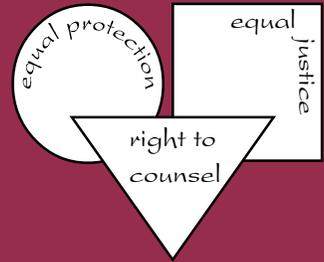


DISCOVERY

Newsletter of the Connecticut Division of Public Defender Services



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Photo by Spencer Sloan, reprinted with permission

Students of Latino Community Practice Focus on Stand Down Attendance



The giant billboard at Stand Down 2008 lists the services available to veterans

The Chief's Perspective

The Economy -- It's Not All Bad

It is an understatement to say that these are challenging times for public defense organizations. It is difficult to plan for the future of the Division in the middle of such a severe and fluid economic crisis. We do know that for the foreseeable future we will be challenged to do more for our clients with less. A plummeting economy, however, can expose expensive and failed criminal justice policies that should be changed or eliminated. Such is the

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St. Joseph College is the pioneer in the field of servicing the Latino community. For this purpose they developed a certificate program which will give specialized training to bilingual professionals in the fields of health, education, management, and human services.

In 2008, fifteen students participated in its first academic year to gain an understanding of the diverse Latino cultures in the United States. The students are researching and addressing a number of issues within the Latino community. These issues include encouraging increased support from Latino parent's involvement with their children's activities, self-esteem of young Latina girls and post and prenatal care of young Latina women.

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case of recent open legislative discussion regarding abolition of the Death Penalty in Connecticut.

At this time, individual caseload numbers are climbing above Commission Caseload Goals in several GA offices. I would expect this trend to continue, not necessarily because there is more crime, but because fewer defendants are able to hire private counsel. Whatever the reason for rising caseloads, it is unclear pending a final budget, whether we will be able to afford "caseload relief" by unfreezing vacant positions, by hiring per diem attorneys, or by assigning more cases to Special Public Defenders.

Public Defender organizations throughout the country are facing similar dilemmas. Some state and county public defender organizations have been forced to discontinue representing defendants charged with misdemeanors or minor felonies. Some indigent defense organizations are refusing to take additional client cases, and are leaving it to the courts to assign cases to the private bar. These are not good options for Connecticut, which historically has had one of the best public defender systems in the country, and is nationally regarded for providing access to equal justice for all eligible clients.

Laws passed in recent legislative sessions also challenge us and add considerably to our workload. Stiffer penalties for persistent offenders and more mandatory sentences have resulted in higher bonds, higher offers in plea negotiations, and longer sentences. More of Connecticut's youth are now transferred to the regular adult docket where they are routinely charged with felony offenses that dramatically and negatively impact their futures. The increased demands of specialty dockets require more staff than we currently have available to adequately represent clients. These challenges come at

the most inopportune time in the economic downturn, when the State cannot fund the increased resources necessary to insure fairness in the court system or to implement *Raise the Age Connecticut*. See page 3 of this issue for additional comments on *Raise the Age* legislation.

The news, however grim, may not be all bad. In times of deep economic recession, the government, state agencies, and the public, are necessarily forced to reexamine expensive policies and make quality of life choices accordingly. One beneficial result of the economic downturn is the renewed legislative discussion regarding abolition of the Death Penalty. Connecticut is one of several states considering abolition in favor of the alternative sentence of life without possibility of release. New Hampshire, New Mexico, Kansas, Nebraska, Montana, Washington, Maryland and Colorado are also considering abolition, either total or prospective. Our recent projections for the Division's cost of defending capital cases in the next year are expected to rise from \$2.5million, or 5% of our total budget this year to nearly \$4.2 million next year due to the number of death penalty cases now pending trial, appeal, or state habeas corpus post-conviction and racial bias proceedings.

While abolition seems unlikely in Connecticut this year, the exorbitant costs of the Death Penalty need to be fully and publically exposed in order for Connecticut citizens and legislators to make a rational choice between retaining the Death Penalty and implementing programs, like *Raise the Age*, that would provide greater opportunities for positive change for the people of Connecticut.

Susan O. Storey
Chief Public Defender



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Cutting Edge Juvenile Advocacy; Changes Ahead for Connecticut's Youth?

Lawyers representing indigent children in the Juvenile Matters courts continue to try cutting edge approaches to juvenile defense. Attorney Jennifer Leavitt is currently defending an appeal from the State in a case involving a juvenile found not competent to stand trial and not restorable. The child, who has significant developmental disabilities, had been accused of two separate sexual assaults and had twice been found to be not competent and not restorable. While DCF and DDS argued over who should service the child and family, Judge Sheridan Moore dismissed the case, finding that C.G.S. 54-56d, which governs competence in adult criminal matters, was not applicable to juvenile court. The State has argued that the adult competency statute should apply and that the court needs to maintain some kind of coercive power over this incompetent juvenile. The case has been transferred to the Connecticut Supreme Court and should be argued this spring.

In Rockville, Attorney Melanie Frank and Social Worker Lisa Corcoran continue to advocate through community outreach work. Attorney Frank was invited to participate in a community round table group usually reserved for law enforcement and has been instrumental in having town social services programs made more accessible to children involved in the juvenile court.

Raise the Age

P.A. 07-4, sec. 17, which raises the age of juvenile court jurisdiction to 18 was scheduled to go into effect on January 1, 2010. If the legislature takes no action, youth will become juveniles next January. Due to the current budget crisis, Governor Rell has proposed delaying implementation for two years. This was mostly due to an outcry from the Connecticut Council of Municipalities (CCM), who characterized the Raise the Age legislation as an "unfunded mandate". The CCM and the Connecticut Association of Chiefs of Police have argued that implementation of Raise the Age would cost cities and towns \$50 million despite the fact that there is little evidence to substantiate this amount. Although police claim that they will require new facilities to house arrested youth, in 2008 the Office of Policy and Management conducted a study showing that many towns arrest only

one or two youth a year. The major cities of Hartford, New Haven and Bridgeport never used their department's lock up for juveniles, as they brought the accused children directly to the state's three detention centers. While there will be some impact on middle sized communities, proposed legislative changes are designed to limit the fiscal impact. If the new law survives, municipalities could be eligible for grant funding to fix inadequate facilities. Most importantly, police will be able to release kids on a promise to appear without waiting for a parent to arrive.

Connecticut's move to increase the age for adult prosecution makes sense from both a scientific and a policy perspective. Currently, only two other states, New York and North Carolina, set their age of adult jurisdiction at 16. The national movement to return young people to juvenile jurisdiction has been spurred by the growing body of scientific research that indicates that children's brains are physically different from adults' brains. See *Changes Ahead for Connecticut's Youth*, DISCOVERY Vol. 5 No. 1, 14 (fall 2007) for studies of Dr. Abigail Baird, a foremost researcher on adolescent brain development, commentary on the *Roper v. Simmons* case and issues of competency standards as applied to juveniles.

There was overwhelming legislative support for this change, despite a high price tag of \$16 million appropriated just for the Judicial Branch for FY 2007/2008. The total cost of implementation is estimated at over \$80 million dollars. However, all indications are that the state will save in the long run. Research in Florida and New York indicates that prosecuting juveniles as adults does not prevent further criminal activity. In fact, young people sent to adult prison recidivate more often and with more serious offenses than their counterparts who are handled in juvenile courts.¹ Juvenile courts focus on less expensive, more treatment oriented community based services. The Juvenile Justice Planning and Implementation Committee (JJPIC) recommended expanding current services and development of new programs that will address the specific needs of the older adolescent population. The Judicial Branch Court Support Services Division (CSSD) has already begun to contract for these services. These system improvements should allow for more cases to be diverted out of court resulting in an immediate financial savings. More importantly, these new

initiatives should result in a more stable, less criminally involved population of young citizens.

