



**Testimony of the Boston Bar Association
Before the Joint Committee on the Judiciary
In Support of S 753 and H 2165
An Act Relative to Providing Access to Scientific and Forensic Analysis
June 8, 2011**

Presented by David M. Siegel, Professor, New England Law | Boston

I am a member of the Boston Bar Association's Task Force to Improve the Accuracy and Reliability of the Criminal Justice System and a member of the committee responsible for drafting the legislation. I am also Chair of the New England Innocence Project's Policy Committee and I urge the Judiciary Committee to pass S 753 and H 2165, the Post-Conviction Access to Forensic and Scientific Analysis Act.¹ This legislation creates a straightforward procedure for obtaining post-conviction forensic and scientific testing of evidence in cases of possible wrongful conviction, eliminates unnecessary legal and procedural uncertainty concerning the proper response to these requests, and should dramatically reduce the time and complexity for handling them. In so doing, it would bring the Commonwealth into line with 48 states, the District of Columbia and the federal government, all of which guarantee post-conviction access and testing by statute.

This legislation establishes a critically-needed process for persons who claim they were wrongfully convicted to seek post-conviction testing of evidence, for prosecutors to ensure the reliability and materiality of this evidence in identifying the perpetrator, and for judges to conduct a focused and discrete inquiry, using a familiar legal standard, to assess these requests. By narrowing the issues, requiring full disclosure of underlying documents and the results of all tests, this legislation creates a transparent, largely non-adversarial mechanism for determining what evidence exists for testing, establishing its provenance, assessing its significance, and, if appropriate, overseeing testing. The legislation also relies on a best practices approach to establish a uniform obligation on governmental entities in the Commonwealth to preserve evidence.

Under current law, an inmate claiming he or she was wrongfully convicted can spend years seeking access to evidence for testing that could dispositively establish factual innocence. Each such effort can require multiple court appearances and hearings, wasting scarce judicial and prosecutorial resources addressing what, in substance, are relatively narrow questions. This unnecessarily delays finality in the criminal justice system, prevents justice from being done and, if testing ultimately exonerates a defendant, simply adds to the cost of their compensation and damages, plus the unnecessary expense of their wrongful incarceration, supervision or both.

¹ The provisions of these bills are identical.

A brief summary of the Act follows. I have also enclosed a brief analysis of the project cost, which has proven minimal throughout the country. I strongly encourage you to enact this balanced, comprehensive and evenhanded approach to addressing this problem.

Summary of the Post-Conviction Access to Forensic and Scientific Analysis Act

The Post-Conviction Access to Forensic and Scientific Analysis Act provides a mechanism for persons convicted in Massachusetts courts, who claim that they are factually innocent, to obtain forensic or scientific analysis of evidence in their case that would prove their innocence. Available tests would be limited to forensic or scientific techniques applicable to evidence or biological material, whose results are admissible in Massachusetts courts, which could prove the person's innocence.²

This Act provides both a statutory right to such testing for persons who meet specific criteria and a process for obtaining the testing. Persons convicted of a crime in the Commonwealth (after trial, guilty plea, or plea of nolo contendere),³ who are either incarcerated or on some form of probation or parole for this conviction, could apply for this testing if they assert that they are factually innocent.⁴ In order to obtain testing, applicants would have to file a motion before the court in which they were convicted identifying the evidence that they wish to have tested, show that the evidence was not previously tested and explain why, and provide copies of all tests and examinations concerning analysis done in the case.⁵

Copies of these materials would be served upon the prosecutor, who would have 60 days to respond with an inventory of existing evidence, copies of all tests and examinations concerning analyses done in the case, and any objections to the motion.⁶ The movant would have a right to a hearing on the motion, and the Court would have discretionary authority to appoint counsel on the motion.⁷ Testing would only be ordered if the court found by a preponderance of the evidence that testable material exists, that it has been subject to an adequate chain of custody, that it has not been previously tested, the tests could result in evidence material to the movant's identification as the perpetrator, that it is not intended for delay or obstruction of justice and that the test results have been found admissible in Massachusetts courts.⁸

If a court granted a motion for testing it could, if it saw fit, stay other litigation in the movant's case (such as post-conviction actions or appeals), thereby possibly saving unnecessary expenditure of judicial resources. The filing or granting of a motion, however, could not effect or delay pending terms of incarceration, probation, parole or any other sentence imposed.⁹

² §3(b).

³ §3(d).

⁴ §2 (Applicability).

⁵ §3(b).

⁶ §4 (Service and Response to the Motion).

⁷ §§5 & 6.

⁸ §7 (Ruling on the Motion).

⁹ §11 (Effect on Other Proceedings).

The Act sets out a mechanism for the parties to choose a laboratory to conduct the testing, and for the designation of a laboratory if the parties cannot agree.¹⁰ It also delineates the method of communication with the laboratory, and provides that the costs of testing will be borne by the movant or, if he is indigent, the Commonwealth. The results of any such testing shall be disclosed to both parties and to the court. The Court may order further testing if results are inconclusive and further testing would satisfy the same standard as did the original testing.¹¹

The Act also provides for preservation of any evidence or biological materials collected during the investigation of a case for the duration of the defendant's incarceration, and it authorizes the Attorney General and the Secretary of Public Safety to promulgate regulations to effect this preservation.¹² Public officials are excluded from liability under the act except for willful or wanton misconduct or gross negligence resulting in destruction or deterioration of evidence.¹³ Prosecutors are authorized to provide victims notice of any such motion for testing.¹⁴ Orders allowing or denying testing may be appealed.¹⁵ The Act provides that prosecutors and defendants may always undertake testing by agreement without using the Act's procedures.¹⁶ The right provided in the Act to seek testing, however, may not be waived.¹⁷

¹⁰ §8 (Laboratory).

¹¹ §13 (Further Proceedings Following Analysis).

¹² §16 (Preservation of Evidence and Biological Material).

¹³ §17 (Liability).

¹⁴ §14 (Notice to Victims).

¹⁵ §18 (Appeal).

¹⁶ §2 (Applicability).

¹⁷ §15 (Waiver of Rights).

Post-Conviction Access and Testing in Massachusetts: What Will it Cost?

David M. Siegel

The direct costs associated with providing post-conviction access and testing in cases of persons who claim factual innocence are a function of the number of persons who might seek such testing and the average cost per test. Although forty-eight states now provide broad post-conviction access and testing by statute, there is no national data source on costs. The experience of some states may be illustrative.

Number of Requests

The number of persons who might seek such testing should be a function of the number of defendants convicted and the ease of seeking testing. In New York, for example, one of the first states to authorize post-conviction access and testing by statute, one hundred inmates filed petitions seeking post-conviction testing in the first *seven years* after adoption of its testing statute.¹⁸

One state – Ohio – provides a useful measure of potential costs, because it initially enacted a post-conviction access and testing law with a very short period to file for testing. Inmates in Ohio were thus encouraged to file promptly to preserve their rights. Ohio’s experience with the costs of access and testing were such that it eventually eliminated the short period in which to file because it concluded that the costs were not significant.

Ohio provided for post-conviction DNA testing in 2003, and required all inmates convicted before October 29, 2003 to file an application for testing within one year (by October 29, 2004). This period was subsequently extended an additional year.¹⁹ Given the relatively short filing deadline, Ohio thus presents a rough snapshot of the magnitude of potential applications for testing.

As of March 7, 2006, there had been 307 applications for testing, 220 had been denied, 15 had been granted and 72 were pending.²⁰ Ohio’s total prison population in October 2005 was 44,583,²¹ or nearly four times that of Massachusetts.²²

In 2006, Ohio removed the sunset period and allowed inmates to file an application for testing at any time.²³ A detailed fiscal analysis²⁴ of the projected cost of future testing concluded that the total cost of testing for the entire state would be less than \$100,000 per year.²⁵

¹⁸ Margaret A. Berger, *Lessons from DNA: Restriking the Balance Between Finality and Justice*, in DNA AND THE CRIMINAL JUSTICE SYSTEM, at 109, 115 (David Lazer, ed., 2004).

¹⁹ Substitute House Bill 525, 125th General Assembly.

²⁰ Ohio Legislative Service Commission, *Fiscal Note & Local Impact Statement*, Sub. Sb. 262, “Detailed Fiscal Analysis” at 3 (<http://www.lbo.state.oh.us/fiscal/fiscalnotes/126ga/SB0262SP.htm>).

²¹ Ohio Department of Rehabilitation and Correction, *October 2005 Facts* (<http://www.drc.ohio.gov/web/Reports/FactSheet/October%202005.pdf>).

²² Massachusetts Department of Corrections, *Weekly Count Sheet* (5/30/2011) lists population at 11,744 (http://www.mass.gov/Eeops/docs/doc/research_reports/wkly_countsheet/2011/2011_wc05_30.pdf).

Texas, with nearly fifteen times the prison population of Massachusetts,²⁶ enacted a post-conviction testing statute in 2001. The Texas Task Force on Indigent Defense and the Texas District and County Attorneys Association, in a September 2010 survey of Texas Prosecutors, found a total of 1,023 requests for testing over nearly ten years.²⁷

Cost per Test

The cost per test can vary depending upon the number of items (i.e., evidence that may have biological material) or locations on an item to test. Some items (e.g., a rape kit), provide fewer potential places to test than, for example, clothing collected at a scene. However, there are data concerning the average testing costs per case.

In 2006, North Carolina's Office of State Budget and Management released a *Cost Study of DNA Testing and Analysis*,²⁸ which included a detailed time-study of testing costs at both the North Carolina State Bureau of Investigation crime laboratories, as well as cost data for tests sent to private laboratories. The study found the average cost for in-house DNA processing of a criminal case was \$569. It found the average cost for DNA processing a rape kit in which there was no suspect (including both those done in-house and those sent out to private laboratories) of \$729.²⁹ A request for proposals from private labs in 2004 to process backlogged cases resulted in per case bids of \$445 to \$1200. The report also provided survey data from other states showing average costs of testing both rape kits and criminal cases ranged from to \$425 (in Nebraska) to \$1720 (in Oklahoma).³⁰ Ohio's original estimate of testing costs was \$1,500 per case.³¹

Other costs associated with providing post-conviction access and testing in cases of persons who claim factual innocence could include the burden on indigent defender or appointed counsel resources (when counsel is appointed to assist with applications), prosecutorial resources in responding to such applications for access and testing, and on judicial resources in considering and ruling on such requests. Providing post-conviction access and testing by statute, however, should provide *cost savings* in these areas, because the absence of a statutory right and a statutorily established procedure mean each such case must be litigated anew.

²³ Substitute S.B. 262; Signed by Governor 07/11/2006. See Baldwin's Rev. Code § 2953.21.

²⁴ Ohio Legislative Service Commission, *Fiscal Note & Local Impact Statement*, Sub. Sb. 262 (available at: <http://www.lbo.state.oh.us/fiscal/fiscalnotes/126ga/SB0262SP.htm>).

²⁵ *Id.*

²⁶ Pew Center on the States, *Prison Count 2010, State Population Declines for the First Time in 38 Years*, Report lists Texas; prison population as of January 2, 2010 as 171,249 (at: http://www.pewcenteronthestates.org/uploadedFiles/Prison_Count_2010.pdf)

²⁷ Texas Task Force on Indigent Defense and the Texas District and County Attorneys Association, *Post-Conviction DNA Testing Survey, Policy Memorandum* (at: <http://www.courts.state.tx.us/tfid/pdf/DNAPostConvictionREport0910.pdf>)

²⁸ North Carolina Office of State Budget and Management, *Cost Study of DNA Testing and Analysis* As Directed by Session Law 2005-276, Section 15.8, March 1, 2006 (available at: http://www.osbm.state.nc.us/files/pdf_files/3-1-2006FinalDNAReport.pdf).

²⁹ *Id.* at 7, Table 4.

³⁰ *Id.* at 8, Table 7.

³¹ Ohio Legislative Service Commission, *Fiscal Note & Local Impact Statement*, Sub. Sb. 262, "Detailed Fiscal Analysis" at 3 (available at: <http://www.lbo.state.oh.us/fiscal/fiscalnotes/126ga/SB0262SP.htm>).

Obviously there are also cost savings from providing post-conviction access and testing to inmates who have been wrongfully convicted including the costs of their incarceration and/or post-release supervision. Most significantly, delays in obtaining access to and testing of evidence in cases of persons who are wrongfully convicted increase damage awards they obtain, because these awards are a function – in part – of the length of the period of wrongful incarceration. These can total millions of dollars in a single case.

SENATE INTRODUCTION:

BETTY ANNE WATERS

July 28, 2011

Madam President and colleagues:

As we debate the issue of post-conviction forensic testing, I have invited Betty Anne Waters to join us in the Massachusetts Senate.

Betty Anne, a native of Ayer, Massachusetts, was a young, unemployed single mother of two boys, when her world was shattered in 1983 by her brother Kenneth's conviction for the murder and robbery of a woman living in a trailer next door to him in Ayer.

Though he consistently professed his innocence, Kenneth's ability to appeal his conviction using public defenders was exhausted, and without a lawyer, he was facing imprisonment for the rest of his life.

Betty Anne was convinced her brother was not guilty and dedicated herself to proving it. A high-school dropout, she put herself through college and then law school, and in 1995, as an attorney, she took up her brother's case.

Challenging the conviction with DNA analysis that had been unavailable at trial, and with the help of the New England Innocence Project – represented here today by executive director Gretchen Bennett -- Betty Anne showed her brother could not have committed the crime, and Kenneth Waters was freed from jail 2001, having spent 18 years wrongfully imprisoned.

Unfortunately, Kenneth could not be here for today's debate. He died 6 months after his release, on September 19, 2001. But we are honored to have Betty Anne in the chamber with us.

By the way, if this story sounds familiar to you, perhaps it's because you've seen the award-winning 2010 film "Conviction," in which Betty Anne was portrayed by two-time Oscar winner Hilary Swank.

Please join me in welcoming Betty Ann Waters.

**FLOOR SPEECH ON S. 753:
POST-CONVICTION FORENSIC TESTING
JULY 28, 2011**

Madam President,

I rise in support of S. 1987, a bill whose time has come. We in the Legislature come from all over the Commonwealth, and we have widely divergent views on proper criminal-justice policy. But if there's one thing we can all agree on, surely it's this: That innocent persons should not be incarcerated – should not have years, and in some cases decades, stolen from them because of a wrongful conviction. This bill does nothing more than to give prisoners a foot in the courthouse door, to allow them to make the case that there is forensic evidence that could prove their innocence, and that it should therefore be tested.

By passing this legislation that is already in place in 48 other states, we recognize the breath-taking advances that have occurred in recent decades, allowing labs to analyze DNA or similar evidence, and to state with virtual certainty whether or not it came from a particular individual. These

breakthroughs have revolutionized crime-scene investigations, as anyone who watches certain TV shows is aware.

A positive result can shatter an alibi by placing a suspect at the scene of the crime, while a negative result can free him and allow detectives to continue pursuing the true culprit.

But until now, unlike every other state except Oklahoma, we have not had a process in place that acknowledges the unique role forensic testing now plays in our criminal-justice system. Yes, some wrongly-convicted people have been freed in Massachusetts through such testing, but only after years of battling the court system, seeking an opening and a sympathetic ear.

That changes with this bill. It establishes a new Chapter 278A in the General Laws, to say that anyone who's been convicted of a criminal offense and is incarcerated -- or on probation or parole -- can file a motion for analysis of forensic evidence from the original case. It would have to include specific references to the evidence and descriptions of the analysis requested – no

fishing expeditions here. The motion would also have to demonstrate not only that the evidence would be admissible, but that the analysis has the potential to result in evidence that is material to the identification of the inmate as the perpetrator. Finally, the motion has to show that there is a valid reason that the evidence has not previously been subjected to testing – for example, because the proper testing wasn't yet developed at the time of trial, or because the defendant was unaware of the existence of the evidence.

The motion would then go back to the court where the inmate was convicted, to the same judge who presided over the trial, if possible. Even if he made it through all the hoops I just described, the judge would apply a 6-prong test before ruling on the motion, after a hearing and notice to the prosecutor. The judge would have to be satisfied that:

- the evidence still exists in useable form and has been subject to the proper chain of custody;
- the requested testing has not previously been done, would be admissible, and could be critical to identifying the inmate as the perpetrator; and

- the purpose of the motion is not simply the obstruction of justice or delay.

The bill also addresses the issue of discovery, including the testing of third parties, who might be connected to the evidence, such as the victim. And it contains a number of other procedural safeguards, to protect both the evidence and the time of the courts and prosecutors, and to shield public officials and employees who are acting in good faith from liability.

This bill has the strong backing of an unusually broad panel that was convened by the Boston Bar Association to take on the issue of wrongful convictions generally. That group includes eminent representatives from the bench, the police, the state crime lab, prosecutors' offices, the defense bar, and academia. They have worked together to help see this through, and many are watching us right now.

Finally, the bill provides for notification of victims or their survivors -- which is important, because their own efforts toward closure can be disrupted in

these instances. Victims and their families, more than anyone else, understand the importance of ensuring that the right criminal is behind bars. For every wrongfully-convicted person in our prisons, there is a perpetrator going unpunished – possibly committing new crimes.

And for every wrongfully-convicted person in our prisons, there are family members and loved ones like Betty Anne Waters -- here with us in the chamber – who have lost precious time with their siblings, their spouses, their children, or their parents. They, too, seek closure, in the form of getting their loved ones back – even if it's just for six months, as was tragically the case for Betty Anne's brother, Kenny.

We owe it to all of them – including the victims, the families, and law enforcement -- to pass this bill.

Thank you.

Hearing Summary
Crimes/Criminal Procedure

Joint Committee on Judiciary
2/07/2008 – 1:00 PM – A-1

Committee Members in Attendance:

SENATE:

Senator Robert S. Creedon – Chair

HOUSE:

Representative Eugene L. O’Flaherty – Chair

Representative John D. Keenan

Representative Alice Hanlon Peisch

Representative Steven Myles Walsh

Representative Martha M. Walz

Bills Heard:

SB802 (Berry) To Protect and Enhance the Rights of Child and Adult Victims and Witnesses of Crime

SB803 (Brewer) An Act Relative to Certain Blood Tests

SB804 (Brewer) An Act Relative to the Common Defense

SB805 (Brewer) Prohibiting Criminals to Profit from Their Personal Belongings

SB822 (Buoniconti) Establishing Uniform Standards for Bail Proceedings

SB828 (Candaras) An Act Relative to the Warrant Management System

SB847 (Creedon) To Provide Access to forensic and Scientific analysis

SB850 (Creedon) To Clarify the Venue of Prosecution for Larceny by Check

SB851 (Creedon) To Permit Independent Enforcement of Restitution Orders in Criminal Cases

SB868 (Creedon) An Act Relative to the Rate of Compensation of Private Counsel

SB888 (Creem) An Act Relative to Testimony in Criminal Proceedings

SB901 (Creem) An Act Relative to the Profits from Crime

SB905 (Creem) An Act Relative to Archaic Crimes

SB906 (Creem) To Enhance Interagency Cooperation Within the Juvenile Criminal Justice System

SB907 (Creem) An Act to Provide Access to Forensic and Scientific Analysis

SB908 (Creem) An Act to Improve the Accuracy of Eyewitness Identification Procedures

SB916 (Hart) An Act Prohibiting the Advertisement of Fireworks

SB917 (Hart) An Act Relative to the Protection of Child Witnesses

SB930 (Jehlen) An Act Relative to Sending Notice of Criminal Justice Proceedings to Victims

SB933 (Knapik) Extending the Statute of Limitations for Certain Wrongful Death Actions

SB934 (Knapik) An Act Relative to Eliminating Presumed Personal Recognizance for Certain Defendants

SB935 (Knapik) An Act Relative to Failing to Appear in Court After Release On Bail

SB937 (Knapik) An Act Relative to Reporting Child Pornography

SB938 (Knapik) An Act Relative to Teen Violence

SB950 (Montigny) Relating to Crimes Against Elders and People With Disabilities

SB951 (Montigny) Resolve Establishing a Special Commission to Study Witness Participation and Protection in the Criminal Justice System

SB958 (Moore) An Act Relative to Timely Notice to the BORM of the Arraignment of Physicians

SB963 (Moore) To Prohibit the Abuse of Patients in Health Care Facilities

SB976 (Morrissey) Permitting Judges to Require Probationers to Pay the Out-Of-Pocket Costs of Their Probation

SB978 (Morrissey) Further Regulating the Admission of Evidence of Medical and Hospital Service Reports and

Records

SB981 (Morrissey) An Act Relative to Wire-Tapping in the Commonwealth
SB999 (Panagiotakos) An Act Relative to the Rate of Compensation of Private Counsel
SB1005 (Rosenberg) An Act Relative to Conditions of Release for Persons Admitted to Bail
SB1019 (Tisei) An Act Relative to the Expansion of the State DNA Database
SB1020 (Tisei) An Act Relative to Abuse Prevention
SB1026 (Tolman) An Act Relative to the Commission of a Crime While in Possession of a Police Scanner
SB1027 (Tolman) An Act Relative to Reducing Sporting Event Related Violence
SB1849 (Baddour) An Act To Update the Computer Crime Laws of the Commonwealth
SB2196 (Wilkerson) An Act Relative to Providing Proceeds of Drug Case Confiscations to Drug Treatment
SB2380 (Montigny) Relative to amending the dangerousness statute
HB102 (Jones) An Act Protecting Children from Domestic Violence
HB169 (Koutoujian) An Act Relative to the Profits from Crime
HB927 (Casey) An Act Establishing Regional Lock Up Facilities
HB1266 (Koutoujian) An Act Relative to Family Justice Centers
HB1297 (Atkins) An Act Relative to Police Jurisdictions
HB1303 (Atsalis) An Act Relative to the Compensation of Victims of Violent Crimes
HB1307 (Atsalis) An Act to Establish an Automated Victim Notification System
HB1319 (Binienda) An Act Relative to Class D Controlled Substances
HB1320 (Binienda) An Act Relative to Furnishing False Name, Social Security or Address to a Police Officer When Stopped or Detained
HB1322 (Binienda) An Act for the Protection and Safety of Police Officers
HB1327 (Bradley) An Act Prohibiting Defendants from Concealing Faces in Court
HB1329 (Bradley) An Act to Protect the Citizens of the Commonwealth from Drunk Drivers
HB1334 (Bradley) An Act Relative to the Protection of Children
HB1339 (Callahan) An Act to Prevent Animal Cruelty
HB1340 (Callahan) An Act Relative to the Medical Treatment of Certain Prisoners
HB1341 (Callahan) An Act Relative to Malpractice Complaints for Injuries Sustained by Minors
HB1342 (Callahan) An Act Relative to Certain Arrests for Misdemeanors
HB1343 (Callahan) An Act Relative to Blasphemy
HB1348 (Casey) An Act Relative to Prisoner Income During Incarceration
HB1351 (Coakley-Rivera) An Act Relative to Criminal Proceedings
HB1352 (Coakley-Rivera) An Act Relative to Criminal Proceedings
HB1355 (Coakley-Rivera) An Act Relative to Counterfeit and Fraudulent Documents
HB1356 (Coakley-Rivera) An Act Relative to the Collection of DNA
HB1357 (Coakley-Rivera) An Act Relative to Police Vehicles
HB1361 (Coakley-Rivera) An Act Relative to Profits from Crime
HB1379 (deMacedo) An Act Relative to Parents Convicted of the Murder of a Parent of Their Child
HB1392 (Evangelidis) An Act Relative to Identity Theft
HB1402 (Fagan) An Act Authorizing Certain Federal Personnel to Exercise Police Powers in the Commonwealth
HB1407 (Fallon) An Act Prohibiting the Leaving of Unattended Children in Motor Vehicles
HB1414 (Festa) An Act relative to the establishment of a women's correctional facility in Middlesex County
HB1421 (Flanagan) An Act Relative to Police Pursuits in the Commonwealth
HB1422 (Flynn) An Act Relative to Criminally Negligent Homicide
HB1424 (Fox) An Act Relative to the Care of Pregnant Women in Correctional Facilities
HB1425 (Fox) An Act to Authorize the Department of Corrections to Report annually On Recidivism
HB1426 (Fox) An Act Relative to Community Based Juvenile Justice Programs
HB1435 (Fresolo) An Act to the Arrest Powers of Municipal Police Officers
HB1436 (Fresolo) An Act Establishing Drug Free Elderly Housing Zones
HB1440 (Frost) Resolve Providing for an Investigation and Study for Further Punishment of Disorderly Persons in a

Riotious Assembly

- HB1452 (Garry) An Act Providing for the Enforcement of Child Abuse Reporting Requirements
- HB1454 Garry) An Act Creating the Crime of Criminal Solicitation
- HB1455 (Garry) An Act relative to fleeing a pursuing law enforcement officer's motor vehicle
- HB1469 (Golden) An Act to Extend to Contiguous Buildings the Police Powers for Employees At State and Community Colleges Holding Special State Police Powers
- HB1470 (Golden) An Act Relative to the Definition of Enticement
- HB1475 (Golden) An Act Relative to Bank Robberies and Collection of Fradulent Checks
- HB1477 (Hall) An Act Amending the Proceedings Upon Apprehension After Eighteenth Birthday
- HB1485 (Harkins) An Act Requiring the Inclusion of Certain Civil Rights offense Information in the Statewide Domestic Violence Record Keeping System
- HB1487 (Hill) An Act Relative to Strengthening the Laws Against Motor Vehicle Pursuits
- HB1494 (Jones) An Act Relative to Convicted Felons Holding Public Office
- HB1496 (Jones) An Act Relative to the Alleviation of Costs Incurred While Housing Prisoners in the Commonwealth
- HB1500 (Jones) An Act Relative to Improving the Protection of Children
- HB1501 (Jones) An Act Expanding Protections Against Incest
- HB1503 (Jones) An Act Relative to Juvenile Restitution
- HB1508 (Jones) An Act Relative to the Deliberate Spread of Contagious Diseases
- HB1514 (Jones) An Act Relative to Profits from Crime
- HB1516 (Jones) An Act Relative to the Enticement of Children Online
- HB1517 (Jones) An Act Relative to Fetal Homicide
- HB1521 (Jones) An Act Relative to Preventing Pretexting in the Commonwealth
- HB1524 (Jones) An Act Relative to Crime Restitution
- HB1526 (Kafka) An Act Relative to Public Safety Officers and Safe Hypodermic Syringes
- HB1527 (Kafka) An Act Relating to Spectating At or Creating Depictions of Animal Fighting or Cruelty
- HB1529 (Kafka) An Act Relative to the Penalties for Aiding or Being Present At an Exhibition of Fighting animals
- HB1537 (Kennedy) An Act Prohibiting Certain Ritualistic Actions
- HB1540 (Khan) An Act Relative to Pregnant and Postpartum Inmates in State Prisons
- HB1541 (Khan) An Act health education in women's correctional institutions
- HB1542 (Khan) An Act Regulating Programs Outside Correctional Institutions for Female Inmates
- HB1544 (Khan) An Act Relative to Health Services in Massachusetts Correctional Institutions, Houses of Correction and Jails
- HB1545 (Koczera) An Act Providing for Drug Free Library Zones
- HB1550 (Koutoujian) An Act Relating to DNA Samples
- HB1557 (Lantigua) An Act Relative to the Punishment for the Defacement of Property
- HB1559 (Lantigua) Relative to identity fraud
- HB1560 (Lantigua) An Act Prohibiting the Display of Materials Harmful to Minors
- HB1565 (LeDuc) An Act to Protect Students and Promote School Safety
- HB1572 (Linsky) An Act to Modernize the Administrative Subpoena Statute
- HB1573 (Linsky) An Act Creating the Crime of Larceny by Overcoming a Security Device
- HB1576 (Linsky) An Act Relative to Police Powers On Fresh and Continued Pursuit
- HB1579 (Linksy) An Act Requiring the Inclusion of Certain Civil Rights offense Information in the Statewide Domestic Violence Recordkeeping System
- HB1581 (Loscocco) An Act Relative to Unlawful Video Surveillance Without Consent
- HB1585 (Loscocco) An Act Making Uniform the Law Regarding Trade Secrets
- HB1587 (Loscocco) An Act Making Uniform the Law Regarding Trade Secrets, Setting a Uniform Trade Secrets Act
- HB1598 (Moran) An Act Authorizing Recording of Conversations During Investigations
- HB1599 (Murphy) An Act Establishing the Crime of Money Laundering

