

STATE OF CONNECTICUT

POLICE OFFICER STANDARDS and TRAINING COUNCIL

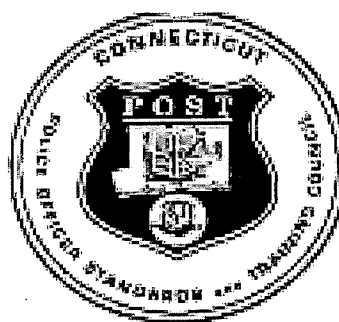
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DIVISION OF CRIMINAL JUSTICE

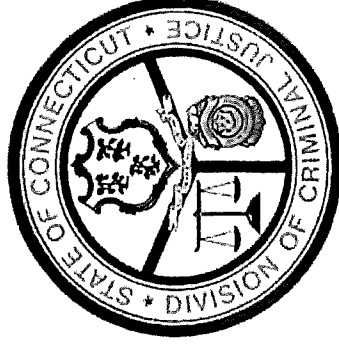
**2018 JOHN M. BAILEY SEMINAR
On New Legal Developments Impacting
On Police Policies And Practices**



Kevin T. Kane
Chief State's Attorney



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State of Connecticut Division of Criminal Justice

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PA 18-5 - An Act Concerning Dual Arrests

- **Requires** peace officers responding to a family violence complaint made by two or more opposing parties to arrest the person determined to be the dominant aggressor.

PA 18-5 - Dual Arrests

“Dominant aggressor” - The person who poses the most serious ongoing threat in a suspected family violence crime.

Factors to consider

- 1) the need to protect victims
- 2) whether person acted in self defense or in defense of third person
- 3) relative degree of injury
- 4) history of violence between persons involved

PA 18-5 - Dual Arrests

- **Does not** prohibit dual arrests, but discourages them when appropriate.
- **Allows** officer to submit a report to the state's attorney for further review and advice on the conduct of the person or persons not arrested.
- **Gives** officer immunity from civil liability based on such actions.

Domestic Violence Dual Arrests (continued)

- Does not apply to college students who live together in on-campus housing or tenants who live together in a residential rental property and are not in a dating relationship (i.e., roommates).

PA 18-29 – An Act Concerning Bump Stocks

- **Class D felony** for anyone, except a licensed firearms manufacturer fulfilling a military contract, to sell, offer to sell, otherwise transfer, or offer to transfer, purchase, possess, use, or manufacture a “rate of fire enhancement”

PA 18-29 – An Act Concerning Bump Stocks

- **Rate of Fire Enhancement** – Any device, component or part, combination of parts, attachment or accessory that:
 - Uses energy from recoil of firearm to generate reciprocating action that causes repeated function of the trigger (bump stock)
 - Uses crank, lever or other part to repeatedly pull trigger (trigger crank)
 - Causes semiauto to fire more than one round per operation of the trigger (binary trigger system)

PA 18-29 – An Act Concerning Bump Stocks

- Prior to July 1, 2019, a person who holds a valid gun permit, eligibility certificate or ammunition certificate is subject to the penalty for a **class D misdemeanor** for the possession of a rate of fire enhancement
 - **Class D felony** – Second or subsequent offense
- Person who moves into the state in lawful possession of a rate of fire enhancement has ninety days to render the rate of fire enhancement permanently inoperable, remove it or surrender gun to DESPP
- Military personnel deployed from this state on October 1, 2018, have ninety days after return to render the rate of fire enhancement permanently inoperable, remove it or surrender gun to DESPP
- Person is subject to penalties previously identified if person sells, transfers, or offers to sell or transfer the rate of fire enhancement or uses it in those ninety days

PA 18-29 – An Act Concerning Bump Stocks

- Court can suspend prosecution of individual charged under this:
 - Violation not of a serious nature
 - Person probably won't offend again
 - Person not previously convicted of this
 - Person has not had similar case suspended previously

PA 18-29 – An Act Concerning Bump Stocks

DESPP Obligations

- Commissioner must post notice on web site
- Must also notice federally licensed firearms dealers electronically
- Must include written notification of act with gun permits, eligibility certificates or ammunition certificates and notice of expiration of permits and certificates

PA 18-96 - Reports of Abuse of Persons with Intellectual disabilities (effective 7/1/18)

- Reduces from 72 to 48 hours the time a mandated reporter has to report suspected abuse or neglect of a person with an intellectual disability or served by the Department of Social Services (DSS) Division of Autism Spectrum Disorder Services.
- Makes licensed behavioral analysts mandated reporters.
- Allows such reports to a designee of the Department of Developmental Services (DDS) commissioner.
- An unsuccessful attempt to make an initial report on a weekend, holiday, or after normal business hours is not a violation if the mandated reporter makes reasonable attempts.

Public Act 18-17

- Adds Behavioral Analysts to list of mandated reporters of suspected child abuse and neglect.

