May 19, 2008

Hon. John J. White
Chairman, House Criminal Justice Committee
77 South High St., 13th Floor
Columbus, Ohio 43215

Mr. Chairman,

As you may know, the Fraternal Order of Police represents over 25,000 full time professional law enforcement officers in Ohio. Many items in the new amendment (Sub. S.B. 184 127SB184-7009/RYT) are of concern to those members and their families. As there are at least 20 complicated changes being proposed, the F.O.P. believes in depth testimony and possible debate on these proposals, are needed. To this date; no formal testimony on these issues has been presented (only one witness on the issue of carrying guns in churches). It seems clear to the law enforcement community in Ohio that it is the intent of some to do a "jam job" on these extremely important issues. These issues, if enacted, will impact the safety of law enforcement officers and citizens in our communities. It is also important to note that many of these safety issues that the proponents now seek to remove were brokered by President Harris during interested party meetings for Sub. HB347, in late 2006.

Not only were several of these proposed changes not in SB318, they were also not in the first drafted amendment for SB184 that was distributed earlier last week. Two such new changes are the inclusion of "or any dispatchers involved" in lines (200 & 1180); and new language including "the person may lawfully possess that firearm under applicable law of this state or the United States" in lines (1861-1863). The F.O.P. believes there is no justification or need for such changes. The executive summary of HC10 prepared by proponents of these changes and distributed by Chairman White's office, we believe, are inaccurate and misleading. As you became aware of in our meeting on Thursday, Speaker Husted's office has been misled by the proponents of this amendment as to the law enforcement community's position (which is strong opposition, not support).
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During our 5-15-08 meeting, with representatives of the Fraternal Order of Police, the Ohio Chiefs of Police, the Ohio Prosecuting Attorney's Association and for a short time the B.S.S.A., we hope that it became clear that we oppose the changes I have listed below. With the exception of the judicial branch, these organizations represent the overwhelming majority of the members of the criminal justice systems in Ohio. At this meeting, with you and others, we hope you believe and recognized the volume and complexities of the issues. You requested that each of the organizations submit only a few of the issues that are most critical to our members.

The following are some of the F.O.P.'s highest priority issues.

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1) ***THIS IS THE HIGHEST PRIORITY AND MOST CRITICAL ISSUE/S;*** ***The definition of "unloaded"*** (lines 2152-2156) allows anyone to carry a gun in a car (non-permit holders) if it is not loaded and no ammunition is in a magazine or speed loader. It only takes one bullet to kill. It does not take much longer to load one bullet into a firearm than it does a magazine or speed loader. This would also mean that anyone could carry a loaded revolver in a car and just dump the ammunition on the floor before the officer approaches the vehicle to avoid prosecution. Furthermore, with the proposed changes pertaining to **transportation of a firearm in a motor vehicle (lines 64-67)** anyone, including unlicensed persons, can transport a firearm in a motor vehicle as long as it is not on their person. Currently, there are restrictions on such transportation (2923.16) which the proponents wish to remove **(lines 100-104)** Many firearms, including sawed-off shotguns or rifles noted in (2923.11 (F)), are both more dangerous and could also be loaded in less that 2 seconds.

We propose that the definition of unloaded, and the method of transportation of a firearm in a motor vehicle, be modeled after current federal law. **The federal statute states:**

§ 926A. Interstate transportation of firearms
Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: Provided, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

To maintain consistency with federal law:

Delete lines 64-67 and keep lines 100-104

Delete proposed lines 2152 - 2156 and insert:

"(a) No ammunition is in the firearm in question, and no ammunition for the firearm is ready at hand. Ammunition carried in a vehicle is ready at hand if it is not in the trunk or other locked compartment not accessible from the passenger compartment, or in the case of a vehicle without a compartment separate from the driver's compartment the

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ammunition shall be contained in a locked container other than the glove compartment or console."

2) The "Katrina Provision" (lines 2173-2177) Law enforcement officers have no authority to confiscate lawfully carried firearms at any time without a warrant, or incidental to an arrest or some proposed authority. There are current remedies available to prohibit such acts. With this provision added, law enforcement officers would not be able to secure weapons that have been left behind by property owners who fled the area during an emergency. These types of changes will only confuse the issue.

3) Actual Knowledge of permit holder during a traffic stop (lines 1173-1182 and 2091-2101) This draft removed the previous "constructive knowledge issue", which was a slight improvement. HOWEVER, the term "dispatcher" was added. This is also new and is indicative of the deceptive changes the proponents continually make. When law enforcement officers make a traffic stop and exit the cruiser they most often do not have any information about the driver of the vehicle. If the dispatcher who is not even at the scene of the traffic stop gets a computer notification that the driver is a permit holder, even though the officer has NO knowledge or notification, the driver would not have to take the actions required by law that were put in place for the safety of both the officer and civilian.

4) D permit premises – employee-peace officer exception. (lines 253-267) Law enforcement officers only have legal authority within their jurisdiction. If a peace officer is going to also work in a bar and carry a firearm, such events should only occur while in uniform and within the jurisdiction of their appointing authority. We would suggest in line 263, after "officer" insert "working within the officer's jurisdiction and wearing the uniform of their appointing authority.

5) The "non-forfeitable rights to benefits" (lines 1919-1020) and annual requalification's (Lines 1065, 1067 & 1077) The current law mirrors federal statutes for law enforcement officers to carry firearms after retirement. The only purpose of this change would be to permit former officers, who did not retire in accordance with law, to carry for life. This would include officers that were terminated (but not criminally charged) for theft in office or other offenses of malfeasance or misfeasance, including those recently passed in SB3. Also, federal law requires retired officers to qualify annually (not every 5 years). Again, there is no reason to deviate from the federal provisions.

6) Transporting in a motor vehicle (lines 1861-1864) Again, this is a new addition that was not discussed and had not been proposed in SB318 or any subsequent amendments prior to this version. It seems like another attempt to let anybody carry a firearm in a motor vehicle. Furthermore, this would require Ohio Law Enforcement

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officers to have full knowledge of the federal statutes. We believe that this is another deceptive change that has much greater implications than would appear on its surface.

I also believe that many other organizations, including those that represent public employers (such as the Ohio Municipal League & County Commissioners Association) would also have objections regarding many of the issues in this amendment. One such change would require the public entities to utilize tax monies to pay mandatory attorney fees and court costs (lines 228-233 & lines 2136-2141) even though the judge could find that the actions taken by their law enforcement officers were reasonable under the circumstances. However, the way that the normal legislative process is being circumvented with this amendment reduces the likelihood of discovery by the media, various associations and the public.

We believe that all of the issues in this large amendment are complicated and should only be considered after many public hearings with extensive testimony from all parties and careful review of the committee members in both chambers of the legislature. It is unfortunate that some wish to expedite the process. It is our hope that at least the above changes can be made to prevent further erosion of safety for the peace officers and the citizens in our communities.

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