Hb1601 (Murphy) An Act Updating the Massachusetts Wiretap Statute
HB1603 (Murphy) An Act to Authorize the Executive Office of Public Safety to Promulgate Regulations for a Statewide Automated Victim Notification System
HB1608 (Nangle) An Act Relative to Electronic Monitoring Devices
HB1610 (Natale) An Act Relative to Summons in Criminal Matters
HB1612 (Naughton) An Act Relative to Computer Crimes
HB1614 (Naughton) An Act Relative to Filing False Emergency Reports
HB1615 (Naughton) An Act Relative to a Guilty But Insane Plea
HB1636 (O'Flaherty) An Act to Provide Access to Scientific and forensic analysis
HB1637 (O'Flaherty) An Act Relative to Parent Child Privilege
HB1638 (O'Flaherty) An Act establishing the correctional officers' procedural bill of rights
HB1643 (O'Flaherty) An Act Making Technical Changes in Land Court Administration of Registered Land
HB1663 (O'Flaherty) An Act Relative to Electronic Monitoring for Pre Trial Detainees
HB1666 (O'Flaherty) An Act to Permit the Independent Enforcement of Restitution Orders in Criminal Cases
HB1670 (O'Flaherty) An Act to Exempt Certain Criminal Misdemeanors from the Hearing Provisions of G.L.C.218, Sec. 35A
HB1671 (Patrick) An Act Prohibiting the Sale of Certain Over the Counter Medicines to Minors
HB1685 (Poirier) An Act Relative to Expanding Protections Against the Crime of Incest
HB1692 (Quinn) An Act Relative to Money
HB1701 (Rodrigues) An Act Relative to Penalties Against Public Health
HB1706 (Rush) An Act Against False Complaints Against Police Officers
HB1708 (Rush) An Act to Enhance the Threats Statute
HB1725 (Smola) An Act Repealing the Crime of Blasphemy
HB1731 (Spiliotis) An Act Relative to the Conditions of Probation
HB1733 (St. Fleur) An Act to Amend the Massachusetts Office of Victim Assistance Funding formula for Funeral Compensation
HB1737 (Swan) An Act Prohibiting Tethering, Leashing, and Other Restraints of Prisoners in Work Release Programs
HB1738 (Swan) An Act Relative to Telephone Service for Inmates in All Correctional and Other Penal Institutions in the Commonwealth
HB1750 (Vallee) An Act Relative to the Supervision of Individuals On Parole from a Correctional Facility
HB1757 (Wallace) An Act to Allow Inmate Work Programs to Benefit Certain Nonprofit Institutions
HB1764 (Walsh) An Act Criminally Negligent Homicide
HB1765 (Walsh) An Act to Increase Access to Information Regarding Drug Overdose Deaths
HB1768 (Walsh) An Act to Reduce Domestic Violence in the Commonwealth
HB2337 (LeDuc) An Act Relative to Hidden Compartments in Motor Vehicles
HB2509 (Finegold) An Act Establishing a Certain Hate Crime
HB2731 (Sannicandro) An Act Further Regulating Parole
HB2732 (Sannicandro) An Act Relative to Oral and Written Victim Impact Statements HB3054 (Naughton) An Act Relative to the Trafficking of Methamphetamine
HB3763 (DiNatale) An Act Relative to the Sexual Exploitation of Children
HB3794 (Wallace) Relative to the penalty for installation of hidden compartments for illegal storage purposes and defining such compartments under the law as "hide"
HB3833 (Wallace) An Act Relative to the Failure to Submit to a Police Officer
HB3871 (Frost) An Act Relative to the Throwing Missles at Motor Vehicles
HB3872 (Golden) An Act Relative to the Disclosure of Obscene Materials
HB3874 (Lantigua) An Act Prohibiting Certain Conduct for Sexual Gratification
HB4150 (Alicea) Relative to increasing the penalties imposed for rape of mentally retarded persons
HB4284 (Alicea) Relative to protecting certain students and clients of public or private institutions from inappropriate sexual contact of employees

Testimony:

SB805

Testified in Support:

- Chief James A. Pervier, Charlton Police Department

SB847

Testified in Support:

- Professor David M. Siegel, New England School of Law

SB868

Testified in Support:

- Nancy T. Bennett, Deputy Chief Counsel for the Massachusetts Committee for Public Counsel Services
- Randy Chapman, President, Massachusetts Association of Criminal Defense Lawyers
- Martin W. Healey, General Counsel, Massachusetts Bar Association
- Benjamin Fierro, Massachusetts Association of Court-Appointed Attorneys (MACAA)
- Mark L. Hare, President, Massachusetts Association of Court-Appointed Attorneys (MACAA)
- William S. Smith, Vice President, Massachusetts Association of Court-Appointed Attorneys (MACAA)
- Aviva E. Jeruchim, Attorney

SB905

Testified in Opposition:

- Christine Funnel
- May Havens, Massachusetts Resident
- Evelyn Reilly, Public Policy Director of the Massachusetts Family Institute

SB907

Testified in Support:

- Professor David M. Siegel, New England School of Law

SB930

Testified in Support:

- Julia Johnson, Consultant, Governmental Services, Massachusetts Teachers Association
- Jay Griffin, Teacher, Medford Public Schools

SB937

Testified in Support:

- Evelyn Reilly, Public Policy Director of the Massachusetts Family Institute

SB999

Testified in Support:

- Nancy T. Bennett, Deputy Chief Counsel for the Massachusetts Committee for Public Counsel Services
- Randy Chapman, President, Massachusetts Association of Criminal Defense Lawyers
- Martin W. Healey, General Counsel, Massachusetts Bar Association

- Benjamin Fierro, Massachusetts Association of Court-Appointed Attorneys (MACAA)
- Mark L. Hare, President, Massachusetts Association of Court-Appointed Attorneys (MACAA)
- William S. Smith, Vice President, Massachusetts Association of Court-Appointed Attorneys (MACAA)
- Aviva E. Jeruchim, Attorney

SB1020

Testified in Opposition:

- Dr. Ned Holstein, Executive Director, Fathers for Families

HB1297

Testified in Support:

- Chief James A. Pervier, Charlton Police Department

HB1339

Testified in Support:

- Representative Jennifer M. Callahan
- Dr. Peter Golub, Director of Law Enforcement, Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA)

Testified in Opposition:

- Charlotte McGowan, Massachusetts Federation of Dog Clubs and Responsible Dog Owners

HB1341

Testified in Support:

- Matt Ridlin, parent of malpractice victim

HB1356

Testified in Support:

- William M. Bennett, Hampden County District Attorney

HB1421

Testified in Support:

- Chief Terry Cunningham, Wellesley Police Department
- Deputy Chief William Brooks, Wellesley Police Department

HB1422

Testified in Support:

- Dan Hughes
- Ms. Caprimo, Massachusetts resident
- Joe Chandler, Carpenter

HB1452

Testified in Support:

- Evelyn Reilly, Public Policy Director of the Massachusetts Family Institute

HB1517

Testified in Support:

- Evelyn Reilly, Public Policy Director of the Massachusetts Family Institute

HB1526

Testified in Support:

- Tom Labrada, Police Officer
- John Bonney, Police Officer

HB1527

Testified in Support:

- Sgt. Peter Oberton, Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA)
- Stephanie Hagopian, State Program Manager for the Humane Society of the United States (MA & RI)
- Lt. Allen Borghal, Animal Rescue League
- Dr. Martha Smith Weissler, Massachusetts Veterinary Medical Association (MVMA)
- Charlotte McGowan, Massachusetts Federation of Dog Clubs and Responsible Dog Owners

HB1529

Testified in Support:

- Sgt. Peter Oberton, Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA)
- Stephanie Hagopian, State Program Manager for the Humane Society of the United States (MA & RI)
- Lt. Allen Borghal, Animal Rescue League
- Dr. Martha Smith Weissler, Massachusetts Veterinary Medical Association (MVMA)
- Charlotte McGowan, Massachusetts Federation of Dog Clubs and Responsible Dog Owners

HB1540

Testified in Support:

- Representative Kay Khan

HB1541

Testified in Support:

- Representative Kay Khan

HB1542

Testified in Support:

- Representative Kay Khan

HB1544

Testified in Support:

- Representative Kay Khan
- Grace Ross, former Green Rainbow Gubernatorial Candidate

HB1636

Testified in Support:

- Professor David M. Siegel, New England School of Law

HB1708

Testified in Support

- Stephen Meade, Lieutenant Detective, Boston Police Department

HB1765

Testified in Support

- Representative Brian P. Wallace
- Stephen Meade, Lieutenant Detective, Boston Police Department

HB2337

Testified in Support:

- Officer Steven Green, Boston Police Department

HB3054

Testified in Support:

- Chief Terry Cunningham, Wellesley Police Department
- Deputy Chief William Brooks, Wellesley Police Department

HB3794

Testified in Support

- Representative Brian P. Wallace
- Stephen Meade, Lieutenant Detective, Boston Police Department

HB3833

Testified in Support

- Representative Brian P. Wallace
- Stephen Meade, Lieutenant Detective, Boston Police Department

HB4284

Testified in Support:

- Representative Geraldo Alicea

Joint
Committee on the Judiciary

Hearing
Summary

11/01/05
1:00 PM Room B-2

Members present:

House:

Representative Eugene
(Gene) L. O'Flaherty— House Chair

Representative Kay Khan

Representative Alice
Hanlon Peisch

Representative John
Keenan

Senate:

Senator Robert S.
Creedon — Senate Chair

Bills heard:

HB625 (Travis)
Relating to the defense of tape recording certain meetings.

HB626 (Atsalis)

Relating to the penalty for interfering with certain medical personnel in the line of duty.

HB627 (Atsalis)

Relating to criminal liability for certain actions of employees of the Department of Social Services.

HB630 (Atsalis)

Relating to compensation of victims of violent crimes.

HB634 (Parente)

Relating to the penalty for the sale of laser pointers to minors.

HB644 (Stanley, T.)

Relating to the penalties for destruction of graves, tombstones and monuments.

HB645 (Sannicandro)

Relating to oral and written victim impact statements in judicial proceedings.

HB656 (Correia)

Relating to the protection of victims of crime.

HB666 (Candaras)

Relating to the assessment of an additional fee on all fees and fines in criminal cases.

HB667 (Candaras)

Relating to further regulating notices under the warrant management systems.

HB668 (Candaras)

Relating to the penalty for use of a firearm while committing a felony.

HB676 (Tobin)

Relative to the concealment of death of children and the penalties for the sale or purchase of minor children.

HB678 (Binienda)

Relative to the theft of motor fuel.

HB680 (Honan)

Relative to intimidation by criminal street gangs under the law regulating crimes against public justice.

HB684 (Rodrigues)

Relative to assault and battery on health care providers.

HB685 (Rodrigues)

Relative to the disposal of rubbish or trash near highways or costal inland waterways.

HB687 (Binienda)

Relative to the penalty for providing false information by persons arrested by law enforcement officers.

HB688 (Owens-Hicks)

Relative to the penalty for false charges in certain criminal complaints.

HB692 (Knuuttila)

Relative to the issuance of written threats in public or private schools in the Commonwealth.

HB699 (Koczera)

Legislation to provide for a mandatory minimum sentence for the sale of illegal drugs within one thousand feet of a public library.

HB700 (Murphy, C.)

Legislation to amend the wiretap and electronic surveillance statute.

HB703 (Murphy, C.)

Relating to establish the crime of money laundering.

HB718 (Rivera)

Relative to the penalty for possession of illegal razor cutters or box cutters.

HB734 (O'Flaherty)

Relating to legislation to improve the accuracy of eyewitness identification procedures in criminal investigations.

HB780 (O'Flaherty)

Relating to legislation to establish a penalty for recruiting members of "street gangs", so-called.

HB787 (O'Flaherty)

Relating to legislation to protect victims of crime while prosecutions are pending.

HB794 (O'Flaherty)

Relating to criminal convictions, improve accuracy.

HB816 (Linsky)

Relating to the crime of larceny by overcoming a security device.

HB817 (Linsky)

Relating to legislation to prevent the illegal trafficking of firearms.

HB825 (Linsky)

Relating to the crime of identity fraud.

HB826 (Fresolo)

Relating to legislation to provide for a mandatory minimum sentence for the sale of illegal drugs within one thousand feet of an elderly housing project or development.

HB837 (DeLeo)

Relating to penalties for defacement of public property.

HB838 (DeLeo)

Relating to enhancing the penalties for littering.

HB844 (Fagan)

Relating to the penalty for assault and battery upon school teachers.

HB885 (Jones)

Relating to the sentencing of persistent violent offenders.

HB901 (Rogers)

Relating to crimes against law enforcement officials and increasing their penalties.

HB902 (Rogers)

Relating to the destruction of property in correctional institutions and increasing the penalty.

HB903 (Rogers)

Relating to the crime of rioting in house of corrections and their penalties.

HB916 (Mariano)

Relating to legislation to increase the penalty for persons escaping from correctional facilities.

HB921 (Garry)

Relating to the concealment of death of children and the penalties for the sale or purchase of minor children.

HB922 (Garry)

Relating to the penalty for second or subsequent convictions for assault and battery on a police officer.

HB923 (Garry)

Relating to legislation to establish a penalty for eluding a pursuing law enforcement officer's motor vehicle.

HB924 (Garry)

Relating to legislation to establish the crime of criminal solicitation.

HB929 (Jones)

Establishing a criminal penalty for possession of a handcuff key by certain persons held in custody.

HB932 (Naughton)

Relating to the penalty for making false reports of emergency situations to police departments.

HB933 (Naughton)

Relating to making provision for a plea of guilty but insane in certain criminal proceedings.

HB939 (Frost)

Relating to an investigation by a special commission relative to increasing the penalties for disorderly persons in a riotous assembly.

HB941 (Scaccia)

Relating to authorizing police to arrest without a warrant certain persons threatening to commit a crime.

HB944 (Smola)

Relating to authorizing the arrest without a warrant of persons believed to have committed assault and battery upon a public servant in the performance of his or her duties.

HB945 (Smola)

Relating to establishing a penalty for disarming a police officer.

HB946 (Smola)

Relating to the penalties for kidnapping and attempted kidnapping of children.

HB961 (Turkington)

Relating to legislation to extend the statute of limitations for certain crimes committed against police officers.

HB976 (Rushing)

Relating to making certain changes in the laws implicating private consensual conduct between adults.

HB978 (Ayers)

Relating to legislation to establish penalties for the filing of false reports against police officers.

HB979 (Ayers)

Relating to the penalty for killing, maiming or poisoning of animals.

HB980 (Ayers)

Relating to establishing the crime of resisting or obstructing public safety personnel in the performance of their official duties and providing penalties therefore.

HB988 (Garry)

Relating to the penalty for persons making annoying and abusive telephone calls.

HB993 (Lantigua)

Relating to the punishment for the defacement of property.

HB3749 (Candaras)

Relating to increase enforcement and penalties for corporate fraud.

HB3932 (Smola)

Relating to false information to police.

HB998 (Coughlin)

Relating to penalties for the possession of implements intended to facilitate shoplifting.

HB3927 (Quinn)

Relating to money laundering.

HB1774 (Peterson)

Relating to agricultural crop destruction.

HB1794 (Nangle)

Relating to regulating private detectives.

HB1836 (Smola)

Relating to disclosure of warrant information.

HB1739 (Hill)

Relating to motor vehicle pursuits.

HB1759 (Atkins)

Relating to police jurisdictions.

HB1743 (Candaras)

Relating to uninsured motor vehicles.

HB1765 (Kafka)

Relating to animal fighting and penalties.

HB1843 (Cabral)

Relating to drugs and the forfeiture of assets.

HB1847 (Ayers)

Relating to destruction of burial tombs and graves.

HB3107 (Candaras)

Relating to uninsured motor vehicles.

HB3115 (Toomey)

Relating to the penalties for the illegal manufacture, distribution, dispensing or possession of controlled substances.

HB3116 (Scibak)

Relating to controlled substance near or on school property.

HB3118 (LeDuc)

Relating to controlled substances on or near Boys and Girls clubs property.

HB3933 (Walsh, S.)

Relating to dangerous weapons in a school zone.

HB3935 (Wallace)

Relating to a drug offender registry.

SB985 (Lees)

Relating to increased penalties for persons who commit crimes against the elderly.

SB989 (Lees)

Relating to felons in possession of firearms.

SB999 (Montigny)

Relating to crimes against the elders and persons with disabilities.

SB1005 (Moore)

Relating to the noncriminal disposition of violations of regulations.

SB1039 (Rosenberg)

Relating to the conditions of release for persons admitted to bail.

SB1062 (Walsh,

Marian) Relating to the punishment for murder.

SB937 (Creem)

Relating to the crime of legal or medical running.

SB938 (Creem)

Relating to archaic crimes.

SB941 (Creem)

Relating to providing access to forensic and scientific analysis.

SB945 (Creem)

Relating to testimony in criminal proceedings.

SB946 (Creem)

Relating to probation surrender and bail revocation.

SB947 (Creem)

Relating to probation violations.

SB963 (Hart)

Relating to prohibiting the advertisement of fireworks.

SB831 (Baddour)

Relating to updating the Massachusetts wiretap statute.

SB834 (Baddour)

Relating to protecting victims of computer crimes.

SB836 (Berry)

Relating to manslaughter.

SB838 (Berry)

Relating to an act to protect and enhance the rights of child and adult victims and witnesses of crime.

SB849 (Brown)

Relating to the unsealing of records.

SB875 (Creedon, R.)

Relating to the terms of personal recognizance.

SB975 (Knapik)

Relating to teen violence.

SB900 (Creedon, R.)

Relating to permitting the independent enforcement of restitution orders in criminal cases.

SB903 (Creedon, R.)

Relating to protecting victims of crime while prosecution is pending.

SB904 (Creedon, R.)

Relating to clarifying the venue of prosecutions for larceny by check.

SB905 (Creedon, R.)

Relating to exempting certain criminal misdemeanors from the hearing provisions of G. L. c. 218, S. 35A.

SB932 (Creem)

Relating to profits from crime.

SB934 (Creem)

Relating to the crime of murder.

SB935 (Creem)

Relating to assault and battery on a child.

SB984 (Lees)

Relating to increasing the criminal penalties for repeat dangerous weapon felony convictions.

HB30 (Governor)

Relative to enhanced protection for victims of domestic violence.

HB612 (Patrick)

Legislation to establish penalties for the sale to minors over-the-counter medications containing alcohol or codeine.

HB619 (Walsh,

Martin) Relative to the penalty for persons found guilty of the crime of criminally negligent homicide.

HB3749 (Candaras)

Relating to increase enforcement and penalties for corporate fraud.

Testimony:

HB30

Testified in Support:

- Lieutenant Governor Healey
- Dianne Rosenthal, Harvard Law School
- Nancy Scannell, Director of Government Affairs, Jane Doe, Inc.
- Kelly Dunn and Marta Chadwick, The Women's Crisis Center, Newburyport, MA

Testified in
Opposition:

- Dr. Ned Holstein,
President of Fathers and Families

HB612

Testified in Support:

- Representative
Patrick

HB684

Testified in Support:

- Ray McGrath,
International Brotherhood of Police Officers, and International
Brotherhood of Correctional Officers
- Massachusetts
Police Association
- Dave Richardson,
Detective, Beverly Police Department
- Mrs. Richardson,
RN

HB816

- Representative
Linsky

HB817

- Representative
Linsky

HB826

Testified in Support:

- Ray McGrath,
International Brotherhood of Police Officers, and International
Brotherhood of Correctional Officers

HB849

Senator Brown

HB901

Testified in Support:

- James DiPaola,
Sheriff of Middlesex County
- Ray McGrath,
International Brotherhood of Police Officers, and International
Brotherhood of Correctional Officers

HB902

Testified in Support:

- James DiPaola,
Sheriff of Middlesex County
- Ray McGrath,
International Brotherhood of Police Officers, and International
Brotherhood of Correctional Officers

HB903

Testified in Support:

- James DiPaola,
Sheriff of Middlesex County
- Ray McGrath,
International Brotherhood of Police Officers, and International
Brotherhood of Correctional Officers

HB916

Testified in Support:

- James DiPaola,
Sheriff of Middlesex County

HB923

Testified in Support:

- James DiPaola,
Sheriff of Middlesex County

HB922

Testified in Support:

- Ray McGrath,
International Brotherhood of Police Officers, and International
Brotherhood of Correctional Officers

HB961

Testified in Support:

- Representative
Turkington
- District Attorney
for the Cape and Islands Michael O'Keefe
- John Busby, former
police officer
- Chief DiBlasi,
Massachusetts Chiefs of Police
- Jim Machado,
Massachusetts Police Association
- Richard Smith,
Falmouth Police Department
- Jim Berry, Boston
Police Department
- Representative
Patrick

HB978

Testified in Support:

- Ray McGrath,
International Brotherhood of Police Officers, and International
Brotherhood of Correctional Officers

HB1765

Testified in Support:

- American Society
for the Prevention of Cruelty to Animals
- Animal Rescue
League of Boston

HB1794

Testified in Opposition:

- Ray McGrath,
International Brotherhood of Police Officers, and International
Brotherhood of Correctional Officers

HB1843

Testified in Support:

- Representative
Cabral

- Representative
Khan

SB831

Testified in Support

- Attorney General's
Office (written testimony)

SB834

Testified in Support:

- Dana Dee Leccesse,
Assistant Attorney General, Attorney General's Office

SB945

Testified in Support:

- Director for
Sheriff DiPaola, Middlesex Sheriff's office

SB946

Testified in Support:

- Director for
Sheriff DiPaola, Middlesex Sheriff's office

SB947

Testified in Support:

- Director for
Sheriff DiPaola, Middlesex Sheriff's office

SB975

Testified in
Opposition:

- Dr. Ned Holstein,
President of Fathers and Families



The New England Innocence Project

Massachusetts and Oklahoma are the only 2 states in the country without DNA Access statutes. (Oklahoma has a law requiring the preservation of evidence, Massachusetts does not.)

- None of the nation's 271 DNA exonerations would have been possible had the biological evidence not been available to test. Had the evidence been destroyed, tainted, contaminated, mislabeled, or otherwise corrupted, the innocence of these individuals would never have come to light.
- There have been 9 DNA exonerations in Massachusetts. In 2 of these cases testing also identified the real perpetrators. In both of those cases the real perpetrator had committed more violent offenses while the innocent person was serving time for the crime.
- Nationwide DNA testing has resulted in the identification of the real perpetrator in approximately 40% of exonerations. In over half of those cases the real perpetrators went on to commit additional violent crimes while the innocent person served time. These offenses included more than 20 murders and more than 50 rapes.
- Through the NIJ Postconviction DNA Testing Assistance Program the federal government provides financial incentives for states to preserve evidence – and withholds those same monies for states that do not adequately preserve evidence. Massachusetts would be well poised to receive federal money if we can pass a good bill while the funding is still there.
- Attorney General/State's Attorney offices, District Attorneys, Bureaus of Public Safety/Defense/Criminal Apprehension, Crime Labs, Courts, and Innocence Projects have received money to work in partnership to review cases, locate evidence, provide lab analysis, and develop, disseminate, and put into effect best practices for evidence storage and preservation. Additionally funds have been used in some states toward victim outreach efforts and measures designed to increase testing capacity/eliminate backlog.
- Concern is often raised that an access law will result in a "flood" of litigation but this has not materialized in any of the 48 states with post-conviction DNA testing laws. The Maine Department of Public Safety, for example, reports that the state has conducted DNA testing in only five cases as a result of requests for testing under its statute, which was passed in 2001. California, with a prison population over 16 times the prison population of Massachusetts, estimates that requests for testing peaked at 20 requests/month statewide but quickly dropped to the current rate of one or two monthly.



Testimony in Support of H502/S764
An Act Relative to Transgender Equal Rights

Submitted by Maureen L. Gallagher, Policy Director, Jane Doe Inc.
June 8, 2011

Chairwoman Creem, Chairman O'Flaherty and members of the Judiciary Committee, I appear before you today in support of H502/S764 (An Act Relative to Transgender Equal Rights) on behalf of Jane Doe Inc. (JDI) and our 60 community based member agencies that provide direct services to sexual and domestic violence survivors throughout Massachusetts. JDI, the Massachusetts Coalition Against Sexual Assault and Domestic Violence, is a social change organization committed to addressing the root causes of sexual and domestic violence and promoting justice, safety, and healing for survivors.

H502/S764 proposes to prohibit discrimination in employment, housing, education, credit lending, and public accommodations on the basis of a person's gender identity or expression. It also adds "gender identity or expression" to existing hate crimes statutes, which reflects the heightened level of violence experienced by transgender and gender non-confirming people.

Jane Doe Inc. supports this legislation because we believe that gender stereotypes and prejudices limit an individual's ability to live a full and productive life, free of violence and fear. The very foundation of the movement against violence against women is based on the understanding and experience of oppression as manifested in sexism, racism and homophobia and other forms of discrimination. Transgender people throughout the Commonwealth are often harmed by harassment, discrimination and violence. Widespread prejudices about how "real men" or "real women" should look or act often lead to harassment and unfair treatment in public accommodations, housing, credit transactions and can contribute to the commission of hate crimes.

Opposing arguments to this legislation have included the manufacturing of fear of sexual violence at the hands of transgender individuals. This kind of fear-mongering is offensive to victims and survivors of sexual violence and those of us working in the movement, because we know that sexual violence is not commonly committed by a stranger in a bathroom, but by someone that a victim knows and often trusts. Research has shown that 73% of sexual assaults are perpetrated by non-strangers.¹ In fact, by perpetuating the myth that women and girls are at most risk for sexual assault by transgender people, those who oppose this bill encourage hate and transphobia, detracting from the factors that actually contribute to sexual violence.

The transphobia that is perpetuated by those not willing to acknowledge people regardless of gender identity and expression is what actually leads to the perpetuation of violence. In a recent case in Maryland, a transgender woman was brutally assaulted by two young women who did not feel she had the right to use the women's rest room. By virtue of how the woman presented herself seemingly gave permission to those propelled by fear and bigotry to take away her humanity. Without laws that acknowledge the basic rights of ALL individuals, our society condones the belief that some are less human than others. With the passage of this bill, Massachusetts law would consider such a crime a "hate crime" and allow prosecution as such. **Jane Doe Inc. and our member programs urge you to favorably vote this bill out of committee so that Massachusetts may join the multitude of states, and the Federal government, in promoting safety, dignity and liberty for all.**

¹ Rape Abuse Incest National Network, 2009 www.rainn.org

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An Act Relative to Transgender Equal Rights

Testimony

June 8, 2011

Chairwoman Cream, Chairman O'Flaherty, members of the committee, and staff. My name is Vanessa Story. I am the Director of Administration at SEIU Local 509. SEIU Local 509 is proud to represent almost 13,000 public and private sector human service workers across Massachusetts.

I am here today to urge you to favorably report "An Act Relative to Transgender Equal Rights" out of your committee. SEIU Local 509 strongly supports this bill and believes providing all people in the state of Massachusetts protection against discrimination and hate crimes is a basic civil right.

