile court, is it upon the request of the attorney representing the child or is this upon the request of the court?

STACEY SEBEL: That's a great question. For our CASA to be appointed, any party to the case can request a CASA volunteer. So it can be the judge, it can be the attorneys for the child, for the parents, it can be the Department of Children and Families. At any point in the case for any child, for any reason, any party to the case can request a CASA volunteer.

REP. REBIMBAS (70TH): Thank you for your testimony. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): So we -- we passed a law, why is this -- why have you been told it's not been implemented?

STACEY SEBEL: I'm sorry I couldn't hear you.

SENATOR WINFIELD (10TH): Why have you been told it's not been implemented?

STACEY SEBEL: I can't really answer the question, I'm sorry. I -- I don't -- I don't know the reason why it hasn't been implemented. We offered it. We're offering it at no cost. We as a not for profit work really hard to raise the money in the community. We have 70 people on a wait list waiting to be trained. We have over 25 volunteers who are trained, sitting home waiting to help children, and there are children that need our help and we just can't get the approval from the Judicial Branch. We just need a yes to be able to go into those courts.
SENATOR WINFIELD (10TH): Thank you. Are there other questions or comments? Seeing none, thank you very much for your testimony.

STACEY SEBEL: Thank you.

SENATOR WINFIELD (10TH): We will next hear from Neil Narcon and then Stacey Martin. Neil Narcon? Stacey Martin.

KATE MARTIN: Good afternoon Chairman Winfield, Chairman Stafstrom and members of the Judiciary Committee. My name is Kate Martin. I'm a resident of West Hartford echoing what my colleague, Stacey Sebel just said with a suggestion to improve Bill No. 964, AN ACT CONCERNING COURT OPERATIONS. As a Program Director with Child Advocates of Southwest Connecticut I am asking that language be added to Bill 964 to require implementation of the 2016 Connecticut statute law.

Since 2016 when this Committee and both Houses of the state legislature unanimously passed this Bill and the Governor signed the Bill into law, the CASA law still has not been implemented. The 2000 -- the 2016 CASA law permits all abused or neglected children in Connecticut's child protection system to be helped by volunteer Court Appointed Special Advocate or a CASA. CASA volunteers are appointed by judges to advocate for the best interest of abused or neglected children, to make sure they don't get lost in the overburdened legal and social service system or languish in inappropriate group or foster homes. Volunteers stay with each case until it is closed and the child is placed in a safe and permanent home.
Having worked with CASA programs for the past 11 years in Chicago, New York City and now here in Connecticut, I have seen firsthand the difference that a CASA volunteer can make in the life of a child. CASA volunteers have helped secure mental health treatment, education services and helped arrange for sibling visits for children placed in foster homes. I have worked with CASA volunteers who have found art programs, scholarships for camps, secured spots at after-school programs and received donated bikes for their clients. CASA volunteers have attended graduations, doctor's appointments, recitals, sporting events and more -- many, many more. All of this is so that when a child is removed from their parent's home they still have a chance to a healthy, fulfilling and fun childhood and the support of a caring, consistent adult.

For the past few years, especially since the closure of the Danbury Juvenile Court, children who were previously served by our organization, have been moved to the Bridgeport Court where the CASA program is not available. Service providers from the Bridgeport have requested CASA's help on cases and we have had to turn down the opportunity to help children in need.

Please take action to ensure implementation of the CASA law. CAC has trained volunteers right now who are ready and able to help children in the Bridgeport court. CAC also has a waiting list of over 60 Fairfield County community members who are waiting to be trained as CASA volunteers. Thank you for the shared concern about our vulnerable children.
SENATOR WINFIELD (10TH): Thank you for your testimony. Are there comments or questions from the members of the Committee? Seeing none, thank you again. Next we will hear from Martin Ritter or -- and then followed by Cathy Plavcan. Martin Ritter? Cathy Plavcan.

CATHY PLAVCAN: Good afternoon members of the Judiciary Committee. My name is Cathy Plavcan. I am a tax paying Connecticut resident and have been working as a court recording monitor in Stamford Superior Court for nearly six years. I first want to start by saying we appreciate the changes that the Judicial Branch has made some far but we just want to make sure that privatization doesn't come back in on an amendment or a budget.

I am here to comment on SB 964, AN ACT CONCERNING COURT OPERATIONS. I submitted fully testimony and will read you an abridged version now. I am not opposed to SB 964 but I am concerned that this proposed Bill as a vehicle to outsource the transcription work.

The great majority of my transcripts are typed on the weekends or on holidays or after 5 p.m. on workdays, and often into the early mornings -- morning hours when I have to be back into the courthouse by 9 a.m. So in effect, I am basically working the equivalent of an extra part-time to full-time job on top of my hours in the courthouse in order to make a livable income that I have come to rely upon to help support my family and pay my bills. I'd just like to offer some general facts and information about what it is that we as Court Recording Monitors actually do.
First and foremost, monitors work to ensure the accuracy of the court record. This would be very difficult to do when cases are outsourced to people who have no knowledge of the cases being transcribed. When a transcriptionist is not actually in the courtroom and does not have direct access to the person recording the proceedings, he or she will not always know if what is actually being said is actually on the record. This should be a particular concern to attorneys, especially now that the audio is available to the public as selling and distributing such materials may impact the attorney/client privilege. If the person who was there and was taking notes and can recognize what is happening in the courtroom he or she can appropriate process the transcript for a case whereas an outside transcriptionist might include a conversation or text that is not related to the case at hand. That could result in detrimental consequences to the parties, the branch and the state.

