

Opening Comments to testimony to be given by Peter Kuck in opposition to
HB-6457 before the Public Safety Committee of the Connecticut State
Legislature on February 24th, 2009.

My name is Peter Kuck and I am here today as a citizen of the state of Connecticut. I am also a member of the Board of Firearms Permit examiners and in the name of full disclosure one of the individuals who has filed a Civil Rights suit against the Department of Public Safety. I last appeared before this committee on February 19th 2008. I am sorry to report that the department of Public Safety has failed to clean up its act since the Attorney Generals report of December 2006.

The Connecticut State Police department is a law enforcement agency, and as a law enforcement agency is not allowed to make laws, enforce non-existent laws, or interpret laws to suit their own needs.

I oppose H.B.6457 in it's entirety with the exception of the language that changes "the blood alcohol limit for the offense of carrying a firearm while intoxicated to achieve parity with the level for the offense of operating a motor vehicle while intoxicated". There is however a problem with it in that there is no mechanism in this bill to provide a citizen with a means of defense in the case of an unsubstantiated allegation by the police. There needs to be a required blood alcohol test such as is required by the Department of Motor Vehicles. Without such a requirement I believe the law will may be abused (as it has was by members of the CSP in the motor vehicle DUI arrest scandal highlighted in the AG's report in December 2006).

I also continue to oppose a requirement that gun show promoters notify the Commissioner of Public Safety of any planned gun show for the same reasons I opposed it last session. CSP seems not to understand a Legislative "no". State statute currently gives this authority to Connecticut's local police departments. They do a good job. There is no need to duplicate or change the existing state statute in this matter other then to add to the DPS budget.

The inclusion in this bill of new law in regards to bail enforcement agents, professional bondsmen and surety bail bond agents as well as the "require[ment] that certain firearms and criminal justice course instructors be approved by the Commissioner of Public Safety; [or] to provide an exemption to the offenses of selling, carrying or brandishing a facsimile firearm for a participant in a state-certified qualified production" do not belong in this bill since they do not directly effect a citizens rights and should therefore be stripped from the bill.

I continue oppose any additional authority being granted to the department of Public Safety based on internal problems that they continue to experience as listed below

The Connecticut State Police are continuing to enforce non-existent laws.

The first includes the requirement for the presentation of a Passport, Birth Certificate, or voter registration card for the renewal of a Connecticut Pistol Permit. This requirement is one that this legislature has debated and refused to pass during three different legislative sessions.

The second includes the enforced requirement for the Concealed carry of a Pistol or revolver for Connecticut State Pistol Permit holders. There is currently a case scheduled to be argued before the 2nd circuit Court of Appeals in June that exists only due to the continued support and enforcement of this non-existent law by local law enforcement and members of the department of public safety. The damage to the credibility of the Department of Public Safety by training both the Connecticut State Police and Connecticut's Local Police departments that the Connecticut Pistol Permit is a concealed permit only, cannot be ignored by this body. It is due to this federal case that the Department of public Safety comes before you after realizing that they can no longer advocate or support arrests and revocation for Legal Conduct after having been caught with their hand in the proverbial cookie jar.

The third includes the revocation of Connecticut State Pistol permits when a permit holder reports the loss or theft of his firearm in accordance to state statute. Sec 53-202g(b) as amended by public act 07-163 states "...Any person who violates subsection (a) of this section for the first time shall not lose such person's right to hold or obtain any firearm permit under the general statutes". The state police routinely revoke the pistol permit of anyone who reports lose or theft of his pistol or revolver when the Black letter law of the state statute shields the permit holder from the lose of his permit.

Institutional bias as to the interpretation of the law

The Connecticut State Police have a high number of attorneys who are also sworn officers. This creates a conflict of interest within the department that focuses the officer/lawyer within the department on defending the most "favorable interpretation" of the law that his fellow officers enforce. This is an inherent conflict of interest since law enforcement does not have the authority to interpret the laws that this legislature passes. I offer you two quotes for your consideration to illustrate the problem. Both quotes are from Board of firearms permit examiners hearings. The first quote revolves around the interpretation of the law "the Statute appears to have and I'm not going to begin to read into the mind of what the general assembly intended the statute appears to either intentionally or accidentally have a glitch in it". The second quote revolves around an appellants due process rights "I can tell you that discovery... We don't have to follow rules of discovery in administrative hearings".

The biggest problem with legislation presented you by the department of public safety is that it continues to concentrate power in the hands of the Department of Public Safety and in doing so strips power from the local chiefs of police and the citizens of Connecticut.