Over 8,000 members of SEIU Local 509 are already awarded this protection while on the job, as employees of the Commonwealth of Massachusetts. The Commonwealth, as an employer, has adopted Executive Order #478, which states that "the Commonwealth can and must do more to ensure that non-discrimination, diversity and equal opportunity are safeguarded, promoted, and reflected in state workplaces, decisions, programs, activities, services, and contracts". Executive Order #478 insures that all state employees, regardless of sexual identity, should be treated equally on the job. While this does not explicitly list gender identity, the Massachusetts Commission Against Discrimination has ruled that transgender individuals can pursue an anti-discrimination claim under the category of sex or disability discrimination. We at SEIU Local 509 applaud the adoption of Executive Order #478 and feel that this basic civil rights protection should not only exist for state employees, but for all employees across the great state of Massachusetts.

On behalf of the members of SEIU Local 509, I am asking you to provide equal rights for the all working people in Massachusetts -- not just for those fortunate enough to work for employers who have adopted non-discrimination policies that include gender identity.

Thank you for very much for your time.

SUSAN TOUSIGNANT
President

STEPHEN LEWIS
Treasurer

MARIANNE KIELY
Recording Secretary

Communications Workers of America, AFL-CIO



LOCAL 1400
155 WEST ROAD
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June 8, 2011

Senator Cynthia Creem
Joint Committee on the Judiciary
Room 405
State House
Boston, MA 02133

Representative Eugene L. O'Flaherty
Joint Committee on the Judiciary
Room 136
State House
Boston, MA 02133

Re: An Act Relative to Transgender Equal Rights (H5602, S764)

Dear Senator Creem, Representative O'Flaherty, and Members of the Committee:

My name is Sumner G. Delaney; I am the Treasurer of Communication Workers of America Local 1400. I currently reside in Salem MA. The Local Labor Union I work for represents approximately nine hundred members living and working in the Commonwealth. Transgender people throughout the Commonwealth have been and are discriminated against and are harmed by violence, all while being left no recourse of action or remedy under the law. If our Civil Laws stand un-amended or un-changed Transgendered individuals are left not being judged on their merit or ability but through prejudice. Only if the Commonwealth joins the thirteen other jurisdictions that currently protect their right to exist free from reprisal, will we as a Commonwealth be free to function as a civilized society. Civil Rights are not about the protections afforded by different sub-groups within a society, but in our collective human dignity. We are only asking for the right to be judged on our merit in the workplace, and our actions within the communities we live.

Neo-Nazi Skin Heads attacked me July of 1990. Massachusetts thankfully had some of the first "Hate Crime Legislation" in the county. It is long over do to include "Gender Identity or Expression" to the laws currently on our books. I was attacked twenty one years ago for being gay, only last year did the Federal Government agree I had a right to protections under the law for being nothing other than what God made me. I could not be a prouder citizen of any other State or Commonwealth and implore you to come down on the side of basic human rights, let us judge all of our citizens not by our prejudices but on our merits, solely as human beings.

Five short years after I fell victim to the aforementioned hate crime a twenty three year old transgendered woman was brutally beaten strangled and murdered. Just one year before her murder Chanelle Pickett worked at NYNEX (Verizon) in Brookline MA. Chanelle was 'outed' and harassed for over six weeks by the management of NYNEX (Verizon) at the time, prior to her termination. Loosing her job drove her into abject poverty and prostitution, forcing her to live on the fringes of society. It is my firm belief Chanelle would be alive today had the actions of the management at NYNEX (Verizon) been illegal at the time. I sit before you as the Treasurer of the Labor Union Chanelle would have been a member of if she where alive today.

I implore this Committee to come down on the side of basic human dignity. You do not have to understand what makes one-person transgendered or not, whether your religious beliefs support your prejudice or not. I am asking you to honor a statement made by Late Congressman Gerry Studds, "In a truly great society there is room for all who do not infringe upon the rights of others". You could not honor his life of service to this Chamber and the Commonwealth more than through the passage of (H5602, S764).

Please also see the attached list of Labor Unions and Central Labor Councils, representing 300,000 plus members supporting this legislation.

Respectfully,

Sumner G. Delaney
Treasurer
CWA Local 1400

Labor for Transgender Workers Protections

Our unions endorse legislation that protects transgender workers

- AEEF/CWA Local 1300
- AFSCME Local 1526
- American Federation of Teachers-MA
- CWA Local 1400
- Greater Boston Central Labor Council
- Massachusetts AFL-CIO
- Massachusetts Library Professional Association
- Massachusetts Nurses Association
- Massachusetts UAW CAP Council
- North Shore Central Labor Council
- Pioneer Valley Central Labor Council-
- SEIU State Council
- SEIU Local 615
- SEIU Local 509
- UAW Local 2322
- UFCW Local 1445
- UNITE HERE Local 26



United Automobile Aerospace and Agricultural Implement Workers

"The Union For All Workers"

Dear Representatives and Senators,

I am here representing the Executive Board, Joint Council and the over 3,600 members of UAW Local 2322, an amalgamated union representing workers throughout Western Massachusetts. UAW 2322 is committed to, and has a long, proud history of, supporting Civil Rights and promoting social and economic justice in the work place.

We would like to express our strong support for "An Act Relative to Transgender Equal Rights" because this act will help protect Transgender individuals in the workplace. We believe this is an important measure to protect transgender workers in Massachusetts.

The lack of a law to address discriminatory treatment has meant that many transgender people are prevented from returning to work after they have gone through their transition period, are being denied medical coverage and being subject to numerous other forms of discrimination. Nationally almost 80% of transgender people lose their jobs after transition. What prevents many workers from returning can range from a hostile work environment to flat out being refused the right to return.

Additionally, many workers find it difficult to obtain work due to discrimination. This blatant discrimination is unacceptable and has no place in the Commonwealth of Massachusetts.

UAW 2322 is proud to represent numerous transgender individuals and to fight for them to address workplace issues as no law currently protects them. While we gladly and vigorously defend our members it is much harder when there is no law in place.

As many transgender individuals are employed in nonunion workplaces without the benefit of a Union they are left literally with no protections and no one to advocate for them. Also many employers even in unionized workplaces do not cover transgender individuals in their nondiscrimination policies.

You have a potential to help stop this cycle and clear up a loop hole in our current anti-discrimination laws. Currently there are no specific laws that prevent discrimination against transgender people. We believe that this act provides that remedy and helps continue to keep Massachusetts on the forefront of workers' rights, civil and human rights in addition to building a healthy economy.

Thank you for all you do to protect working people. I hope that we can count on your support for this very important piece of legislation.

In Solidarity,

Ronald R. Patenaude, President UAW 2322

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The Episcopal Diocese of Massachusetts

Office of the Bishop *The Rt. Rev. M. Thomas Shaw, SSJE*

June 7, 2011

Senator Cynthia Stone Creem
Joint Committee on the Judiciary
State House Room 405
Boston, MA 02133

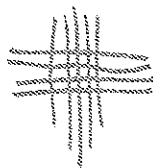
Representative Eugene L. O'Flaherty
Joint Committee on the Judiciary
State House Room 136
Boston, MA 02133

Dear Senator Creem, Representative O'Flaherty, and Members of the Committee:

I write to ask you to support the passage of "An Act Relative to Transgender Equal Rights" (H.502/S.764), which would add "gender identity or expression" to our Commonwealth's existing hate crimes laws, and prohibit discrimination in employment, housing, education, credit lending, and public accommodations on the basis of a person's gender identity or expression.

Passage of this bill is important to me, first and foremost, because it safeguards the basic human dignity of transgender people, reflecting the promise that all Episcopalians make at Baptism to "strive for justice and peace among all people, and respect the dignity of every human being." To refuse to pass this legislation is to contribute to the dehumanizing climate that transgender people face every day.

Massachusetts has the opportunity to follow Nevada which just last month joined thirteen other states, Washington D.C., and hundreds of municipalities, including Boston, Cambridge, Northampton, and Amherst, in protecting its transgender residents. Recognizing the urgent need of this legislation, both the Episcopal Diocese of Massachusetts and The Episcopal Church have also each passed resolutions in support of transgender equality (in 2008 and 2009, respectively—please see the enclosed resolutions).



Inviting, Forming, Sending, Serving

138 Tremont Street Boston, Massachusetts 02111 (617) 482-5800 www.diomass.org

As bishop I have observed and supported transgender people and their families in various leadership positions, lay and ordained, across our diocese from downtown Boston congregations to suburban parishes. Last November, the Cathedral Church of St. Paul was honored to host Boston's Transgender Day of Remembrance, an annual service of remembrance marked around the world. As I offered an opening welcome, I was overwhelmed to see so many people – more than four hundred – gathered to remember those who had died over the past year. I pray for a world in which such gatherings are no longer necessary, for a realization of the kingdom of God: a place of welcome and flourishing, of true equality in which everyone has a place at the table. I believe this legislation can help move us toward this vision, and I urge you to support its passage.

Faithfully yours,

+ *M. Thomas Shaw, SSJE*

M. Thomas Shaw, SSJE

How the "Transgender Rights and Hate Crimes Bill" H502 will affect the citizens of Massachusetts:

Submitted by: Brian Camenker, 84 Staniford St., Newton, MA

See the complete text of the bill with links to the statutes it affects at:
http://www.massresistance.org/docs/govt11/tranny_bill/bill_analysis.html

The "Transgender Rights and Hate Crimes Bill," H502 (also S764 -- identical version filed in the Senate), currently before the Massachusetts Legislature, is actually more extreme than the previous version attempted last session. In fact, in our observation it is the most radical "transgender" legislation ever attempted in America.

1. Broad legal definition of "gender identity or expression" (Section 11)

The bill creates an **official legal definition** that is extremely broad:

"The term 'gender identity or expression' shall mean a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's physiology or assigned sex at birth."
(Sec. 11)

Thus a man can simply "express himself" or "behave" like a woman to be legally considered a female! And the phrase "regardless of physiology or assigned sex at birth" reads like science fiction. Note that physiology has no reality for these activists. So-called "sex-change" surgeries are no longer the standard for attempting to reclassify one's "gender." Imagine what the words "expression" and "behavior" might allow. All of this opens the door to a Pandora's box of legal problems.

2. Pushes transgender agenda into public schools and charter schools (Sections 1-5, 8, 9, 10)

The bill would prohibit all public schools and charter schools from turning away kids on the basis of "gender identity or expression" even if, in the case of public schools, they're coming in from other districts. **Homosexual groups have fought for years to force schools** to allow boys to dress and act like girls, use girls' facilities, or for girls to be allowed on boys' athletic teams, etc., if they consider themselves "transgender".

Furthermore, the bill **empowers the state-funded "Commission on Gay and Lesbian Youth" to accelerate the forced inclusion of transgenderism** into public schools K-12. It officially renames the Commission to be the "Commission on Gay Lesbian Bisexual and Transgender Youth." It adds "transgender" and "gender identity or expression" to several sections in the statute which created the Commission. As a result, schools will have no choice but to include programs promoting acceptance, or allow the acting out of transgenderism, cross-dressing, etc., similar to what's happening in California.

3. Covers all public accommodations -- with severe punishment for infractions: (Sections 17, 19)

"Public accommodations" encompasses a long list of enterprises, including **restaurants, resorts, hotels, bars, theatres, bathhouses, sporting events, stores, health clubs, etc.**

The bill would prohibit **any kind of discrimination whatsoever** on the basis of

"gender identity or expression" no matter how blatant or offensive to others. In fact, if business owners are breaking the law if they even allow other patrons to incite such discrimination on the premises. **This will stifle free speech** on this issue in public places.

The punishment can be **quite severe for the slightest infraction**. And in addition to that, **the "aggrieved person" can sue for damages**. "Gender identity or expression" is thus included with this statutory language:

"Whoever makes any distinction, discrimination or restriction . . . relative to the admission of any person to, or his treatment in any place of public accommodation, resort or amusement . . . or whoever aids or incites such distinction, discrimination or restriction, shall be punished by a fine of not more than twenty-five hundred dollars or by imprisonment for not more than one year, or both and shall be liable to any person aggrieved thereby for such damages . . . that such civil forfeiture shall be of an amount not less than three hundred dollars; but such person so aggrieved shall not recover against more than one person by reason of any one act of distinction, discrimination or restriction . . . This right is recognized and declared to be a civil right."

Note the last sentence **"This right is recognized and declared to be a civil right."** This "civil right" to "gender identity and expression" will thus reverberate though many other areas of the law.

4. Public restrooms and locker rooms (i.e. "bathrooms") -- including schools, restaurants, businesses, etc. (Section 18)

Every woman's nightmare: The bill specifically states **that someone can use the opposite sex rest rooms and locker rooms in any public accommodation** if he chooses to "express himself" or "behave" like the opposite sex. (This also includes schools). Men would also begin to see women ("transmen") in their restrooms! (This is already happening at the Massachusetts State House, thanks to Gov. Patrick's recent Executive Order.) Thus, it can legitimately be called a "bathroom bill."

"Notwithstanding the provisions of this section or any other special or general law to the contrary, all otherwise lawfully sex-segregated facilities, accommodations, resorts and amusements shall grant persons admission to and the full enjoyment of such facilities, accommodations, resorts and amusements consistent with their gender identity or expression." (Sec. 18)

NOTE: The punishment regarding public accommodations mentioned in #3 above for "making a distinction" or interfering with this would apply.

5. Employment, business, labor unions, rentals, real estate, etc. (Section 14)

Imagine finding that your day-care provider, second-grade teacher, waiter, school bus driver, store clerk, etc. is blatantly a man with wearing a skirt and lipstick, possibly with hormone-enhanced breasts. Under this bill it would be illegal for any employer (or school principal) to decide for himself whether this is proper, or objectionable, or immoral. You would have no choice: the state will have decided for you.

The bill adds "gender identity and expression" to a broad list of definitions of employment that would be illegal to discriminate by. And it includes hiring, firing, compensation, privileges, advertisements for employment, and just about any

communication connected with employment.

Besides all businesses, non-profits, and labor unions, it covers any commercial transaction or advertisement regarding insurance and bonding, mortgage loans, real estate listings, renting, condominiums, apartments, commercial space, and much more.

In effect, it forces the inclusion of "transgenderism" into all phases of business and commerce, as well as public schools, universities, and the like.

It also opens the door for legal demands that **sex-change surgeries be covered** by company-sponsored health insurance.

6. Hate Crimes Laws (Sections 7, 15, 16)

Adds "gender identity or expression" to state's "hate crime" statutes. Gives the state broad powers to fine and imprison people **who attempt to interfere with, or attempt to intimidate the free expression of transgenderism.**

If an assault or battery of a person or damages to real or personal property is committed with the intent determined to intimidate because of "gender identity or expression," there are stated **finances (up to \$5000) and/or jail time (2 1/2 years).** In addition, a conviction requires completion of a "diversity awareness program."

Given the state's loose definition of assault (which we found out in the Larry Cirignano case, could be merely touching someone) this is quite disturbing.

7. Enforcement by Massachusetts Commission against Discrimination (Sections 6, 12, 13)

The Massachusetts Commission against Discrimination (MCAD) is a politically-correct tribunal that enforces (often rather brutally) the state's anti-discrimination laws on businesses and organizations, and has the authority to impose fines and punishments.

The bill gives MCAD legal authority to investigate, subpoena, hold hearings, and pass judgment on alleged discrimination regarding "gender identity or expression." MCAD is also given the ability to help create rules and regulations affecting all state employers and businesses regarding "gender identity or expression."

The bill instructs MCAD include on its official advisory board "people of adverse gender identities or expression" (imagine trying to recruit for that!) in order to ensure that the transgender laws are strongly enforced.

Furthermore, when MCAD creates local "advisory boards" to help in its efforts, these boards must "to the extent reasonably possible" include "people of diverse gender identities and expression."

MCAD is already a nightmare to businesses. Occasionally homosexual activists have staged public "kiss-ins" at Boston restaurants to see the reaction of the management. We've seen a bar fined \$200,000 by MCAD for throwing out two men kissing, which was disturbing patrons. This will likely encourage men in women's clothes to do the same.

MCAD is essentially a shadow court system, but with no right to trial by jury, evidence rules, or right to appeal.

Testimony regarding the "Transgender Rights and Hate Crimes Bill" H502

"I spent 19 years living as a man" -- testimony from a recovered transgender female.

TESTIMONY OF SARAH ALLIS YANG --

To the Judiciary Committee of the Massachusetts Legislature:
June 8, 2011

I am a proud graduate of UC Berkeley and I currently work in the film industry. The reason I am writing you today is because I spent 19 years of my life living as a man. My first words were "I'm a boy." If anyone could claim that they were "born this way," it was me.

I thought I had no choice but to either get surgery or continue dating women as a man trapped in a girl's body. I became suicidal not because of societal pressures or lack of understanding or acceptance from others but because I personally didn't want to live this way because it was a detrimental and painful lifestyle and no one offered me any other choice or option but to be this way.

That led to hopelessness and depression, because of the belief that I could never change. That is until God came into my life.

Thirteen years later, I now totally embrace and accept myself for who I really am, a woman. I'm even marrying the love of my life, a man named Matt this September.

This is the happiest I've ever been with myself, my life, and my romantic relationship and it is because I chose as an act of self-will to leave the gay lifestyle and love and embrace my true self, a heterosexual woman. And I am not alone, there are thousands like me who have freely chosen to leave the gay lifestyle.

I've never questioned whether I was Asian but I definitely questioned my sexual orientation. I fear for the safety of young people who like myself in my adolescence will become suicidal because they aren't presented with the truth that sexual orientation and gender confusion is not the same thing as someone's skin color and ethnicity. It's a choice and by the act of self-determination they can choose whatever lifestyle will make them happiest. Isn't this what this nation was founded upon? Life, liberty, and the pursuit of happiness?

I know beyond a shadow of a doubt that even if all of society: education, government, media, the business sector, churches, families, and the medical field all supported homosexuality as a healthy and legitimate way of life, I would still be suicidal had I not been presented the option of embracing myself as a heterosexual woman choosing to walk down the aisle to my future husband, Matt.

Testimony regarding the "Transgender Rights and Hate Crimes Bill" H502

Submitted by: Denise Shick

www.help4families.com Author of "My Daddy's Secret," "When Hope Seems Lost," and "Families with Gender Identity"

Testimony in Opposition to House Bill H502 for Massachusetts Joint Judiciary Committee

June 8, 2011

At the age of nine my dad shared with me his desire to become a woman. He stated he had been sexually molested as a young child and continued sharing several sordid sexual details that no child should hear.

My dad told me that I would know if he was feeling like a woman when I would see him sitting with his legs crossed over as women do when they wear a dress. I believed I was to blame for his problem because I was a girl. I had great concern for my dad and at the same time I had lost my security. I was confused and hurt.



I had discovered my dad had a peek hole through the bathroom wall. Because of my dad's behavior I had lost my privacy in the bathroom. He watched me as I showered, dressed, did my hair and make up. There was no privacy when I would go to the bathroom at times. This was insane to me as he lived his desires through my very steps. As a child and young teenager I struggled with my own sexuality and questioned my own gender as I lived in this environment.

My dad's struggle had truly become my struggle as I fought for my freedom and my sanity. My dad caused emotional and physical pain when he started fondling my breasts. He would tackle me to the ground and grasp my breasts so tightly that it hurt. I remember thinking how wrong this was while he lay on top of me. My dad desired breasts so badly that he seemed to think by laying his body on top of my body he could fantasize that my breasts were his.

As a result of my personal experience I had struggled at times if life was worth living. I also struggled with prolonged and unresolved grief, Sadness, Shame of being a girl, Difficulties with intimacy and trust in relationships as well a sense of not belonging.

I found some relief as a teenager by becoming involved with drinking alcohol. I needed a way to escape and feel accepted by my peers, especially boys, since I had not felt accepted by my dad as his daughter or as a girl.

My father, although employed chose to spend his money on women's clothing. As a result, my siblings and I often had to pour water over our cereal instead of milk. There were times when I was hungry and could only find a raw potato to eat.

During a radio interview I was asked, "In what way was your life different then any other teenage daughter"? I replied "Most Teenage daughters do not need to worry if their dad had worn their bras and underwear while they were at school!!!

Because of my personal experience I have written a book titled "My Daddy's Secret" in order to bring a broader understanding of how the children are impacted. I have written the book When Hope Seems Lost to bring another step of understanding to families and leaders.

I also have a ministry that reaches out to the families affected by this issue. If you give special rights to special interest groups, there will be an increase in the harassment that is already occurring against the ex-transsexual, their families, and the ministries like mine. Who will be protecting our rights?

I ask that you do not approve House Bill H502 as this will be harmful to innocent children and young people who are most impressionable, just as I was. The unexpected consequences of this bill will affect children.

I ask that you consider the following reasons:

- 1) Bill H502 will put children at risk with sexual and gender confusion.
- 2) Bill H502 will open the door for pedophiles causing physical and emotional harm in young lives.
- 3) My dad violated my privacy until I was 18 and moved out of our home. No woman deserves that. This bill would violate women's privacy in restrooms lockers and shower just like my dad violated mine but now it would government mandated. Please vote no to H502.

Instead, I ask you to speak for therapy and alternative programs that would benefit people, like my dad and their families.

If you approve Bill H502 you will be encouraging this behavior at the children's expense.

Thank you

Denise Shick
Waynesville, North Carolina

Testimony regarding the “Transgender Rights and Hate Crimes Bill” H502

Submitted by Walt Heyer
formally Laura Jensen
Author of *Paper Genders*

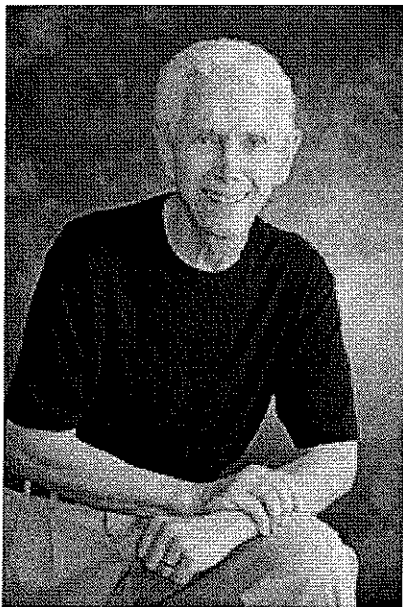
To the Judiciary Committee of the Massachusetts Legislature

June 8, 2011

I'm a male-to-female transgender who lived and worked as Laura Jensen for years. I'm opposed to the Massachusetts Transgender Rights and Hate Crimes Bill H502.

Changing genders is zany, exciting and fun at first, but many of us have discovered right away or years after changing genders that our lives turn to disappointment, sorrow and regret. The evidence of this extreme regret can be found in the staggering suicide rate for transgenders, reported to be 30 to 40%.

I am back to living as a male and I am happily married to a woman. But anatomically I'm not a male; I can't be. My birth record was changed and says female. My passport says male. This surgery is absolutely destructive. In fact, it is categorically impossible to change someone's gender.



There are a lot of males without male genitalia who are struggling terribly with this. And at least fifty percent of these surgeries are failures in some way. Your body is mutilated. It's not a good thing. It's a horrible thing.

Why are legislators more interested in passing more protective sex laws when the real need of transgenders is more help in prevention of suicide?

When they have such a high suicide rate, they're not getting the psychological treatment they need. And activist groups are trying to remove psychological evaluations for transgenders.

The advocates that are pushing for transgenders in schools to be able to have an extra bathroom or identify as any gender they wish -- they're pushing all the laws that are in my view what is actually killing transgenders.

People who want to change their genders have deep psychological issues. There's nothing normal about wanting to become a different gender. There's something desperately wrong with them and they need psychological help, and yet the advocates are trying to remove any required psychological treatment.

Homosexuals, lesbians and transgenders were not born that way, no, not at all. Despite an enormous amount of research being done, no scientific evidence can be found to substantiate this view, yet it is reported as fact. My new book, Paper Genders, provides a well-researched look in the homosexual activist movement and how everyone, including the media, runs and hides from this group of bullies and sexual predators.

The question is: Who has the courage and conviction to stand up for our young kids and our families?

If you go to my websites www.tradingmysorrows.com and www.sexchangeregret.com you will find a lot more information.

Walt Heyer, formally Laura Jensen
Carlsbad, California

June 8, 2011

To the Massachusetts State Judiciary Committee,

I would like to express the reasons for my opposition to the "Transgender Rights & Hate Crimes Bill" H 502. Two years ago I testified before the Judiciary Committee regarding the same bill. I indicated that if the bill only included the right to work and equal opportunities for employment & housing, that I would not be testifying. I was disappointed to find that this bill has not changed substantively in the last two years. It seems as if the sponsors of the Bill hope to wear us all down with the same Bill year after year. But we cannot wear down because the Bill does not include protections for organizations such as churches. We cannot wear down because bathrooms & public showers go too far. And we cannot wear down because the law proposed adds to a law that already violates free speech (General Laws, Part IV, Title I, Chapter 272, Section 98). This law needs to be rewritten rather than added to, but that is the

subject for another day. Sufficeth to say that if such a Bill as H502 were passed, it would be wrong to send me to jail for questioning someone before following my daughter into the bathroom.

Has the committee considered the Bill passed by the Salt Lake City Town Council? This Bill provides basic rights and protections for gay persons & persons of various gender identity. However, it also includes dear exemptions for private organizations, specifically, churches. There is no far reaching attempt to allow anyone to enter any restroom regardless of physical gender. The dominant church in that city, The Church of Jesus Christ of Latter-day Saints, came out in support of the Bill, because it gave basic human rights that should be available to everyone, such as equal opportunity for employment & housing, without infringing on the rights of the majority. I ask the judiciary committee to consider this Salt Lake City resolution. It is much closer to something reasonable. I would not be here today if it were the Bill being considered. I am including a link to a ~~pdf~~ pdf file of the Bill, rather than printing it. I am also including a copy of the official statement in

Support of the Salt Lake City Bill by the Church
of Jesus Christ of Latter day Saints.

In closing I have to say that it is wrong to
allow someone to shower next to me on Friday
morning when they feel like a man, and then
next to my daughter on Friday afternoon when they
feel like a woman,

I am a thirteen year employee of Raytheon Co.,
a company that has embraced equal employment
opportunity for gay and transgendered people for many
years. Let's give them the rights we all deserve
without infringing on the rights of the vast majority.
I'd be happy to assist the committee at any time
in coming to a reasonable resolution with the
sponsors of this Bill.

Brad Porter

Brad Porter

382 Treble Cove Rd

Billerica, MA 01862

978 408 9223

brad@porterweb.org

Salt Lake City resolution:

<http://www.slcgov.com/council/agendas/2009/agendas/Nov10/111009C1.pdf>

Additional Notes by Brad Porter

We have heard from a state representative this afternoon that if we had thought about it we would have added gender identity in the original law. I would agree except that the existing law includes the use of bathroom & locker rooms. There is a difference.

I respect the comments of others today regarding some definition of gender identity. Such definition is less critical provided that bathrooms are excluded, however, I still support some definition simply to allow employers to require their employees to make a choice at some point & not switch back & forth. I suggest clear definition, including registration.

While we are amending the law to include "gender identity" to the existing law, let us also clearly define exceptions to churches, church housing, church employment & private institutions. Let us also be sure to include language that would prevent a photographer from being prosecuted for refusing to photograph a gay wedding, or trans wedding, if they have a religious objection.

Some have attempted to imply that the major objection to bathrooms is safety. Safety is only

a small part, if a part at all. Privacy & Modesty are the primary issues with the bathroom. Should Bathrooms be included, there must be clear definition of gender identity, including surgery & ^{legal} registration, before ^{public} showers could be used.

We have heard that this Bill will end discrimination and danger. I don't see that in this Bill. Discrimination & assault are already illegal. Those who disregard ~~this~~ the law with regard to assault will certainly disregard anything in this Bill.

Statement Given to Salt Lake City Council on Nondiscrimination Ordinances

01 JANUARY 2009

The following statement representing the position of the Church's leadership, was read by Michael Otterson, managing director of Church Public Affairs, as part of a public comment period discussing the ordinances at a Salt Lake City Council meeting 10 November 2009:

Good evening.

