

TESTIMONY AGAINST SUB SB 215
House Government Oversight Committee
Submitted By: Andrea R. Yagoda, Private Citizen

Chairman, Wilken, Vice Chair White, Ranking Member Brown and Members of the Government Oversight Committee: Thank you for allowing me to participate in this hearing today on SB 215. I am a private citizen and a resident of Ohio for the last 48 years, concerned about the safety of our community and how this bill affects the same. My name is Andrea Yagoda and I presently hold a conceal carry permit. I have had a permit since the early inception of the law providing for concealed carry permits. I obtained my permit as a result of what turned out to be a credible threat against my life. A client and I were threatened. No one, including myself, took it seriously until my client was shot and killed by the person making the threat. After that, threats and conduct, made in my line of work, which appeared threatening to me were taken seriously. The woman who carried out the threat went to prison. I appeared, on my own behalf and on behalf of the victim's family to oppose release at every parole hearing. When release was imminent I sought my conceal carry permit to protect myself, my family and my home. Up until that time I had no experience with firearms of any kind but here I was a 50-year old woman preparing to defend herself with a firearm, if necessary. I would not have felt comfortable walking around with a firearm in plain view. In my mind, this would just be asking for trouble. Rambo, I am not and would never want to be. So a concealed carry permit was my only legal option.

Had SB 215 been in effect, at that time, I would have purchased a firearm and carried it with me. I would have told myself that I would get training and go to the shooting range to learn about my gun and to properly shoot it. But I know, even now, that

life and work would have gotten in the way and the training and practice would not have happened as I would not have found the time.

The mandatory education and training were invaluable to me - not just to learn about the safety in handling a firearm but to build my confidence in the use of one.

Did I know that you should never point a gun at anyone? Yes. Did I know that in transferring a gun you lower the weapon towards the ground? Yes. But without the training would I have thought about that when handling the gun? No. After the training I did not have to think about it, it was automatic for me.

Did I know that if a firearm was fired with the safety on, normally it would not fire? Yes. But did I know that if fired with the safety on and then the safety taken off it could fire? No. I learned that in my mandatory training.

Did I know that a bullet discharged from a revolver could travel for a mile or greater? Absolutely not. Never even really thought about it until my mandatory training/education. I am pretty confident that I am not the only one. We hear stories about people celebrating by shooting guns in the air and falling blocks away hitting an innocent bystander. Obviously, they were not thinking about it either. It is common sense that in homes with children firearms should be stored securely where children do not have access but we have learned that common sense does not always prevail. I would hope that at age 50 I was more mature than the normal 21 year old and had more common sense than someone my junior and yet these were things I did not contemplate. Yet this legislative body is considering putting a concealed firearm in the hands of anyone 21 or older with limited exceptions.

My conceal carry education/training planted a seed. I cultivated that seed by continuing to practice safety and practice the handling and shooting my weapons at a range. I learned about my guns and how to use them. As a result, the training built up my confidence and skills. That would not have been the case without the mandatory training/education prescribed. I obtained my permit to protect myself. Without confidence that would not have been accomplished. In actuality, without that seed, far from being able to protect myself and my loved ones from harm, I would have been a danger to myself and others. A person lacking confidence in the handling of a firearm is a walking time bomb.

I have heard the argument that the law as is stands will not deter criminals from obtaining guns. Well, we have laws against murder, yet folks kill each other daily. We have laws prohibiting theft, but we still have thefts. Do we abandon laws based on the argument that certain folks will not abide by them? No, we do not. I have no way of knowing how many folks out there have been deterred from carrying a concealed weapon because we have a permit process in place nor how many have been declined a permit due to a record check. What I do know, is that those who have permits have learned something about firearm safety and the handling of a firearm. HB 227 actually encourages people who have no experience with firearms to carry and conceal them. What could possibly be the rationale for this?

According to the Ohio Attorney General's report for 2020 there were 169,232 CHL issued in 2020. 96,892 of the licenses issued were first time applicants. 72,340 were renewals. 1,777 licenses were denied and 42 were granted permits although declared mentally incompetent, 35 of these permit holders were declared mentally incompetent

after the license was issued and the remaining before the license was issued. In light of this fact to ensure the safety of the public, Mr Yost states in his report “ To ensure that the program runs as designed, my office partnered with the Ohio Department of Public Safety last year to forge a new path, and we now alert sheriffs when a court deems a license holder to be mentally incompetent. This means that a population not legally permitted to own a gun can no longer escape notice. “ This safeguard will no longer be in place if this Bill is passed. It is comforting to know that at least

As a permit holder I cannot think of any reason why this body would delete the requirement that a driver approached by a law enforcement officer be required to advise said officer of the presence of a firearm unless specifically asked. Every time a police officer stops a vehicle s/he is at risk. While an officer may never know what awaits him/her when s/he approaches a vehicle at least he is alerted, at present, that the occupant of the vehicle has a carry conceal permit and that the occupant may have a weapon, one small measure to insure the safety of our law enforcement officers.

Some fear individuals will be charged for failing to give notice because, under certain circumstances, they forget. I have been involved with officers three times since receiving my permit. Each time. I automatically put my hands on the wheel and advised the officer that I was carrying. Even when dazed and hurt. This reaction came natural to me. I can honestly say that no matter what happens with this bill, I will-automatically put my hands on the wheel and notify any officer of the presence of a firearm or absence thereof in my vehicle for my safety and that of the officer but I cannot guarantee others will do so.

