

Chair LaRe, Vice Chair Swearingen, Ranking Member Leland, members of the Committee, thank you for the opportunity to offer testimony in opposition to House Bill 22.

As a citizen from rural Licking County, I am deeply concerned about a bill that requires so much guesswork about a person's mental state. Not only must a citizen guess at an officer's level of attention, but to enforce this proposed statute, an officer would in turn need to guess at the citizen's intention.

To avoid running afoul of proposed §2921.32(B), a person would have to form an idea of a law enforcement officer's level of attention and distractability. The oft-cited example of throwing candy, glitter or confetti at parades, or spraying water, soap bubbles or silly string, is a good illustration. When participants throw pretty objects, leaflets or ads, they're intended to capture others' attention and entertain or educate them. If law enforcement officers are directing traffic or otherwise assisting at an event, how could a participant know what might unduly distract them?

An impatient motorist blowing their horn – something I've personally witnessed as a participant in foot races – is highly distracting, and is intended to send a message to officers directing traffic. Yet this conduct would not be criminalized under the bill. Similarly, at foot races I've participated in such as the Columbus Marathon, I've often seen confused motorists engaging officers in long conversations about how to reach their destination in spite of road closures. These conversations seem to take a significant amount of the officers' attention. Officers make eye contact with the motorist, then consult a mental "map" of the area to give directions. Yet again, this conduct would not be criminalized – and yet, if a runner in the race tapped the officer on the shoulder to interrupt the conversation and point out a dangerous ongoing situation, the runner could be arrested under the proposed law.

The prohibition on "taunting" an officer is also troublesome. In Zanesville, the small city I know best, most law enforcement officers grew up in the area and went to school with the citizens against whom they enforce the laws. I've often seen marchers engaged in friendly chat with officers in riot gear assigned to keep the peace. If things grew tense, would it be unlawful to call an officer by a rude nickname they were given in high school? Would that be the case *only* if things grew tense, and not if the nickname were hurled in a friendly, teasing manner? Why is "taunting" singled out because of the content of the speech, while other vocalizations like singing and shouting might be equally distracting, yet not criminalized?

Proposed subsection (B)(3)(c) is difficult to interpret – so much so that the Legislative Service Commission summary, rather than paraphrasing in layperson's language as they ordinarily do, instead simply quotes this subsection. How can a space be so large that another person cannot reach someone within it *at all* (since periods of time or means of transport are unspecified) – and if a space is indeed so large, then how could a perpetrator enter the space while others could not? How can anyone know when a space is large enough to violate this subsection? How would the space be delineated so that a citizen could know when they might be in violation? Must citizens maintain a buffer of yards, or larger, around every law enforcement officer? If that's the case, then what happens when an officer approaches someone? If the officer orders them to halt, then their choice would be to halt and be in violation of (B)(3)(c), or to maintain their distance from the officer and be in violation of (A)(7).

As I've illustrated, the bill is vague and overbroad, and criminalizes speech because of its content. All these are almost certain to result in protracted litigation – first as a case winds its way through the state court system, and then, should state courts uphold a conviction, in the federal courts. These cases would come at great expense to the taxpayers of the state of Ohio – and would divert Assistant Attorneys General's attention from the more important matters they handle every day.

For all these reasons, I respectfully urge you to vote No on House Bill 22. Thank you.