P.A. 18-57 - Immunity for Providing Assistance in Child Abuse or Neglect Case

- Provides immunity from civil and criminal liability to those who, in good faith, provide professional medical intervention or assistance in any proceeding involving child abuse or neglect. Includes:
 - Causing a photograph, x-ray, or physical custody examination to be made;
 - Causing a child to be taken into emergency protective custody;
 - Disclosing a medical record or other information pertinent to the proceeding;
 - Performing medically relevant test.
- Does not include malpractice that results in personal injury or death

PA 18-83 - AAC Sex Assault Evidence Kits

- Requires health care facilities that collect sexual assault evidence to contact a sexual assault counselor when a person who identifies himself or herself as a sexual assault victim arrives at the facility.
- Requires State Forensic Lab to implement an electronic tracking system for sexual assault evidence collection kits.
- Failure of any person to comply with the law on collecting, transferring, or analyzing sexual assault evidence or the protocol does not affect the admissibility of the evidence in any suit, action, or proceeding if the evidence is otherwise admissible.

Public Act 18-83

- Commission on Standardization of Kits to develop policies and procedures to ensure victims have access to information about kits
 - When tested
 - Whether DNA entered into databank
 - Whether there was a match

P.A. 18-166 - Opioid Courts

- Requires the Chief Court Administrator, in consultation with the Chief Public Defender, Chief State's Attorney and the dean of the University of Connecticut School of Law, to study the feasibility of establishing one or more opioid intervention courts in the state.
- Except in an emergency, a practitioner shall not prescribe opioids to immediate family members or him or herself.

PA 18-166

- Prescribing practitioner or pharmacist may enter into agreement with law enforcement or governmental agency related to distribution and administration of opioid antagonists in the case of an overdose.
 - Provide training
 - Storage and handling of antagonists
 - Not liable for criminal prosecution or civil liability for administration of antagonist by agency

PA 18-109 - Sale of Electronic Nicotine and Vapor Delivery Systems

- Allows retail establishments to sell e-cigarettes to consumers only through employee-assisted sales where customers cannot access the e-cigarettes without the employee's assistance. It expressly prohibits sales through self-service displays.
- Exempts retail establishments that prohibit minors from entering and post notice of the prohibition clearly at all of the establishment's entrances.

PA 18-135 - Robocalls

- **Class A misdemeanor** for a person to transmit “robocalls” by intentionally use a blocking device or service to circumvent a telephone customer’s caller identification service or device.
- Existing law already prohibits “robocalls” (the use of any device that transmits unsolicited recorded business, commercial and advertising messages and does not immediately disconnect when the customer hangs up.) Punishable by a fine up to \$1,000.

PA 18-3 - MV Accident Report in Which a Person Was Killed

- Requires police investigating a fatal motor vehicle accident to refer the case to the state's attorney in the district where the accident took place if the investigators are unable to determine the accident's cause. The state's attorney may refer matter to the State Police for review and further investigation.

PA 18-164 - Motor Vehicle Statute Changes

- **Section 15 — PROHIBITION OF PRIVATE PARKING CITATIONS**
 - Prohibits private property owners and lessees from issuing parking tickets
- **Section 29 - Following too Closely**
 - \$100 - \$200 fine if violation results in accident

Public Act 18-108

ELECTRONIC PROOF OF AUTOMOBILE INSURANCE.

- This bill allows a person to present his or her automobile insurance identification card electronically on a cell phone or other electronic device, instead of in paper form, to law enforcement officers and the Department of Motor Vehicles (DMV) commissioner
- Under the bill, officers and the commissioner cannot view any other content on the device, and presenting the card electronically does not give consent for them to view any other content
 - the bill exempts the state, a municipality, and state or municipal agencies or employees from liability for any damage to a device handed to an officer

PA 18-161

Third Party Fingerprinting Services (7/1/18)

- DESPP can contract with third parties to receive and transmit fingerprints and demographic information electronically.

PA 18-161

POST/DESPP Standards (1/1/19)

- Requires POST and DESPP commissioner to develop standards and practices for administration and management based on standards established by the International Association of Chiefs of Police and the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).
- At a minimum, must include: (1) bias-based policing; (2) use of force; (3) response to family violence crimes; (4) use of body cameras; (5) police misconduct complaints; (6) use of electronic defense weapons; (7) eyewitness identification procedures; (8) notifications of death and related events, and (9) police pursuits.

PA 18-161

- POST to develop form to report pursuits
- Officer must do report after a pursuit
- Each Department must submit annual report to POST re: pursuits

PA 18-107 - Reimbursement for Body Cameras

- Expands program to include reimbursement for dashboard cameras purchased before December 31, 2010, with those with a remote recorder.
- Requires municipalities that are not reimbursed for such replacement dashboard cameras to be reimbursed, within available resources, for up to 50 percent for cameras purchased in FY 19.
- Extends deadline to the end of FY 18 to purchase digital data storage devices or services eligible for reimbursement

PA 18-187 - Body Camera Task Force

- Further directs existing task force to study under what circumstances, if any, a police officer should be permitted to review a recording from body-worn recording equipment prior to giving a formal statement about the use of force by the officer or another officer, and to what extent, if any, members of the public or alleged victims or their family members are permitted to review such recordings during an investigation or following an allegation of excessive use of force.
- Expands task force to add nine public members, including someone who represents or is a family member of a person who died due to the use of force by a police officer and family of a police officer killed in the line of duty.

