



State of Connecticut
Division of Criminal Justice

Testimony of the Division of Criminal Justice
Joint Committee on Appropriations – February 23, 2009

The Division of Criminal Justice appreciates the opportunity to present to the Joint Committee on Appropriations additional information and supporting documentation concerning the Governor's proposed budget for the FY 2010-FY 2011 biennium. We would like to thank the Governor and the Office of Policy and Management for their thorough review of the Division of Criminal Justice and their thoughtful consideration of our agency, its operations and its ability to perform its constitutionally mandated mission. We also thank the Appropriations Committee for your careful consideration of this matter.

The Division of Criminal Justice recognizes the tremendous challenges that confronted the Office of Policy and Management and the Governor in the development of the proposed budget. We are also aware that the fiscal condition of the state continues to worsen, creating even greater challenges as the process of developing the FY 2010-FY 2011 biennial budget moves to the legislative forum. The Division takes great pride in the fact that ours is historically a frugal agency; we have aggressively managed our budget to avoid deficiencies whenever and wherever possible and to achieve the most efficient and cost effective operation of the agency.

This would not have been possible were it not for the tremendous dedication and commitment of our employees and the support that has been given to us by this body through the budget process. As you know, the Division's activities are labor intensive, with almost 90% of our budget supporting personnel costs; ours is not a "bricks and mortar" budget. We take great pride in the accomplishments of our employees and their exemplary service to the pursuit of justice for this state and its people. Our employees bring a wealth of talent, experience and expertise each day to the criminal justice system, enabling the Division to carry out the mission assigned to it by our State Constitution.

The Division of Criminal Justice is responsible for the investigation and prosecution of all criminal matters in the State of Connecticut. The Division includes the offices of the State's Attorneys for each of the 13 Judicial Districts in the state and the Office of the Chief State's Attorney in Rocky Hill. Additionally, Division prosecutors and investigators are assigned to all Geographical Area courts as well as all Juvenile, Housing, and Community courts. Our employees work in more than fifty locations throughout the state. Although most are engaged in the prosecution of criminal cases, the Division also conducts independent investigations primarily through the specialized units in the Office of the Chief State's Attorney. These include our Public Integrity Bureau, Workers' Compensation Fraud Control Bureau, Medicaid Fraud Control Unit, Elder Abuse Unit, Statewide Prosecution Bureau and Cold Case Unit.

The Asset Forfeiture Bureau, also in the Office of the Chief State's Attorney, sues convicted drug dealers and traffickers seeking to have their assets turned over to the state. In the last fiscal year this Bureau collected \$2.2 million in forfeited assets. The Bureau also collects bonds forfeited in criminal cases when a defendant out on bond does not appear in court. Collections in FY08 totaled almost \$3 million. The Nuisance Abatement Program also runs out of this bureau. Nuisance Abatement prosecutors work with the State's Attorneys, police departments,

municipal agencies and neighborhood groups to clean up nuisance properties that are being used for drug trafficking, illegal gambling, prostitution, etc.

Further, the Division provides services through its Witness Protection Unit and is responsible for arguing the majority of appeals and petitions for writs of habeas corpus in criminal cases through the Appellate Bureau and Civil Litigation Bureau, also in the Office of the Chief State's Attorney. In total, the Division is responsible for the prosecution of more than 300,000 criminal and motor vehicle cases each year. It should be noted that with very limited exceptions (certain consumer protection matters) the Division of Criminal Justice represents the public in every criminal case that comes into the judicial system each year and investigates or advises police departments investigating many cases that do not result in arrests.

In addition to the above, we staff the Regionalized Infraction Adjudication Program (RIAP) using per diem prosecutors instead of full-time, permanent personnel who are assigned to the prosecution of more serious crimes. This has proven to be very cost effective. For example, in the first quarter of this fiscal year we spent \$68,720 for 12 RIAP prosecutors. In that same time period more than \$1.3 million was collected in infraction revenue from the four RIAP locations (G.A. No. 7, Meriden; G.A. No. 15, New Britain; G.A. No. 19 Rockville, and G.A. No. 21, Norwich).