My name is Michael Otterson, and I am here tonight officially representing The Church of Jesus Christ of Latter-day Saints.

The nondiscrimination ordinances being reviewed by the city council concern important questions for the people of this community.

Like most of America, our community in Salt Lake City is comprised of citizens of different faiths and values, different races and cultures, different political views and divergent demographics. Across America and around the world, diverse communities such as ours are wrestling with complex social and moral questions. People often feel strongly about such issues. Sometimes they feel so strongly that the ways in which they relate to one another seem to strain the fabric of our society, especially where the interests of one group seem to collide with the interests of another.

The issues before you tonight are the right of people to have a roof over their heads and the right to work without being discriminated against. But, importantly, the ordinances also attempt to balance vital issues of religious freedom. In essence, the Church agrees with the approach which Mayor Becker is taking on this matter.

In drafting these ordinances, the city has granted common-sense rights that should be available to everyone, while safeguarding the crucial rights of religious organizations, for example, in their hiring of people whose lives are in harmony with their tenets, or when providing housing for their university students and others that preserve religious requirements.

The Church supports these ordinances because they are fair and reasonable and do not do violence to the institution of marriage. They are also entirely consistent with the Church's prior position on these matters. The Church remains unequivocally committed to defending the bedrock foundation of marriage between a man and a woman.

I represent a church that believes in human dignity, in treating others with respect even when we disagree – in fact, *especially* when we disagree. The Church's past statements are on the public record for all to see. In these comments and in our actions, we try to follow what Jesus Christ taught. Our language will always be respectful and acknowledge those who differ, but will also be clear on matters that we feel are of great consequence to our society. Thank you.

STYLE GUIDE NOTE: When reporting about The Church of Jesus Christ of Latter-day Saints, please use the complete name of the Church in the first reference. For more information on the use of the name of the Church, go to our online style guide.

Bruce Caley
42 Fensmere Ave.
Quincy, MA 02169
617-347-8055

Notification Bill H482 (Right to know)
Mass. State House Joint Judiciary Hearing

Dear Chairman Creem and Chairman O'Flaherty,

Thank you for your service to our state.

I don't see how 24hrs waiting period is a burden for a pregnant woman early in her pregnancy or choice.

I think it would add to the information and knowledge for a woman to be able to see the baby in her womb. She could make a more objective decision under such an emotional situation.

We are trying to protect unborn women (and men). It is medically known that a human fetus has all of the genetic mechanisms to fully form. How can we ignore the human rights of women and men who are not fully formed yet. Please support this bill.

Transgender Rights Bill

June 8, 2011

Bill H502 - This is not a bill of rights for transgender people.

There is already a bill of rights for transgender people.
It's called the Constitution of the Commonwealth of Massachusetts.

In fact there is a second bill of rights for transgender people.
It's called the Constitution of the United States of America.

These documents give all of us equal rights.

What we have here today before us is a bill of SPECIAL RIGHTS -
That's right - a bill of SPECIAL RIGHTS for Transgender People.

This bill would give the Transgender Group rights beyond what you and I have.

This is a bill to **take away our rights** and put them into the hands of a group that has special problems - that of **gender confusion**.

If Bill H502 is passed, it will be one more chink in the destruction of the sturdy fabric of our society. Throughout history it has been observed over and over again that a society that allows and promotes sexual hedonism - that is, any and all kinds of sexual activity - kills itself.

In his book, *The Agenda*, Louis Sheldon writes, "For hundreds of years historians have chronicled the fate of empires, large and small, and the lessons are painfully clear. The excesses of sexual libertinism, combined with social and economic decay, have led to the collapse of great societies since the beginning of time. And America is by no means immune from such a fate."

To give special rights to a group of gender confused people is the height of foolishness. You help no one - not the gender confused person, not the rest of society. Would you give a bottle of whiskey to an alcoholic? Not if you are a caring person. The same with a gender confused person. It is no kindness to aid and abet this behavior. Many have actually recovered from their gender confusion. Others, such as Renée Richards who was a bona fide man but tried to become a woman, have regretted what they did. Nothing was solved.

I love this country. I love the United States of America. This bill really makes me angry.

What I see here in this transgender bill is not fair, is not just, and it's against the values of this wonderful country with freedom and justice for all.

Kill this bill - this Transgender Special Rights bill.
This is an Unfair Rights Bill.
Thank you.

=====
Presented by: Sally J. Naumann
P.O. Box 543
Carlisle, MA 01741



195 Market Street
Lynn, MA 01901-1508

June 8, 2011

Senator Cynthia Stone Creem
Joint Committee on the Judiciary
State House Room 405
Boston, MA 02133

Representative Eugene L. O'Flaherty
Joint Committee on the Judiciary
State House Room 136
Boston, MA 02133

Re: Acts Relative to Transgender Equal Rights (H.502 / S.764)

Dear Senator Creem, Representative O'Flaherty, and Members of the Committee:

I am writing on behalf of Eastern Bank in support of House 502 and Senate 764, Acts relative to Transgender Equal Rights. The proposed legislation updates Massachusetts non-discrimination and hate crimes laws to ensure that they clearly and uniformly protect all people, regardless of their gender identity or gender expression.

Eastern Bank is the Commonwealth's largest commercial bank headquartered in Boston with \$7.5 billion in assets and over 1,700 employees; operating in Massachusetts since 1818. My purpose in writing is to encourage passage of this bill not only because it is the just and right thing to do, but because it's good for business.

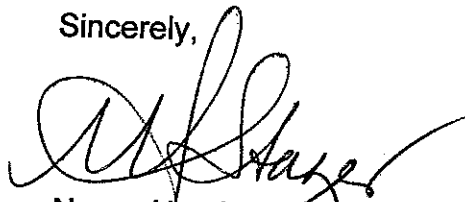
Eastern Bank is a dynamic organization that truly cares about all our employees, our customers, and each of our communities. We embrace diversity in our workplace because it makes us a better employer and a better provider of service to our customers. We seek the most talented and productive employees we can find, without regard to their sexual orientation or gender identity. Our corporate Statement of Diversity and Inclusion specifically provides this protection.

The Massachusetts Commission Against Discrimination (MCAD) has already interpreted state law to protect everyone, including transgender people, from discrimination based on gender identity or expression. Making this protection uniformly known and clearly visible will make it easier for Massachusetts employers to design policies that follow the law.

We believe that concerns regarding the use of restrooms or the ability to require a reasonable and professional appearance are unfounded. Transgender employees are simply expected to conform to the dress code and standards of the gender with which they identify.

This legislation is also important in that it ensures transgender people who are well-qualified for the job are allowed to work with dignity and without fear of harassment or discrimination. This is a basic right that should be provided equally to all citizens of our Commonwealth. Fourteen other states already have similar laws. It's time Massachusetts joined them by passing this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Stager", written over a faint circular stamp.

Nancy Huntington Stager
Executive Vice President and
Human Resources Director
Eastern Bank



Women's Bar Association of Massachusetts

Committed to achieving the full and equal participation of women in the legal system and in a just society.

TESTIMONY

In Opposition of H482, An Act Relative to a Women's Right to Know

Presented by Nancy Cremins, President

Women's Bar Association of Massachusetts
before the Joint Committee on the Judiciary
June 8, 2011

The Women's Bar Association of Massachusetts (WBA) opposes H482, a bill that would require that physicians or their agents provide women with excessive state-scripted "counseling" at least 24-hours prior to an abortion. This bill is unnecessary because Massachusetts already requires "informed consent," which ensures that patients be given comprehensive and unbiased counseling, including the options available to them and the risks and benefits of the procedure. There is an additional informed consent law specific to abortion, which requires that a woman be informed about the type of procedure to be used, possible complications, and abortion alternatives.

This bill is designed to impede access to abortions in the guise of providing deceptive and unnecessary "counseling" and is an intrusion on the doctor-patient relationship. Overwhelming every woman with information, which may not be appropriate or sensitive to her health or situation, is wholly inappropriate. For example, in the case of a wanted pregnancy where a severe anomaly is discovered, it would be completely inappropriate to offer the woman color photographs, a "description of the anatomical and physiological characteristics of the unborn child at two-week gestational increments," and an opportunity to view an ultrasound and hear the heartbeat. Similarly, it would be insensitive to require that the rape survivor be told about the "support obligations of the father."

In addition to being unwarranted, this bill would be expensive to administer. Such expense is not justified given the adequate protections afforded to each patient under current law. Not only would it be expensive for the Commonwealth, but also for women, who would have to take additional time off from work to make multiple doctor office visits.

The WBA is a professional association of women attorneys and judges, with over 1,500 members across the state. The WBA was founded in 1978 and is one of the largest women's bar associations in the nation. Since 1978, everything the WBA has done has been guided by our mission: We are committed to the full and equal participation of women in the legal profession and in a just society. Our organization's commitment to protect and advance the rights of women in a just society compels us to oppose this bill.

The WBA believes in a woman's right to choose and that there is no compelling reason to impede access to abortion in the manner proposed by this bill. Therefore, the WBA urges you to oppose to H 482.

WOMEN'S BAR ASSOCIATION OF MASSACHUSETTS
27 School Street, Suite 500, Boston, MA 02108
Ph: 617.973.6666, Fax: 617.973.6663
WBA President, Nancy Cremins, nancy.cremins@gesmer.com
www.womensbar.org



Women's Bar Association of Massachusetts

Committed to achieving the full and equal participation of women in the legal system and in a just society.

TESTIMONY

In Support of S764 and H502, An Act Relative to Transgender Equal Rights

Presented by Nancy Cremins, President

Women's Bar Association of Massachusetts
before the Joint Committee on the Judiciary
June 8, 2011

The Women's Bar Association of Massachusetts (WBA) supports S764 and H502, a bill that would amend the Commonwealth's hate crimes and non-discrimination statutes to explicitly include transgender people by adding "gender identity or expression" as a protected characteristic to Massachusetts statutes governing hate crimes and discrimination in employment, housing, credit, public accommodations, and public education.

The WBA is a professional association of women attorneys and judges, with over 1,500 members across the state. The WBA was founded in 1978 and is one of the largest women's bar associations in the nation. Since 1978, everything the WBA has done has been guided by these simple words: We are committed to the full and equal participation of women in the legal profession and in a just society. Our organization's commitment to creating a just society for all compels us to make this bill a priority.

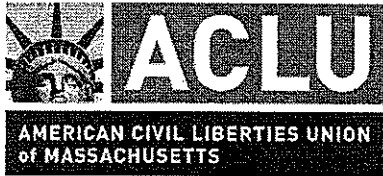
There have been efforts on behalf of opponents of this legislation to convince you and the public that its passage will make public facilities unsafe, that it will put women and children in harm's way by providing some kind of safe harbor for individuals to enter bathrooms and commit crimes. These arguments are merely fear-mongering, as there is absolutely nothing to substantiate the allegations that this legislation would in any way endanger women and children.

In a just society, no one should face discrimination or violence because of gender identity or expression. S764 and H502 will make it clear to employers, landlords, places of public accommodation, public education, the credit industry and transgender people themselves that the Commonwealth will not tolerate discriminatory and violent actions that target our colleagues, neighbors, classmates, family members, and friends because of their transgender identities.

The WBA believes that the protection of individual rights and liberties is a fundamental cornerstone of our society and the protection of those rights is a hallmark of the WBA and its mission. This bill is essential to extending those protections to members of the transgender community.

The WBA urges you to give a favorable report to S764 and H502 and to support its passage into law.

WOMEN'S BAR ASSOCIATION OF MASSACHUSETTS
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June 8, 2011

To: Sen. Cynthia Stone Creem and Rep. Eugene O'Flaherty, Chairs
and members of the Joint Committee on the Judiciary
From: Ann K. Lambert, Legislative Counsel

OPPOSITION to HB 482: An Act Relative to a Woman's Right to Know

The American Civil Liberties Union of Massachusetts strongly opposes this legislation. The bill's requirements would seriously burden and undermine constitutional guarantees of privacy and personal autonomy that protect a woman's right to make her own private medical decisions concerning her reproductive health.

It should be – and it is, under our Massachusetts Declaration of Rights – a woman's individual decision whether to bear a child and whether to continue or end a pregnancy. HB 482, however, would impose a series of intrusive government dictates into that private realm. It would conscript a woman's physician – a professional with whom she has a confidential, privileged relationship – and require her or him deliver specified "descriptions," "information" and other matters to her, much of which is outside the scope of informed consent, as defined by law and medical ethics, and all of which has the apparent goal of discouraging the patient from deciding to exercise her right to terminate her pregnancy.

The bill, then, is at constitutional odds with the decision of the Supreme Judicial court in *Moe v. Secretary of Administration and Finance*, 382 Mass. 629, 654 (1981). HB 482 would violate *Moe's* requirement that the government be neutral with regard to abortion and childbirth. Like the funding restrictions on abortion that were successfully challenged in *Moe*, the ostensible "informed consent" directives in HB 482 are not at all neutral. The requirements are clearly aimed at *favoring* continuation of a pregnancy and childbirth and *discouraging* abortion. Pregnancy and childbirth are considerably more dangerous to a woman's health than undergoing a legal medical abortion – but the bill's "informed consent" requirements are not directed at providing that information.

Because it would violate basic rights to privacy and personal autonomy, the ACLU of Massachusetts urges the Committee to reject HB 491 and give it an unfavorable report.



COUNCIL FOR RESPONSIBLE GENETICS
5 Upland Road, Suite 3, Cambridge MA 02140
Telephone: 617-868-0870 Fax: 617-491-5344
email: crg@gene-watch.org web: www.councilforresponsiblegenetics.org

June 8, 2011

To: Sen. Cynthia Stone Creem and Rep. Eugene L. O'Flaherty
and members of the Joint Committee on the Judiciary

From: Jeremy E. Gruber, President
Council for Responsible Genetics

**Senate Bill 753 - An Act Providing Access to Forensic and Scientific Analysis
and other legislation proposing post-conviction DNA access**

Introduction:

My name is Jeremy Gruber and I am the President of the Council for Responsible Genetics (CRG). Founded in 1983, CRG is a national non-profit organization based in Cambridge, Massachusetts that studies the social, ethical and environmental implications of genetic technologies. CRG seeks to distribute accurate information and represent the public interest on emerging issues in biotechnology. CRG also publishes a bimonthly magazine, *Gene Watch*, the only publication of its kind in the nation. Among other accomplishments, CRG played a leading role in enacting Massachusetts' genetic discrimination law and I worked closely with Senator Kennedy in leading the successful effort to pass the Genetic Information Nondiscrimination Act in Congress. CRG has assisted policymakers at the federal and state levels to formulate policies on various topics related to genetics and has played a leading role in educating the public on issues ranging from forensic DNA databases to cloning and biological weapons.

Testimony:

"Justice is the end of government. It is the end of civil society. It ever has been, and ever will be pursued, until it be obtained, or until liberty be lost in pursuit." Madisons's declaration in Federalist no. 51 is as relevant today as it was during his own time. The principles of liberty that he espoused long preceded the Due Process Clause of our Constitution, they served as the very bedrock of the founding of this nation. Threats to liberty remain ever present today; nowhere more so than in the interplay between cutting-edge technology and its ability to both promote and undermine freedom. New genetic technologies, in particular, pose unprecedented challenges as well as benefits to human integrity, individual liberty and the health of the biosphere. The questions that these technologies raise affect all of us.

Massachusetts has a long and proud tradition of understanding and responding to these challenges. As a world leader in genetic research our state recognized early on both the potential for improvements in the human condition that such research offered as well as the potential for harm. In 1995, long before most states

BOARD OF DIRECTORS Jeremy Gruber, JD, *President* • Sheldon Krinsky, PhD, *Chair*
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• Rayna Rapp, PhD • Patricia Williams, JD



the defense, which is almost invariably in the possession of law enforcement. In 50% of cases that have led to exoneration by DNA tests, prosecutors failed to initially consent to DNA tests. Some have even continued to fight claims of innocence even after DNA testing has exculpated the defendant. The zeal with which DNA testing is readily adopted to seek convictions is rarely matched post-conviction. Our criminal justice system cannot be allowed to place obstacles in the way of post-conviction DNA testing that could determine whether the wrong people have been convicted and punished for crimes they did not commit.

Prosecutors themselves have long recognized the need for a statutory solution. In 1998 then Attorney General Janet Reno established the National Commission on the Future of DNA Evidence in response to an even earlier report from the National Institutes of Justice entitled *Convicted by Juries, Exonerated by Science: Case studies in the Use of DNA Evidence to Establish Innocence After Trial* which provided a stinging indictment of current methods for handling such claims. In 1999 the Commission issued multiple recommendations to encourage post-conviction DNA testing. As Scott Burns, Executive Director of the National District Attorney's Association has subsequently stated "If there's any question at all and if there's any way that a forensic test would be helpful. I think the vast majority of prosecutors and of Americans, I think we ought to do the test."

Indeed Massachusetts own Congressman Bill Delahunt, himself a Norfolk County district attorney for more than twenty years, spent five years of his political career championing the successful passage on Capitol Hill of the Innocence Protection Act that, among other things, grants any federal inmate the right to petition a federal court for DNA testing to support a claim of innocence. As Congressman Delahunt noted:

"The search for truth is a fallible process and mistakes happen. Think of the human costs when an innocent person is executed or spends long years in jail. Imagine the scars when a victim waits years to know the identity of their assailant. We are not talking about hypothetical scenarios. We are talking about real people, ordinary Americans facing the most extreme miscarriages of justice. I think this is something of profound consequence. This is about protecting innocent people and ensuring that those who are culpable of capital crimes are held responsible."

It is clear that a strong statutory solution is required. Such a law must:

- 1) Preserve and account for biological evidence of a crime and ensure proper standards are employed for accuracy of testing.
- 2) Eliminate procedural bars and develop reasonable standards to permit undergoing such testing.
- 3) Prevent unnecessary and counter-productive expansion of DNA databases.
- 4) Allow such testing in cases where DNA can establish innocence.

For these reasons, the Council for Responsible Genetics urges the Joint Committee on the Judiciary to move quickly to pass a strong and comprehensive law providing for post-conviction DNA testing. The right to liberty, to defend one's innocence and prevent continued unjust incarceration is paramount. Massachusetts must once again regain its role as a national leader in addressing the social and ethical implications of new technologies and biotechnologies in particular. The Council for Responsible Genetics offers its expertise and assistance and welcomes the opportunity to work with this Committee and the legislature as a whole to find a just solution to this glaring injustice.

Massachusetts  Family Institute

Dedicated to Strengthening the Family

**TESTIMONY IN SUPPORT OF H2239, AN ACT RESTORING FREE SPEECH AND
PUBLIC ACCESS**

Joint Committee on the Judiciary

June 8, 2011

This bill would remove the “buffer zone” outside abortion facilities and end a fundamental violation of free speech that has existed far too long in the Commonwealth of Massachusetts, “the cradle of liberty.”

Federal Judge Edward Harrington, in overturning the buffer zone law in 2000 said that, “*Pro-life advocates must be given as equal an opportunity as their opponents to express to those seeking an abortion their sincere message of respect for the sanctity of innocent human life.*” Abortion clinic workers, on the other hand, said Judge Harrington, “*because of their personal relationship with the abortion clinic have a strong financial interest or philosophic incentive to counsel the listener to undergo an abortion and they constitute very zealous advocates for this controversial procedure.*”

Former state representative, Paul Demakis, one of the law’s sponsors said, “*This is not a situation where you have an ambivalent person deciding whether or not she’s going to decide to get an abortion and you’re allowing one side an advantage over the other.*”


To the contrary, we have the testimony of thousands of women who were either coerced by a boyfriend or family member to have an abortion, or were very ambivalent about terminating the life of their unborn child, and testified that if anyone had offered an alternative or help they would not have gone through with it. Many express a lifetime of regret and pain.

A woman who is considering an abortion is in a delicate state. Offering her help or an alternative must be done quietly. It cannot be shouted from 18 or 35 feet away. The attempt to put sidewalk counselors even further away is an attempt to render them ineffective, and maximize the number of abortions.

How many babies have died since this law passed 10 years ago, keeping away those who would offer assistance to those vulnerable women? How many more babies will die and how many more women will be wounded if the buffer zone remains?

Please give a favorable report on H2239 which would finally remove this great hindrance of freedom of speech.

Sincerely,


Kris Mineau
President

Massachusetts  Family Institute

Dedicated to Strengthening the Family

**TESTIMONY IN SUPPORT OF H484 TO PROTECT UNBORN
CHILDREN FROM BEING ABORTED JUST BECAUSE THEY ARE
THE WRONG SEX**

Joint Judiciary Committee

June 8, 2011

This bill simply says that:

“no physician shall intentionally perform such an abortion with the knowledge that the mother is seeking the abortion solely on account of the sex of the unborn child.”

The fact that this bill confronts a very real issue, reflects the trivialization of human life that has occurred since the 1973 Supreme Court decisions, *Roe v. Wade* and *Doe v. Bolton*, which together make providing the most basic protections for human beings prior to birth, very difficult.

Left to its own, nature seems to be very good at providing a balance between boys and girls. Some cultures, however, have a strong preference for one sex over the other. For example, in China, the preference for boys and the abortion of girls has resulted now in hundreds of thousands of young men who are unable to find wives. Large numbers of such unattached young men have a tendency to destabilize a nation.

H484, would provide at least minimum protection from death for those conceived as a girl instead of a boy, or vice-versa, and help allow the natural balance between men and women to be undisturbed.

Please provide a favorable recommendation for H484.


Kris Mineau
President

Massachusetts  Family Institute

Dedicated to Strengthening the Family

**TESTIMONY IN SUPPORT OF H482, THE WOMAN'S RIGHT TO KNOW BILL,
OTHERWISE KNOWN AS "LAURA'S LAW."**

Joint Judiciary Committee

June 8, 2011

Just about every medical procedure known to humanity has a legal requirement that the patient be thoroughly informed about all possible risks or consequences. Every medical procedure, that is, except abortion.

Why should this be? Why should the state allow a woman to be deceived about the nature of her unborn child, or the risks involved with abortion, such as sterility, cervical incompetence, or uterine perforation? Why should she not be told about possible alternatives? There is one answer to all these questions. Not telling her means profits for the abortion industry.

Why does the abortion industry hold such a favored status in our culture that it is acceptable for women to be deceived and endangered?

This bill would simply hold abortionists to the same standard of informed consent as any other medical procedure.

Many women say they would not have gone through with an abortion if they had been given the truth. Imagine the feelings of a woman who has aborted her child after being told by the abortionist that, "It's only a blob of tissue," only to find out later that she had been told a lie.

Many women have abortions because of pressure from boyfriends, sexual predators, or family members. A mandatory 24-hour waiting period would give her a chance to get out from under that pressure and, armed with information about alternatives, truly make her own choice.

This is a women's health issue. If we really want to protect women, please give H482 a favorable rating.

Sincerely,



Kris Mineau
President



Massachusetts Family Institute

Dedicated to Strengthening the Family

TESTIMONY IN OPPOSITION TO H502/S764

Joint Committee on Judiciary

June 8, 2011

Massachusetts Family Institute is a public policy institute dedicated to strengthening families in the Commonwealth. Because tens of thousands of sociological studies identify the nuclear family as the single best environment for the procreation and nurturing of children, human sexuality is a most significant issue to us. I thank you for the opportunity to testify before you today in opposition to House Bill 502, an Act Relative to Transgender Equal Rights, and Senate Bill 764, same subject matter.

This radical legislation would remove gender restrictions from public access restrooms, locker rooms and fitness facilities—compromising the safety, privacy and modesty of all citizens. H502/S764 would legally require public schools at all levels to allow boys and girls to choose for themselves which rest room or locker room they wish to use, based on an ill-defined concept of gender expression, with no medical or legal basis. In Maine, a public grammar school was found to be in violation of that state's Transgender Rights Law because they did not allow a fifth-grade boy to use the girl's bath room. The Maine public school system is grappling with how this ruling is to be implemented, and the Legislature is now considering a law defining the use of bathrooms to resolve this dilemma.

Incidents of bathroom stalking by men at Boston University, Dorchester, Braintree and on Cape Cod make the notion of legalizing entry by men into women's bathrooms not a hypothetical matter but one of legitimate concern—Massachusetts has over 10,000 registered sex offenders. While laws exist to prosecute those who commit crimes that take place in bathrooms, H502/S764 puts women and children at substantial additional risk of assault because men as a group could not be questioned beforehand or curtailed from entering women's rest facilities.

Proprietors of public accommodations are already prohibited from discriminating against persons of any sex, or sexual orientation, in the full enjoyment of accommodations offered to the general public. The current law has exceptions for single-sex rest rooms, bathhouses, seashore facilities, fitness facilities, corporations established for the benefit of a single sex, and single-sex rooming houses. H502/S764 would override all those exceptions. Nothing would prevent a sexual predator from pretending that he is confused about his sex to gain access to vulnerable women and children in public restrooms, which should be safe spaces for their accommodation and health.

This bill would add the vague terminology of “gender identity or expression” to the state ban on sex discrimination. The bill says, “*The term ‘gender identity or expression’ shall mean a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual’s assigned sex at birth.*” There is no generally accepted definition for “gender” or “expression,” which would cause chaos in the inevitable swirl of litigation, as activists press for access to the most private spaces of the opposite sex.

The word “gender” (as opposed to “sex”) is dangerously vague. It refers to socially constructed roles unrelated to biology. The term denies immutable biological differences between the sexes and places women and children at risk from biological males.

Transgenderism is classified as a disorder by the American Psychiatric Association in its *Diagnostic and Statistical Manual of Mental Disorders*. Under this bill, if a father and his young daughter went to a public accommodation and the young girl needed to use the ladies room, her own father could not go in with her, but a man claiming a gender identity disorder could.

Massachusetts General Laws should ensure the safety, privacy and protection of all citizens. H502/S764 presumes to protect five one hundredth of a percent of the population who feel more comfortable using a rest room of the opposite biological sex, while compromising the safety, privacy and modesty of 99.95% of the rest of the citizens of our great Commonwealth.

For these reasons of public safety and well-being, we recommend the Joint Committee issue an unfavorable report on House Bill 502 and Senate Bill 764.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kris Mineau".

Kris Mineau
President



NARAL Pro-Choice Massachusetts

Testimony Before the Joint Committee on the Judiciary
June 8, 2011

Andrea Miller, Executive Director, NARAL Pro-Choice Massachusetts

Chairwoman Creem, Chairman O' Flaherty, and members of the Joint Committee on the Judiciary, thank you for giving me the opportunity to submit this written testimony. My name is Andrea Miller and I am the Executive Director of NARAL Pro-Choice Massachusetts, a statewide grassroots organization with more than 20,000 members dedicated to promoting full and equal access to reproductive choices, including preventing unintended pregnancies; choosing safe, legal abortion; and bearing healthy children.

Please Give an Unfavorable Report to An Act Relative to a Woman's Right to Know
(H. 482)

NARAL Pro-Choice Massachusetts strongly supports informed consent as a core value and a patient right. We agree that every woman should receive full and complete information before she consents to any medical procedure. Massachusetts already requires "informed consent," which ensures that patients be given comprehensive and unbiased counseling, including the options available to them and the risks and benefits of the procedure. There is, additionally, an informed consent law specific to abortion, which requires that a woman be informed about the type of procedure to be used, possible complications, and abortion alternatives.

This bill is intrusive and insensitive because it would mandate that every woman be given state-scripted information – even if it might be inappropriate to her health or life. For instance, a woman who discovers a severe anomaly during her wanted pregnancy would still have to be offered color photographs, a "description of the probable anatomical and physiological characteristics of the unborn child at two week gestational increments from fertilization to full term," and an opportunity to view an ultrasound and hear the heartbeat. Similarly, a rape or incest survivor – or a woman in an abusive relationship – would have to be told about "support obligations of the father," even though that could trigger additional emotional trauma for her and potentially place her at risk for further abuse.

