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LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2003

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 218

JUNE 15, 2004

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LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2003

TUESDAY, JUNE 15, 2004

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:12 p.m., in Room 2141, Rayburn House Office Building, Hon. Howard Coble [Chairman of the Subcommittee] presiding.

Mr. COBLE. Good afternoon, ladies and gentlemen. The Judiciary Subcommittee on Homeland Security, Terrorism, and Crime will come to order.

Let me visit with you just a minute before I make my opening statement. I see my friend Duke Cunningham from California, who has been nursing this bill for almost a decade, 8 years, Duke. During that time, this bill has generated much attention. Reasonable men and women adamantly support it. Reasonable men and women mildly support it. Reasonable men and women adamantly oppose it. Reasonable men and women mildly oppose it, and they are all reasonable. I have talked to everyone on every side of this issue and I must commend all of them. They have been very even-handed during the discussions with me.

I am a cosponsor of the bill. I am told by the Chairman of the Full Committee, Mr. Sensenbrenner, if we are able to mark it up in Subcommittee today, he will schedule it for a markup tomorrow. So it is on a fast track.

But it is good to have you all with us. And let me give my opening statement. Then I will recognize Mr. Scott. Then we will proceed to hear from the witnesses.

The Subcommittee on Crime, Terrorism, and Homeland Security will conduct the first hearing on H.R. 218, the "Law Enforcement Officers Safety Act of 2004." This hearing examines the need for active and retired State and local law enforcement officers to carry concealed firearms in interstate commerce without being required to obtain individual permits for the State in which they are traveling or residing.

Currently, each State determines whether or not active or retired State and local law enforcement officers from other States are allowed to carry a concealed weapon within the State's borders. Currently, most States do not permit out-of-State law enforcement officers to carry a concealed weapon within its borders.

This legislation would mandate that States permit any State or local law enforcement officer to carry concealed weapons within its borders regardless of whether the officer resides in that State. States that do not currently allow out-of-State officers to carry concealed weapons within their borders would be required to do so under H.R. 218.

Currently, Federal law enforcement officers are authorized to carry concealed weapons anywhere in the United States. This law does not have any impact on Federal officers' ability to carry firearms in interstate commerce.

Police groups in support of this legislation contend that H.R. 218 will allow tens of thousands of trained law enforcement officers to continually serve and protect our communities regardless of jurisdiction or duty status at no cost to taxpayers. Supporters also contend that this will allow off-duty officers to protect themselves at all times.

Opponents, on the other hand, argue that this should be an issue left to the States. States have typically had the right to determine who is eligible to carry firearms in their respective jurisdictions. Some contend that this legislation disregards the judgment of State authorities. Still others have voiced concern that there is too much variation among States regarding firearms training as well as off-duty and use of force policies.

Because law enforcement is not unified regarding this legislation, the testimony we hear today will assist the Subcommittee in determining whether it is sound public policy to require the States to allow any active duty and retired State and local law enforcement officers from any State to carry concealed weapons in interstate commerce.

I want to thank the witnesses who were able to be with us today and look forward to their testimony. With that, I am now pleased to recognize the Ranking Member, the distinguished gentleman from Virginia, Mr. Bobby Scott, for his opening statement.

Mr. SCOTT. Thank you, Mr. Chairman. I am pleased to join you in convening the hearing on H.R. 218, the Law Enforcement Officers Safety Act of 2003. The bill authorizes "qualified" active and retired Federal and State law enforcement officials to carry concealed weapons interstate without regard to State and local laws prohibiting or regulating such carriage.

A law enforcement officer includes corrections, probation, parole, and judicial officers, as well as police, sheriff, and other law enforcement officers who have had or who have statutory power over arrest and who were or are engaged through employment by a governmental entity in the prevention, detection, investigation, supervision, prosecution, or incarceration of law violators.

In the past, we have considered this bill under the title "Community Protection Act," and I am not clear whether the current name change signals a change in the focus or the provisions of the bill or in strategies through which to promote it. The rhetoric surrounding the bill has indicated that its purpose is to aid and protect the public by putting tens of thousands of armed additional law enforcement officers in a position to protect the public as they travel from State to State and jurisdiction to jurisdiction. From the name of the current bill, it appears that the emphasis is now on

the safety of officers as they travel. The legislative language appears to be the same as when the title and presumed purpose of the bill was to protect the public. So I am not clear on what the supporters and advocates of the bill intend that it authorize.

I assume that the authorization to carry concealed weapons in a State is contemplated to be in connection with the incidental travel by law enforcement officers as opposed to a deliberate individual or ad hoc group, arranged interstate law enforcement efforts, although there does not appear to be anything to prevent such efforts. I do know that it is the specter of individually determined engagement of law enforcement decisions by out-of-State, plain clothed, untrained for the specific situation, involved in law enforcement that gives police chiefs and local and State governments huge concerns. I have heard a number of incidences involving friendly fire deaths and injuries between off-duty and undercover officers of the same force who mistakenly shoot each other due to not knowing who the plainclothes officer was. The engagement of out-of-State officers in law enforcement activities will certainly add to such unfortunate incidences. I am sure that there are anecdotal incidences in which an off-duty officer has saved the day in a gun battle, but from a law enforcement management perspective, I expect that police chiefs see unauthorized, unfamiliar, untrained for the specific situation and condition out-of-State officers as more of a challenge to effective law enforcement than a help.

I also don't know what the liability implications are for the local jurisdictions whose officers become engaged in out-of-State law enforcement activities. But the liability insurance implications alone should give the Congress cause for pause in imposing an interstate concealed carrier provision on State and local governments. State legislatures can authorize out-of-State off-duty officers to carry concealed weapons within their jurisdictions and some have, although most have not.

The primary organizations supporting this legislation tend to be representing rank and file line officers, for the most part, while those opposing the legislation tend to be managers and employers who are directly responsible to the public for the public policy involved in officers' conduct. The Federal Government should not usurp State and local options by choosing sides in such an employer-employee difference.

I look forward to the testimony of the witnesses for enlightenment on these concerns and I would like to ask unanimous consent, Mr. Chairman, that several press statements and news articles outlining police officers killed by other police officers be introduced into the record.

Mr. COBLE. Without objection.

[The material submitted by Mr. Scott follows:]

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View Related Topics

March 24, 1999, Wednesday, Final Edition

NAME: THOMAS FRANKLIN HAMLETTE JR.

SECTION: A SECTION; Pg. A01

LENGTH: 1998 words

HEADLINE: Doubts Raised On Slain Officer; D.C. Police Report Revisits Shooting

BYLINE: Maria Elena Fernandez, Washington Post Staff Writer

BODY:
It is a solemn wall of sacrifice meant to memorialize American heroes who gave their lives to preserve law and order.

Engraved on the blue-gray marble of the National Law Enforcement Officers Memorial are the names of more than 14,500 police officers who have been killed in the line of duty since 1794. In May, the wall in downtown Washington will bear 310 new names.

One of them is **Thomas Franklin Hamlette** Jr., a D.C. police officer who wore his badge for 18 months and whose death at the hands of another police officer is at the center of one of the most controversial decisions of Chief Charles H. Ramsey's administration.

On Monday, D.C. Council member Harold Brazil (D-At Large), chairman of the council's judiciary committee, sent a letter to Ramsey seeking a review of the events that led to Hamlette's off-duty death on July 18, 1998. The department's homicide investigation concluded that Officer William F. Hyatt, who also was off duty, was "justified" in shooting Hamlette. In February, the U.S. attorney declined to prosecute Hyatt.

But in a ruling that Ramsey called "a lose-lose situation" last year and that critics say is inherently contradictory, the chief also determined that Hamlette was shot in the line of duty, giving Hamlette a place in history that the department's final case report shows he may not deserve.

"Some witnesses paint a picture that certainly suggests that Officer Hyatt was not at fault in any way and that Officer Hamlette was," said Brazil, who read the report last week. "Maybe the chief is right. I'm not trying to second-guess him. But, because the matter is so grave and there are significant questions raised from looking at the report, I think it warrants a closer, harder look and an investigation by the department."

The report, obtained by The Washington Post last week, reflects the eyewitness testimony of 34 club patrons, employees and police officers -- many of whom said they did not see Hamlette taking police action.

Some witnesses described Hamlette as a man whose judgment was impaired by alcohol. Others observed a man who lost his temper over a parking space and took out his police-issue semiautomatic Glock pistol when it seemed he was losing a fight with a patron who outweighed him by 50 pounds.

None of the witnesses said they heard Hamlette identify himself as a police officer or show his badge. The man involved in the dispute told police Hamlette never said he was an officer.

Ramsey said no witnesses gave a "complete" picture of what happened.

"None of the witnesses were aware of all the circumstances, and there were several discrepancies," Ramsey said in an interview. "There is no clear evidence that he was taking police action or that he wasn't. My policy is to give the benefit of the doubt to the police officer. . . . I'm not inclined to change that classification."

Shortly after midnight on Saturday, July 18, 1998, Ramsey, on the job for three months, was in Chicago when his pager flashed with the sad news of the fallen officer. Ramsey returned to Washington that afternoon.

By then, his second in command, Executive Assistant Chief Terrance W. Gainer, had said at a news conference that Hyatt's actions had been "clearly justified," angering Hamlette's family.

The pressure was on Ramsey to appease everyone. He had inherited a volatile department with deep morale problems. His officers were in pain. Both Hamlette and Hyatt came from families with a long history of police work. It was the third time in three years that a white officer had mistakenly shot a black officer -- two of them fatally.

"I had to be very sensitive to that or it was going to tear this department apart," Ramsey said. "This is terribly unfortunate all around. Everybody involved is suffering. People ought to let Tom Hamlette rest in peace, and people ought to let Bill Hyatt heal. I lost two police officers that night."

Ramsey immediately cleared Hyatt, who had passed a drug and alcohol test. He gave Hamlette a police funeral with full honors to assist "the department's healing." A month later, Ramsey determined that Hamlette died while taking police action, even though an autopsy showed that Hamlette's blood-alcohol level had reached 0.14 percent that night and had dropped to 0.09 percent when he died. At the time, 0.10 percent was the legal threshold for intoxication.

Ramsey relied on a memo written by Gainer that read: "What began as a verbal dispute over a parking space led to the battery of a police officer. This ultimately led to the death of Officer Hamlette at the hands of a third party who was not involved in the original dispute. . . . In his final moments, it appears [Hamlette] was taking police action."

Police ranks were divided immediately along racial and police district lines. Some still fault Ramsey for clearing Hyatt too quickly or looking too favorably upon Hamlette.

"I called it as I saw it, taking all the facts into consideration," Ramsey said. "This is why I have always said this is a lose-lose situation no matter how you look at it."

Even Hamlette's family turned against Ramsey. Despite the fact that the ruling entitles them to insurance benefits and federal funds, the Hamlettes filed a $ 19 million wrongful-death suit against the department and Hyatt in September.

"This entire police report and investigation is a fantasy," said lawyer Greg Lattimer, who represents the Hamlettes. "This is what the police have created to justify the determinations that they made within 12 hours of it taking place. They want to put out this story, as if it's some innocuous accident."

Glen Murphy, a Virginia-based law enforcement expert, reviewed the report at the request of The Post. He said he didn't think Hamlette died in the line of duty. "I see no grounds for which he had

to pull his weapon in the first place," Murphy said. "His life was not in jeopardy, and the life of someone else was not in jeopardy. . . . I don't think the other officer [Hyatt] had a choice but to shoot."

Hyatt remains on administrative leave with pay pending the completion of an administrative review. He was a well-trained officer who "encountered an unidentified armed individual and was forced to take police action," said his lawyer, Billy Martin.

The worlds of 3rd District Officer Thomas F. Hamlette Jr. and 4th District Officer William F. Hyatt collided on a summer night outside The Club, a popular nightspot at 1213 K St. NW, co-owned by Hamlette's father, a retired D.C. policeman, and another retired officer. The following account is based on the final case report filed by homicide Lt. Russell E. Knieser on Aug. 25, 1998:

The regular patrons of the club knew Hamlette, a tall, lanky man, as "Tommy," "Ham" or "Thin Man." Hamlette, 24, had been to the club with two women earlier that Friday and left for another bar on U Street NW, where he had some drinks about 10 p.m., the bartender told police. When they left, they mentioned that they were going to more clubs.

Hyatt, 29, and his pet snake were Friday night regulars at The Club. Hyatt said that he had seen Hamlette at the club once but that they had never met. A downtown nightspot for nine years, The Club had a clientele that included college students, government workers and many D.C. police officers.

At midnight, The Club was thumping, people were dancing and the tables were filled. Outside, 15 to 20 people waited to enter.

Folayele Fapohunda, a Howard University student, arrived shortly after midnight with friends to celebrate his birthday. Kanayo Odoe, 22, one of his buddies, asked Fapohunda to stand in a vacant spot in front of the club so that he could move his car from an illegal space.

As Fapohunda waited, a man drove up in a dark blue 1995 Pontiac Firebird and said the space was his. Fapohunda and the stranger argued.

The man, who turned out to be Hamlette, drove away and parked his car nearby on 13th Street. Odoe backed into the parking space but sat in the car because he was anxious.

Fapohunda joined the line on the sidewalk and waited for his friend. Hamlette returned.

He and Fapohunda were "in each other's face," said Jamellah Radcliff, 20, who was walking toward the club when Fapohunda pushed Hamlette into her. Fapohunda pushed Hamlette again. Hamlette pulled out his gun from the front of his waistband, she said.

Hannah Renee Gerald, 18, was in line with friends when she saw Hamlette walking with a gun in the air. Someone yelled, "He's got a gun!"

Some people threw themselves in piles on the ground. Others, including Oti Ikomo, 20, one of Fapohunda's friends, ran away. Gerald curled into a ball near the door, with others falling on top of her.

James T. Howard, 30, a security officer, had just exited The Club and saw Hamlette six feet in front of him holding a gun and tussling with Fapohunda.

Hyatt had been in the club earlier and was standing on the sidewalk. He heard the disturbance and said he drew his service weapon and pointed it at Hamlette. "Freeze! Police!" Hyatt yelled.

Hamlette continued to fight Fapohunda.

Over his shoulder, Howard saw Hyatt, who he knew was an officer, order Hamlette to "freeze" or "put down the gun" three times while holding his own gun.

Two to four feet away from Hamlette was Jason McNair, 22, who saw Fapohunda raise his hands "as if to indicate he did not want any trouble." McNair saw Hamlette point the gun at Fapohunda's head without saying he was an officer. Hamlette pulled the trigger, but the gun did not go off. The men struggled over the gun. McNair said that Hyatt identified himself as an officer twice.

Club doorman Jonathan Felton was checking IDs when he turned and saw Hamlette "sucker-punched" by Fapohunda. Felton said he grabbed Fapohunda "in a bearhug" and swung him to the right before releasing him. Felton heard gunshots and hid behind a car.

Hamlette's gun went off one to three times. As Fapohunda fled, Hamlette pointed the gun at Hyatt, several witnesses said.

"Freeze! Police! Freeze! Police!" witnesses heard Hyatt yell.

Security guard Kenneth Parker Woodhouse saw Hamlette stagger toward Hyatt without dropping his gun. The two officers were three to five feet from each other, Woodhouse said.

"Drop it, freeze . . . please, please, drop it, please," Hyatt kept yelling. Hamlette continued to point his weapon at Hyatt, witnesses said.

Hyatt fired five gunshots, Woodhouse said.

"Everyone step back. I'm a police officer," Hyatt yelled at the crowd. Hyatt then turned toward Hamlette, still not realizing he had shot an officer: "I didn't want to shoot you. I didn't want to kill anybody tonight! Damn. Why did you make me shoot you?"

Hamlette's friends ran to him and held him in tears, whispering, "Ham, Ham." Hyatt put his hands to his face and said, "Oh my God."

Hamlette, who was struck four times, was pronounced dead at George Washington University Medical Center at 1:05 a.m.

Last month, a five-member committee reviewed documents submitted by D.C. police before deciding that Hamlette's name should be added to the prestigious wall, said Craig Floyd, chairman of the National Law Enforcement Officers Memorial Fund.

"We base a lot of our decision-making on the department's call that it was a line-of-duty death," Floyd said. "We reviewed the application and we have no reason to believe otherwise."

Hamlette was buried under a clear, blue sky on July 24, 1998, minutes before two U.S. Capitol Police officers were slain inside the Capitol while protecting the public and Congress. In May, the names of those officers, Jacob J. Chestnut and John M. Gibson, also will be carved on the marble wall near an inscription that states: "In valor, there is hope."

Thomas F. Hamlette Jr. stands with his parents, Pauline and Thomas, at his graduation from the D.C. police academy. Hamlette's father is a retired D.C. officer. Hamlette was fatally shot by a fellow officer in July 1998.

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Newsday (New York)

February 4, 1990, Sunday, CITY EDITION

SECTION: NEWS; Pg. 3

LENGTH: 317 words

HEADLINE: Off-Duty Cop Shot in Brawl

BYLINE: By Joseph Kirby

BODY:
An off-duty rookie police officer was shot by a retired officer, and two other rookies were injured early yesterday in a fight during which several shots were fired in front of a Manhattan bar, police said.

Officer **John Hanley,** 21, was shot in the arm and abdomen by Eugene Disilvio, a retired police officer who is a bouncer at Rascals, 12 E. 22nd St., when Hanley tried to arrest another man for assault, according to Manhattan Chief of Detectives Joseph Borrelli.

Hanley, who is in serious but stable condition at Bellevue Hospital, tried to arrest Mark Tarazhi, 21 of 3050 Grand Concourse in the Bronx, who had fought with Officer Stephen Cummings, Borrelli said.

Hanley, transit police Officer Vincent Perdikou and Cummings were in the bar with six other off-duty police officers. It is unclear how many of the police officers were involved in the fight, Borrelli said. The fight began about 4 a.m. just after the bar had closed.

During the fight, in which several gunshots were fired, Borrelli said, Cummings and Perdikou were punched in the face. Investigators recovered five spent 9-mm. shells at the scene.

When Hanley saw Tarazhi punching Cummings, Hanley pulled out his pistol and took Tarazhi inside the bar to arrest him, Borrelli said. Seeing Hanley enter the bar with a gun, Disilvio pulled out a licensed .32-cal. handgun and ordered Hanley to drop his weapon.

When Hanley did not drop the gun, Disilvio fired twice. It is not clear whether Hanley identified himself as a police officer, Borrelli said.

Disilvio has not been charged, but the case will go before a grand jury to see if any charges should be brought, Borrelli said.

Tarazhi, who fled on foot when Hanley was shot, checked into New York University Medical Center about 1 1/2 hours later and was treated for a gunshot wound apparently suffered in the brawl, police said. He was arrested and charged with assault.

From: Gene Voegtlin, Legislative Counsel
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To: Patricia Bently-Harris

Fax Number: 202/225-8354

Date: **July 9, 1999**

Pages (Including Cover): 17

Hi Patricia,

Here is a letter stating IACP's opposition to H.R. 218 along with a series of new articles involving police shootings of off-duty or undercover officers. I think it is important to note that these shootings all involved officers who serve on the same force and could reasonably be expected to know each other or at least have a way of identifying themselves to their fellow officers. Imagine how confusing it would be when you have officers from other department's thrown into the equation.

Give me call if you have questions.

Gene

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September 30, 1990, Sunday, Final Edition

SECTION: METRO; PAGE B5; AROUND THE REGION

LENGTH: 116 words

HEADLINE: Off-Duty Officer Shot by Mistake Leaves Hospital

SERIES: Occasional

BYLINE: From news services and staff reports

BODY:
An off-duty District police officer, shot in the chest by a fellow officer after he was mistaken for an assailant, was released yesterday from Washington Hospital Center, authorities said.