PA 18-64 - Ethics Reporting Requirements

- Requires public officials and state employees to file an online report with the Office of State Ethics within 30 days after receiving certain goods or services under the Code of Ethics' "gift to the state" exception.
- Applies to goods or services that support such individual's participation at an event (e.g., a conference) that facilitates a state or quasi-public agency action or function (i.e., the event is relevant to his or her state job) and include lodging or out-of-state travel and are provided by donors other than the federal or another state government. The report must be on the form prescribed by the Citizen's Ethics Advisory Board and certify, under penalty of false statement, that the goods or services received facilitated state action or functions.

PA 18-142 - Fire Marshal and Police at Conn Airport Authority

- Allows the Commissioner of Administrative Services to designate a fire marshal for the Connecticut Airport Authority;
- Allows DESPP, upon CAA's application, to commission one or more persons designated by the authority to serve as a sworn police officer with arrest powers on property, business, and airplanes owned or controlled by the authority.

Public Act 18-28

Creates Working Group to study issues related to
the Search and Seizure of Students' Personal
Electronic Devices

Public Act 18-156 - Animal Abuse Registry

- Establishes registry in Department of Emergency Services and Public Protection (DESPP) of individuals convicted or found not guilty by reason of mental disease or defect of certain animal abuse crimes.
- Court must canvas about the registry.
- The act requires the following registrant information to be included in the registry: name, home and electronic mail addresses, identifying characteristics, criminal history, and a photograph and fingerprints. The bill establishes a process for updating registration information, including requiring criminally convicted registrants to annually appear before law enforcement to verify and update it.

Public Act 18-156 - Animal Abuse Registry

- Under the act, first-time animal abusers must maintain their registration for two years and those who commit subsequent offenses must maintain it for five years.
- The act makes failing to register, annually appear in person to verify and update registration information, or provide timely notice of a change in name or address, a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both.
- The act makes registry information public records and disclosable under the Freedom of Information Act. DESPP must make registry information publicly available through a secure website.

PA 18-127 – An Act Concerning State v McCahill

- Retains provision prohibiting courts from releasing on bail anyone convicted of murder, murder with special circumstances, felony murder, or arson murder.
- Allows court to release person convicted of other crimes involving the use, attempted use or threatened use of physical force against another person on bail while the person is awaiting sentencing or if the person has given notice of his right to appeal or file a petition for certification or writ of certiorari.

Special Act 18-18: Habeas Task Force

- Creates task force to study potential efficiencies in the processing of Habeas Corpus claims. One appointment each by House Speaker, Senate President Pro Tempore, House Majority Leader, Senate Republican President Pro Tempore, House Minority Leader, Deputy Senate Republican President Pro Tempore; also Judiciary Committee Chairs and Ranking Member or designees; Chief Court Administrator or designee; Chief Public Defender or designee, Chief State's Attorney or designee; and Commissioner of Correction or designee.

PA 18-134 - AAC The Competency of a Defendant to Stand Trial

- Decreases the frequency of court-ordered periodic examinations for certain criminal defendants deemed incompetent to stand trial.
 - Defendants charged with sex offenses or crimes that resulted in death or serious physical injury.
- Initial exam at least six months after release or commitment.
- If, after initial exam, the court again finds that there is a substantial probability that the defendant will never regain competency even if provided a course of treatment, the interval between examinations must increase to at least every 18 months

PA 18-63 - AAC Special Parole for High Risk Offenders

- Eliminates special parole as a sentencing option for convictions for offenses related to dependency-producing drugs (C.G.S. Chapter 420B);
- Prohibits court from imposing special parole unless it determines that special parole is necessary to ensure public safety; and
- Allows Board of Pardons and Paroles to discharge from DOC custody a person on special parole who the board believes will lead an orderly life.

P.A. 18-61 - Newly Discovered Evidence

- **Current law** generally prohibits individuals from petitioning for a new trial in a civil or criminal proceeding if three years or more have passed since the court rendered judgment or decree. It grants an exception to three-year limit if the petition is based on DNA evidence that was not discoverable or available at the time of the original trial.
- Public Act expands the exception for DNA evidence to include “other newly discovered evidence” that was not discoverable or available at the original trial or at the time of a previous petition.
- **State should argue that other newly discovered evidence is limited to newly discovered forensic scientific evidence, including that which might undermine any scientific evidence presented**

Newly Discovered Evidence (continued)

- “Forensic” means the application of scientific or technical practices to the recognition, collection, analysis, and interpretation of evidence for criminal and civil law or regulatory issues.
- “Forensic scientific evidence” includes scientific or technical knowledge, reports or testimony by forensic analysts or experts, and scientific standards or a scientific method or technique upon which the relevant scientific evidence is based.
- “Scientific knowledge” includes knowledge of the general scientific community and all fields of scientific knowledge upon which those fields or disciplines rely.

Newly Discovered Evidence (continued)

- Requires court to consider whether relevant forensic scientific evidence was not discoverable or available at the time of the original trial based on whether the relevant scientific evidence has changed since the applicable trial date or dates, date a guilty or no contest plea was entered, or date of the most recent petition for a new trial.

