



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

Testimony on the Division of Criminal Justice

In Support of:

S.B. No. 695 (RAISED) An Act Concerning Investigatory Grand Juries

Joint Committee on Judiciary – March 19, 2008

The Division of Criminal Justice respectfully requests the Committee's **Joint Favorable Report** for **S.B. No. 695, An Act Concerning Investigatory Grand Juries**. This bill makes simple yet very significant changes to the statutory framework for the appointment and operations of an investigatory grand jury, commonly known as a one-judge grand jury. This bill is the product of many months of discussion and collaboration, and the Division wishes to express its sincere gratitude to all who have participated in this process and in particular to Representatives Spallone and O'Neill for facilitating these discussions.

For years the Division of Criminal Justice has encountered great difficulties – sometimes insurmountable – in the investigation of organized or sophisticated criminal activity when witnesses have been for one reason or another protective of the suspected perpetrators or reluctant or unwilling to cooperate. In the past we have sought the authority to issue investigative subpoenas, an authority possessed by many agencies in this state, but not by the Division or police whose fundamental mission is to protect the public by investigating criminal activity and bring it to an end.

The Division recognizes the concerns of the General Assembly about the investigative subpoena proposal and instead seeks to improve the usefulness of the Investigatory Grand Jury by removing some of the obstacles to empanelling a grand jury while at the same time expressly providing that the grand juror shall protect the rights of witnesses whose testimony may be sought.

State's Attorneys are occasionally confronted with serious cases in which there is clearly sufficient evidence to constitute probable cause, which will justify charging someone with a crime, but because of the unwillingness of witnesses to cooperate with investigators there is a question about whether there is sufficient

evidence to prove the case beyond a reasonable doubt. Sometimes, based on a good faith belief that the witnesses will cooperate when subpoenaed and will corroborate the other evidence we charge the defendant and proceed to trial; other times we do not have that belief and do not seek an arrest and the crime goes unsolved. The criminal activity may continue or an innocent person under a cloud of suspicion may remain under that cloud because the investigation is not resolved.

The investigatory grand jury is an infrequently utilized process for the investigation of alleged criminal activity. Although the statute provides that any Judge of the Superior Court, the Appellate Court or the Supreme Court may apply for the appointment of an investigatory grand jury, the process is customarily initiated by the State's Attorney for the Judicial District where the crime allegedly occurred or by the Chief State's Attorney. If the application is granted, a Judge of the Superior Court (or State Referee) is appointed to serve as the investigatory grand jury. It is important to note that from the very outset through the conclusion the grand jury process is a judicial branch function. While the State's Attorney or the Chief State's Attorney may serve to assist the investigation, it is the judicial official who is appointed as the Grand Jury who actually directs the investigation.

Given the complexity of the process for convening an Investigatory Grand Jury, the process is generally viewed as a last resort when other investigative techniques are inappropriate or ineffective. While the passage of S.B. No. 695 would revise the process for the appointment of a grand jury, the Division of Criminal Justice would not anticipate any monumental increase in the number of applications. The standards are still very stringent and the process very time-consuming as are the resulting investigations. This is an investigative tool to be used where appropriate and not in the course of everyday business.

The Investigatory Grand Jury has always - and will continue to be under this bill - been used for the investigation of serious crimes and those type of offenses that elude routine investigative procedures. Such crimes would include complicated, so-called white collar offenses, corruption in government, organized crime, racketeering and violent crimes, including homicides. The Investigatory Grand Jury has been utilized with success in the past in the investigation of "cold cases," or homicides that have gone unsolved for a prolonged period of time.

Specifically, S.B. No. 695 would make the following changes to the Investigatory Grand Jury statutes:

- The specific crimes for which a grand jury investigation can be ordered are delineated in statute. S.B. No. 695 would maintain the

current crimes for which a grand jury can be appointed and add one new category - sex offenses involving the victimization of children under the age of 13;

- The current law requires the State's Attorney or the Chief State's Attorney to demonstrate that there are no other means of obtaining information to determine if a crime has been committed or the identity of those who committed it. S.B. No. 695 would require the State's Attorney or Chief State's Attorney to demonstrate that the interests of justice require the appointment of the Investigatory Grand Jury;
- The bill requires that a State's Attorney applying for a grand jury consult with the Chief State's Attorney prior to making the application. If the Chief State's Attorney is making the application, he or she must consult with the State's Attorney for the Judicial District where the criminal activity allegedly occurred prior to making the application;
- The bill revises what information the application for the Investigatory Grand Jury must include;
- S.B. No. 695 would require the State's Attorney or Chief State's Attorney working with the grand jury to obtain approval from the grand juror prior to issuing a subpoena seeking testimony or the production of documents and/or other evidence. The grand juror then must evaluate the value of issuing such subpoena. Currently the State's Attorney or Chief State's Attorney may issue such subpoenas without the express approval of the grand jury.
- Any subpoena that is issued must inform the respondent whether that person is a "target" of the investigation, that the individual has the right to counsel present in the grand jury proceedings, and that the individual has the right to a public defender, if that individual qualifies. S.B. No. 695 also provides that individual witnesses may have access to a transcript of their testimony before the grand jury. These are all new provisions.

In conclusion, the Division of Criminal Justice believes the simple, but very significant revisions incorporated in S.B. No. 695 will enhance our ability to investigate serious criminal matters while protecting the rights of all individuals involved. The Division of Criminal Justice again would like to express its most sincere gratitude to all who have contributed so much time and effort to the drafting of this proposal and to the Judiciary Committee for its consideration of the bill. The Division would be happy to provide any additional information or to answer any questions the Committee might have.