Monitors are often called upon to deliver transcripts on the morning following an entire day's proceedings for parties who are on trial and rely upon the transcripts for immediate use during the trial. This is far easier to do if it is produced in-house by a monitor who can utilize the notes he or she has already typed, than it would be to outsource a transcript where it would be typed completely from scratch.

On a regular basis, monitors work with and serve members of the public. People participating in court proceedings are facing serious and often life-altering situations and the outcome can dramatically impact a person's personal life, liberty, family and financial situation. While
outsourcing would personally cause me to lose a significant amount of earnings, an error in transcription could significantly impact and reportedly harm the very same people that we are doing our very best to serve. I ask that you please consider voting any against -- voting against any and all proposals leading to the outsourcing of transcripts. Thank you for your time and attention to this matter and I'd be happy to answer any questions.

SENATOR WINFIELD (10TH): Thank you. Are there questions from members of Committee? Comments? Seeing none, I appreciate your testimony. We will next hear from Barry Hall and then Kathy Flaherty. Barry Hall? Kathy Flaherty.

KATHY FLAHERTY: Good afternoon Senator Winfield and members of the Judiciary Committee. My name is Kathy Flaherty. I'm the Executive Director of Connecticut Legal Rights Project and I'm here to support -- testify regarding SB 939. I testify not only as an Executive Director of Connecticut Legal Rights Project and someone who joined in that cooperative effort with DMHAS, Probate Court Administration and the Connecticut Hospital Association about addressing the problems with the civil commitment process; but I also speak from the experience of somebody who has been subject to a civil commitment preceding because I was a respondent in a civil commitment preceding my first year of law school. So if there's anybody who knows how to identify problems with that process, it's me because I've lived it and I've seen the problems that happen.
I have to say that even though my testimony is submitted in opposition to the Bill as written, that is because if this Committee were to pass this Bill simply as its written, it is not doing enough. The second doctor who is not a psychiatrist honestly does not necessarily add a whole lot to the process and spending money on something that doesn't really add anything doesn't make a whole lot of sense. But asking us to agree to waive due process protections that currently exist in order to save the state money is simply not acceptable and I will not do it.

I point this Committee to the words of the Connecticut Supreme Court which said 40 years ago, an adjudication cannot be made by medical personnel, unguided by the procedural safeguards which cushion the individual from an overzealous exercise of state power when the individual is first threatened with deprivation of his liberty. That's what civil commitment represents. And it is not only when people are a danger to themselves or others. It's also -- we have the standard of somebody whose gravely disabled, which means they're unable to meet their basic needs. But the bottom line is if the state is trying to restrict somebody's liberty, the state has to meet a legal standard and too many of these Probate Court hearings essentially turn into treatment team meetings with a whole of deference to the doctors and not adequate protection of the due process rights of the individuals who are subject to those proceedings.

In terms of the immunity language, I understand the need by some people to want that express statement in the statute but I agree with Judge Knierim, quasi-judicial immunity already exists and frankly I can't -- the only reason it's there is really
accommodating the psychiatrist for lack of a better word, paranoia about being sued. Because the reality is, anybody can sue anybody. The question is, are you going to be able to find them liable? And in a civil commitment preceding, all the doctor is there as a witness. They've done an independent evaluation. They either write a report or testify, but it's the judge who makes the decision so I don't get how they'd ever be held liable and I haven't heard of any cases either.

So just to wrap up, I submitted written testimony which is five pages long which gave you a list of ten things that we thing the civil commitment statutes needs and I'm welcome to just answer any questions the members of the Committee might have.

SENATOR WINFIELD (10TH): Thank you very much for your testimony. Are there comments or questions from members of the Committee? Seeing none, thank you again.

KATHY FLAHERTY: Thank you for the opportunity.

SENATOR WINFIELD (10TH): We will next hear from Dorothy Bardling followed by Michael Savino.

DOROTHY BARDLING: Good afternoon, Chairman Winfield and Stafstrom and members of the Committee. Hello, my name is Dorothy Bardling. I've been a loyal Court Monitor for the Judicial Branch for 15 years. I'm here to speak on SB 964, AN ACT CONCERNING COURT OPERATIONS.

I am not against this Bill per se, but I am concerned it could open the door to outsourcing our transcription work to a private vendor. The possibility that the Judicial Branch's transcripts may be outsourced is devastatingly cruel because it
is our livelihood. I chose this career because I value the American justice system that you are innocent until proven guilty. It is vital to keep an accurate record of history in the effort to preserve civil liberties.

The idea of outsourcing might sound good to someone who doesn't understand what it is that we do, but actually being in the courtroom during a proceeding, adjusting microphones, taking notes, and knowing who is speaking when and actually seeing that what is occurring in the courtroom are vital to ensuring the accuracy of the record. Transcriptionists from outside agencies will not be a part of this vital process and therefore risk creating inaccurate transcripts that could have devastating consequences to parties involved in a case.

Monitors painstakingly listen, re-listen, and re-listen to audio. If we can't figure out exactly what is being said, we consult with co-workers, who listen and re-listen to audio. We contact judges and attorneys and do research in order to verify spellings of names, case citations, legal terms, medical terms, corporate names and terms, etc. On a daily basis, we are required to listen to multiple parties speaking over one another, sometimes in different languages, and then determine which party has said what, all in the name of making an accurate record of the proceedings.

With that having been said, the idea of outsourcing transcripts and taking away an earned income source from committed employees who have spent years or even decades perfecting our craft is a heartless insult to loyal employees who have spent many weekends and evenings, our own time, completing
transcripts, meeting deadlines, and perfecting our craft in order to serve the public. This is a blatant inequity, ironically in a job that requires justice. Please make sure our valuable public service is protected. Thank you for listening to my concerns.

