



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

STATE AGENCY BUDGET PRESENTATION

JOINT COMMITTEE ON APPROPRIATIONS

February 26, 2021

The Division of Criminal Justice expresses its appreciation to the Joint Committee on Appropriations for this opportunity to provide additional information concerning the Governor's Recommended Budget for the biennium ending June 30, 2023. We also extend appreciation to the Governor and to the Office of Policy and Management for their thorough and careful consideration of the Division's budget submission. We look forward to working with the Committee as you proceed with your review and examination of the Division's plans and goals and determination of the resources necessary to assure our continued ability to properly fulfill our constitutionally mandated mission.

The Division strives every day to fulfill that important mission by upholding two of the nation's most treasured ideals: the preservation of public safety and the protection of liberty. The Division's primary responsibility is to ensure that these cherished concepts are properly balanced every day, in every criminal case. The Division promotes respect for the rule of law, while at the same time ensures that the enormous powers of the state do not violate the rights and liberties of Connecticut's citizens.

It is these citizens that the Division looks to for guidance on how it is doing its job. The Division recognizes that on both a national and local level, there has been a loss of confidence in the Criminal Justice System. As public servants, the Division cannot let that stand, so it is working harder than ever to achieve an even more just and balanced Criminal Justice System that the public can have faith in and trust.

Anchored by the strong foundation built by its committed predecessors, the Division's new leadership has listened carefully in the past year to legislators, community groups and other stakeholders and already is charging forward with an agenda for a more transparent and data-driven Criminal Justice System. This system strives to not only promote public safety, but also applies the principles of restorative justice, diverts and connects offenders with access to treatment, care and training, establishes research-based policies and encourages transparency. To

complete this necessary and important agenda, the appropriate resources need to be in place. Fulfilling the Division's budget requests needed to fund the following innovative reforms will help the Division stay committed to this vital agenda that it believes will restore credibility and trust in the Criminal Justice System in the communities the Division serves. The priorities of this agenda include:

- **Creation of a Five-Member Conviction Integrity Unit**

The Governor's budget includes \$363,382 to fund a paralegal, a prosecutor and a police inspector for the unit and another \$50,000 for independent consultants. While the Division is grateful for the funding set aside by the Governor, a task force formed to study the creation of the Unit has recommended that to be most effective, the Unit needs a team of two prosecutors, three inspectors and a paralegal. Understanding budgetary constraints, the Division has requested 5 positions, including two prosecutors, two inspectors, a paralegal and \$50,000 for independent consultants. The Division is committed to fully staffing the unit as recommended by the Conviction Integrity Unit Working Group using a current vacant General Fund position to handle the workload.

The Division's new leadership is in full support of the creation of a Conviction Integrity Unit to reexamine evidence in cases in which there is reason to believe there was a wrongful conviction. Prosecutors must ensure that justice is done in every case they handle and that duty does not end when a conviction is obtained. This Unit will provide prosecutors wanting to achieve justice the resources needed to reexamine convictions that they believe require a second look. The Unit also will work to create a statewide procedural framework that will make it possible to review all cases that lack integrity beyond just wrongful convictions.

The Division is committed to being more proactive in its approach to addressing innocence claims and working through what can become an even more extremely complicated process by which matters proceed through the Criminal Justice System. But without the proper staffing, the Unit would face the same challenges posed to prosecutors handling excessive caseloads who, due to being overburdened, cannot always identify the least culpable defendants and afford them sentencing reductions, cannot promptly dismiss cases with weak evidence or cases where the defendant is innocent. Excessive caseloads can also harm victims if guilty defendants are being wrongfully acquitted or receive plea offers that are far too low. Outcomes like this will do little to restore faith and confidence in the Criminal Justice System.

The Conviction Integrity Unit Working Group formed by Chief State's Attorney Richard J. Colangelo, Jr., upon his appointment to Chief State's Attorney in January 2020, supports a Unit comprised of two prosecutors, three inspectors and a paralegal. The working group included criminal justice experts from Division of Criminal Justice community partners, including: Retired Chief Justice of the Connecticut Supreme Court, the Hon. Chase T. Rogers; Retired Chief Public Defender Susan O. Storey; Retired Chief State's Attorney Kevin T. Kane; Melvin J. Medina and Kelly Moore of the American Civil Liberties Union – Smart Justice Campaign; Attorney and

Criminal Justice Commission Member Reginald Dwayne Betts; Deputy Chief State's Attorney Kevin D. Lawlor; and New Britain State's Attorney Brian W. Preleski.