There will be significant changes ahead for the court system and for the Division of Public Defender Services. The Judicial Branch has already begun hiring probation officers specifically for the 16 and 17 year-old population. These will be recruited from the current group of juvenile probation officers and will begin to integrate the 16 and 17 year-olds into the juvenile programs as early as next spring. P.A. 07-4 calls for the creation of Regional Courts to handle the new influx of cases in to the juvenile matters courts. Where space is available, such as Bridgeport and Hartford, these will remain in the current juvenile court buildings. Waterbury, New Haven, Middletown and Rockville will rely on leased space to handle additional dockets. Willimantic, Waterford, Stamford and Norwalk will most likely utilize courtrooms in the adult courthouses. Plans for New Britain, Torrington and Danbury are still being discussed and the entire plan could be revised before the 2010 implementation date.

The Office of the Chief Public Defender has submitted staffing projections to the Office of Policy and Management. These are based on our caseload goals, our percentage of the local caseload and Judicial's data on the number of 16 and 17 year-olds who would be added to the local juvenile dockets. While we estimate that our juvenile offices could accommodate 16 year-olds without additional staff, resources will be needed if the age increases to 17. The implementation will be challenging. A 17 year-old arrested on New Year's Eve 2009 will be prosecuted as an adult. If he gets arrested again walking home after midnight, he will have a juvenile court case as well. This will require an unprecedented amount of collaboration between the GA and juvenile court staff. The new act does not modify the current law regarding transfer of cases. The state will continue to be able to transfer any felony committed by a juvenile to adult court and there will be little the defense community can do to stop them. We can expect to see an increase in the number of transfers post-implementation and OCPD will continue to advocate for changes in that law. More training will be needed to make sure we are appropriately addressing the needs of this unique population. Whatever challenges are ahead, this new law represents a major step forward for the treatment of our youth.

One possible solution would be to integrate only the 16 year-olds in January and delay moving the 17-year olds until the economy improves. While the caseloads in adult court have increased, the number of overall juvenile referrals has declined steadily over the last four years.

This has resulted in unused capacity in juvenile court for all agencies. Judicial has consistently had over 100 empty spots in the juvenile detention system, which maintains the secure and community based detention program. The number of children being convicted and sentenced to a commitment to DCF has decreased by over 60%, resulting in unused beds at CJTS and empty private residential programs. Even in the usually overburdened public defender offices, caseloads remain far below the goals set out in *Rivera v. Rowland*.

We are hopeful that Connecticut will be able to follow through with this dramatic change in its approach to dealing with youth crime. Although the state's financial problems will prevent the project from receiving all the funding needed for full implementation, a more gradual approach to implementation could be feasible.

Notes

¹Bishop, Frazier, Lanza-Kaduce, White, *A Study of Juvenile Transfers to Criminal Court in Florida* OJJDP Fact Sheet, Office of Juvenile Justice and Delinquency Prevention; Singer, Simon I., and David McDowall. 1988, *Criminalizing Delinquency: The Deterrent Effects of the New York Juvenile Offender Law*, *22 Law and Society Review*: 521-35

Christine Perra Rapillo
Director of Juvenile Delinquency Defense

Contribute to **DISCOVERY** 2009

Have you recently won a trial, an appeal or a motion?

Bring us your victories, your "not guilty's" and your "war stories". Bring us your unpublished decisions and your winning strategies. We will publish them and give you the proper credit and recognition that you deserve.

Success is worth sharing. Articles are also welcome.

Be a part of **DISCOVERY.**

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Ligia Werner, Suzanne Andreyev and I enrolled in St. Joseph's first Latino Community Practice program. The project we chose to address is the one of low attendance of Latino veterans at Stand Down. Over the years, I have volunteered at Stand Down and noticed that there were very few Latino Veterans at this event. Our research focused on the number of homeless veterans in the United States and in particular Latino veterans in Connecticut. Our project attempts to increase Latino veterans' attendance at Stand Down to encourage them to receive appropriate social services.



Employment and Educational Services. It is reported that by the year 2001 there were more than 200 Stand Down programs in the United States. It is important to mention that the creators of the first Stand Down program designed it to give a hand to the veterans, a "hand up, not a hand out."

Homelessness among veterans in general is staggering. Although the Administration of Veterans provides numerous benefits, studies reflect that the homeless veterans, especially Latino veterans, are not registering to receive these benefits. Several ethnographic studies including: statistics reported about this community,



Stand Down 2008



The term "Stand Down" was conceived during war. In the battlefields when the soldiers were tired, they were provided with a time of rest in a site outside of danger. (McMurray-Avila 2001). The first Stand Down program, carried out in 1988 in San Diego, California was created by two veterans of the Viet Nam War, Mr. Robert VanKeuren and Dr. Jon Nachison. These two veterans saw the necessity to guide veterans to receive various social services, including: Judicial - Legal and Motor Vehicle; Dental Health; Medical and Mental Health;

interviews with coordinators of several agencies of veterans and, finally, interviews with members of the community demonstrate that homelessness within the Latino veteran population is especially prevalent. We explored the question to learn why Latino veterans might be underrepresented at the Stand Down event and how we could encourage them to attend.

Our general research indicates that it is imperative to establish a relationship with the "gatekeepers" as they are the ones that control the access to the resources and the information. In our study, the



Administration of Veterans of Connecticut and the Hispanic American Veteran Association of Connecticut are identified as the “gatekeepers” as they have the necessary knowledge about the veteran community and access to its members.

The research studies from several organizations and agencies, included interviews with the coordinator of legal services and benefits of the Department of Administration of Veterans of Connecticut and the president and cofounder of Hispanic American Veterans of Connecticut. Interviews with members of the homeless veteran community were also conducted over a two-year period.

Among the studies on homelessness, *The Alliance to End Homelessness* found that one out of four people without a home is a veteran, although veterans comprise only 11% of the population. According to statistics of the Department of Relations of Veterans of the United States, in 2005 there were approximately 4,700 veterans without a home in Connecticut. In that same year, only 501 veterans without a home in Connecticut attended the Stand Down event. The president of Hispanic American Veterans of Connecticut, as well as the coordinator of Legal Services of the Department of Veterans of Connecticut, report that these statistics are correct.

A group of homeless veterans studied by The Social Work Journal - Applewhite, *Homeless LIMITED LIABILITY COMPANY Veterans: Social Perspective on Service Issues* indicates that the necessity of benefits exists, but these veterans find great difficulty in obtaining them.

The homeless veterans interviewed by Applewhite (1997) “report high evidence of incidents of physical and mental health, limited resources, the opinions and the treatment of public negative...policies and procedures of dehumanization...”. This perception can be one of the reasons the veterans do not register to receive benefits. It is important to mention that our group’s interviews with homeless veterans in Connecticut confirmed the results of Applewhite’s study.

The veterans interviewed in the community of Connecticut (2008) report that when leaving the army they find themselves lost. It is difficult for them to find a job and not having a job, they find themselves without a place to live. Also they mentioned that after going to several social agencies and trying to receive benefits without success, they tried to solve their problems with alcohol and/or drugs. They accept responsibility for having taken an erroneous path. It is important to mention that even many who were admitted to hospitals and places of rehabilitation, did not receive access to benefits designed for the veterans. In addition, many veterans, especially, those that have participated in battle, left military service with psychological problems and are definitely in need of social services.

Interviews with representatives of the veterans’ agencies reported that aside from informing the homeless veterans about available benefits, there is a responsibility to inform the social agencies about these benefits. It is imperative that social agencies that often serve veterans have the necessary information to direct the homeless veterans to additional services.

Studies about the attitudes of members of social agencies indicate the importance of social providers' obtaining cultural competence. The homeless veterans who were interviewed indicated that they did not receive direction when they tried to request services for which they qualified. Weaver (2005) reports that the homeless veterans often experience great difficulty and frustration in obtaining benefits, since eligibility criterion is very complicated. Access to benefits for Latino veterans may be further compromised due to their limited understanding of the rules of the agencies, bureaucracy and service providers' poor communication with the veterans.

One way in which the Administration of Veterans is trying to help the homeless veterans is with the program Stand Down. An analysis of our research combined with the results of our interviews with homeless veterans led us to determine the goal of our project: to directly inform Latino veterans about the Stand Down program with the intent of increasing their attendance at this event. With the assistance of St. Joseph's College, we received funding to design, print and distribute pamphlets in English and Spanish to the areas where the homeless veterans are apt to receive this valuable information.