SENATOR WINFIELD (10TH): Thank you for your testimony. Representative Stafstrom.

REP. STAFSTROM (129TH): Dorothy, take a big deep -- take a big deep breath. I want to -- I just want to thank you for taking the time, coming all the way up here from Bridgeport today, spending the day with us, waiting to testify and for your emotional story. You know, as I said earlier you know, it strikes me that there are other places in this building in which labor issues are discussed and decided and the like and you know this might not be the best venue for it here in this Committee but for my own part I just -- I just want to say like I said to one of the previous speakers, it just -- it strikes me that when you sign up and agree to be a Court Reporting Monitor that part of the deal you're signing up for is not just that salary you're going to get at the end of the -- the end of the week for you know sitting there in the courtroom for 35 hours or 40 hours or whatever it may be, but that you're signing up to have the opportunity to earn a little extra by -- by doing some outside transcription of transcripts and you're relying upon that income as part of your overall compensation structure.

And I certainly -- certainly am sympathetic to -- to the point you all are making here today and the strong testimony that you've all presented to us. So thanks again to you and to all of your colleagues
for being with us today and helping to enlighten us. I know having had conversations not just here today but previous meetings with your group and your union representative and the Judicial Branch I have a -- as somebody who practices in our courts I have a newfound understanding and respect for the job Court Reporting Monitors do. Like I said, when you're practicing attorney, I see Attorney Representative O'Dea just walked in and you know, we kind of see you up there you know typing away at the computer and writing a few things down and you know I think we're so busy getting ready to present our argument to the judge and tell why you know of course my client is always right and I know Tom's client is always wrong that sometimes we don't stop to understand the job -- the vital job you guys are doing in the system in making sure that the court system operates efficiently and I really want to just again thank you and your colleagues for the education you provided us here today.

DOROTHY BARDLING: Thank you so much.

SENATOR WINFIELD (10TH): Are there others? Seeing none, thank you very much for your testimony. We will next hear from Michael Savino followed by Aylissa Peterson.

MICHAEL SAVINO: Thank you Chairs Winfield and Stafstrom, Ranking Members Kissel and Rebimbas and Members of the Joint Committee on Judiciary. My name is Michael Savino and I am President of the Connecticut Council on the Freedom of Information. It's a coalition of media members and open government advocates who have been fighting for transparency and the public's right to know since 1955. So I'm here today I opposition to Senate Bill
970. As written we're concerned that it is a major blow to the public's right to know. We feel that these records including evidence seized by police are important in the public's ability to hold police accountable and also make sure that our judicial system is working properly.

A very, very small percentage of cases end up going to trial so in the vast majority or some kind of proceeding where evidence was entered, so in a lot of cases this evidence would never see the light of day. There's also instances where there's no arrest made. We still think that it's important to have transparency to understand why police are investigating somebody, why they're going to effort of seizing someone's property and why there was no arrest made. In some instances it's also a question of did they miss an opportunity? You know if somebody goes on and commit crimes and they weren't arrested under past investigations; I think it's good to question what happened under those past investigations. This Bill would greatly limit our ability to do that -- do all of those things by not allowing us to review what kind of evidence was seized, how as it reviewed, did police miss an opportunity? So we would urge you to reject this Bill as written and I welcome any questions.

SENATOR WINFIELD (10TH): Thank you. Are there questions, comments from members of the Committee? Seeing none, thank you very much for your testimony.

MIKE SAVINO: Thank you.

SENATOR WINFIELD (10TH): I will say I made a mistake in announcing the next person because my paper covered up a name. The next person is Linda Strumpf, followed by Aylissa Peterson.
LINDA STRUMPF: Good afternoon Co-Chair Stafstrom, Winfield, and members of the Committee. My name is Linda Strumpf. An attorney practicing out of New Canaan, Connecticut and I'm here today to testify in opposition to HB 7236, AN ACT CONCERNING PROPERTY THAT IS EXEMPT FROM A JUDGEMENT CREDITOR.

I am here today representing the Connecticut Creditor Bar Association and I'd like to say that we represent small businesses throughout the state including landscapers, plumbers, electricians and other hard working small businesspeople helping them to collect on legitimate debts their legitimate bills so that they can stay in business.

I first would like to address Representative Stafstrom's question regarding Massachusetts. I know nothing about Massachusetts unfortunately but I do know a lot about New York. And in New York on Zillow, Westchester County median house -- house value is $608,000. Nassau County is about $550,000. The exception -- the homestead exemption in New York is in three phases. The first phase for counties like Westchester and Nassau and that's $165,000. So those houses as you can see are more than double the value of the median house in Connecticut and yet the exemption is $165,000 as opposed to this proposed exemption of $250,000.

In smaller counties it's 800 -- it's in -- in the counties upstate it's about 800 -- $82,000, $82,775. So you can see the difference in the house value in New York and these counties and the homestead exception as opposed to the value here. Basically if you increase the exemption to $250,000 or $500,000 for a couple, it would wipe out all these judgement liens. After the mortgage is paid there
would be nothing left. It's hard enough in this state to collect, much harder than in New York, on a judgement. And this way you're virtually eliminating the homestead -- the -- you're eliminating any kind of lien on a home, the judicial lien. It's not going to be worth anything in view of the value of the houses and in view of the value of the lien.

So that's why we're opposing it. I mean 70 -- it's now $150,000 which -- on a couple, which is -- which still doesn't leave much if the house is worth $250,000. So that's all I wanted to say. I wanted to address that if anybody has any questions.

SENATOR WINFIELD (10TH): Thank you. Representative Stafstrom.

