



State of Connecticut

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Testimony in Opposition to
House Bill 5408 – An Act Concerning the Presentation of a Carry Permit
Public Safety and Security Committee
March 3, 2016

Good Morning Chairman Larson, Chairman Dargan, Ranking Member Guglielmo, Ranking Member Zupkus, and distinguished members of the Public Safety and Security Committee. I am here to testify in opposition to House Bill 5408 – An Act Concerning the Presentation of a Carry Permit.

First, I have to say that I am surprised that this bill is before us. Legislation clarifying the presentation of a carry permit was passed in the final days of the 2015 legislative session. It was made part of a lengthy omnibus bill that covered many topics that came out of the judiciary committee. That bill was the result of a bipartisan agreement made at the time. I am curious if that agreement had an expiration date.

What passed last session was a requirement that someone carrying a firearm present their carry permit when asked by a law enforcement officer under the “reasonable and articulable suspicion standard” – the minimum standard established by the Supreme Court to protect the civil rights guaranteed to American citizens by the US Constitution. I was very pleased last year when the “reasonable suspicion” language was added as a result of a bipartisan agreement.

When I heard early on this year that this bill may come before us, I did my best to reach out to those involved to express my sincere desire to come up with a solution that protects the rights of citizens and also gives law enforcement professionals the tools needed to perform their duties safely and effectively.

Ultimately, the issue is simply that LEO's need to be trained properly so that they understand that approaching someone carrying a firearm is the same as approaching someone driving an automobile. However, so long as it is, the reasonable suspicion standard must remain.

The Chief State's attorney clearly understand this as he put out a recent memo explaining this standard in an attempt to educate LEO's across the state on how to handle similar situations.

I want to state for the record also that I am a huge supporter of the brave police officers that serve with dignity throughout our state. I understand the difficulties and dangers that each of them face each and every day. I also think that the anti-police sentiment that seems to have increased in recent years is highly distressing and disgraceful and something we should all be working hard to reverse. I know many police officers personally and I know them to be honest and brave people doing their best at a sometimes impossible and dangerous job.

I have no interest in making their lives more complicated, difficult or dangerous. However, in a just society, we must all be subject to the same rule of law.

I also understand completely why we are here. Sometimes, the real world creates situations where there is not a simple solution that satisfies both a police officer's desire to do his or her job effectively and also each citizen's individual and constitutionally protected rights.

I do believe however that the current law – as I said, passed unanimously after a bipartisan agreement just last session is the best solution possible.

Though this bill deals directly with pistol permits and the open carrying of firearms, the issue has very little to do with guns.

This is a civil rights issue and not a gun issue. I would also urge those of you who are concerned with protecting civil liberties to pay especially close attention to how this will affect you and those you represent and just how your constituents may be affected if they can be detained or even searched despite no reasonable suspicion of committing any crime.

Coming back now to remove the words "who has reasonable suspicion of a crime" makes little sense. I am not a lawyer personally but I know enough to understand the civil protections each of us are guaranteed. This is true whether the words appear in the statute or not. Taking it out will not change this.

This is the same "reasonable suspicion" standard an officer must meet before stopping someone operating a motor vehicle. Simply put, a police officer is required to have reasonable and articulable suspicion prior to detaining and or searching someone.

It is the lowest standard, far lower than "probable cause" for instance.

In Terry v. Ohio, the U.S. Supreme Court ruled that a person can only be stopped and briefly detained by a police officer based on a reasonable suspicion of involvement in a punishable crime.

Since openly carrying a firearm is not a crime in Connecticut, this by itself does not constitute "reasonable suspicion".

"Where simply carrying a handgun is not in itself illegal and does not constitute probable cause to arrest, it follows that carrying a handgun, in and of itself, does not furnish reasonable suspicion justifying a Terry stop."

-- John M. Collins, Esq, General Counsel Massachusetts Chiefs of Police Association
(The Police Chief Magazine, Feb 2011 ref Florida v J. L.)

As I said, even if this bill is made into law in CT it will not affect what is actually lawful. The US Constitution and the doctrine created by the Supreme Court decision in Terry v. Ohio and the many subsequent decisions that followed it will continue to determine how future similar interactions are interpreted by the courts.

The language before us is in direct conflict with the Constitution and that doctrine and will therefore be required to be ignored by the court. Passing this will change absolutely nothing. It will not change what is lawful or unlawful in any way and will not affect anyone's rights or responsibilities whether they be citizen or a police officer.

Incidentally, I believe this bill should rightfully be heard in the judiciary committee and not here. I would urge each of you to read at least a summary of Terry v. Ohio and familiarize yourself with the Fourth Amendment and what has been upheld repeatedly as what is and is not acceptable during what is referred to as a Terry Stop.

I strongly urge the committee to take no action on this proposed change to the current law. This change would make a well-conceived and just law unconstitutional and create far more problems than it would solve. I am sympathetic to police officers and the difficult position they sometimes find themselves in. However, simply training officers that they must follow the same exact standard when approaching someone openly carrying a firearm is the obvious solution to this problem. I don't believe this is too great a burden and would have resolved the few isolated cases that have brought this issue before us.