Dwayne Washington, 25, assigned to the 5th District, was involved in a dispute with two men Friday night. Washington, who was with his wife, chased them briefly, then exchanged gunfire with them. The shooting was seen by uniformed officers patroling the area near New York Avenue and Bladensburg Road NE.

One of the officers shot at Washington, who witnesses said identified himself as a police officer. One suspect eventually was caught, and another was being sought yesterday, police said.

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The Washington Times

February 9, 1995, Thursday, Final Edition

SECTION: Part C; METROPOLITAN TIMES; TOP OF THE NEWS; Pg. C3

LENGTH: 1247 words

HEADLINE: Off-duty officer killed by fellow cop ;
Effort to stop D.C. robbery ends in mistake

BYLINE: Brian Reilly; THE WASHINGTON TIMES

BODY:

It was every officer's nightmare, and it was over in a split-second.

After the moment of mistaken identity, a D.C. police officer dressed in street clothes lay dying in the street. A second policeman, realizing he had shot a fellow officer, burst into tears.

Officer **James M. McGee** Jr., 26, was shot in the arm and shoulder as he tried to stop the robbery of a cabdriver in Anacostia late Tuesday night. His girlfriend and her two children were in his car a few feet away and saw the shooting.

Officer McGee was killed by Officer Michael Baker, 28, who mistook him for an armed robber.

Police arrested two 28-year-old men they say hijacked and robbed the cabdriver. Rodney Garnett of the 1300 block of 29th Street SE and Richard David Gibson of the 1600 block of 28th Street SE were charged with felony murder because they initiated the crime that led to the killing, Metropolitan Police Chief Fred Thomas said yesterday.

The men are scheduled to be arraigned in D.C. Superior Court today , when prosecutors plan to announce whether they will try the men for murder or robbery.

The deadly twist of fate began when Officer McGee parked his red Mitsubishi in front of Eddie Leonard's Carryout at 2309 Good Hope Road SE. He started walking to the Chinese and seafood carryout when he heard a car screech to a stop behind him.

Police said he saw the driver of an orange-and-black Capitol Cab bail out of the taxi with two men, one with a revolver, struggling to hold him back. Officer McGee pulled out his gun, identified himself as an officer and told the robbers to freeze.

One of the robbers escaped by dashing behind the shopping center, and the officer ordered the other to raise his hands in surrender, police said.

When Officer Baker, who joined the department four years ago, and his partner pulled up behind the taxi, they did not know Officer McGee had just broken up a robbery.

They saw a man in civilian clothes with his back to them, standing about 25 feet away and pointing a gun at an unarmed man in the middle of the street.

The uniformed officers yelled that they were police. Not recognizing the gunman as a policeman

from their own district, they told him to freeze and drop the gun, police said.

In what several fellow officers called a "natural reaction," Officer McGee began turning to face the officers. The gun turned with him. Fearing the man intended to shoot, Officer Baker fired twice, striking Officer McGee in the left arm and back of the shoulder.

"They didn't have any idea who he was until they walked up and saw the badge hanging off his chest," said Officer Johnny Patton of the 7th District, where the officers involved in the shooting worked.

Witnesses said Officer Baker immediately broke down crying.

The towering officer, an amateur weightlifter weighing considerably more than 200 pounds, was questioned by homicide detectives and put on administrative leave. He was so distraught yesterday he wouldn't accept visits from friends, fellow officers said.

"We lost two officers last night," said an officer who knew both men. Officer Baker "will go the way of Jason White's partner."

Officer White was fatally shot Dec. 30, 1993, on Capitol Hill. His partner, Officer Earline Harris, was slightly wounded and has been on leave for psychiatric care.

"This is a tragic situation in which all the officers involved tried to do the job they had to do," Chief Thomas said at a morning news conference.

Metropolitan Police officers, as well as police across the nation, have a signal they are trained to use if they are out of uniform and need to show other police they are officers. A preliminary investigation found that Officer McGee, a five-year veteran, did not make the signal. But his supervisors said he probably didn't have time.

"You got two officers out there doing exactly what they should be doing," said Inspector Winston Robison, commander of the 7th Police District in Southeast. "It was just bad circumstances."

The first bad circumstance was the robbery of the cabdriver, who was not named. Police said the two robbers hailed the cab near Minnesota and Pennsylvania avenues SE and at gunpoint forced the driver to take them to 23rd Street and Alabama Avenue SE.

But the driver stopped the cab in front of the Good Hope Road carryout in an attempt to escape.

The robbers, who had stolen $40 from the driver, struggled with him, and Officer McGee spotted them.

Mr. Gibson was arrested at the scene. Mr. Garnett escaped, but Mr. Gibson led police to him. Detectives took Mr. Garnett back to the neighborhood behind the carryout's shopping center, where he directed police to a revolver he had hidden in the snow under a bush.

Officer McGee is the second D.C. officer killed by friendly fire and at least the 87th in the nation slain by one of his own since 1887.

****BOX

SHOOTINGS INVOLVING POLICE MULTIPLY

Since the Nov. 22 fatal shooting of a police sergeant and two FBI agents at Metropolitan Police

headquarters, six D.C. police officers have been shot, two fatally. Since Jan. 10, officers have shot five persons, four fatally.

Jan. 10 - A masked gunman fired three shots through a window in the Wendy's Restuarant at 3900 Georgia Avenue NW, striking Office Vance Woodward three times as he sat at a table. The officer was released from hospital the next day. The suspect is at large.

Jan. 12 - A robber fatally shot Officer Redish W. Wilborn as he sat in his car with a transvestite prostitute at 58th and Dix streets NE. One of two suspects was arrested.

Jan. 16 - An off-duty officer fatally shot a man who tried to rob the officer and a friend in a parking lot on the 800 block of Fourth Street SW.

Jan. 17 - Officer Gregory Johnson was shot in the shoulder by a fleeing drug suspect in an alley behind the 1000 block of Sixth Street NE. He was not seriously hurt. The suspect was arrested. Later that day, a masked gunman, believed to be the suspect in the shooting of Officer Woodward, shot Sgt. Eric Hayes as he sat in a marked cruiser on the 1600 block of 16th Street NW. Sgt. Hayes was not seriously injured. The suspect is still at large.

Jan. 20 - A masked gunman shot and slightly injured an off-duty officer as he sat in a karate school he runs on Chillum Place NE. No one has been arrested, but police suspect the attack stemmed from a domestic dispute.

Jan. 21 - An off-duty officer, providing security at the same Wendy's where Officer Woodward was shot, fatally shot a man who rushed at him with a baseball bat.

Feb. 1 - Two officers fatally shot knife-wielding Robert Hooper as he attacked a second man in an apartment on the 1500 block of 13th Street NW.

Feb. 6 - An off-duty officer, providing security at a nightclub on Fifth Street NW, shot and seriously injured a man who had returned to fight with the officer after he was thrown out of the nightclub.

Tuesday - Officer Kristopher Payne fatally shot Antonio Williams on the 5000 block of Fitch Place NE when Mr. Williams refused to drop an unloaded handgun. Later that day, Officer Michael Baker fatally shot off-duty Officer James McGee in an incident stemming from the robbery of a cabdriver at Good Hope Road and 25th Street SE.

GRAPHIC: Photos, A&B) Police Chief Fred Thomas says Officer **James M. McGee** Jr. (right) died in a "tragic situation."; C) Officer **James M. McGee** Jr. was on his way to Eddie Leonard's Carryout when he saw a cabdriver in trouble., A (Thomas Photo): NO CREDIT; B (McGee Photo) & C) By Cathaleen Curtiss/The Washington Times ; Map, Site of shooting, By The Washington Times ; Box, SHOOTINGS INVOLVING POLICE MULTIPLY, By The Washingtion Times

LOAD-DATE: February 9, 1995

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August 19, 1982, Thursday, AM cycle

SECTION: Domestic News

LENGTH: 467 words

HEADLINE: Police Blame Mistaken Death on Lack of Briefing

BYLINE: By **SHARON HERBAUGH,** Associated Press Writer

DATELINE: HOUSTON

BODY:
A uniformed officer who killed an undercover policewoman had been improperly briefed and shot her because he feared his life was being threatened by an armed drug dealer, police said Thursday.

"The officer didn't have adequate briefing on the operation. He was not aware that a woman undercover officer was involved," said Larry Troutt, public information officer for the Houston Police Department. "It was a mistake."

Kathleen C. Schaefer, 33, was fatally shot by a single bullet wound in the chest Wednesday night as two uniformed officers and four undercover narcotics officers arrested two drug suspects in a convenience store parking lot in far southwest Houston.

One person was released after being questioned by police. The other, Bryan Scott Heuer, 24, was charged with possession of a controlled substance and jailed in lieu of $2,000 bond, the district attorney's office said.

Mrs. Schaefer, one of four female officers assigned to the narcotics division, was the first Houston policewoman to die in the line of duty and the fifth officer killed this year.

Mrs. Schaefer and the three undercover officers had arranged Wednesday evening to buy 100 tablets of the barbituate mandrex, Troutt said, and after the drugs were purchased, uniformed officers moved to help make the arrests.

Mrs. Schaefer, dressed in blue jeans and a blouse, jumped from the unmarked car and approached Officer D.A. Gott, Troutt said.

"She had her gun drawn and the uniformed officer, unaware that she was involved, believed she was a suspect," Troutt said.

Capt. B.F. Adams said Gott told her to stop, but "she didn't understand that he was telling her to hold it" and ignored the order, Adams said.

Troutt said, "As she started to put it (the gun) back into the car, the uniformed officer apparently

thought she was pointing it at him and that's when he fired."

Assistant Police Chief B.K. Johnson said the narcotics supervisor assigned to the operation failed to fully brief the uniformed officers about the type of operation and the undercover officers involved.

"The policy is and the training is that they are to be fully indoctrinated in the tactical situation," Johnson said. "The mistake was that the narcotics supervisor failed to identify the undercover officers prior to the bust."

All officers involved in the incident were transferred to desk jobs pending investigations by the homicide and internal affairs divisions and the civil rights division of the district attorney's office, Troutt said.

A three-year veteran, Mrs. Schaefer moved to the narcotics division in June after working in the patrol and dispatch divisions. She will be buried Saturday. She is survived by her husband of 15 years, L.W. Schaefer, a lieutenant in the department's traffic division, and two children.

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September 29, 1990, Saturday, Final Edition

SECTION: METRO; PAGE B1

LENGTH: 445 words

HEADLINE: Off-Duty D.C. Officer Wounded;
Uniformed Policeman Apparently Fired Shot

SERIES: Occasional

BYLINE: Ruben Castaneda, Rene Sanchez, Washington Post Staff Writers

BODY:
An off-duty D.C. police officer was shot and seriously wounded last night in Northeast Washington, apparently by a uniformed D.C. officer who had mistaken him for an assailant, police officials said.

The off-duty officer, identified as **Dwayne Washington,** who police said joined the force about a year ago, was shot once in the chest and taken to Washington Hospital Center about 10 p.m. Officials there said he was in stable condition.

The shooting occurred near Bladensburg Road and New York Avenue NE, which is one the District's busiest intersections.

Lt. Reginald Smith, a police spokesman, said the off-duty officer was shot after being approached by uniformed officers who had seen him exchange gunfire with two other men near the intersection.

The officers ordered the off-duty officer to drop his gun, and as he turned toward them, one officer fired, Smith said.

Minutes before he was shot, the off-duty officer and his wife were disputing a traffic accident with two men near the corner of Montana and New York avenues NE, police officials said.

That led to a brief chase, then an exchange of gunfire, police and witnesses said.

The off-duty officer, they said, was on foot firing at the men as they drove away.

At that point, witnesses said, two uniformed officers who were parked in a police vehicle nearby raced to the scene.

"Two cops came over and shot at the guy who was shooting at the car," said one witness, who asked not to be identified.

According to the witness, the off-duty officer said, "Don't shoot, don't shoot, I'm a police officer," as one of the uniformed officers fired his weapon.

The names of the two uniformed officers were not available last night.

Police said they had arrested one man in connection with the traffic dispute that sparked the shooting and were searching for a second man last night. The name of the arrested man, who was

taken to police headquarters for questioning, was not immediately available last night.

Police cruisers swarmed New York Avenue as a police helicopter hovered above and officers combed nearby railroad tracks for the second suspect.

Last night's shooting was the third time this year that a D.C. police offier has been wounded by gunfire.

Earlier this month, a 6th District officer was shot in the leg while scuffling with a drug suspect in a park near 42nd Street and Hunt Place NE.

Several months ago, a plainclothes officer from the 4th District was shot in the hand by a uniformed officer who saw him running with a gun in the 1400 block of Newton Street NW.

In that case, the uniformed officer also mistook the plainclothes officer for a suspect, officials said.

GRAPHIC: PHOTO, POLICE INVESTIGATE SHOOTING AT NEW YORK AVENUE AND BLADENSBURG ROAD. CYRENA CHANG

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The Washington Times

July 20, 1998, Monday, Final Edition

SECTION: Part C; METROPOLITAN TIMES; TOP OF THE NEWS; Pg. C3

LENGTH: 827 words

HEADLINE: Police mourn friendly fire loss;
D.C. rethinks ID signal for off-duty cops

BYLINE: Bill Reiter; THE WASHINGTON TIMES

BODY:
Officer Thomas F. Hamlette Jr.'s police cruiser sits in front of the 3rd District police station draped in black cloth. The American flag flies at half-staff.

The car and the flag serve as poignant reminders of the officer fatally shot early Saturday morning by a fellow officer.

D.C. Police Chief Charles H. Ramsey went to the police station on V Street NW just hours after Officer Hamlette's death to talk with the men and women who worked alongside him on the overnight shift.

In part, Chief Ramsey wanted to tell them that Officer William F. Hyatt believed his life was in danger when he shot their colleague outside a downtown nightclub.

"Decisions like this are made instantaneously," Chief Ramsey said before walking into the roll call.

Officer Hyatt, 28, was walking toward the Club at 1213 K Street NW about 12:30 a.m. Saturday when he saw a fight under the red canopy that leads into the building. He identified himself as a police officer, saw a man with a gun and told him to drop it, police said. The man was Officer Hamlette, 24, who began to turn toward Officer Hyatt, gun in hand.

Officer Hyatt fired four shots.

Seconds earlier, Officer Hamlette had fired a shot during the altercation with a bar customer. Witnesses said Officer Hamlette did not identify himself as a police officer outside the business owned by his father.

Although police officers have signals they use to identify themselves as a fellow officer, those signals can be missed in the stress of the moment, officers said.

"This circumstance is the worst of circumstances because a shot already has been fired. It escalates everything. A second could be the cop's life," an officer familiar with the shooting said.

Officer Hamlette and Officer Hyatt apparently did not know each other.

Friendly fire is a constant risk for police, who are required to carry their firearms at all times in the city and respond to any trouble they see.

"The decision that an officer must make in a few seconds - the decision to use deadly force - is the most crucial decision he will ever make as a police officer. It's irreversible. You can't take it back,"

wrote Beverly J. Anderson, a police psychologist and clinical director of the Metropolitan Police Employee Assistance Program, in studies detailing shootings and other critical incidents involving police.

"A fatal shooting is the cataclysm of a police career. In less time than it takes to read this sentence, the course of an officer's life changes when he is forced to kill," she wrote.

Some officers are calling for ways to reduce the risk of officers shooting other officers by mistake. Attempts to come up with a better system have failed in the past.

Officials won't discuss the signal nonuniformed officers use to identify themselves to other police, but it has been described as a hand gesture, which could be a difficult maneuver for an officer trying to subdue a gunman.

Apparently, that has been the case in the past, officers said.

On Feb. 7, 1995, Officer James "Junior" McGee, 26, died while coming to the aid of a taxi driver being robbed in Anacostia. Officer McGee, who was off duty, pointed his gun on one of the suspects. Two patrol officers spotted the cab, which was stopped in the road, and saw a man pointing a black handgun at another man.

Not knowing he was a police officer, one of the uniformed officers ordered the man to drop his gun. As Officer McGee turned toward the uniformed officers, Officer Michael Baker, 28, shot his colleague.

Officer McGee did not use the hand signal, but officials said he probably did not have time.

Later that year, a female detective who had just foiled a robbery attempt was shot in the back by uniformed Officer Robbie Dykes outside the D.C. Farmers Market in Northeast on Dec. 19.

Detective Lani Jackson-Pinckney, 33, an eight-year veteran, was handcuffing a suspect when Officer Dykes mistook her for a robbery suspect and shot her. The detective, who was 4 1/2 months pregnant, was seriously wounded, but later recovered and delivered a healthy baby girl.

Within days of that shooting, then-Chief Larry D. Soulsby suggested the department find a way to prevent such mistaken shootings, such as patches or caps for off-duty and plainclothes officers or combined roll calls so officers know more of their fellow officers.

The Metropolitan Police Department's safety committee of managers and union leaders was ordered to review the signal policy and submit a report with recommendations for changes.

Officer Hyatt, a six-year veteran of the Metropolitan Police Department who works in the city's 4th District, has been placed on routine administrative leave while police investigate the incident.

Officers involved in shootings are required to attend six debriefing sessions with therapists at the Metropolitan Police Employee Assistance Program in an office separate from police facilities.

GRAPHIC: Photos, A) Cmdr. Jose Acosta talks with reporters yesterday about Officer William Hyatt's fatal shooting of fellow Officer Thomas Hamlette.; B) Officer Hamlette's police cruiser has been draped in black., Both By Sharon Natoli/The Washington Times

LOAD-DATE: July 20, 1998

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February 09, 1995, Thursday, Final Edition

SECTION: A Section; Pg. A01

LENGTH: 1038 words

HEADLINE: When the 'Most Difficult Decision' Is Dead Wrong; D.C. Officer's Shooting of Colleague Illustrates the Dilemma

BODY:
It was just past 11:30 Tuesday night, about 10 minutes into his patrol shift, when D.C. police Officer Michael A. Baker suddenly faced the most serious choice anyone in his profession can be called on to make. Confronting an armed man on a Southeast Washington street corner, Baker drew his 9mm Glock semiautomatic and ordered the suspect to put down his weapon. But the man with the gun did not obey.

Baker's finger tensed on the Glock's trigger.

"The choice is, you hesitate, and you or someone else may be dead -- or you shoot, and you may end up killing an innocent person," said Susan Fain, a criminal justice professor at American University. "It's a horrible decision for police officers to make, absolutely the most difficult, instantaneous decision imaginable."

At the dreary intersection of 25th Street and Good Hope Road SE, in the cold night air, Baker -- a man lauded by his precinct commander as "an excellent officer, a guy you want with you in Southeast" -- a 28-year-old officer in the fourth year of his career, made his split-second choice. And it turned out to be wrong.

He killed an innocent man, a fellow officer, **James M. McGee Jr.**, who was off duty and out of uniform -- a 26-year-old officer with five years on the force who had just witnessed a robbery and was trying to arrest two suspects at gunpoint.

"This is a tragic situation," Police Chief Fred Thomas said at a somber news conference yesterday morning, hours after McGee, shot twice, had been pronounced dead at D.C. General Hospital and Baker had been relieved of duty pending separate investigations by the police homicide and internal affairs units. However, "based on preliminary information," the chief said, he thinks Baker "had sufficient justification for firing his weapon under the circumstances" and that "all the officers involved attempted to do the very best professional job that they could."

Baker has fired his weapon in the line of duty at least twice before, a rarity even in these violent times when many officers work entire careers without firing their weapons. In May, he was among three officers who traded gunfire with a fleeing robbery suspect armed with a semiautomatic rifle, critically wounding the suspect, police said. In November 1993, according to department records, Baker and several other officers fired at, but missed, a man who allegedly had tried to run down the officers with a stolen car.