REP. STAFSTROM (129TH): Thank you, Mr. Chair. Ma'am, what's the median home price in Fairfield County?

LINDA STRUMPF: That I don't know. It's more than $250,000. I live in Fairfield County. I don't know what it is but by that token, if it's divided up I don't think we'd have a problem with that. In otherword if Fairfield County or there was another county other than Fairfield, I don't know, that has a median home price say of $500,000, if you want to increase that to something like New York $150,000 I can understand that. I can understand that it's a lot more than the rest of the state. But it would be unfair to impose a $250,000 exemption on the entire state. I don't think we'd have a problem dividing it up into counties.

REP. STAFSTROM (129TH): Okay. I mean I just -- you know you cited some Massachusetts -- I mean you
cited some Westchester County figures and I mean my understanding is the median home price in Fairfield County is at least if not higher than it is in Westchester.

LINDA STRUMPF: I wouldn't doubt. Westchester is supposed to be $600,000; I would doubt that in lower Fairfield County it's $600,000 as well. And as I said --

REP. STAFSTROM (129TH): Maybe not in my part of Fairfield County in Bridgeport but once you get south of me.

LINDA STRUMPF: Right. That's what I said.

REP. STAFSTROM (129TH): We are part of a Fairfield County, sometimes people forget that.

LINDA STRUMPF: Yes, I live in New Canaan so I don't doubt that. So I would have no objection if it was divided up like it is in New York and if the more expensive counties are higher than the counties up state, which clearly up state I mean $250,000 is definitely, up state in Connecticut it's definitely a median income. And nevertheless, in New York even though Fairfield County is probably equivalent to Westchester, the exemption was still only raised -- it was raised recently $165,000.

REP. STAFSTROM (129TH): But the -- the whole point of a homestead exemption is even if you're collecting a judgement against somebody that there is a -- you know assuming you're not living in you know some extravagant multi -- you know, multimillion dollar house that the point of the homestead exemption is to not kick somebody out of their house just because they've got a judgement against them.
LINDA STRUMPF: Most -- as a -- very, very rarely do creditors start a foreclosure sale on a judgement lien. The whole point of the judgement lien is if the house is sold it goes into foreclosure after all the mortgage is paid you have a chance to get some money. This isn't about a foreclosure based on a $5,000 or $10,000 judgement which is most of our judgements for these small businesses. The whole point of it is that after the mortgage, if there's a foreclosure or a bankruptcy there's some equity so we have some chance of collecting when there's no other chance.

REP. STAFSTROM (129TH): So is there a way -- is there a way to bifurcate that and set it so that you can put the lien on at a lower amount but the foreclosure proceedings can't begin?

LINDA STRUMPF: I'm sure there is. I mean in Connecticut you --

REP. STAFSTROM (129TH): Would -- would you -- would your organization be in favor of that instead?

LINDA STRUMPF: I personally would not object to that. I mean in New York that's how it is. So I would -- I would have no objection to that because I know of no one that -- I certainly don't, and I know of no other attorney that does foreclosure sales based on the judgement liens. It's basically a question of when the house is sold or bankrupt or there's a foreclosure of getting the money.

REP. STAFSTROM (129TH): Okay.

LINDA STRUMPF: So I -- that's -- I mean I can't speak for anybody but myself. I'm not even speaking to the CCBA, but I have no objection because I -- I don't know anybody that does that like I say. And the whole point is when the house is sold or when there's a foreclosure
or when there's a bankruptcy at least there's something left.

REP. STAFSTROM (129TH): Preserving the priority.

LINDA STRUMPF: 'Cause you're not going to do a foreclosure sale for a $5,000 or $10,000 judgement.

REP. STAFSTROM (129TH): Okay, thank you.

SENATOR WINFIELD (10TH): Thank you. Are there others? Seeing none, thank you very much for your testimony.

LINDA STRUMPF: Thank you.

SENATOR WINFIELD (10TH): We will now hear from Aylissa Peterson to be followed by Chris; it looks like Gakley.

AYLISSA PETERSON: Good afternoon legislative members Aylissa Peterson, I'm from Hartford. I sincerely appreciate those of you who are left. I don't think the public realizes how sometimes poorly these hearings are attended, how people run in and out and I'm always impressed with those who are here after you know many hours.

I'm simply here as someone to support SB 964, the portion that has to deal with the Court Monitors. I heard the story on NPR yesterday and I felt the necessity to come down simply as a member of the public to speak on their behalf.

I know that the language has changed a bit but there is that possibility, I do see some wording that might allow for the -- the court operations to vend it out and I thought you should hear from somebody who actually uses these court monitors. I've spent tens of thousands of dollars over; I don't know $80,000 having to fight two fraudulent business partners in a software deal and in a real estate deal. I've made some real estate mistakes myself so unfortunately I found myself in court often and I finally decided to start doing some of the court proceedings myself as a self-represented party. And one
of the things that really helps me in pursuing, especially judgements, one of the things that really helps me are these Court Monitors.

As a -- just as a member of the public I can call them. You know you put your request in, I can contact them the next day and say, gee did I really hear what that lawyer said? Did I really hear what that litigate said or that witness and they can correct me and they can say, you know I can offer you this transcript or this excerpt. They help guide you on how much of the calque you need or do you need the whole transcript? It really quite a good system and I -- and I wanted you folks to know that. I don't think you can replace them. It might be more efficient to put the tapes online so that somebody like myself could just download it, pay $2.50 and then decide which portion I want to transcribe later. It might be more effective for the judges or the other litigants to have that available via tape, but to have the ability to have the transcription done by live people and if you need it expedited or if you need it just regular service, they really are so very helpful and they know the portions that you might need.