While the Division certainly recognizes the tremendous financial difficulties the state is facing, we also believe that we must express our concerns about certain components of the Governor's proposed budget. Our overriding concern is the proposed elimination of seventeen positions identified as 12 vacant General Fund positions and five filled positions that will be lost through proposed closings of the Superior Courts at Bristol (G.A. No. 17) and Meriden (Judicial District of New Haven at Meriden and G.A. No. 7). The Division would respectfully request the Committee's restoration of a minimum of seven of these positions – six vacancies for prosecutors employed in the prosecution of domestic violence matters and funded under the federal Violence Against Women Act (VAWA) and one currently vacant prosecutor position in the Appellate Bureau in the Office of the Chief State's Attorney.

We say a minimum of seven positions because, at this point, the Governor's proposal to close the Meriden and Bristol courthouses also earmarks the elimination of five filled positions from our position count. Should the General Assembly decide against closing these courthouses, the Division would require the restoration of these five positions as well. The Division of Criminal Justice cannot assess how many, if any, positions could be eliminated if these courts were to close because the simple reality remains that the cases that are prosecuted at these two locations will still have to be prosecuted somewhere and by someone. The major unknown from our perspective is how such closings would be implemented by the Judicial Branch, particularly with regard to the provision of space for employees who would be moved to new locations and the assignment of judges to handle the added criminal dockets.

For example, the Governor's proposal seeks to move criminal cases generated in the Towns of Hamden and North Haven from G.A. No. 7 in Meriden to G.A. No. 23 in New Haven, which would add more than 7,800 cases to the New Haven caseload. The New Haven court is by far one of the busiest in the state. To add any additional cases would make what is already a bad situation even worse in terms of workload and the accommodation of staff. Undoubtedly an increased caseload would result in increased inconvenience to the public and members of the bar who must appear in G.A. No. 23. There would obviously be similar concerns with transferring employees from the Bristol courthouse to New Britain – and in all cases, the Division of Criminal Justice is not the only agency that will need more space for employees and files. Public defenders, probation, bail commissioners and others who work in the courts also will have to be accommodated in facilities that may well not have any surplus workspace. With regard to the

domestic violence prosecutors, the status of the positions funded under the federal VAWA grant is not a new concern. For at least three years the Division has brought this matter to the attention of the Office of Policy and Management and the Appropriations Committee. We have repeatedly noted the continuing decline in VAWA funding and the resulting impact on our ability to retain these prosecutors, who are assigned to the disposition of domestic violence matters in five locations – Stamford, Bridgeport, Milford, Windham, and Hartford. These prosecutors handle almost half of the family violence cases in the state. It should be further noted that our efforts to implement separate domestic violence dockets with specifically designated prosecutors have had the enthusiastic support of the General Assembly.

Nevertheless, the Division now finds itself on the brink of being unable to continue this initiative at current levels unless relief is provided under the FY 2010-FY 2011 budget. The current VAWA grant award will be sufficient to fund these six positions only through June of this year. If the grant is renewed for calendar years 2010 and 2011, we expect it will be reduced, as it has been over the last three years, and will not be adequate to fully fund the positions during the biennium. Given the severity of this issue, and the current year's impact on the agency's General Fund personal services account of shifting some of the costs of these positions to the General Fund, the Division made the very difficult decision this fiscal year not to move forward with the hiring of the five prosecutors authorized by the General Assembly for the prosecution of repeat offenders and to instead preserve those positions for prosecutors now employed in the domestic violence initiative. These five currently vacant persistent violent offender positions, however, are among the twelve vacancies proposed for elimination under the Governor's budget. Again, we would respectfully request that the Committee retain six of these positions to be available for the transfer of the domestic violence grant positions to the General Fund.

Additionally, the Division would respectfully request the restoration of a minimum of one additional position to facilitate the filling of a currently vacant prosecutor position in the Appellate Bureau in the Office of the Chief State's Attorney. This Bureau is responsible for representing the state in the vast majority of the appeals brought in criminal cases (a limited number of appeals are handled directly by the offices of the State's Attorneys that tried or otherwise disposed of the original case). The workload of the Appellate Bureau has reached the point where our inability to fill a vacancy has forced us to hire private attorneys on a per diem basis to research and write legal briefs and to argue appeals before the Appellate Court, the Connecticut Supreme Court and other courts. We must have the ability to meet deadlines set by the court. We cannot cut back by doing less research or filing inferior briefs. Missing deadlines would not only have a negative impact on court schedules, it also would delay the hearing of appeals by defendants who have a right to have their cases heard.