Physicians or their agents would be forced to provide women with this excessive, state-scripted "counseling" at least 24 hours prior to an abortion. In practice, this could significantly delay a woman's medical care. Our research indicates that most women seeking abortions in the Commonwealth must already wait a week or more in order to schedule an abortion due to the limited number of providers. And their concentration in the Metro Boston area and a small number of other, more urban parts of the state, means that many women already have to travel significant distances to obtain this care.

Finally, while money should not dictate good medical care, in a time of fiscal crisis, it would be irresponsible for the legislature to mandate an additional expenditure – through the Department of Public Health – to create and print pamphlets and establish and maintain a website or toll-free number with an audio recording as dictated by H. 482.

The decision whether to continue a pregnancy or to choose an abortion is a highly personal one that women take seriously. While a woman has a right to be informed before she consents to any medical procedure, this bill is unnecessary and intrusive and would undermine the ability of women to make truly informed choices and obtain timely medical care. H. 482 would make the provision of abortion care much more burdensome while doing nothing to improve the quality and availability of health care services for women. It would impose excessive obligations upon doctors, interfere with the doctor-patient relationship, and place yet another obstacle before women seeking abortions in Massachusetts.

NARAL Pro-Choice Massachusetts urges the Judiciary Committee to give H. 482 an unfavorable report.

Please Give an Unfavorable Report to H. 484

Purporting to outlaw abortions performed for the purpose of "sex selection," H. 484 seeks to exploit legitimate concerns about how women and girls are viewed in society to justify a wide-sweeping law that would ban abortions without any exceptions. NARAL Pro-Choice Massachusetts recognizes that some women may face pressure from family members or their community to have a child of a particular sex. Rather than help to address the deeply rooted problem of gender bias, however, H. 484 would put politicians in a position of second-guessing a pregnant woman's medical decisions and give prosecutors the power to threaten doctors with criminal charges for providing safe, legal medical care.

Please Give an Unfavorable Report to H. 2239

In 2007, the Massachusetts General Court overwhelmingly passed – and Governor Deval Patrick signed – Section 120E ½, which creates a 35-foot buffer zone around the entrances and driveways of reproductive health facilities. Prior to passing the law, the legislature engaged in extensive fact-finding, which demonstrated the need for a new measure that would protect women seeking reproductive health services and the medical staff who provide those services while preserving the free speech rights of those who oppose the right to choose. Since then, the U.S. District Court for the District of Massachusetts and the U.S. Court of Appeals for the First Circuit have found the measure constitutional on its face, and the U.S. Supreme Court refused to hear an appeal of that holding. H. 2239 would repeal this important public safety law, which would return us to the days when women and health care providers would routinely face harassment, intimidation, and threats of violence simply for seeking – or providing – a constitutionally protected medical procedure.

Thank you for your careful consideration of these matters.



BOSTON AREA RAPE CRISIS CENTER

June 6, 2011

Representative Eugene O'Flaherty, Chair
Senator Cynthia Creem, Chair
Chairs, Joint Committee on the Judiciary
State House, Room 136
Boston, MA 02133

99 BISHOP ALLEN DRIVE
CAMBRIDGE, MA 02139
PH: (617) 492-8306
FAX: (617) 492-3291
TTY: (617) 492-6434
HOTLINE: (800) 841-8371

Dear Chairman O'Flaherty and Chairwoman Creem,

I am the Executive Director of the Boston Area Rape Crisis Center (BARCC). BARCC is the second oldest rape crisis center in the nation, and the oldest and largest in Massachusetts. With a service area of twenty-seven cities and towns and over three million people, we provide approximately fifty percent of all sexual violence survivor services in the state. BARCC is the only provider of comprehensive rape crisis services in greater Boston. On behalf of BARCC, I am writing in opposition of H 482 (Woman's Right to Know Act).

The national rape-related pregnancy rate is 5.0% per rape among victims of reproductive age (aged 12 to 45); among adult women an estimated 32,101 pregnancies result from rape each year.¹ The aftermath of sexual violence is a torrent of legal issues, emotions and decisions that impact the physical and emotional health of the victim and the people who love them for many years to come. All of these decisions are personal and require an infusion of information and options, not mandates.

The components of H 482 directly undermine a survivor's ability to make a decision and immediately follow through on that decision, which ultimately may result in her not receiving the urgent medical care that she deserves and needs. It is our firm belief that H 482, in particular the sections that mandate a time delay and that would inform a rape survivor that the "father" of her unborn child is liable for child support, will have a profound negative impact on a survivor; such a mandate is insensitive, highly inappropriate and will serve to further traumatize survivors. In addition, the protocol as enumerated in the bill will most likely send the message that the survivor is being judged for not only being a rape victim but also for wanting to end her pregnancy and will have a damaging impact on her ability to feel safe with her treating physician.

To protect the health and well-being of sexual assault survivors in the Commonwealth, we urge the committee to reject H 482.


Sincerely,


Gina Scaramella, LICSW

¹ Holmes MM, Resnick HS, Kilpatrick DG, Best CL. Rape-related pregnancy: estimates and descriptive characteristics from a national sample of women. American Journal of Obstetrics and Gynecology 1996;175:320-4.

dedicated to healing.
advocating for change.

{www.barcc.org}



CASA MYRNA

June 8, 2011

Representative Eugene O'Flaherty, Chair
Senator Cynthia Creem, Chair
Chairs, Joint Committee on the Judiciary
General Court of the Commonwealth of Massachusetts
State House, Room 136
Boston, MA 02133

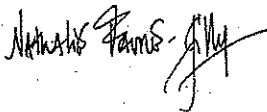
Dear Chairman O'Flaherty and Chairwoman Creem,

Casa Myrna is Greater Boston's foremost provider of residential programs to women and children made homeless by domestic violence and of supportive services to help survivors of domestic violence attain safety and sustainable self-sufficiency. Casa Myrna is dedicated to ensuring that women in abusive relationships are protected, treated with dignity and respect within the medical community, and receive timely access to health care and social services. We are writing in opposition of H 482 (Woman's Right to Know Act). This bill is an unnecessary, medically unjustified intrusion into the doctor-patient relationship that will take its greatest toll on pregnant women facing difficult circumstances,

The impact of delaying medical care and telling a woman she has to come back at another time may create an additional layer of risk for a women in an abusive relationships who may find it difficult to get out of the house and/or to justify their absence.

To protect the health and well-being of women in abusive relationships in the Commonwealth, we urge the committee to reject H 482.

Sincerely,



Nathalie Favre-Gilly
Co-Executive Director



Deborah Collins-Gousby
Co-Executive Director

To: Members of the Joint Committee on the Judiciary
From: Lois Pulliam, Public Policy Committee, AAUW State Division
Date: June 8, 2011
Re: H. 482, An Act Relative to a Woman's Right to Know -- Oppose

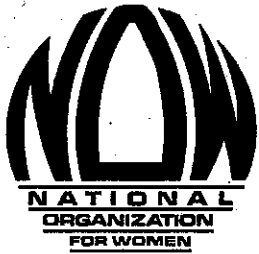
American Association of University Women (AAUW of Massachusetts) wishes to state its strong and continuing opposition to House Bill 482, An Act Relative to a Woman's Right to Know. Any bill which truly supported a woman's right to know about health issues, about prenatal care, about contraception, birth, or safe, legal abortion would be a welcome addition to the education of all Massachusetts women and girls. Full and accurate health information is always a plus. The cynical title of this bill, therefore, is particularly offensive.

The so-called "Woman's Right to Know" is a thinly disguised effort to keep women and girls from getting full information by substituting instead a collection of half-truths and downright disingenuous statements and requirements. The clear attempt to make abortion difficult if not impossible renders this bill to be more accurately named "A Woman's Right NOT to Know."

Understandably, the Massachusetts Medical Society also opposes this bill because it would allow the state to interfere with the doctor-patient relationship and to dictate medical practice. This is an inappropriate activity for legislators and it is inappropriate legislation.

AAUW urges the Judiciary Committee to disapprove this intrusive and clearly dis-informational bill. AAUW has more respect for the women and girls of the Commonwealth than to assume they need these "protective measures" that are designed to block their thoughtful choices.

AAUW, founded in 1881 to support higher education for women, has a nearly 130-year record on issues affecting equity. Its mission is to promote equity for all women and girls, life-long learning, and positive social change.



National Organization for Women – Massachusetts

727 Atlantic Avenue • 3rd Floor • Boston, MA 02111 • Phone: 617-254-9130
E-Mail: beth@massnow.org • www.massnow.org

June 6, 2011

Chairwoman Cynthia Stone Creem
Room 405
State House
Boston, MA 02133

Chairman Eugene L. O'Flaherty
Room 136
State House
Boston, MA 02133

Dear Chairwoman Creem, Chairman O'Flaherty, and members of the Judiciary Committee:

For forty years, the Massachusetts Chapter of the National Organization for Women ("Mass. NOW") has worked to achieve comprehensive access to medical care, including reproductive health care. We write today with regards to two bills that are designed to interfere with private medical decisions best left to a pregnant woman in consultation with her doctor and family. Mass. NOW strongly opposes *An Act Relative to a Woman's Right to Know* (HB 482) and *An Act Relative to Sex Selection in Pregnancy* (HB 484).

HB 482 – An Act Relative to a Woman's Right to Know

Mass. NOW staunchly opposes this legislation. This bill would place an undue burden upon women seeking an abortion by mandating that women must be given additional state-created information on abortion before their procedure, and that women must also wait 24 hours after being given this information before they can undergo an abortion.

First and foremost, this legislation is unnecessary. Women already receive comprehensive information on all medical procedures—including abortion—under Massachusetts informed consent laws. There is no reason to have legislation reiterating that patients must be fully informed prior to consenting to a medical procedure. Further, a mandatory waiting period interferes with the fully informed decision that has been made and a woman's constitutional right to an abortion.

In addition to being redundant and unnecessary, this bill will *mandate* that women receive additional information when choosing to undergo an abortion, such as color photographs and descriptions of a fetus at the gestational age that the woman is at in her pregnancy. This is inappropriate and unhelpful at best; cruel and traumatic at worse. Imagine making the difficult decision to abort a wanted pregnancy due to severe health concerns or the detection of a genetic defect. Or imagine having to seek out an abortion at a clinic after having been impregnated as a result of rape. Then imagine being required to look at these images. The mandate does not have any medical relevance and will only serve to delay the decision to have a constitutionally protected medical procedure.

This legislation does not "protect" women, contrary to what supporters of the bill may say. In fact, this legislation is deeply insulting to women, as it implies that women are incapable of making their own decisions about their medical care. Women, aided by their doctors and families, are perfectly capable of making their own informed medical decisions, and do not need additional mandated governance or "protection" in matters of reproductive health.

HB 484 – An Act Relative to Sex Selection in Pregnancy

HB 484 exploits concerns about gender discrimination in an effort to interfere with a woman's right to choose to have an abortion. While Mass. NOW is deeply concerned about gender discrimination in our society, this legislation is a political smokescreen. It does not address the bias or stereotypes that may lead people to prefer a child of one sex over another. Banning abortion will not solve the problem of gender bias—in fact, it will infringe upon basic reproductive rights. There are many bills in the current legislative session that address gender bias in a more targeted and meaningful way, such as *An Act Relative to Prohibiting Discrimination in Insurance Policies* (HB 1172/SB 414), *An Act Relative to Safe Pregnancies and Related Health Care for Female Inmates* (HB 2234), and *An Act Relative to Further Defining Comparable Work* (HB 1415/SB 931). We should focus our efforts on passing bills such as these if we truly want to combat gender discrimination.

Not only does this legislation miss the mark in combating sexism, but it is also impossible to administer. It would ask physicians to partake in an impossible guessing game regarding a woman's motive behind her decision to terminate her pregnancy. Any woman who seeks an abortion after the gender of the fetus has been determined would be scrutinized. The choice of whether or not to carry a pregnancy to term is complicated—determining one true reason behind that decision is an impossible task and one that can only lead to interference in a woman's right to choose.

As Justice Sandra Day O'Connor has stated: **“The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives”** (Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 856). Reproductive rights are intertwined with the ability of women to fully participate in society. We therefore urge this committee to oppose *An Act Relative to a Woman's Right to Know* and *An Act Relative to Sex Selection in Pregnancy*.

Sincerely,

Bethany P. Withers
Policy and Programs Manager

294 Chestnut Ave.
Jamaica Plain, MA 02130

June 5, 2011

Representative Eugene O'Flaherty, Chair
Senator Cynthia Creem, Chair
Chairs, Joint Committee on the Judiciary
General Court of the Commonwealth of Massachusetts
State House, Room 136
Boston, MA 02133

Dear Chairman O'Flaherty and Chairwoman Creem,

I am writing to express my strong opposition to An Act Relative to a Woman's Right to Know (H 482). I am a public health professional, with training and a long history of professional responsibility in maternal and child health, so my opposition to this bill could be on professional grounds. Certainly, public health research indicates that child health, family health, community health and overall public health improve when women have options to control their fertility and that barriers to women's control of reproduction fall most heavily on women who have the fewest options to accommodate an unintended pregnancy.

But the strength of my opposition reflects my personal experience, and it is about that experience that I write to you today.

I am the mother of two sons, and happily now the grandmother of three lovely children – they have all been sources of great joy to me. But I had another pregnancy along the way that ended less happily. I had been married very young and divorced early. I remarried in 1979 and was quite happy to find out I was pregnant in 1981. I had a nine year old from my first marriage, and he was thrilled about the baby as well.

Ultrasound was not then as standard as it is now, but we had decided to have amniocentesis, and went for a preliminary ultrasound at around my 15th week. No one suggested that anything was wrong, but we were told that we should come back in two weeks – something was said about the baby being too small for accurate placement of the amniocentesis needle.

When we came back two weeks later, the reason for the delay became clear: the radiologist and our doctor had suspected that the fetus was anencephalic – that it had a neural tube defect that results in incomplete formation of the brain – and they wanted to do a high-resolution ultrasound to confirm the diagnosis. The two weeks was needed so they could get access to the right machine. We walked blithely into the radiology department thinking nothing was wrong, and walked out perhaps a half hour later

knowing that the baby we'd hoped for could not live -- anencephaly is incontrovertibly incompatible with survival.

Although this was many years ago, I remember the next few days with startling clarity. The definitive ultrasound was done on a Friday. That meant I had to wait over the weekend before an abortion could be scheduled. Those three days, from Friday to Monday, were nightmarish. I was, after all, still pregnant -- on the outside nothing had changed. Inside, of course, everything had changed. This disconnect, this sense that I had to go on being pregnant when I knew there was no hope of a viable child, was just devastating. It was as if my life had been suspended. Monday, when it came, was an incredible relief. Of course, the pain of our loss did not evaporate immediately -- my husband and son and I were all angry and sad and hurt for some time after. But there was some sense of closure. I cannot imagine how I would have felt if someone had imposed a delay on me based on their view of what was best for me. I did not need instruction. I needed a chance to move on with the rest of my life.

I remember reading shortly after this experience about a report which argued that abortion was psychologically traumatic for women. I was astounded -- my abortion was the beginning of healing from one of the saddest experiences of our life as a family.

I hope that you will consider situations like mine when you weigh passage of this law. I hope that your respect for women and for the struggles we face, the day-to-day hardships as well as the one-time tragedies like mine, will persuade you that H482 should not be passed.

Thank you.

Sincerely,

Deborah Allen

Deborah Allen, ScD

Susanna Walsh, MD

June 8, 2011

Representative Eugene O'Flaherty, Chair
Senator Cynthia Creem, Chair
Chairs, Joint Committee on the Judiciary
General Court of the Commonwealth of Massachusetts
State House, Room 136
Boston, MA 02133

Dear Chairman O'Flaherty and Chairwoman Creem,

As an obstetrician-gynecologist working in the Commonwealth, I am writing to oppose H 482 (misnamed the "Women's Right to Know" Bill) pending before the Massachusetts legislature, which would force a woman seeking an abortion to delay her medical care and subject her to intrusive and unnecessary state-scripted "counseling," regardless of her circumstances. It is designed to undermine a woman's right to make decisions about her pregnancy and make it more difficult for women to obtain safe, timely medical care.

I am currently an Assistant Professor of Obstetrics and Gynecology at Boston University Medical Center, and am a Fellow of the American College of Obstetrics and Gynecology. I was trained at Maine Medical Center and taught there as adjunct Clinical Assistant Professor at University of Vermont.

In my practice, I have cared for women who found themselves in dire circumstances. In one case, the pregnancy was planned. At the time of her initial ultrasound at 17 weeks, the fetus was found to be hydropic with multiple anomalies that would ultimately prove lethal. She and her husband were devastated and after counseling, she underwent a termination procedure at that time. She stated that the despair and anxiety surrounding these events would have been compounded had she been forced to wait. She easily conceived again several months later and delivered a normal infant. In another case, a young woman had an 11 month old child who suffered from congenital heart disease. She had been using reliable birth control which failed. Upon learning she was pregnant, her partner left her. She was distraught, overwhelmed at the prospect of another child when she had an infant with significant problems and now found herself alone. A safe, timely termination was essential for her physical and psychological well-being. In another instance, a young woman was diagnosed with fetal

death at 15 weeks by her provider. She was denied care in the mid-coast region of Maine, found her way to a second hospital, again denied and ultimately was seen and cared for by me at Maine Medical Center. She was desperate, distraught and afraid. Days had elapsed from the time of her diagnosis to when appropriate treatment was offered putting her physical and emotional well-being at risk. If these bills are enacted, this abysmal failure of competent and proper medical will be common place.

Every woman should receive full and complete information before she consents to any medical procedure. Massachusetts law already requires "informed consent," which ensures that patients be given comprehensive and unbiased counseling, including the options available to them and the risks and benefits of the procedure. There is an additional informed consent law specific to abortion, which requires that a woman be informed about the type of procedure to be used, possible complications, and abortion alternatives. H 482 would force a physician to use text dictated the legislature, by persons with little or no medical training and with no relationship to the individual woman involved. There is no other circumstance in which a physician is told what he or she must say to a patient.

H 482 is intrusive and insensitive, and seeks to undermine the doctor-patient relationship. It does not take an individual woman's health or circumstances into consideration. For instance, a woman who discovers a severe anomaly during her wanted pregnancy would be offered color photographs, repeated descriptions "of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from fertilization to full term," an opportunity to view an ultrasound and hear the heartbeat. Similarly, a rape or incest survivor would have to be told about "support obligations of the father."

H 482 would significantly delay access to care. Physicians or their agents would be forced to provide women with excessive, state-scripted "counseling" at least 24 hours prior to an abortion. In practice, this could cause a significant delay in a woman's ability to obtain appropriate medical care. In Massachusetts, there are few abortion providers and these are largely located in urban areas. For women living in rural communities, in particular, and further burdened by lack of financial resources, this requirement is unduly burdensome. Indeed, there are no known women's health facilities that provide abortion care in the majority of counties in the Commonwealth - Berkshire, Franklin, Hampshire, Middlesex, Plymouth, and Barnstable, Dukes, and Nantucket.

Research shows that placing barriers to obtaining a safe, timely abortion does not decrease the numbers performed. Women who present for pregnancy termination have already made this difficult decision. These requirements simply delay the procedure until later in the pregnancy when the risks increase. Even in this circumstance, a

pregnancy termination poses less risk to a woman than carrying a pregnancy. The risk of death from a first trimester termination is 1/1,000,000 in this country compared to 13/100,000 if the pregnancy continues.

You are charged with deciding to protect your constituents by making safe, timely medical care available.. You are charged with protecting and facilitating sound public health practices in this state and with protecting the well-being of its residents. The data with regard to increased risks, costs and tragic outcomes when abortion is not treated as the medical/surgical issue it is between physician and patient, and precedents set in other states where this mistake has been made is clearly evident. It is irresponsible, unethical, and blatantly unconscionable for the government to interfere with and to dictate an individual's right to medical care. I urge you to defeat this damaging and dangerous legislation.

Sincerely,

A handwritten signature in cursive script that reads "Susanna Walsh MD". The signature is written in black ink and is positioned below the word "Sincerely,".

Susanna Walsh, MD

Eve Rittenberg, MD
Southern Jamaica Plain Health Center
640 Centre Street
Jamaica Plain, MA 02130

June 1, 2011

Representative Eugene O'Flaherty, Chair
Senator Cynthia Creem, Chair
Chairs, Joint Committee on the Judiciary
General Court of the Commonwealth of Massachusetts
State House, Room 136
Boston, MA 02133

Dear Chairman O'Flaherty and Chairwoman Creem,

I am writing in opposition to An Act Relative to a Woman's Right to Know (H 482). I am a primary care physician, working in a community health center in Boston that serves a vibrant and diverse community. In my work, I have seen many women facing unplanned pregnancies, as well as some whose much desired pregnancies were complicated by severe fetal anomalies.

When I think of the impact that this proposed legislation would have on the community I serve, the story of one of my patients haunts me. She had struggled with infertility for years and finally after exhausting all attempts at conceiving, was overjoyed by the completely unexpected and virtually unthinkable news that she had gotten pregnant. I saw her at two weeks gestation when she developed a severe febrile illness that ultimately was found to be cytomegalovirus (CMV). CMV is a viral infection that has devastating effects on a fetus if infected during the first trimester. Fetal infection could only be determined by amniocentesis; unfortunately at 22 weeks gestation the results returned showing that her fetus was in fact infected. My patient and her husband, who had agonized over this horrific possibility for months, decided to terminate the pregnancy.

At that point every day mattered. This bill would have required my patient to delay by another day an already late termination. It would have forced her to look at pictures of a normally developed fetus at 22 weeks gestation, knowing that she would never have this for herself. It would have added to the horrors of an already unbearable situation.

In Massachusetts, informed consent is already required before an abortion is performed. It is unnecessary and intrusive to add politically-motivated language and information to the informed consent used by physicians for their patients. I am adding my voice to others in the medical community, asking that you vote against this unnecessary, intrusive, and harmful bill.

Sincerely,


Eve Rittenberg, MD

Kari P. Braaten, MD MPH
Boston, Massachusetts

June 3, 2011

Representative Eugene O'Flaherty, Chair
Senator Cynthia Creem, Chair
Chairs, Joint Committee on the Judiciary
General Court of the Commonwealth of Massachusetts
State House, Room 136
Boston, MA 02133

Dear Chairman O'Flaherty and Chairwoman Creem,

As a Massachusetts Obstetrician/Gynecologist who cares for women through all aspects of their reproductive life, I am writing to express my opposition to H 482, the so-called "Women's Right to Know Act."

I oppose this act for several reasons. First, this proposed legislation creates a significant obstacle to women seeking abortion care by mandating scripted counseling 24 hours prior to an abortion. Many women travel from remote corners of the state or neighboring states to obtain an abortion, and any further delay in their care, creates a significant and unnecessary burden to these women. Mandating information or "counseling" 24 hours in advance is no less of a barrier to care than a 24-hour consent law—in either case, there is a mandated 24-hour period after the woman seeks care before she may have her abortion.

Secondly, I am strongly opposed and worried about the mandated inclusion of descriptions of fetal development that is proposed in this legislation. I have personally taken care of many women for whom hearing this information is not only inappropriate, but could be deeply disturbing and psychologically harmful. Many women terminate pregnancies, specifically pregnancies at later gestations, which were very much desired. These women may have discovered that their fetus has a serious fetal anomaly, they may have premature rupture of membranes prior to fetal viability, they may themselves have developed a serious medical problem which is worsened by pregnancy, or they may find themselves in a domestic violence situation where they fear not only for their own life and safety but also that of any future child. For these women to have to endure a detailed description of fetal development is not only unnecessary, it is downright cruel. For a woman who is terminating her pregnancy for a serious anomaly or to preserve her own health or well-being, being forced to see images of fetal development has the potential for permanent long-term psychological distress.

We must avoid "cookie-cutter" consent – we must not assume that the exact same language and counseling is appropriate for all patients. The physician, not the lawmaker, is the person who sees, knows and understands his or her patients, and who has the training and the knowledge to give the appropriate information. Despite the fact that all

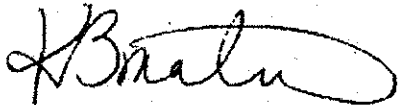
Kari P. Braaten, MD MPH

Boston, Massachusetts

medical procedures have risks and benefits and require thoughtful decision-making on the part of the patient, we do not mandate that patients receive mandated, detailed, and sometimes inappropriate information 24 hours in advance about their amputations, their coronary bypass surgeries or excisions of brain tumors-- procedures which all clearly entail much greater risk to patients. In those cases we trust the physician to provide clear, detailed and unbiased counseling that a non-medical person can understand, and we must have the same trust in physicians who provide abortions. These physicians, the same as all physicians, truly want what is best for their patients. While there is no doubt that abortion is a decision that requires thoughtful decision-making and clear understanding of the risks and benefits, this is true of thousands of other medical procedures and surgeries, in which we do not interfere with the physician's autonomy, or the privacy of the patient-physician relationship.

I strongly urge you to vote against this legislation.

Sincerely,



Kari P. Braaten, MD MPH

Laurent Delli-Bovi, M.D.

111 Harvard Street
Brookline, Massachusetts 02446

6/1/2011

Telephone 617-277-1774

Representative Eugene O'Flaherty, Chair
Senator Cynthia Creem, Chair
Chairs, Joint Committee on the Judiciary
General Court of the Commonwealth of Massachusetts
State House, Room 136
Boston, MA 02133

Dear Chairman O'Flaherty and Chairwoman Creem,

I am writing to register my strong opposition to H 482 (An Act Relative to a Woman's Right to Know), legislation that would further limit a woman's right to make her own best reproductive health choices.

I am a resident of the Commonwealth and have been an obstetrician-gynecologist for over 30 years. I practiced obstetrics for 22 years and continue to have a private practice in gynecology in Brookline, MA. During that time, I have been a medical director of five family planning facilities, including a hospital division of family planning here in the Commonwealth. My commitment to women's health has always included respect for each woman's right to make her own best autonomous health choices, including the decision of whether or not to give birth.

There are certain things that I know after thirty years of providing abortion care. One is that no woman plans to have or wants to have an abortion. The second is that there is an infinite range of complex human situations that might cause a woman to decide that ending her pregnancy is in her best health interests. Most often, this has to do with lack of appropriate resources...be it financial, social, emotional, or physical. Contraception isn't perfect, nor is the use of it perfect. Pregnancies aren't always healthy, nor are all women who get pregnant healthy. Some women seeking an abortion are dealing with serious physical or mental health issues or are caring for a sick or disabled parent, spouse, or child. Some are choosing to end a pregnancy in which a serious or fatal fetal abnormality has been diagnosed.

Women seriously consider all options and alternatives before ever seeking abortion care. Moreover, the counseling and consent process for obtaining an abortion that is already mandated by law in the Commonwealth, is one of the most rigorous, balanced and well documented procedures in all of medicine. This process, based on established medical guidelines, is a cornerstone of good medical care. Alternative options are thoroughly discussed, as are all possible complications and the likelihood of their occurrence.

Abortion is also one of the safest elective interventions in medicine or surgery, with an associated mortality rate of 0.6 per 100,000 women.

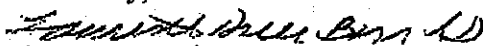
H 482 flies in the face of the cornerstones of informed consent. For the legislature to mandate waiting periods before a woman can have an abortion; script medical dialogues, including multiple discussions with diagrams of embryologic development; force medically unwarranted emphasis on fetal ultrasounds and abortion alternatives; and require that general claims be made about paternal obligations and available assistance that may be insensitive, inappropriate or irrelevant to a particular woman's circumstances, fail to respect the patient's autonomous right to bodily integrity. Informed consent should be non-directed and non-judgmental, and all efforts should be made to avoid introducing personal bias. H 484 does quite the opposite, presuming that women choosing abortion are making the "wrong choice" and if they were only told repeatedly about the "wrongness" of their decision, they would come to their senses.