Our project's focus was to present and display the information of the program Stand Down and the services that this provides, including:

- Medical Services
- Legal Services
- Food
- Clothes
- Housing

- Employment Benefits
- Educational Benefits
- Mental Health Services

Veterans we interviewed suggested that pamphlets be made available at the following sites:

- Shelters
- Hospitals
- Rehabilitation Clinics
- Libraries
- Housing Centers
- Centers of the Community
- Unemployment Office
- Churches
- Courts

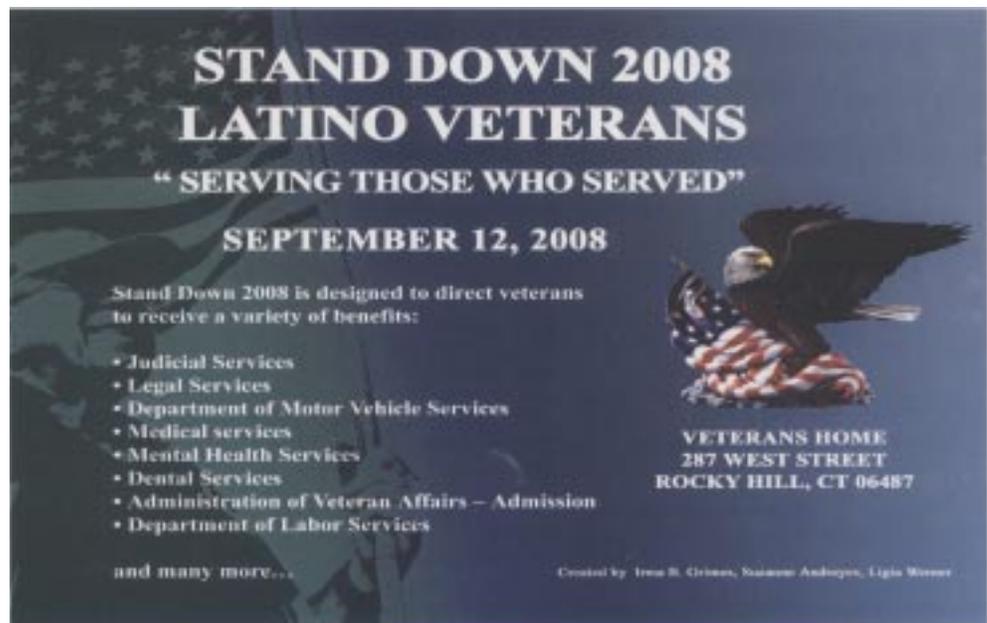
Finally, after the homeless Latino veterans receive this information, it is felt that the presence of Latino veterans at Stand Down will increase. In this manner Latino veterans will have the opportunity to receive the benefits necessary to establish themselves and to leave behind a life without a home.

Postscript: Report of the Connecticut Veterans Administration for Stand Down Attendance

2005	501
2006	564
2007	755
2008	999

**Irma Grimes,
Chief Investigator**

Irma Grimes, Ligia Werner and Suzanne Andreyev designed, printed and distributed this bilingual double-sided 5 ½" x 8 ½" card to veterans to encourage them to attend Stand Down



Two Schools of Thought on Defense Attorneys and Other Training Issues

“If at first you don’t succeed try, try again,” is an adage I was raised with and remains a daily mantra in my world. Some might ask why I bring this up in the training segment of *DISCOVERY*, to which I reply, why not? As defense attorneys we seem to come from two different schools of thought; the “fight” school and the “this is how we do it school.” I don’t want or need to sit in judgment of either school of thought; just want to explore them for a moment.

The “this is how we do it” school of thought often describes the type of public defender that accepts the court culture and represents clients within the norms of that culture. The premise behind this is that if you get along with the “court” and don’t make waves, your clients will be best served with favorable dispositions. The school of “this is how we do it” accepts the tried and true; rarely files motions; the why-bother-with-suppression-motions-why-never-win type logic.

The “fight” group does just that, by pushing the envelope. This has also been a tried and true form of lawyering for decades, and is often successful. The “fight” school believes in fighting at all cost to the end, and take no prisoners. This group doesn’t care about the “court,” enjoys making waves, and sometimes loses sight of the big picture.

I understand the philosophy behind both schools and have transferred from one school to the other at different stages of my career. I have respect for those of us who wake up every morning to represent our clients, irrespective of their school of thought. For me the key word is **represent**, as in work for the people, our clients. Over the years, I have come to watch and learn from some of the best, and have learned that both schools of thought have their place. However, there might be a school that is even better, a school in which attorneys do not alienate the “court” for sport, yet doesn’t befriend or bend over to accommodate it either. The school that has fight but with a purpose, and doesn’t fight for the sake of fighting. The school that puts the client’s needs, wants, and rights before the desire to fight -- the client-based school.

I bring this up because in training we see all the new attorneys who are struggling to find their way as public defenders, define themselves, and see how and where they fit in the universe of the “court.” So how does this fit in to my mantra of try and try again? I’m getting to the point. With the mantra of try and try again, the Appellate Court has handed down several decisions in the past few months that prove this motto. The defense attorneys in these cases filed motions, made and preserved records and won issues that many thought were losers. Motions to Suppress were **won**; the argument that the prejudicial impact outweighed the probative value **won**; and a challenge to a *Crawford* ruling **won**. There were more wins than these; I’m just attempting to make a point.

As we tend to get set in our ways, it is important to remember that we don’t want to be creatures of habit. We want to shake things up, challenge the norm, awaken our curiosity, and get out of our ruts. To that end we have a few trainings scheduled in the next few months that just might help.



A notice has gone out regarding training at the State Forensic Lab. We call it *Experts Training*. Not only will we have an extensive tour of the facility, but each department of the Lab will provide us with an overview of what they can and can not do in the realm of science as well as answer our questions. It is a very intense two days and well worth the time.



In March we have *Sentencing Calculations Training* - everything you need to know to protect your clients who are facing incarceration from time calculations to parole, a definite must. Even if you think you know this, you should rethink...for example did you know that any inmate designated a gang leader or member found guilty of certain disciplinary violations goes to either Walker or Northern, no matter what they are convicted of, and that they are in lock down 23 hours a day?



In April we have *Hearing Voices Training*. This training was offered twice last year to rave reviews. This day of training delves into several issues pertaining to mental health and representing clients who have significant issues,

ending with a unique hands-on, real life experience of navigating through life, hearing voices.

⚖ Mixed in with these trainings we will also have Part Two of Defense of Sexual Assault Cases this spring. This part of the training will deal with negotiations, probation issues, registration and more.

All of these training programs are open to everyone, with a caveat that space is limited for *Experts* and *Hearing Voices!*

I would be remiss and taken to task if I didn't mention *New Case News*. In thinking about this article, knowing that I wanted to mention specific cases, but suffering from old brain, I couldn't remember their names.

So I went to *New Case News*, clicked on Topic Search, clicked on Chapter VII. Search and Seizure, F. Warrantless Searches, and found *State v. Clark*, 107 Conn. App. 819 (2008): The Appellate Court affirmed a trial court's suppression of the evidence.

Next I clicked on Chapter VI. Suppression of a Defendant's Statements, L. Erroneously Admitted Confessions, and found *State v. Martin*, 108 Conn. App. 388 (2008): Trial court erred when it did not suppress the statement.

I then clicked on Chapter XVI. Evidentiary Principles, F. Ruling on the Admissibility of Evidence, 2. Weighing Probative Value against Prejudicial Tendencies, and found *State v. Collins*, 111 Conn. App. 730 (2008) where prejudice won.

Finally, I clicked on Chapter XIV. Right of Confrontation, B. Right to Physical Confrontation, 3. *Crawford* and found *State v. Brown*, 112 Conn. App. 131 (2009). Complainant's statement was testimonial therefore the police could not testify in lieu of the complainant.

