STATE OF CONNECTICUT
Department of Emergency Services and Public Protection
Dr. Dora B. Schriro, Commissioner

February 24, 2014

Rep. Gerald M. Fox, Co-Chairman
Sen. Eric D. Coleman, Co-Chairman
Judiciary Committee
Legislative Office Building
Hartford, CT 06106

HB 5060 AN ACT CONCERNING THE RECORDING OF POLICE ACTIVITY BY THE PUBLIC

The Department of Emergency Services and Public Protection opposes this bill as currently drafted and suggests alternative language.

This bill would create a cause of action for a person if a peace officer interferes with their taking a photo or video of a peace officer in the performance of his or her duties. The intent is to keep police from unnecessarily interfering with members of the public documenting police action. This intent can be accomplished without creating a new problem of unnecessary litigation that will also have a fiscal impact.

This bill would impose civil liability on police officers who "interfere" with anyone including the media, attempting to video record any police activity. There is no limitation on the nature of the interference and the liability would be in regard to anyone, including media representatives. Law enforcement functions affected would include processing crime scenes and interviewing witnesses in public areas. This would also include videotaping of deaths or serious injuries before notification to family is made. Videotaping in a crime zone prior to evidence being evaluated and secured may compromise the evidence and subsequent prosecution. Witnesses might be exposed to problems if their pictures or images are obtained by the wrong people or publicized on TV or the papers.

While the "reasonable grounds" exceptions contained in subsection (c) might be intended to address the concerns the agency expresses herein, they are insufficient. This proposed bill essentially adopts a kind of 'strict liability" Under its language an officer who interferes with an

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individual filming or taking pictures of a crime scene is liable unless he or she proves that they had reasonable grounds as set forth in subsection (c). This puts the burden of proof on the police officer to show he or she was doing their job.

Police officers need to be able to do their jobs without fear of being subjected to statutory civil liability.

Alternative language that would address the concerns of the bill without the strict liability civil action would be the following:

AN ACT CONCERNING THE RECORDING OF POLICE ACTIVITY BY THE PUBLIC
Be it enacted by the Senate and House of Representatives in General Assembly convened:
Section 1. (NEW) (*Effective October 1, 2013*) (a) For the purposes of this section, "peace officer" has the meaning provided in section 53a-3 of the general statutes.

(b) A peace officer shall not interfere with any person taking a photographic or digital still or video image of such peace officer or another peace officer acting in the performance of such peace officer's duties except as necessary in order to (1) lawfully enforce a criminal law of this state or a municipal ordinance, (2) protect the public safety, (3) preserve the integrity of a crime scene or criminal investigation, (4) safeguard the privacy interests of any person, including a victim of a crime, or (5) lawfully enforce court rules and policies of the Judicial Branch with respect to taking a photograph, videotaping or otherwise recording an image in facilities of the Judicial Branch.

(c) The Connecticut State Police and the Police Officer Standards Training Council shall adopt by January 15, 2015 and report to the Public Safety and Security Committee, policy and training requirements that are consistent with the important First, Fourth and Fourteenth Amendment rights at stake when individuals record police officers in the public discharge of their duties. The adopted policy may allow such rights to be subject to narrowly defined restrictions as set forth in sub-section (b) to ensure public and officer safety.

The Department of Emergency Services and Public Protection would support such language. The alternate language would address the issue without creating a litigation magnet. The agency supports the intent, just not the means to achieve that intent.

The agency has already initiated efforts to provide training on this issue. POST addresses the issue in Recruit Training in their Laws of Arrest block of instruction. The State Police Academy covers the issue in depth as part of the Media Relations Training in Recruit, Resident Trooper and Supervisor Training. Leadership of both academies is currently working together in reviewing a Model Policy and a Concept Paper from the International Association of Chiefs of Police on this topic. After review, the Model Policy will be forwarded to our Accreditation Committee to consider adopting the issue as a POST State Accreditation Standard.

Sincerely,

Dora B. Schriro
COMMISSIONER