Public Act 18-30 - Ignition Interlock Devices

Agents can provide devices at
reduced or no cost upon proof of
indigency

CASE LAW UPDATES: 2017-2018

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UNITED STATES SUPREME COURT

Carpenter v. United States, 585 U.S. ____ (2018)

In this case, the United States Supreme Court has concluded that it *is a search* under the Fourth Amendment to access historical cell phone records that provide a comprehensive chronicle of the user's past movements (so-called cell-site or CSLI data) for a period of seven days because the user retains a reasonable expectation of privacy in such movements despite providing a record thereof to a third-party service provider.

The court expressly declined to decide whether a period of warrantless access less than seven days might pass constitutional muster and, if so, what that lesser period of access would be. Consequently, any warrantless period of access of seven or more days is unconstitutional and any lesser period presents constitutional risk.

Since 2016, General Statutes §54-47aa requires a showing of probable in order to obtain an order that includes historical CSLI, which information is now included in the definition of "geo-location data."

Collins v. Virginia, 584 U.S. ____ (2018)

In this case, the court held that the automobile exception to the Fourth Amendment does not permit the police without a warrant to the curtilage of a home in order to search a vehicle therein.

Collins involved a motorcycle that the police had probable cause to believe had been used in the commission of motor vehicle offenses, which an officer traced to a particular private residence, and observed parked under a tarp at the back portion of a driveway that ran along the front yard and next to the side of the house. That portion of the driveway was partially enclosed on two sides by a brick wall, and it was beyond the route that visitors to the home would take up the driveway to reach the front door. The officer entered the partially enclosed area and searched the motorcycle.

Recall that, generally speaking, curtilage is the area immediately surrounding and associated with the home and the activities of home life, and it is treated as part of the home itself for Fourth Amendment purposes. Curtilage, however, does not necessarily include all of the real property surrounding a dwelling, and land falling outside the curtilage is called an "open field," which is not treated as a part of the home for Fourth Amendment purposes. Oliver v. United States, 466 U.S. 170 (1984).

Curtilage questions are often resolved by applying four factors: (1) the proximity of the area to the dwelling; (2) whether the area is included within an enclosure surrounding the dwelling; (3) the nature of the uses to which the area is put; and (4) the steps taken by the resident to protect the area from the observation of passersby. Oliver.

Byrd v. United States, 584 U.S. ____ (2018)

In this case, the court concluded that, as a general rule, a person who is otherwise in lawful possession and control of a rental car has a reasonable expectation of privacy in it even if the rental agreement does not list that person as an authorized driver. Searches of the car, therefore, must be conducted in accordance with constitutional principles and protections.

In Byrd, Byrd's friend Reed rented the car in her name, did not include Byrd or anyone else on the contract as an authorized driver, and immediately surrendered sole possession of the car to Byrd, who then used it alone to transport heroin. Generally speaking, merely possessing a car in violation of a provision of the rental contract is not unlawful in a criminal sense and, therefore, a contract violation does not alone equate the possessor to a car thief and thereby deprive him or her of the benefit of an expectation of privacy in it.

Note that, in Byrd, the government suggested that Byrd's possession of the car was criminal and akin to that of a car thief because he intentionally used Reed as a strawman in a calculated plan to mislead the rental company from the outset, to aid him in committing a crime. The Supreme Court did not address this theory because it was not factually developed at the trial, but it did acknowledge its potential viability on a case-by-case basis.

SUPREME COURT OF CONNECTICUT

State v. Castillo, 329 Conn. 311 (2108)

In this case, the court affirmed the conclusion of the Appellate Court in State v. Castillo, 165 Conn. App. 703 (2016), that the 16 year and 10 month old defendant was not in custody when three police officers – two in plain clothes and one in uniform, who was there to act as a translator – questioned the defendant inside his home in the presence of his mother and other family members who were in and about the house.

In so doing, the court rejected the defendant's claim that the presence of his mother, who began to appear upset, angry, worried, and nervous, and yelled at her son, as he revealed details of his conduct, made the atmosphere more coercive and thus custodial. The court also rejected the illogical and equally dubious claim that the police "should have given him the option of being questioned at the police station if he had preferred" which, obviously, is an even more coercive environment.

Lastly, the court refused to exercise its supervisory authority in this case in which custody was not found to exist to adopt a per se rule that whenever the police investigating a felony give Miranda warnings to a juvenile, the warnings must include notice that any statement by the juvenile may be used against him or her in the adult criminal court if the case is transferred to that court. The majority, however, acknowledged that the question implicated an important question of public policy, and the dissenter would have embraced the claim. Based on these signals, State's Attorneys were asked to at least consider preemptively advising their police departments to revise their juvenile Miranda waiver forms and, instead

of warning that any statements may be used against the person “in a court of law,” warn that any statements may be used against the person “in any court of law,” or “in a court of law, including the adult criminal court.”

State v. Swebillus, 325 Conn. 793 (2017)

Please recall State v. Swebillus, 158 Conn. App. 418 (2015), the subject of a July 15, 2015, update, in which the Appellate Court ruled that the 31-day period of police inaction, between the issuance of the warrant on May 9 and its execution on June 10, “was so brief that it does not require justification” and that “evidence on behalf of the state as to the police department’s actions within this window was not required.”

