



# State of Connecticut

## DIVISION OF PUBLIC DEFENDER SERVICES

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### **Testimony of Christine Perra Rapillo, Chief Public Defender Office of Chief Public Defender**

#### **Committee on Judiciary - Public Hearing March 15, 2019**

#### **Raised Bill 7222**

#### **An Act Concerning the Duties of the Office of the Attorney General**

While not opposed to the investigation and litigation of civil rights violations, the Office of Chief Public Defender has concerns with *Raised Bill 7222, An Act Concerning the Duties of the Office of the Attorney General*. The bill does not create any new substantive rights and as the testimony indicated, does not confer criminal jurisdiction on the Office of the Attorney General. The testimony, also indicated that there were ways that the Office of the Attorney General could work with the Division of Criminal Justice. Therefore as drafted, the bill raises concerns for this office and the clients it represents.

As drafted, the bill would have the unintended consequence of permitting the Office of the Attorney General to share any and all evidence obtained through an investigative subpoena with the Division of Criminal Justice for use in a criminal prosecution. Without a showing that probable cause exists that a crime has been or is being committed, the sharing of the information could override the Fourth Amendment to the United States Constitution and Article I, Section 7 and 8 of the Connecticut Constitution. This would be so regardless of whether there had been an arrest or that there is a criminal proceeding pending.

Given the investigative resources that are at the disposal of the Chief State's Attorney and the State's Attorneys, including the investigatory grand jury, as well as the inherent power and authority of law enforcement officials over private citizens, this should not be permitted. Consistent with prior testimony the Office of Chief Public Defender has always opposed the use of investigative subpoenas by prosecutors in this state. Information that could be gathered by the issuance of an investigative subpoena can include personal and business documents, including but not limited to computers, tablets, cell phones, and the

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content of such, financial records, other electronic records or recordings and documents, including documents that may later be determined to be privileged. Anyone can be the subject of such a subpoena in the investigation of a civil rights violation, including private and public businesses and state agencies.

This office does not oppose the Division of Criminal Justice sharing, once a prosecution has concluded with a conviction, information with the Office of Attorney General to pursue litigation for a civil rights violation. The Office of Chief Public Defender requests that language be added to prohibit the sharing of information from the Office of Attorney General to the Division of Criminal Justice so as not to violate the constitutional requirements.