Each year I provide care to over one hundred devastated couples who have been told that their fetus is affected with a serious or fatal abnormality. Other couples in counseling are making a joint best health decision regarding an unplanned and undesired pregnancy. Routinely I see patients who are pregnant as a result of domestic abuse or rape. It is cruel and completely inappropriate to have a "one size fits all" dialogue about mandated paternal support, assistance, or adoption.

As a physician, I am especially dismayed that proposals such as H 482 and the people who support them cloak their fundamental disrespect for women's health, rights and medical autonomy under the pernicious guise of a "woman's right to know". These measures are duplicative, an inappropriate intrusion into the practice of medicine, and would provide unnecessary hurdles to accessing care.

For all of the above reasons, I strongly urge you to reject these measures.

Sincerely,



Laurent C. Delli-Bovi, MD

Medical Director

Women's Health Services

111 Harvard St.

Brookline, MA 02446

TO: Joint Committee on the Judiciary
FROM: Elizabeth R. Hungerford, Esq.
DATE: June 8, 2011.

As an attorney and a woman, not to mention as a married and gender non-conforming lesbian, I OPPOSE House Bill 502/Senate 764. As written, "gender identity expression" is vague and overbroad. Unlike the sex-stereotyping described by SCOTUS's Price v. Waterhouse decision, "gender identity" is wholly SUBJECTIVE. There are no defining characteristics of ~~the~~^a claim for gender identity discrimination, simply an internal feeling!

Contrary to testimony provided today, the recent 1st circuit decision cited on the other side of this paper → involves ~~the~~ "gender identity" discrimination against a *CONVICTED CHILD RAPIST! As written, An Act Relative to Transgender Rights does nothing to acknowledge or to prevent sex offenders from demanding access to ^{sex-segregated} public accommodations! Nothing to prevent it at all. This risk is real. It is happening right here, right now! In Massachusetts.

SEX ≠ GENDER

The bill should be re-worded to ~~prohibit~~^{PROHIBIT} sex-stereotyping and to prohibit convicted sex offenders from claiming protection under "gender identity" in order to gain access to sex-segregated facilities.

Sex-stereotyping is a more objective criteria to legally evaluate. Gender identity is wholly subjective. →

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Joint Committee on Judiciary Rm: 136

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Battista v. Clarke, Court of Appeals, 1st Circuit 2011

SANDY J. BATTISTA, Plaintiff, Appellee,

v.

HAROLD W. CLARKE, Commissioner of the Massachusetts Department of Correction, and MICHAEL CORSINI, Superintendent of Massachusetts Treatment Center, Defendants, Appellants.

KATHLEEN M. DENNEHY; ROBERT MURPHY; STEVE FAIRLY; SUSAN J. MARTIN; GREGORY J. HUGHES; UMASS CORRECTIONAL HEALTH PROGRAM; TERRE MARSHALL, Defendants.

No. 10-1965.

United States Court of Appeals, First Circuit.

May 20, 2011.

Richard C. McFarland, Legal Division, Department of Correction, with whom Nancy Ankers White, Special Assistant Attorney General, was on brief for appellants.

Neal E. Minahan, with whom Christopher D. Man and McDermott Will & Emery LLP were on brief for appellee.

Before Boudin, Circuit Judge, Souter,^[1] Associate Justice, and Stahl, Circuit Judge.

BOUDIN, Circuit Judge.

In 1983, in state court in Massachusetts, Sandy Battista (born "David Megarry") was convicted of the rape of a child, robbery, and kidnapping. After serving that sentence, Battista was involuntarily committed in 2003 in a civil proceeding, Mass. Gen. Laws ch. 123A, 14 (2008), to the Massachusetts Treatment Center for Sexually Dangerous Persons ("Treatment Center"). Such persons are held civilly without limit in time until adjudged safe for release. *Id.* 9, 14.

The Treatment Center, for which the Massachusetts Department of Correction ("the Department") is responsible, Mass. Gen. Laws ch. 123A, 2, is an all-male facility housing three groups: criminals participating in treatment programs, civilly committed residents, and those awaiting adjudication as "sexually dangerous persons." Massachusetts law requires that civil detainees like Battista be separated from criminal ones. *Durfee v. Maloney*, Nos. CIV. A. 98-2523B, CIV. A. 98-3082B, 2001 WL 810385, at *15 (Mass. Super. Ct. July 16, 2001).

Battista is anatomically male but suffers from "gender identity disorder" ("GID"), a psychological condition involving a strong identification with the other gender. GID is a disorder recognized in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994). The diagnostic criteria include not only "cross-gender identification" but also "clinically significant distress or impairment in social, occupational, or other important areas of functioning." *Id.* at 537-38.

In 1996, Battista changed her name to Sandy and began to seek treatment from the Department, including administration of female hormones and access to female garb. Her early demands were met with skepticism and resistance.^[1] In 1997, a Department consultant diagnosed her GID, but the Department offered no further evaluation or treatment until 2004. Prior to this case, Battista filed two suits seeking GID treatment and accumulated expert opinions confirming the seriousness of her condition and recommending accommodations including hormone therapy.

REAL West Newbury NEWS

SPRING 2011 An effort to educate, spread the truth, and let people know what's going on in THEIR town (donations accepted)

West Newbury suffers from a dearth of news coverage having no independent paper dedicated to local issues. We rely instead on what little coverage larger papers devote to this little hidden jewel surrounded by the larger cities and towns competing for coverage. This paper is an attempt to tell people things they should know.

KRISTI DEVINE The ONLY choice for Selectmen MAY 2nd

My name is Kristi Devine, and I'm publishing this paper in an attempt to enlighten people of the culture of corruption and incompetence that has ruled this town for far too long. I am hoping to be part of the solution to end that culture by being elected Selectman and bringing about much needed change, but circumstances dictate that I have not been able to campaign during this period, the details of which are more fully explained throughout this paper.

Though this newspaper was prepared and written with the intent to be used as part of my campaign before untimely events intervened, I still want to disseminate facts without the underhandness and dirty politics that commenced this race.

ENOUGH of dirty politics, power
⇓ ⇓ ⇓

L'ESPERANCE A case study of CORRUPTION

created, nurtured, and allowed to prosper right under your nose, in your own backyard, while elected officials do nothing to stop it

Salisbury Police complained of L'Esperance's corruption and reign of terror for 4 years with nobody listening to them. Before that, Kristi Devine went to the Selectmen, DOJ, DA, AG, FBI, State Rep, and more while no one listened. It took out of state police to blow the whistle on him, yet he is still free to commit crimes when he is a known threat to the public. He has yet to even be charged for any crime, and he practices LAW.

If anything can attest to the critical and vital importance of Selectmen in overseeing the integrity of their police department, and holding people accountable, it is the conduct of David L'Esperance. A police officer in West Newbury for 20 years, L'Esperance was recently exposed as the monster he truly is/was. Kristi Devine, and many others, complained to Selectmen, THINK KNOWLES, then KEMPER, for the last 11 years, (since 2000 when the Devines moved to town), and

literally begged for an investigation into goings on at the West Newbury Police Department. Despite the litany of complaints, even by police officers, no one would listen or do anything to stop L'Esperance's reign of corruption and terror. Selectmen and the Police Chief were more than happy to allow this to continue unchecked.

Even after a stay-at-home mom (Kristi), was falsely arrested, (3 times), incarcerated in prison, and exiled from her home and family, all orchestrated by L'Esperance with the knowing support and assistance of then Chief of Police Dennis, and current Chief Holmes; no one raised an eyebrow.

In January of 2006, L'Esperance was promoted to Sergeant while Devine's trial for the almost dozen false charges that led to her false arrests, imprisonment, and exile was scheduled for the 31st of that month. On the 31st, ALL charges were DISMISSED. Yet no one, most especially selectmen who were consistently apprised of the situation, ever bothered to ponder, question, or investigate how this could

happen to a stay-at-home mom who had pleaded for their intervention. To date, West Newbury still has not initiated an investigation or attempted to remediate the terror and damages caused by what is now being described as 'one of the most damning patterns of abuse of police power seen in this region!'

Worse, West Newbury Selectmen pretend this 'new' evidence (cont. on p. 4)



"The world is a dangerous place to live; not because of the people who are evil, but because of the people who do nothing about it." Albert Einstein

struggles, agendas, self-dealing, and corruption. It's time for new leadership, and it is critical that people start paying more attention and getting involved so that they can DEMAND the type of changes and government this town deserves.

How it all began

It began when Kristi Devine wrote a letter to Police Chief Dennis after several attempts to speak with him through visits to the police station and phone calls, (all unresponded to and unaddressed). Kristi hadn't ever been in a situation before where someone was constantly threatening her and her young son, let alone that multiple requests to speak with the Chief would go unheeded.

The reason for going to the Chief was that other officers said that they were powerless to protect her or her son from assault by an aggressive neighbor because the Chief always protected her. One officer volunteered that he, himself, fought with the Chief about this, to no avail. Another officer volunteered to print out the police logs showing how many times this person caused problems so that Kristi could present the information to the selectmen.

Kristi documented everything that had gone on in the short period her family had moved to town in a 5 - page letter to the Chief in **June 2000**.

When the Chief failed to respond to the letter, she wrote to the Selectmen who scheduled a hearing on the matter. **It's been retaliation ever since.**

NOTE: If you read no further, please make a point to read box entitled "Reality Check?" on page 7.

Selectmen's race starts with 'dirty politics'

Police Chief baffled over how to solve crime, and what charges apply According to the Daily News, a mailing went out addressed with computer-generated labels and John McGrath's return address printed on the envelopes. The letter purports to tell of what would ensue if Kemper were to win, and concludes with "Kemper must go". The idiocy of the content suggests Atwood went after Blais because he wants her job. This thing hollow, coming after Atwood quashed that notion when confronted with the accusation by a Blais supporter at a Selectmen's Meeting. Apparently, the author of the letter didn't buy Atwood's denial of the allegation.

The mailing was sent using 44-cent stamps. McGrath guesses the cost to be as much as \$800.00 in what appears an attempt to smear either Glen Kemper, or Knowles' supporters for supposedly stooping to such low levels.

McGrath, who claims to have had nothing to do with the mailing, is a staunch supporter of Kemper. His only motivation for sending such a letter would be to portray Knowles' supporters as underhanded lowlifes, but if the letter was not sent by McGrath, then whoever sent it was clearly attempting to use McGrath's identity without his authorization. This may constitute mail fraud in addition to identity theft and fraud.

Police Chief Holmes thinks otherwise, and says, "we're looking more toward criminal harassment." A cursory reading of the various

statutes distinguishes someone charged with false impersonation or identity fraud, as one who would "pose as another without that person's authorization or obtain the identifying information of another without that person's authorization, and do so for fraudulent purposes...."

Therefore, if McGrath indeed had nothing to do with the letter, then false impersonation and identity fraud seem more applicable than Criminal Harassment, (*see definition page 2*).

While the mailing was most definitely juvenile, to say it would seriously alarm a "reasonable person" or cause them to suffer "substantial emotional distress", as do the elements of Criminal Harassment, is a big stretch. It is, however, telling of how the Chief misconstrues law. Correctly interpreting the law and statutes seems as basic and germane to police work as making sure paying the accurate amounts would be to a finance director. In either case, West Newbury comes up short in both areas, and it digresses from there.

Police Officers take their lead from the Chief, and by the time everything on rogue cop L'Esperance sees the light of day, West Newbury is sure to be known as the breeding ground for incompetence and much worse. In the interim, we can rest assured that all is being done to stop crime and catch the criminals when we consider that the Chief says: **"We took the report and will be looking into it..."**

Stay tuned and hope the Postal Inspector solves this one while the Keystone Cops do their thing.

Two factions vie for power in upcoming race

To make an educated decision of how to vote for the upcoming election on May 2nd, it's never been more important to get abreast of what has been going on in our local community. The only contested race is a three-way race for Selectman.

The outcome will determine which regime will have unilateral control of all that goes on - from your taxes to your police department and public services.

Taxpayers need to realize that many decisions and policies are made without public input. The more people know, and are part of the process, the better the community's interests are represented, but all too often, after elections, those in positions of power make it so that their constituents know as little as possible.

This year's race splits philosophies right down the middle as the candidates represent the 'old' and the 'new'. The two Board members not up for election each represent opposing factions, Cushing and Atwood respectively. As one blogger from the Daily News site so aptly put it, "Knowles supporters want to 'take back our town' (they said it, not me) from all the new immigrants (which means anyone who's been in WA for less than 20 years), who have the audacity to want a local government that serves the community, rather than an elite collection of insiders."

Just as disconcerting to some is the Kemper agenda, which also doesn't appear to be about serving community or of self-interests and agendas. (*Cont on p. 4*)

Retaliation ever since

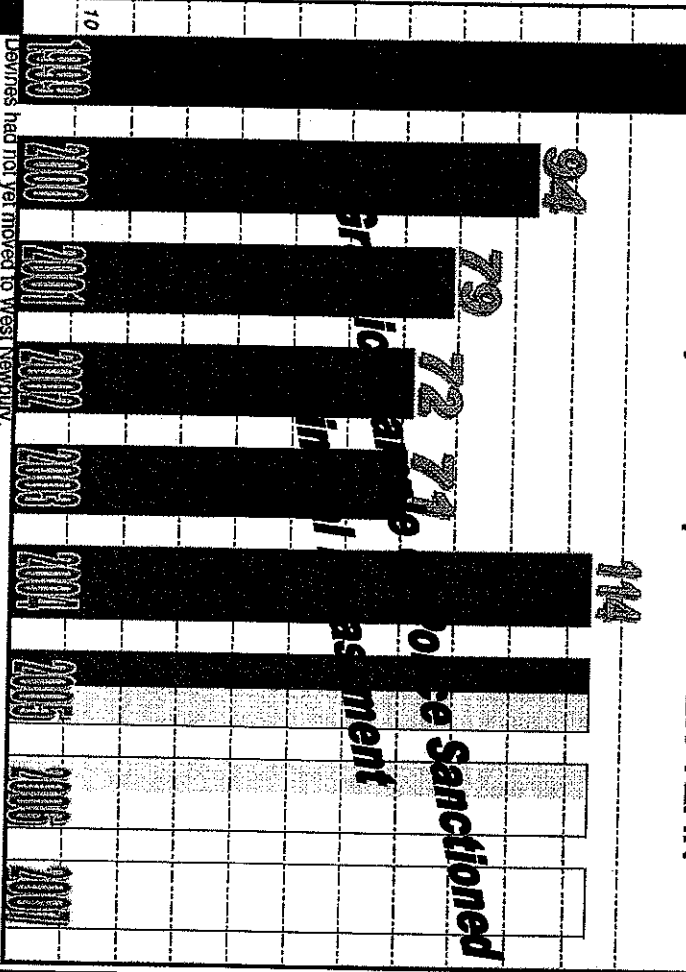
(Cont. from p.1) At the hearing selectmen welcomed Kristi to town. Over a dozen people attended, most of whom Kristi had never met before. Citizens told selectmen story after story about how they had been abused, harassed, falsely accused, and more, by Mackey in the past decade. They also expressed how they felt the police were unresponsive. One attendee stated that Mackey had a monopoly on the whole area around the reservoir so that no one could peacefully go there without harassment or worse, and now Kristi was discovering what she had just moved next door to.

The hearing was the first occasion

Kristi met the Chief, who never made himself available before, (or much after unless it was to support Mackey). Then, and on many occasions thereafter, the Chief wouldn't hesitate to lie or misrepresent things be it to the selectmen, or anyone else, and unfortunately, everyone believed him!

In the interim, Selectmen said all the right things about how they would look into the matter, and how it had to stop. *(This being said at the hearing and several subsequent are available on video).* A month later, Kristi was charged with assault of Mackey, and the Chief would be Mackey's key witness. All police reports of the day of the alleged assault, including the Chief's, made no mention of charges against

120 # of Mackey calls to police - PER YEAR



Devin's had not yet moved to West Newbury. Devin's moved to West Newbury in Spring of 2000 and immediately became focus of Mackey and her primary target. Devin's house, that neighbors tried to stop for years, starts rising above the trees in June of 2004. Devin's are forced out of town in June of 2005.

Kristi, but indicated Mackey would be charged for several crimes. Nothing ever came of the charges against Mackey, but Kristi was subjected to a full jury trial where she was acquitted despite the Chief's greatest efforts ... and his testimony against Kristi.

While going on trial for assaulting someone was unfathomable before then, it would prove the least outrageous of what was to come.

Life before

Briefly, Kristi was born and spent her life in Massachusetts, growing up in Andover, and living in various towns, including Boston before moving to NH in her late twenties, marrying, and starting a family. She served on the Board of Trustees for the library in Windham, and after ten years of paying substantial real estate taxes while having no children in the school system, her son entered the most overcrowded school system in Windham's history. By

CRIMINAL HARASSMENT

A knowing pattern of repetition of series of acts over a period of time directed at a specific person which seriously alarms that person and would cause a reasonable person to suffer substantial emotional distress. (emphasis added)

LEFT: This "pattern" and "series" of acts were directed at anybody who dared go by or near Mackey's house on a public way by the reservoir, but was also "directed at a specific person", i.e., Kristi Devine, and/or her young son repeatedly because they lived next door to Mackey.

Data for years 2005 thru 2009 were not provided due to exile, but calls, false claims, and Mackey's assaults of people continued, throughout.

second grade, his class was warehoused in a converted garage abutting the school. Only becoming vocal and active as situations dicared, Kristi felt that Windham townleaders ignored the obvious, and were obsessed with building a huge, state of the art firestation, after having just completed the same for the police department. There was nothing even on the drawing board to address the severe overcrowding of the schools, and concerned parents were simply told that if they just waited their turn, they could get a brand new school. That was more than several years away, and again, not even on the drawing board yet.

Kristi became one of four founders of the Make Room for Education committee that by necessity had to take on the Selectmen, Planning Board, and CIP, (Capital Improvement Projects), to make schools a priority. They rallied the town and got the vote at town meeting that in short order provided an addition to a pre-existing school that surpassed everyone's greatest expectations.

During her son's third year of elementary school, Kristi was honored at the ground breaking, but then moved to West Newbury before the school year ended. Ironically, prior to moving to West Newbury, Kristi's name and pictures were in the newspaper repeatedly for her efforts like the aforementioned yet almost immediately after moving to West Newbury, that all changed. One month

after going to Selectmen in West Newbury for help, Kristi was in the paper for assault and battery (of Mackey) after just having moved to town. Such would be the case many more times thereafter. *(Cont. to below)*

Sheer madness

Police logs reflected that the West Newbury Police received and responded to an average of 100 phone calls from Jocelyn Mackey per year, including over 120 calls from Mackey to police in 1999, the year before the Devines moved to West Newbury. This, of course, was unknown to all but the police, and it would be years later that Kristi would be compelled to compile the data to refute the many misrepresentations and lies being told by police to Selectmen, and in court. Unfortunately, no one cared or has yet to look at facts. The mistreatment of Kristi and her family continues to date.

At all times the Devines were and are treated as criminals, charged with everything from littering, (TWICE), and anything else police come up with. It is the Devines whose calls for help are rarely if ever responded to, and never, EVER, investigated. There is even a preserved recording of a call from Kristi to police requesting assistance relative to Mackey's trespass, harassment, and abuse of Kristi's son. At that time, police outright refused to respond to the Devines, but the logs show police immediately responded to Mackey's call to them that same day, 15 minutes after the Devines' called police and requested help.

WHEN will it end!?

Never in Kristi's wildest dreams did she think this sort of thing went on anywhere, let alone in a nice community like West Newbury. Kristi knew nothing about the court system except that it appeared to work, with a few outrageous exceptions, or so she thought. In her prior 42 years before moving here, she had not had neighbor problems, or had to rely on police beyond incidents like when her toddler was choking, and the police were always there for her.

She would soon learn how broken government was, and worse, the moral bankruptcy of so many in positions of power. Even more sadly, she would learn, only after appealing to Selectmen to stop the assaults against her family, that all the way up, from the District Attorney, to the U.S. Attorney's Office, no one cared about the kind of corruption pervading town government. They had bigger concerns than a stay-at-home Mom who had neighbor problems, or so it would seem, but the real problem was corrupt police,

and the local officials who did nothing about it.

And as the story with L'Esperance shows, even police officers in Salisbury who reported his criminal activities for four years could get no relief from their Selectmen, or anyone else, because no one wanted to take down a sitting Chief. (Just as alarming is how West Newbury police didn't even try to report or stop L'Esperance!)

Only an out-of-state police department with nothing to lose caused the investigation. Still, with all that is known of L'Esperance's criminal activities, the worst that's happened to him is he got a \$48,000.00 plus lump sum for accumulated sick days, and he's vacationing on his tax payer-funded pension. The town from which L'Esperance came, and spent twenty years on the police force, remains silent, and does nothing to investigate his crimes there, or as crimes presently occur under the same reckless supervision and lack of oversight as existed then.

Any hoped for wake-up call that L'Esperance, or the current chief who was a big part of his career as his supervisor, has been lost on the Selectmen as they just recently renewed Chief Holmes' contract in the wake of all that is just beginning to surface. Justice and vindication for the Devines, and all others who suffered under the past tyranny, will just have to wait as it won't be under these town leaders.

The same leadership continues to ignore that which is necessary to preclude such egregious misconduct and corruption.

West Newbury Police Department Mission Statement

The mission of the West Newbury police department is to maintain the quality of life that makes West Newbury such a special place to live. The police department pledges its resources to address the needs of the community working in partnership with its members. The officers and employees of the department shall maintain the highest standards of professionalism, integrity and work ethic in serving the public.

We can ask no less than what is expected of us in the eyes of the community we serve, with one goal of making the town of West Newbury a safe and desirable place to live.

Here we go again

It wasn't enough that Selectmen did nothing while a stay-at-home mom was falsely arrested, not once, not twice, but three times, and then incarcerated in prison and exited from her home and family only to have all charges dismissed.

Then it wasn't enough when it came out that the police officer who orchestrated all this, with the assistance and approval of the former and current chief(s), had his gun and badge removed by another town, because they actually investigated the improprieties of their corrupt Police Chief, who spent his prior twenty years doing much of the same in West Newbury. (L'Esperance was under the direct supervision of the now current Police Chief of West Newbury. She actively engaged in facilitating all these false arrests, and even took (Cont. p. 3)

WEST NEWBURY

Dark Underbelly

The true story of Kristi Devine's struggle against corruption in small town America

Chronicles and written by her father, Ralph E. Whitour

extra measures to bring additional false charges against Kristi.)

Kristi again -IN 2011- faces false charges emanating from the same pattern and practice used for all prior police harassment, false charges, and arrests that commenced in 2000 when she first moved to town! The pattern and practice of ignoring ALL criminal harassment of Kristi or her family, and jumping at any chance to concoct anything that might again force the Devines out of town, and stop Kristi's efforts to continue to expose that corruption is alive and well.

Same people, different day, or has anything really changed?

While Mackey launched assault after assault from one side of the Devine's property, her lesser-known accomplice did the same on the other side of the Devines, and (now) Chief Holmes, then a Sergeant, was there to help . . . Dale Waring. Holmes responded to where Waring had previously claimed he was assaulted, only to be charged by Holmes for assaulting the woman he said assaulted him. Among other things, Waring had struck the woman in the face. The case was resolved by Waring admitting to sufficient facts for a finding of guilty.

The next time Holmes responded at the almost identical location and circumstances, Kristi Devine was Waring's victim. Now everything would be handled differently. Holmes witnessed and photographed the blood

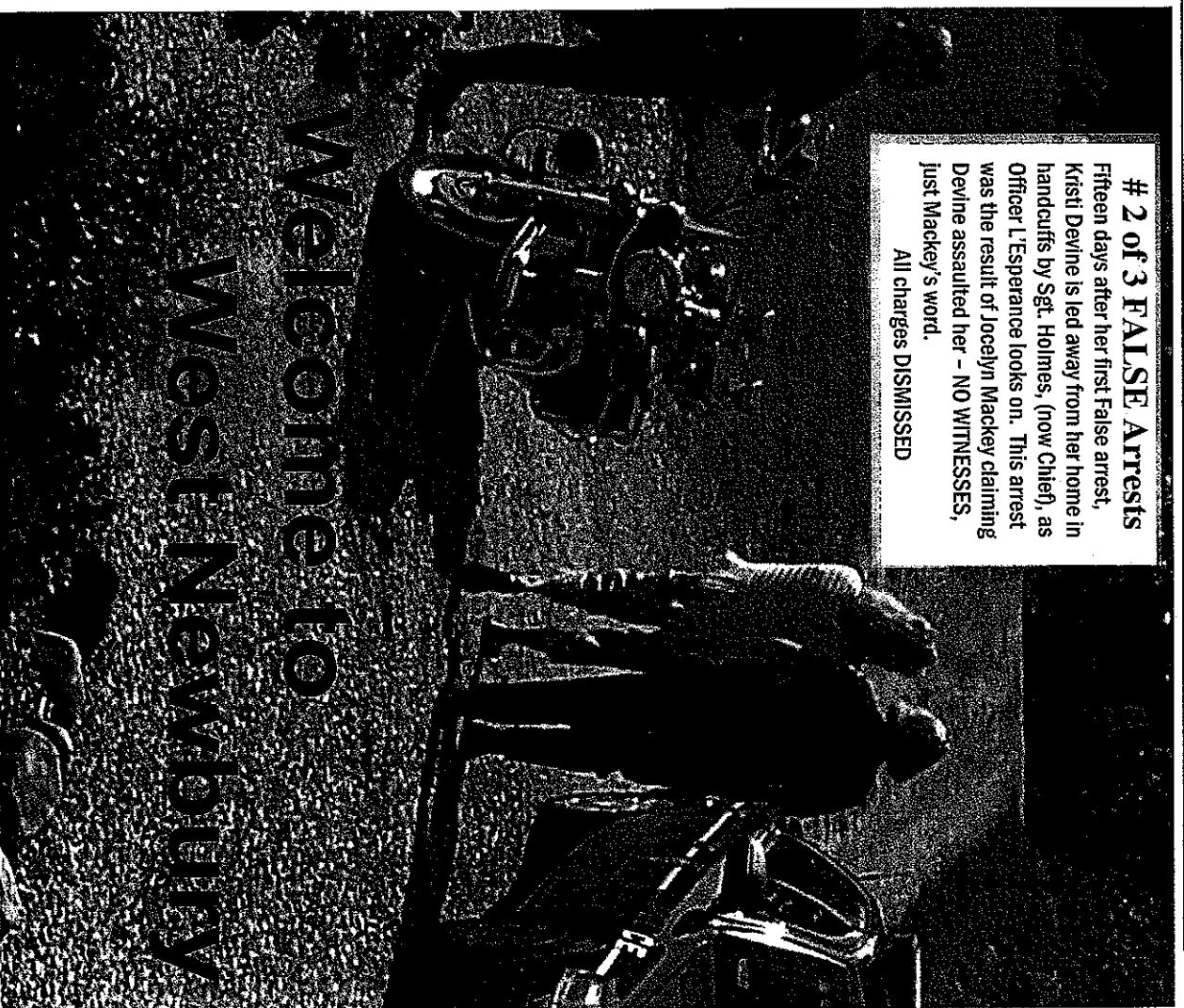
taking Kristi's statement, and regardless of the fact that Kristi could prove she was in another state when Holmes charged Kristi for something Waring accused her of doing in West Newbury, all pure fabrication with no corroborating witnesses.

All told, an investigation would reveal that for 11 years and counting, police would charge Kristi for the most minor of things that didn't actually occur, but anything from fracturing her nose to throwing rocks at her was always acceptable for Waring and Mackey to do to Kristi and family without consequence.

