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RE: An Act Concerning the Protection of Whistleblowers
Raised Bill No. 335/LCO No. 1915

Dear Committee Members:

My name is Andrew Matthews and I am first a citizen of CT and I am also employed as a Sergeant within the Connecticut State Police.

I am currently a member of the Union Executive Board, although I am not here today as a spokesman. I am a ten year veteran with the CSP and have my A.S./B.S. in Criminal Justice and a Masters in Forensic Science and this Spring I will hopefully have my J.D. from Massachusetts School of Law. From 1998 to 2000 I worked patrol in North Cannan and Danielson, then I was selected to Eastern District Major Crime from 2000 to 2004. In 2004, I was promoted to Sgt. and hand picked to go to the Internal Affairs Unit (IA). I have worked my entire life to become Trooper and now because I told the truth regarding my observations in IA, my future with the department is uncertain.

I would like to thank you for giving me the opportunity to share with you my experiences and comments regarding the current Whistleblower law and the proposed legislative bill titled "An Act concerning the Protection of Whistleblowers". Furthermore, I commend you for having this public hearing to allow the people who have and continue to experience whistleblower retaliation after having the strength and courage to come forward. I also applaud those that are here to testify knowing that the retaliation face will most likely intensify as a result of their testimony today. We are all thankful for the opportunity to have our voices heard, but understand there are many others, not here today, that have similar or even worse situations, but they have family's and fear the harm to them. I believe that the testimony you will hear today is critical to reforming the current whistleblower law which is severely insufficient. And hopefully by you listening to us today and taking the time to carefully review all of our thoughts and concerns will not only allow the legislation to create stronger whistleblower protection, but will make for a more effective and efficient government.

Today I will be addressing not only my own personal experience after being classified as a whistleblower, but the flaws and inadequacies I've discovered while navigating through the system. However, because of the pending litigation, I must be limited in the detail of the adverse personal action that I have and continue to experience, but I believe in order to make positive changes for the future you must have all of the facts to make an informed decision. I will be referring to several documents that are considered public record, some of which have already been publicly released.

It is also important to understand that the majority of Troopers on this job are honest, dedicated, loyal, hardworking men and women that come to work every day and are willing to sacrifice there own life not only to protect the people in this room, but for every citizen in CT.

Each Trooper takes a Code of Honor and these words are sworn to by every Trooper and the Department expects that we live up to it 24/7. However, I never thought that these words applied to every situation in enforcing or upholding the law, except when it came to the internal issues within the agency. The highest ranking managers and academy instructors never taught me the provisions of: "Obey and Enforce the laws" and the "willing to LAY down my life," only applied to fighting/apprehending the criminals of our communities and did not apply to fighting/apprehending the members that are corrupt within our agency.

IDENTIFYING UNETHICAL PRACTICES WITHIN IA DEPT.

As I stated earlier in 2004, I was hand-selected and assigned to IA and while there I recognized systemic problems, such as Managers abusing authority by unfairly targeting employees, covering up crimes, canceling IA investigations that were clearly justified and failing to initiate IA's for serious violations of department procedures and violations of state statutes.

My personal opinion is that IA acts as a damage control valve for the Department, in order to give the impression that we are different from every other agency and have no alarming problems. It seemed as if we needed to keep the truth from being known so that the public's clean image of CSP would not be affected.

After trying to deal with these issues with my superiors, I was quickly labeled as the "Problem Child", and was referred to by managers as a "disgruntled employee" and surprisingly my creditability, motive, job performance and character were immediately attacked in an attempt to cloud the truth. In June and August of 2005, I provided detailed information to the Office of Public Accountants, the Office of the Attorney General (AG) and the Ct State Police Union (CSPU). After verbal assurances and references to the AG's website that indicated whistleblowers would be protected, I gave written authorization to the AG's office to not only release the information I provided, but to release my name as the individual who filed the whistleblower complaint. I have since learned that the transcripts I provided during these investigations were provided (unsecured) to the very same high ranking officials that were later found to have retaliated against me.