"Officer Baker is taking this very hard," said police Inspector Winston Robinson Jr., referring to Tuesday night's shooting. "I give [Baker] my condolences," said Robinson, commander of the department's crime-ridden 7th District, where Baker and McGee worked on different shifts. "He saw

a dangerous situation, and he did what he had to do. You can second-guess it all you want."

As for the two accused robbers, police yesterday charged them with felony murder in McGee's death, under the legal theory that the fatal shooting was a "foreseeable" result of the armed holdup they allegedly were committing.

Counting McGee, three D.C. police officers have been fatally shot since late November and three others have been wounded, including two patrol officers who police think were attacked indiscriminately by a "cop stalker" who has yet to be caught. Despite those incidents, Thomas said, "the officers are not trigger-happy. They are not jumpy. They are just trying to protect themselves and the public."

Noting that Baker is white and McGee was black, retired D.C. police officer Ronald Hampton, president of the 35,000-member National Black Police Association, said that if McGee had been a white man, "he wouldn't have got shot."

"I knew right away -- even before I saw the faces of the people involved -- that the guy who got shot was black, because that's who we think criminals are," Hampton said. The shooting occurred in a predominantly black neighborhood, and more than 90 percent of the 50,000 suspects D.C. police arrest annually are African American males. Though Hampton has never met Baker, he said he thinks the officer would not have fired so quickly if the armed man he confronted had been white.

Police said the incident began shortly after 11:30 p.m. at Pennsylvania and Minnesota avenues SE, where a taxicab driver picked up two men who asked to be taken to 23rd Street and Alabama Avenue SE. The passengers, at least one of whom had a pistol, robbed the driver of $ 40 during the ride, police said. At 25th Street and Good Hope Road SE, the driver jumped out of the cab and began wrestling with the two assailants.

McGee, husband of a D.C. police officer and father of two small children, was leaving a carry-out restaurant near the intersection when he noticed the fight, police said. Drawing his pistol, he confronted the alleged robbers, Richard David Gibson and Rodney Garrett, both 28, of Southeast Washington. Garrett ran away, police said. Then, as McGee detained Gibson at gunpoint, Baker and his partner pulled up in a patrol car.

Baker, apparently unsure of what was happening, ordered McGee to drop his gun, Thomas said at the news conference. However, Thomas said, "it would appear that Officer McGee started to turn" toward Baker without putting down the weapon.

There is a hand gesture that D.C. police officers are trained to use when not in uniform to identify themselves to uniformed officers in such situations.

Asked if McGee had made such a gesture or had verbally identified himself to Baker as a police officer, the chief said he was "not prepared to address that issue." But a high-ranking department official said McGee didn't make the gesture.

Baker fired two shots, Thomas said. One 9mm slug hit McGee in the left arm; the other struck him behind the left shoulder. He collapsed in the street.

@CAPTION: Flags fly at half-staff outside D.C. police headquarters for Officer **James M. McGee Jr.**, left, who was shot to death by a fellow officer in a moment of confusion.

@CAPTION: D.C. Police Chief Fred Thomas , left, and inspector Winston Robinson Jr., commander of the city's 7th Police District, hold a news conference to answer questions about the fatal shooting

of an off-duty police officer by another officer.

GRAPHIC: Illustration: O'LEARY;PHM

LOAD-DATE: February 09, 1995

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Mr. COBLE. Our first witness today is the Honorable Albert C. Eisenberg. Mr. Eisenberg became a delegate in the Virginia House of Delegates in 2004. Prior to serving in the House, Mr. Eisenberg served on the Arlington County Board and was a four-time chairman of the County Board from 1984 to 1999. Mr. Eisenberg also worked as the Vice President for Government Affairs at the Greater Washington Board of Trade. He received his B.A. in history from the University of Richmond and his Master's in education from the Hampton Institute.

Our second witness today is Mr. William Johnson. Mr. Johnson, you have a well known baseball name in this town. Mr. Johnson currently serves as the Executive Director of the National Association of Police Organizations, or NAPO, and the Police Research and Education Project. He previously served as general counsel to NAPO and is a former police officer and prosecutor, serving as chief prosecutor of the Crimes Division of the Dade County, Florida court. Mr. Johnson earned his B.A. at Brown University and his law degree from Georgetown University.

Our third witness today is Mr. Ronald Ruecker. Mr. Ruecker was appointed Superintendent of the Department of Oregon State Police in December 1999. Prior to this, Mr. Ruecker served as Deputy Superintendent, commander of two of the department's three bureaus, and was Director of the Office of Professional Standards. He currently serves as the Fourth Vice President of the International Association of Chiefs of Police. Mr. Ruecker is a graduate of the FBI National Academy and the Program for Senior Executives at the John F. Kennedy School of Government of Harvard University.

Our final witness today, Mr. Chuck Canterbury. Mr. Canterbury joined the Fraternal Order of Police in 1984 and helped to charter his local lodge. There, he served as president for 13 years and went on to serve as State Lodge President from 1990 to 1998. Mr. Canterbury was elected National President of the Fraternal Order of Police, popularly known as FOP—you all are still known as FOP, are you not, Mr. Canterbury?—in August of 2003. He earned his Bachelor of Arts degree from the Coastal Carolina University and has recently retired from the Horry County Police Department in Conway, South Carolina. He was appointed by President George W. Bush to the Homeland Security Advisory Council and to the Public Safety Officers Medal of Valor Review Board and actively serves in these capacities presently.

I am also pleased, gentlemen, to recognize the presence of the gentleman from Wisconsin, the gentleman from Florida, the gentleman from Indiana, I think—I can't see him—Indiana, and the gentleman from Virginia, and the gentlelady from Texas was here, but I see she's gone.

Gentlemen, I am told that there will be a vote scheduled on or about 3. We operate under the 5-minute rule here. Now, you all will not be boiled in oil if you violate that, but the panel that is before you, when you see the amber light appear, that is your warning that the red light is imminent. And when the red light appears, you will—just a moment. When the red light appears, that is your warning that the 5 minutes have expired.

Gentlemen, if you all—it is the practice of the Subcommittee to swear in all witnesses appearing before it, and if you would, please, stand and raise your right hand.

Do each of you solemnly swear that the testimony you are about to give this Subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. EISENBERG. I do.

Mr. JOHNSON. I do.

Mr. RUECKER. I do.

Mr. CANTERBURY. I do.

Mr. COBLE. Let the record show that each of the witnesses has answered in the affirmative. You may be seated, and we will hear first from Mr. Eisenberg.

TESTIMONY OF ALBERT C. EISENBERG, DELEGATE, VIRGINIA HOUSE OF DELEGATES

Mr. EISENBERG. Thank you, Mr. Chairman and Members of the Subcommittee. I kind of feel like Woody Allen who remarked that we stand at a crossroads. One path leads to utter ruin and the other to total despair and may God give us the wisdom to make the right choice, and I say that because some of my friends are for this legislation and some are against, and I would love to stand firmly with my friends, but I have to make a choice.

In 1997, I testified in opposition to this legislation. My views remain the same. I share with you the perspective of someone who has the highest regard for our law enforcement personnel and for their extraordinary service day in and day out. No society can survive without the heroic and selfless actions of our law enforcement people, and for those actions, we are all truly grateful.

Having spent 15 years in local government in a community with one of the top-rated police departments in the country, I'm quite familiar with the establishment of policies that guide the responsibility of our law enforcement officers. It's for their well-being and that of the public at large that I oppose this measure.

In general, the legislation would preempt State and local law in permitting qualified law enforcement officers, current and retired, to carry concealed weapons across State boundaries, and there are a number of provisions that guide that.

Municipal elected officers and local law enforcement share the common goal of ensuring the public's safety. The ultimate legal responsibility, however, rests with those elected locally, so I am going to focus on some troubling issues with this bill that has to do with States and communities.

Particular concern are provisions that would preempt State and local firearms laws and increase municipal liability. We think this violates laws historically and properly—that properly rest with the jurisdiction of State and local governments. In my view, more guns mean more violence. Guns get lost. They get stolen for communities terribly afflicted by the proliferation of guns in their borders. It is totally inappropriate for the Federal Government to tell them they must accept additional firearms in their midst, even though they have judged at the State and local levels that they do not want to do so.

The bill could significantly impact municipal liability. The chief law enforcement officer of a State or locality is responsible for the transfer of a firearm to a law enforcement officer. These agencies dictate policies and procedures as well as training and tactics for handling firearms, including level and type of firearm training, the particular type of weapon the department uses, and so on and so forth. Just because a law enforcement official knows how to handle a weapon doesn't mean they know the practices, laws, and protocols of the jurisdiction in which they carry it. What may be okay in one State could get an officer into deep trouble in another.

If the police were specifically on duty as assigned to another State or locality, say for a joint task force, I think we would not be here today, but that's not what the law contemplates. It sets up an extracurricular gun carry law that risks police officials and the citizens of localities who are forced to change their law to accommodate the visitors. It casts a broad net over individual laws of States and localities without regard to the fact that these laws do vary greatly.

What about the issue of liability? Well, if a firearm is improperly used, the liability may fall on the States and its communities. Which community will bear the liability? Would it be the one that employed the officer coming into a jurisdiction not of his or her own with a concealed weapon or the one in which an incident occurred? Many places do not have sovereign immunity from legal action for the actions of a law enforcement officer from another jurisdiction exercising police powers.

In addition, under the legislation, the Federal Government is not responsible for the unfortunate incidents that may result because those officers allowed to carry concealed weapons into another State, again, do not know the laws and protocols of the particular area.

If this law passes, it ought to require that the Federal Government accepts on behalf of the locality the level of training of a visiting officer such that he may carry a concealed weapon into another State and the Federal Government should be willing to fund the full burden of enforcement and liability insurance.

Individuals are placed at legal liability jeopardy, as I have indicated. It puts these people in harm's way should they confront another police officer of the jurisdiction they are visiting who doesn't recognize the officer who's carrying a weapon not otherwise licensed or permitted.

I know that in my jurisdiction, we had a situation where Arlington does not have sovereign immunity in the District of Columbia. An Arlington police officer chased bank robbers across the District line. Criminals fired at the officer, who stopped his vehicle. The robbers sped into the E Street expressway, crashed into a light pole, severed the legs of an Agriculture Department employee. A civil suit was brought against the county on the basis of training and protocols, protocol issues concerning the Arlington police officer, and in the end, the county had to cough up $5 million. As a result of the judgment, we had to raise taxes three times.

Making the decision to permit current or retired police officers to carry firearms across State and jurisdictional boundaries would increase the number of firearms on the street. I believe that. There

is no more basic responsibility or fundamental and historic State and local responsibility than public safety. It has been and is reserved to our constituents to determine. We know what the citizens decide in one community could be different from another. It's a basic right which is fundamental to our system of government.

In closing, let me say that this legislation reminds me of the expression, with all due respect, we're the Federal Government and we're here to help you.

Mr. COBLE. Thank you, Mr. Eisenberg.

[The prepared statement of Mr. Eisenberg follows:]

PREPARED STATEMENT OF THE HONORABLE ALBERT C. EISENBERG

Mr. Chairman and Members of the Subcommittee, I am Albert Eisenberg, a Delegate in the Virginia General Assembly, and former Chairman of the Arlington, VA, County Board. In 1997, I testified in opposition to this legislation before this subcommittee. My views remain the same. I appreciate this opportunity to share with you the perspective of someone who has the highest regard for our law enforcement personnel and for the extraordinary service they provide day in and day out. No society can survive without the heroic and selfless actions of our law enforcement people. And for those actions, we are all truly grateful.

Having spent 15 years in local government, in a community that enjoys one of the top-rated police departments in the country, I am quite familiar with the establishment of policies that guide the responsibilities of our law enforcement officers. It is for their well being and that of the public at large that I oppose this measure.

In general this legislation would preempt state and local law in permitting "qualified" law enforcement officers, both current and retired, to carry concealed firearms across state boundaries. The definition of law enforcement officer could include not just police officers, but also probation and corrections officers, and judicial personnel. To be "qualified," current and former officers must comply with a number of requirements addressing identification, training, and certain authority to carry a firearm and to perform police duties, among other criteria. The same or similar conditions apply to retired officers under the legislation.

Municipal elected officials and local law enforcement share the common goal of ensuring the public' safety. However, the ultimate legal responsibility for doing so rests with those elected. Thus, my comments will focus briefly on several troubling issues raised by the bill that could have the opposite impact than the proponents hope. Rather than benefiting individual states and communities and police personnel by enhancing police presence and firepower in our communities, such legislation could actually increase the number of firearms injuries to police officers, as well as the public. In short, we should be careful what we ask for. Here's why.

Of particular concern are provisions that would preempt state and local firearms laws and increase municipal liability. This preemption violates the basic tenet that such laws historically and properly rest with state and local governments. It is inappropriate for the federal government to nullify laws tailored to the specific conditions and circumstances of each state and locality. Under this bill, states and localities that for their own good reasons have limited firearms use must tolerate the introduction of additional unwanted firearms into their midst. More guns mean more violence. Guns get lost. They get stolen. For communities terribly afflicted by the proliferation of guns in their borders it is totally inappropriate for the federal government to tell them that they must accept additional firearms in their midst. They should be allowed to determine for themselves, based on these jurisdictions own legal judgment the ability to regulate the use of firearms in their states, based on the conditions as these states and localities determine.

This bill creates additional mischief. It could significantly impact municipal liability. The chief law enforcement officer of a state or locality is responsible for the transfer of a firearm to a law enforcement officer. State laws and local law enforcement agencies dictate polices and procedures, as well as training and tactics for handling firearms, including the level and type of firearm training, the particular type of weapons the department uses to meet the circumstances most likely to confront its officers, and, of increasing importance to law enforcement agencies across the country, the use of force. Just because a law enforcement official knows how to handle a weapon doesn't mean they know the practices, laws, and protocols of the jurisdiction in which they carry it.

While the bill would allow a police officer to carry a concealed weapon in any state or locality, regardless of the jurisdictions' concealed carry laws, an officer is still

subject to other laws, protocols, and policies involving the use of firearms in any given state or community. What may be OK in one state could get an officer into deep trouble in another. Not to mention individual citizens without firearms who may confront a police official, not in uniform, not from the local community, and not on duty. If the police official were specifically on duty as assigned to another state or locality, say, for a joint task force—then we wouldn't be here today. But that's not what the law contemplates. It in effect sets up an extracurricular gun carry law that risks police officials and the citizens of localities forced to change their laws to accommodate visitors, even though they may be fully qualified law enforcement people in their home localities.

If a firearm is improperly used, the liability may fall on the state and its communities. Which community will bear the liability? Would it be the one that employed the officer coming into a jurisdiction not of his own with a concealed weapon, or the one in which an incident occurred? We have all heard the tragic stories of off-duty or plainclothes officers in their own jurisdictions mistakenly shooting fellow officers they thought to be armed suspects because in the course of that moment they could not identify the person with a concealed weapon as a fellow officer.

In short, the bill would place law enforcement personnel at legal and liability jeopardy because they will not know the laws, practices, protocols, and procedures that the local or state authorities have trained to implement. Individual law enforcement officials, due to their ignorance of the localities they enter, will be at great danger of ruinous personal lawsuits, particularly in those jurisdictions that have sovereign immunity against lawsuits based on actions for which they would otherwise be liable. It puts these persons in harm's way, should they confront another police official of the jurisdiction they are visiting, who doesn't recognize the officer who is carrying a weapon not otherwise licensed or permitted in that jurisdiction. It subjects these officers and/or their home jurisdictions to significant liability that could bankrupt individuals and raise property taxes for localities.

I know this first hand. Arlington does not have sovereign immunity in the District of Columbia. An Arlington police officer chased bank robbers across the District line. The criminals fired at the officer, who stopped his vehicle. The robbers sped into the E Street Expressway, crashed into a light pole and severed the legs of an Agriculture Department employee. A civil suit was brought against the county on the basis of training and protocols issues concerning the Arlington police officer and his actions taken in another jurisdiction. The county lost the suit to the tune of $5 million, and for three years, the County Board had to raise the real estate tax to pay off the judgment. Don't tell me it can't happen here. This legislation will result in similar situations in other places as police officers allowed to carry concealed weapons in jurisdictions that do not now have them, get into all sorts of legal quicksand, that could bankrupt them personally, not to mention the fiscal damage to the locality that authorized use of the weapon.

If this law passes, it ought to require that if the federal government accepts on behalf of a locality the level of training of a visiting officer such that he may carry a concealed weapon into another state, then the federal government should be willing to fund the full burden of enforcement and liability insurance of whatever unfortunate actions result.

With respect to former law enforcement officers, there do not appear to be any controls regarding issues such as retraining, or what type weapon former officers would be allowed to carry. How often would a "qualified" former officer's status be renewed? Where would the liability rest in cases in which retired officers live in two different states? Since the retired person allowed to carry a concealed weapon may no longer be fluent in present laws and protocols not only of his own state and locality, but also in other places, he may be at jeopardy for what he does not know.

There is no more basic responsibility or fundamental and historic state and local responsibility than public safety. It has been and is reserved to our constituents to determine. We know that what the citizens decide in one community could be different from another. That is a basic right, fundamental to our system of government.

In closing, let me say that this legislation reminds me of the expression—we're the federal government, and we're here to help you. Pu-leeze.

Thank you, Mr. Chairman and members of the subcommittee. I await any questions you may have.

Mr. COBLE. Mr. Johnson?

TESTIMONY OF WILLIAM J. JOHNSON, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS

Mr. JOHNSON. Thank you and good afternoon, Mr. Chairman, Ranking Member Scott, Members of the Subcommittee. My name is Bill Johnson and I'm the Executive Director for the National Association of Police Organizations. NAPO is a coalition of police associations from across the United States that serves here to advance the interests of America's law enforcement through legislative and legal advocacy. On behalf of our 236,000 rank and file law enforcement officers, including those officers represented by the International Brotherhood of Police Officers, I'd like to thank you for this opportunity to testify today in support of this legislation.

Today, I'd like to remark on two fundamental reasons why H.R. 218 should be passed into law. First, society asks the men and women of law enforcement to protect the social welfare and stand between it and the anarchy of violence and crime. On this front line, law enforcement defends the public safety. They are constantly, thus, in the crosshairs of crime. Yet when off duty or traveling on vacation, officers are left unprotected from this constant threat.

Now criminals, by definition, are not deterred by State statutes. Criminals do not observe jurisdictional lines when seeking revenge against law enforcement officers who have enforced society's laws against them. What makes H.R. 218 so important is that criminals do not punch a time clock. There is no off-duty time for those who target police officers and their families.

An example of this comes from the Hempstead, New York, Police Department. There, officers assigned to the gang task force, comprised of DEA, FBI, ATF, and State and local law enforcement, are constantly subjected to stalkings by gangs seeking retribution. Personal car license plate information and the movements of officers and their families are unabashedly observed and recorded by gang members. Threats against officers' lives are constant and do not end when the shift concludes.

Second, it cannot be overstated that in an age of heightened homeland security, there can be no better means to preserve the public safety than a highly trained officer bringing his or her experience and expertise to situations in which they may have previously been unable to act.

An example of this came in January of 2001 when Lieutenant Luther Lutz of the Los Angeles Police Department left a shopping mall while off duty. Lieutenant Lutz noticed two men fighting over an object, which turned out to be a gun. Immediately, the lieutenant announced himself as a police officer and directly intervened. One of the men wrestled the gun away from the other and a shot was fired. The lieutenant, who was armed although off duty, drew his weapon and fired upon the shooter, stopping him from killing the victim. As it turned out, the men fighting were both violent gang members, but the work of the police officer even when off duty is blind to such allegiances.

Now, some might say that H.R. 218 might somehow encourage vigilantism. This is not true. It is imperative to understand that officers who are off duty have families and take vacations just like you and I. They desire nothing more than to enjoy their time off.

