

TESTIMONY OF
DAVID W. HECKLER
SENATOR
TENTH SENATORIAL DISTRICT
BEFORE THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

PUBLIC HEARING ON
INDEPENDENT COUNSEL LEGISLATION
MAY 5, 1994
HARRISBURG, PENNSYLVANIA

GOOD MORNING.

I AM SENATOR DAVID HECKLER, AND I REPRESENT THE TENTH SENATORIAL DISTRICT IN BUCKS COUNTY. I AM THE PRIME SPONSOR OF SENATE BILL 1707, A BILL WHICH WOULD AUTHORIZE THE APPOINTMENT OF AN INDEPENDENT COUNSEL IN PENNSYLVANIA. ALTHOUGH MY BILL IS NOT CURRENTLY BEFORE YOU, ITS COMPANION BILL - HOUSE BILL 2741 - IS. THIS LEGISLATION IS SPONSORED BY REPRESENTATIVE PICCOLA AND REPRESENTATIVE CALTAGIRONE.

OUR BILL WOULD AUTHORIZE THE APPOINTMENT OF AN INDEPENDENT COUNSEL IN CASES WHERE THE ATTORNEY GENERAL OR A MEMBER OF HIS STAFF IS ACCUSED OF SERIOUS WRONGDOING, OR IN CASES IN WHICH THE ATTORNEY GENERAL HAS A CONFLICT OF INTEREST WHICH WOULD INTERFERE WITH HIS OR HER ABILITY TO REPRESENT THE PEOPLE OF THE COMMONWEALTH VIGOROUSLY AND IMPARTIALLY.

OUR BILL WOULD NOT CREATE A PERMANENT OFFICE OF INDEPENDENT COUNSEL IN PENNSYLVANIA. SUCH INDEPENDENT COUNSEL WOULD ONLY BE APPOINTED WHEN THE NEED AROSE - NO PERMANENT BUREAUCRACY WOULD BE CREATED. IN THE ABSENCE OF THIS LEGISLATION, OUR COMMONWEALTH HAS SPENT MILLIONS OF DOLLARS TO INVESTIGATE THE CONDUCT OF JUSTICE LARSEN AND TO INVESTIGATE ALLEGATIONS OF VOTER FRAUD IN PHILADELPHIA. IN EACH CASE THESE FUNDS WERE EXPENDED TO HIRE PROSECUTORS OUTSIDE THE ATTORNEY GENERAL'S OFFICE BECAUSE THE ATTORNEY GENERAL PERCEIVED THE EXISTENCE OF A CONFLICT OF INTEREST PREVENTING HIM FROM CONDUCTING THE INVESTIGATIONS.

HIMSELF.

AS A FORMER ASSISTANT DISTRICT ATTORNEY AND FORMER COUNSEL TO THE PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION, I AM STRONGLY AWARE THAT EVEN THE APPEARANCE OF A CONFLICT OF INTEREST ON THE PART OF ANY PROSECUTOR UNDERMINES THE FAITH OUR CITIZENS MUST HAVE IN OUR CRIMINAL JUSTICE SYSTEM. WITH THE PROSECUTOR RESTS THE UNIQUE RESPONSIBILITY OF REPRESENTING THE INTERESTS OF THE PEOPLE OF THE COMMONWEALTH AS WELL AS THE INDIVIDUAL VICTIMS OF CRIME. IF THE IMPARTIALITY OF THE PROSECUTOR - ANY PROSECUTOR - MAY FAIRLY BE CALLED TO QUESTION, WE RISK DESTROYING EVERY CITIZEN'S BELIEF THAT HE OR SHE MUST OBEY THE LAW OR BE HELD ACCOUNTABLE - AND THAT THE SAME STANDARD OF ACCOUNTABILITY WILL BE APPLIED TO THE CONDUCT OF THE RICH AND INFLUENTIAL AS TO THAT OF THE POOR AND POWERLESS. IF THOSE CHARGED WITH ENFORCING THE LAW ARE ACCUSED OF BREAKING IT, WE CONFRONT AN EVEN GREATER THREAT TO PUBLIC CONFIDENCE. THE QUESTION THEN BECOMES TO WHOM SHOULD WE ENTRUST THE DUTY TO INVESTIGATE AND TO PROSECUTE CRIMINALS IF THE ELECTED PROSECUTOR HAS A CONFLICT OF INTEREST OR IS THE SUBJECT OF CREDIBLE ALLEGATIONS OF CRIMINAL CONDUCT. THE AVAILABILITY OF AN INDEPENDENT COUNSEL OF UNQUESTIONED INDEPENDENCE AND INTEGRITY IN THESE SITUATIONS WOULD AVOID THE VERY REAL DANGER THAT PUBLIC TRUST IN THE JUDICIAL PROCESS WILL BE LOST OR SERIOUSLY ERODED.