And I have a news flash for folks here. Lawyers lie, okay? Lawyers lie and I don't mean to offend those of you who are lawyers. Litigants lie. You know, a judge makes an error and having the ability to get that transcription whether it's expedited or an excerpt or what not, as a member of the public it's a valuable service. You might have heard some very emotional testimony today. What they do is provide a very valuable service. So if you need -- if the court system needs to find savings elsewhere, go look at some of those large salaries in the judiciary possibly or some other portions of the system that you might be -- might think is inefficient. This part of the system works. Thank you very much for allowing me to speak.
SENATOR WINFIELD (10TH): Thank you very -- thank you very much for your testimony. Are there comments or questions from members? Thank you again. Next will be Chris Oakley, oh this is real --

CHRIS OAKLEY: Oakley. I blame the handwriting so.

SENATOR WINFIELD (10TH): And then followed by Carmen Saez.

CHRIS OAKLEY: Good afternoon, Senator Winfield, Representative Stafstrom, thank you -- and the members of the Judiciary Committee. My name is Chris Oakley and I'm here to speak on Bill 7189 in support. I am an attorney. I have a small firm with three other attorneys. We primarily practice in family court and juvenile court, and we -- I am a member of the CBA, the Connecticut Bar Association. I'm the Chair of the Child Welfare and Juvenile Law Section. I did submit written testimony and just a couple of highlights in my short time.

We are in support of the intent of the Bill for restoration of the termination of parental rights. And to be very clear, this is not intended in any way to disrupt a child who has actually been adopted in a happy home. It is no way to disrupt this piece. What this Bill is really intended to be, there is a small percentage of children who are freed and are in DCF care where the DCF is the statutory parent and unfortunately despite DCF's efforts to match him with a pre-adoptive home, they're never adopted. I've represented kids who at eight years old are free for adoption and year after year there's a search for this home and it never occurs.

I've had kids who have asked about their biological parents in hope to reunify with them at a later date and time. And so this Bill under a very limited set of circumstances -- and some of the examples being they have to be three years without an adoption, no adoption pending. There's an age of 14 years or older and only the child or DCF could actually initiate this. The bio
couldn't come back and start this process. And there has to be a showing that the parent has rectified the problems that originally lead to the original termination.

So this would give an opportunity to do -- to do that. I know we have been in discussion with DCF, the Judiciary members and the Office of the Chief Public Defender and we've been working on the language and I think we have some room to work and continue to address some of the concerns that have been raised during this process but we are in support of the Bill. And at this point I would answer any questions that the Judiciary may have.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments from members of the Committee? Seeing none, thank you very much for your testimony.

CHRIS OAKLEY: Thank you for your time.

SENATOR WINFIELD (10TH): We will next hear from Carmen Saez followed by Doreen Del Bianco or Melissa Farley.

CARMEN SAEZ: Hi, my name is Carmen Melago Saez. I'm here regarding three Bills. I don't have the paper of the numbers but this is regards to them trying to take away Good Time or Good Credit from inmates that fell under past laws. I have anxiety so could I -- okay, okay, okay. I'm going to try to explain it, okay I'm sorry. In 1994 my 22 -- my 23-year-old brother took someone's life, ruined his life and two family's lives. He was drunk. It was 4th of July weekend. He needed eight more credits to graduate college. He just had two kids and he got into a fight at 3:00 in the morning and he ruined somebody's family member -- he didn't make it and he got served to 50 years. My brother is doing his time and we -- and we pray for the families of the victim all the time.

The problem with this situation, how this affects me and 1,000 other families is out of the almost 17,000 inmates there's only 1,000 inmates this affects. Pertaining --
he fell under 1994 law so he was earning good time and good credit for the past 25 years. He's still has more than 12 years to go but this would change his sentence -- it could be 12 years, it could be something less significant, but it makes a big difference. It will punish me, my mom, his kids, and it's kind of like a form of double jeopardy when you tell 1,000 inmates hey you've been in jail 25 years and you're doing your time and this is the rules that we're going by. 25 years later, we want to pay to keep you here a little longer so we changed the rule, we're going to keep you incarcerated a little longer.

It's double jeopardy, those changing the facts that he was told 25 years those were the rules that his sentence fell under. It doesn't mean that we don't feel for the family member that passed away or any victims. It means that I have to come every year because for the past three years you guys have been trying to take away and affect his sentence along with only 1,000 inmates, an isolated small group of inmates from 1994 backwards.

If you guys were to ever pass this I know he would go to the Supreme Court and they would probably figure that it has something to do with double jeopardy. I'm really hurt by this. I don't like coming here anymore. I never did. I became an advocate 18 years ago and I only come out in emergencies. Therefore if I'm here, it's because it's an emergency. I try not to get involved in Bills but like I said you would be personally punishing me and my family members again.

SENATOR WINFIELD (10TH): Thank you, Carmen. Are there comments or questions? Senator Kissel.

SENATOR KISSEL (7TH): I'll be brief but it's -- I know you don't like coming here and you told me outside the room that you're not happy coming here but I've been lucky enough to be on this Committee now for 25 years and I remember you coming here for all those 17 years as you just stated. And you know the caring that you show for
your brother who is incarcerated as well as for the family of the victim deserves a lot of credit.

You know if anything empathy is one of the things that undermines our state moving forward and the fact that anybody takes the time to come and testify at one of these hearings, especially on a very personal matter, you deserve a lot of praise so thank you for coming.

SENATOR WINFIELD (10TH): Thank you. Are there others? Seeing none, thank you very much for your testimony.

CARMEN SAEZ: Okay, just don't do this please.

SENATOR WINFIELD (10TH): We'll hear next from Melissa Farley.