Truly, I didn't remember the case names, except for *Brown*, but found them all in less than five minutes. All you need is the Table of Contents which is found under topic search. I like having a hard copy of the Table of Contents, but then again I'm old school.

If you'd like to access *New Case News*, here's how:

Website: www.ocpd.state.ct.us; click on the "New Case News" link in the middle of the page.

Please contact me for the user name and password.

Then check out the "What's New in New Case News! Section for new case summaries, or click on "Topic Search" to do just that.

**Susan Brown,
Assistant Director of Training**

Professionally Speaking

On November 18, 2008 **ALAN MCWHIRTER**, Public Defender in the Waterbury JD office spoke to students at the Cheshire Academy. Over a dozen students in Jim Roger's AP Civics class had an opportunity to learn about the role of the public defender and the significance of the Bill of Rights.

As reported in *The Cheshire Herald* on December 4, 2008, McWhirter stated, "I believe the Bill of Rights is the single biggest turning point in government in thousands of years....They are there for a very simple but important reason: to protect the individual from dictatorship of the majority."

McWhirter's goal in discussing the Bill of Rights was to address how the students felt personally about the amendments. He remarked, "The whole point is to get them thinking... That's really what this is all about. He asked them questions about whether there is anything they

felt is missing from the rights. He also questioned whether they thought the inclusion of the words "under God" which were included in the Pledge of Allegiance by an act of Congress in 1954 is a violation of the First Amendment of the Constitution.

Finally, having three clients currently on death row, McWhirter opened up the discussion about capital punishment. He questioned the standards that Connecticut uses to determine who receives the death penalty. "If you are convicted of a cruel, heinous and depraved crime, you may be sent to jail for the rest of your life. On the other hand, if you are convicted of an *especially* (emphasis added) cruel, heinous, or depraved crime, you may be put to death." McWhirter admits, "I have never found anyone who could explain to me what the difference is between those two...I have no idea what 'especially' means."

Training Events for SPDs

The commencement of the 2009 Special Public Defender Training Program was highlighted by the January presentation of its semi-annual Basic Orientation Course. This course was presented at the Connecticut Bar Association Law Center in New Britain. Consistent with tradition, KK Meyer, Director of Training, walked attendees through the maze of Alternative Dispositions and Deborah Del Prete Sullivan, OCPD Legal Counsel, engaged the attorneys in a stimulating analysis of ethics. Susan Brown, Assistant Director of Training, introduced the participants to the functions and capabilities of *New Case News*. In addition, Karma Daigle, SPD Unit Administrative Assistant, and Preston Tisdale, Director of Special Public Defenders, demystified the OCPD administrative process for the attorneys.

The latest edition of the Trial Advocacy Seminar for SPDs was presented in February. As in the past, Ira Mickenberg, Director of the National Defender Training Project headlined a faculty that included Middlesex Public Defender, Jay McKay, Stamford Public Defender Barry Butler, Assistant Public Defender, David Smith of the Capital Unit and Preston Tisdale. The seminar was conducted in the Grand Courtroom of the Quinnipiac University School of Law. Also, in February, SPDs attended a science training workshop at the State Forensic Lab in Meriden.

During the month of March, SPD Unit scholarships facilitated the attendance of Special Public Defenders at the annual Connecticut Trial Lawyers Association's Criminal Litigation Seminar.

Special Public Defenders have also received invitations to attend the annual *Classification, Sentence Calculation and Eligibility for Release* seminar, sponsored by the Director of Training on March 19 at the Lyceum in Hartford. Similarly, SPDs have received invitations to attend *Day Two of Defense of Sexual Assault Cases*, which is being presented by the Division of Public Defender Services and the Connecticut Criminal Defense Lawyers Association. This session will take place on March 26 at the Quinnipiac University School of Law.

On April 23, 2009, a training workshop for the practice of Habeas Corpus matters will be presented at the State Capitol's Old Judiciary Room in Hartford. Attorneys should initially communicate their desire to attend with Adele Patterson, Acting Chief of the Habeas Corpus Unit.

Upcoming seminars and workshops will include a Juvenile Matters training, which will be led by Christine Perra Rapillo, Director of Juvenile Delinquency Defense. Also on tap are the summer Basic Orientation Course, the annual Appellate Seminar for SPDs, the Director of Training's *Collateral Consequences of Arrest, Incarceration & Conviction* and scholarships to the Henry C. Lee Institute's annual *Arnold Markle Symposium*.

Registrations are generally accepted on a first-come, first-serve basis. Special Public Defenders are encouraged to stay tuned and to please register, as soon as possible after seminar and workshop postings.

Preston Tisdale,
Director of Special Public Defenders

Courtroom Victories

Freedom of Information Commission v. Department of Corrections

Re: Appeal of FOIC James Tillman records

KAREN GOODROW

Public Defender, Connecticut Innocence Project

FOIC voted on February 11, 2009 to withdraw its appeal of the ruling overturning the FOIC decision to disclose certain Department of Corrections (DOC) records from James Tillman's file to the Associated Press.

Attorney **CHARLIE RAY** of McCarter and English handled the appeal pro bono along with **KAREN GOODROW** representing James Tillman. Although neither James Tillman nor the Office of Chief Public Defender were parties to the original action, Mr. Tillman was allowed to intervene and was given party status. The OCPD represented by Attorney **DEBORAH DEL PRETE SULLIVAN** was allowed to intervene but was denied party status.

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Farewell to Joe Romanello

Joe Romanello (left) and Special Public Defender Dominick Chiefallo at the Public Defender Golf Tournament



I feel honored to have been asked to write about the recent passing of our dear friend and colleague, Joe Romanello. There may have been more polished litigators or more exacting students of the law, but certainly there was no better lawyer or person than Joe. My former mentor, Ray Cushing, used to tell me that our clients need to feel understood. They, more than anything else, need to feel that their lawyer has listened to them and appreciated the obstacles they were enduring on a human level. You can get the best disposition of a case possible, but if the client doesn't think you care about him or her, it matters little that you were superman.

On that human level, Joe Romanello was superman. Over the years he graced the halls in the New Haven, Norwalk and Danbury courthouses as the champion of the underdog. He had what seemed to be an endless patience with people and let them vent about their troubles and problems, and when all was said and done, he knew how to accomplish what couldn't necessarily be accomplished in a court of law. Because he was so respected and well-liked by everyone he was able to go to prosecutors and judges and convince them to "give my client a break."

You don't reach that level of humanity without having actually been to the mountaintop. Harry Truman once said the key to being a politician is to be sincere even when you don't mean it. Joe never went to that school of thought and in every thing he did he was always sincere and genuine. Joe felt he had been fortunate to find the love of his life, Gene, late in life, and wanted to share some of his good fortune with others. On Thanksgiving Joe would send free turkeys to his clients he knew couldn't afford a proper meal. At Christmas time he would buy hundreds of dollars worth of presents out of his own funds and go to the Danbury AIC and brilliantly play the role of Santa Claus. Joe loved his mother and father dearly and our office shall forever miss Mrs. Romanello's Italian cheesecake. The whole family loved to eat and Joe would frequently share his creations with all of us.

Of course no mention of Joe would be complete without a reference to his amazing quick wit and love of humor. He was a master of the come back line, and executed his one liners with such skill that you had to crack up laughing— And Joe kept us laughing. He kept us laughing through the tense days while awaiting a jury verdict. He kept us laughing while we were preparing for our trials, and he kept us laughing when we had a bad day in court and as inevitably will occur when some client we felt deserved a break was sent off to jail. He kept the investigators, secretaries, social workers and office clerks laughing while trying to go through the piles of work that accumulated every day. Of all Joe's wonderful qualities his ability to make us laugh at ourselves and life itself will be what I miss the most.

Joe was taken from us at the tender age of 47. He had so much more to give and we all had so much more we could have learned from him. It is a terrible loss, and one that undoubtedly causes us to consider our own mortality and to contemplate what statement, if any, we want to make with the time we have on this earth. One thing I know is that Joe had nothing to apologize for the way he lived his life and we, who knew him well, were so fortunate he was in our lives.