In State v. Swebillus, 325 Conn. 793 (2017), the Supreme Court reversed the Appellate Court and held that, for statute of limitations purposes, no delay between the issuance and execution of an arrest warrant is so brief that it never requires justification on the part of the state. To be sure, “in cases involving relatively brief delays, evidence of a legitimate need to prioritize competing public safety responsibilities may well be sufficient to demonstrate compliance with the dictates of [State v. Crawford, 202 Conn. 443 (1987)].” 325 Conn. at 814. No delay, however, regardless of its brevity, is per se reasonable.

The Court has further concluded that, “once the defendant has demonstrated his availability for arrest, he has done all that is required to carry his burden; the burden then shifts to the state to demonstrate that any period of delay in executing the warrant was not unreasonable.” 325 Conn. at 804. Typically, this will entail evidence concerning the reason for any delay and the diligence of the police in executing the warrant.

State v. Houghtaling, 326 Conn. 330 (2017)

In State v. Houghtaling, 155 Conn. App. 794 (2105), the Appellate Court concluded, consistent with the ruling of the trial court, that the defendant failed to establish standing to contest the search of residential premises that he owned, but had leased to a third party.

Specifically, the court concluded that the defendant had failed to establish his subjective expectation of privacy in the leased premises. In reaching this conclusion, the court relied upon and applied the three-factor, subjective/objective test set forth in State v. Boyd, 57 Conn. App. 176, 185 (2000), under which a defendant must show facts sufficient to create the impression that: “(1) his relationship with the location was personal in nature, (2) his relationship with the location was more than sporadic, irregular or inconsequential, and (3) he maintained the location and the items within it in a private manner at the time of the search.”

The Supreme Court affirmed the decision of the Appellate Court, but on a different basis. It overruled the Boyd test, and observed that

Although the factors enumerated in Boyd might, in a particular case, be relevant to a court's analysis, they should not serve as an inflexible yardstick by which the privacy interests of all criminal defendants are measured. Instead, we reaffirm that courts should properly test a defendant's subjective expectations by looking for conduct demonstrating an intent to preserve [something] as private, and free from knowing exposure to the view of others.

(Internal quotation marks omitted.) State v. Houghtaling, 326 Conn. 330, 347–48, 163 A.3d 563, 576 (2017), cert. denied, ___ U.S. ___, 138 S.Ct.1593 (2018).

One interesting aspect of Houghtaling is the defendant's claim that he possessed a subjective expectation of privacy by participating in his tenant's marijuana farming operation. 326 Conn. at 351. Leaving for another day the question of whether a defendant could ever establish a subjective expectation of privacy through participation in a criminal conspiracy, the court determined that, even if so, the defendant failed to do so in this case. Id.

State v. Purcell, 174 Conn. App. 401 (2017) - CERTIFICATION GRANTED

The court held that the following statements made by the defendant during custodial interrogation did not constitute clear and unequivocal invocations of his right to counsel: "See, if my lawyer was here, I'd then, I'd, we could talk. That's, you know, that's it" and "I'm supposed to have my lawyer here. You know that." The court's decision, of course, was influenced by the full factual context, which is too detailed to repeat here.

Presently, under both federal and state constitutional law, the invocation of the Miranda right to counsel:

"requires, at a minimum, some statement that can reasonably be construed to be an expression of a desire for the assistance of an attorney." McNeil v. Wisconsin, 501 U.S., at 178.... But if a suspect makes a reference to an attorney that is ambiguous or equivocal in that a reasonable officer in light of the circumstances would have understood only that the suspect might be invoking the right to counsel, [federal constitutional] precedents do not require the cessation of questioning.

(Emphasis in original.) Davis v. United States, 512 U.S. 452, 458-59 (1994).

"The relevant inquiry is solely whether a reasonable police officer objectively would have accepted the defendant's statement as an unambiguous and unequivocal invocation of his right to counsel." State v. Anonymous, 240 Conn. 708, 724 (1997). As both of these cases warn, when faced with an ambiguous or equivocal statement regarding counsel, law enforcement officers are best advised as a matter of good practice to seek a clarification, but they are not required under Miranda either to ask clarifying questions or to cease questioning altogether.

The Appellate Court also rejected claims by the defendant under the state constitution, and as a matter of supervisory authority, that they adopt a “stop and clarify” rule requiring that the police must stop questioning and clarify any even equivocal and ambiguous statements made by the suspect that arguably could constitute an invocation of the right to counsel.

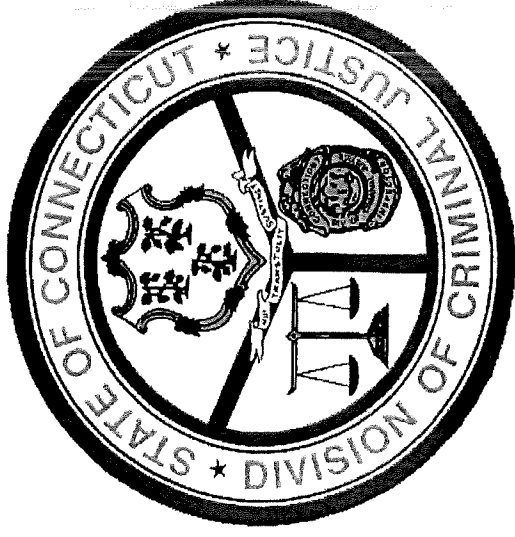
The Connecticut Supreme Court has agreed to review both the federal and the state constitutional claims that were decided by the Appellate Court.

