



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY

JOINT COMMITTEE ON JUDICIARY

In opposition to:

S.B. No. 1206 (RAISED):
An Act Concerning the Recording of Police Activity by the Public

S.B. No. 1210 (RAISED):
An Act Concerning the Use of Deadly Physical Force to Defend the Residents of a Home

H.B. No. 6473 (RAISED):
An Act Concerning Persistent Dangerous Felony Offenders

March 23, 2011

The Division of Criminal Justice opposes S.B. No. 1206, An Act Concerning the Recording of Police Activity by the Public, S.B. No. 1210, An Act Concerning the Use of Deadly Physical Force to Defend the Residents of a Home, and H.B. No. 6473, An Act Concerning Persistent Dangerous Felony Offenders. While all three concepts may have some degree of merit, the bills as now proposed are either so broadly drawn or vaguely worded that they raise very real prospect of unintended and potentially dangerous consequences.

While we certainly doubt that it would be the intent of the proponents, S.B. No. 1206 would have the affect of placing serious restrictions on the ability of the police to maintain control of crime scenes and investigate and solve crimes in a manner that is sensitive to the privacy interests of innocent victims, witnesses and potential suspects who may be innocent. Perhaps the best way to illustrate the wide potential problems this bill would create is by offering a series hypothetical examples and "what ifs?"

- The bill could impede or even jeopardize criminal investigations. Details of crime scenes are often kept confidential since it is not uncommon for a crime to be solved because of details that are known only to the person who committed the crime and to those familiar with the crime scene. Could a police officer who prohibited the recording of investigators "acting in the performance of [their] duties" at a crime scene be sued under this bill?

- The bill places no limitation on anyone, including the media, on the nature of what would be considered interference with the right to record. This would include not only processing a crime scene but also interviewing victims and other witnesses in public areas. Could witnesses be exposed to danger if their photos or images were obtained by the wrong people or publicized in the media? What about the innocent victims of crime? Should their suffering be put on public display?
- What if a homeowner whose house is being searched pursuant to a warrant invited the evening news into the house to record the search? As long as the photographer did not hinder or interfere with the search, the police would have to weigh the risk of civil exposure if they tried to abort the filming. What about a photographer who sets up his or her camera in the police station lobby in order to record officers in the glass bubbles acting in the performance of their duties?

In conclusion, while there may have been an isolated incident that gave rise to this legislation, the bill as now written is far too broad and raises serious concerns and ramifications that far outweigh any concerns raised to date. Unless there is clear evidence of a widespread and continuing problem, this bill should be rejected. It is bad policy to try to write a broad statute to fix a perceived problem.

Similarly, the Division of Criminal Justice believes that S.B. No. 1210, An Act Concerning the Use of Deadly Physical Force to Defend the Residents of a Home, is far too broad and is not necessary. The presumption contained in S.B. No. 1210 already exists for all intents and purposes because the existing justification defenses of use of physical force in defense of premises (Section 53a-20) and use of physical force in defense of property (Section 53a-21) are not affirmative defenses and, therefore, must be disproved beyond a reasonable doubt by the state pursuant to Section 53a-12. The Division is not aware of any problems that have arisen because of the present law, which certainly was carefully drafted and allows homeowners to appropriately protect themselves.

The Division would recommend that the Committee take no action on H.B. No. H.B. No. 6473, An Act Concerning Persistent Dangerous Felony Offenders. As recommended on other bills concerning sentences and sentencing procedures, we believe the Committee should defer this issue for consideration by the Sentencing Commission established pursuant to section 54-300 of the general statutes. We are just now beginning to receive meaningful data with regard to the changes made to the persistent offender statutes as part of the 2008 criminal justice reforms, which would allow for substantive review by the Sentencing Commission.

In conclusion, the Division wishes to thank the Committee for this opportunity to provide input on these bills. We would be happy to provide any additional information the Committee might desire or to answer any questions the Committee might have.