Again, these personnel issues – the restoration of a minimum of seven positions now proposed for elimination under the Governor's budget – is the top priority for the Division of Criminal Justice. Additionally, we would call the Committee's attention to the following matters as well:

- On behalf of the state we expect to incur significant expenses in the account for Expert Witnesses as a result of our defense against claims of racial disparity in state death penalty convictions. The expenses in this litigation, currently being heard in the habeas court, are associated with the services of an expert statistician. While these unique services are extremely costly, they are critical to the state's success in this habeas litigation. These services are in addition to the typical witness experts in the areas of medical and psychiatric evaluations, accident reconstruction and forensic accounting. It is critical that the Division have adequate funding available to pay all expert witnesses necessary for successful prosecutions, many of whom are used in cases involving the sexual assault of children or domestic violence matters. One option we would suggest is that the General Assembly considers giving the Division access

to special litigation funds that may exist elsewhere in the budget for extraordinary situations such as we are experiencing with the defense of the death penalty convictions. The Division does not have the option of simply choosing not to defend the state in this case; it is our constitutional obligation to enforce the laws enacted by this General Assembly.

- The Division calls the Committee's attention to rescissions this year in the accounts for Witness Protection and Forensic Sex Evidence Exams in Sexual Assault Cases. While the Division expects to be able to accommodate these rescissions in the current fiscal year, we would note that there is no way to accurately predict these costs over the coming biennium and whether the proposed reduced appropriations will be adequate. The law requires that we pay the costs of forensic exams; the protection of public safety requires that we adequately fund activities for the protection of witnesses who are threatened or otherwise at risk by virtue of their cooperation with the authorities.

- The Division would note that capital funding authorized for development and implementation of a criminal justice information system, which would allow the Division to implement a case management system, has not been allocated. Additionally, the Division is awaiting allocations of capital funds authorized for us in fiscal years 2008 and 2009 which are desperately needed for other critical improvements to our information technology systems and infrastructure. We continue to consider our IT systems woefully inadequate and, as a result, are still unable to use objective, quantitative measures to support management decisions regarding the allocation of resources or to respond fully to questions raised in the results based accountability process. The inadequacy of our IT systems was a major topic of discussion during last year's special sessions on criminal justice issues. Yes, we are making some progress with the Criminal Justice Information System (CJIS) initiative, but in terms of day-to-day operational needs and capabilities we are no better off today than we were a year ago. We cannot put systems in place unless we have the underlying infrastructure to support them.

- The biennial budget proposes to centralize funding for the Division's Workers' Compensation Fraud Control Bureau into an account in the Workers' Compensation Fund within the Division of Criminal Justice budget. This will streamline the administration of fiscal services to this unit, and assure that it is adequately funded going forward.

- The biennial budget proposes to transfer administration of the Criminal Justice Commission to the Division of Criminal Justice from its current separate account. The Criminal Justice Commission, established under our state Constitution, is responsible for the appointment of all state prosecutors with the exception of juvenile prosecutors. Its administration has been handled by the Division of Criminal Justice since the inception of the Commission. The Commission has no staff of its own. Division personnel provide full administrative services to the Commission, including handling expenses of their budget, which is proposed at \$650 in each year of the biennium. The change proposed in the biennial budget is simply a streamlining of the administration that would accomplish on paper what is already done in practice. We would call to the Committee's attention that Commission members – a Justice of the Supreme Court, a Judge of the Appellate Court and four attorneys in private practice – serve purely on a voluntary basis, with minimum cost to the state, and should be recognized for their tremendous contribution.

In conclusion, the Division of Criminal Justice again thanks the Appropriations Committee for your past support of our agency and its employees. We truly appreciate the opportunity that you have afforded us to provide additional information on the proposed budget. We would be happy to provide any additional information or answer any questions the Committee might have.