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**TESTIMONY OF
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Raised Bill No. 695, An Act Concerning Investigative Grand Juries

**JUDICIARY COMMITTEE PUBLIC HEARING
MARCH 19, 2008**

While not opposed to Raised Bill No 695 in its entirety, The Office of Chief Public Defender does oppose Raised Bill No. 695 in its present form. The bill needs to provide additional and more adequate safeguards to balance the relaxed standards for convening the investigative grand jury and the expansion of power conferred upon the State's attorneys.

The Office of Chief Public Defender proposes that in addition to an individual state's attorney's application to conduct an investigative grand jury, that the Chief State's Attorney also **certify** that he or she reasonably believes that the interests of justice require that the investigative grand jury be conducted. Furthermore, the applicant should be able to justify his/her reasonable belief that the investigation **will** lead to a finding of probable cause.

The Office of Chief Public Defender also objects to the language throughout the bill that expands the use of the investigative grand jury to "enable the Chief State's Attorney or a state's attorney to determine whether or not there is sufficient evidence to convict a person or persons for a crime or crimes that have been committed." We would suggest that the following language be substituted:

..that an investigation be conducted to determine whether or not there is probable cause to believe that a crime or crimes have been committed *or whether or not there is probable cause to believe that a person or persons committed a rime or crimes.*

We suggest this substitute language for a number of reasons. First, this alternative language allows the prosecutor to request an investigative grand jury even though they may already have probable cause to believe that a crime has been committed, but lack the requisite information to determine that they have probable cause to determine whether a

specific person or persons committed the crime, or in the opposite scenario. This is an expansion of the present investigative grand jury statute.

Furthermore, pursuant to C.G.S.54-47g, the findings of probable are issued in a report by the grand juror. The provisions of Bill No. 695 are legally confusing in defining the parameters of the investigative grand jury proceedings in that the grand juror issues written findings in the determination of probable cause, but the prosecutor subjectively decides when he or she has sufficient evidence to convict without such findings. Furthermore the "sufficient evidence" standard for grand juries is not legally defined or utilized in investigative grand jury proceedings in any other state.

The Office of Chief Public Defender also urges that language be added to specifically provide for appointment of counsel for witnesses in contempt proceedings and to allow the appointment of public defenders to represent indigent "targets." Specific language should also be added to indicate that "targets" must be informed by the official conducting the investigation that they have a right to counsel. The bill should also indicate that disclosure by the state of exculpatory information concerning the "target" should be on the record and disclosed to counsel for the "target" prior to that person's appearance before the grand jury.

We urge that Bill No. 695 also be modified to require at least 72 hours notice for witnesses subpoenaed to testify before the investigative grand jury, unless the prosecutor shows good cause. This will afford witnesses time to obtain counsel prior to their testimony. Furthermore, there should be a prohibition against subpoenaing an attorney, or any person who assisted the attorney, to testify concerning privileged attorney client information or materials that constitute the attorney's work product. More stringent requirements governing subpoenaing minors (children under 18), should also be considered.

An investigative grand jury is one of the most powerful investigative tools available to the prosecution. Sufficient safeguards must be in place to protect the reputations and safety of citizens who are subpoenaed and compelled to testify before it.