Officers do not seek out confrontations, but it would be tragic if officers were denied the ability to respond when threats to the public safety do arise. Honed by years of experience, it is rare for an officer on or off duty to even discharge his or her firearm. Officers utilize the knowledge gained from numerous on-duty situations to achieve a non-lethal conclusion to many dangerous situations.

We understand that in the past, areas of concern such as liability and officer proficiency have also been raised. H.R. 218 has been refined over time and the current bill addresses these concerns. Officers will have to be in good standing to carry their firearm. Retired officers will still be required to pass the same rigorous and thorough State firearm standards as their active peers. H.R. 218 does not infringe upon State laws restricting possession of firearms on private property, nor does it infringe on laws regarding possession of firearms on State property or government installations.

We would respectfully suggest to the Committee that H.R. 218 only focuses on police officers' right to carry their firearms. State and Federal law regarding self-defense and the use of force remain unaffected by this bill.

Now, some may say that States should be afforded the option to opt out if they do not agree. We believe this language or such language would substantially weaken the bill. The needs of officers to protect themselves would be hindered by the same patchwork of coverage that exists today. Others might call for States to opt in, rendering the bill nothing more than a framework which the individual States could ratify if they so wish. This would produce the same results as the status quo and would not address the overarching need of a unifying Federal bill to protect all officers across all jurisdictions. Again, criminals and terrorist threats ignore by definition legal and jurisdictional limits.

H.R. 218 currently enjoys strong, strong bipartisan support, as of this morning, I believe 296 cosponsors. Its Senate companion, S. 253, was accepted by the Senate Judiciary 18 to one, and the full Senate considered it as an amendment to other legislation in March of this year. That same language as the House bill contained was overwhelmingly approved by the Senate 91 to eight.

Now is the time and the opportunity to provide this crucial protection for America's police officers and the public. Thank you for allowing me to speak here today, and I'd be happy to answer any questions.

Mr. COBLE. Thank you, Mr. Johnson.

[The prepared statement of Mr. Johnson follows:]

PREPARED STATEMENT OF WILLIAM J. JOHNSON

Chairman Coble, Ranking Member Scott, members of the House Subcommittee, my name is Bill Johnson and I am the Executive Director of the National Association of Police Organizations. NAPO is a coalition of police unions and associations from across the United States that serves here in Washington, D.C., to advance the interests of America's law enforcement through legislative and legal advocacy.

On behalf of NAPO's 236,000 rank-and-file law enforcement officers, I would like to thank you for this opportunity to testify today on the bi-partisan supported law enforcement officer right to carry legislation.

Today, I would like to remark on two fundamental reasons why H.R. 218 should be passed into law. What stands before us today is a bill that will greatly improve the ability of law enforcement officers to protect themselves, their families and our nation's communities. Never before has support for this goal been stronger. Never before has the need for its passage been greater.

First, society asks the men and women of law enforcement to protect the social welfare and stand between it and the anarchy of violence and crime. On this front line, law enforcement defends the public's safety. They are constantly held in the crosshairs of crime.

Yet when off duty or traveling on vacation, officers are left unprotected from this constant threat. Criminals, by definition, are not deterred by state statutes. Criminals do not observe jurisdictional lines when seeking revenge against officers who have enforced society's laws against them.

What makes H.R. 218 so important is that criminals do not punch a time clock. There is no off-duty for those who target police officers and their families.

A typical example of this comes from the Hempstead, New York Police Department. Officers assigned to the Gang Task Force, comprised of DEA, FBI, ATF and state and local law enforcement, are constantly subjected to stalkings by gangs seeking retribution. Personal car license plate information and the movements of officers and their families are unabashedly observed and recorded by gang members. Threats against officer's lives are constant and do not end when the shift concludes.

Second, it can not be understated that in an age of heightened homeland security, there can be no better means to preserve the public's safety then a highly trained officer bringing his or her experience and expertise to situations in which they might have previously been unable to act.

An example of this came in January of 2001 when Lt. Luther Lutz of the Los Angeles Police Department left a shopping mall while off duty. Lt. Lutz noticed two men fighting over an object, which turned out to be a gun. Immediately, Lt. Lutz announced himself as a police officer and directly intervened. One man wrestled the gun away from the other; a shot was fired. Lt. Lutz, who was armed, drew his weapon and fired upon the shooter, stopping him from killing the victim. As it turned out, the men fighting were both violent gang members, but the work of police, even when off duty, is blind to such allegiances.

Some will no doubt say that H.R. 218 will encourage vigilantism. It is imperative to understand that officers who are off duty have families and take vacations just like you and I. They desire nothing more then to enjoy their time off. Officers do not seek out confrontations, but it would be tragic if officers were denied the ability to respond when threats to the public's safety do arise.

Honed by years of experience, it is rare for an officer to even discharge his or her firearm. Officers utilize the knowledge gained from numerous on-duty situations to achieve the non-lethal conclusion to many dangerous situations.

We appreciate the attention opponents of H.R. 218 have devoted to the issue. We understand that in the past, areas of concern such as liability and officer proficiency have been fairly raised.

H.R. 218 has been refined over time and the current bill addresses these concerns. Officers will have to be in good standing to carry their firearm. Retired officers will still be required to pass the same rigorous and thorough firearm standards as their active peers. H.R. 218 does not infringe upon state laws restricting possession of firearms on state property. Nor does it infringe on the right of private property owners to control who may possess a firearm on private property.

We would respectfully remind the Subcommittee that H.R. 218 only focuses on police officers already proficient and permitted to carry firearms. State and federal law regarding self defense and the use of force remain unaffected by this bill.

Some will say that states should be afforded the option to "opt out" if they do not agree. This language would substantially weaken the bill. The needs of officers to protect themselves would be hindered by the same patchwork of coverage that exists today.

Others will call for states to "opt in" rendering the bill nothing more then a framework which the individual states could ratify if they so wish. This would produce the same result as the status quo. It would not address the overarching need of a unifying federal bill to protect all officers across all jurisdictions. Again, criminals and terrorist threats ignore, by definition, legal and jurisdictional limits.

Right to Carry legislation was first introduced in the 102nd Congress by Representative Randy "Duke" Cunningham (R-CA) and since then, NAPO and other law enforcement groups have fought hard to ensure its passage.

H.R. 218 currently enjoys the bi-partisan support of 295 co-sponsors. Its Senate companion, S. 253, was accepted by the Senate Judiciary Committee 18-1. The full Senate considered it as an amendment to other gun legislation in March 2004. The same language as the House bill we are considering today received the overwhelmingly favorable vote of 91-8.

Now is the time and this is the opportunity to grant this basic protection to police officers and an important asset to our communities. The last act an officer wants to do is to be forced to use their firearm, yet threats to their safety and the public's

safety do exist 24 hours a day. I thank you for the opportunity to speak on behalf of this legislation and the hopes of America's law enforcement community.

I am happy to answer any questions you, or the committee members may have.

Mr. COBLE. Mr. Ruecker?

TESTIMONY OF RONALD RUECKER, SUPERINTENDENT, DEPARTMENT OF OREGON STATE POLICE, AND FOURTH VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Mr. RUECKER. Thank you, Mr. Chairman, Members of the Committee. I want to thank you for the opportunity to be here and testify on this bill. I have written testimony which I would respectfully request to be made available to you and——

Mr. COBLE. Without objection, it will be received.

Mr. RUECKER. Thank you, sir. What I would like to do is spend my time talking about some practical concerns and considerations that I'm here to speak about.

First of all, the IACP is a 19,000-plus member organization, the largest and oldest association of law enforcement executives in the world. The IACP has consistently opposed Federal legislation that would preempt or mandate the liberalization of an individual State's laws concerning the carrying of concealed weapons. That's the responsibility of the State in the view of the IACP.

Within the bill, there are a number of practical issues that arise, including the various disparity in firearms training levels and a number of other things that differ from State to State. And in my State in particular, just to illustrate that there is an early opinion that even reserve police officers may be covered by this bill, which I do not think is the intention of the legislation, but that seems to be the early opinion out there.

But what concerns me and what concerns the IACP more than anything are what appears to be—I mean, certainly, we understand the legislation is well intended and there are certainly circumstances under which a police officer carrying a firearm off-duty and outside their jurisdiction might, in fact, produce a good outcome. It could save somebody's life, including the officer's. But just as certainly, there are circumstances under which an officer outside of their jurisdiction, having the only tool that they would normally have available to them if they were on duty in their own jurisdiction, is certainly just as likely to create some tragic accidents and we're concerned about that.

If police agencies and police officers are required under considerable scrutiny, and rightfully so, to defend the actions of our officers against what is called a use-of-force continuum. Police officers are trained to use the right amount of force for a given situation and the firearm, of course, is the last resort. If the only tool the officer has available to them is their firearm, they are definitely going to be in a situation where the only response they can go to is the one involving a use of deadly force.

There most certainly will be circumstances when officers are on vacation and traveling with their families in which they are not going to be able to be recognized. Some of these officers are undercover narcotics officers who by the definition of their position are not recognized even in their own community as being a police offi-

cer. So we send those officers to some other jurisdiction where they have no power of arrest, where they have no authority whatsoever than any other private citizen, and we put them in a position of having, perhaps having to first be identified as a police officer under circumstances in which——

Mr. COBLE. If you will wrap up, your time is over.

Mr. RUECKER. Yes, sir. Thank you. Let me just sum up, Mr. Chairman, by saying that we are very concerned about the very men and women that I'm sworn to support. I love these police officers. They are out there doing the job we need them to do. But when they go on vacation or outside their jurisdiction, they need to be able to decompress and not be in a situation where they are going to be forced on duty.

Mr. COBLE. I thank you, sir.

[The prepared statement of Mr. Ruecker follows:]

PREPARED STATEMENT OF RONALD RUECKER

Good Afternoon, Chairman Coble, Representative Charles and Members of the Subcommittee.

I am pleased to be here this afternoon to present the views of the International Association of Chiefs of Police on H.R. 218, the Law Enforcement Officers Safety Act of 2002. As you know, the IACP is the world's oldest and largest association of law enforcement executives, with more than 19,000 members in 100 countries. Before I address our concerns with this legislation, I would like to express my gratitude and the gratitude of the IACP to this committee for your continuing support of this nation's law enforcement agencies and law enforcement officers.

As you know, the IACP is strongly opposed to the Law Enforcement Officers Safety Act. Our opposition is based primarily on the fundamental belief that states and localities should determine who is eligible to carry firearms in their communities. Over the years, IACP has consistently opposed any federal legislative proposals that would either pre-empt and/or mandate the liberalization of an individual state's laws that would allow citizens of other states to carry concealed weapons in that state without meeting its requirements. The IACP believes it is essential that state governments maintain the ability to legislate concealed carry laws that best fit the needs of their communities. This applies to laws covering private citizens as well as active or former law enforcement personnel. The IACP also believes that each state should retain the power to determine whether they want police officers that are trained and supervised by agencies outside their state to carry weapons in their jurisdictions.

In addition, authority for police officers to carry firearms when off-duty, use-of-force policies and firearms training standards vary significantly from state to state. Why should a police chief who has employed the most rigorous training program, a strict standard of accountability and stringent policies be forced to permit officers who may not meet those standards to carry a concealed weapon in his or her jurisdiction?

However, in addition to these fundamental questions over the preemption of state and local firearms laws, the IACP is also concerned with the impact that this legislation may have on the safety of our officers and our communities.

There can be no doubt that police executives are deeply concerned for the safety of our officers. We understand the proponents of H.R. 218 contend that police officers need to protect themselves and their families while traveling, and that undercover officers may be targets if recognized on vacation or travel. These are considerations, but they must be balanced against the potential dangers involved. In fact, one of the reasons that this legislation is especially troubling to our nation's law enforcement executives is because they could in fact threaten the safety of police officers by creating tragic situations where officers from other jurisdictions are wounded or killed by the local officers. Police departments throughout the nation train their officers to respond as a team to dangerous situations. This teamwork requires months of training to develop and provides the officers with an understanding of how their coworkers will respond when faced with different situations. Injecting an armed, unknown officer, who has received different training and is operating under different assumptions, can turn an already dangerous situation deadly.

In addition, the IACP believes that this legislation would do little to improve the safety of communities. It is important to remember that a police officer's authority to enforce the law is limited to the jurisdiction in which they serve. An officer, upon leaving his jurisdiction, has no arrest powers or other authority to enforce the law. That is the responsibility of the local law enforcement agencies.

In addition, the IACP is concerned that the legislation specifies that only an officer who is not subject to a disciplinary action is eligible. This provision raises several concerns for law enforcement executives. For example, what types of disciplinary actions does this cover? Does this provision apply only to current investigations and actions? How would officers ascertain that an out-of-state law enforcement officer is subject to a disciplinary action and therefore ineligible to carry a firearm?

Additionally, while the legislation does contain some requirements to ensure that retirees qualify to have a concealed weapon, they are insufficient and would be difficult to implement. The legislation fails to take into account those officers who have retired under threat of disciplinary action or dismissal for emotional problems that did not rise to the level of "mental instability." Officers who retire or quit just prior to a disciplinary or competency hearing may still be eligible for benefits and appear to have left the agency in good standing. Even a police officer who retires with exceptional skills today may be stricken with an illness or other problem that makes him or her unfit to carry a concealed weapon, but they will not be overseen by a police management structure that identifies such problems in current officers.

Finally, the IACP is also concerned over the liability of law enforcement agencies for the actions of off-duty officer who uses or misuses their weapon while out of state. If an off-duty officer who uses or misuses their weapon while in another state, it is likely that their department will be forced to defend itself against liability charges in another state. The resources that mounting this defense would require could be better spent serving the communities we represent.

In conclusion, I would just like to state that the IACP understands that at first glance this legislation may appear to be a simple solution to a complex problem. However, a careful review of these provisions reveals that it has the potential to significantly and negatively impact the safety of our communities and our officers. It is my hope that this committee will take the concerns of the IACP into consideration before acting upon this legislation.

This concludes my statement. I will be pleased to answer any questions you may have.

Mr. COBLE. Mr. Canterbury?

TESTIMONY OF CHUCK CANTERBURY, NATIONAL PRESIDENT, GRAND LODGE, FRATERNAL ORDER OF POLICE

Mr. CANTERBURY. Good afternoon, Mr. Chairman, distinguished Members of the Subcommittee. As previously stated, my name is Chuck Canterbury and I'm the National President of the Fraternal Order of Police, the largest law enforcement labor organization in the United States, with more than 318,000 members, and also a former member of the International Association of Chiefs of Police and a 26-year veteran police officer and firearms instructor.

Before I begin, Mr. Chairman, I would like to thank you for inviting me to testify today, but I'd also like to thank you for your efforts last year on helping to pass the FOP priority Hometown Heroes Survivors bill. I was disappointed you were not able to join with me and the President of IAFF in the Oval Office when President Bush signed the bill into law, but rest assured, we told the President how grateful we were to you, your staff, and your able counsel, Jay Abramson.

Now we are here again, Mr. Chairman, and we are hopeful that you will again be able to work with the FOP on another important bill, H.R. 218, the Law Enforcement Officers Safety Act, previously known as the Community Protection Act, and Congressman Scott was absolutely correct. This bill is designed to protect both the citizens of this country and our law enforcement officers.

The passage of this bill is an FOP top priority, one that we have shared with the Federal Law Enforcement Officers Association and with the National Sheriffs Association. Our nation's police officers, especially now, are as much guardians of our security as they are protectors from crime and violence. These brave men and women are unlike other professionals because they are rarely off duty and their instincts, their desire to help, and their fidelity to an oath to serve and protect their fellow citizens never retires and never goes off duty.

In an emergency, an officer's knowledge and training would be rendered virtually useless without a firearm. This bill would provide the means for law enforcement officers to enforce the law, keep the peace, and respond to crisis situations by enabling them to put to use that training and answer that call of duty when the need arises.

Let's not forget that vengeful violent felons can and do target police officers and they do not care if the officer is in his or her jurisdiction, nor do they care if the officer is in uniform or not, on duty, off duty, active or retired.

Consider the case of Detective Charles Edward Harris, a 20-year veteran of the Southern Pines Police Department in North Carolina. Detective Harris was targeted after drug dealers spotted him attending a Crime Watch meeting in an apartment complex. His killers waited until off duty, rang the doorbell at his home, then shot and killed him. His wife, who was home at the time, was also hit.

Over the years, the FOP has been working on this legislation. We have compiled the names of 58 officers who, like Detective Harris, were off duty when they were killed. Yet despite not being on the clock, the circumstances of their deaths qualified them as having died in the line of duty. Some, like Detective Harris, were targets simply because they were police officers. Others lost their lives when they acted to help a victim or stop a crime in progress, and with your permission, Mr. Chairman, I'd like to provide you a document to be entered into the record with those names.

Mr. COBLE. Without objection.

Mr. CANTERBURY. The fate of these 58 officers should remind all of us that law enforcement is a dangerous profession. There is no legislation, act of Congress, or Government regulation which will change this sobering fact. But the passage of H.R. 218 will, at the very least, give officers who do choose to carry their firearms the chance to defend themselves, their families, and the public whenever or wherever criminals or terrorists choose to strike.

The premise of this legislation is not unprecedented. Congress has previously acted to force States to recognize concealed carry permits issued by other States on the basis of employment and the dangers inherent to the nature of that employment. Congress has passed laws mandating reciprocity for weapons licenses issued to armored car company crew members and more recently voted overwhelmingly to exempt airline pilots who volunteer to become Federal flight deck officers from State and local firearm laws.

Mr. Chairman, if Congress can mandate that private security guards and airline pilots can carry in all States, I do not think it should balk in extending the same authority to fully sworn, fully

trained law enforcement officers employed by government entities which are carefully defined by the bill. Active officers must meet the qualification standards established by the agency, and retired officers must requalify with their firearm at their own expense every 12 months and meet the same standards as active officers in the State in which they reside.

This bill is not controversial. The legislation has widespread bipartisan support, and that total includes 11 of the 13 Members of this Subcommittee, all of who cosponsored this legislation.

Mr. Chairman, thank you for the opportunity to testify before the Subcommittee today and I would be pleased to answer any questions from our perspective.

Mr. COBLE. Thank you, Mr. Canterbury.

[The prepared statement of Mr. Canterbury follows:]

PREPARED STATEMENT OF CHUCK CANTERBURY

Good afternoon, Mr. Chairman and distinguished members of the Subcommittee on Crime, Terrorism and Homeland Security. My name is Chuck Canterbury, and I am the National President of the Fraternal Order of Police, the largest law enforcement labor organization in the United States, representing more than 318,000 members in every region of the nation.

I want to begin by thanking you, Mr. Chairman, for holding this hearing and giving the Fraternal Order of Police an opportunity to talk about the importance of H.R. 218, the "Law Enforcement Officers' Safety Act." To the Fraternal Order of Police, its members and rank-and-file officers across the nation, whatever their representative organization, the enactment of legislation exempting qualified active and retired law enforcement officers from State and local prohibitions on the carrying of concealed firearms is a top legislative priority. Virtually every rank-and-file officer in the nation agrees with us that this bill is not and has never been a "firearms issue"—it is an officer safety issue, and, on 11 September 2001, it became a critical public safety and homeland security issue as well.

Our nation's police officers are as much guardians of our security as they are our protectors from crime and violence. We allow our children to play in local parks because we know our streets are patrolled by the men and women of our local police department. We trust these officers to keep our homes and neighborhoods safe. They provide us with a sense of security in all aspects of our daily lives. These men and women are unlike other professionals because they are rarely "off-duty." Moreover, their instincts, their desire to help and their fidelity to an oath to serve and protect their fellow citizens never retires and never goes off the clock.

