

WITNESS INFORMATION FORM

Please complete the Witness Information Form before testifying:

Date: March 9, 2021

Name: Douglas Rogers

Are you representing: Yourself Organization

Organization (If Applicable): NA

Position/Title: NA

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Do you wish to be added to the committee notice email distribution list? Yes No

Business before the committee

Legislation (Bill/Resolution Number): HB89

Specific Issue: Eliminating duty to notify police officer if ccw.

Are you testifying as a: Proponent Opponent Interested Party

Will you have a written statement, visual aids, or other material to distribute? Yes No

(If yes, please send an electronic version of the documents, if possible, to the Chair's office prior to committee. You may also submit hard copies to the Chair's staff prior to committee.)

How much time will your testimony require? No time. Written testimony only submitted

Please provide a brief statement on your position:

The General Assembly should not seriously consider legislation directly affecting law enforcement officers involved in enforcing traffic laws without first affirmatively talking to representatives of those agencies about the views of law enforcement and making those views public. The argument that "prompt" is vague is not persuasive, absent more than simply anecdotal evidence about confusion.

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Testimony against HB89
House State and Local Government Committee
March 9, 2021
by Douglas Rogers

Chair Wiggam, Vice Chair John, Ranking Member Kelly and other members of the House State and Local Government Committee.

Thank you for this opportunity to submit this testimony against HB89. By way of background, I graduated from Yale Law School in 1971, was a captain in the Military Police, was a partner for over 20 years in the law firm of Vorys, Sater, Seymour and Pease LLP and am now retired.

Last year the criticism from Ohio law enforcement about HB425, the predecessor to HB89, was striking:

Chief Bruce Pijanowski, Ohio Association of Chiefs of Police: "The duty to notify an officer on a traffic stop of the presence of a firearm being legally carried is not an unreasonable or unconstitutional requirement. At a time where we are asking law enforcement to deescalate and where the demands for reform are being heard loud and clear, why would we legislatively put police officers into the unknown when it comes to gun safety? This is an outcome that is not necessary."

Colonel Richard Fambro, Superintendent Ohio Department of Public Safety: "prompt notification to the law enforcement officer is vitally important to ensure the safety of both the permit holder and the officer."

Michael Weinman, Director of Government Affairs for the Ohio Fraternal Order of Police: "The FOP strongly opposes HB425 because it threatens officer safety."

Louis Tobin, the Executive Director of the Ohio Prosecuting Attorneys Association, testified, "The duty to notify exists ... because we wish to protect those who place their lives on the line to keep the public safe....the bill could lead to more intense encounters between police and the public, placing both police and those who are exercising constitutional rights at greater risk."

I did not notice any testimony last year in support of HB425 from an Ohio law enforcement agency.

At the proponent hearing on HB89 on March 3, only the Buckeye Firearms Association and the National Rifle Association were listed as witnesses. No representative of law enforcement agencies appeared to be listed.

The General Assembly should not seriously consider legislation directly affecting law enforcement officers involved in enforcing traffic laws without first affirmatively talking to representatives of those agencies about the views of law enforcement and making those views public. While being drafted, members of the General Assembly should in good faith take into account the views of law

enforcement and seriously consider possible modifications in the contemplated legislation, rather than simply waiting for the possibility that some law enforcement agency will send someone to testify after it is drafted.

Last year of course the General Assembly passed ASSB175 (eliminating any duty to retreat) over the opposition of law enforcement agencies. The lack of respect the General Assembly showed then for law enforcement agencies was appalling. It should not happen again this year.

That does not mean some law enforcement practices should not be modified to increase the accountability of police. However, modifications should be done with respectful consultation with police, not simply through a knee jerk reaction to the gun lobby as in HB89.

The argument that "prompt" is vague is not persuasive, absent more than simply anecdotal evidence about confusion. The gun lobby raised similar objections to a duty to retreat last year – without any evidence that the duty to retreat had caused injustices – in arguing for the Stand Your Ground legislation in HB381, SB237 and ASSB175. Do proponents of HB89 believe the prohibition in the Constitution against unreasonable searches and seizures is too vague? The arguments about vagueness similarly lack merit without demonstrable evidence of significant injustices.

If you are carrying something that allows you to kill another person, like a gun, you have a responsibility to understand and follow your obligations under the law. Similarly, of course you have the obligation to obey traffic laws, even though sometimes they require the driver to make split second and difficult decisions. When you are given power, you must not shirk the responsibility that comes with that power.

Please vote against HB89. Thank you.

Douglas Rogers
Bexley, Ohio