

Rep. Michael P. Lawlor, Co-Chairman
Sen. Andrew J. McDonald, Co-Chairman
Judiciary Committee
Legislative Office Building
Hartford, CT 06106

March 19, 2007

HB 7390 AAC OVERSIGHT OF INTELLIGENCE GATHERING BY LAW ENFORCEMENT AGENCIES

The Department of Public Safety expresses concerns about this bill as currently drafted.

The Department of Public Safety has a number of concerns about this bill as currently drafted. The first of these is that the unintended effect of section 1 of the bill may be to preclude the agency from collecting and maintaining criminal intelligence information for any purpose other than those set forth. The adoption of statutory language authorizing the collection and maintenance of criminal intelligence ensuring the safety and security of public officials might result in a statutory construction argument that the silence as to all other purposes limits the authority of the agency to continue criminal intelligence operations for all of the criminal activities that these operations are most effective for, including loan sharking, drug trafficking, trafficking in stolen property, gambling, extortion, smuggling, bribery, corruption of public officials and terrorism.

In regard to all of these matters, the Central Criminal Intelligence Unit operates the Statewide Police Intelligence Network, which is governed by section 28 CFR Part 23. This section of the federal code provides the guidelines through which participating law enforcement agencies can submit and receive criminal intelligence information. The standard for records entered into this system is a "reasonable suspicion" of criminal activity.

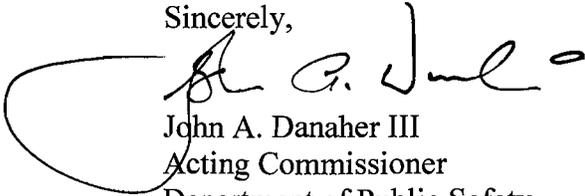
This bill sets forth a different standard of "reasonable and articulable suspicion", a standard that is also referred to as the "Terry stop standard", from the US Supreme Court case of *Terry v. Ohio*, 392 U.S. 1 (1968). In today's world of terrorism and highly sophisticated organized crime, it would handicap the abilities of law enforcement to share information by making the standard for collecting and maintaining criminal intelligence information the same as that required to stop someone and do a quick surface search of their outer clothing for weapons.

The most serious concern about the bill as drafted is that section 3 (e) attempts to give law enforcement authority status within the meaning of 28 Code of Federal Regulations, section 23 to a legislative oversight committee. There is some question as to whether it is within the powers of a state legislative body to change or expand upon the federal meaning of "law enforcement authority". Enactment of this provision would also raise significant separation of powers issues if a legislative oversight committee created by the Connecticut General Assembly attempted by legislation to become the only non-executive branch agency participating in the in the sharing of criminal intelligence information.

The Connecticut state police currently participate in the Connecticut Intelligence Center, known as CTIC. CTIC is a regional intelligence center staffed by local, federal, and state agency personnel who share expertise, resources, and intelligence information in an effort to deal more effectively with criminal and terrorist threats and activities. The staff includes personnel from the Federal Bureau of Investigation (FBI), State Police, Connecticut Police Chiefs Association, and the U. S. Coast Guard. An FBI agent exercises day-to-day authority over the center, which is located at the FBI's New Haven office and is funded by local, state, and federal homeland security dollars. All of these executive branch agencies are accredited and have agreed to share information (all based on the standard of reasonable suspicion of criminal activity) pursuant to the requirements and standards of 28 CFR Part 23.

The information collected and maintained is considered law enforcement sensitive. Under guidelines set forth by 28 CFR23 this information cannot be shared or disseminated outside of law enforcement. If HB 7390 is passed into law, a legislative body with no powers of law enforcement, with no law enforcement clearance and with no background checks of its members or staff in place would receive, maintain and disseminate criminal intelligence information. If this were to take place, no outside federal, state or local law enforcement agency would share information with Connecticut. The flow of intelligence information to Connecticut would be shut down, and the existing abilities to work together in efforts to identify and prosecute organized crime and terrorists would be severely compromised.

Sincerely,



John A. Danaher III
Acting Commissioner
Department of Public Safety