Kathleen M. Flaherty
139 Cedar Ridge Road
Newington, CT 06111
(860) 666-2200 (cell)
Kathleen.m.flaherty8332@gmail.com

Mental Health Services Working Group
Public Health Committee
State of Connecticut
Legislative Office Building
300 Capitol Avenue
Hartford, CT 06106

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Dear Members of the Bi-Partisan Mental Health Services Working Group:

I am writing to you today to express my opinion regarding several of the proposals that have been raised in response to the tragedy at Sandy Hook Elementary School. At first I was hesitant to submit testimony because of my appointment to the Governor's Sandy Hook Commission, but as I have heard other members of the commission express their personal opinions that run counter to my own, I could not in good conscience remain silent.

I submitted testimony in opposition to involuntary outpatient commitment ("IOC") last March. This legislature wisely rejected the bill that was raised last year. Many proposals have been raised this session, because people, in good faith, want to "do something" in response to the events that unfolded on December 14, 2012.

I learned an old maxim in law school – that "bad cases make bad law." I can think of no worse case than what happened in Newtown. But I do not want to see this state rush, in haste, to pass legislation that makes things worse. I urge you to listen to all the voices you hear, and point you to the words of one of our wisest Supreme Court Justices, Oliver Wendell Holmes, Jr., from his dissent in Northern Securities Co. v. United States, 193 U.S. 197, 364-365 (1904):

> I am unable to agree with the judgment of the majority of the court, and although I think it useless and undesirable, as a rule, to express dissent, I feel bound to do so in this case, and to give my reasons for it.
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> Great cases, like hard cases, make bad law. For great cases are called great not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment. These immediate interests exercise a kind of hydraulic pressure which makes what previously was clear seem doubtful, and before which even well settled principles of law will bend. What we have to do in this case is to find the meaning of some not very difficult words. We must try, I have

> tried, to do it with the same freedom of natural and spontaneous interpretation that one would be sure of if the same question arose upon an indictment for a similar act which excited no public attention, and was of importance only to a prisoner before the court. Furthermore, while at times judges need for their work the training of economists or statesmen, and must act in view of their foresight of consequences, yet when their task is to interpret and apply the words of a statute, their function is merely academic to begin with -- to read English intelligently -- and a consideration of consequences comes into play, if at all, only when the meaning of the words used is open to reasonable doubt.

You, as legislators, face a far more daunting task – instead of having the luxury of being able to interpret the laws behind closed doors outside the glare of the camera, you face the public, subject to re-election and the unrelenting news cycle. The "hydraulic pressure" on you is quite great.

This is exactly why you must be particularly diligent in your task. There are outside forces in play suggesting that involuntary outpatient commitment will provide a solution to the problems vexing Connecticut's mental health system, and some may even try to argue that had such a system been in place, what happened in Newtown might not have happened. This is simply not true. First, we still do not yet, and may not ever, know what, if any, mental illness condition Adam Lanza may have been diagnosed with prior to December 14, 2012. The investigation is not yet complete. Making substantial changes in the law based on one particular case are usually never a good idea – especially when the full facts of that case are not even known. Second, involuntary outpatient commitment laws, even though in many states they have been given the names of victims of violent acts, and may have been passed in the wake of a tragic incident, are not really a mechanism to prevent a future act of violence. Almost every expert acknowledges that it is impossible to predict with any accuracy when such an act will occur. Instead they are actually designed to address the needs of individuals who cycle in and out of the system – and they don't even meet those goals.

In order to figure out what steps you should take, you first need to figure out what you are trying to accomplish. That is the only way you can determine whether any of the proposals before you will help you accomplish your goals. If, as Governor Malloy outlined in his charge to the Sandy Hook Commission (and I imagine he has presented you a similar charge), among the goals are the reduction of stigma for people living with psychiatric disabilities and encouraging people to seek treatment, does involuntary outpatient commitment do this? The answer to this question is clear, and it is a resounding no. Falling into the trap that involuntary outpatient commitment provides a ready made solution to the tragedy that happened last December means buying into every stigma about people who have a mental illness – that we are violent, that without medication we do not and cannot function in society, and that if we "won't" take our medication, there should be some procedure in place that allows the system to force us to take it.