Not that Waring ever let up his assaults or attacks on the Devines, but things escalated significantly when his co-conspirator Mackey left town, primarily for the trouble she was in for assaulting OTHER people 'visiting' the area!

MORE FALSE charges in 2011

Having long since given up reporting things to police, and being ignored, Kristi instead, documented Waring's harassment in emails to the police, including pictures, while concurrently providing them with various statutes on Criminal Harassment and other means to stop the abuse. A year's worth of emails totaling 15 typed pages were never responded to or followed up, but when Kristi installed a fence between Waring and her property, Waring immediately went and took out a restraining order from the same court and judge who had persecuted Kristi for the last 11 years at the behest



2 of 3 FALSE Arrests
Fifteen days after her first False arrest, Kristi Devine is led away from her home in handcuffs by Sgt. Holmes, (now Chief), as Officer L'Esperance looks on. This arrest was the result of Jocelyn Mackey claiming Devine assaulted her - NO WITNESSES, just Mackey's word.
All charges DISMISSED

>Welcome to
West Newbury

"There is no crueler tyranny than that which is exercised under cover of law, and with the colors of justice..."

U.S. v. Jannotti, 673 F. 2d 578, 614 (3dCir. 1982)

coming from Kristi's nose as a result of being hit in the face by Waring's closed fist, but even though it was a "he said, she said", with no other witnesses, Holmes took only Waring's statement. Police went to his house the following day to help Waring with that, but Holmes couldn't even return phone calls from Kristi the day of the assault, or anytime thereafter. (In all situations where Kristi was charged or arrested for anything, even though there were never any witnesses, no statement was ever taken from Kristi before she was arrested or charged despite written police policy to do so).

Three days after being assaulted by Waring, Holmes charged Kristi for assault of Waring, and charged Kristi's husband, who made the singular statement to Waring "You like beating on women, you son of a bitch," with disturbing the peace. (This was almost laughable considering the numerous times Holmes would NOT charge Mackey for all the times she actually did disturb the peace!)

For those unfamiliar, every false charge brought by police generally costs several thousand dollars before they are dismissed, except when they go to trial. That tends to run around \$20,000.00 before all is said and done. (That is just the cost to the accused. Taxpayers fund all the court personnel, police time and a half, etc., and the costs are likely more, with infinite taxpayer funded resources at their disposal to persecute whoever they want).

On yet another occasion, in between Kristi's false arrests, Holmes would file other charges against Kristi, again with no witnesses, again without

of the West Newbury police, with L'Esperance as the court liaison.

This new restraining order, for which there was no evidence, OR EVEN A DATE for when these incidents occurred, was granted without Kristi's presence required. In essence, this meant that Kristi could be arrested for anything that Waring made up, and not only is that just what has occurred in the past, but Waring has been empowered and rewarded by police every time he's done so.

It did not take long for five new false charges to be filed, and, in keeping with tradition, police would bend over backwards to help Waring. So interested in assisting Waring was Holmes that because Waring's "victim" statement was so pathetic, Chief Holmes got involved to help him concoct a better one so he actually has TWO statements. Police wouldn't even seek one from Kristi - - EVER. Contrast this recent effort by Holmes' on behalf of Waring to the fact that in the prior 12 months of emailing Waring's abuse of Kristi, no one so much as made a phone call to her on multiple more serious incidents.

Also in keeping with past policies of ignoring proper police procedures and regulations, Kristi would receive the charges in the mail three weeks after she allegedly did something, unsigned and undated. Ultimately, the proper paperwork would be submitted on March 14, 2011, for the crime of entering and exiting her driveway at five different times on December 18, 2010. Nothing like ringing in the new decade with more of the same neighbor and police abuse, even after what continues to come out on

L'Esperance, the primary orchestrator of police harassment and abuse in West Newbury.

All efforts to get assistance or clarification from the Selectmen or police went nowhere and but another Christmas and holiday season would be successfully destroyed by police corruption in West Newbury. Kristi would be forced into the court system again by police corruption while Selectmen would again say it's out of their hands. It is only out of their hands because no one will investigate or do anything about what is in their hands. As L'Esperance teaches, the ONLY people to stop a rogue cop, or rogue police department are Selectmen, as everyone else from prosecutors to judges go along to get

along - with the police.

Both Selectmen and Chief Holmes are well aware of Kristi's efforts to address Holmes' misconduct, most especially as her contract was up for renewal. Kristi has attempted to provide a plethora of evidence, through the Chief herself, giving her the opportunity to refute or disprove Kristi's allegations, but the Chief refuses to show up. (SEE p.5 Chief Refuses to Attend Meeting)

It appears to be going the way of L'Esperance - nowhere, and amazingly the Chief's contract was just renewed shortly after her refusal to meet with and refute Kristi's allegations of police misconduct before the Board of Selectmen, and Town Counsel.

How it all works Chief Dennis would never charge Mackey for anything he didn't absolutely have to, but readily brought false charges and arrests against Kristi Devine - Mackey's neighbor, on Mackey's uncorroborated accusations. Devine was Dennis' public enemy number one for her publicly calling him out concerning his incompetence and dereliction of duty by refusing to halt the terror on Moulton Street

Mackey had her strategy down pat how to handle the law. If victims of her advance reported her offenses to police, an abbreviated or watered down version of the events might result in a police report. If the offense was particularly egregious, a complaint would be filed in the Newburyport District Court. Under Chief Dennis' watch, with L'Esperance as court liaison, efforts were made to soft-pedal Mackey's crimes, regardless of how serious. Thus, no real effort was made by law enforcement to strongly press for Mackey's prosecution. Her lawyer would file for numerous continuances often extending the process months. Victims would lose track of what was going on. When they finally weariend of taking time off from work to meet court dates, a deal would be struck. Mackey would be offered "a continuance without a finding". That's court jargon for "if you admit guilt, we will just give you a slap on the wrist" (usually just a promise to be good for thirty days). Not unexpected, each time Mackey received such minor consequences, her actions became more egregious, i.e., from her first assault with a hammer, to her threat to kill two people, to her attacking someone with her car, to her going after five horseback riders with her car. This is all documented in court records along with pages upon pages in the police logs of her hundreds of calls to the police targeting neighbors, passers by on the street, and people just out for a walk around the reservoir. This is the kind of neighbor the Devines lived next door to that the police ignored when Mackey turned on the Devines as victims. No police ever pushed to insist that Mackey's criminal behavior be stopped.

This practice went on for over 10 years while Mackey was in and out of the Newburyport courthouse like a revolving door. Mackey would never experience either arrest, fine, jail time or even a trial as she held an entire community under siege. In stark contrast, the Devines would be arrested on Mackey's say so. While all this went on, Selectmen Kemper and Knowles didn't bat an eye. We will likely never really know for certain why Mackey was so protected, but there are rumors. Perhaps one day the truth will surface. Dennis and Mackey now replaced by Holmes and Waring



L'Esperance CORRUPTION

In your own backyard that elected officials do/did nothing to stop

(Cont. from p. 1) of L'Esperance's behavior has no bearing on what they allowed to go on in this town for the prior 20 years. They are fully aware it didn't happen in a vacuum, isolated from what has recently been uncovered by the investigation two towns over, and they know the investigation to date, (a second one is underway), only focuses on what L'Esperance did recently, in Salisbury.

Ignored are the many citizens of West Newbury, who continue to suffer under the same corruption of a police department where town leaders still refuse to investigate wrongdoing. L'Esperance only became what he is today through the support, even empowerment by Selectmen who stood behind, and/or ignored, blatant incompetence and deceit during Chief Dennis' watch.

Dennis is husband to the Finance Director Tracy Blais since 2003, whose 'conflict of interest' relative to their liaison was quietly disclosed to Selectmen KNOWLES and O'Sullivan in 2000. (See page 3 for more on Finance Director Ousted).

West Newbury's current Chief, Lisa Holmes, was Dennis' replacement, but

was, previous to that, L'Esperance's supervisor, and active participant in the egregious police misconduct and civil rights violations that destroyed the Devines' lives and finances. In fact, Holmes is still active in this campaign today, and continues to facilitate much of what still goes on where L'Esperance left off.

Conflicts of interest, corruption, incompetence, and much more are all tolerated in West Newbury under the reigns of KNOWLES, O'Sullivan, and Cushing whose tenure in office as Selectmen have spanned the last ten years with little to distinguish between them beyond voting together in concert with, and supporting all that is/was wrong in West Newbury.

Suffice it to say no story about L'Esperance is complete without acknowledging all those who helped in his criminal rise to power. The 'old' and 'new' regimes, both vital to L'Esperance's legacy of police misconduct and abuse, are covered more thoroughly elsewhere on page 5 of this paper under WHY NOT KNOWLES OR KEMPER.

It is important to note, how even after all that is coming out now relative to L'Esperance's corruption, nothing is being done to investigate or stop the others who played a pivotal role then, and still corrupt the police department and the town to this day. Holmes' contract was renewed April 13, 2011.

And so it is that the term "L'Esperanced" was born. To be

L'Esperanced means to cover up problems and sweep them under the rug, then the individual is moved to another town to become their problem without town leaders ever taking accountability for their role in the subterfuge.

This is very similar to what was done with priests who sexually molested children, their supervisors knowingly moving them around to do it some more - elsewhere. The big difference here is, WE ELECT the people that do this to us, and our taxes pay for them and their bloated salaries and pensions to boot. L'Esperance collects his pension while still not charged, and he may never be.

This is how corruption spreads and is allowed to persist and rise to the highest offices of government. We all pay for it more than most will ever know, and support it when we re-elect the same officials that knowingly allow this to happen, and let it continue. To be aware of the full extent of depravity and corruption that was nurtured for many years in this "quiet, little" town, visit:

<http://sosmass.wordpress.com/corrupt-chief-of-police/>

An abundance of links and videos can be accessed there, but if you do nothing else to become aware of the corruption in your midst, the 31-page investigation is a must read to the end. This is just the tip of the iceberg of what really goes on in the

public sector with the knowing approval and consent of our elected officials. So far, L'Esperance and many others have gotten a free pass on this for ten plus years, so don't expect change unless you change leadership. Remember this when voting!

Again, if you do nothing else to explore the kind of corruption right in your backyard, tolerated and rewarded by your Selectmen, read the report. Even up to page 20 you still haven't gotten to some of the worst of it, and even **more is yet to come!** <http://www.scribd.com/doc/47494016/Report>

A police officer's conduct, on or off duty, should be above reproach. Police Chiefs should be held to even higher standards.

What do YOUR selectmen do to maintain the HONOR and INTEGRITY of YOUR police department?

The 'Old Regime'

Most in the 'know' accept that the Albert Knowles' team defines the old regime. Unofficially, it was led by Richard Berkenbush for the last several decades until his passing a few years ago. As the story goes, Berkenbush held a vise grip on power, at one time serving as Police and Fire Chief, as well as Chairman of the Board of Selectmen. While preparing for his retirement, he handpicked John Dennis as his successor to take over.

Though he had Dennis well groomed to take over, Berkenbush remained actively involved, behind the scenes, on an almost daily basis. Beginning with breakfast every morning, and Sunday dinners – the Berkenbush/Dennis pair were almost inseparable. Berkenbush called the shots for the next 17 years Dennis was the Police Chief. All others in various elected and appointed office dutifully fell into line with the old regime.

Dennis' weaknesses as a leader were hardly overcome by his marrying Tracey Blais, the Finance Director of West Newbury, making the couple a powerful force to be reckoned with in local affairs. They kept a close relationship with State Representative Harriot Stanley as another means of influence and power.

It is a foregone conclusion that if Knowles wins this election, the old regime, including former Selectwoman O'Sullivan, current Selectman Cushing, and others in that faction will resume power, and West Newbury will experience the same sort of cabal as: **[SEE more on 'Old Regime' on p. 6]**

The 'New Regime'

On the "immigrant" side then, would be the incumbent Glenn Kemper who has served as Selectmen for the last two, three-year terms. This faction only recently acquired a majority in the balance of power, and would immediately be shut down with a Knowles win. Kemper's ability to break up the monopoly became successful only when the balance of power on the three-man Board shifted away from the O'Sullivan/Knowles, Dennis/Blais and Murphy et al team by the election of latecomer John McGrath as Selectmen.

But strangely, McGrath abruptly resigned from his position on the Board before his term was completed, (for the second time in his 'Selectman' career). Rumors suggest it was a Blais-related restraining order, but no explanation or details have ever been forthcoming.

A special election was required, and amazingly, McGrath challenged the validity of Kristi Devine running to replace him after Devine's nomination papers had been accepted and certified qualifying her to run. Devine ran on the pledge to bring balance, transparency, and accountability into the arena. She felt all along that the community was not being well-served by the competing forces.

In a perverse hearing, Devine's domicile was stripped from her while Selectman Cushing, and soon to be Selectman Knowles looked on. But that is the subject of a different article. The unintended consequence of McGrath's precluding Devine to run for Selectmen, or vote, for that matter, resulted in the

reinstatement of the balance of power to the old regime, with Knowles and Cushing, now the majority, firmly entrenched against Kemper.

This disruption in the power struggle was overturned three years later when a stealth write-in campaign, frowned upon

**A public servant is just that,
a servant to the public.**

**Somehow, that philosophy has
been lost on so many
elected officials
that think it's ALL about them**

by many in town, put Tom Atwood in power when Knowles was thought to be running unopposed. Atwood detractors claimed this was both unfair and unethical, and urged him to decline his victory through prevailing numbers saw Atwood seated.

It is a well-established fact that it is much more difficult to prevail as a writer, but the theory is that Knowles running uncontested drew out less voters than otherwise would have come. Now, however, all can be sure Knowles supporters will turn out with a vengeance to unseat the balance of power now held by the new regime.

Currently, McGrath is the new Berkenbush, Police Chief Lisa Holmes the new Dennis. Politics and hidden agendas are still trumping the best interests of the community while these factions duke it out, and the old regime vies to regain control.

No town is best served by power struggles, hidden agendas, and cults of personalities.

The 'Middleman/woman'

The third challenger for Selectman, who is also very much the underdog in the race, falls squarely in the middle of both factions. Kristi Devine has never served as Selectmen (as both Knowles and Kemper have done for multiple terms), and is beholden to no one except the citizen taxpayer, whom she sees as having endured years of abuse through non-transparency, power struggles, and individuals' agendas not geared to the best interest of the community.

Whether Devine is a part of the old regime, or considered one of the 'new immigrants' presents an interesting question, though she insists she is neither.

If the 'new immigrants' "...means anyone who's been in West Newbury for less than 20 years", then although Devine moved here with her family 11 years ago, her parents were married in this town, and she was baptised in this town some fifty plus years ago. The jury is out on whether that qualifies her as part of the old or new regime, but her history of opposing those on both sides jockeying for power at the behest of special interests over the interests of all the town's people, is why she chose to enter this race. ~

**Make this election about
YOU**

Call or email me with your issues.

Kristi L. Devine

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Police Chief refuses to attend meeting

She was requested to attend by Chairman of the Board of Selectman

After several recent requests made both verbally and in writing by Kristi Devine to meet with Selectmen before they renewed Police Chief Holmes' contract, Chairman Atwood agreed to a meeting with Devine, the Chief, Town Counsel, and himself. Atwood offered several dates he was available, contingent on when the Chief could be present. Devine agreed to anything that worked for the Chief.

The next day, Atwood contacted Devine and advised her the meeting was set for the following day, March 16, 2011, at 10AM. Devine had, at the onset, requested permission to tape the meeting, but Atwood now notified her that the Chief would refuse to come if it was recorded. He further stated the Chief was already upset he had scheduled the meeting at all. Because Devine stressed she could not present evidence and take notes at the same time, Atwood agreed Devine could bring someone for that purpose.

Devine hired a stenographer who showed up at the meeting the following day, only to then learn the Chief refused to attend. Devine questioned how that could be? Atwood replied that he "could not force the Chief to attend?" REALLY? Then to whom is she accountable? Devine had stayed up the entire night before preparing questions for the Chief to answer so that through her answers, Devine could show that either the Chief was lying, or her own answers would be self-incriminating. Devine brought voluminous documentation to introduce for that specific purpose.

The meeting lasted approximately two and a half hours, but Devine contends that because both Atwood and Town Counsel were new and unfamiliar with all the police misconduct that had occurred, most time was spent bringing them up to speed instead of showing the Chief's misconduct and improprieties that Devine claims are ongoing up to the present. Devine did, however, provide enough documentation that she felt should warrant an independent investigation, but without the Chief present to answer to, or refute Devine's allegations on point, Devine was unsure where the meeting would go.

It did not take long to figure this out when Atwood ceased returning Devine's calls that sought answers Atwood had promised to provide. On the 13th of April the **Selectmen agreed on ANOTHER 3-year contract for Police Chief** without ever acknowledging or investigating anything that went on when Holmes' was L'Esperance's supervisor, OR ANYTHING Devine provided, or stated she was more than willing to provide to selectmen before doing so.

As perhaps one of the most classic examples of where it all starts, "...the town has agreed to defend the chief "against any tort, professional, liability claim or demand of other civil or criminal legal action whether groundless or otherwise " which in essence means the Chief, can do all of what we now know L'Esperance did under her supervision and MORE, and the town will protect her against honest citizens who seek to hold her accountable for ANY police misconduct. Does anyone still wonder why we breed the likes of L'Esperance, an officer in West Newbury for 20 years, that even police officers in Salisbury could do NOTHING about. Where does the buck stop?

HOLD YOUR SELECTMAN ACCOUNTABLE, because NO ONE ELSE WILL

Why NOT Knowles or Kemper?

The answer is really quite simple for both even though their respective styles are so very different. Where Knowles rarely speaks and sits in a meeting for hours, even when acting as Chairman, saying little to nothing, Kemper is a babbling brook who can help himself from speaking even when it's over the voice of the Chairman. But in the end they both say the same thing. "I'll look into it", and then they do NOTHING.

Knowles has had THREE, and Kemper has had TWO terms to contribute to and improve the quality of life in West Newbury, yet an increasing number of taxpayer/donating issues plaguing the town continue with no constructive results.

One example of Knowles and Kemper's dereliction of duty would be the case of Jocelyn Mackey, who Knowles, O'Sullivan, and Gushing were advised by dozens of citizens of the risk she posed to anyone who ventured near her property to enjoy the scenic views of walk the reservoir. From mothers walking their children in strollers to horseback riders to off-duty police officers and state troopers, Mackey would accost, threaten, and even attack, sometimes with a hammer more often with her car, anyone who dared walk on a public way near her house. This went on for years, and was hardly an unknown when Kemper finally got seated, yet four years later Mackey was still going after people with her car and draining police resources while calling police an average 100 times per year with false accusations against innocent passers by.

BOTH Selectmen tolerated Police Chief Dennis protecting one of the biggest nuisances the town had ever experienced, and did nothing about the litany of FALSE CLAIMS filed by Mackey against others. The new Chief maintained the status quo until Mackey's assault on five horseback riders. Even then, the only reason Mackey finally stopped is that her family removed her from the town.

BOTH Selectmen tolerated that this person routinely disturbed the peace, harassed, threatened, intimidated the public, and did nothing about the fact that police merely pursued charges for egregious crimes Mackey committed.

BOTH Selectmen tolerated that Mackey likely drained more police resources than any other individual in town, and did nothing about that fact.

BOTH Selectmen did nothing when the Chief, who would never charge Mackey for anything he didn't absolutely have to, (and even then they were never prosecuted) readily and eagerly brought false charges and arrests against Kristi Devine, Mackey's neighbor, and on Mackey's say so, and under the most weak and unsubstantiated circumstances. (Devine was made to be public enemy number one originally for publicly calling the chief out for his incompetence and dereliction of duty by not stopping the terror on Moulton Street. Then it was because Selectmen did nothing about it.)

Kemper might eagerly boast that he got rid of the Chief, and even L'Esperance for that matter, but he did nothing to remediate the illegal, immoral, and in many cases, horrific things done by these criminals, and to date no one has been held accountable for any unlawful and corrupt acts.

What would an independent investigation of West Newbury's Police yield?

Just because Selectmen in West Newbury have chosen to ignore all the corruption being discovered of L'Esperance through an investigation by and in Salisbury, doesn't mean it didn't exist, or that it isn't still occurring right here where L'Esperance got his start, and was empowered and promoted to become Salisbury's Chief. In fact, any investigation of what occurred in West Newbury would produce overwhelming support that very much of the same criminal activities occurred right here, before L'Esperance moved to Salisbury, and CONTINUE to occur. Because the players in West Newbury have changed only ever so slightly from both the supervisors of L'Esperance, i.e., Chief Holmes, as well as the supervisors of the police, i.e., the Selectmen, [read KNOWLES and KEMPER] the culture of injustice, corruption, mediocrity, and total lack of accountability has not changed.

It will take the voters of West Newbury to accomplish that. Below is just a sampling of the kind of criminal activities an investigation showed L'Esperance involved in, prompting Salisbury to commission a second report/ investigation still underway. One would think West Newbury officials would thoroughly investigate what was done here against it's own citizenry where L'Esperance unofficially ran this town's police department for five times the length of time he was Police Chief in Salisbury. Nothing indicates this is being considered. Citizens need to be aware of the level of corruption their leaders disregard, and question why L'Esperance's supervisors still employed here are not being investigated for what they knew and may have participated in, and/or recklessly disregarded. [From report issued January 24, 2011. To read whole report, please refer to page 1 of this paper!]

L'E = L'Esperance, described on p. 30 by investigator and author of report: "If he chooses to be vindictive or vengeful, he can utilize the power of his authority... To an outsider hearing this, the Chief can couch his actions as nothing more than good management practices and all part of a Chief's job. But in the end you have a department that doubts itself and is too paralysed to blow the whistle on wrongdoing at the top."

□ **DRUGS and SEX:** P.3 "X states that Dave L'E provides drugs and money for sex", "she would never have sex with L'E but could buy any type of drug off him with just a phone call." P. 8 first paragraph too graphic and explicit to quote here, P. 10 "given percozet by the Chief, for the performance of a sex act on the Chief" same witness explains merchandise stolen from Home Depot was returned for a \$230.00 store credit which L'E bot from them for \$160.00. P.13 whole page a must read from paid for sex to gift of cars P.14 "he uses girls addicted to drugs because no one will believe them if they should talk" P. 15 from a police officer who knew the victim and said, "she doesn't lie to me. Re: L'E "grabbing and groping" ... she believed she was going to be raped... he was going to force himself upon her"

□ **INTIMIDATION:** p. 19 from a Sgt. "no one would really want to come out and talk about it, due to the intimidation factor and what would happen to someone on this department if they spoke out against the Chief." p. 30 "described as Jekyll and Hyde", while in dispatch area when he couldn't locate a report he flung a chair against the wall...."

Additionally, Kemper say, and continues to sit by idle as Mackey's cohort on the other side of the Davies' continues his decade long criminal harassment as Holmes takes over where Dennis left off in the theater of incompetence and abuse.

Draining the taxpayers for police incompetence is bad enough, but doing nothing while egregious offenses are perpetrated on people in the community under the color of law is disgraceful. And then there's the cost to both the taxpayers and the victims associated with outrages the the Selectmen choose to ignore.

BOTH Knowles and Kemper have failed to bring integrity to the office of Selectmen by turning a blind eye to problems in our midst. These problems continue to fester like a cancer and plague our community. Doing nothing about cleaning up the mess even after they have gone leaves a residue of destruction and corruption in its wake, simply maintaining the status quo, and allowing history to repeat itself with no consequences to them, of course. It's time to halt politics that have improperly dominated this town for years and that taxpayers' interests be served **FIRST AND FOREMOST** **IT'S TIME FOR NEW LEADERSHIP!**

□ **TROPHY HUNTING:** p. 23 "Dave seems to want to take trophies everywhere he went...Brand new extension cord, power drill and a bottle of viagra..." "little boys jacket" "crystal skull" p. 24 "large wad of cash"

□ **INTERFERENCE WITH JUSTICE:** P. 19 as told to a Sgt. "don't worry, Dave will take care of this. Dave will fix this." "request his police prosecutors that special consideration be given to certain individuals" "both felt pressure from Chief to do favors for certain people in town or friends of the Chief." P. 20 "I was told to keep it, make sure that it stayed at the Clerk Magistrate's hearing and that it would go no further... within five minutes he was called by Chief...and told to change it to a written warning." P.21 "Ofcr X submitted a report and supporting documents stating that the Chief ordered a paragraph or so be change/removed from an arrest narrative...was instructed by the Chief to have certain statements made by X removed from his report." "interference at the scene of a crime." P.22 "took X away in his maroon police car and stated she did not know anything and would not be able to help." "Chief ordered him not to speak to her and stated that she would not have any information relative to this case." "at time of arrest X was out on bail for other drug charges and larceny related charges. The Chief ordered Dellaria to remove disorderly charge ... In his opinion, she was not drunk and felt that this was an abuse of his authority." "Other officers related similar incidents involving interference by the Chief in the course of justice...", p. 26 "Chief L'E had sent a letter to the FBI that was factually untrue"

CONCLUSION: p. 31 Violations of Chief- Conduct Unbecoming an Officer, Violating Conflict of Interest Laws 268A, Association with Known Criminals, Undue Influence, Visiting Prohibited Establishments, Interference with the Course of Justice, Abuse of Position, Nepotism and Fraternalization, Issuing Unlawful Orders, Care and Custody of Property, Evidence of Suspected Contraband, Falsifying Records, Controlled Substances, Truthfulness

They say you can't fight city hall . . . A look at the 'Old Regime'

Extra marital affairs are not endorsed, and perhaps even frowned upon, but no one can really do much about them, unless, of course, they are in a direct conflict of interest politically. In that regard, the parties involved have an ethical obligation to either terminate the relationship, or disclose it to the public. Even then, it is incumbent on the parties involved to recuse themselves from issues or policies where the conflict of interest could improperly influence their outcome, but when both parties deny the affair, not much can be done to avoid these conflicts of interest.

In West Newbury, conflicts of interest are a way of life. For example, the Finance Director and the Police Chief were involved with each other but were married and had children by their respective spouses. It would not necessarily be viewed as anything given the times, except for the instances wherein there were direct and blatant conflicts of interest, and the public was kept in the dark.

Special considerations like a Finance Director issuing checks or approving expenses for the police chief could go unnoticed and be viewed as perfunctory tasks of a Finance Director and all other aspects of grant writing and funding dealt with as simply creative financing beneficial to the police department. And that's basically what went down.

But when the Finance Director was championing the hotly contested issue of a new state-of-the-art police station under the auspices of a public safety complex, it was time to draw the line and come clean. But, that would only happen when it suited the parties in the know.

At some point it was quietly disclosed that both the Finance Director and the Police Chief were romantically involved, but very few would know beyond the **SELECTMEN**. By then, they were well entrenched and on their way to setting the course and direction of the town. In due course, they quietly married and moved out of town. Without any fuss or name change, the Finance Director continued with the status quo and most of the town was none the wiser.

The couple would soon become the top two highest paid town employees and two of the most powerful people controlling the destiny and future of a community where those not in the inner circle, (just about the whole town), would be oblivious to the subtleties of their control.

Few knew that the beautiful, talented, lifelong resident who had served as assistant town clerk for years would be forced from her position when the then long term town clerk retired. The assistant town clerk would have been a natural for the town clerk's position if only she had not just recently moved out of town and started commuting to her job. But since she wasn't a viable puppet for the power couple, rules dictated that the town clerk had to live in the town, while Finance Directors, Police Chiefs and just about every other town officer did not. Thus, despite her interest, enthusiasm, dedication, longevity, and that just prior to the position opening, she had been a lifelong native, she did not qualify for the position as cited in the Selectmen's minutes (by the Finance Director when the former clerk had announced her retirement.) Then, the powers that be decided to

eliminate the position of assistant town clerk altogether, and her fate was sealed. She had to go.