THE ISSUE BEFORE US TODAY IS THIS: WILL PENNSYLVANIA JOIN

THE FEDERAL GOVERNMENT AND NINE OTHER STATES BY ENACTING AN INDEPENDENT COUNSEL STATUTE. WE ARE ALL FAMILIAR WITH THE FEDERAL INDEPENDENT COUNSEL AUTHORIZATION ACT, WHICH WAS FIRST ENACTED BY CONGRESS IN 1978 AS PART OF THE ETHICS IN GOVERNMENT ACT. MUCH HAS BEEN WRITTEN ABOUT THE FEDERAL LAW, BOTH IN LEGAL LITERATURE AND THE PRESS BECAUSE IT HAS BEEN INVOKED TO INVESTIGATE MANY HIGH FEDERAL OFFICIALS ACCUSED OF SERIOUS VIOLATIONS OF THE LAW. THE UNITED STATES SUPREME COURT HAS UPHELD THE STATUTE IN THE CASE OF MORRISON V. OLSON. WE NEED A SIMILAR MECHANISM TO ADDRESS CONFLICTS AT THE STATE LEVEL.

LET ME GIVE YOU A BRIEF OVERVIEW OF WHAT OTHER STATES HAVE DONE. FOR EXAMPLE, COLORADO, INDIANA, AND WISCONSIN ALLOW THE APPOINTMENT OF SPECIAL PROSECUTORS WHEN CONFLICTS OF INTEREST ARE ALLEGED. IN ADDITION, GEORGIA AND KENTUCKY PROVIDE FOR THE APPOINTMENT OF INDEPENDENT COUNSELS WHEN STATE OFFICIALS ARE IMPLICATED IN CRIMINAL INVESTIGATIONS. BOTH ALASKA AND DELAWARE HAVE ENACTED STATUTES WHICH ENABLE AN INDEPENDENT COUNSEL TO PROSECUTE ALLEGED VIOLATIONS OF ELECTION LAW.

OUR SISTER STATE OF DELAWARE USED ITS INDEPENDENT COUNSEL STATUTE IN THE PAST TO INVESTIGATE ALLEGED VIOLATIONS OF THE ELECTION CODE BY ITS ATTORNEY GENERAL. THE CASE WAS INITIATED BY THE STATE ELECTION COMMISSIONER DUE TO ALLEGED VIOLATIONS OF THE DELAWARE CAMPAIGN FINANCING AND DISCLOSURE ACT BY CHARLES M. OBERLY, III, DELAWARE'S ATTORNEY GENERAL. THE CASE WAS CARRIED

ALL THE WAY TO DELAWARE'S HIGHEST COURT IN 1987. THE DELAWARE SUPREME COURT STRUCK DOWN PORTIONS OF THE LAW, BUT UPHELD THE CORE PROVISION WHICH ALLOWED FOR THE APPOINTMENT OF A SPECIAL PROSECUTOR TO REPRESENT DELAWARE IN AN ACTION INVOLVING THE ATTORNEY GENERAL OR AN ATTORNEY GENERAL CANDIDATE. THE COURT STATED, "THE PROVISION FOR THE APPOINTMENT OF A SPECIAL PROSECUTOR TO REPRESENT THE STATE'S INTEREST IN AN ACTION INVOLVING A CANDIDATE FOR ATTORNEY GENERAL SERVES THE SALUTARY PURPOSE OF REMOVING A PERSONAL CONFLICT OF INTEREST . . ."

