



OFFICE OF THE ATTORNEY GENERAL  
CONNECTICUT

WILLIAM TONG  
ATTORNEY GENERAL

July 27, 2020

*By Email*

The Honorable Leonard A. Fasano  
Senate Minority Leader  
Legislative Office Building  
300 Capitol Avenue, Suite 3400  
Hartford, Connecticut 06106-1591

Re: *Response to Request for Opinion dated July 24, 2020*

Dear Leader Fasano:

I write in response to your request (the "Request") for a formal legal opinion regarding the constitutionality of sections 33, 34, 35, and 46 (the "Inspector General Provisions") of House Bill no. 6004, *An Act Concerning Police Accountability* ("HB 6004"). As you note in your letter, the House of Representatives passed HB 6004 on the morning of July 24, 2020, and the Senate will take up the bill tomorrow, Tuesday, July 28, 2020. You have requested the formal legal opinion prior to the Senate's consideration tomorrow.

I must respectfully decline your Request because I have serious reservations about providing a formal opinion on emergency certified legislation that is presently the subject of active debate in the General Assembly and that has already been passed by the House of Representatives in a special session. These circumstances are unique and your Request unusual in its timing. Therefore, I must be careful not to prejudice or unduly interfere with legislative proceedings presently underway and a debate that has already been joined by at least one Chamber.

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I must also decline because we cannot responsibly provide a legal opinion on complex matters of constitutional law on such a quick turnaround. You submitted your request late in the afternoon on Friday, July 24, 2020, and requested a response the next business day. My Office is unable to conduct a comprehensive and thorough legal analysis on the complex constitutional questions raised in your Request in the time provided. The Attorney General's formal opinions are generally regarded as persuasive legal authority and are to be followed by state officials. Accordingly, formal opinions are subjected to extensive review and consideration within the Office prior to their issuance. It is simply impossible to provide the requisite research, analysis and consideration in one business day.<sup>1</sup>

Nonetheless, my Office has conducted a preliminary informal review of the legal issues contained in your Request, the result of which is summarized here for the purposes of guidance only. To be clear, this does not constitute a legal opinion.

With respect to the first part of your Request, you are concerned that language regarding the independence of the Office of Inspector General ("OIG") is unconstitutional. Because the OIG would be a part of the Division of Criminal Justice in fact and in function, we do not believe these provisions run afoul of our constitution. Second, you are concerned that the new Inspector General position would be appointed by the legislature rather than the Commission of Criminal Justice (the "Commission"). That would only be part of the process; the Inspector General would have to be nominated by the Commission from a pool of professionals previously appointed by the Commission. For that reason, the legislature's appointment of the Inspector General is an action subsequent to the Commission's original appointment and would not

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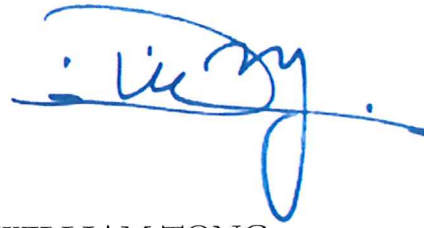
<sup>1</sup> In contrast, you previously requested a formal opinion regarding section 3 of the same bill. Your request was made well before the House's consideration of HB 6004, and on July 22, 2020, I issued a formal opinion on that request, prior to the House special session. Opinion of Attorney General 2020-01.

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appear to be a significant interference with the Commission's constitutional prerogative. Finally, you ask what impact there would be if the legislature appoints someone who is not currently a state's attorney as the Inspector General. As noted above, since HB 6004 specifically requires that the Commission must first nominate an Inspector General, and the Commission must already have appointed the nominee as a deputy chief state's attorney, it does not appear that such a scenario could occur.

Based upon my Office's informal review, I am comfortable that the Inspector General Provisions of HB 6004 are constitutional. I am prepared to defend them in court should the bill be enacted into law as currently drafted.

Very truly yours,

A handwritten signature in blue ink, appearing to read "William Tong", with a long horizontal stroke extending to the right.

WILLIAM TONG

Cc: Martin M. Looney, Senate President *pro tempore*  
Joe Aresimowicz, Speaker of the House  
Themis Klarides, House Minority Leader