I offer you my 2008 testimony for consideration

The following testimony was also partially given and a written copy was supplied to the Public Safety Committee at the hearing February 19th 2008.

No additional authority should be given to DPS until ongoing problems are resolved

There are problems within the department of public safety. These are problems that have been hidden away from the public's view for years and they are not going to go away until there is an honest reappraisal of the mission and the staffing of the Connecticut State Police.

I first became aware of these problems when I read the Attorney General's report titled "**Report on the Evaluation of the Connecticut Department of Public Safety Internal Affairs Program**" that was released in December of 2006. It was a good piece of work done by individuals who cared for the reputations of those Connecticut State troopers who serve the public every day. The only shortcoming of the report was that it was primarily focused on the Internal Affairs unit.

There would be no problems with the internal affairs unit, if there weren't larger problems within the Department of Public Safety. Problems that the Connecticut State Police command structure has minimized, hidden, or just ignored.

The depth of the problems can be illustrated by a short list of some of the findings found in the Attorney's General's report:

- (page 19) "[they] found multiple occasions when CSP commanders failed to support or defend internal affairs investigation findings that properly sustained the charges against the accused employee. This gradual but persistent erosion of Internal Affairs' critical role in the agency caused confusion and distrust among Internal Affairs personnel and had a detrimental effect on the functionality of the unit. By minimizing the importance of, and respect for, the internal affairs process, CSP commanders have created and allowed widespread disregard of official policy and procedures governing internal affairs case adoption and investigation. This attitude has permeated throughout the agency and undermined both the authority and morale of the Internal Affairs Unit."
- (page 64) ". The inclusion of these comments is one more glaring example of the typical tactic utilized by the CSP, i.e., attempting to discredit the complainant in any manner possible so that the allegations against their member may be dismissed without an appropriate investigation. The members of the Team found this to be a recurring and disturbing theme throughout the cases reviewed.
- (page 72) "...there were misstatements of material facts, critical interviews were conducted telephonically, rather than in person, and leading questions were asked of witnesses. The ultimate outcome was that no one was held accountable for his/her actions, which ranged from negligence to possibly criminal conduct."
- (page 79) "A much more serious issue was the allegation that troopers were improperly encouraging defendants to refuse breath tests. According to the lieutenant in charge of Inspections, several DWI suspects had complained to prosecutors that the troopers told them they would be released earlier by refusing the test, but if they took the test they would have to post bond and remain in custody longer. The inspection report identified an inordinately high number of arrests for driving under the influence of alcohol or drugs where the subsequent laboratory tests were negative for alcohol or drugs or showed a BAL well below the level required for prosecution. In many of these cases, the arresting troopers reported that they smelled an odor of alcohol or marijuana at the time of arrest or that the defendants admitted to ingesting alcohol or drugs."

- (page 86) "Most striking is the evident institutional bias to minimize allegations of misconduct and discredit complainants and witnesses, even though some of the complainants and witnesses were not only employees of the Connecticut State Police but also members of the Professional Standards Section Inspections Unit who made their allegations of misconduct in an official report.

So where are we going with this? What has caused the growth of these problems with the Department of Public Safety, and what is the cure?

Problem: The Connecticut State Police department is enforcing non-existent laws, and legislation that has failed to pass. When this occurs there is the institutional bias to deny any allegation of misconduct and to claim legal authority that does not exist.

Fact: The Connecticut State Police department is a law enforcement agency, as a law enforcement agency is not allowed to make laws, enforce non-existent laws, or interpret laws to suit their own needs.

Solution: The Connecticut State Police have a high number of attorneys who are also sworn officers. This creates a conflict of interest within the department that focuses the officer/lawyer within the department to protect his fellow officer rather than fixing the problem. CSP members should be either sworn officers or Lawyers and not both due to the inherent conflict of interest. CSP members who wish to remain lawyers should be shifted to the Connecticut Attorney Generals office where the conflict of interest is removed.

Problem: The Connecticut State Police department uses the FOI commission as a method to deny giving information to the public when the CSP have enforced non-existent laws.

Fact: When asked to provide the specific Statute, regulation, or court citation used by the DPS in a licensing matter the answer given by the legal unit of the DPS was "we don't have to do your legal research for you".

Solution: The Connecticut State Police should always be required by state statute to tell a citizen the state statute from which the CSP is taking its authority. Failure of the DPS legal unit to inform citizens of basic information should be grounds for immediate disciplinary action.