Comments on Proposed 501 CMR 17:00

Northwestern District Attorney David E. Sullivan's Office is in agreement with the points raised by Berkshire First Assistant District Attorney Karen Bell at the September 16, 2020 public hearing conducting by EOPPS. The proposed regulations at 501 CMR 17.00, as well as G.L. c 127, §119A, fail to take into account and are inconsistent with G.L. c.123A, which requires that, for cases of persons convicted of sex offenses who are incarcerated, district attorneys must be notified six months prior to release. That time period is necessary for a district attorney's office to review incarceration and treatment records of a sex offender, particularly any who may be incarcerated at the Massachusetts Treatment Center, and to determine whether the district attorney's office should refer a case for an evaluation by a Qualified Examiner. Even more time is needed for a Qualified Examiner to review all records and be able to offer an opinion as to whether a sex offender is a sexually dangerous person.

In the case of medical parole, however, when an incarcerated sex offender petitions for release, upon receipt of the superintendent's recommendation, the Commissioner has only forty-five days to make a decision on the petition and a district attorney, after receiving notice, must provide a written statement within the deadline set by the Commissioner. G.L. c. 119A(e); 501 CMR17.07(4). That time period has historically been just seven calendar days. That time period is far too short for the district attorney to even begin a thoughtful review, much less engage in a comprehensive review of the inmate's records and treatment plans and to consult with an expert. This shortcoming puts the community at risk to those convicted of the most heinous of crimes.

Submitted by Cynthia M. Von Flatern, Assistant District Attorney