Consider the case of John Perry, a Lieutenant with the New York City Police Department who, had the morning of 11 September 2001 off from work. He was at Police Headquarters in lower Manhattan filing his retirement papers when the first airliner struck the World Trade Center. The off-duty lieutenant rushed to the scene, joining Captain Timothy Pearson and other officers evacuating victims from the second-floor mezzanine of the north tower. John Perry never made it out.

Lt. John Perry spent his day off responding to one of the greatest tragedies our nation has ever endured. John Perry risked his life to do his duty—and he did not worry about whether or not he punched his time card.

While John Perry was the only off-duty officer to be lost that day, he was not the only off-duty officer to help respond to the aftermath of the attacks. The ranks of volunteers in New York City, Pennsylvania, northern Virginia and Washington, D.C. were swelled by retired law enforcement officers and off-duty officers from every region of the country who had come to offer their services. Police officers, firefighters, and EMS personnel worked side-by-side, with each professional relying on one another to assist according to their specialized training and experience. The help rendered by these public safety officers was received with gratitude by the victims and their fellow emergency response personnel. It did not matter whether they were off-duty or not—they knew they could count on a particular level of training and professionalism from these volunteers. Yet off-duty and retired law enforcement officers were in legal jeopardy as a result of their volunteer efforts.

As the World Trade Center burned, many off-duty and retired officers rushed to New York and New Jersey, hoping to help the victims of the attack and provide relief for the exhausted New York City police officers. These well-intentioned volunteers may have been in violation of State and local law because New York and New

York City restrict the ability of off-duty police officers from other jurisdictions to carry their firearms. Similarly, across the river in New Jersey, which was used as a staging and recovery area, armed law enforcement officers not employed by that State may not have been eligible for exemption from New Jersey's statute against unlawful weapons possession. Any armed officer crossing a jurisdictional boundary to volunteer his time in response to this tragedy may have been breaking the law.

Pennsylvania, the only State on 11 September without casualties on the ground, does not have a clear exception for police officers employed outside of Pennsylvania. Off-duty police officers that, without hesitation, volunteered in response to the scene may have been in violation of State law if they carried their firearms with them while assisting their colleagues in Pennsylvania.

I feel certain that most of the officers who volunteered had their firearms with them. I do not know any law enforcement officer who would feel comfortable being in uniform or performing official duties without their firearm. None of the other professional first responders that volunteered their services on 11 September left their tools, instincts or training behind. Only police officers were exposed to legal jeopardy while at or traveling to the site of the attacks.

Law enforcement is a profession, and professionals fill its ranks. Among the many tools of a professional law enforcement officer are the badge and the gun. The badge symbolizes the officer's authority and, in worst-case scenarios, the gun enforces that authority. These tools are given to the officer in trust by the public to enforce the peace and fight crime. In asking Congress to pass this bill, we seek a measured extension of that trust. In emergency circumstances, an officer's knowledge and training would be rendered virtually useless without a firearm. This bill will provide the means for law enforcement officers to enforce the law, keep the peace and respond to crisis situations by enabling them to put to use that training and answer the call to duty when need arises. Without a weapon, the law enforcement officer is like a rescue diver without diving gear—all the right training and talent to lend to an emergency situation, but without the equipment needed to make that training of any use. Neither criminals nor terrorists give up their weapons when they cross jurisdictional boundaries, why should police officers?

When the Fraternal Order of Police talks about the passage of H.R. 218 as an officer safety issue, we mean it. A police officer cannot remember the name and face of every criminal he or she has locked behind bars, but criminals often have long and exacting memories. Passage of this legislation will give police officers the legal means to defend themselves and their families from vengeful, violent acts. Police officers are frequently finding that they, and their families, are targets in uniform and out, off-duty and on, active and retired.

Consider, Mr. Chairman, the case of a police officer from your own district, Detective Charles Edward Harris, a twenty-year veteran with the Southern Pines Police Department in North Carolina. Detective Harris was targeted after drug dealers spotted him attending a "crime watch" meeting at an apartment complex. His killers waited until he was at home and off-duty, then rang his doorbell. Detective Harris was shot and killed. His wife, who was also home at the time, was also hit.

Over the years that the F.O.P. has been working on this legislation, we have compiled the names of 58 officers who, like Detective Harris, were off-duty when they were killed. Yet despite not being on the clock, the circumstances of their deaths qualified them as having died "in the line of duty." Some, like Detective Harris, were recognized as, discovered to be, or identified themselves as police officers, prompting their assailants to kill them. Others were killed when they placed themselves in harm's way to help a victim or stop a crime in progress. With your permission, Mr. Chairman, I would like this document to be entered into the record.

Permit me to provide a few additional examples from this document:

- Detective Thomas G. Newman, a twelve-year veteran of the Baltimore City Police Department in Maryland had been shot and wounded while off-duty in 2001. He testified against his assailant, who was sentenced to thirty years in prison. On 23 November 2002, Detective Newman was shot to death by three suspects—friends and relatives of the criminal that Detective Newman had sent to jail—in an act of criminal retaliation.
- Police Officer Joseph Jerome Daniels, a ten-year veteran of the Birmingham Police Department in Alabama was shot and killed on 11 November 2002. The officer was eating his dinner at a local restaurant when a man entered, announced that he was robbing the establishment and ordered everyone on the floor. Officer Daniels immediately took action and was shot several times in a struggle with the robber. He died of his injuries on the scene.
- Detective Donald Miller, a ten-year veteran with the New Bern Police Department in North Carolina was off-duty on 23 December 2001. He and his wife

had just finished their visit to their newborn child in the hospital when the detective observed a man driving recklessly through the hospital parking lot. He confronted the man, who drew a handgun and fired—striking Miller in the head. Detective Miller, father of two, died two days later on Christmas Day.

- Detective Kevin Darrell Rice, Sr. was off-duty on the evening of 3 August 2001 when he approached two suspicious men loitering near the construction site of his new home. The fourteen-year veteran of the Rockford, Illinois Police Department was shot and killed by the men he confronted.
- Officer Dominick J. Infantes, Jr., a seven-year veteran with the Jersey City Police Department in New Jersey, was attacked by two men wielding a pipe on 4 July 2001. Infantes was off-duty when he asked two men to stop setting off fireworks near playing children. He identified himself as a police officer, but the two killers did not believe him because Infantes did not have a gun. He died two days later, a newlywed at the age of twenty-nine, from his injuries. More than 5,500 police officers, including some from as far away as Canada and Ireland attended his funeral.
- Officer Shynelle Marie Mason, a two-year veteran with the Detroit, Michigan Police Department was shot and killed on 14 July 2000 by a man she had previously arrested for carrying a concealed weapon. She encountered the man while off-duty; he confronted her and shot her several times in the chest.
- Correctional Officer Leslie John Besci, a sixteen-year veteran with the North Carolina Department of Corrections was beaten to death with a baseball bat in an unprovoked attack. The officer had just returned from work when he was attacked by two former inmates of the prison where he worked.
- Corrections Officer Anthony L. Brown, a seven-year veteran from Nassau County Sheriff's Department in New York, broke up a fight between a man and his girlfriend while off-duty. The man returned later and shot and killed the officer.
- Officer Ralph Dols, a three-year veteran of the New York City Police Department was off-duty when he was ambushed in front of his home. He was attacked by three men, who shot him a total of six times. The investigation into the officer's murder suggests that the killing was in retaliation for the officer's identification of suspects in a robbery who may have had some connection to organized crime.
- Detective Edward Stefan Kislo, an eighteen-year veteran with the Los Angeles Police Department was off-duty when he confronted a prowler in a neighbor's yard. The suspect shot and killed him.
- Officer Louis Anthony Pompei was shopping off-duty when he witnessed a robbery in progress. The seven-year veteran of the Glendora, California Police Department was shot and killed while attempting to stop the robbery.
- Officer Ronald Levert Richardson served nine years with the District of Columbia Department of Corrections. He was shot and killed outside his home by suspects seeking to prevent him from testifying at a drug trial.
- Officer Oliver Wendell Smith, Jr., of the Metropolitan Police Department in Washington, D.C. was off-duty when he was robbed at gunpoint. Upon discovering the victim was a police officer, the robbers shot and killed him.
- Officer Charles Kirksey Todd, a three-year veteran of the Police Department in Mayfield, Kentucky was attending a wedding off-duty when one guest attacked another with a knife. The officer was fatally stabbed trying to subdue the attacker.

Law enforcement is a dangerous profession; there is no legislation, act of Congress or government regulation which will change this sobering fact. However, the adoption of H.R. 218 will, at the very least, give officers who do choose to carry a chance to defend themselves, their families and the public whenever or wherever criminals or terrorists choose to strike.

I want to share with you two more examples, both with happier endings, to demonstrate how a tragedy was averted because of an armed, off-duty law enforcement officer.

In 2000, Dennis Devitte had logged twenty years with the Las Vegas Police Department. He was off-duty at a sports bar late one evening when the establishment was attacked by three armed assailants. Two of the men opened fire on the crowd, and a man in a wheelchair was hit. Devitte did not hesitate—he pulled his tiny .25-caliber gun and, knowing he would have to get very close to make sure he hit his target, charged a man firing a .40-caliber semi-automatic. Officer Devitte got within

one foot of the man, fired and killed the gunman. But not before he was shot eight times.

The remaining two gunmen fled. All six civilians wounded in the assault recovered. One witness described Officer Devitte's action as "the most courageous thing I've ever seen." Officer Devitte lost six units of blood, his gun hand was badly damaged and his knee had to be entirely reconstructed with bones taken from a cadaver. And yet, he was back on the job six months later.

This incredibly heroic officer was selected as the "Police Officer of the Year" by the International Association of Chiefs of Police (IACP) and *PARADE* magazine.

That same year, the IACP and *PARADE* also recognized off-duty Officer Joseph H. Shackett of the Houston Police Department for his heroism. He was visiting a friend at a check-cashing store while off-duty when the establishment was attacked by two gunmen. The robbers forced their way in, but Officer Shackett, who was armed, managed to draw his own weapon and kill them both before either gunman could fire at the store owner.

Despite this clear and convincing evidence that the legislation would have a positive impact on public safety, the IACP is the only law enforcement association to oppose H.R. 218. A position which is somewhat ironic, given that the IACP's own "Police Officer of the Year" for 2000 and an Honorable Mention are police officers whose heroic acts which earned them this recognition occurred while they were off-duty and armed.

In testimony before the Senate Committee on the Judiciary in July 2003, the IACP gives four reasons for their opposition to this legislation, which we will rebut in turn.

The first is a philosophical opposition to Federal legislation preempting State law on the carrying of concealed firearms. We respectfully disagree with this position—philosophical objections must not be permitted to trump the very real risks to the public from opportunistic criminals or terrorists, nor to the risks to law enforcement officers who are vulnerable when traveling outside their jurisdictions.

The F.O.P. also maintains that this is a carefully crafted bill and is not, by any means, a broad preemption of State law by any means. Congress has the power, under the "full faith and credit" clause of the Constitution, to extend full faith and credit to police officers who have met the criteria to carry firearms set by one State, and make those credentials applicable and recognized in all States and territories in these United States. States and localities issue firearms to their police officers and set their own requirements for their officers in training and qualifying in the use of these weapons. The bill maintains the States' power to set these requirements and determine whether or not an active or retired officer is qualified in the use of the firearm, and would allow only this narrow universe of persons to carry their firearms when traveling outside their jurisdiction. We believe this is similar to the States' issuance of drivers' licenses—standards may differ slightly from State to State, but all States recognize that the drivers have been certified to operate a motor vehicle on public roadways. I sincerely doubt that the IACP has a philosophical objection to recognizing a driver's license in one State from a State with lower or different standards for their drivers.

The IACP frets that law enforcement executives which have very rigorous standards for qualification will be "forced to permit officers who may not meet those standards to carry a concealed weapon in his or her jurisdiction." [1] The IACP should more closely analyze the information contained in the *Reciprocity Handbook,* a document prepared by the International Association of Directors of Law Enforcement Standards and Training (IADLEST), which consolidates information gathered from all fifty (50) State peace officer standards and training organizations (POST Agencies) and the United States Bureau of Indian Affairs. The *Reciprocity Handbook* shows that the training standards on the use of firearms are very similar and do not "vary significantly," [2] as the IACP has claimed.

This legislation carefully defines who will and will not be able to carry under this bill. Only employees of a government agency who are or were authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law, and have or had statutory powers of arrest will be able to carry their firearms if this legislation is enacted. Active officers must be authorized to carry a firearm and meet the standards established by the agency which require the employee to regularly qualify in the use of a firearm, and retired officers must have retired in good standing from a government agency with a nonforfeitable right to benefits under the retirement plan of the

[1] Written Statement of Colonel Lonnie J. Westphal, Chief, Colorado State Patrol before the U.S. Senate Committee on the Judiciary, 23 July 2002.

[2] Ibid.

agency in order to be considered "qualified." In addition, retired officers who wish to carry under this bill must requalify with their firearm at their own expense every twelve (12) months and meet the standards for training and qualification to carry a firearm in the State in which they reside.

Mr. Chairman, these are individuals who have been trained and entrusted by their communities with the use of firearms for the public good who chose law enforcement as their profession, not a hobby. These men and women are more than qualified and more than worthy of the measured extension of the trust that this legislation would provide.

I have also heard the so-called "States' rights" objections from some lawmakers here on the Hill. Frankly, Mr. Chairman, this claim doesn't hold water. As mentioned previously, not only does Congress have the authority under the "full faith and credit" clause of the Constitution, Congress has acted to force States to recognize permits to carry issued by other States on the basis of employment in other, and, in my opinion, less worthy, instances. In June of 1993, the Senate and House approved PL 103–55, the "Armored Car Industry Reciprocity Act." This legislation mandated reciprocity for weapons licenses issued to armored car company crew members among States (including the District of Columbia). In its final form, the bill passed both the House and the Senate by voice vote. Congress amended the Act in 1998, providing that the licenses must be renewed every two years.

This precedent allows armored car guards—who do not have nearly the same level of training and qualifications as law enforcement officers—to receive a license to carry a firearm in one State and forces other States to recognize its validity. Mr. Chairman, if Congress sees fit to stretch the elasticity of the commerce clause to mandate that private guards who obtain firearms licenses should have those licenses recognized in all States, why does it balk at extending that same authority to fully-sworn, fully-trained and government-employed law enforcement officers?

Similarly, in its debate on homeland security during the 107th Congress, both the House and Senate overwhelmingly passed legislation deputizing airline pilots and granting them an exemption to State prohibitions on the carrying of firearms. The House adopted H.R. 4635, the "Arming Pilots Against Terrorism Act," on 10 July 2002 by a vote of 310–113 (Roll Call Vote #292) and, on 5 September 2002, the Senate adopted Senate Amendment No. 4492, the "Arming Pilots Against Terrorism Act and Cabin Defense Act," which passed on an 87–6 vote and was ultimately incorporated into H.R. 5005 (now PL 107–296).

Contrary to popular opinion, airline pilots who complete the Federal flight deck officer program are not limited to carrying their firearms only aboard their aircraft. According to the statute, they are exempt from State law with respect to prohibitions on the carrying of firearms, per Section 44912 to Subchapter I of chapter 449 of title 49, United States Code, which reads in part: "(f)(2) PREEMPTION—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from 1 State to another State."

This is yet another Federal preemption that grants a certain class of persons—based on the nature of their employment and risks inherent to that employment—the authority to carry firearms in all States. Mr. Chairman, in an emergency situation, I would want a pilot in control of the aircraft, not a law enforcement officer. Similarly, I believe that most people would prefer a law enforcement officer over a pilot in any emergency situation involving firearms. No matter how many weeks a pilot spends training with a gun, it will not equal the experience and training of a fully-sworn and fully-trained law enforcement officer.

Another objection raised by the IACP and others is that such legislation would jeopardize the lives of officers who might mistake a fellow officer from outside the jurisdiction for an armed assailant. There have been and will be incidents of friendly fire—police who, tragically, mistakenly shoot a fellow officer. These incidents are tragedies, just like training accidents or other accidental injuries or deaths. You cannot legislate against tragedy. Police officers are in far more danger from vengeful, armed assailants than from their fellow officers and the latter is the only issue that we can address with legislation.

Thirdly, the IACP maintains that the bill would do little to improve the safety of our communities. I submit that 11 September 2001 dispensed with that argument.

Finally, the IACP erects the straw man of liability—that the departments are financially at risk if an off-duty officer is involved in an incident outside his home jurisdiction. First of all, an off-duty officer who elects to carry his or her firearm when traveling is liable for his own actions, not the department which employs him or her. Secondly, the chiefs should remember, if they can, that police officers are trained how and when to use firearms and the proper method of escalating force

in the variety of situations which may confront them. Most police officers will serve their entire careers without ever having drawn their firearm in the line of duty, so there is no reason to think, as the IACP intimates, that the nation will suddenly be overrun by out-of-control vacation cops drawing guns on jaywalkers. It is irresponsible to portray their officers in that way.

Lastly, I would note that Congress found a means by which to inoculate pilots who choose to carry from liability with respect to their actions, and they will not have had nearly the same level of training and experience as a fully sworn law enforcement officer. If this were a legitimate concern, I feel confident that agreeable language insulating the employing agency would have already been crafted.

Another objection we often hear expressed is with respect to the provision covering retirees. We believe that requiring retired officers to meet the same standards as active officers in their State, which this bill does, sufficiently addresses this concern.

I am often asked by opponents of concealed carry authority for law enforcement officers why this is not a States' rights issue. The simple answer is that, in this instance, it is the variety of State laws that make Federal legislation necessary. The bewildering patchwork of concealed carry laws in the States and other jurisdictions often results in a paradox for law enforcement officers—local, State, and Federal—and can put them in legal jeopardy.

States and localities issue their police officers firearms to perform their jobs. Each State and local jurisdiction sets their own requirements for their officers in training and qualifying in the use of these weapons for both their own safety and the public's. This legislation maintains the States' power to set these requirements and determine whether or not an officer or retired officer is qualified in the use of the firearm, and exempts those qualified officers from local and State statutes prohibiting the carrying of concealed weapons when those officers are off-duty or retired.

The aim of the bill—allowing qualified active and retired law enforcement officers to carry their firearms outside their own jurisdiction is not a controversial position. With the exception of the IACP, this legislation has widespread, bipartisan support throughout the law enforcement community.

It is my understanding that this Subcommittee will be marking up this legislation following this afternoon's hearing and may consider an amendment in the nature of a substitute. At this time, the F.O.P. has not seen or reviewed this amendment, but we do oppose any legislative language that would prevent or delay the provisions of this bill from taking immediate effect and any provisions which would enable States to "opt out" of compliance. We see no need for any amendments to a piece of legislation which has two hundred and ninety-two (292) cosponsors—a two-thirds majority of the House of Representatives. This total includes eleven (11) of the thirteen (13) members of this Subcommittee, all of whom have cosponsored this legislation as introduced. Just a few years ago, the House passed an amendment identical to H.R. 218 by an overwhelming vote of 372–53.

In the Senate, the companion bill to H.R. 218 has sixty-nine (69) cosponsors—a filibuster-proof majority. Just three months ago, in March, the Senate considered an amendment identical to H.R. 218 and approved it on a 91–8 vote. Congress recognizes the merits of this legislation.

Mr. Chairman and members of this Subcommittee, it is an increasingly dangerous world that the men and women wearing the badge are asked to patrol. The level and degree of violence in the crimes being committed is becoming almost incomprehensible in terms of sheer brutality. Even more striking is the lack of remorse with which this violence is committed. Law enforcement officers are targets—in uniform and out; on duty and off; active or retired. We need the ability to defend ourselves against the very criminals that we pursue as part of our sworn duty, because the dangers inherent to police work do not end with our shift.

Perhaps the strongest endorsement I can give you for this legislation is that thousands of violent criminals will hate to see it pass.

Mr. Chairman, thank you for the opportunity to testify before you and the Committee today on this issue. I would be pleased to answer any questions you might have.