- **Staffing each of Connecticut's Judicial Districts with Early Screening and Intervention Coordinators**

The Early Screening and Intervention program (ESI) is a criminal justice reform initiative built on the fundamental principle that it is the prosecutor who serves as "gatekeeper" to the Criminal Justice System through the basic process of deciding what to charge, or whether to charge at all. The ESI model is the best overall solution for Connecticut in dealing with low-level criminal matters. ESI makes it possible for cases to be examined at the earliest stages. Decisions are then made as to the best outcome with fewer court appearances and less reliance on diversionary programs or other options for low-level criminal conduct. Restorative justice seeks to resolve cases in a manner which makes victims whole while addressing the specific needs of accused persons and channels support to them to help diminish recidivism. The majority of ESI cases result in favorable dispositions.

The ESI Program has been implemented in six geographical courthouse locations in the state. Having ESI Coordinators in every Judicial District ensures equity so that everyone, no matter where they live, can have access to the program. The coordinators are a vital part of the ESI program as they are the intervention piece. As a trained social worker, they are trained in needs-based assessments for individuals and are able to direct individuals to the resources that target their individualized needs. This focus on the individual rather than the nature of the offense is critical to the program's success.

Early results from collected data on the ESI program are promising. ESI diverted cases resulted in fewer court appearances, targeted resources, and significant cost and time savings. Nearly 90 percent of ESI diversions had no more than two appearances before a judge, saving time and, as a result, resources. The cost of implementing an ESI model in all of our geographical area courts would surely be outweighed by the benefits. Hiring dedicated ESI Coordinators for each Judicial District would require increased funding in the Division's operating budget yet the staffing of ESI prosecutors could be accomplished in many jurisdictions through redeployment. Any additional staffing needs could easily be met through the projected cost savings.

A recent report submitted by the Division to the Office of Policy and Management and the Judiciary Committee in accordance with the requirements of Section 11-4a of the Connecticut General Statutes and Section 23 of Public Act 20-1 on a plan for prosecutors to review all charges before criminal cases are docketed, shows that the concept of earlier prosecutorial decision-making and prevention of appearance in court by accused individuals is clearly beneficial but can come at a cost. The way the system is now set up, according to the report, the reviews would be too costly. Yet the report makes it evident that the Division should no longer wait to equitably address any inconsistencies in the system. The ESI program is one of the cost-effective ways to do

this. The report showed that the ESI program could be implemented quickly in each Judicial District with a small increase in Division funding.

The ESI program has been run almost exclusively with grant funding from the Herbert and Nell Singer Foundation and support from the state Department of Mental Health and Addiction Services. The pilot program shows the great promise that this approach offers to both improve the quality of outcomes for the public and the offender while saving the state time and resources in the process. With the grant funding expiring, the Division respectfully requests the Committee's consideration of additional resources to establish the program on a permanent basis. We estimate the cost to be \$630,000.00 for Fiscal Year 2022 and Fiscal Year 2023, respectively, but again believe the program benefits outweigh that cost to the extent that establishment on a statewide basis may be warranted when feasible.

- **Staffing the Office of the Inspector General with 11 Positions**

With the enactment of P.A. 20-1, An Act Concerning Police Accountability, the Office of the Inspector General created within the Division of Criminal Justice would be staffed with nine employees. The Division is grateful for the funding for these positions in a unit that will work to regain the trust of Connecticut citizens who have lost faith in the Criminal Justice System. To be most effective in its investigation and prosecution of cases involving police use of deadly force resulting in death or injury and in-custody deaths that are not the result of natural causes, however, the Office of the Inspector General needs 11 employees. The Division is committed to using current vacant General Fund positions and funding to staff two of the 11 positions needed to handle the workload for a large number of sensitive, time-consuming cases. In 2019 alone, the Division investigated 24 cases related to fatal police shootings, non-fatal uses of police force and other deaths in police custody. In 2018, there were at least 19 such cases.

- **Staffing Each of the State's 13 Judicial Districts with Paralegals in the Division's Efforts to Promote Prosecutorial Transparency**

The Governor's budget includes \$195,000 to fund three paralegals to assist the Division with its recent implementation of its new Case Management System and to help review body camera and dashboard camera footage and other electronic evidence. While the Division is grateful for the funding set aside by the Governor, the Division is asking for funding to hire thirteen paralegal/information technology personnel.