In July of 2005, I was involuntarily transferred out of IA, into the newly created Risk Management Unit where ironically, I am required to analyze and give advice on the risks and liabilities with regard to the department policy's and practices. The CSPU filed a grievance on my behalf for the disciplinary transfer in August of 2005, which because of the Department's continued tactics of postponements; it is not scheduled to be heard in arbitration until June of 2008. As a result of the information I and others provided, in September of 2005, the CSPU convinced, then Commission Leonard Boyle to take unprecedented action by requesting the NY State Police (NYSP) to investigate the allegations.

NYSP AND ATTORNEY GENERAL'S OFFICE INVESTIGATION AND REPORT

As a result, NYSP and the AG's office conducted a 14 month long investigation which revealed substantial "systemic failings and abuses in the internal Affairs process." Subsequently, the Department took it upon themselves to reinvestigated those findings and now claim that the NYSP and the AG's were mistaken in their findings.

The NYSP interviewed me a total of 5 times, the first 4 were as a witness and the final one as a "Subject" of an Internal Affairs investigation for "Alleged misconduct for releasing the information to the AG's office and the CSPU." This was the only IA investigation that I had ever been subjected to, which the Department now argues never occurred. Until recently, I have never been the subject of any other investigations or subjected to discipline as a result of an IA. And I mention that "until recently" because I strongly feel that recently I have been threatened with disciplinary action due to me filing a whistleblower retaliation complaint with CHRO. The Department actually used it as an Affirmative Defense and claimed that I would be subject to proper discipline due to my "misconduct." Again, because this is pending at CHRO I cannot go into much more detail, however it is illustrative of the threats that are being made against whistleblowers and how CSP has used the very statute that is supposed to protect whistleblowers against whistleblowers!

SINCE THE RELEASE OF THE NYSP AND ATTORNEY GENERAL REPORT

After the release of the NYSP and AG report of the IA unit in December 2006, the CSPU sent several letters indicating that they believed my physical safety was at risk. The Department failed to address the concerns and took no action. Because of their inaction I have been isolated to my cruiser for over the past year.

After countless pleas, in writing, to the AG's office for assistance to be shielded and protected from retaliation, I was told by an employee of the AG's office that my case had been "placed on the back burner." Relying on the AG's office for protection became fruitless and again numerous letters seeking help were to no avail.

ATTORNEY GENERAL'S RETALIATION REPORT

In May of 2007, the AG released a Retaliation report which found that I had suffered personally and professionally for my cooperation with the NYSP and AG Investigation. The AG found that I was retaliated against, harassed, ostracized, isolated and there was even frequent monitoring of my movements. Included in his report were several recommendations to the CSP management to take in order to allow me to continue my career. These recommendations have not been followed and the Department has publicly stated that they disagree with the AG's findings that I was retaliated against. This should be alarming to anyone when the highest law enforcement officer of the State makes recommendations and findings which are then completely ignored. The lesson is that any investigation by the AG's office is futile because any findings in favor of the Whistleblowers, will be ignored and they will deny any wrongdoing. Therefore the only recourse for whistle blowers is to stay in a hostile work environment and fight through years of litigation (if one can afford it) to be vindicated and have any relief or leave the agency and continue their fight.

As the statute now reads, the AG can make findings regarding retaliation against an employee and even if the Ag wants to step in and help, he does not have the authority. The only authority he has is to "Recommend" and make findings. So if the AG makes a recommendation to a commissioner to cease any adverse personnel action, they can ignore his requests because there is no enforcement.

The AG's Retaliation report also indicated that my contribution to the NYSP and AG's office should be recognized and that I should be allowed to continue my career with dignity and appreciation. It stated that "insufficient steps have been taken to quell and counter this climate of ill-will against Sgt. Matthews." However, the response from the Department has been to deny every finding of the AG. The Department's view is that if they recognize that I did the right thing, more Troopers will come forward in the future to tarnish their image. Their message is clear: don't dare to speak the truth or this [retaliation] will happen to you.

Furthermore, although the AG's office has the power to summons witnesses and administer oaths for testimony during their investigation, the Department refused to cooperate and participate in

any way. Thus, how are whistleblowers supposed to trust that the AG's report would be useful in any way if already from the beginning of the investigation the Department is in denial? Consequently, the Department will deny any findings of the AG's report that are critical of the Department. As stated earlier, the AG can do nothing to change that mentality.