MELISSA FARLEY: Good afternoon. My name is Melissa Farley. I'm the Executive Director of External Affairs for the Connecticut Judicial Branch. I'm here to testify on Senate Bill 962, AN ACT CONCERNING COURT OPERATIONS. We submitted detailed testimony that goes through each section but I'd like to concentrate on the sections that deal with the Court Recording Monitor statutes.

When we originally submitted the Bill to the Judiciary Committee we had changed the definition of transcript to include transcripts produced by another entity approved by the Chief Court Administrator. And as we discuss this language with the union and with the members of the General Assembly we decided to take that language out. So the Bill before you does not include any language that would allow the Judicial Branch to position itself to outsource transcripts.

We have been dealing with this issues for a number of years and it comes from an auditor's report that basically has said that Court Recording Monitors cannot type transcripts on state time. They earn money when they type transcripts. Our concern is that transcripts are the backbone of the legal system. And we want to make sure that we can have transcripts available and done
in a professional manner and we're trying to figure out how to navigate these waters. We signed an agreement with the union that said we would not outsource until 2021. So right now we're trying to figure out how we can ensure that we have the transcripts we need, that they're produced in a timely manner, and by the way we have no intention of laying off the Court Reporting Monitors. We have told them that we will change their job descriptions so that they can continue doing the Court Recording Monitor functions and then do other -- other duties in the Clerk's office. So we're not talking about laying anybody off. We just want to address the situation we have with them typing transcripts on state time and earning private money.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments from members of the Committee?
Representative Rebimbas.

REP. REBIMBAS (70TH): Thank you, Mr. Chairman and good afternoon. Thank you for your testimony. I mean from the Court Monitors that testified here today many of them actually said that they're fine with the rule changes that has been done by the Judicial Branch and really the only thing I kept hearing is don't outsource them. So the fact that you're testifying indicating that that's already been addressed and there is no outsourcing that's going to take place doesn't seem like -- I don't see any opposition then to what's being proposed currently. So I just want to thank you for clarifying that and bringing that to our attention. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Are there others? Seeing none, thank you -- seeing none, thank you very much for your testimony. Is there anyone who is signed up that did not have the opportunity to --

MELISSA FARLEY: Can I just ask --

SENATOR WINFIELD (10TH): Sure.
MELISSA FARLEY: Does anybody have any questions about the CASA Advocates?

SENATOR WINFIELD (10TH): Sure. Is there --

Representative Blumenthal.

REP. BLUMENTHAL (147TH): Thanks for your testimony. We do have a couple of questions and I think it may make sense to have some sort of meeting offline with the Branch as well. But we've been hearing from a number of the CASA Advocates who have pointed to statute that already exists and they've been having trouble accessing and doing their work in the Bridgeport Courthouse and I was wondering if you had any information that you'd like to share with us on that issue, and if the Branch would be willing to work on that issue with us and the Advocates going forward?

MELISSA FARLEY: Yes, I think it might be helpful to give you a little bit of background. A number of years ago a legislator from New Haven passed a statute that required the Judicial Branch to pay $150,000 to Children in Placement. At that time Children in Placement was a CASA certified organization. And the Judicial Branch complied with the statute.

And then after that another group, Child Advocates of Southwest Connecticut was interested in doing this work and a legislator from Stamford was able to get them some funding to do this work. And what has happened over the next -- over the last several years is that there is competition amongst the two organizations to do work in different juvenile courthouses. And what we've basically said and what we have now is that there is an organization, a CASA organization for Connecticut and we have a contract with them that they will tell us where -- where these organizations should do their work. We basically want -- we don't want to have to mediate the situation to be honest with you.
So I can show you the contracts we have with all of the organizations and we can try to move forward.

REP. BLUMENTHAL (147TH): So is there any -- has there been any resistance to the CASA organization becoming more involved from Children in Placement?

MELISSA FARLEY: Yes.

REP. BLUMENTHAL (147TH): Okay. All right. And would the Branch people be willing to -- to meet and be involved with the process where we can try to figure out a solution to this situation?

MELISSA FARLEY: Absolutely.

REP. BLUMENTHAL (147TH): All right. Well, thank you for your testimony. Thank you, Mr. Chair.

SENATOR WINFIELD (10TH): Thank you. Thank you for your testimony. Others? Senator Kissel.

SENATOR KISSEL (7TH): I just -- I just personally find it unusual that a private entity would be placed into statute, that the Judicial Branch would have to use a private entity. Have you guys run into that before?

MELISSA FARLEY: I can't think of another statute that requires us to contract with a particular entity. You know obviously there are some guidance in the budget but not in a statute.

SENATOR KISSEL (7TH): Yeah just -- only because we run into these issues regarding private emoluments and it's like if you're putting into a statute that this private entity has to get this -- to me that sort of looks like a emolument that the Attorney General would probably strike down if it was part of some sort of claim to the Claims Commissioner or something else like that. So I -- yeah, I would encourage -- you know I'd be happy to participate as well. It just seems like you know one -- one person -- one group got their foot in the door first and now they're excluding another group that seems to have
similar qualifications and I just -- I would like to think that if there's folks out there that are sort of caught in the middle of this, I can understand the Judicial Branch not wanting to be the mediator but you know, I think there's enough need out there that if people want to help serve that need we should be in a position to try and take advantage of that. So thank you for your testimony, and nice to see you again as always.

MELISS FARLEY: Thank you.

SENATOR WINFIELD (10TH): Senator Kissel for volunteering. Thank you very much. Are -- are there others who were signed up but did not get to testify? Come forward.