Where West Newbury had previously enjoyed the same town clerk for more than a decade, the town clerk that replaced her was very short lived by comparison. Her abrupt departure was rumored to be attributable to conflicts with the Finance Director, but whether that was the case or not, one thing was sure – the replacement of the town clerk would fall upon the Finance Director, thus giving the police chief's wife control of who it would be. *Coincidentally*, the rule dictating that the town clerk had to reside in town was changed subsequent to getting rid of the lifelong resident and most qualified candidate that had moved out of town just prior to the position opening up.

It should not come as a surprise then, that West Newbury's Town Counsel, who had never lived in town, would become the new Town clerk and serve double duty while maintaining his position of Town Counsel. As Town counsel, he had for years insulated the Finance Director's husband, i.e. the police chief, from just about every public scrutiny and disciplinary action that ordinarily would be faced by public officials, and he misguided the town in very many other ways as well. He was instrumental in shielding the police and other departments from bringing any transparency or a modicum of ethics to town government, and only two weeks prior to the Chief's wife selecting him as Town Clerk, he was named in a lawsuit against the town, much of which focused on the police chief for corruption, incompetence and misconduct of his department.

Town Counsel always played a pivotal role as one of the power couple's greatest allies, choosing him as the new Town Clerk was nothing short of reward. This new hire pretty much alleviated the need for the Board of Selectmen, but just to be sure of complete and unilateral control, the Finance Director proposed that the town create a position for a Town Manager. She recommended herself for that, and proposed to do double duty as Finance Director and Town Manager.

With that and Town Counsel doing double duty as both Town Counsel and Town Clerk, her husband, the police chief, wouldn't have an adversary in town to contend with. As an added measure, the Finance Director's secretary of years, was moved over to be the Selectmen's secretary, and thereby became the Town Administrator. That she dated the Chairman of the Board of Selectmen wasn't significant, though he also sat on various other boards while her daughter trained as a dispatcher at the police department. Raises and other pet projects or interests were easily facilitated because accountability became more elusive, and no one was paying attention anyway. In the unlikely event that anyone actually wanted to know what was going on, Town Counsel, who was now also Town Clerk, was more qualified, and in a better position than ever to deflect any inquiries and investigations, and did a stellar job in subverting public records laws long before his new appointment as Clerk.

As far as newspapers go, The West Newbury News was owned and controlled by the West Newbury Police dispatcher's husband which made it risky to (*Cont. on p. 7*)

As West Newbury pondered the \$35,000 in disputed bonuses paid to Finance Director Tracy Blais over the past 14 years, the neighboring town of Newbury jumped to hire the ousted Finance Director. With nothing in writing to back up her claim for the annual bonuses, the current Board of Selectmen informed Blais on November 5, 2010 that she was not authorized to take them.

Also discovered were three cases of Blais overpaying herself in her biweekly salary. The veteran finance director of 19 years reimbursed the town \$6,972.76 in December of 2010, for money she had overpaid herself in 2007. She claims she discovered this in a 'self audit'.

Email messages between Blais and the Board from October to mid-December of last year reflect that financial information and answers requested by the Board to resolve various issues in dispute went unanswered. Blais' excuses ran the gamut from heavy meeting schedules, to work on next fiscal budget as reasons for not meeting the Board's deadlines.

Adding to the mystery was how someone with Blais' reputation for being "extremely detail oriented" failed to notice the difference in her previous year's gross pay amount in the year following her receiving a four percent salary increase.

Yet another curiosity arose regarding the disputed bonuses that had been put in by Blais each year from 1997 to 2008. In fiscal year 2010, what had previously been a lump sum annual payment was then divided into 26 installments throughout the year. The town's

accountant at the time does not recall why the decision was made to imbed the bonus into Blais' regular salary, and when the town's new accountant took over, she continued to follow the protocol put in place.

Of the various Selectmen serving from 1997 to the present, only Knowles and O'Sullivan recall endorsing the bonus, but both acknowledged that the issue of whether to award it each year was never discussed in either executive session or open meetings. O'Sullivan believes the reason the language was removed from the contract was Selectmen "didn't want to be required to pay a merit bonus. (Tracy) was to process it, and if they signed off on it, she got it — if they didn't, she ripped it up." O'Sullivan said Berkenbush told her "the Board didn't want other department heads to know about the bonus because they'd be coming in requesting the same."

Questions linger, but some wanted her to stay on. Selectman Cushing has maintained that he does not believe Blais knowingly misappropriated funds, and refers to it as "a long, complicated series of mistakes..." Though he agrees Blais should not have taken the bonus, still he excuses the behavior by way of "Nobody gave her a 'no,'" "This kind of 'logic' reminds one of State Senator Diane Wilkerson, who is currently serving time in jail after being caught stuffing money down her bra. It is widely believed that "Nobody gave her a 'no.'" as well.

Newbury's generous offer to hire Blais is odd in these challenging economic times when towns are stretched to their limits to make ends

meet. It is all the more so in the wake of taxpayers' money for a forensic audit, all the unanswered questions, and West Newbury's expenditure of \$25,000 in disclosed. ~

BLOGS often leak out news that is later verified as facts, (though one must still be cautious of rumors).

For those who miss the insights provided by the internet, the following are some Blogger's reactions to the Blais situation in the Daily News:

- Guest:** The Charlie Sheen moments keep mounting
- Dick Cushing** looks at compelling evidence that the finance director has been stealing from the town for over a decade...and arrives at the conclusion "Let's give her another five-year contract!"
- Ann O' Sullivan** blames the whole thing on a dead person.
- Dick Cushing** introduces the "Nobody told her no" defense. (Say...didn't see you on the O.J. Simpson, jury?)
- Blais** apologists threaten Kemper by saying they're putting Bert Knowles signs on their lawns because he and Cushing, presumably, will immediately enact a Blais Restoration. (Can't wait to see those "Keep Corruption Alive! Vote Bert!" signs.)

loganwn What is wrong with this world. What amount of money would the Tracy supporters say is wrong. If Dicky B told her it was ok to take 100,000, then is that wrong? She knows the process better than anyone on how money is given out the correct way. Please stop Saying "It's only a small amount" and "It was a mistake" the only mistake we all made was to hire her in the first place.

WichyMARE The people of WN love to be taken advantage of, we stand up and applauded the FD and ask for more. Please take our money, raise our taxes, appropriate another tax over-ride. Who cares if people are out of work, the economy sucks and people are losing their homes, Tracy needs her bonus.

WestBlueberrytownie Are you kidding me? Finance is her EXPERTISE. It's not like she broke some town recycling rule. She stole money, and used her expertise to hide it. She should be FIPED!! Immediately. But this town will pull another "L'Esperance". We'll let our problem move on to bigger and better things. We'll move this priest to someone else's parish. And won't we be as guilty for looking away? If we don't renew her contract, she'll get another job flipping other people off one way or another. If we fire her, she will get the career punishment she deserves — but you know with all her connections, friends, and secrets she holds on other people, she's gonna be "L'Esperance'd" to somewhere else. Doesn't anyone have any courage in this town?

You heard it here first - "L'Esperance'd"

(Can't fight city hall Cont. from p. 6)
 talk about what really went on, though they did report the Police Chief being AWOL back in 2000. Other local papers refuse to report anything controversial because they don't have the staff and/or inclination to pursue stories on this small, bedroom community, except that Jennifer Solis, a correspondent for the Daily News, attends all Board of Selectmen meetings, and remains the only person in the town who objectively tries to question and keep track of things, albeit as much as possible being hidden from her

All secrets are safe and secure in the rural, cozy town of West Newbury. Commuters come home at night, and go to sleep not having a clue as to what happens while their taxes skyrocket to compensate for all the things they're not to know.

Where are Devine signs?

Unfortunately, since the day of West Newbury Police's first false charges against me were in the paper, the month after I had sought Selectmen's help, I knew my reputation in this town was tarnished. Selectmen O'Sullivan confirmed that when she humiliated and chastised me in front of my son. I had brought him to the Selectmen's Meeting so they could hear a then ten year old tell what it is like to live in West Newbury - in the face of what he saw of neighbors and police.

O'Sullivan re-confirmed her opinion of me when I attended a Selectmen's meeting to ask when or if they were going to respond to my letter. She stated they would not respond to me because I "had a reputation". She then asked me to leave.

In light of how I have been cast by Selectmen who have promulgated the characterization above, and worse, all these years, I did not want to impose on citizens to openly show their support of me. Instead, I ask them to learn the TRUTH, and then quietly **VOTE ME IN AS SELECTMAN**

YES, I AM THE UNDERDOG

Moreover, it would take a miracle for people to vote for me in light of my inability to campaign during this recent period where campaigning would have proved critical. BUT,

Win, Lose, or Draw:

It is critical that the public stay vigilant to ensure that those who hold public office do so to serve the public, and do so with an unwavering sense of duty and responsibility to those they serve. I urge you, the community, to DEMAND this, and the kind of accountability, transparency, and integrity needed to change the culture of corruption currently accepted, no matter who you vote for.

I am more certain than ever that changing the culture locally can have dramatic effects on changing the culture all the way up to the top, because, after all, these people originally come from our towns and cities. With the last three speakers of the house indicted, and all the other issues that all this town, this state, this country, it is easy to see with the likes of L'Esperance and more, that we are indeed in a position to influence not just what happens in our own backyards, but that which is allowed to trickle up and continue its rise to power. IF we are vigilant at the local level. When we are not, we learn the results of what has been allowed to fester for years, and often there is little to nothing we can then do about it.

I have been actively involved in

trying to fight public corruption and support court reform since my rude awakening upon moving to West Newbury. I can assure you the higher you go, the less you are heard, which is why I am so adamant of the role citizens and local officials have to demand accountability from the lowest levels, which clearly is where L'Esperance was before we empowered him.

I will continue to fight against public corruption at all levels, but the recent extension of the Police Chief's contract poses a major roadblock, none the least of which is the threat to my liberty. Having to go back and forth to court every time I turn around is but another drain on my time and taxpayers' dollars, four trips in the last thirty days over my driving to and from my house five times. With an attorney in tow at \$200/hr. that's about \$2,000.00 for me for nothing, but taxpayers pay for the multiple court officers, probation officers, clerks' and judges' salaries, and then there's the bricks, mortar, and utilities for what could actually be put towards fighting real crime instead of funding retaliation! (And this was all in between dealing with real life, and more accurately death issues as I buried two friends in that same period.)

The point is, I cannot stress enough that government is broken and adversely affecting people in ways many aren't even aware of. Therefore, it is pivotal to everyone's best interests that we as a community get,

and stay involved, and hold our leaders feet to the fire to effect the desperately needed changes required where we can most direct and influence them, right here in our own backyards. This must come FIRST, and above all else, if we are to build a foundation on which we can even attempt to rid our government of corruption from the bottom on, UP.

What Happened to Devine's Campaign?

Subsequent to pulling papers to run for Selectman, on March 30th we received the shocking news that my husband's sister had 3-4 months to live. It was only a month earlier cancer was even mentioned. I knew as soon as my husband said he wanted to leave for New York that weekend, and every weekend thereafter. I was not going to be campaigning and knocking on doors as anticipated during this stressful time, the month prior to election.

I contemplated withdrawing, and even throwing my support behind the lesser of two evils, but there was no lesser evil. Concluding there was no good option, I at least thought people could have a chance for change. If they 'elected' to take it.

Sadly, my sister-in-law passed far sooner than anyone imagined and her wake was in NY on Candidates' Night. Obviously I could not attend, leaving a huge void on top of the limited campaigning availed me during this troubling period. The other two candidates are already well known having served as selectmen six and nine years respectively.

I apologize for the void in my campaigning, and hope for your understanding. I remain committed to serving, and bettering how things are done in this town if I am elected, and maybe this paper will help fill that void, and better familiarize you with your selectmen's records so that we might all take the action needed to deal with issues that affect all of us.

REALITY CHECK

I'm cognizant of the fact that when Kemper first ran, Atwood too, for that matter, both lost their first races for Selectman. Neither had the rumors and falsehoods I have to overcome. Thus, it would be unlikely to expect that I could get elected in my first run **EXCEPT,**

Haven't you had enough?

If you want someone of integrity to represent, and fight for YOU as hard as I have had to fight for liberty then
ELECT ME.

I have exhibited an unwavering commitment to fight for what is right and in the best interests of our country, not just what goes on here. It has not been easy, and has cost much, but I've shown tenacity and commitment to not stop until what's wrong is righted, regardless of some very big obstacles and a lot of retaliation. I will fight just as hard for you.

Right is right, wrong is wrong, and if our current and past Selectmen have proved anything by their record, it is that they do not care to make the distinction if it does not serve their purposes. This is not good leadership, and in the challenging times ahead, we should not be leaving important decisions to the whims and self interests and agendas of those with track records that take actions that fly in the face of right vs. wrong, or even common sense.

Citizens of West Newbury: YOU can make a difference. VOTE DEVINE and HOLD Public Officials ACCOUNTABLE

If not YOU, than WHO?

Put INTEGRITY 1st

Name: Kristi L. Devine
Address: 7 Montclair Road
Age: 53 I think, but I try not to think about it.
Years living in town: Eleven

Occupation/Education: Two years Boston University, several years publishing industry, 10 years financial industry/stockbroker, Restaurant Owner prior to move to West Newbury where I became a stay-at-home mom turned activist.

Elected offices held or other relevant service/experience: Library Trustee, one of founders Make Room for Education, major campaigning for Scott Brown, coordinator of volunteers for McKenna for AG, testify at State House, Court Watcher, attend and participate in political conventions, seminars and events, Red Cross Disaster Relief volunteer, Massachusetts Chair of GRIP, (Government Reform & Integrity Platform)

Reason running for office: We need SOMEONE in there who is honest and accountable to all citizens that doesn't have a hidden agenda and cater to self or special interests only.

1. List two major issues you wish to address if elected. Willing to address all issues, but obvious first is clean up government with ZERO tolerance for corruption or waste. Second, make government accountable by reviewing and making available to the public every line item in all town departments and schools.

2. Do you support a Citizen's Petition appearing on the annual warrant aimed at reducing the Community Preservation Act surcharge from 3.0 to .05 percent? Why or why not? Absolutely in this economic environment, but keep just above level where we won't lose matching funds. We currently have substantial funds in that account that cannot be accessed for higher priorities because of restrictions on how money can be used. The money is needed elsewhere.

3. Do you support using CPA money to purchase the Daley property for recreational use? Why or why not? No. The asking price is in excess of assessed value. There may be occasions to overpay for something, but certainly not in this depressed real estate market. Also, now is not the time to take such a substantial piece of property off the taxpaying rolls

4. Where do you stand on the tax override on the ballot to fund the Pentucket School assessment? As a leader of a Pentucket district town, how would you recommend the school committee address the shortfall if it fails to get majority approval for its budget? The voters decide. Shortfall could come from readjusting users fees, fundraising, and voluntary donations so that those who aren't hurting could take the strain off of those who are. The rest must come from the least painful line items.

5. What lessons can be learned from the recent controversy stemming from a decision not to renew the Finance Director's contract? In your opinion, what --if anything,--should have been handled differently? Far more vigilance, oversight, and accountability are needed. Inapproprieties or not, still too many unanswered questions, but one thing is sure, nobody's contract should include secret, or unwritten bonuses, or backroom deals and nobody should quietly pay themselves such.

ANYONE interested in:

- creating a monthly paper where issues and letters to editor can inform the community of goings on,
- creating a blog where everyone can contribute to help keep the community informed, and perhaps hold Selectmen accountable to issues they may otherwise choose to ignore, or
- simply sharing horror or other stories or accounts of experiences in West Newbury in need of exposure or feel good stories you would like to share,
- donating to defer costs of producing this paper or to the legal defense of:

KRISTI DEVINE

Devinekristi@yahoo.com

(978) 852-8012

It's time for someone NEW
Vote May 2nd for
Accountability, Transparency
and a fresh, new, perspective of

INTEGRITY

Devine4Selectman

All too often, these words are thrown out in campaigns by people who don't mean them, and do nothing to achieve them. I will sign a contract with the people of this town to pledge my commitment to this and working for and with YOU!

Email or call me with YOUR ISSUES:

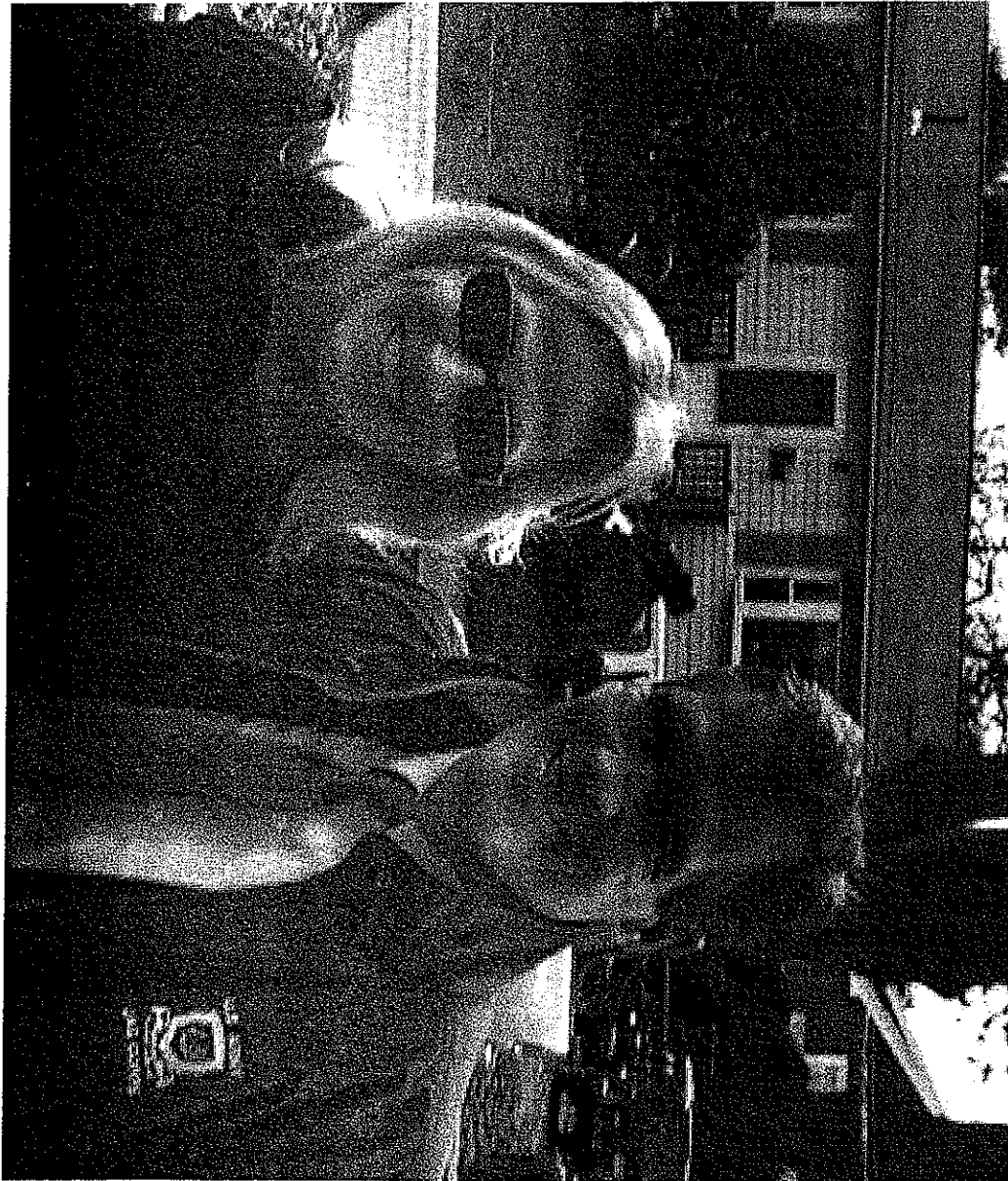
Devinekristi@yahoo.com (978) 852-8012

Kristi Devine with Scott Brown in Haverhill, MA in the early days of his campaign for U.S. Senate when about 5 people gathered to rally for support. Separate from fighting for our most basic rights on a local level, Kristi participated in any number of activities to promote the well being of citizens and their rights, from testifying at the State House on various issues, to campaigning for candidates that she believes can change the course of the way we do business in this country. Prior to even the primary race for the U.S. Senate seat, Kristi worked tirelessly to get Scott Brown elected, when neither his name nor that there was an upcoming election was known to most. Almost all the way through, (until the last two weeks of the campaign), she was told it was impossible for him to win. While she's sure others did so too, she was the first she knew of imploring people to help her make

Scott Brown the "Massachusetts Miracle."

Scott Brown started his political career as a selectman in Wrentham, Massachusetts, proving once again,

it all starts in YOUR backyard



All TRUTH passes through three stages.

First, it is ridiculed.

Second, it is violently opposed.

Third, it is accepted as being self-evident.

A. SCHÖPENHAUER (1788-1860)

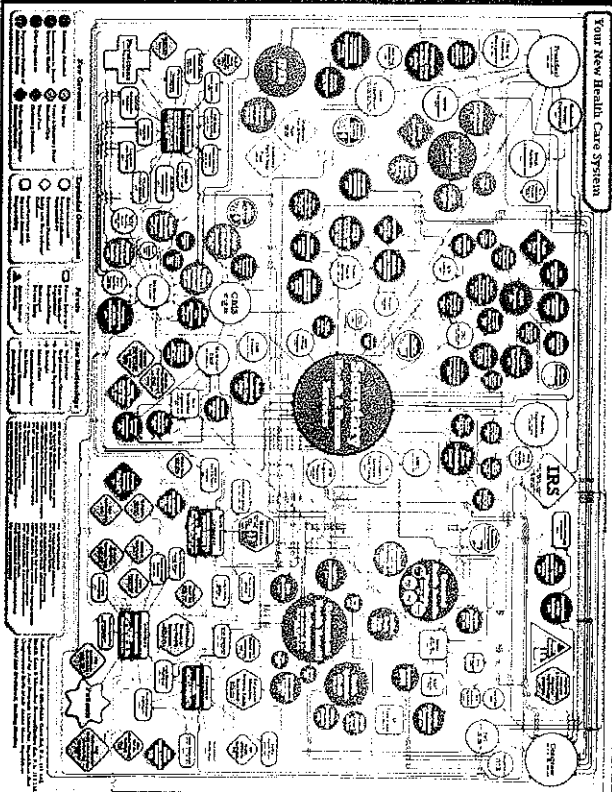
THIS. CANNOT. BE. FIXED.

The chart below depicts what the over 2,400 pages of the OBAMACARE bill is going to do and how it is going to work. To facilitate a more thorough understanding of something that will have a profound effect on everyone's healthcare and future, distribute and display this poster in your businesses, school, doctors' offices, hospitals, medical buildings, everywhere you can because it will affect everybody.

Each line on the chart includes the actual statute number, embedded for all to see, as it correlates and is delineated in the actual bill

You cannot, however, read these and other specifics and important details without viewing it in poster size, and seeing what the colors, and legends mean. 36 x 40 inch posters are available for \$5.00 a piece by emailing devinekristi@yahoo.com. They can also be purchased laminated, and/or mounted for \$10.00 each. Please help to distribute these and alert people to the disaster of this bill, and contact your Senators today and demand that it be repealed.

Your New Health Care System



Wayne Ymoris was the only one in this whole town who ever tried to intervene on my behalf to get Selectmen to do right by us. I didn't know Wayne well when I went to his house the day before I was sent to Framingham Prison. I simply knew he stood up against the police misconduct, or tried to, and I needed to tell someone what happened at the police station that day with Chief Dennis, having no idea I would go to prison the next day. When I told him what had gone on, he said: "...if you can just hang in there, we are about to get a good Selectman; it's in the courts, but we're winning." (He was talking about Kemper and the contested election results from his first term).

After Wayne heard what happened to me the day after that visit, when I was exiled, he contacted me to meet and go over anything he could give to Kemper to stop/fix what this town was doing to my family and me. He met me at my husband's office in July of 2005, and we spent hours talking with my Dad, and reviewing evidence of what was really going on. He took copies to pass on. From then until he died this past December, Wayne was the only one in this town who reached out to try and help us, and until he became too sick to do so, he continually tried to get Kemper to address these issues. When I came back to town, he obviously was among my ONLY friend - singular - in this town having been there through nervous breakdowns and my many tears.

On the day of his wake, I had to go to the court for more of the same of what L'Esperance had started under Chief Dennis, that the new Chief continues, that won't stop until Selectmen investigate and stop it. L'Esperance was court liaison, and the prosecutors and judges went along with him in spite of the obvious truth. That's just the way it works, and I was pretty well terrified, if not worse since I already knew how it would all play out. But, that was the day the front page of the Daily News announced the removal of L'Esperance's gun and badge, and the continuation of the L'Esperance story was in the back of Wayne's Obituary! Suffice it to say, I thought the nightmare would come to a swift end since now no one could deny what really went on in West Newbury. While I have since learned that NOTHING has changed, and West Newbury Selectmen and police are determined to continue the status quo, I still believe that Wayne made L'Esperance one of his first orders of business when he left us, and for at least that day, saved my life.

Dear Wayne: You are so very missed, by so very many, None the least of which is Me.

This paper cost approximately \$1.00 each to produce.

Anyone wishing to make a donation to defer costs, or as a campaign donation, mail to Montclair. If sending cash, please confirm it was received.

Your contributions will be GREATLY appreciated

Separately, anyone interested in producing a monthly paper where we can better educate and form the community, PLEASE CONTACT:

Kristi L. Devine
7 Montclair Road
West Newbury, MA 01985
devinekristi@yahoo.com
(978)852-8012

I would be remiss if I did not mention, and honor the memory of both my husband's sister, RITA, as well as another friend, LIZA, who passed just days before after fighting for life for the last five years. Liza had just turned 46 and leaves children 10 and 12 years old after her very long and difficult five-year fight to live.

Life is challenging enough with much that goes on beyond our control. When contested with all we can't control, most especially people having to fight so hard just to stay alive, certainly it is most despicable that people must fight so hard for their liberty, and what is right, when it is so in our control just to do what is right, and stand against that which is so blatantly wrong.

Everyone should have a vested interest in seeing that evil does not prevail, and stand up against corruption, holding people accountable for their wrongs from our local government, right up to Washington. It is the only way civilized society can maintain a stronghold for all that is good, and crush the evil forces among us for the good of all. America's greatness did not happen by accident. Our founders knew what they were doing and what we would be up against to maintain our liberty and Republic. People died fighting for just that. We cannot ignore their sacrifice.

Ours, and our children's futures are in peril, and at stake. Please pray for all.

**May God Bless YOU,
and May God Bless America.**

It really isn't about just "ME"

When one considers what has gone on, it is much bigger than the Devine family, or harm caused them. At all times, West Newbury officials, from police to Selectmen made decisive choices to allow evil and wrong to prevail over good and right, and ignored their role(s) and responsibilities to this community. They more than knowingly turned a blind eye, and in many cases directly or indirectly participated in the carnage of this family, allowing police misconduct and improprieties to trump all. What does that say about the integrity of your police department. **MORE IMPORTANTLY ...**

What does that say about this town's leaders and integrity?

While most look away, or take the attitude that it doesn't affect them, it most assuredly does, whether they are aware of it or not. It affects their pocketbooks by way of the hundreds of thousands of tax dollars spent from all the court personnel and time, (above and beyond the time and a half paid to police while there), to the multiple law firms and lawyers to fight the Devines at every turn, WITH YOUR TAXDOLLARS, instead of just doing what's right. The Devines have found justice is elusive if it exists at all, but taxpayers should learn they are paying for this injustice and it could STOP here and now, with YOU. Current and past leadership have FAILED

VOTE for NEW LEADERSHIP!

VOTE DEVINE

It's time for change.
It's time for
HONESTY & INTEGRITY
to come **1st DEMAND**
Accountability & Transparency
If you don't, who will?