Because the Appellate Court's holdings are in limbo, and because this area of the law is naturally fraught with risk because reasonable minds often may disagree in a particular case whether a statement regarding counsel is or is not unequivocal or equivocal, it may be wise to “stop and clarify” when confronted with statements that arguably invoke the right to counsel. This will hedge our bets in the event that such a rule is adopted by our Supreme Court.

WARNING!

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NOTE: This material was updated on July 31, 2018 and is subject to change after that date as new laws get passed and new court decisions are rendered. You should refer to the current laws and decisions when taking any action.



Division of Criminal Justice

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POST LEGAL UPDATE - 2018

Presented by:

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PA 18-31

Effective July 1, 2018

Section 8

On July 1, 2018, the Judicial Branch shall assume legal authority over any child, ..., who is committed to the Department of Children and Families as a delinquent child ... as of June 30, 2018 ..., the Court Support Services Division of the Judicial Branch shall thereupon assume the responsibility for the supervision of each such child,....

- *DCF will be out of the juvenile justice business.*
- *The Judicial Branch will be responsible for all juvenile corrections*
- *Separation of powers issue?*

Section 25

[(10)] (8) “Serious juvenile offense” means ... (B) absconding, escaping or running away, without just cause, from any secure [placement other than home while referred] residential facility in which the child has been placed by the court as a delinquent child; [to the Court Support Services Division or committed as a delinquent child to the Commissioner of Children and Families for a serious juvenile offense;]

- *Although probably not intended, this amendment makes running away from any secure residential placement a serious juvenile offense, regardless of the seriousness of the charge for which the juvenile was placed*
- *Prior law required that the juvenile be charged with or committed for a SJO charge for running away to be a SJO.*

Section 30

(g) Information concerning a child who has absconded, escaped or run away from, or failed to return from an authorized leave to, a detention center or [from a facility to] a residential treatment facility in which the child has been [committed by the court] placed by a court order in a delinquency case, or for whom an arrest warrant has been issued with respect to the commission of a felony may be disclosed by law enforcement officials.

- *Expands when the police can release “information” about an escapee or runaway.*
- *Still not clear exactly what information can be released. See CGS §46b-133(a) that specifies what information can be released when a juvenile is arrested for certain offenses.*
- *Also not clear if a “residential treatment facility” is the same as a “residential facility.”*

Section 33

No child may be placed in detention unless a judge of the Superior Court determines, based on the available facts, that (A) there is probable cause to believe that the child has committed the acts alleged, (B) there is no appropriate less restrictive alternative available, and (C) there is (i) probable cause to believe that the level of risk that the child [will pose a risk] poses to public safety if released to the community prior to the court hearing or disposition cannot be managed in a less restrictive setting, (ii) a need to hold the child in order to ensure the child's appearance before the court or compliance with court process, as demonstrated by the child's previous failure to respond to the court process, or (iii) a need to hold the child for another jurisdiction.

New grounds for Orders to Detain.

Other than the term “appropriate”, also new grounds for remanding a juvenile to detention.

Just posing a risk to public safety is no longer enough. The “level of risk” must be more than what can be managed in a less restrictive setting.”

Not sure what the impact will be, if any.

Section 33

~~[(2) Upon the arrest of any youth by an officer for a violation of section 53a-82, such officer shall report suspected abuse or neglect to the Department of Children and Families in accordance with the provisions of sections 17a-101b to 17a-101d, inclusive.]~~

The minimum age for an arrest for prostitution was raised to 18 in 2016 so this reporting requirement is no longer relevant.

Section 33

Any child confined in a community correctional center or lockup shall be held in an area separate and apart from any adult detainee, except in the case of a nursing infant, and no child shall at any time be held in solitary confinement or held for a period that exceeds six hours.

This used to be a condition of federal funding that the state will no longer be receiving. If the state violated the restriction too many times, the funding would have been in jeopardy.

Connecticut had a very good compliance history on this issue.

It is now in the statute but there appears to be no sanction if it is violated.

Every effort should still be made to not hold juveniles at the police station beyond six hours.

Section 36

~~[(f) If the court further finds that its probation services or other services available to the court are not adequate for such child, the court shall commit such child to the Department of Children and Families in accordance with the provisions of section 46b-141.]~~

*No commitment option if probation supervision
with or without residential placement is “not
adequate.”*

Section 36

(b) Upon [conviction] adjudication of a child as delinquent, the court: (1) May (A) [order the child to participate in an alternative incarceration program; (B) order the child to participate in a program at a wilderness school facility operated by the Department of Children and Families; (C) order the child to participate in a youth service bureau program; (D) place the child on probation; (E) order the child or the parents or guardian of the child, or both, to make restitution to the victim of the offense in accordance with subsection (d) of this section; (F) order the child to participate in a program of community service in accordance with subsection (e) of this section; or (G) withhold or suspend execution of any judgment; and (2) shall impose the penalty established in subsection (b) of section 30-89 for any violation of said subsection (b)] discharge the child from the court's jurisdiction with or without a warning; (B) place the child on probation supervision for a period not to exceed eighteen months, which may be extended in accordance with section 46b-140a, as amended by this act, by not more than twelve months, for a total supervision period not to exceed thirty months; or (C) place the child on probation supervision with residential placement, for a period not to exceed eighteen months, which may be extended in accordance with section 46b-140a, as amended by this act, by not more than twelve months, for a total supervision period not to exceed thirty months.

