

TESTIMONY OF THE CONNECTICUT ASSOCIATION OF PROSECUTORS
IN OPPOSITION TO:

S.B. No. 653 (COMM) AAC OPEN FILE DISCLOSURE IN CRIMINAL CASES

JOINT COMMITTEE ON JUDICIARY
March 29, 2019

The Connecticut Association of Prosecutors (CAP) is the bargaining unit representing 248 Deputy Assistant, Assistant, Senior Assistant and Supervisory Assistant State's Attorneys within the Division of Criminal Justice. Charged with the responsibility for the investigation and prosecution of criminal matters in the State of Connecticut, under the supervision of the Chief State's Attorney and the thirteen state's attorneys, Connecticut's prosecutors handle thousands of cases per annum. The Connecticut Association of Prosecutors strongly opposes the concept of S.B. No.653 (COMM) AAC Open File Disclosure in Criminal Cases, and respectfully recommends the Committee take no action on this bill. CAP has worked with DCJ management, legislative leaders, OPM, and Governor Lamont's office in an effort to bring front line input to this legislation, the subject matter of this bill is already appropriately addressed in the Connecticut Practice Book, the rules promulgated by the Judicial Branch to establish criminal court procedure. It is the position of CAP that this legislation, if enacted, will place significant and unnecessary burdens on prosecutors throughout the state who endeavor each day on behalf of the citizens of this state.

By law prosecutors are subject to a variety of rules and regulations in their work. Like all attorneys, we are subject to the Rules of Professional Responsibility, and the Connecticut Practice Book which governs practice in Connecticut courts. The Rules Committee of the Superior Court establishes rules that govern attorneys and which are incorporated into the Practice Book. Prosecutors are subject to the policies and procedures of the Division of Criminal Justice. We are subject to the Connecticut General Statutes. Additionally, as prosecutors we are subject to the special rules for prosecutors within the Rules of Professional Responsibility. We are charged with upholding the state and federal Constitutions. We are charged with upholding the rights of both criminal defendants and victims of crime while endeavoring each day to make our communities safer. It is important to note, that we are charged with the responsibility of bringing both inculpatory and exculpatory evidence to the attention of the court and the accused. Prosecutors collect and gather a variety of information in order to fulfill our discovery obligations; an obligation of which we are both obligated and dedicated. This bill add unnecessarily to the above rules, contradicts several Practice Book Rules and places undue time burdens on all ready overworked and understaffed prosecutorial offices.

There are several provisions of this bill which, as written, give CAP great concern.

Section 3 as delineated, expands exculpatory obligations beyond the case at hand to any criminal case for which a peace officer knows or should know such investigation is relevant. Such an expansive requirement, far beyond the particular case at bar or a case an officer is directly involved in, is insurmountable. By requiring a peace officer to know of any investigation conducted by a variety of law enforcement agencies, including ongoing sensitive investigations, would impede a necessary law enforcement function. Additionally, the requirement that a prosecutor represent that each police officer in a case has been contacted about potential exculpatory evidence that the officer may or may not have, in any criminal investigation, is unworkable. In one recent homicide investigation in a major city, over 70 officers, detective and supervisors were involved in supervising a crime scene and subsequent investigation.

As previously indicated, the rules of the Superior Court and the Connecticut Practice Book, and the Rules committee of the Superior Court have promulgated rules governing criminal discovery. Questions or concerns should be addressed in that forum as opposed to this legislation. On behalf of Connecticut's Prosecutors, CAP urges the Committee to take no action on this bill. We thank the Committee for affording this opportunity to provide input on this matter and would be happy to provide any additional information the Committee might require or to answer any questions that you might have.