

**Testimony of Jason D. Friedberg, Chief of Public Safety for Bucknell University  
Pennsylvania House of Representatives, Judiciary Committee  
Regarding House Bills; 2592 & 2593**

**September 1, 2010**

Mr. Chairman, Ranking Member Marsico, Members of the Committee. My name is Jason Friedberg and I am the chief of police & director of public safety for the Bucknell University Department of Public Safety; a thirty-one member private college police department in the town of Lewisburg in Union County, Pennsylvania.

I thank and commend the Committee for holding this hearing on House Bill 2593, for agreeing to investigate and sponsor this important legislation, and for allowing those who best understand its implications and impact to present our testimony.

As we have learned through the countless hearings and testimonies provided since the attack on Virginia Tech in April of 2007, important questions about safety and security at the more than 4,000 institutions of higher education still exist. More importantly, however, questions still remain about the ability to provide safety and security to the members of and communities surrounding the eighty-plus private colleges and universities throughout Pennsylvania.

Over the next several minutes I hope to accomplish three primary functions. First and foremost, I would like to assure this Committee and campus communities across Pennsylvania that a consistent effort is being made to develop and implement best practices in campus law enforcement, safety and security. With partners such as the International Association of Campus Law Enforcement Administrators (IACLEA), and the International Association of Chiefs of Police (IACP), both of whom had drafted and submitted letters of support for House Bill 2593 and committed to enhancing safety and security on campuses throughout the Commonwealth. Secondly, I will present a situational assessment of private campus law enforcement which fully outlines the complexity of our circumstances. Finally, I hope that through my testimony we can identify the manner in which House Bill 2593 will lay the foundation for immediate and ongoing professionalization and upgrade the capacity to meet contemporary standards in terms of authority, training, and interoperability with local community police counterparts, and with state-owned and state-aided college and university police.

Situational Assessment

The landscape of campus law enforcement continues to evolve into a complex responsibility and today's campus law enforcement officers must be trained and equipped to deal with a variety of issues. These include modern law enforcement and community policing strategies, crime prevention and control, alcohol and substance abuse, sexual assault, workplace violence, mental health issues, and ever-increasing regulatory oversight and compliance. In short, we

face all of the same challenges as our municipal, county, state, and federal law enforcement partners, and more.

As Steven Healy, President of the International Association of Campus Law Enforcement Administrators (IACLEA) stated; *“College and university campuses are traditionally open and accessible environments that reflect our free and democratic society. We must balance the openness that is the hallmark of the American system of higher education with the need to protect students, faculty, staff, and visitors. We must assure the safety of our students walking at night from the library to their dormitories as well as ensure the security of nuclear reactors on nearly a dozen campuses. We must also protect campus venues such as sports arenas and the facilities that host Presidential debates and other important public functions serving not only campus communities, but the cities and towns where they are located. We must maintain a welcoming environment while simultaneously protecting laboratory facilities critical to medicine, information technology, and basic sciences that contribute to business, individual health, and national defense.”*<sup>1</sup>

In Pennsylvania, there are 14 state universities, 4 state-related universities and 8 private state-aided universities that by definition qualify to become and maintain police officer certifications under the terms of the Municipal Police Officer’s Education and Training Commission (MPOETC) and as of 2009 all have become MPOETC certified agencies. Officers within those departments must meet the same level of training as their municipal counterparts by completing 750 hours of academy training before assuming his or her duties. In stark contrast however, officers hired as private police officers for a college or university department under 22 P.S. § 501 require **NO** formal academy training or certification. For armed departments, the only requirement beyond that of an oath of office needed to carry a firearm or lethal weapon is to attend a forty hours course know as, the Lethal Weapons Training Act, P.L. 705, No. 235 of 1974. In other words, seventy-seven percent (77%) of campus law enforcement agencies within Pennsylvania could put sworn police officers on the street without requiring, offering or maintaining any professional certification or training.

Thankfully this is not the case, because despite the lack of regulatory mandates or oversight many private colleges and universities maintain law enforcement agencies that operate as if they were MPOETC certified agencies. Many of these private police agencies require their officers to be academy certified, Title 53 or POST, as a condition of employment or to complete a Title 53 academy as part of their probationary period. They require that our officers attended the annual mandatory in-service classes required by MPOETC and attend specialized law enforcement training courses such as crime prevention school or the Police Executive Development (POLEX) courses. In fact, officers at some private institutions are required to maintain a much higher level of training than their municipal counterparts. One agency for example, requires their police officers to not only pass state firearms qualifications but requires qualifying in two additional areas of instruction, triple that required by MPOETC.