**Bob Field,
Public Defender, Danbury**

Human Resources Notes

Appointments

Since the last issue, the following individuals have been appointed to new positions within the Division:

09/12/08 **SUSAN COCOCCIA**
Fairfield JD
Senior Assistant Public Defender

Sue has been with the Division since 1986 and had most recently been assigned to GA 2 Bridgeport.

09/12/08 **MARK JOHNSON**
GA 17 (Bristol)
Deputy Assistant Public Defender

Mark comes from the private sector and has worked as a Temporary Deputy Assistant Public Defender in GA 2.

11/19/08 **BRADFORD BUCHTA**
GA 2 (Bridgeport)
Deputy Assistant Public Defender

Brad began as a Special Public Defender in GA 2 in 2005 and has been in the Habeas Corpus Unit since 2006.

11/21/08 **REBECCA BODNER**
OCPD Habeas Corpus Unit
Deputy Assistant Public Defender

A graduate of University of Connecticut School of Law, Rebecca began as a Temporary Deputy Assistant Public Defender in the Habeas Corpus Unit in 2007.

11/21/08 **JENNIFER KIM**
GA 2 (Bridgeport)
Deputy Assistant Public Defender

Jennifer comes to the Division from the University of California Los Angeles School of Law and worked as a Los Angeles County Public Defender from 2003 thru 2005.

11/21/08 **CYNTHIA LOVE**
GA 21 (Norwich)
Deputy Assistant Public Defender

After graduating from the University of Connecticut School of Law, Cynthia worked as a per diem attorney in GA 20 Norwalk.

11/21/08 **JENNIFER MCMILLAN**
Hartford Juvenile Matters
Deputy Assistant Public Defender

Jennifer graduated from Western New England Law School and has done Special Public Defender work in Rockville and worked as a Temporary Deputy Assistant Public Defender in the Hartford Juvenile, Bridgeport, Manchester and Bristol offices.

11/21/08 **JILL RUSSO**
GA 2 (Bridgeport)
Deputy Assistant Public Defender

A graduate of Quinnipiac School of Law, Jill worked as a Temporary Deputy Assistant Public Defender in GA 2 Bridgeport.

12/05/08 **DAVID FORSYTHE**
GA 7 (Meriden)
Deputy Assistant Public Defender

David spent twenty years with Lake Grove School before working as a per diem attorney in GA 2.

12/05/08 **WAYNE JEKOT**
GA 4 (Waterbury)
Deputy Assistant Public Defender

Wayne graduated from the University of Connecticut School of Law, worked as a Temporary Assistant Clerk for Judicial and as a Temporary Deputy Assistant Public Defender in Manchester and Waterbury.

12/05/08 **CORRIE-ANN MAINVILLE**
GA 14 (Hartford)
Deputy Assistant Public Defender

After graduating from Western New England Law School, Corrie worked for the Judicial Branch and then as a Temporary Assistant Public Defender in Middletown JD/GA 9.

12/05/08 **DAWN BRADANINI**
Danbury JD/GA 3
Assistant Public Defender

Before her appointment to Danbury, Dawn was an Assistant Public Defender in Norwalk since 2003.

12/05/08 **ELIZABETH STOVALL**
GA 10 (New London)
Deputy Assistant Public Defender

Elizabeth worked for the Kentucky Department of Public Advocacy, was in private practice and worked as a per diem attorney in GA 10 New London.

12/05/08 **MAYA SPARKS**
Danbury JD/GA 3
Deputy Assistant Public Defender

After graduating from Emory School of Law, Maya worked at the Clark County Public Defenders Office in Las Vegas.

12/19/08 **MARIA MELENDEZ**
GA 2 (Bridgeport)
Public Defender Clerk

Maria transferred to us from the Department of Social Services and worked as a legal secretary and paralegal in the private sector.

01/23/09 **JAMES PASTORE**
GA 20 (Norwalk)
Deputy Assistant Public Defender

James graduated from the City University of New York, Queens College and comes to us from private practice.

02/06/09 **HILLARY CARPENTER**
OCPD Habeas Corpus Unit
Deputy Assistant Public Defender

Hillary graduated from the University of Washington School of Law, worked in the private sector, was a Temporary Assistant Clerk with the Judicial Branch and worked as a Temporary Deputy Assistant Public Defender in the Habeas Corpus Unit.

02/06/09 **KELLY GRAY**
OCPD Hartford
Financial Assistant

Kelly worked as a Public Defender secretary in the Special Public Defender Unit since 2007 and has a strong private sector background in Finance.

02/06/09 **CHARITY HEMINGWAY**
OCPD Hartford
Deputy Assistant Public Defender

Charity graduated from the University of Connecticut School of Law and has been working on special projects with the Capital Defense and Trial Services Unit and as a Temporary Deputy Assistant Public Defender in OCPD Hartford.

02/06/09 **JENNIFER MELLON**
GA 23 (New Haven)
Deputy Assistant Public Defender

Jennifer graduated from Duke University School of Law and comes to us from Connecticut Legal Services and New Haven Legal Assistance.

Resignations

Since the last issue, the following individuals have resigned from the Division:

09/29/08 **DEBBIE WHITE**
GA 2 (Bridgeport)
Public Defender Clerk

Debbie worked in our Bridgeport office for eight years.

01/05/09 **CATHERINE GROVES**
OCPD Habeas Corpus Unit
Public Defender Clerk

Catherine began as a per diem in our Habeas office in 2001 until she achieved permanent status.

Retirements

Since the last issue, the following individuals have retired from the Division:

12/01/08 **LAUREL ADAMS**
GA 23 (New Haven)
Senior Assistant Public Defender

Laurel graduated from the University of Bridgeport School of Law and was a Temporary Assistant Clerk with the Judicial Branch before working in our New Haven office.

01/01/09 **JOSEPHINE JOHNSON**
OCPD Hartford
Accounts Payable Specialist

Josephine had a strong financial background before coming to work for our agency in 1987. She had previously worked for the Department of Revenue Services, the State Comptrollers office and the Judicial Branch. Her dedication to state service totaled over thirty-five years.

Eric Bengston,
Human Resources Director

News From the Field

Federal Center for Mental Health Services Funds Diversion Program for Veterans with Trauma Disorders

The State of Connecticut has received \$2 million in federal funds from the Federal Center for Mental Health Services to provide services to a growing number of veterans suffering from post-traumatic stress disorder (PTSD) or other trauma-related disorders, and who end up in the criminal justice system. The Eastern Region has been identified for a pilot project due to the significant presence of military facilities, and because the Vet Center has one of the highest rate of calls to their hot line. The pilot will be part of the Eastern Region Jail Diversion and Crisis Intervention programs. It established a local advisory board; Bill Bowen, the investigator in our Norwich public defender office and a retired member of the U.S. Coast Guard has been asked to sit on its board. Bill served 25 years of active duty with the U.S. Coast Guard and was a special agent with Coast Guard Investigative Service.

The object of the program is to divert veterans with PTSD or trauma-related disorders from the criminal justice system to trauma integrated treatment and recovery services. Clients will be recruited at several different transition points: at initial point of police contact, at

arrest for misdemeanors or low-level felonies (post-booking), and also in lieu of probation violation.

The goal of the pilot project is to document and generate enough evidence to support its replication across all twenty jail diversion and Crisis Intervention Team programs across Connecticut. I have been invited to sit on a statewide advisory board that will oversee the process and development of the comprehensive continuum of trauma-integrated diversion programming for affected veterans. Training will also be provided for all agencies involved in this process.

The project is well on its way toward implementation. As soon as the strategic plan is finalized, the local jail diversion folks will meet with the Norwich and New London court personnel to inform them about this new service.

If you have questions or suggestions, I will be glad to direct them to the statewide advisory committee.

Mary Hoban
Chief Social Worker

Courtroom Victories

State v. Tashanna R.