Furthermore, one has to question the true authenticity of the Retaliation Investigation and Report conducted by the AG's office because ultimately if the findings are in favor of the whistleblower, his office will be defending the employers/state agency who committed the adverse retaliatory acts against the employee. It has been my experience that although the AG's Retaliation Report substantiated my allegations of retaliation by the Department that it was drafted and finalized in such a way to allow the AG's office who is representing the Department some flexibility in their defense.

DEPARTMENT'S INVESTIGATION OF SELVES & CONTINUOUS DENIAL

Recently, I was informed that it may be possible that some of the same State police managers who were named in the NYSP report and the May 2007, whistleblower retaliation report were re-investigated by other high ranking managers and were cleared of any wrongdoing. Seems strange that the government would allow them to investigate themselves, knowing the result would be unfounded. I would bet that every citizen and Trooper wishes they could be so fortunate to be in charge of their own investigation and have the flexibility of clearing their name without any fair or impartial oversight. I believe this behavior of conveniently ignoring the truth, is to create and maintain and environment of fear and control of Troopers and to prevent damaging information about managers from becoming known, which would ultimately effect their ability to lead others when it is discovered they were promoted well beyond their capabilities.

Furthermore, during the recent Lieutenant/Master Sgt. Exam the department allowed a lieutenant who was "furious" with the fact that I had provided the information to NYSP/AG and who also was one of the complainants involved in my first ever IA, to sit on my oral board and rate my performance. It seems as if they think nothing they do can ever be questioned by anyone and if you dare to question them, they will just act as if it was never said and deny deny deny.

Unfortunately, this forces employees that are subject to retaliation to file civil suits to protect their rights that their own government should be protecting for them to avoid this type of situation. Bottom line is, in my opinion, the CSP does not believe that Troopers have the First Amendment right to speak about issues of public concern. It appears to me that they will take whatever action necessary to chill/scare Troopers from taking the right action, in order to prevent them from fulfilling their oath, when it comes to revealing CSP malfeasance.

On November 1, 2007, the department ordered me to report to a hostile work environment, which was expressed to them in detailed letters from both my personal legal counsel and the CSPU attorney. This event also prompted the first indication of the AG providing some minimal form of protection when he submitted a letter dated November 1, 2007, to Commissioner

Danaher addressing the hostile work environment and asked him to place me in a safe work location. This request continues to be ignored by the Department.

CHRO PROCESS

In May of 2006, I field a whistleblower retaliation complaint with CHRO. On the very first day of a scheduling conference, 2 attorneys were present representing the 3 high ranking officials were seated on one side of the table and myself on the other. On attorney stated that he "represent[ed] the AG's office." These attorneys were from a prestigious law firm, which arguably is costing the tax payers a lot of money. During this matter the attorney argued that I should not be allowed to file CHRO until after AG report was completed. However, the Whistleblower Statute indicates that whistleblowers only have 30 days from the date of the personnel action to file at CHRO and my retaliation investigation by the AG's office took about 1 year to be completed. Clearly his logic did not make any sense.

Since that time I have filed another CHRO Whistleblower Retaliation Complaint in December of 2007. Again, I am representing myself against high ranking officials and an attorney retained by the Attorney General's Office with tax payers money. What I have realized through both of these processes is that the attorneys for the Department have spent an awful amount of money trying to discredit and dismiss my cases. They spend an extensive amount of time in filing motions, objections, responses and further pleadings, which essentially are a great expense to the tax payers. Through a Freedom of Information Act Request to the AG's Office I have learned that it costs approximately $40,000 of attorney's fees for the first 2 months of litigating my cases.

