



CONNECTICUT
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PROJECT, INC.

TESTIMONY OF KATHLEEN FLAHERTY, ESQ.
EXECUTIVE DIRECTOR, CT LEGAL RIGHTS PROJECT, INC.
APPROPRIATIONS COMMITTEE PUBLIC HEARING
MARCH 26, 2021

In support of HB 6662, AN ACT DECLARING RACISM AS A PUBLIC HEALTH CRISIS AND ESTABLISHING THE COMMISSION ON RACIAL EQUITY IN PUBLIC HEALTH.

In opposition to section 2 of HB 5123, AN ACT CONCERNING THE PROVISION OF NECESSARY MEDICAL TREATMENT FOR DRUG-DEPENDENT PERSONS.

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Senator Osten, Representative Walker, Senator Miner, Representative France and distinguished members of the Appropriations Committee:

Good afternoon. My name is Kathy Flaherty and I am the Executive Director of Connecticut Legal Rights Project (CLRP), a statewide non-profit agency that provides legal services to low income adults with serious mental health conditions. CLRP was established in 1990 pursuant to a Consent Order that mandated that the state provide funding for CLRP to protect the civil rights of DMHAS clients who are hospitalized, as well as those clients who are living in the community.

CLRP strongly supports HB 6662. We have always known that the systems which most impact the lives of our clients are affected by implicit (sometimes explicit) bias, and this is why the failure to address systemic racism is a problem. We cannot hope to drive necessary systemic change unless we are willing to acknowledge that truth. Our clients are people who are eligible for mental health services from DMHAS. For many of our clients, those services are being imposed on them over their objection. Existing statistics show that Black men are over-

represented in the forensic mental health system; reforming the Psychiatric Security Review Board would be one way to address existing disparities. Another way we can try to get at how racism impacts the mental health system is to require collection and reporting of race, ethnicity and language data when it comes to forced psychiatric treatment. I have attached an infographic suggesting some of the data that ought to be collected, and it seems like lines 80-83 would give the new commission authority to get information at least from DMHAS and Probate Court Administration “(3) obtain from any executive department, board, commission or other agency of the state or any organization or other entity such assistance as necessary and available to carry out the purposes of this section.” I urge this committee to advance HB 6662.

While we recognize the good intentions of the bill, **CLRP opposes section 2 of HB 5123** because forced treatment does not lead to long-term recovery. There is not detailed language in the bill, but as the committee considers this proposal it is important that you listen to the people who would potentially be most impacted if this bill were to pass – and that is people who use drugs or are in recovery from a substance use disorder, instead of their parents, the police, or the professionals. While some may argue that requiring Probate Court Administration to have information available should not be considered that problematic, because more information is always good, what is not being recognized is the fundamental problem of forced treatment. If someone is not ready to change their behavior and stop misusing substances, an inpatient stay against their will may lead to short-term results but not long-term, sustained recovery. It troubles me that so many people’s first response is to promote the deprivation of liberty rather than culturally competent, community-based voluntary services and supports. I urge this committee to look at the testimony submitted by Paul Acker of Advocacy Unlimited. I encourage the committee to seek input from Connecticut Community for Addiction Recovery (CCAR) if they have not submitted testimony today.

Thank you for your consideration of this testimony.



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**PEOPLE WHO FALL UNDER THE JURISDICTION OF THE
PSYCHIATRIC SECURITY REVIEW BOARD ARE TRAPPED IN AND BY
A RACIST SYSTEM.**

The Psychiatric Security Review Board was established during the 1980's, after the assassination attempt on President Ronald Reagan, with the purpose of "protect[ing] the safety of Connecticut citizens by ordering treatment, confinement or conditional release of persons acquitted of a crime by reason of mental disease or defect." Unfortunately, due to racial bias inherent in both the mental health and criminal legal systems, the people, especially the Black people, who fall under their jurisdiction are trapped in a racist system and not given a second chance to re-enter society.

This may seem a bold claim, until you take a look at the demographics of the clients served in Whiting Forensic Hospital as compared to Connecticut Valley Hospital and Connecticut overall. (see <https://portal.ct.gov/DMHAS/Divisions/EQMI/EQMI-FY20-First-Quarter-Reports>; statewide numbers from most recent ACS survey.)

FACILITY	WHITE	BLACK	NON-HISPANIC	HISPANIC
Whiting Forensic Hospital	47%	35%	77%	15%
Connecticut Valley Hospital	60%	21%	79%	18%
State of CT (overall)	76%	10%	76%	14%

People who are stuck in Whiting because they are under the jurisdiction of the PSRB face many obstacles in getting discharged back to the

community, because of the public safety mandate. In the time of COVID-19, being stuck in a congregate setting means that individuals at higher risk of contracting the virus. There is litigation pending against the State of Connecticut in federal court challenging the conditions of confinement.

In 2018, Raised Bill 294 had a public hearing in the Public Health Committee. The language of that bill (which can be found here: <https://www.cga.ct.gov/2018/TOB/s/pdf/2018SB-00294-R00-SB.PDF>) would address some of the ways in which the PSRB statute disproportionately impacts Black people who are under its jurisdiction, and provide a pathway to re-entry.

Among other things, it would eliminate the public safety mandate and replace it with a balancing test that requires the Board to consider both the protection of society and whether or not a less restrictive placement is available. It would also recognize that the board must balance the protection of society and the rights of patients hospitalized or treated in any public or private facility for the treatment of persons with psychiatric disabilities under the Patients' Bill of Rights.

The bill would also eliminate the ability of the PSRB to retain jurisdiction over an individual who has been in the hospital for the maximum term they would have been incarcerated had they been found guilty of the criminal act for which they were found not responsible by reason of mental disease or defect ("continued commitment.") Instead, it would permit the state's attorney to apply to Probate Court for a civil commitment and require that the individual only continue to be held if they met the requirements of the civil commitment statute.

Questions?

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We Can't Change What We Don't Measure

CLRP is a statewide non-profit agency which provides legal services to low income adults with mental health conditions, who reside in hospitals or the community, on matters related to their treatment, recovery, and civil rights.

CLRP represents clients in accordance with their expressed preferences in administrative, judicial and legislative venues to enforce their legal rights and assure that personal choices are respected and individual self-determination is protected.

Events of the last year have demonstrated the impact of systemic racism on health disparities. It is time for us to examine the extent to which forced psychiatric treatment may be imposed differently on different demographic groups. Since we do know that forced treatment often results in trauma, we need to examine our practices to find out whether our systems are causing more trauma to some of our community members in the name of helping them.



Civil Commitment and Involuntary Conservatorship

Require public reporting of race, ethnicity and language data associated with civil commitment and involuntary conservatorship petitions and orders.



Forced Medication

Require public reporting of race, ethnicity and language data associated with forced medication petitions and orders.



Forced ECT

Require public reporting of race, ethnicity and language data associated with forced electroconvulsive therapy petitions and orders.



Restraint/Seclusion

Require public reporting of race, ethnicity and language data associated with the use of restraint and seclusion in inpatient psychiatric facilities.



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