HENRY MARCUCCHIO: Hello. My name is Henry Marcucchio, pro se, parent advocate of --

SENATOR WINFIELD (10TH): Henry, Henry, Henry hold on a second. Were you signed up?

HENRY MARCUCCHIO: I just signed my name about five minutes ago. I was the last one I believe. I didn't realize we were in the last --

SENATOR WINFIELD (10TH): I didn't -- well I'm just trying to -- I'm just first trying to get -- I will get to you. I'm just trying to make sure that no one was actually signed up that we have on our list. Okay. You can go and after Henry anyone who was not signed up who is present who would like to testify, can testify. Go ahead.

HENRY MARCUCCHIO: Okay. I'm here to opposed 939 in regards to immunity for psychiatrists and the fact that they don't have to be affiliated with hospitals. I personally have done this against orders of a family court order. I believe it's illegal. I went into ethics of his license. If he's not affiliated with a hospital or ongoing treatment, has clinical experience in diagnose, clinical experience in treatment and clinical
experience in continuing your education, they're useless. What we find in judicial is using certain players with a degree to reinforce judges. I really feel that's a real harm and again, I believe the harm is it would go against the prime directive of the disabled, let alone treating physicians if there is any.

Who's to say non-treating physicians diagnosed can supersede a treating physician's diagnosis? Just hypothetically putting it out there for you guys.

I'm going to move on to the transcripts. How many years is it going to take for us to understand that we need to start going to like other states have and gone to MP3 players or video taping of court proceedings. There's too many flaws. I've gotten too many transcripts where I know the judge has said something and for some reason that magically disappears or that little bar space goes in there like what, what. It's impossible for a pro se like me to get ahold of the recordings. There's a lot of shenanigans going on. The only way we can eliminate that is simply like we do today here at the Capital, captioned. I believe it's cheap enough to go. The program is a couple hundred dollars but again the more important thing is MP3 players should be allowed as evidence inside data a room of what's going on. Or programs that are on our simple cell phone so that a litigate can leave the place and know what was said crystal clear, repeatedly crystal clear. No interruptions, no tampering.

There was one more. I think it was 871. There's a couple things again I was just concerned about but the most one that bothers me alone is the immunity. Guys, it's a game. It's called Whores of the Court, Florida case. There were 26 psychologists, psychiatrists that were involved in this case. Each one had a different opinion. I would hate to be the person who has to litigate 26 opinions. How can the -- if this opinion of a psychiatrist is so strong I find it hypothetically
wrong because again they're using information that's done on people that are -- the tests are -- testing criteria of people that were done on inmates in like the 70s and 80s. That's how they come out with whether or not you've got psychological problems or not; from my research. And again, my questioning of the court-ordered psychiatrist against me.

They don't have the modern training and again, I just find this really crazy today that we're not only going to give judges immunity because this is the only state that does not prosecute judges. Google it. Find out how bad these judges are being nailed across this country to keep them in check. I think there's bad apples in everything. Is there bad mechanical contractors out there? Absolutely but that's where the Department of Consumer Protections comes in and protects the consumer. In courtroom when you're dealing with corrupt situations; I'm not going to point the finger on exactly which way, there is nothing you can do but become a pro se and say, I will take that case to the Supreme Court. Then have the Supreme Court reject you eight years of your life later and your child has now been detrimentally damaged because of the orders of the court. It's insane today guys.

SENATOR WINFIELD (10TH): Thank you, Mr. Marcucchio. Are there questions or comments from members of the Committee on the testimony? Hearing none, thank you very much.

HENRY MARUCCHIO: Thank you, Committee. We'll see you on the next one.

SENATORWINFIELD (10TH): Are there any others who are present who were not signed up and would like to testify?

TAD BISTOR: Good afternoon, Mr. Chairman. I was signed up on the list. Chairman Winfield, Chairman Stafstrom, and Honored Members of the Judiciary Committee I am here to testify today with regard to Raised Senate Bill Number 942, AN ACT CONCERNING THE OPENING OR SETTING ASIDE OF A
PATERNITY JUDGMENT. My name is Tad Bistor and I'm an attorney who for many years had a contract with the state to represent indigent putative fathers in paternity actions, as well as a contract to represent minor children in family cases as either a guardian ad litem or attorney for the minor child in both the Hartford and New Britain Superior Courts. As such, I have extensive knowledge and experience in dealing with the issues addressed by this Bill.

Let me start off by saying that if this legislature is truly concerned with getting the issue of paternity of a child correct, then it would repeal Connecticut General Statutes Section 46b-1 72 to do away with Acknowledgments of Paternity entirely, mandate genetic testing to determine paternity in all instances, and require insurance companies to cover the cost as part of the birthing expenses. At the current rate that the state has negotiated with LabCorp, it costs less than $100.00 to test the mother, the putative father, and the child, and I'm sure if the state were to mandate genetic testing, that with the increased volume they could negotiate an even cheaper rate. For now, however I will leave that debate for another day if and when I see such a Bill brought up for a public hearing.

Getting to the Bill at hand, in Section I of the Bill, you seek to substitute a new subsection (b) to Connecticut General Statutes 46b-I 71. In the proposed subsection (b)(I), you limit the time period to file a motion to open a judgment of paternity to four months from the date of judgment. This mirrors similar language in other statutes. I would propose, however, that this language be amended to instead allow the filing of the motion to open to within four months of actual notice to the moving party of the entry of the judgment of paternity.