TODAY, DELAWARE LAW PROVIDES FOR THE APPOINTMENT OF INDEPENDENT COUNSEL UNDER BOTH ITS ELECTION CODE AND ITS STATE ETHICS LAW. WITH RESPECT TO THE ELECTION CODE, AN INDEPENDENT COUNSEL HAS AUTHORITY TO PROSECUTE ANY VIOLATION BY THE ATTORNEY GENERAL OR ANY CANDIDATE FOR ATTORNEY GENERAL. ADDITIONALLY, DELAWARE'S ETHICS COMMISSION IS EMPOWERED TO RETAIN INDEPENDENT COUNSEL WHEN REPRESENTATION CANNOT BE SATISFACTORILY PERFORMED BY THE ATTORNEY GENERAL. PRESUMABLY, SUCH A CASE WOULD ARISE IF THE ATTORNEY GENERAL WERE ACCUSED OF VIOLATING THE ETHICS LAW.

IN 1993, NEW JERSEY PASSED AN INDEPENDENT COUNSEL STATUTE WHICH IS CURRENTLY BEING USED TO INVESTIGATE POSSIBLE CRIMINAL MISCONDUCT WITH RESPECT TO THE AWARDING OF MILLIONS OF DOLLARS IN STATE AID TO THE TOWNSHIP OF LYNDBURST, A COMMUNITY LOCATED IN ONE OF NEW JERSEY'S NORTHERN COUNTIES. INCLUDED IN THE LAW WAS THIS DECLARATION BY THE NEW JERSEY GENERAL ASSEMBLY, "WHILE

RECOGNIZING THAT THE OFFICE OF ATTORNEY GENERAL IS THE USUAL AND PROPER AGENCY TO INVESTIGATE AND IF NECESSARY, PROSECUTE ALLEGATIONS OF CRIMINAL MISCONDUCT BY GOVERNMENT OFFICIALS, THE ALLEGED FACTS SURROUNDING THE LYNDHURST CONTROVERSY ARE OF SUCH A UNIQUE NATURE THAT . . . THE ATTORNEY GENERAL SHOULD BE BYPASSED AND AN INDEPENDENT COUNSEL APPOINTED." THE LEGISLATURE'S MOTIVE BEHIND PASSING THIS ACT IS FOUND IN THE TEXT OF THE LAW: "IN ORDER TO RESTORE PUBLIC CONFIDENCE IN THE FAIRNESS AND IMPARTIALITY OF THE CRIMINAL JUSTICE SYSTEM, IT IS IN THE PUBLIC INTEREST THAT AN INDEPENDENT COUNSEL BE APPOINTED . . . "

TODAY, WE IN PENNSYLVANIA, ARE SURVEYING THE SAME GROUND WHICH THE FEDERAL GOVERNMENT AND NINE OTHER STATES HAVE TRAVERSED. AS THE NEW JERSEY LEGISLATURE SO ELOQUENTLY FRAMED IT, THE ISSUE IS NOTHING LESS THAN THE PUBLIC'S ABILITY TO HAVE CONFIDENCE IN THE FAIRNESS AND IMPARTIALITY OF THE CRIMINAL JUSTICE SYSTEM. THE NEW JERSEY GENERAL ASSEMBLY CONSIDERED THESE VALUES SO IMPORTANT THEY MADE THEM PART OF THE LAW.

AS IN NEW JERSEY, THE GUIDING PRINCIPLE IN THE DEBATE SURROUNDING THE APPOINTMENT OF AN INDEPENDENT COUNSEL IN PENNSYLVANIA SHOULD BE THE TRUST CITIZENS MUST HAVE IN THEIR PUBLIC OFFICIALS AND IN THEIR GOVERNMENT IN ORDER FOR A DEMOCRACY TO WORK. THE CORE ISSUE IS INTEGRITY AND ACCOUNTABILITY.

TODAY, IN PENNSYLVANIA, A STORM OF SERIOUS ACCUSATIONS SWIRLS AROUND THE OFFICE OF ATTORNEY GENERAL. A FEDERAL GRAND JURY HAS ISSUED SUBPOENAS TO HIGH RANKING MEMBERS OF THE OFFICE OF ATTORNEY GENERAL. THE DAUPHIN COUNTY DISTRICT ATTORNEY HAS HAD TO RECUSE HIMSELF AND TO APPOINT TWO ASSISTANT DISTRICT ATTORNEYS FROM ALLEGHENY COUNTY, AT LOCAL TAXPAYER EXPENSE, TO INVESTIGATE ALLEGED CRIMINAL VIOLATIONS OF ELECTION LAW BY THE CAMPAIGN COMMITTEE OF THE ATTORNEY GENERAL. THE CRIME COMMISSION ISSUED A REPORT ACCUSING THE ATTORNEY GENERAL OF ALLEGED SERIOUS WRONGDOING.