Disposition options upon adjudication as delinquent:

- *discharge the child from the court's jurisdiction with or without a warning;*
- *place the child on probation supervision for a period up to 18 months, which may be extended for up to 12 months, for a total supervision period not to exceed 30 months; or*
- *place the child on probation supervision with residential placement for a period up to 18 months, which may be extended for up to 12 months, for a total supervision period not to exceed 30 months.*
- *No more commitments to DCF;*
- *Same dispositional options for SJO charges;*

PA 18-31

The Transition

*All commitments to DCF will end on June 30, 2018;
CJTS was supposed to close on June 30, 2018;*

Closed on 4/12/18 “due to declining rate of juvenile and young adult arrests, record low crime rate and the impact of the Governor’s criminal justice reforms.”

Dannel P. Malloy

Was closing CJTS a good idea?

- No alternative in place;
- Committed juveniles were placed in “staff-secure facilities” or released home;
- One juvenile was released home after less than seven months and was arrested within a week in a stolen car.
- Another was released home and within nine days, was arrested in a stolen car.
- Another was released to a staff-secure facility, left and stole the facility's van on his way out.
- The last juvenile released from CJTS was placed in a staff-secure facility and within 24 hours he ran from that facility. Within two weeks he was arrested for armed robbery in Rhode Island.

Was closing CJTS a good idea?

- DCF reported at the February JJPOC meeting that placing juveniles with a history of car theft in staff-secure facilities presents the “biggest obstacle right now” because some staff cars have been stolen from facility lots.
- DCF reported at the May JJPOC meeting that of the 39 juveniles discharged from CJTS since January 1st, 14, or 35%, had already been rearrested within 4½ months of release.
- Only one proposal was received to replace CJTS and it was not accepted. A secure facility may not be available until October.

- In July, an out-of-state residential treatment facility that was thought to be an alternative to CJTS indicated that, due to problems with some Connecticut kids leaving the facility, breaking into houses and stealing cars in the neighborhood, they will no longer accept kids with a “profile of consistent elopement and criminal behavior.”
- In the past six weeks, Connecticut kids left the facility on two occasions. In the first, the kids stole a truck and the facility had to pay \$3,000 in damages. In the other incident, the kids broke into a nearby home and stole two vehicles from that location. The facility already paid \$3,700 and is waiting for a final bill.

- *On July 1st, all committed juveniles were deemed to be on probation for a maximum period not to exceed the period remaining under the delinquency commitment with the conditions of parole becoming the conditions of probation;*
- *Prior to October 1, 2018 an in-court review will be held for each case to determine if the interim terms and conditions of probation will continue or be modified;*
- *When initially committed, the court found that “its probation services or other services available to the court are not adequate for such child.” What changed?*
- *At this time there is no secure treatment facility for convicted delinquents in Connecticut; Some kids are being held in the pretrial juvenile detention centers or at Solnit Hospital;*

Section 37

(d) At any time during the period of probation supervision or probation supervision with residential placement, ..., the court, upon a finding of probable cause, may issue an order to detain any child who has absconded, escaped or run away from a residential facility in which such child has been placed by court order. Any such order to detain shall authorize all officers named in such order to return the child to any suitable juvenile detention facility designated by the court. Such child shall be detained pending a hearing to be held on the next business day,

Provides for an order to detain to place a juvenile in detention if they absconded, escaped or ran away from a court ordered placement even though absconding, escaping or running away from a placement is not a ground for detention under CGS §46b-133 as amended.

NOTE: An Order to Detain, JD-JM-190, is the probably not the correct form to use since that form is used to place a juvenile in a juvenile detention center when the juvenile is already in custody. The proper form would be a Take Into Custody Order, JD-JM-32A, (initiated by the court) or a Juvenile Arrest Warrant, JD-JM-176. Those forms authorize the police to take the juvenile into custody and bring them to detention.

NOTE: §25 of the Act appears to make such offense a SJO if the juvenile ran from a secure facility.

Prepared by:

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DCJ HOUSING UPDATE



The 2018 John M. Bailey Seminar on Instruction Re: New Legal Developments Which Concern Police Policies and Practices

TYPES OF CASES WE HANDLE:

- Criminal Landlord-Tenant Penal Code Violations (lockouts, intentional termination of utilities by landlord, criminal mischief of landlord property by tenant, trespass by landlord in rental property, etc.)
- Violations Of Health And Safety Codes including with injuries related to:
 - Fire Code laws
 - Building Code laws
 - Health Code laws
 - Housing Code laws
 - Planning and Zoning ordinances
 - Blight ordinances
- Administrative Search Warrants For Health and Safety Code Inspections
- Trade Practice Violations CGS 20-341a
- Severe Hoarding Cases

TOP TEN THINGS YOU SHOULD KNOW ABOUT HOUSING MATTERS

**TOP 10 THINGS TO KNOW ABOUT
HOUSING MATTERS # 10**

- NO RENTAL AGREEMENT CAN WAIVE A TENANT'S RIGHTS TO EVICTION.