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<sup>1</sup> Healy. U.S. Senate Committee on Homeland Security and Governmental Affairs. April 23, 2007

In some counties, the private college or university police department may be one of the largest and most well equipped departments in the region. For instance, Bucknell University operates a department that maintains twice the number of sworn officers as both local municipal departments surrounding their campus. At the same time, the lack of recognition by MPOETC prohibits colleges and universities from participating in the Municipal Police Jurisdiction Act (MPJA), Pa. 42 § 8953, in providing assistance outside of their campus or being part of interagency agreements for resource sharing during emergency or critical incident.

A large number of these private police departments have also been qualified by the Pennsylvania Attorney General as a "Criminal Justice Agency," (CJA). Several of these departments have had the CJA designator for decades and operate with full read, write and dissemination authority to "Law Enforcement" databases such as; JNET/CLEAN, NCIC, PACIC and Live Scan. Recognition as a CJA has also afforded many departments membership in County Drug/Gang taskforces, MAGLOLEN, Joint Terrorist Taskforces and even discussing appointment to the National Joint Terrorist Taskforce in Washington, DC. Taking their guidance from national Behavioral Threat Assessment experts, Lancaster County will be the fourth county in the Commonwealth to have a specially trained Crisis Intervention Team for properly dealing with mentally unstable individuals. Franklin & Marshall College Department of Public Safety has broken the private v. public police mold by being one of the two police departments in the county coordinating the support for this new initiative. Once trained, their officers can be called upon to respond to mental health emergencies anywhere in the county. Yet, these same departments and officers (all Title 53 academy graduates) cannot obtain MPOETC certification, many of whom have served previous careers on municipal departments within Pennsylvania.

To further exemplify their professionalism and dedication, several private law enforcement agencies have become or are in the process of becoming accredited. In Pennsylvania, most departments obtain their accreditation through the Pennsylvania Chiefs of Police association (PACP), which under Accreditation Standard 4.9.1(b), also requires MPOETC certification for all officers, not just those of municipal police departments. Of the more than 1,200 police departments in Pennsylvania, less than 70 are accredited. Three private university police departments have attained accreditation and numerous others are preparing for their final assessment to become accredited including Bucknell University.

For those private college or university police departments that are accredited or want to be accredited, their officers must have completed an Act 120 (Title 53) academy training as required by MPOETC. At the time of this writing, the Franklin & Marshall College Department of Public Safety is preparing for Pennsylvania Chiefs of Police Association accreditation. Lehigh, Carnegie Mellon and Duquesne Universities are *all accredited departments* that not only meet all MPOETC requirements, but all requirements for accreditation. *At the same time, their officers cannot attain MPOETC certification.*

Operating a police department under these conditions, with clear and concise double standards not only fails to serve the needs of private higher education, it exposes the colleges, universities and those who have been advised of the issues to potential liability. In today's litigious society

the maintenance of unified standards and accountability is paramount, especially in the field of law enforcement when extremes of care and violence are encountered on a daily basis.

#### House Bill 2592 as 2593 as Laws

As currently written, I believe House Bill 2593 represents exactly what is required to modernize and codify the manner in which private police departments exist and operate in the Commonwealth of Pennsylvania. These bills also work to more closely align the training and operation mandates currently imposed upon MPOETC certified departments such as; municipal police, state-owned or state-aided college police department. These laws will also play a key role in controlling the flow of sensitive, protected and "law enforcement only" information by creating more stringent standards that law enforcement agencies will be required to meet and adhere to if they wish to gain access to secure information.

Title 22 P.S. § 501 states that a person sworn in as a private college or university police officer has the powers of any police officer in the Commonwealth, it does not reference any particular statute that lists those powers. Legal counsel for numerous campus law enforcement agencies interpret this statute to mean the powers of a Pennsylvania State Trooper under Title 71, Sections 250-252, and/or the powers of a municipal police officer under Title 42, Sections 8951-8954, however it is unclear. We can add to the ambiguity by assuming that the private college or university police officer has the same powers as a police officer in a city of the third class under Title 53, Section 37005, a township police officer under Title 53, Section 56403 or a borough police officer under Title 53, Section 46121. In other words, there is no clear definition of the powers of the private college or university police officer. The proposed language of HB 2592 and HB 2593 eliminates that ambiguity by stating clearly that the private college or university police officer has the same powers of state or municipal counterparts as long as they receive the same level of training and MPOETC certification.

