



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

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Testimony of the Division of Criminal Justice

In Opposition to

**H.B. No. 7001 (RAISED) AN ACT CONCERNING THE DEFINITION OF
"ADMINISTRATIVE FUNCTIONS" UNDER THE FREEDOM OF
INFORMATION ACT**

*Joint Committee on Government Administration and Elections
February 5, 2007*

The Division of Criminal Justice strongly opposes this bill, which would seriously undermine our ability to investigate and prosecute criminal matters. Further, the bill would pose a serious threat to the health and safety of innocent witnesses and victims of crime.

Section 1-201 of the general statutes currently reads:

Sec. 1-201. (Formerly Sec. 1-19c). Division of Criminal Justice deemed not to be public agency, when. For the purposes of subdivision (1) of section 1-200, the Division of Criminal Justice shall not be deemed to be a public agency except in respect to its administrative functions.

H.B. No. 7001 would amend Section 1-200 to define "administrative functions" in a manner that would to large extent nullify the exemption to the Freedom of Information Act that is rightfully and necessarily provided in Section 1-201.

Specifically, the bill would require public disclosure of:

- **The existence and details of ongoing criminal investigations.** Such investigations are conducted under strict confidentiality to protect the integrity of the investigation as well as the rights of victims, witnesses, and, yes, any party that is under investigation as well. With very few exceptions, it is our policy to not even acknowledge the existence of an investigation, i.e., we do not comment on matters that may or may not be under investigation by our agency.

Criminal investigations cannot be conducted in public – for the good of the investigation itself and for the good of all involved. This applies both to cases where a crime has been committed and where no crime has occurred. In the case where a crime is committed, we do not necessarily want the offender to know that we are investigating. We also want to protect the victims and witnesses from intimidation or harm. In the case where no crime has occurred, the individual who is wrongfully accused should not be subjected to public ridicule or scorn under the guise of defending the public's right to know. We receive literally hundreds of complaints and inquiries each year, and many of them involve allegations that are determined to be unfounded or not to involve criminal violations. Our job is to pursue justice – to seek out the truth – and certainly not to spread what ultimately may be found to be nothing more than rumor or gossip.

- **The names of innocent witnesses to crimes who find themselves involved in the criminal justice system through no fault of their own, and at their own peril.** In fact, as this bill is now written it could require the disclosure of the names of individuals enrolled in the Leroy Brown, Jr. and Karen Clarke Witness Protection Program and the details of the protections afforded to those witnesses. There would be absolutely nothing preventing the accused in a violent crime from using the FOI Act as amended by this bill to learn the location of witnesses afforded protection against that individual. As now written, this bill could effectively put our Witness Protection Program out of business.
- **The names of innocent victims of crime who find themselves involved in the criminal justice system through no fault of their own and who have already suffered too much.** This bill could have the same or even greater devastating impact on innocent victims of crime as it would on witnesses to crime. The General Assembly has deemed fit under specific circumstances to exempt the identities of these victims from public disclosure. That well-reasoned policy, which has developed over many years, should not be tossed out with this one bill. Just last year this General Assembly enacted Public Act 06-100, An Act Concerning Crime Victims. A major provision of that act is to prohibit individuals who are convicted of violent crimes from using civil court proceedings to harass their victims or to learn where the victim lives. We certainly do not want to be put in the position where we are giving criminals the ability to use the Freedom of Information Act for such illicit purposes.

In fact, the overriding problem with this bill is its “meat ax” impact on the Division of Criminal Justice and the provisions of the Freedom of Information Act that have evolved through many years of thoughtful deliberation on the part of this General Assembly, the Freedom of Information Commission and the courts. While this devastating impact on the Division of Criminal Justice may not be the intent of the bill, it is certainly the result. **The Division of Criminal Justice respectfully urges the Committee in the strongest of terms to reject H.B. No. 7001.**

Thank you.