The thirteen paralegals would be assigned to the State's Attorney's Office in each Judicial District and would be responsible for assisting in the processing of body and dashboard camera footage as well as assisting with the implementation of the Division's new Case Management System (CMS). The General Assembly has invested significant resources in the CMS, which the Division began using in January. The state-of-the-art electronic system collects and shares criminal records, evidence and other information now kept almost exclusively in paper files. CMS directly addresses the issues raised in

Public Act No. 19-59, An Act Increasing Fairness And Transparency in the Criminal Justice System. Without the paralegals, employees already stretched to the limit at each courthouse will not be able to collect and organize the data, innovation that serves the public and public safety and helps provide transparency to legislators, communities and other stakeholders in the Criminal Justice System.

Laws requiring police to use body cameras and dashboard cameras are just one example of how legislative enactments have placed tremendous demands on the Division of Criminal Justice without corresponding resources. We have both a legal and ethical obligation not only to disclose to the defense all body camera footage, but also to have reviewed the footage ourselves to identify any potentially exculpatory material. Consider that even a relatively minor assault case may bring a response of several police officers, each of whom is wearing a body camera. We have the obligation to review the footage from each camera, which is becoming nearly impossible given the number of cases and amount of material the cameras are producing.

- **Additional Funding for Training with Anticipated Wave of Retirements**

The Division's leadership must prepare for an expected onslaught of retirements that is anticipated to peak by 2022 and remove from our ranks some of our most senior and experienced prosecutors, Inspectors and administrative employees. More than one-third of the Division's currently filled positions/employees will be eligible for normal retirement by June of 2022. It is not enough to simply wait and replace these employees when they retire. We must begin hiring their successors now so that they can get the training and experience necessary to prepare the agency for the impending loss of veteran talent.

It is for this reason that the Division respectfully asks the Committee to consider an additional \$125,000.00 for each of the two years in the biennium for training and education. While the Division is grateful for the \$47,398 included in the Governor's Recommended Budget, those funds will not go very far to cover existing needs let alone to train the new workforce that we may be employing in a very few years. A robust training program will not only provide a wide variety of training programs and presentations needed but also will allow Division employees to stay abreast of developments in the law and related areas, such as forensic science, to assure that the training we do offer is addressing the most current pressing needs. This is especially critical given the continued developments in technology, such as the tremendous demands being placed on prosecutors, information technology and support staff due to the expanding use of body cameras by police.

The Division is a particularly well-managed agency in that it has always strived to live within its means. Operational needs and legislative mandates pushed the Division to fill nearly all of its vacancies in all areas including administration, investigation and prosecution. The Division is an independent, executive branch agency charged under the Connecticut Constitution with the responsibility to investigate and prosecute all criminal matters in the state. Nearly 500 employees working in some four dozen locations throughout the state, including the Office of the Chief State's Attorney, located in Rocky Hill, the Offices of the State's Attorneys for each of Connecticut's thirteen Judicial Districts, Geographical Area offices, Superior Courts for Juvenile Matters and Housing Courts, serve Connecticut's citizens. The Office of the Chief State's Attorney is responsible for administrative oversight functions for the agency as a whole and houses specialized legal and prosecutorial units. Like the Chief State's Attorney, the State's Attorney is also an independent constitutional officer and chief law enforcement officer for the Judicial District they serve.

The Division would like to take this opportunity to publicly express its appreciation and gratitude to our dedicated Division employees who kept the work of the state going through the pandemic while adapting to life and work in such an unprecedented time. Their commitment to the State of Connecticut and its people, and more importantly, to the pursuit of justice, is to be applauded. We publicly thank them for their efforts.

As a Division, we have done much reflection over the past year, seeking input from community groups, legislators, municipal leaders and other stakeholders. The Division is listening and is already taking leaps toward a more transparent, equitable and just Criminal Justice System in Connecticut. With the right resources, the dedicated public servants at the Division can restore the credibility and confidence the public must have in those who work every day to preserve public safety and protect citizens' liberties. The Division of Criminal Justice again thanks the Committee for allowing us the opportunity to address the Governor's Recommended Budget and the Division's programs and needs. We would be happy to provide any additional information or to answer any questions the Committee might have.