**TOP 10 THINGS TO KNOW ABOUT
HOUSING MATTERS # 9**

- A LANDLORD MAY ONLY ENTER A TENANT'S UNIT WITH CONSENT, A COURT ORDER, OR TO RESPOND TO AN EMERGENCY.

**TOP 10 THINGS TO KNOW ABOUT
HOUSING MATTERS # 8**

- IT IS ILLEGAL FOR A LANDLORD TO SHUT OFF AGREED SERVICES OR LOCKOUT A TENANT FOR NON-PAYMENT OF RENT.

**TOP 10 THINGS TO KNOW ABOUT
HOUSING MATTERS # 7**

- GETTING MAIL OR STAYING 14+ DAYS AT A RESIDENCE DOES NOT BY ITSELF MAKE A PERSON A TENANT.

**TOP 10 THINGS TO KNOW ABOUT
HOUSING MATTERS # 6**

- IT IS ILLEGAL TO LOCK OUT A COMMERCIAL TENANT WITHOUT A COURT ORDERED EVICTION.

**TOP 10 THINGS TO KNOW ABOUT
HOUSING MATTERS # 5**

- A RENTAL AGREEMENT MAY BE ORAL OR WRITTEN.

**TOP 10 THINGS TO KNOW ABOUT
HOUSING MATTERS # 4**

- A "NOTICE TO QUIT" ONLY STARTS AN EVICTION.

**TOP 10 THINGS TO KNOW ABOUT
HOUSING MATTERS # 3**

- EVICTION APPLIES TO:
 - Hotel/Motel/Rooming Houses
 - Parent/Adult Child
 - Housing Authority properties

**TOP 10 THINGS TO KNOW ABOUT
HOUSING MATTERS # 2**

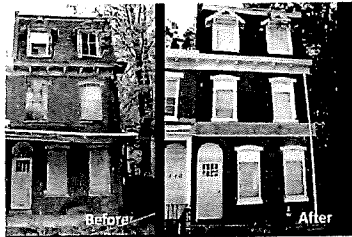
- ONLY A STATE MARSHAL CAN REMOVE A TENANT BY EVICTION.

TOP 10 THINGS TO KNOW ABOUT HOUSING MATTERS # 1

- HOUSING IS *NOT* JUST
A CIVIL MATTER.

Remediating Abandoned, Inner City Buildings Reduces Crime and Violence in Surrounding Areas

http://www.safeguardproperties.com/News/Industry_Updates/2015/07/Remediating_Abandoned_Inner_City_Buildings_Reduces_Crime_and_Violence_in_Surrounding_Areas.aspx



LACK OF HOUSING STANDARDS – THE EFFECT

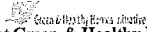


Driving Public Health 3.0 In the Motor City

07/12/2016 10:53 AM EDT

If you start at City Hall and drive 15 minutes east to Gross Pointe, a wealthy suburb of Detroit, you'll cross a difference of nearly 12 years in life expectancy and 10 percent in teen pregnancy rates. Detroit's children continue to suffer infant mortality, asthma, and lead exposure at higher rates than their counterparts elsewhere.

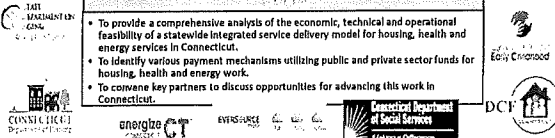
Source: Office of the United States Assistant Secretary of Health with support from Healthy People 2020


Connecticut Green & Healthy Homes Project

<https://ctgreenbank.com/ct-ghhi/>

- CT spends \$135 million for acute asthma care annually. - Falls, largely in elderly, had 98,938 emergency department visits in 2014. - CT's aging housing stock presents challenges to health, safety and efficiency. 43% of housing was built before 1950, and over 70% of housing is more than 50 years old. - Connecticut's Energy Affordability Gap ranges from \$1,250 to \$2,500 per year. - CT residents spend \$5.2 billion/year to heat, cool, light and provide hot water — more than state's budget for health care or education.	- To research and evaluate the efficacy of statewide, comprehensive energy, health and housing interventions that can reduce asthma, injury and lead exposure risks, and result in long term public sector cost savings. - To research and evaluate the possibility of supporting energy, health and housing services through sustainable public and private funding.	- Connecticut Green Bank - Green & Healthy Homes Initiative - Department of Public Health - Department of Social Services - Department of Energy & Environmental Protection - Department of Housing - Department on Aging - Department of Children and Families - Office of Early Childhood - Office of Chief State's Attorney - United Illuminating - Everource
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CT Division of Criminal Justice Housing Unit Assignments Current to August 2018

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LEGAL TRAINING ON HOUSING MATTERS An Overview For Mediation, Investigation And Enforcement

Course Announcement

- POST's Field Services Training Division, in cooperation with the Office of the Chief State's Attorney, is offering a one-day seminar titled "Legal Training on Housing Matters." The seminar will take place on **Thursday, October 11, 2018** from 8:30 a.m. to 4:00 p.m. and is important for officers of every level. The seminar will be presented in the auditorium at the Connecticut Police Academy, 285 Preston Avenue, Meriden, CT in order to allow for open enrollment.
- All applicants registered will be accepted and no confirmation of enrollment will be sent out.



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