



Legislative Testimony
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**Written Testimony Opposing, Unless Amended, Senate Bill 892, An Act
Concerning the Criminal Justice Commission, Division of Criminal Justice
and the Office of the Inspector General**

Senator Winfield, Representative Stafstrom, Ranking Members Kissel and Fishbein, and distinguished members of the Judiciary Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in opposition to Senate Bill 892, An Act Concerning the Criminal Justice Commission, Division of Criminal Justice and the Office of Inspector General, unless the amendments described in this testimony are implemented. The ACLU-CT appreciates the willingness of this Committee to continue working towards the best way to structure the Office of Inspector General so it can conduct meaningful investigations into police violence that move towards real accountability. This bill contains some significant improvements over the version that was passed as a part of Public Act 20-1, but also retains some of the problems that existed in the original Police Accountability Act.

The ACLU-CT is committed to ending police violence and racism in policing in all forms. Accountability measures alone are not enough. Connecticut must also divest from policing and reinvest in programs that build strong and safe communities. Policymakers must reduce policing's responsibilities, scale, and tools to build an equitable future for all people in Connecticut. This bill deals with an important, but discrete, part of the solution to police violence. This bill, together with Public Act 20-1, cannot be the end of the conversation. If the General Assembly is committed to ending police violence, it must revisit this issue over coming sessions to pass more accountability and divestment laws.

When the legislature passed Public Act 20-1, it created an Office of Inspector General intended to hold police accountable for unjustified uses of force. One component of the

bill impeded the ability of the office to do so, though: a restriction that the Inspector General must come from within the Division of Criminal Justice. The implications of that limitation were made clear when the Criminal Justice Commission, tasked with identifying and nominating an Inspector General, only had two applicants for the position. This bill removes that unnecessary restriction, opening up the nomination to attorneys of any background. We fully support this change and believe it will create a robust field of candidates for the Inspector General position who are fully committed to the oversight and accountability role of the Inspector General.

This bill also includes a number of positive changes to the process of appointing not just the Inspector General but also other members of the Division of Criminal Justice. Allowing the Criminal Justice Commission, which is responsible for appointing and reappointing high-level prosecutors, to recommend removal of those prosecutors if needed is important. With their long terms, State's Attorneys currently can go up to eight years without significant oversight from the Criminal Justice Commission. This bill puts guardrails in place during that long tenure. Efforts to ensure a wide field of candidates, seen in Section 1 of the bill, will allow the Criminal Justice Commission to make more considered and diverse appointments. Standardizing the appointment process for special assistant state's attorneys, special deputy assistant state's attorneys, and special inspectors in Section 5 is also a good move. Finally, clarifying who may be called by the Criminal Justice Commission at reappointment hearings is a helpful technical fix. We support all these changes.

Despite that, Senate Bill 892 contains a problem that simply must be addressed before we can support this bill. According to Article XXIII of the Connecticut Constitution, the Criminal Justice Commission is solely responsible for appointing state's attorneys and the other prosecuting attorneys. Some legal experts believe that this Constitutional provision means that the current Inspector General appointment process is contrary to the manner currently prescribed by law. Under current law, unaltered by this bill the Criminal Justice Commission is directed to nominate an Inspector General who will be ultimately appointed by the legislature.

The demands of the Black Lives Matter uprising, rooted largely in police violence against Black and brown people, make it clear that the Inspector General's appointment cannot wait. The Inspector General must be appointed with speed and clarity. To the contrary, the appointment of an Inspector General through this process will likely be challenged as constitutionally invalid, creating confusion and potentially leading to a long fallow period for investigations of police uses of force. Changing this bill to bring make the Criminal Justice Commission solely responsible for appointing the Inspector General is clearly within the constitutional power conferred on the Criminal Justice Commission. Moreover, this change would bring the appointment process for the Inspector General in line with the process for other deputy chief state's attorneys. We urge this Committee to amend the process to vest the power to appoint an Inspector General in the Criminal Justice Commission, to achieve legal clarity and expedient appointment.

In addition, we ask this Committee to reconsider Section 1(b)(8) of the bill, which provides that the Chief State's Attorney shall be the tiebreaker if the Criminal Justice Commission deadlocks in the nomination of an Inspector General. While the previous attempt to nominate an Inspector General shows the need for a tiebreaking solution, we are concerned with the selection of the Chief State's Attorney as the tiebreaker. Public Act 20-1 makes it plain that the Inspector General is meant to investigate and pursue cases independently from the rest of the Division of Criminal Justice, including the Chief State's Attorney. For that reason, the Chief State's Attorney does not vote on the Inspector General nomination. Making the Chief State's Attorney the tiebreaker, after purposefully excluded the Chief State's Attorney from voting on the nominee for the position, could destroy the independence, or appearance of independence, of the Inspector General. We urge the Committee to select a different tiebreaking process.

The changes to the appointment process that this testimony outlines would create legal clarity for this new office. With our suggested changes, we would be supportive of this bill and the important steps forward it contains. Until that change is made, though, we must, unfortunately, oppose Senate Bill 892.