



State of Connecticut  
DIVISION OF CRIMINAL JUSTICE

**TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE**

**H.B. No. 5273 (RAISED) AN ACT CONCERNING THE PENALTY FOR ASSAULT OF AN OFF-DUTY POLICE OFFICER**

JOINT COMMITTEE ON PUBLIC SAFETY AND SECURITY  
March 1, 2016

The Division of Criminal Justice respectfully recommends the Committee take NO ACTION on H.B. No. 5273, An Act Concerning the Penalty for Assault of an Off-Duty Police Officer. While the Division supports the intent behind this bill, the legislation itself is unnecessary and confusing as drafted.

We would respectfully call the Committee's attention to *State v. Ramirez*, 61 Conn. App. 865, 871, cert. denied, 256 Conn. 903 (2001), a case upholding a conviction under Section 53a-167c of the General Statutes in which the peace officer (Falcioni) was off-duty at the time, but came to act in the performance of his police duties:

“The statute is intended to protect peace officers in the performance of their duty. It not only protects peace officers, who to the eye and ear of the person involved present themselves with the garb and indicia of their status as peace officers, but also peace officers whom the actor either knows in fact or should reasonably know to be peace officers. It would be a bizarre conclusion, thwarting the legislative intent, to say that an assault upon a peace officer whom the actor actually knew was a peace officer was not an assault on a ‘reasonably identifiable’ peace officer simply because the officer did not physically appear and conduct himself as a police officer.” *State v. Woolcock*, supra, 201 Conn. at 631, 518 A.2d 1377. The evidence presented that the defendant had actual knowledge that Falcioni was a police officer would satisfy the “reasonably identifiable” element if the jury credited that evidence.

“Furthermore, in the present case, although Falcioni was not in uniform and did not display a badge, he was, nevertheless, performing his statutory obligation as a police officer. “[A] police officer has the duty to enforce the laws and to preserve the peace.... Although from time to time a police officer may have a duty to make an arrest, his duties are not coextensive with his power to arrest.... The test is whether the [police officer] is acting within that compass or is engaging in a personal frolic of his own.” (Citations omitted; internal quotation marks omitted.) *State v. Privitera*, 1 Conn. App. 709, 722, 476 A.2d 605 (1984). Here, Falcioni witnessed a fight and successfully

stopped the fight. Under the circumstances of this case, there was sufficient evidence for the jury to find that he was acting within the scope of his duty as a police officer.”

In conclusion, the Division of Criminal Justice would recommend the Committee 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 or answer any questions you might have.