I KNOW THAT THE CRIME COMMISSION REPORT HAS ALSO BEEN A MATTER OF CONCERN FOR THIS COMMITTEE, AND FOR THE PUBLIC.

IN FACT, YESTERDAY'S EDITION OF THE HARRISBURG PATRIOT REPORTED MORE DISTURBING FACTS REGARDING THE CRIME COMMISSION'S INVESTIGATION OF ATTORNEY GENERAL PREATE. NOTHING COULD MORE DRAMATICALLY ILLUSTRATE THE NEED FOR AN INDEPENDENT COUNSEL LAW IN PENNSYLVANIA.

ACCORDING TO THE PATRIOT NEWS, THE HEAD OF THE ORIGINAL VIDEO POKER PROBE CONDUCTED BY THEN ATTORNEY GENERAL LEROY ZIMMERMAN IN 1988-89 APPROACHED HIS NEW SUPERIORS HIRED BY INCOMING ATTORNEY GENERAL PREATE ABOUT PURSUING THE ALLEGATIONS REGARDING CAMPAIGN CONTRIBUTIONS FROM ILLEGAL VIDEO OPERATORS. THESE PREATE SENIOR STAFFERS NOW CLAIM THEY DO NOT REMEMBER THESE

CONVERSATIONS, ACCORDING TO THE PATRIOT.

OTHER DEPUTY ATTORNEYS GENERAL APPARENTLY DO REMEMBER THAT THE ISSUE WAS RAISED. TO QUOTE ONE OF THESE OFFICIALS, "WE HAD SOME DISCUSSION ON WHETHER OR NOT THE TESTIMONY WAS WITHIN THE SCOPE OF THE GRAND JURY." "YES. THAT WAS IN DECEMBER OF 1988. HE DID MENTION IT TO ME."

THE SIXTH STATEWIDE INVESTIGATIVE GRAND JURY, WHICH HAD FIRST ENCOUNTERED THESE VIDEO POKER CONTRIBUTION ALLEGATIONS, CAME TO AN END AFTER THE BEGINNING OF THE NEW PREATE ADMINISTRATION. THEREAFTER, A NEW, SEVENTH STATEWIDE INVESTIGATIVE GRAND JURY WAS IMPANELED BY HIS NEW APPOINTEES. FROM THE INFORMATION RELATED IN THE HARRISBURG PATRIOT, IT APPEARS THAT IN THE FIRST FEW MONTHS OF THE PREATE ADMINISTRATION, AWARENESS OF THE CAMPAIGN CONTRIBUTION ALLEGATIONS, TOGETHER WITH ANY DESIRE TO INVESTIGATE THEM, SIMPLY VANISHED, NOT TO REAPPEAR.

SPECIFICALLY, ACCORDING TO THE PATRIOT, BEFORE THE TERMINATION OF THE SIXTH INVESTIGATIVE GRAND JURY, THESE NEW PREATE APPOINTEES REFUSED TO AUTHORIZE GRANTING IMMUNITY TO WITNESSES WHO COULD HAVE SHED LIGHT ON THE ALLEGATIONS AGAINST ATTORNEY GENERAL PREATE. FOLLOWING THE RESIGNATION OF THE PROSECUTOR HANDLING THE ORIGINAL INVESTIGATION IN THE SUMMER OF

1989, THE SUBSEQUENT SEVENTH GRAND JURY TOOK UP AN INVESTIGATION OF VIDEO POKER MANUFACTURERS. THE PATRIOT REPORTS THAT TWO ILLEGAL VIDEO OPERATORS, JOSEPH KOVACH AND GABRIEL HORVATH, ALONG WITH OTHER VIDEO OPERATORS, WERE IMMUNIZED AND CALLED TO TESTIFY BEFORE THE SEVENTH GRAND JURY, BUT WERE NEVER QUESTIONED REGARDING THE ALLEGED SCHEME TO RAISE CAMPAIGN FUNDS. THE NEW PROSECUTORS EVIDENTLY DECIDED NOT TO POSE QUESTIONS ABOUT THE CAMPAIGN CONTRIBUTORS ISSUE BECAUSE IT WAS OUTSIDE THE SCOPE OF THE INVESTIGATION INTO THE MANUFACTURERS OF THE MACHINES, THE PATRIOT REPORTED. THE SCOPE OF THAT INVESTIGATION WAS, OF COURSE, ESTABLISHED BY THE SUBMITTAL DOCUMENTS PREPARED AND FILED BY THE NEW PREATE APPOINTEES.