Mr. COBLE. We have been joined by the gentleman from California and the gentleman from Ohio. The gentlelady from Texas was here, but she will probably reappear.

Gentlemen, we try to comply with the 5-minute rule against ourselves, as well, so if you could keep your answers succinct, it will enable us to move along.

Mr. Eisenberg, we've seen circumstances where officers are sued for excessive use of force. Who would be liable if an officer used excessive force off-duty outside of his jurisdiction? I realize this is a hypothetical, but what's your best response to that?

Mr. EISENBERG. Well, not being an attorney, I would have to take a guess, but my sense is a police officer is subject to the same laws as everybody else. If he or she is on duty, they have to follow the specific protocols, practices, training demands, et cetera that apply to them under which they operate. However, if they are using excessive force in a situation where they are off duty, you might—I want to be careful here—you might consider that to be a form of citizen arrest except they have certain qualifications and know the certain responsibilities that an average citizen would not.

Mr. COBLE. Mr. Johnson—thank you, Mr. Eisenberg.

Mr. Johnson, according to your testimony, H.R. 218 requires that officers must be in good standing to carry their firearm and retired officers would be required to pass the same firearms training as active duty officers. Elaborate on this point, if you will, and explain how States would verify that an officer is in good standing and current on firearms qualifications.

Mr. JOHNSON. Yes, Mr. Chairman. From reviewing the language of H.R. 218, I think there's two points. One is that, addressing the States' rights issue which some opponents have raised, the language of the proposed bill itself indicates that it's the standards established by the agency and established—the standards established by the State within which the officer's employing agency is located which sets the firearms standards regarding training and requalification with which that officer has to comply.

Similarly, in section 3 of the proposed bill regarding retired law enforcement officers, I believe it is in paragraph C(5) it talks about, for a retired law enforcement officer, among other requirements to lawfully carry a concealed firearm, that during the most recent 12-month period, he or she has met, at the expense of the individual, again, the State's standards, that particular State's standards for training and qualification for active law enforcement officers.

So I believe that the concern regarding both States' rights is adequately addressed in the legislation and that there is no Federal intrusion on States setting their own qualifications, and both active and retired law enforcement officers are required to maintain that qualification.

Mr. COBLE. Thank you, Mr. Johnson.

Superintendent Ruecker, to your knowledge, are there States that currently do not allow off-duty or retired police officers in their own State to carry concealed weapons?

Mr. RUECKER. Yes, sir. Yes, Mr. Chairman, there are States that do not allow that, the State of Oregon being one.

Mr. SCOTT. Was the question within their own State? Was that the question?

Mr. COBLE. Yes, in their own State.

Mr. RUECKER. Oh, to that, I cannot—I do not know, Mr. Chairman.

Mr. COBLE. Okay. You thought I was referring to out of State?

Mr. RUECKER. People coming to our State.

Mr. COBLE. Yes, okay. Yes. No, I meant within your own State. To your knowledge, furthermore, Superintendent, are there States that currently allow off-duty law enforcement officers from another State to carry concealed weapons within that State?

Mr. RUECKER. Mr. Chairman, I have heard that that is the case. I do not know any specific State, but it's my understanding there are.

Mr. COBLE. Mr. Canterbury, do you happen to know?

Mr. CANTERBURY. There are a number of States that do. I couldn't give you a list of them at the current time. We could provide that, Mr. Chairman.

Mr. COBLE. All right, sir.

Mr. CANTERBURY. But there's a number of them that do have a reciprocity with concealed weapons permit carry.

Mr. COBLE. Thank you, sir. Mr. Canterbury, let me ask you this. Mr. Ruecker has testified that policies regarding law enforcement officers carrying weapons off duty, use of force policies, and firearms training standards vary from jurisdiction to jurisdiction, and, of course, that's true. How do you respond to that?

Mr. CANTERBURY. I would respond to that by saying that there are still in the majority of the States a reciprocity for accepting the qualifications of another officer transferring to that State. Most of the time when you attend the police academy of another State and you are an out-of-State certified officer, most academies, with the exception of most of the State police, do that with a fast-track academy where they learn that State law.

But there is—the national average would be a minimum of 48 hours of firearms training at the basic academies in the country and the average minimum score for qualification in the country is 77 percentile, and that's an average across the board, with the lowest being 70 percent.

Mr. COBLE. I thank you, sir. I see my time has expired. The gentleman from Virginia?

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Canterbury, did I understand you on your example to suggest that an off-duty police officer within his own jurisdiction would be affected by this legislation?

Mr. CANTERBURY. No, sir. It was just an example of another off-duty officer that was killed in the line of duty. I have a number of examples——

Mr. SCOTT. Was that within the jurisdiction that he worked in?

Mr. CANTERBURY. That one was within the jurisdiction.

Mr. SCOTT. Now, would this bill require local jurisdictions to allow off-duty police officers to carry firearms while they are off duty, even within their jurisdiction?

Mr. CANTERBURY. I believe it would grant the right. I don't believe it would mandate.

Mr. SCOTT. Grant the right. Would the police officer have the right to carry a firearm, notwithstanding the local jurisdiction's decision otherwise, to carry a firearm within the jurisdiction?

Mr. CANTERBURY. Yes, I believe it would.

Mr. SCOTT. Okay. People are mentioning standards and the percentages. Do any of these rural police departments or sheriffs' offices have virtually no standards, no training?

Mr. CANTERBURY. I believe at this time, all 50 States have a Statewide standard. I don't believe there's any States without standards. We have a State minimum standard now.

Mr. SCOTT. Well, this isn't just for the police and sheriff. You've got all kinds of stuff in here, corrections and—I mean, it's just not—probation, parole, judicial, all kinds of stuff in here. It's just not your police officers and sheriffs. Mr. Johnson?

Mr. JOHNSON. Yes, sir. However, the language of H.R. 218 indicates that to be a qualified law enforcement officer, it has to be someone who is already authorized by their agency to carry a firearm. So——

Mr. SCOTT. So a Game and Inland Fisheries officer in Virginia can carry a firearm and so they would be able to go to New York City with a firearm, concealed weapon?

Mr. JOHNSON. Yes, sir. If in the Commonwealth of Virginia they meet the qualifications under the law, then they would enjoy the right to carry one. I would ask permission just to point out, though, the bill only authorizes an officer to carry the firearm. It does nothing—it doesn't deputize anyone. It doesn't make a police officer someplace else. It doesn't authorize someone to use it. All the regular rules of self-defense and the laws of——

Mr. SCOTT. In all due respect, you like to have these discussions before somebody gets shot, because after they get shot, the criminal justice system really isn't a good—isn't much help.

Different areas have different standards of training. If in the situation that Mr. Eisenberg suggested, where you go into another jurisdiction and get into a liability situation, whose standard for duty of care will be the measure? Is it the duty of care in New York City where you are, or Charles City County from whence you came?

Mr. JOHNSON. I think—my opinion—we're talking about duty of care and violation, if you're talking about a negligence case——

Mr. SCOTT. Right.

Mr. JOHNSON [continuing]. That would be determined by the law of the jurisdiction where the act occurred.

Mr. SCOTT. And so if the person was not trained pursuant to the standard of care that he is going to be judged by, you're asking for trouble.

Mr. JOHNSON. I believe that the person would be judged by the negligence standard in that local jurisdiction that would apply to other citizens——

Mr. SCOTT. So if someone came out of Charles City County, Virginia, a jurisdiction population 6,000, ended up in New York City where they have, obviously, much better training, they would be judged in their action or in their decision by the standard for New York City, not Charles City County where he was trained?

Mr. JOHNSON. I believe that's a correct statement of the tort law, yes, sir.

Mr. SCOTT. Okay. How would—if a drug deal goes bad, how would a police officer from out of town know which was the undercover agent and which was the crook?

Mr. JOHNSON. I think that any officer, any person may or may not know in a given situation who's who and that every officer in every department that I'm aware of, the officers' basic—most basic training is you don't shoot at what you think. You fire as an abso-

lute last resort, only at what you know. That type of situation that you're talking about there——

Mr. SCOTT. You have a person aiming a firearm at somebody. How do you know whether it's the undercover agent looking at the crook or the crook looking at the undercover agent?

Mr. CANTERBURY. Congressman, I believe the answer to that would be, in a department of 40,000 people in the City of New York, they wouldn't know either. It's police training, firearms training, and I think the misnomer here is that this authorizes the officers the right to carry. They're not going into other jurisdictions to work. This would be a situation of last resort for the purpose of saving a life. When an EMT crosses a State line, he doesn't leave his CPR skills in the next city, and the standards for CPR are different in every State.

So I would think that you're talking about a last resort scenario where an officer is either protecting his own life or the life of a citizen, and with minimum standard training around the country, it would be far fetched for an officer to get involved in a situation that—a normal police situation. They just would not get involved.

Mr. COBLE. Thank you, Mr. Scott.

Ms. JACKSON LEE. Mr. Chairman?

Mr. COBLE. I believe the gentleman from Virginia——

Ms. JACKSON LEE. Can I just yield for a moment? I'm departing from the hearing and I wanted to offer my apologies, Mr. Chairman, because I'm very interested in this hearing. I have a meeting with President Karzai of Afghanistan starting right now and I apologize. I know that's far away from the United States, but I'm very interested in this issue and met with a number of individuals and would like to work with you all on it and just would say that if we can work through the issue of liability, I would appreciate it, if we have discussions. But I'm going to beg the pardon of the Chairman and the Ranking Member and I thank you so very much for holding this hearing.

Mr. COBLE. You are indeed excused.

Ms. JACKSON LEE. Thank you.

Mr. COBLE. Thank you, Ms. Jackson Lee.

I believe the gentleman from Virginia was first in attendance, so I now recognize him for 5 minutes.

Mr. FORBES. Thank you. I've got one question. I know one of the things that we've been concerned about in Virginia of late is the rise in gang activity that we've seen, and all of us have been very concerned. I know some of you gentlemen have been concerned about that.

Secondly, one of the big things we've been concerned about is the countersurveillance that we have seen taking place by gang members. That is, when police officers go in to do surveillance on the gangs, the gangs turn around now and are doing surveillance on the police officers, finding out where their homes are and where their families are and those kinds of things, and actually our concern is coming after the police officers.

If you have a police officer in Virginia, let's say, and he is off duty and he is in a locality that doesn't allow him to have a concealed weapon, or if he comes into D.C. at a shopping mall there, what are you doing or what can we do to protect him if he can't

carry a weapon to protect himself, let's say from one of the gangs that might be coming after him or his family?

Mr. CANTERBURY. At the current time, we're not protecting him at all, and that scenario happens inside the District and outside of the District very often. Recently in a road rage case in Maryland, a District police officer fled the scene of a road rage incident, called 911, and still had to defend himself before police could arrive. Because of a reciprocity agreement, he was able to do that. But if they came from outside of the Washington metro area, from Richmond, he probably would have succumbed to his wounds.

Mr. FORBES. So basically if we don't have this legislation, there would be situations where that police officer would be exposed, have no real ability to even defend himself, is that——

Mr. CANTERBURY. Absolutely.

Mr. FORBES. Okay. Mr. Chairman, that was my only question. Thank you.

Mr. COBLE. The gentleman from California, Mr. Schiff, is recognized for 5 minutes.

Mr. SCHIFF. Mr. Chairman, I just wanted to comment briefly on the bill and then yield back the balance of my time. I appreciate the Chairman and Ranking Member for the hearing and the markup and the opportunity to participate. The bill has a great number of cosponsors and has been long overdue to be brought up on the House floor.

As the measure would permit qualified current and former law enforcement members to carry concealed firearms across jurisdiction and respond to some of the dangers encountered during police work and the reality that officers have to respond to emergency situations when they're off duty, I support the measure and I want to once again thank the Chairman and the Ranking Member for bringing up this piece of legislation and urge my fellow colleagues to support it, as well.

I yield back the balance of my time.

Mr. COBLE. I thank the gentleman.

I believe the gentleman from Florida, Mr. Keller, was next in line. You're recognized for 5 minutes.

Mr. KELLER. Well, thank you, Mr. Chairman. Just a brief statement about this legislation. I think this is a very common sense piece of legislation that will likely pass both Houses of Congress with more than a 90 percent approval rate. There are some, however, it's been suggested at this hearing, and it may be offered a little bit later at the markup, that say we should have some sort of opt-out amendment which is being proposed in the name of States' rights.

I certainly don't question or doubt the motives of those who make that argument. You can make it with a straight face. But I would just say that that argument, and if there is an amendment, would essentially gut the bill and give us the same inconsistent patchwork of coverage that exists today, and let me give you an example.

If a law enforcement officer from my hometown of Orlando, Florida, decided to take his family on vacation to Washington, D.C., to see the monuments, he would have to go through six separate jurisdictions—Florida, Georgia, South Carolina, North Carolina, Virginia, D.C. How odd it would be if, as he's driving through Florida,

which is legal, he gets to Georgia and they decide to opt out, now he's not allowed to have the gun in the car. Then he gets to South Carolina. That's legal. Then he gets to North Carolina. Now he's violating the law because they've opted out. Then he gets to Virginia and that's legal. Then he gets to D.C. and they've opted out. It just—it's a very inconsistent, nonsensical patchwork that really needs to be fixed.

Cops, by the nature of their job, like physicians, are always on duty. If a doctor was making that same trip with his family, from Orlando to D.C., and he were to encounter a roadside accident and people who need help, wouldn't it be odd if he said, well, I'm sorry. You need CPR but you're in Georgia here and I can't do any medical techniques or do CPR here. If you were in South Carolina, I would save your life. It just wouldn't make sense.

That's why this bill is so attractive to so many people on both sides of the aisle. It's a common sense piece of legislation. Of course, if pilots are allowed to have guns, a licensed law enforcement officer should be allowed to have a gun to protect himself, his family, and the people he's around.

So I congratulate Congressman Cunningham for sticking this out. It's been said that this bill is on a fast track. Well, this is the slowest fast track I've ever seen in history. Nevertheless, he's been very persistent and he's stuck with it and I look forward to supporting this bill and I'll urge my colleagues to do the same.

Mr. Chairman, I yield back.

Mr. COBLE. I thank the gentleman.

I believe the gentleman from Indiana was next in line, recognized for 5 minutes.

Mr. PENCE. I thank the Chairman for yielding and I wish to thank the Chairman for having this hearing and markup on what I would associate with Mr. Keller's remarks as a very attractive piece of legislation.

But I do respect the service represented by this panel. My father's brother was on the job in the City of Chicago for 25 years, so I have some experience in my immediate family with families that wait every day at dinner for people to come home. And I have a very soft spot in my heart for the law enforcement community and for police officers in general.

It's what drives me to think that we would contribute to public safety if we moved forward on this legislation. I am someone who believes that firearms in the hands of law-abiding citizens make for safer communities and I think I believe that's even doubly true when it comes to police officers, even off duty.

A couple of technical questions, mostly for Mr. Canterbury. In your testimony, you state that the Full Faith and Credit Clause of the Constitution allows Congress to preempt State laws with regard to carrying of concealed weapons by police officers. Would you support legislation which has been supported by some Members of this Committee to allow all citizens to carry concealed weapons in any State if they met their own State's qualifications for a concealed weapon? If so, why? If not, why not, and is it—does it reflect some of the bias that I just spoke to with regard to law enforcement officers?

Mr. CANTERBURY. As an organization, we have not taken a stand on concealed carry by citizens. The major purpose for that is that we believe that the current legislation, the reciprocity agreements that are in existence have not proven to be a problem. And so in the last number of years, probably the last eight, we have been concentrating solely on the effort of law enforcement officers to carry off duty to protect our family and fellow citizens and the organization has actually not taken a proactive role either way——

Mr. PENCE. Okay.

Mr. CANTERBURY [continuing]. In concealed carry by citizens.

Mr. PENCE. Let me ask you one other question, if I may. This legislation would make it legal for anyone defined as a law enforcement officer to carry a concealed weapon in any State. This really is an honest question for me. Does that—I assume that term would be defined on a State-by-State basis. Does that definition vary widely from State to State?

Mr. CANTERBURY. It does vary from State to State, but I believe the wording of the Federal legislation provides enough fail-safe to make sure that they have to meet the State standards for whatever a law enforcement officer is in that State. In the last 10 to 12 years, that has been so much more standardized than it used to be that a number of States, and I'm sure that most of you are familiar with the recruiting efforts in law enforcement have been very tough in the last few years, so almost every State has developed some sort of lateral transfer of certified police officers and that definitely demonstrates that there has been a heightening of the training standards. So I don't believe that would actually be a problem.

Mr. PENCE. Would the term "certified police officers" be a more contemporary term of art? Would it be a more specific term that the Committee should consider in the way of——

Mr. CANTERBURY. I believe the current language is sufficient, Congressman.

Mr. PENCE. That response——

Mr. JOHNSON. Yes, sir. I believe in the proposed section 926(b), paragraph C does contain a definition for the term "qualified law enforcement officer," which I think does address the issues that you've raised and the concerns that opponents may have regarding the bill. I think that it's broad enough to encompass those officers who are well qualified and trained. At the same time, there are sufficient safeguards to assure that people, for example, who are not allowed under Federal law to receive any firearm cannot take advantage of this as a loophole, for example.

Mr. PENCE. It seems to me that the benefit of this legislation, in my judgment, has to do with this specific application of it to individuals who have worn the uniform in a way that is reflective of public service. The Superintendent had a comment.

Mr. RUECKER. Yes, thank you. I think that there are in the main, in the mainstream definition of what we would all think about when we think of certified police officers, you're not likely to have a lot of problems. It's in the exceptions and in the variations from State to State on what does that mean where you're going to see someone with an extremely narrow law enforcement purpose, or an authorization at home being covered under this bill when I suspect

none of the panelists here, or most of us would not, nor would the Committee think that's what they had intended.

Mr. PENCE. Mr. Eisenberg, please.

Mr. EISENBERG. Thank you. My concern is that if you pass the bill as written, that it would place people in civil and legal jeopardy in a number of circumstances. And so I ask the Committee that if you proceed with this bill, that you find ways to solve the liability problem and the civil liability problem and the problem that occurs when somebody may find themselves responding to an event that anybody, certainly a law enforcement officer, would and should respond to.

But there's another liability issue here, a legal one, not just a civil one, and that is when they might end up committing a misdemeanor or even a felony because they don't know the rules, protocols, or laws of the State while they are carrying that weapon. Now, if there's some kind of reciprocity, if there's some kind of additional standards, if there's some way to protect these law enforcement officers from stepping into something they don't want to step in because they don't know, then the bill will be better.

I still have problems with the bill, but please do something to deal with the civil liability and the potential for getting into more serious trouble simply because they respond to an incident and don't know legally what they're getting into.

Mr. PENCE. I thank the Chairman.

Mr. COBLE. I thank the gentleman.

The gentleman from Florida, Mr. Feeney, is recognized for 5 minutes.

Mr. FEENEY. Thank you, Mr. Chairman and members of the panel. One of the concerns, Mr. Canterbury, you sort of touched on in your speech, and that is with respect to the requirements, the qualifications and the certification requirements for police officers to be able to carry weapons, and the suggestion was that some local jurisdictions may have very lax or unfortunate standards. But isn't it true in most States that local jurisdictions use State certification boards for their minimum standards and then they build upon those where they deem appropriate and have, if anything, higher requirements at their local levels than the State tends to have?

Mr. CANTERBURY. I would say that's an accurate statement, Congressman.

Mr. FEENEY. One of the legitimate concerns raised by Mr. Eisenberg is the liability issue to the agency that does the—basically grants the original certification which is subsequently used in an outside jurisdiction, and then, of course, the potential liability to individual members of the traveling public.