SEAN CROWSHAW

Deputy Assistant Public Defender
Hartford, GA 14

Tashanna R. was charged with assault 2, assault 3 and breach of the peace for an altercation between herself and an acquaintance at Club Asylum in Hartford. The victim returned with her friends and confronted Ms. R. and her friends claiming that she had been stabbed by Ms. R. The report also indicates that the victim stated that she was punched and kicked by Ms. R. and her friends. The victim claimed that she fell to the ground and was kicked by several people, including Ms. R. The officer who drew up the warrant several days after the incident noted that he observed swelling and bruising on the victim's face.

In a somewhat unusual agreement with the State, Ms. Richards waived her right to a jury trial and in exchange the State prosecuted her on only the assault 3.

At trial, the victim testified that she felt no pain as a result of the stabbing. She made absolutely no mention of having been punched and kicked. She did not mention any bruising or swelling. She did testify, however, that she observed Ms. R. with a knife. She observed Ms. R. reach around her, as though she was giving her a hug, and stab her in the lower back. Medical records revealed that she had a very small (1 cm. or so) laceration to the lower left portion of her back. She had a .15 BAC. At no point did she complain to anyone at the hospital about having been punched or kicked. The medical reports did not indicate any swelling or bruising on any part of her body. She complained of no pain to any area of her body other than the laceration. A last minute disclosure by the State revealed a police report, in which immediately after the incident, the victim told the police officer that she did not know who stabbed her.

The defense produced several witnesses to testify that while at a party some months after the incident, the victim told the witnesses that she did not know who stabbed her, but she needed to blame someone. The victim denied the conversation took place. Other defense witnesses testified that they never saw Ms. R. with a knife however, they observed the victim's friends with weapons, including knives, and that the victim's friends threatened Ms. R. and her friends, brandishing weapons while following them out of the club .

Ms. R. testified on her own behalf that she did not have a knife, and that she never stabbed anyone. She testified that the victim may have a problem with her because of a common boyfriend.

The Judge returned a verdict of not guilty based upon witness' testimony that the victim told them she didn't really know who stabbed her, as well as the statement the victim made to the police immediately after the incident. Based on that evidence, she could not find beyond a reasonable doubt that it was Ms. R. who assaulted the victim.

State v. Lee H.

TREY BRUCE

Deputy Assistant Public Defender
New Haven, GA 23

In a hearing on motions to dismiss on October 29, 2008, the prosecutor nolle and Judge Damiani dismissed charges against Lee H. manslaughter 2 (motor vehicle-54-56b) and, as a lesser included, misconduct with a motor vehicle (53a-57). The defense delivered and filed a memo in support of a motion to dismiss under *Morales* (destruction of evidence by the State) a week prior, and the prosecutor stated that he would finally nolle the case.

The warrant was signed and served 2 1/2 years after the incident (*Soldi* claim). Investigator **ANDY DECRESCENZO** acquired reports from the New Haven, East Haven and Hamden Fire Departments and spoke with first responders. None of them remembered the position of the decedent or Mr. H. both of whom were extricated from the vehicle. Andy ultimately located a former employee of American Medical Response in Colorado who had authored a report that the defense acquired listing our client as a passenger. That witness was able to forward us photographs of the extrication from his personal lap top. Those photos supported my position that Mr. H. was not the operator of the vehicle. **SOCIAL WORKER CHRISTINE OSOSKI** acquired all of Mr. H's medical records relating to the incident, which also supported the defense.

On the *Morales* claim, the car had never been mechanically inspected or entered into evidence storage by the New Haven Police. It had also been released and either lost or destroyed. The police also never performed an accident reconstruction. Based on the medical records, Mr. H's toxicology results had never been confirmed by the lab. Therefore the State could not prove any of the necessary elements (operation, intoxication or causation) making it a warrant that should never have been signed. When we were appointed to the case, all the State had was the warrant. We received the helpful AMR report the following day and the defendant was released on a PTA (from \$250k bond) a day later. By the time the case was ultimately dismissed, we had a bank box full of

documents and photos. The State never lifted a finger to support the warrant. The State's basis for proceeding were alleged admissions that Mr. H. was so full of morphine that the Hospital of Saint Raphael's staff had his mother consent for his surgeries.

State v. Angel A.

TREY BRUCE

Deputy Assistant Public Defender
New Haven, GA 23

On December 3, 2008, after a hearing before Judge Damiani on a Motion to Dismiss, charges of manslaughter 2 were dismissed against Angel A.

The defense was that the state could not prove causation. It was a warrant that should not have been signed. Had it not been resolved on this motion, the defense would have requested a *Franks* hearing for material omissions in the warrant application by the affiant officers. During the pendency of the case, the client's former civil attorney on the matter gave him his entire file at my request (the original work-product and all to my astonishment). Within that file were investigation reports from a private investigator that stated that the investigator spoke with the lead officer, and the lead officer stated that the vehicle that rear-ended my client's vehicle left 70 feet of skid marks and that "speed may have been an issue."

My client's vehicle was an older Ford Bronco II, the other vehicle was a Dodge Neon. All three occupants were ejected from my client's vehicle. The speed limit on that area of that road is and was 35 miles an hour. The file also contained photos depicting both vehicles. My client's vehicle was struck from behind, clearly and squarely by the front of the other vehicle.

State v. Allen James

M. FRED DECAPRIO

Senior Assistant Public Defender, CDTSU

BRUCE STURMAN

Public Defender, New London JD

Mr. James was charged with capital felony in the death of his approximately two and one half year-old son, Alquan. After deliberations of about one day, he was convicted of reckless manslaughter first. The defendant was arrested after a car chase, at the conclusion of which

he fled into a wooded area, giving himself up to police almost immediately thereafter. The police soon located a suitcase in the woods which turned out to contain badly decomposed human remains. Mr. James spoke to police several times in the two days after his arrest; he admitted that the remains were those of his toddler son, of whom he had sole custody. Initially he claimed that the boy died accidentally, but eventually he admitted that he threw the child across the room and pushed him forcefully to the floor causing him to hit his head, after which he could not be revived. Mr. James told police that he did not summon any medical assistance, but instead stayed in bed with the boy's body for several days. He then drove Alquan's remains to South Carolina where he attempted to burn them; being unsuccessful, he pulled the body apart and placed it in a suitcase which he kept with him for about three years until his arrest. Several of the defendant's statements to the police were suppressed by the trial court.

The client testified that he did not know how his son died; on the day in question the boy became lethargic, would not eat, and ultimately collapsed in his arms. He claimed that he told the police "what they wanted to hear," but that those statements were untruthful.

Autopsy revealed multiple severe skull fractures and fractures to ribs, clavicles and fingers. The state's experts (medical examiner and forensic pathologist) certified the death as a homicide by blunt force trauma. The state relied on the defendant's statements (especially his failure to summon assistance) and the forensic evidence to establish causation and intent.

Evidence revealed that the defendant took custody of the child when the boy was several weeks old; the mother, with whom he had had a brief relationship, was unable to adequately care for the child because of ongoing substance abuse and homelessness issues. Mr. James decided that she was unfit, and assumed care of the boy for the next two years. He brought an action in juvenile court to obtain legal custody, and was successful in this effort. Further testimony indicated that he attempted to be a good father, secured very adequate medical care for the boy, and had a good relationship with him.

The defense also presented the testimony of a pediatric forensic pathologist from Minnesota, Dr. Janice Ophoven, who contested the findings of the state's experts, opining that the fractures were post mortem and that the cause and manner of death could not be determined. Her testimony was critical to the favorable

result obtained in the case; it was clear, concise and very credible. It was also clear that the jury was paying careful attention to it.

The defense, essentially, was that there was reasonable doubt on the issues of both intent and causation.

In the end, it was apparent that the jury was unable to conclude that Mr. James intended either to kill or injure his son, but that he had done enough to cause his death under circumstances evincing an extreme indifference to human life. We feel that this was based mainly on his statements, and especially his failure to secure medical assistance, even though he had done so several times in the past when the boy incurred minor injury or had been ill. They evidently accepted our expert's conclusion that the very severe fractures were inflicted after the death; had the fractures been pre-mortem, they would have been very strong evidence of intent to kill.