THE FACTS RELATED IN THIS ARTICLE DRAMATICALLY ILLUSTRATE THE CONFLICT OF INTEREST WHICH NATURALLY ARISES WHEN STAFFERS - EMPLOYEES - ARE FACED WITH THE PROSPECT OF INVESTIGATING THEIR SUPERIOR - EMPLOYER. INDEED, CONGRESS FIRST PASSED THE FEDERAL INDEPENDENT COUNSEL LAW BECAUSE OF CONCERN ABOUT JUST THIS KIND OF CONFLICT OF INTEREST.

IN PENNSYLVANIA, WE BELIEVED THAT WE HAD ADDRESSED THE PROBLEM OF PUBLIC CONFIDENCE IN THE INVESTIGATION AND PROSECUTION OF ALLEGED GOVERNMENT CORRUPTION BY ESTABLISHING THE ATTORNEY GENERAL AS AN INDEPENDENT, ELECTED POSITION. INDEED WE HAVE, EXCEPT IN THOSE CASES IN WHICH THE ATTORNEY GENERAL HAS A REAL OR PERCEIVED CONFLICT OF INTEREST OR IN THOSE CASES IN WHICH HE OR A

MEMBER OF HIS STAFF IS ALLEGED TO HAVE BROKEN THE LAW.

NOW, WE IN PENNSYLVANIA SHOULD FOLLOW THE EXAMPLE OF THE FEDERAL GOVERNMENT AND NUMEROUS OTHER STATES BY ENACTING OUR OWN INDEPENDENT COUNSEL LAW. THE CITIZENS OF OUR COMMONWEALTH AND THE PERSONS TO WHOM THE LAW WOULD POTENTIALLY APPLY DESERVE NO LESS.

THANK YOU.

I WOULD BE HAPPY AT THIS POINT TO TAKE ANY QUESTIONS FROM THE COMMITTEE.

We are not unmindful of the criticism that has been leveled at the last independent counsel to serve under the federal act. Judge Lawrence Walsh, independent counsel appointed to investigate Iran/Contra, has been accused of taking too long, expending too much money, and uncovering too little in the way of real violations of the law. Because of this experience, the Pennsylvania Independent Counsel statute incorporates the strict ethical standards, tight deadlines, and specific reporting requirements found in the current federal Independent Counsel Reauthorization Act which is now winding its way through Congress. For example, under the Pennsylvania act, the independent counsel can be removed for a violation of the canon of ethics relating to district attorneys. In addition, the independent counsel must submit periodic reports to both the three-judge panel and to the General Assembly justifying expenses and estimating future expenses. The Auditor General has the statutory duty to conduct an audit of the independent counsel. Further, the three-judge panel has the authority to terminate the office of independent counsel if expenditures reach \$2,000,000 or if the investigation lasts as long as two years. Again, like the federal statute, the act has a sunset provision. The act is only effective for five years from the date of passage.

Moreover, the Judiciary Committees of the General Assembly have the constitutional duty and the legislative authority to oversee the conduct of the independent counsel. In addition to receiving reports and other oversight responsibilities, either committee may request the General Counsel to appoint a Special Investigative Counsel. As mentioned before, if the allegations of wrongdoing are not supported, the

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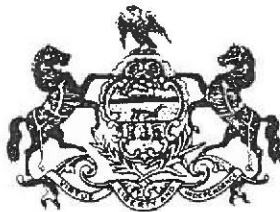
Special Investigative Counsel can close the matter. This way, the General Assembly can fulfill its duty with respect to oversight, yet the rights of the accused are protected.

Like its federal counterpart, the act will preserve the public's confidence and faith in the prosecutorial process and judicial system. It is important to avoid not only real impropriety but perceived impropriety. The protection of the public interest and the protection of the rights of the accused are paramount as they relate to an impartial, swift, and fair administration of justice. The citizens of the Commonwealth and those to whom this legislation would potentially apply deserve no less.