But isn't it true, Mr. Eisenberg, with respect to the officers that happen to carry a weapon with them, they're duty bound to know the law even though the law is so complex in the 5,000 local jurisdictions and 50 States, and then you've got the Federal Government. It is true when we travel we're all sort of bound under legal theory to know the law even though the law is unknowable in its current form.

Mr. EISENBERG. But they are acting as if they are on duty when they are not legally on duty, and you end up with a potential civil liability, again, that goes both to the jurisdiction that issued the

firearm to begin with and potentially to the law enforcement official who has stepped over the bounds. And then again, you've got that misdemeanor felony, this legal issue that hangs there if they respond and don't know that you can't hit somebody with a baton more than X-number of times in this State, but you can in that State.

Mr. FEENEY. Well, I grant your point, but I would suggest to you there are probably local jurisdictions and maybe places in California, for example, where carrying an aerosol spray can can have you civilly liable or for a misdemeanor. So the fact of the matter is, the law has become so complex that people that do undertake to carry these weapons are going to have to engage in a very cautious manner.

And with respect to the underlying agencies, I think that you also raise a legitimate concern. But other than—because these officers are not being deputized in one State to travel to another jurisdiction to fight crime. What, in fact, is happening is the only theory of liability I'm aware of that you could hold the underlying agency that certified the officer that then makes his or her own decision to travel with a weapon, the only theories I can think of are agency, and, of course, there is no agency because you have not been authorized to do anything, or the dangerous instrumentality theory that the owner of a gun or a vehicle or a lawn mower may be liable, which every State has a different standard.

Mr. EISENBERG. Not to belabor this, except—I agree with you and I think your points are well taken. The only thing I would add to that is that would a law enforcement officer in another State, bound by those laws, he or she may be committing an act for which they could be sued. And all I suggest to the panel, knowing that this legislation has substantial support behind it, is to think hard and think well about how to address these particular issues.

Mr. FEENEY. I think it's a good suggestion that we maybe have some time to think about. I just want to say, because I don't know whether—how far we'll get today with some of the agendas we have over in the House and other events going on, but I will tell you, I have no doubt that there are a lot of local policy officials that would like to opt out of this clause, and this is the first time I've ever lived in Washington, D.C. I know they have similar gun restriction laws as New York City. They also have some of the highest rates of violent crime traditionally.

When I went to my dry cleaners today, they hand out a sheet with all of the local violent crimes that have been committed within a five-block area of my neighborhood. It looks like a nuclear black cloud. I know of places in Florida, where there are more guns than there are people, and people leave their door windows open to their car, the keys in the ignition, all the windows to their house open because they have no crime.

And I would suggest to you that the most efficient tax way you can possibly protect your locality is to have an unknowable amount of current and former police officers all over the place so that every would-be criminal and every would-be terrorist has to guess who is current or former active duty and who may be armed. I think it has a great deterrent potential, and I happen to be totally in favor of the bill. Thank you for your testimony.

Mr. COBLE. I thank the gentleman from Florida.

The gentleman from Virginia is recognized, Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman. If I might, I'd——

Mr. COBLE. Strike that, Bob. I think I owe an apology to Mr. Chabot, the gentleman from Ohio, I think preceded you here, Mr. Goodlatte.

Mr. GOODLATTE. Yes, I was hoping that——

Mr. COBLE. I apologize. Mr. Chabot, you are recognized for 5 minutes.

Mr. CHABOT. I'd be happy to yield if the gentleman would like to ask questions, but if not—okay. I just have a couple and many of the questions that I would have had have already been asked, and I apologize because I had some constituents in the back room so wasn't here the entire time, but just a couple of questions, and these, again, may have been responded to.

But there was some implication in some of the questions that were asked about the standards perhaps in a community where they only have 6,000 people being inferior to, say, New York City or some other larger community. I don't believe that's necessarily the case. I think, as was mentioned, there are minimum standards in police departments all over the country. But if somebody could just address that particular issue about standards nowadays. I'm not talking 50 years ago. I'm talking about the actual standards in the real world nowadays in communities all over the country, irregardless of the size of that particular community. Could somebody talk that issue, and I'd be happy to hear from anyone. Mr. Johnson?

Mr. JOHNSON. Yes, sir. I worked for a small police department in Maine that maybe had eight people year-round. They'd hire extra people as needed, maybe 5,000 people. But there, even in a very small community, we were subject to very strictly enforced State guidelines and my understanding is that every single State mandates, particularly with the use of force and particularly with regard to firearms, adherence to State-level and State-enforced rules for the carrying and use of deadly force by all officers, and it was drilled into us regardless of the size we were that the number one duty we had as a law enforcement officer, the very first duty was to enforce the Constitution, and that included avoiding deadly force.

Supreme Court cases that dealt with liability to officers and to their employing agencies were very carefully gone over. It was absolutely understood that it was an absolute last resort, that we had no particular license to go out and apply deadly force at will, certainly nothing of the sort. It was an ultimate and very last ditch responsibility, to be avoided if we could, but to be utilized to save our life or someone else's life if necessary.

And to my knowledge—I only have personal knowledge in Virginia, Maine, and Florida—but to my knowledge, every State has a similar program of instruction for all their officers. You must be State-certified, and part of that certification is knowing and following the State rules on these very subjects.

Mr. CHABOT. Okay. Any other panel member want to add something?

Mr. EISENBERG. Just quickly.

Mr. CHABOT. Mr. Eisenberg?

Mr. EISENBERG. In the situation we've talked about, you have a police officer who is a regular citizen in somebody else's State. He or she may act in protection of someone in trouble, but it's like the difference between a law and a regulation. You violate a law, there's a certain set of penalties that are provided. But there are also penalties for violating regulations and in the broad sense we're talking about here, if the people are not aware of the protocols and the, not so much the standards but the actions that they may take, they may step over the line. That's my concern——

Mr. CHABOT. Okay, thank you.

Mr. EISENBERG [continuing]. As a legislator.

Mr. CHABOT. Mr. Canterbury?

Mr. CANTERBURY. Congressman, with all due respect to Mr. Eisenberg, this is about—this is not about liability, it's about lives. It's about police officers' lives and citizens' lives and every police officer that walks a beat, as I did for 26 years, worried about liability every day that I went to work. It was the buzz word 26 years ago. It was the buzz words when I left January 2.

We're not going into the jurisdictions looking to fight crime. We're going into jurisdictions to live our lives, go to the dry cleaners and pick up our laundry and go home. But if we are confronted with an armed combatant or the dry cleaner is being robbed when I get there, as a trained professional, I want the ability to be able to save the dry cleaner's life or my life.

Mr. CHABOT. Thank you very much.

Mr. Chairman, I note that the yellow light is already illuminated, so rather than ask another question, I'll yield back the balance of my time. Thank you.

Mr. COBLE. The gentleman from Virginia is recognized for 5 minutes—the other gentleman from Virginia.

Mr. GOODLATTE. Yes, it's working, it's just the light burned out. Your questions were so intense, the light burned out. [Laughter.]

I guess in response to this question about whether or not people should be worried about liability in other States, I'd say that people enter States by the millions every day in which they may be unfamiliar with a whole host of laws that might impose liability on them, whether that is for driving a motor vehicle or obeying laws relating to any kind of criminal activity, regarding any types of behavior that the States may have differing laws on.

I wonder if each one of you would respond to that concern. Is there—we'll start with you, Mr. Canterbury. Is there a reason to draw a distinction between this constitutionally protected right and other types of behavior? We're going to exclude the guns from these States. We're certainly not going to pass laws or allow States to pass laws excluding the people from entering the other States and I wonder why we should make that distinction in the case of firearms for legally trained, professionally trained law enforcement officers.

Mr. CANTERBURY. I don't think there should be a distinction. When I enter the State, the Commonwealth of Virginia, if I was inclined to speed, my speed detector on my dash, or radar detector on my dash would be illegal. It would be a liability if I had one, and I don't know how many people stop at the State line and put

them in the trunk. But it's the same thing, in our opinion—and I agree with you that any jurisdiction, the neighboring city that for me has laws that I'm not familiar with, but I'm allowed to carry in that jurisdiction. I just do not believe that that liability question is any greater than any other liability with any other product that we would have.

Mr. GOODLATTE. Superintendent Ruecker?

Mr. RUECKER. Thank you. I would tend to agree with you except that in the unique circumstance here, a firearm in the possession of a police officer and when used as deadly physical force is just for one purpose. You don't draw that weapon for any other reason than to shoot somebody. So the consequences are much greater for this particular type of circumstance than for other types of regulation. No one would support the notion of——

Mr. GOODLATTE. But aren't the consequences equally as severe when that officer is present in that State and faces a situation in which deadly force might be necessary, or at least removing the revolver to attempt to deter somebody from using deadly force themselves or to stop a crime for occurring? Isn't the risk just as great on the other side? Don't we take that risk every day with every police officer in every community in the country?

Mr. RUECKER. Yes, we do. However——

Mr. GOODLATTE. And for good reason.

Mr. RUECKER [continuing]. Persons out of their jurisdiction, far out—the problem associated with this is that that officer is only going to have one tool available to them, no communications, no other resources, maybe not even an ability to be recognized by other officers that he or she is a police officer, and that is what worries me. I think that there are a lot of things about this bill that would not be problematic and the IACP does not want to be perceived as saying otherwise. There are many points on which we would agree.

But I and we are very concerned about the unintended negative consequences that could come from this. It's almost a certainty that some police officer or somebody and their family is going to get killed as a result of the passage of this bill as not. Certainly——

Mr. GOODLATTE. But don't you think that there are going to be plenty of other people—I would argue there would be far more people whose lives would be saved, including perhaps some police officers, because they are able to have this weapon with them because they've been trained to use that weapon and that's the very purpose for which they carry the weapon, is to protect themselves and the lives of others.

That being the case, and I certainly understand that there are different rules and different protocols and additional risks attached, but I would think they would be far outweighed by the benefit of having effectively additional law enforcement presence in areas where crimes might take place.

Mr. RUECKER. Yes, sir. My final comment would be that it's not about the main—to me, it's the scope. It's, you know, without restriction, all retirees. I don't have in my State the ability to sort of decertify somebody that's retired and maybe they haven't been a police officer for 30 years. They no longer know the law. I mean, certainly they know how they were trained in the core of their du-

ties, but things change over time. People's health deteriorates. I'm not going to have any ability to limit that. If they can show up at the range and qualify, they're going to be good to go for the rest of their life. Is that the best policy? I'm not sure.

Mr. GOODLATTE. Thank you, Superintendent. My time is expired, Mr. Chairman. I don't know if you want to allow the other two witnesses to answer the question or not, but——

Mr. COBLE. That would be fine. Go ahead.

Mr. GOODLATTE. Mr. Johnson?

Mr. JOHNSON. Yes, sir. Thank you. Regarding the Second Amendment concern that some folks might have, our view is——

Mr. COBLE. Mr. Johnson, if you would suspend. What was your question, Bob?

Mr. GOODLATTE. It was rather lengthy, but the question was why we should be concerned about this particular potential liability when people enter other States by the millions every day——

Mr. COBLE. Okay.

Mr. GOODLATTE [continuing]. And have all kinds of different liabilities that they may not be aware of when they enter those States——

Mr. COBLE. You may continue, Mr. Johnson.

Mr. GOODLATTE [continuing]. And wouldn't the benefit of having an additional law enforcement officer present outweigh the additional risk which certainly would be attendant to somebody who didn't know all the rules.

Mr. COBLE. I just didn't hear the question. Go ahead, Mr. Johnson.

Mr. JOHNSON. Yes, sir. Thank you, Mr. Chairman. I think that the Congress would be extending, protecting the right that is included in the Second Amendment to a particularly well-qualified group of individuals.

Regarding the various patchwork of laws and potential liability across—that exists today across the United States, our view is that H.R. 218 helps solve that problem because it creates a unified Federal rule that clearly defines who may carry legally across the United States. We're actually helping to solve this problem of liability and patchwork application of laws that exists today by creating and allowing well-qualified individuals who are already authorized by their own agencies to carry a firearm to do so nationally.

Just one final point. In 19—it was either 1988 or 1989 when the State of Florida enacted legislation that allowed private citizens to carry a concealed firearm. There were predictions that this would be the Old West. People would have six-guns on their hip. There would be shootouts in the streets of Miami. It didn't happen. The type of people, like law enforcement officers, who play by the rules, who are well qualified, who undergo rigorous background checks, criminal checks, psychological stability checks, retraining every year, these are the type of people that we want out there, that we already trust to use good judgment in carrying a weapon, and we would all benefit as well as the officers themselves would benefit from this additional protection for the public.

Mr. GOODLATTE. Thank you.

Mr. COBLE. The gentleman's time has expired. The gentleman—oh, Mr. Eisenberg, do you want to respond to that?

Mr. EISENBERG. Only very quickly. I think as the legislation is written, police officers are put in harm's way. In response to your question, a gun is different. Its consequences are greater than just about anything else I can think of in terms of the situations we're talking about, and if the law enforcement officers——

Mr. GOODLATTE. Mr. Eisenberg, far more people are killed every year with automobiles than with guns.

Mr. EISENBERG. I understand, but we're talking here about something where somebody does something intentionally.

Mr. GOODLATTE. Sometimes they do them intentionally with automobiles.

Mr. EISENBERG. Well, okay. People——

Mr. GOODLATTE. And there's a great debate over whether somebody who enters an automobile under the influence of various things are doing their act intentionally, but——

Mr. EISENBERG. In this circumstance, a police officer is acting as if he or she were on duty. They are taking a step in a jurisdiction that they do not know well, with the procedures that they do not know well—there are certain procedures when you can draw your weapon, when you can fire that weapon, and under what circumstances. These are things that put these people in jeopardy if not appropriately addressed, not just legal, not just liability at being sued. If somebody gets sued and they have to pay the judgment, it can cost them quite a bit for the rest of their lives.

In other cases, it's a legal liability. If you do something that that law says you cannot do in a State and you don't know about it and you pull that trigger, now you're dealing with misdemeanor or felony and it's a tragedy for all concerned.

I just ask, think about this and how to fix the problem. I'm not saying not to do something, I'm saying think about those liabilities and how you will fix that problem——

Mr. COBLE. The gentleman's time has expired.

The gentleman from Wisconsin is recognized for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman.

Superintendent Ruecker, and I apologize for being out of the room for much of the time, but I heard your testimony. I think you said that you think with the passage of this legislation, it is just as likely that a law enforcement officer or his family would be wounded as if a crime were to be thwarted or a criminal were to be apprehended. Could you explain that, because I'm not sure I quite follow that.

Mr. RUECKER. Yes, sir. Certainly statistically, that would be a lower number of incidents. But what I'm saying is having police officers carrying firearms outside their jurisdiction and concealed, as the bill would allow, would most certainly produce some outcomes. But just as certainly, it would—there's almost a certainty that there would be accidents that wouldn't happen because you just have firearms around in a place where a person is maybe not have their usual places of storage, care, and retention and all that. You're in a hotel room someplace on vacation. You've got a firearm. You wouldn't otherwise have it with you.

I'd just say that—or in some circumstance out on the street, somebody is going to be mistaken for a bad guy when they're a good guy or a good gal and someone's going to get in a situation that is going to go badly because people don't know who's who.

Mr. GREEN. But that latter point is an argument against all concealed carry laws around the nation, not this legislation, correct? I mean, do you really think that suddenly allowing law enforcement officers going from one State to another to have concealed carry, that suddenly the public is going to be so alerted to this that they're going to wonder if every single person walking down the street might be packing? I mean, I——

Mr. RUECKER. No, sir.

Mr. GREEN. Right. I didn't think so.

Let me ask this question of Mr. Johnson. Superintendent Ruecker's testimony, he seemed to be raising the issue of whether retired law enforcement would be keeping their skills and their training over the years. I think I heard you testify earlier that in order for a retired officer to be using concealed carry that they'd have to be in good standing. Could you tell me what exactly that means and what sort of training, what sort of practice they have to maintain?

Mr. JOHNSON. Yes, sir. And I was referring to proposed section 926(c), subsection (c)(5), talking about retired law enforcement officers. Among other qualifications, one of the qualifications they have to have is that, quote, "during the most recent 12-month period, that that officer has met, at the expense of the individual, the State standards for training and qualification for active law enforcement officers to carry firearms."

Mr. GREEN. So this isn't a case where someone is suddenly, you know, 10 years after retiring or walking away from the force, they've received no training, no practice, they haven't had to think about this or follow good practices that they're carrying a weapon. We're talking about someone who has had to have at least taken the active steps of—at his or her own cost—maintained his good standing——

Mr. JOHNSON. Yes, sir, and has actually demonstrated that to the satisfaction of the agency, that they are still able to correctly and safely and accurately handle their firearm.

Mr. GREEN. Okay, good. Mr. Chairman, I have no more questions.

Mr. COBLE. I thank the gentleman.

Folks, we're about ready to go into a markup. Let me visit with my friend from the land of the palmetto, my neighbor to the South. Mr. Canterbury, this will be a friendly question because I'm a cosponsor of the bill, but let me play devil's advocate with you for a minute. In your testimony, I believe you said that the great majority of the States permit officers to carry concealed weapons back and forth. An opponent of this bill would say to you, well, why do we need H.R. 218 then? How would you respond to that?

Mr. CANTERBURY. That would be in their own jurisdictions or in their own State. For instance, in South Carolina, I can carry anywhere in my State. But when I cross over into Brunswick County, I would be in violation of North Carolina law.

Mr. COBLE. I got you. Okay. Thank you, sir.

Gentlemen, we appreciate very much you all being here. I thank you for your testimony. The Subcommittee appreciates this contribution.

This concludes the legislative hearing on H.R. 218.

[Pause.]

Mr. COBLE. This concludes the legislative hearing on H.R. 218, the Law Enforcement Officers Safety Act of 2003. The record will remain open for 1 week, and we will now move on to markup of H.R. 218. We stand adjourned, and you gentlemen are excused. Thank you again for your attendance.

Just be at ease for a few minutes. We'll rearrange the room for the markup.

[Whereupon, at 3:35 p.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND RANKING MEMBER, SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

I would like to thank Chairman Coble and Ranking Member Scott for their efforts in holding today's legislative hearing and markup of H.R. 218, the Law Enforcement Officers Safety Act of 2003, sponsored by Mr. Cunningham of California. This legislation, that proposes to allow qualified off-duty and retired law enforcement officers to carry concealed weapons in any jurisdiction, can have many beneficial effects in our efforts to curtail crime in our communities.

In February, I had the opportunity to meet with several members of the Texas Fraternal Order of Police and the Houston Police Patrolmen's Union to talk about the pro's and con's of this bill. Because they made such a compelling case as to the benefits that it would bring to our crime reduction effort, I requested to become a co-sponsor.

H.R. 218 has 296 cosponsors and is strongly supported by the Law Enforcement Alliance of America, the Fraternal Order of Police, the National Troopers Coalition, the National Association of Police Organizations, the International Brotherhood of Police Officers, and many others. In most cases, H.R. 218 is their #1 legislative priority.

The officers who visited me discussed the fact that this legislation promises to bring an immediate, no-cost benefit to communities by simply allowing trustworthy officers to carry a concealed firearm full-time. Furthermore, they added that the life-saving benefits extend to the officers as well. Unlike officers, criminals are "on duty" around the clock. Many have knowingly targeted police officers and their families, recognizing that the officer was likely to be unarmed at home.

These advocates cited several individual cases that evidence the need for the Law Enforcement Officers Safety Act:

* Only on the force one year, a quick-thinking off-duty deputy sheriff picking relatives up at a bus terminal killed an armed suspect near Orlando, Fla., this past July. After seeing the subject shoot at another person outside the bus station, the plainclothes deputy confronted the shooter who then turned his gun on the officer. Finding himself in a life-threatening situation, the deputy fired his gun, fatally wounding the man.