Honestly, I do not understand the grave concern about this. Did you ever leave a grocery store and forget to pay for an item on the bottom of your cart? Every day citizens are involved in situations where they do something or fail to do something and lack the “intent” to commit crimes. Some officers exercise their discretion and do not charge, some do but it works its way through the system and most times the cases work out equitably. Did you hear about dozens or hundreds of cases to the contrary, during proponent testimony? In my quick review of the testimony presented I did not see any at all. We cannot indulge ourselves in every “what if” scenario.

When HB 227 was introduced, the sponsor Kris Jordan incorrectly stated the following:

Current law says that an individual who is openly carrying a firearm without a license does not have to notify a law enforcement officer when they come into contact with one another in a regular encounter.

However, a person openly carrying a firearm is mandated to notify an officer if the individual simply possesses a concealed handgun license and could be charged with a crime for failing to do so. Ohio has had several instances in which otherwise law-abiding citizens are being charged for not notifying an officer quickly enough that they were exercising their Second Amendment rights.

Ohio Revised Code Section 2923.12 (B)(1) as currently written only requires a CHL holder to notify law enforcement if stopped for a lawful purpose and said person is carrying a **concealed handgun**. So contrary to his assertion, a CHL holder is **not** required to notify the officer if the weapon is in plain sight and thus is treated no differently than someone without a license who is carrying openly.

The definition of “promptly notify” is not very difficult nor ambiguous.

In State v. Brown, 2006-Ohio-4174, 859 N.E.2d 1017, (Trumbull County, 11th Dist.), the defendant challenged former R.C. 2923.16(E)(3) now (E)(1) as unconstitutionally vague. Citing Black's Law Dictionary, the Eleventh District determined that to do something "promptly" is to do it "without delay and with reasonable speed." Therefore, a person of common intelligence would readily understand "promptly inform" as requiring the CHL holder to inform the officer about the firearm "as soon as possible" and found "promptly" was not ambiguous nor vague. In Brown, supra¹ the defendant was stopped for speeding. After returning to his patrol car to check on defendant's record, the officer was advised Brown had a concealed carry license. When he returned to Brown's vehicle the officer asked Brown if he was carrying. A loaded firearm was found in an unlocked glove compartment and Brown was charged. The appellate court sustained the conviction holding that Brown had ample opportunity to advise the officer that he had a loaded weapon in the vehicle.

In State v. Griffin, (1st Dist Hamilton Conty, 2020) 2020-Ohio-3707 in holding that usage of the word "promptly" contained in ORC 28923.16 (E(1) was not vague the court stated:

The critical question in all cases as to void for vagueness is whether the law affords a reasonable individual of ordinary intelligence fair notice and sufficient definition and guidance to enable him to conform his conduct to the law. *City of Norwood v. Horney* (2006) , 2006-Ohio-3799. The void for vagueness doctrine does not require statutes to be drafted with scientific precision. *State v. Anderson* , [57 Ohio St.3d 168, 174, 566 N.E.2d 1224](#) (1991). When examining a statute for vagueness, it should be measured against three values: 1.) to provide fair warning to the ordinary citizen so their behavior may comport with the statute, 2.) to preclude arbitrary, capricious, and generally discriminatory enforcement by officials, and 3.) to ensure fundamental constitutionally protected freedoms are not unreasonably impinged or inhibited. *State v. Tanner* , [15 Ohio St.3d 1, 3, 472 N.E.2d 689](#) (1984).

¹ At the time of Brown, it was illegal to carry a loaded firearm in an unlocked glovebox

In Griffin, *supra* the defendant was stopped for excessive tinting of his car windows. When defendant pulled his wallet to show identification, the officer thought he may have seen a concealed carry permit. He then asked if Griffin had such a license. Griffin answered in the affirmative. The officer then asked Griffin if he had a weapon in the car. Only then did Griffin disclose the weapon, however, another weapon was located in the vehicle which had not been disclosed until after the arrest. The appellate court upheld the conviction for failing to disclose both weapons promptly.

In State v Lloyd, (2018 Warren County, 12th Dist) 2018-Ohio-4320, 121 NE 3d 840 the defendant was stopped for running a red light. He was then asked to exit the vehicle. The officer asked if he could do a pat down and then asked Lloyd if he had a weapon. At this point Lloyd did advise the officer that he had a weapon. The appellate court found that at any point from when defendant was stopped, gave his identification, or exited the vehicle he could have advised the officer of the weapon and his failure to do so was enough to sustain his conviction.

The duty to "promptly inform" is for officer safety, so that during an interaction between an officer and a CHL holder, the officer is aware that there is a loaded firearm in the vehicle. Brown, *supra*.

Further, it prohibits one from having contact only with a "loaded firearm". This is a tragedy waiting to happen. A law enforcement officer observing someone reaching for a firearm has no way of knowing if the weapon is loaded. Although this bill did not change existing law it should now that it is before this committee for the safety of law enforcement as well as Ohioans.

Although none of us really know how we will react when and if forced to use deadly force with our adrenalin flowing, I am confident that I am better equipped to do so due to my mandatory training/education.

As a citizen, and voting constituent I ask this committee to vote no on this bill.

Thank you.

Andrea R. Yagoda