Title 22 P.S. § 501 (c) states that the officer in a college or university capacity can exercise his or her powers "in and upon, and in the immediate vicinity of the property" of the employing institution. Yet, no one can define exactly what the "immediate vicinity" means. For colleges or universities that have properties throughout the community, the police officer is required to frequently decide whether the adjacent vicinity stops at the property line, across the street or within a certain number of feet from the scene of a violation. HB 2593 clearly sets the 500 yard rule<sup>2</sup>, determined in Pennsylvania case law, as the standard for private campus police matching that of current State System of Higher Education (SSHE) institutions.

HB 2593 also establishes that the private college or university police officer can be MPOETC certified and provides opportunities for private campus police units to be able to participate in mutual aid agreements and the MPJA with their municipal counterparts. This not only serves as an opportunity for the private educational institution police to enhance their skills and

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<sup>2</sup> Flagg v. SSHE. No. 277 C.D. 2006

knowledge, it offers the neighboring community additional resources when an unexpected need arises. With cutbacks in many local police department budgets, this makes another professionally trained police resource available to respond to the community in which the college or university is an important partner. It also provides, through the section (h) "Reimbursement for Expenses," that private departments will be required to pay for all training and certification fees from institutional funds and at a time when MPOETC funding has been reduced significantly, enabling and encouraging private police participation will help maintain the MPOETC institution.

Another issue that is likely to arise in any resource sharing situation is that of liability. HB 2593, under section (e) "Limited Liability," and (i) "Mutual Aid," also addresses that concern by providing that the police officers from the local private college or university have the same level of immunity offered to the public police officer under the terms of 42 Pa.C.S. Ch. 89 Subch. D (relating to municipal police jurisdiction) and entitles them to all the rights and benefits accruing under that law.

Quite simply HB 2592 & 2593 create the law necessary to correctly and effectively create, operate, maintain and manage a full and modern law enforcement agency within the precincts of a private higher education corporation.

### Summary

As is evident from the depth of the information and materials referenced in my testimony, the passage of House Bill's 2592 & 2593 are of paramount importance. Title 22 P.S. § 501 (c) as it currently exist provides little to no substance or guidance for the operation of a modern campus law enforcement agency. It is constantly being challenged for its ambiguity regarding authority, jurisdiction and even on the basis of whether its creation was intended for use by private campus police departments.

The passage of House Bills 2592 & 2593 will create a contemporary, unified statute from which clear expectations and guidance for private campus law enforcement are established. Within Pennsylvania, it will bring the eighty-eight colleges and universities that currently reside and/or make up the bulk of the campus law enforcement agencies in line with our counterparts in the State System, covered under Act 48, and those State-related or State-Aided covered under Act 71. It will create one oversight department, in MPOETC, responsible for all regular law enforcement throughout the state allowing for the creation of better and more streamlined education, training and standards.

We believe that Pennsylvania courts are already acknowledging the updated status and responsibility of private law enforcement agencies within higher education. This is evident in case law such as Commonwealth v. Lockridge (810 A.2d 1191 (Pa 2002)), which relied on the definition of "law enforcement officer" as, "any person who is by law given the power to enforce the law when acting within the scope of that person's employment," as it related to a private police officer; as in the Commonwealth v. Holderman (425 A. 2nd, 752, 284 PA. Super 161) whereby the court agreed that "governing the powers of campus police officer... to make

extraterritorial arrests, are not penal statutes and therefore must be liberally construed to effect their objectives and promote justice.”

There is growing support for, and understanding of, the need to change how private police departments obtain and/or maintain their authority. This is evident in the amount of the bi-partisan nature the house bills presented on the subject. We have support from both the International Association of Campus Law Enforcement Administrators (IACLEA), who are regularly presenting to and winning financial support from both the US House and US Senate, as well as from the International Association of Chiefs of Police (IACP), from whom you should have received official letters of support for the passage of HB2592 & HB2593. Finally, we believe that we have the support, albeit implied, from the Pennsylvania Chiefs of Police Association (PACP), who through their accreditation process of numerous campus law enforcement agencies require compliance with *Accreditation Standard 1.10.3*. This mandates that “*all sworn members of the law enforcement agency to successfully complete a certified basic law enforcement/police training course prior to assuming their law enforcement duties,*” further adding that “*this Standard applies to all law enforcement officers in Pennsylvania...*”

In summary, these laws are the first step in establishing the framework necessary for systematically addressing the safety and security challenges that confront private campus law enforcement. They provide a clear and concise foundation that allows us to meet the needs and expectations of enforcement, community policing and crime prevention, as well as the capacity to appropriately respond to an active shooter incident or natural disaster. No matter what the task, none of it is possible without first passing House Bills 2592 and 2593.

Thank you for your time and consideration in passing these House Bills.