GENERAL COMMENTS OF WHISTLEBLOWER PROTECTION AND PROCEDURES:

WHISTLEBLOWER UNIT SHOULD BE TAKEN OUT OF THE ATTORNEY GENERAL'S OFFICE

Order of events:

1) AG office investigates disclosure of unethical practices within state agency
2) Whistleblower notifies AG office of adverse retaliatory personnel action & AG investigates and makes findings
3) Whistleblower then files complaint of retaliation with Chief Human Rights Referee at CHRO
4) AG's office retains representation from big law firm to defend state agency/officers who committed retaliatory acts against whistleblower – Against the same whistleblower who relied on AG to protect them for disclosing such controversial unethical practices/information

It is an **inherent conflict of interest** for the AG's office to now intervene in administrative (or otherwise) proceedings on behalf of the employee. Not only does the AG's office retain and pay for big law firms to represent the state agency and officers who have committed the retaliatory adverse personnel actions against the whistleblower, but now the AG wants to intervene on behalf of the whistleblower.

More often than not, at the table in an adjudicative proceeding are the charged state agency officers involved with their attorney(s), retained by the AG's office and then on the opposite side is the whistleblower by themselves. The parties should be on an even playing field and although the intent of the proposed provision to allow the AG to intervene on behalf of the whistleblower is to provide more support and/or protection to the whistleblower, inherently there is a conflict of interest and would clearly give an appearance of impropriety.

Given the nature of retaliation claims and the intentional acts committed by the employer and/or their officers against the whistleblower, those employers and officers should have to retain their own representation. Clearly their acts go beyond the scope of their employment and they should be charged and held responsible personally.

ATTORNEY GENERAL'S DUTIES: § 3-125

The Attorney General currently has the statutory authority to represent "the state, the Governor, the Lieutenant Governor, the Secretary, the Treasurer and the Comptroller, and for all **heads of departments and state boards, commissioners, agents**, inspectors, committees, auditors, chemists, directors, harbor masters, and institutions and for the State Librarian in all suits and other civil proceedings, **except upon criminal recognizances and bail bonds, in which the state is a party or is interested, or in which the official acts and doings of said officers are called in question**".

There is a clear exception within the AG's duties that he is not required to represent or appear on behalf of commissioners and agents whose "official acts and doings are called into question." This would reasonably apply to most whistleblower retaliation situations, especially when the AG's own investigation and report substantiates that there has been retaliation committed by state agencies.

COMMENTS TO WHISTLEBLOWER STATUTE § 4-61DD

See document already provided on February 25, 2008.

In Closing:

I would like to reiterate that the legislative bill before us today is a step in the right direction, to ensure and enhance the protections for whistleblowers. However, I truly believe that not only do the laws need to change to reflect and address the concerns you have heard, but the culture within the state agencies, specifically CSP, needs to change. Written policies of "Zero Tolerance of Retaliation" only goes so far, there needs to be direct immediate action against employers and officers who retaliate against whistleblowers.

The most diminishing feeling is stepping into a room where everyone against you is upper management and a lawyer who the Attorney General just retained to fight against you. To feel misled by the Attorney General's office who you first entrusted with

information, which ultimately corroborated systemic failures and abuses in the IA unit, makes a whistleblower feel completely unsupported and isolated.

The CT State Police take an oath and should be held to the standards of that oath by taking the ethical high ground and speaking the truth regardless of the consequences. Everyone in state government should be demanding the truth, especially from the State Police. The bottom line is that the information provided to the NYSP and the AG's office regarding the abuses within the Internal Affairs Unit was substantiated and proven, that what I and other whistleblowers disclosed was the truth. So, if I'm willing to lay down my life to protect the citizens of CT and the Commissioner of the State Police and the Attorney General to fulfill my oath as a state Trooper, then the Department and the Attorney General's Office should be willing to accept the truth and protect me as a whistleblower, but they have continuously failed me and other whistleblowers by denying and perpetuating the retaliation.

The Department tried to strip me of my dignity, integrity and respect, but because of what I've experienced, I have become a stronger person, individually and as advocate for others. And I will continue to fight for others and fulfill the oath that I took for the 20 years I work for the department, regardless of the consequences.

Change needs to happen and I commend you for taking the first step in holding these public hearings to learn about everyone's stories. Again, I thank you for the opportunity, patience and undivided attention. If there are any questions, please feel free to contact me.

Respectfully submitted,

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