Special thanks for assistance in this very difficult case go to **TRACY WERNICKI**, Investigator III, for going above and beyond the call of duty in interviewing many witnesses and securing the testimony of some of them, and in giving testimony herself concerning Mr. James' mental and emotional state shortly after his arrest; also to **BARBARA CALLAHAN**, Public Defender Secretary, for all her cheerful help on motions, phone calls, and the like during the very lengthy proceedings.

State v. Seante K.

ANDY LISKOV

Special Public Defender

Ansonia-Milford JD

A jury returned a not guilty verdict on the sole charge of robbery first in a case involving three eyewitnesses and dog tracking evidence.

Judge Hartmere, allowed the defense eyewitness identification expert to testify at trial as to certain factors that could affect the accuracy and reliability of the identification process (cross-racial identification, confidence/accuracy correlation and suggestiveness of the show up procedure). He even adopted the defense request to charge on cross-race and dog tracking.

State v Andre S.

KEN SIMON

Public Defender

New Britain JD

In *State v. Andre S.* a fourteen-year-old nephew of the defendant claimed that his then 17 year-old uncle had been anally raping him for the entire nine months that the uncle had been living in the home. He claimed the last incident occurred approximately 24 hours prior to the complaint. A physical examination and forensic interview took place the next morning. The alleged victim turned over the underwear he had been wearing on the last occasion and it was tested for DNA. The results indicated the DNA found was from the victim's semen. However, the physical exam despite being normal, revealed that the alleged victim had Chlamydia by anal culture. The defendant was tested and also found to have the STD Chlamydia.

Most, including the defense attorney, felt that the state would prevail. However, the defendant denied the allegations and did not want to accept a plea bargain that would require him to serve a five year sentence and, of course, register as a sex offender.

The videotape of the forensic interview was admitted at trial and provided at least one glaring inconsistency in the child's story concerning where he was located in the home when the most recent incident allegedly took place. The defense alleged that the motive for the child to concoct this story was that his mother had neglected him in favor of his uncle, her younger brother, and this rocked his world. In the defense attorney's estimation there was only one way to a not guilty verdict; the jury had to decide that this young fellow was a homosexual, and that despite his denials in court, he had been sexually active and thus contracted Chlamydia in this fashion.

The jury acquitted the defendant after approximately two and a half hours of deliberation. This was an especially gratifying result in that the young client now has a clean record and can begin a new life. To date Mr. S. has been accepted to Briarwood College.

State v Abin Britton

CHRISTINE JANIS

Assistant Public Defender
Meriden, GA 7

Mr. Britton is a sentenced prisoner. He's 9 years into an 85 year sentence. He was charged with assault on a public safety officer and, on the eve of trial, disorderly conduct for an incident that took place at the prison. The pretrial offer had been 1 year consecutive, then concurrent on an assault 3.

On the date of the incident the C.O.s were allegedly investigating what they thought might be a plan for an escape. They intercepted what they said was a piece of mail sent by Mr. Britton to Mr. Britton with a map and some words to the effect "this is where we'll meet." It turned out to be a big "mistake", they said, and the day after the incident, they would have let him out of restricted housing but for this assault charge. No disciplinary charges were filed for the escape.

There was a video tape of what occurred, and that's really what won the case.

Mr. Britton was working two jobs, cleaning up the food trays and collecting the laundry. They told him to lock up right after chow. Four C.O.s showed up and escorted him to segregation. No one would tell him why. He was cooperative, but kept asking why he's going to segregation. When they stopped for him to change clothes and do a strip search, he was uncuffed for a little over three minutes. All he did was to complain he "didn't do nothing" and refused part of the strip search. When he got to the cell, he willingly entered. The guard removed one of the two handcuffs. Mr. Britton then pulled his hands into the cell and was hollering, "It's not fair. Why am I here? I didn't do nothing". The alleged assault was to the finger of the guard who removed the one handcuff; it was slightly pinched and sore, enough to barely bleed, when Mr. Britton pulled his hands into the cell.

Once he's in the cell with the cuffs, the Lieutenant asks if he'll give up the cuffs. Mr. Britton says, "yes—tell me why I'm here". He surrenders the cuffs. Then the Lieutenant, yelling from the hallway through the cell, tells him, "I told you you have to be patient, and I would tell you why you're here once we got here. Now I'll tell you..." and the tape cuts off. The Lieutenant's testimony as to why he allowed Mr. Britton to become aggravated and why he didn't tell him anything earlier was that he didn't want other inmates to hear. It's clear from the tape that the other inmates in segregation could hear just fine.

The State tried to argue he intentionally interfered with the C.O. removing the cuff to create problems for them. The jury watched the tape and agreed with my interpretation. Had he intended to "do" anything, there would have been ample opportunity, and none of it when he was behind the cell door putting his hands through to have the cuffs removed. None of the information about the investigation, their "mistake", Mr. Britton's record, nor his current status as a sentenced prisoner was before the jury.

State v. Sivis R.

ELIZABETH REID

Supervisory Assistant Public Defender
Norwalk, GA 20

Mr. R., a hard working member of the laundry department at a local nursing home, was accused of threatening a fellow worker, nursing assistant at the nursing home. The complainant alleged that Mr. R. "yelled at her and intimidated her" and then "threatened to shoot her". Prior to my appointment, Mr. R. applied for Accelerated Rehabilitation on his own. After deciding that he didn't want to use the program, the public defender was appointed. The file was sent to mediation, but the complainant never showed up. Several attempts to reach the complainant went unclaimed. My client wanted a quick resolution of the matter, so after discussions we set it down for a court trial. The complainant showed up, and the case proceeded to trial for charges of threatening 2.

The complainant testified for the state. My client testified, as did two witnesses from the laundry department who were present during the incident. The defense was able to elicit testimony that on that date a washing machine had broken in the laundry department causing a great flood; this caused a slip and fall to one of the laundry workers who testified for the defense. Mr. R. was trying desperately to fix the situation when the complainant came to their department and would not leave. That situation gave rise to the high tension between the parties. The witnesses for Mr. R. testified that he was trying to fix a bad problem at work and the complainant was in the way. They said that no threats were made to her, only requests to leave the area.

The judge found Mr. R. not guilty stating that he could not find that the complainant was in imminent fear of her physical safety, nor could he find that a threat of physical violence was made. I want to thank our investigator **JENNIFER CARLSON**, who spent a lot of time speaking with the witnesses and helping to set the scene for this broken washing machine fiasco.

State v. Christopher Craigwell

JOE BRUCKMANN

Public Defender

Fairfield JD

By August of 2007, 20 year-old Christopher Craigwell had smoked marijuana regularly for six years and more recently had started using PCP. That month an investigation into some bizarre behavior in a city park ended with his attempting to assault a police officer. A subsequent mental health evaluation led to a diagnosis of a psychotic disorder and Christopher was prescribed anti-psychotic medication.

Over the next several months Christopher's mother noticed that he frequently was acting strangely and it was unclear to his family whether his behavior was the result of drug use and/or his failure to take his medication.

On the morning of February 6, 2008, Christopher's mother noted that he was acting paranoid and thought it best that he take a shower, go back to bed and spend the day relaxing at home. She left the house at 7:30 to drop her other children off at school and then go to work. Around 9:30 a.m., as he was watching television with his 80 year-old grandfather, Christopher thought that the people on the television discussing the previous day's presidential primaries were talking about him. He felt uncomfortable and turned off the set. A short time later he supposedly heard voices telling him to kill his grandfather with whom he had enjoyed a close relationship. He then knocked his grandfather onto the floor where he repeatedly punched his face. Christopher then tried to assist his grandfather by propping him against the wall. When his uncle—the victim's son—came to the door as part of his daily routine of checking on his father, Christopher, who was very distraught, cried that something had happened to his grandfather. Christopher then ran down the street, flagged down a fire truck that was responding to a 911 call made by the victim's son and told the firemen that his grandfather needed help. The victim died in the hospital the next day. (Christopher did not realize his grandfather had died until we told him.)