* A retired officer in Long Island, N.Y., was at the right place at the right time when a man in a black hood decided to rob a bank in August. The robber waved around a realistic-looking toy gun and ordered the midday customers to lie on the floor. The retired officer followed the robber as he fled to a nearby gas station, and then attempted to apprehend him. Suddenly, the gunman turned his weapon on the officer. Left with no other option, the ex-officer shot the robber who then fled in a vehicle and crashed into a tree about 100 yards away; he did not survive.

* An off-duty police sergeant was beaten by a Brooklyn teen armed with a hammer shortly after midnight this past summer. The sergeant, who had just used an ATM, refused to hand his money over when the thug decided to use force. Fortunately, the 13-year police veteran was able to defend himself and shot his attacker in the thigh. The sergeant was later treated at a local hospital and needed several stitches to close a wound to the head.

* A Staten Island robber was fatally shot in the chest last year by an off-duty New Jersey officer. Three thugs reportedly try to rob the officer as he walked with a friend down the street shortly after 3 a.m. The officer says he felt a gun in his back as the robbers demanded money; then the officer spun around and responded with deadly force; the other two suspects fled.

I reiterate that I generally support the spirit of this legislation; however, I do have an inquiry that would clarify its scope and identify a potentially problematic provision.

I would like to clarify to whom liability would be assigned in the event that a "qualified law enforcement officer" or a "qualified *retired* law enforcement officer" acts outside the scope of his/her duty and commits an act of negligence in the course of enforcing the law.

Subsection (d) of Section 1(page 3), line 20 requires that the identification carried by the officer be that which was issued by the government agency "for which the individual is, *or was*, employed as a law enforcement officer." The "was" language implies (1) that the officer could have been terminated for an infraction of low moral turpitude; (2) that the identification required can be expired; (3) or that the officer is not required to still be employed by the issuing agency to exercise the right to carry and use concealed firearms. As such, liability for the actions of the officer would not clearly be assigned to the government agency. This ambiguity will cause litigation and could preclude the victim of an accidental or mistaken shooting from recovering damages for negligence or wrongful death.

I would hope that my colleagues will clarify this area of ambiguity so that there can be strong support from as many Members as possible. In crafting legislation to empower individuals to fight crime, we must be very careful not to infringe the rights to remedy or any other civil rights of the general public. Furthermore, we must ensure that the most qualified individuals obtain this legal privilege.

I thank my colleague for his hard work in drafting this bill, and I thank the Chairman and Ranking Member for having held this meeting.

LETTER FROM WILLIAM J. JOHNSON, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS

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WILLIAM J. JOHNSON
Executive Director

June 15, 2004

The Honorable F. James Sensenbrenner, Jr.
Chairman, House Judiciary Committee
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On June 16, 2004, the House Judiciary Committee will mark up H.R. 218, the "Law Enforcement Officers Safety Act." On behalf of NAPO's 236,000 rank-and-file police officers from across the United States, I request your favorable acceptance of this important bill, without amendment. If enacted, H.R. 218 will rightly allow off duty and retired police officers to carry their firearms for the protection of themselves, their families and our nation's communities.

As NAPO stated in its testimony before the House Subcommittee on Crime hearing held earlier today, H.R. 218 will protect officers, who by nature of their job, are constantly held in the crosshairs of crime. Officers arrest felons or crack cases every day yet when off duty or traveling on vacation, officers are left unprotected from the constant threat of retribution. There is no off-duty for those who target police officers and their families. For the public, H.R. 218 will mean additional protection for our communities as officers bring their experience and expertise to situations in which they might have previously been unable to act.

Amendments may be offered concerning firearm training and use standards but each state already has state-wide standards with which all officers, regardless of locality size, must comply. Amendments regarding being under the influence during an incident may be offered but these are already properly addressed in current law. Amendments concerning what firearms can be carried may be offered but H.R. 218 already adequately addresses this concern. Finally, some want to afford the opportunity to "opt out" but this would simply create the same patchwork of coverage and lack of protection that exists today.

The last act an officer wants to do, on or off duty, is to be forced to use his or her firearm, yet threats do exist. We hope that you will support H.R. 218 as written and ensure this important public safety bill for law enforcement officers, their families and our nation.

Sincerely,

William J. Johnson
Executive Director

The National Association of Police Organizations (NAPO) *is a coalition of police unions and associations from across the United States that serves to advance the interests of America's law enforcement through legislative and legal advocacy, political action and education. Founded in 1978, NAPO now represents more than 4,000 police unions and associations, 220,000 sworn law enforcement officers, 11,000 retired officers and more than 100,000 citizens who share a common dedication to fair and effective crime control and law enforcement.*

MEMORANDUM, "H.R. 218/S. 253, THE CALL OF DUTY" FROM THE GRAND LODGE, FRATERNAL ORDER OF POLICE

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JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

H.R. 218/S. 253: The Call of Duty

Law enforcement officers are a dedicated and trained body of men and women, who, unlike other professionals, are rarely "off-duty." As first responders, police officers are sworn to answer the call of duty wherever and whenever there is a threat to the peace or to public safety. Given their unique role in helping to secure the homeland while still protecting the peace and fighting crime, the passage of H.R. 218/S. 253 has become more than just a critical officer safety issue—it is now a critical public safety and homeland security issue.

The fifty-eight (58) officers listed below appear on the Wall of Remembrance in Judiciary Square because they were killed in the line of duty. But, unlike most officers on the Wall, these officers were not "on-duty" when they were killed. Yet even though they were not on the clock, the circumstances of their death qualified them as having died "in the line of duty." Why were those deaths considered line of duty? Because in each instance, the officers below were responding to a public safety emergency or were targetted and killed because they were a professional law enforcement officer.

None of the men and women listed below were on the clock and, to the best of our knowledge, none were armed when they answered the call of duty and paid the ultimate price. If they had been armed, would they have lived? More than one hundred armed and uniformed officers die in the line of duty each year. But one thing is certain: even one life saved demonstrates the need for this legislation.

Detective Thomas G. Newman, a twelve-year veteran of the Baltimore City Police Department in Maryland had been shot and wounded while off-duty in 2001. He testified against his assailant, who was sentenced to thirty years in prison. On 23 November 2002, Detective Newman was shot to death by three suspects, friends and relatives of the criminal that Detective Newman had sent to jail, in an act of criminal retaliation.

Police Officer Joseph Jerome Daniels, a ten-year veteran of the Birmingham Police Department in Alabama was shot and killed on 11 November 2002. The officer was eating his dinner at a local restaurant when a man entered, announced that he was robbing the establishment and ordered everyone on the floor. Officer Daniels immediately took action and was shot several times in a struggle with the robber. He died of his injuries on the scene.

Deputy Sheriff Damacio S. Montano, a three-year veteran of the Valencia County Sheriff's Office, was with his brother, State Patrolman Eric Montano, at a restaurant on 6 October 2002. They assisted the owner of the restaurant in breaking up a fight and escorted two suspects outside. An unknown gunman opened fire on the officers, wounding his brother and killing him.

Detective Jaime Betancourt, a nine-year veteran of the New York City Police Department, was knifed to death on 31 May 2002 while attempting to make an off-duty arrest. The man was attempting to force entry into a woman's home when Detective Betancourt attempted to make an arrest. The attacker drew a knife and stabbed the officer to death.

Detective Donald Miller, a ten-year veteran with the New Bern Police Department in North Carolina was off-duty on 23 December 2001. He and his wife had just completed a visit to their newborn child in the hospital when the detective observed a man driving recklessly through the hospital parking lot. He confronted the man, who drew a handgun and fired—striking Miller in the head. Detective Miller, father of two, died two days later on Christmas Day.

Detective Kevin Darrell Rice, Sr. was off-duty on the evening of 3 August 2001 when he approached two suspicious men loitering near the construction site of his new home. The fourteen-year veteran of the Rockford, Illinois Police Department was shot and killed by the men he confronted.

Officer Dominick J. Infantes, Jr., a seven-year veteran with the New Jersey City Police Department, was attacked by two men wielding a pipe on 4 July 2001.

He died two days later from severe head injuries. Infantes was off-duty when he asked two men to stop setting off fireworks near playing children. He identified himself as a police officer, *but the two killers did not believe him because Infantes did not have a gun.*

Officer Jose Torres-Rodriguez, a five-year veteran with the Puerto Rico Police Department, was killed on 11 March 2001. He was off-duty when he arrived at a local restaurant. A couple there was having a violent argument, so he identified himself as a police officer and offered his assistance. The male suspect drew a handgun, fired, and killed the officer.

Correctional Officer Leslie John Besci, a sixteen-year veteran with the North Carolina Department of Corrections was beaten to death with a baseball bat in an unprovoked attack. The officer had just returned from work when he was attacked by two former inmates of the prison where he worked.

Corrections Officer Anthony L. Brown, a seven-year veteran of the Nassau County Sheriff's Department in New York, broke up a fight between a man and his girlfriend while off-duty. The man returned later and shot and killed the officer.

Officer Robert Buitrago of the Winston-Salem Police Department in North Carolina, observed a robbery in progress while off-duty. He was shot and killed in an attempt to apprehend the suspect.

Officer Ernesto Caballero-Vega, a three-year veteran with the Puerto Rico Police Department, was off-duty and travelling with his father when he witnessed an attempted car-jacking. He approached the criminal and identified himself as a police officer. The suspect shot the officer and his father to death.

Officer Glanville Christopher-Figueroa of the Puerto Rico Police Department was shot and killed while attempting to stop a robbery in progress. He was off-duty.

Auxiliary Officer Milton S. Clarke, a three-year veteran of the New York City Police Department was off-duty when he went to investigate gun shots from outside his home. After he identified himself as a police officer, he was shot and killed.

Officer Ralph Dols, a three-year veteran of the New York City Police Department was off-duty when he was ambushed in front of his home. He was attacked by three men, who shot him a total of six times. The investigation into the officer's murder suggest that the killing was in retaliation for the officer's identification of suspects in a robbery who may have had some connection to organized crime.

Officer Carlos J. Diaz-Martinez of the Puerto Rico police department was off-duty when he walked into a barber shop where a robbery was in progress. He was shot and killed when he tried to take action.

Deputy Antranik Geuvjehizian, a seven-year veteran with the Los Angeles County Sheriff's Department was investigating a suspicious person lurking around a neighbor's house while at home and off-duty. He was shot and killed after confronting the suspect and identifying himself as a law enforcement officer.

Detective Charles Edward Harris, a twenty-year veteran with the Southern Pines Police Department in North Carolina was at home and off-duty when drug suspects rang his doorbell. The suspects targeted the officer after he attended a "crime watch" meeting at an apartment complex. The officer was shot and killed, and his wife, home at the time, was also shot.

Officer Jose Ramon Hernandez-Rodriguez, a six-year veteran with the Puerto Rico Police Department was shot and killed while attempting to prevent the robbery of himself and his family. Though off-duty and out of uniform, one of the suspects recognized him as a police officer and then shot him.

Officer Clayton Wayne Hicks, Jr., a two-year veteran of the Memphis, Tennessee Police Department, was killed on 14 November 2000. It was his day off and he attended a party thrown by a friend. He was confronted there by a suspect whom he had arrested earlier on a domestic violence charge. The suspect shot Officer Hicks twice with an AK-47 assault rifle, killing him.

Deputy Clarence Hill IV, a three-year veteran with the Harris County Sheriff's Department in Texas was off-duty on 19 June 2000, when he witnessed a shooting. He followed the suspects when they fled in their vehicle. When they stopped, he approached their car and identified himself as a police officer. The suspects seized his arm and dragged Deputy Hill along the pavement. A second car, driven by friends of the shooting suspects, intentionally struck and killed him.

Officer Milagros T. Johnson, a two-year veteran of the New York City Police Department was the victim of an armed robbery while off-duty. She identified herself as a police officer and was shot and killed by the suspects.

Officer Robert L. Johnson, Jr., a police officer with Metropolitan Police Department in Washington, D.C. was off-duty and with another off-duty officer when he was involved in a parking dispute with a paroled offender. The pair identified themselves as police officers and the offender vowed to come back. He did—shooting and killing Officer Johnson and wounding the other officer.

Detective Edward Stefan Kislo, an eighteen-year veteran with the Los Angeles Police Department, was off-duty when he confronted a prowler in a neighbor's yard. The suspect shot and killed him.

Senior Corporal Richard A. Lawrence was a twenty-two year veteran with the Dallas Police Department in Texas. He was off-duty when he was warned of two suspects lurking in the bushes near a parked car. He went to investigate and was ambushed and killed by the two suspects, who were attempting to steal the car.

Sergeant Keith R. Levine, a six-year veteran of the New York City Police Department was off- duty when he observed a suspect robbing a man at an automatic teller machine. He was shot and killed by the suspect.

Sergeant Rudy Lopes was shot and killed on 11 October 2000. Sergeant Lopes, a fifteen-year veteran with the Bexar County Sheriff's Department in Texas was off-duty when he was robbed by two killers, who took his wallet and truck, bound his hands and, discovering he was a law enforcement officer, shot him in the head and left him in an abandoned building, where he was discovered the next day.

Patrolman Michael D. Love, a five-year veteran of the Rochester Police Department in Pennsylvania, was off-duty when the woman he was dancing with at a club was shot. The officer tried to act and was shot and killed by the woman's assailants.

Officer Alejo Maldonano-Serrano, a ten-year veteran of the Puerto Rico Police Department was off-duty when he was attacked by an individual whom he had arrested several months earlier. The officer was killed in this act of revenge.

Detective Donald James Manning, a six-year veteran of the Fort Worth Police Department in Texas, was shot and killed by one of four suspects while off-duty in an unprovoked attack following a robbery.

Officer Angel Luis Marquez-Rivera of the Puerto Rico Police Department was off-duty and out of uniform when suspects, identifying him as a police officer, shot and killed him during a robbery attempt.

Officer Johnny L. Martin, a four-year veteran with the Chicago Police Department in Illinois, was off-duty when he observed a suspicious person tampering with some cars. The suspect, once observed, shot and killed the officer.

Officer Shynelle Marie Mason, a two-year veteran with the Detroit, Michigan Police Department, was shot and killed on 14 July 2000 by a man she had previously arrested for carrying a concealed weapon. She encountered the man while off-duty; he confronted her and shot her several times in the chest.

Officer Todd Merriwether, a one-year veteran with the St. Louis Police Department in Missouri, was off-duty when an individual attempted to rob him. After identifying himself as a police officer, the suspect shot and killed him.

Correctional Officer Andre Motley in Essex County, New Jersey, was off-duty and on his way home when he stopped to break up a fight in his neighborhood. He was shot and killed by one of the brawlers.

Sheriff Ben P. Murray of Dimmit County, Texas, had been a law enforcement officer for twenty years. He was shot and killed in his home while off-duty by suspects with a vendetta against him.

Patrolman James M. O'Connor was a two year veteran with the Chicago Police Department in Illinois. While off-duty, he witnessed a robbery and pursued the fleeing suspects. They shot and killed the officer.

Police Agent Santos Febus Ocasio, a fifteen-year veteran with the Puerto Rico Police Department was attacked, shot and killed while off-duty because he was working on antinarcotics activities in the department.

Officer Carmelo Ortiz-Rivera was off-duty when he was shot and killed in front of his home by drug suspects. The officer was doing undercover drug work and expected to testify in court against the suspects who shot him.

Sergeant Tomas Pantojas de Jesus, a 25-year veteran of the Puerto Rico Police Department was off-duty and at a gas station when a robbery occurred. He was shot and killed attempting to stop the suspects.

Investigator Ricky J. Parsian was an eight-year veteran with the New York State Police. While off-duty, the officer was shot and killed attempting to stop a robbery in-progress.

Agent Lawrence B. Pierce, a 15-year veteran with the Border Patrol, attempted to subdue a suspect who had, within the sight of the officer, fatally stabbed another man. When Agent Pierce identified himself as a law enforcement officer, the suspected attacked and killed Pierce.

Officer Louis Anthony Pompei was shopping off-duty when he witnessed a robbery in progress. The seven-year veteran of the Glendora, California Police Department, was shot and killed while attempting to stop the robbery.

Officer Robert Porter, a seven-year veteran with the Philadelphia Police Department, was killed in an ambush. While dropping off an item at a local tavern, his partner was confronted by several bar patrons whom he had previously arrested.

The two officers left the tavern when the argument was settled and drove away. The three suspects caught up with the two partners, drove up to the passenger side and fired into the vehicle. Officer Porter, though not the intended target, was killed.

Officer Ronald Levert Richardson served nine years with the Washington, D.C. Department of Corrections. He was shot and killed outside his home by suspects seeking to prevent him from testifying at a drug trial.

Officer Armando Rosario, an Auxiliary Officer with the New York City Police Department, interrupted a robbery in progress. He was shot and killed when he moved to thwart the robbers.

Officer Carlos William Sepulveda-Caraballo, a three-year veteran with the Puerto Rico Police Department, attempted to intervene in a heated and escalating argument. He was shot and killed after identifying himself as a law enforcement officer.

Officer Hilario Serrano, a six-year veteran with the New York City Police Department, attempted to stop a robbery in progress. He was shot and killed by the armed robbers.

Officer Benjamin Louis Short, a seven-year veteran with the Police Department in Detroit, Michigan, was off-duty at a local bar when a fight broke out. He intervened after one of the brawlers drew a handgun, and was shot and killed by that suspect.

Officer Oliver Wendell Smith, Jr., of the Metropolitan Police Department in Washington, D.C. was off-duty when he was robbed at gunpoint. Upon discovering the victim was a police officer, the robbers shot and killed him.

Officer Deadrick Taylor, a nine-year veteran with the Sheriff's Department in Shelby County, Tennessee, was killed in an ambush. Four men, reportedly gang members directed by an inmate in the county jail where Taylor worked, attacked and killed the officer just outside his home following his shift. The men shot Officer Taylor repeatedly with an handgun and an AK-47 assault rifle.

Officer Rudolph P. Thomas, Jr., a two-year veteran with the New York City Housing Authority Police, was shot and killed during a robbery attempt.

Officer Charles Kirksey Todd, a three-year veteran of the Police Department in Mayfield, Kentucky was attending a wedding off-duty when one guest attacked another with a knife. The officer was fatally stabbed trying to subdue the attacker.

Officer Joey Tremayne Vincent, a six-year veteran with the Greenville Kentucky Police Department, was killed on 27 June 1999. His mentally-ill cousin, Terry Wedding, had been involuntarily committed to a mental hospital by the family. Officer Vincent's parents asked him to accompany them while he was off-duty because they felt they might need a police officer and believed that Terry would feel better if he were with family. The trip turned into a massacre—Terry Wedding shot and killed Officer Vincent, his wife and parents.

Officer Ernest Andrew Whitten, a twelve-ear veteran of the Albertville Police Department in Alabama, was shot and killed in his home because of a case he had made against the suspect.

Corporal Amos Williams, a five-year veteran with the District of Columbia Department of Corrections, was confronted by two assailants while off-duty. He was shot once and while the criminals were patting him down for his wallet, they discovered his badge. They subsequently shot him once in the back of the head, killing him.

Officer Thomas Bentley Worley, a Safety Police Officer in Los Angeles County, was shot and killed during a robbery in progress. The off-duty officer attempted to keep the suspect from leaving the scene when he was killed.

Deputy Sheriff Shayne Daniel York, a Deputy Sheriff in Los Angeles County, was off-duty and unarmed at a hair salon when it was robbed by armed men. After seeing York's badge, the robbers shot him in the back of the head—execution style.

Law enforcement is a dangerous profession; there is no legislation, act of Congress or government regulation which will change this sobering fact. However, the passage of H.R. 218/S. 253 is one of the most important ways to increase the level of personal safety for police officers and their ability to respond to public safety emergencies.

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