In addit. to Fed. State - looked at other states - N.H. just enacted in late '93
Indiana

let me put all this in a broader perspective

The genius of the form of government framed by our state and federal constitutions is a mutual tension among the departments of government we have come to call a system of checks and balances. In that scheme, the independent elected Attorney General is a recent innovation. Today, Representative Piccola and I are proposing a check and balance provision whose need has become evident over time. It is a check and balance required if the people of Pennsylvania are to have the necessary confidence in the integrity and accountability of their state government and specifically in the office of the Attorney General.



FOR IMMEDIATE RELEASE

April 6, 1994

Rep. Jeffrey E. Piccola
(717) 787-4751

Sen. David Heckler
(717) 787-7305

HARRISBURG -- House Republican Judiciary Committee Chairman Jeffrey E. Piccola and Bucks County Senator David Heckler unveiled legislation creating a process for appointment of independent counsel to investigate and prosecute any criminal wrongdoing by the Pennsylvania attorney general or members of his staff.

Piccola was a member of a 1978 special House and Senate task force which created the office of elected attorney general and simultaneously supported strong, new criminal laws to combat corruption by public officials.

In 1978, Pennsylvania voters approved a constitutional amendment creating the elected office of attorney general. Prior to that the attorney general was appointed by the governor and served as the head of the Justice Department.

"I have been concerned about the potential for conflicts of interest that may arise when an elected attorney general is faced with prosecuting persons he has dealt with on a personal or political basis," Piccola said. "It has now become eminently clear, particularly during the last several years, that the Pennsylvania attorney general who is charged with the impartial enforcement of criminal statutes is unable to investigate and prosecute violations of those laws without potential and actual conflicts of interest raising questions about the adequacy of those investigations and prosecutions."

Piccola then listed several recent examples where Attorney General Ernie Preate was unable to investigate a case, or where Attorney General Preate was the focus of an investigation.

Piccola said: "In 1978 we criminalized public corruption with the adoption of Pennsylvania's KCO statute. That same year, we adopted a statute providing for an elected attorney general to act as the state's watchdog to prevent official corruption. Yet, when the attorney general is the object of alleged criminal activity, there is no watchdog. This is the glaring loophole in Pennsylvania law."

Piccola and Heckler will introduce legislation, in their respective chambers, to create the Pennsylvania's Independent Counsel Authorization Act. These proposals are modeled after the federal statute.

Piccola explained that like its federal counterpart, the Pennsylvania act would provide that if a member of the executive branch, in our case the Governor's Office of General Counsel, receives information which indicates that the attorney general, or a policymaker within the attorney general's administration, has committed a serious crime, an independent investigation will go forward.

Under the proposals, there are two scenarios which could lead to the appointment of an independent counsel. The first is if the attorney general himself requests the office of general counsel to begin the investigation because of a conflict of interest on the attorney general's part. The second is if the office of general counsel receives information from another source regarding misconduct on the attorney general's part or his staff.

"In both cases, the office of general counsel would have 30 days to make a determination regarding the credibility and reliability of the information received," Piccola said. Just as under the federal statute, if the information is not credible and not reliable, the general counsel has the authority to close the matter.

"We are not unmindful of the criticism that has been leveled at the last independent counsel to serve under the federal act," said Heckler, a former assistant district attorney in Bucks County. "Because of this experience, the Pennsylvania independent counsel statute incorporates the strict ethical standards, tight deadlines and specific reporting requirements found in the current federal Independent Reauthorization Act which is now winding its way through Congress."

Heckler said such safeguards against abuse include provisions allowing for the removal of the independent counsel for a violation of the canon of ethics relating to district attorneys, requiring counsel to submit periodic reports and justifying expenses. Heckler also pointed out that the auditor general has the statutory duty to conduct an audit of the independent counsel.

"The Judiciary Committees of the General Assembly have the legislative authority to oversee the conduct of the independent counsel," Heckler said. "In addition to receiving reports and other oversight responsibilities, either committee may request the general counsel to appoint a special investigative counsel.

"The proposal will preserve the public's confidence and faith in the prosecutorial process and judicial system. It is important to avoid not only real impropriety, but perceived impropriety. The protection of the public interest and the protection of the rights of the accused are paramount as they relate to an impartial, swift and fair administration of justice. The citizens of the commonwealth and those to whom this legislation would potentially apply deserve no less."

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