As currently worded, this portion of the Bill would have a disproportionate impact on lower income putative
fathers and, consequently the minor children in these matters. Many paternity judgments occur as a result of the state filing a paternity petition against putative fathers in instances where the state has provided the mother with cash benefits to support the child or the mother and/or child is receiving HUSKY health benefits. These actions are brought so that the State can recoup monies it has expended. Unfortunately, the vast majority of these cases involve low income families, hence the reason they are receiving cash and/or HUSKY. Anyone who has sat in a Family Magistrate Court on paternity day would be amazed at the number of default judgments of paternity that get entered on any given day, most with no proof that the putative father has any knowledge of the proceedings.

The reason for this is that the state often gets only abode service on the putative father, which they then back up with a postal verification indicating that the guy receives mail at that address. The problem is that these guys are out trying to make money during the day when state investigators serve the papers and/or they have long since moved from the address that the state has for them and for various reasons never bothered to file a change of address with the postal service.

The first that these guys even become aware of the judgment is often months or even years later when the State either tracks them down at work and gets an income withholding against their pay or when they are served with a motion for contempt for nonpayment of the child support order that gets entered at the time of the judgment of paternity. When these men seek to open the judgment they routinely find the state arguing against their motion because it was filed more than four months from the date of judgment. If the state wins this argument, the guy is stuck paying support for a child that may not be his and the child is stuck with a father that may not actually be their biological father.
My greatest concern with this Bill, however, is with the proposed subsections (b)(2) and (b)(3) to Connecticut General Statutes Section 46b-171 proposed in Section I of the Bill, and the proposed subsection (a)(3) to Connecticut General Statute 46b-172 proposed in Section 2 of the Bill.

Obviously I haven't gotten through all of my testimony. I've submitted written testimony. This main concern that I have, I'm sure the Committee is familiar with last year's Appellate Court decision in Asia M vs. Geoffrey M 182 Connecticut Act 22, where our Appellate Court clarified its decision in Ragin v. Lee.

SENATOR WINFIELD (10TH): Can you summarize now?

TAD BISTOR: Yes. Basically this particular proposed language in these sections is going to make it harder for fathers to open judgements of paternity that have been entered where they're not actually the biological father of the child. It also is going to impact the minor children who don't get a say in this and are the innocent victims. So I would suggest, and I provide this in my written testimony that instead of adding -- right now you've got three grounds for opening up the judgement. Fraud, duress and or material mistake of fact. The proposed language adds after you've proven that, that you now have to prove beset interest. It's my suggestion to this Committee that you actually make best interest of the child a fourth statutory ground because that would allow the child, the innocent victim here to be able to have say.

SENATOR WINFIELD (10TH): Sir, sir, sir. I -- I'm trying to work with you.

TAD BISTOR: No, that was my summary, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments from members of the Committee? What was your last name again? I did not catch it.
TAD BISTOR: Bistor, B-I-S-T-O-R.

SENATOR WINFIELD (10TH): Okay. Thank you very much.

TAD BISTOR: And I have submitted written testimony both electronically and also paper format today.

SENATOR WINFIELD (10TH): Thank you. Are there others who have not had the opportunity to testify? Come forward.

BRIAN ANDERSON: Very briefly Chairman Winfield, Chairman Stafstrom, Ranking Member Kissel, Ranking Member Rebimbas, members of the Committee. I'm Brian Anderson. I'm a Legislative Coordinator for AFSCME Council 4.

Thank you today for listening to our Court Monitors speak about Senate Bill 964. We appreciate the comments of the Judicial Branch today, that they won't seek in this Bill to privatize the work of these 220 some women. We do still have the concern that -- that there might be some other Bill, might be some Amendment. We think it's a really bad idea to privatize. I won't repeat what our members have testified to. I know they gave good reasons.

Regarding Melissa Farley's comments about the auditor. We met with the State Auditor, one of the State Auditors about the problem that the State Auditors found with our Court Monitors doing work private jobs on state time and the Court Monitor -- rather the Auditor seemed to think that in no way did they see privatization as an answer. I'm going to sit down with them further with the Auditor and try to explain how the system works and how it evolved the way it did.

We -- we take -- Melissa Farley at her word. I've worked with Melissa for years. I find her and Doreen Del Bianco to be very honorable people. No intention to lay off is not the same as no layoff. We know that the department -- the Branch faces a $25 million deficit. We do worry about the possibility that these folks would be laid off if their jobs were privatized out and we would be happy to discuss this in Labor Relations and hopefully we'll be
doing that and I would appreciate your indulgence and I hope that this issue doesn't have to be addressed by the General Assembly after today. Thanks. Happy to answer any questions.

SENATOR WINFIELD (10TH): Thank you. Are there questions or comments from members of the Committee? Representative Dubitsky.

REP. DUBITSKY (47TH): Thank you, Mr. Chairman. You used the word privatized but it is privatized, right? They do it on their own time, they get 1099s, they don't do the work for the state so that's private isn't it?

BRIAN ANDERSON: I would disagree. They're public employees. They have a public trust. They're completely regulated by their employer, the Judicial Branch so I would not agree with that.

REP. DUBITSKY (47TH): So -- so why do they do independent billing to the parties and get paid directly and receive a 1099?

BRIAN ANDERSON: My understanding is they're ordered to do that as part of their work by their management.

REP. DUBITSKY (47TH): Okay. So they get a 1099 from somebody who is not their employer?

BRIAN ANDERSON: Representative, I -- I wouldn't give you an answer to a question I don't know. I'm not familiar with the IRS code on how this works. We can find out.

REP. DUBITSKY (47TH): Thank you. Thank you, Mr. Chairman.

SENATOR WINFIELD (10TH): Thank you. Are there others? Seeing none, thank you very much for your testimony.

BRIAN ANDERSON: Thank you.

SENATOR WINFIELD (10TH): Is there anyone else present who has not had the opportunity to testify? Seeing none, I will call this public hearing to a close.