The defense forensic psychiatrist, Dr. Mark Phillips, concluded this was a strong Extreme Emotional Disturbance (EED) case. He hesitated, however, on reaching a conclusion that Christopher qualified for a defense of lack of capacity due to mental disease or defect because it was impossible to rule out that Christopher's

psychotic state was due to his use of PCP. Because Christopher was receiving anti-psychotic medication in prison and had not had any psychotic episodes since his arrest, the doctor could not state conclusively whether the lack of psychosis was due to the medication or, on the other hand, to the nonuse of PCP. Dr. Phillips opined in his written report that it might be revealing to stop Christopher's medication and see how he reacted.

Around this time, coincidentally, Christopher's treating psychiatrist at Garner had decided to reduce Christopher's dose of the anti-psychotic medication. Within a few days—to the detriment of a fellow inmate—Christopher heard voices from a prison television directing him to assault the other inmate and that he did. Upon learning this clear answer to Dr. Phillips' question as to the source of Christopher's psychosis, the prosecutor agreed that the mental disease or defect defense would be appropriate and reduced the murder charge to manslaughter to enable us to have a one-judge trial. As expected, the judge found Christopher not guilty on the basis of that defense and sentenced him to Whiting.

Investigator **DONNA HENRY** was very helpful in establishing a good working relationship with the defendant's mother, who is also the victim's daughter. Although Mrs. Craigwell was grieving throughout the entire time this case was pending, Donna was able to get from her information that proved very useful to Dr. Phillips in reaching his conclusion.

State v. Lesandra W.

MICHAEL PARIS

Assistant Public Defender

Bridgeport CA 2

The state charged larceny by possession of stolen property as well as larceny 1, 2, and 3, depending on the value of the car. Ms. W., a widowed 27 year-old mother of three, was driving a borrowed car from her sister that turned out to be stolen. Since Lesandra had no record, Accelerated Rehabilitation was granted with restitution. When she could not pay the \$2300, the AR program was terminated, and we went to trial.

The issue was whether the state had proven beyond a reasonable doubt that Lesandra had knowledge that the car was stolen. A very thoughtful, intelligent jury found that the state had not done so and voted not guilty. The defendant did testify very effectively that she did not know that the car was stolen.

Thanks to the great support from everyone in the office, especially Investigator **DARREN SPAIN**, and Supervisor **MARY HASELKAMP**, who maintained throughout that the state could not prove its case. Afterwards, two jurors told the defense that they were bothered because the police never followed up to determine who actually stole the car; the police closed the case when Lesandra was arrested. Everyone agreed, even the state, that Lesandra did not steal the car. Although there were people with information that could have led the police to the person who stole the car, they did not pursue it.

State v Kevin P.

CHRIS EDDY

Assistant Public Defender
New Britain JD

State v. Kevin P. was heard before Judge Frank M. D'Addabbo, Jr. and was prosecuted by Attorney Paul Rotiroti. The state charged the client with two (2) counts of criminal possession of a firearm and filed a Part B information alleging that he was a persistent felony offender. After conducting seven days of jury selection, the court heard two days of evidence on a motion to suppress evidence filed by the defendant. The evidence in question was seized without a warrant. The state called three police witnesses to attempt to establish that the seizure of the firearms was done as part of a valid protective sweep, or in the alternative, that the motion should be denied under the theory of inevitable discovery. The defense introduced without objection pictures of a identically similar hotel room. The defense argued that it was unreasonable to search a dresser drawer as a part of a protective sweep for officer safety. Furthermore, there was no showing that the police were actively in the process of getting a search warrant or actively pursuing lawful means of seizing the contraband. The defense submitted a memorandum of law on protective sweeps. The court granted the defense motion to suppress and dismissed the charges against the defendant. The state asked for and was granted permission to appeal. Investigators **CARMEN BAEZ** and **KEN TRAMADEO** contributed to this courtroom victory.

State v Derrick J.

CHRIS EDDY

Assistant Public Defender
New Britain JD

Derrick J. won an acquittal on a forcible sexual assault. The case dates from March, 2000. The complainant, who then was 16, gave three statements to police and testified at trial that the sex was forced. The state offered seven witnesses over the course of three days in addition to DNA testimony identifying the defendant. The state also offered into evidence a signed statement of Derrick J. in which the defendant denied having sex with anyone at the apartment.

The defendant took the stand and testified that the complainant was sexually aggressive from the start and identified herself as a college student rather than a 16-year old. The defendant, who was then 32, said the complainant began and continued sex acts in the bathroom without any pressure. The defense also called the original detective assigned to the case to demonstrate that the complainant failed to come in to be interviewed by police on several occasions. A jury of four women and two men deliberated for three days before announcing their not guilty verdict.

State v. Karl B.

JASSETTE HENRY

Deputy Assistant Public Defender
CLAUDIA JONES
Assistant Public Defender

On 8/9/07, the Hartford Police Department Vice and Narcotics Unit and detectives from the Enfield Police Department conducted an undercover buy-bust operation targeting street level drug dealers in the Albany Avenue area. Karl Brown and a co-defendant were arrested for the sale of crack-cocaine to an undercover police detective. The co-defendant pled guilty to sale of narcotics and received a suspended sentence and probation. Karl consistently denied any involvement in the sale of the drugs and refused a plea bargain offer of one year to serve.

Fourteen months later the case went to trial on an amended Long Form Information charging Karl with sale of narcotics, conspiracy to commit sale of narcotics, and sale of narcotics within 1500 feet of a school. After a four-day trial, the jury deliberated for less than one hour and acquitted Karl of all charges. Mr. B. who is 40 years, 6”2’ tall and weighs 250 pounds, wept as the jury foreman read the verdicts.

The jury heard testimony from seven detectives who were involved in the buy-bust operation. Det. Carraballo testified that he and Det. Massa were 100 feet from Karl when he observed Karl discretely handed a small item to the co-defendant; who then walked back to the under cover detective and gave him the crack-cocaine. However, Massa testified that he was four blocks away with another detective and could not even see that area of Albany Avenue from where he was positioned. Det. Rivera testified that he saw the co-defendant met with another black male on Albany Avenue. Rivera said he observed the co-defendant and the unknown black male walk away and out of sight.

During a post trial meeting with the jury, we learned that they did not believe the testimony of the detectives. One juror said the only testimony she believed was that of Det. Rivera. Another juror said that he did not think Karl was selling drugs because he looked like a business man. (Thanks to the expensive clothes that Claudia loaned him during the trial).

Special thanks to **CLAUDIA JONES** for taking the time away from her cases to second-chair my first jury trial with me. And thanks to **KENNETH DEVITO, PAMELA MICHAELS, TINO SAMPAIO, DAVID CASTILLO, JOHN DELBARBA, FORTE RUSCITO,** and **TOMMY RUSSELL** for all their help.

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Editor's Page

DISCOVERY *Joins the World-Wide Web*

In 1985 when **DISCOVERY** was born, the expression “on line” meant on the phone. Twenty-four years later in the 21st Century “on line” takes on a new meaning: we are now publishing to a world-wide audience.

A few years ago in 2003 we made the leap to color printing and photography. Our printers at the Commission on Official Legal Publications outfitted us with printer drivers allowing us to send our files to their equipment in Enfield. **DISCOVERY** took on a slick looking magazine style boasting photos of Charlie Rose of “60 Minutes” and then U.S. Senator, now Vice President Joseph Biden with an appeal to outside readers.

The new format of on-line publishing is streamlined. Our mission to share our accomplishments with staff and other public defender organizations has expanded to educate and inform the public about the issues that public defenders face in a tenuous political and economic climate. It is our responsibility as members of the Public Defender Division to communicate to the lay public what it means to represent indigent clients as well as to provide an appreciation of our constitutional mandate.

We hope that **DISCOVERY** will serve as a platform to demonstrate how public defense is a meaningful and critical service to the citizens of Connecticut. The legislative policies that are at stake need to be aired in a more objective arena. The media is well suited to express the conservative point of view of law enforcement. There is little opportunity for the public to learn about the kinds of cases that are tried and the people who require our representation. We encourage our staff to submit articles and ideas that will help convey this message.

Pamela Bower Simon,
Managing Editor