The reality is that we are already members of the community. We are mothers, daughters, sisters, and aunts. If we are blessed enough to be parents, we put our children on school buses and if we are lucky enough to have jobs in this economy, we go to work. We struggle, not only to manage our illnesses, but to figure out how to keep a roof over our family's head, food on the table, clothes on our

back. We do all of the things that every other Connecticut family does, and in addition to that, we also have to learn how to manage symptoms of a major medical illness. If we are lucky, we get to do this with the support of family and friends. Some of us are not so lucky. Unlike other illnesses, where once a diagnosis occurs, people are quick to ask "what can I do to help?" – and do it -- a diagnosis of mental illness usually brings …well, not much of anything, really. People either don't know what to say, so say nothing, or say really horrible things, or, just go away.

I have been incredibly fortunate to not have that happen to me, and I know that is a huge part of why I am married, a homeowner, a lawyer, a daughter, an aunt. My husband and I do not have kids – by choice. But I have far too many friends who have exhibited an unbelievable amount of strength and courage just to get through the day – and to see all of us labeled with the image of "deranged" because of the actions of one individual. That is discrimination, plain and simple.

I appreciate the heartbreak of family members who have had to face the struggle of their loved ones in the endless cycle of hospitalization. I don't like using the fancy word for "lack of insight" because I can barely pronounce it myself. I spend my days on a legal services hotline explaining to people how to represent themselves in court when we cannot get them attorneys because legal services does not have enough funding to provide an attorney to everyone who calls us, and there are not enough volunteer attorneys to fill the gap. The legal profession has enough technical terms of art that we like to use to make a person think that this system is unknowable and unusable by anyone who doesn't have 3 years of law school. Our legal system is finally making a move to "plain language" because it has faced the reality that many people are representing themselves; I believe this is something the mental health system needs to do as well. Using fancy words to make something seem more complicated than it is also obscures the fact that Connecticut law already provides a mechanism for helping someone who is in dire straits, if the law is properly followed. If one carefully reads some of the proposals before you and compares them to existing law, the bills do not propose anything that the existing statutes do not already do.

Although this is very difficult for family members to understand, people living with a mental illness may be choosing not to get treatment, and it may not be due to a simple "lack of insight." When someone feels like the system disrespects her and that she is not listened to, or that she will have no input into any major decisions about her life – that is not a system she is likely to want to engage with. The systems that work – peer support specialists, who build trusting relationships built on respect for individuals and engage them in their own plans for recovery; housing first – which focuses on providing safe, stable and affordable housing first, with everything else after – these are the things that work. I would also like to point out that people with many physical health conditions either don't follow their physician's recommendations to do many things that would benefit their health – whether that is eat right, exercise, or take prescribed medication – posing just as much a risk to their own health for failure to treat their illness – yet there is never a discussion about forcing people to accept this treatment. There is also no automatic assumption that such a person will automatically be dangerous to someone else. That is a frequent occurrence for those of us who live with psychiatric disabilities.

When it comes to public money, the bottom line always is the bottom line – money. What does something cost – and is it an effective investment of our limited resources? You may be presented with data that claims that IOC "saves" money. You need to be aware that the studies that "show" this are methodologically flawed, in the first place, and, more importantly, it is not even clear that IOC (what they claim to be studying) is what led to the cost savings. As Professor Bonnie told the members of the Governor's Sandy Hook Commission last week, if there are not sufficient resources invested in the mental health system, IOC in and of itself accomplishes nothing.

However, I urge you to keep in mind your ultimate goal – the well-being and mental health of all the citizens of Connecticut, which includes the destigmatization of seeking mental health treatment. IOC runs counter to these, and for this reason, I urge you to reject it again. I urge you instead to take the time to consider more effective appropriations to the Department of Mental Health and Addiction Services and other agencies for more effective interventions that are evidence based and have proven track records of improving the lives of people living with psychiatric disabilities.

I thank you for your consideration of my testimony.

Sincerely,

Kathleen M. Flaherty