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ONE HUNDRED EIGHTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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WASHINGTON, DC 20515-6216

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<http://www.house.gov/judiciary>

June 23, 2004

William Johnson
Executive Director
National Association of Police Organizations, Inc.
750 First Street, N.E.
Suite 920
Washington, DC 20002-4241

Dear Mr. Johnson:

On behalf of the Committee on the Judiciary's Subcommittee on Crime, Terrorism, and Homeland Security, I want to express our sincere appreciation for your participation in the June 15, 2004 hearing concerning H.R. 218, the "Law Enforcement Officers Safety Act of 2003." Your testimony was informative and will assist us in future deliberations on the important issues addressed during the hearing.

I am enclosing a **verbatim** transcript of the hearing for your review. The Committee's Rule III (e) pertaining to the printing of transcripts is as follows:

The transcripts...shall be published in verbatim form, with the material requested for the record...as appropriate. Any requests... to correct any errors, other than errors in the transcription, or disputed errors in the transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted.

Please have your transcript edits to the Subcommittee by *July 6, 2004*. Please send them to the Subcommittee on Crime, Terrorism, and Homeland Security, Attention: Emily Newton, 207 Cannon House Office Building, Washington, DC 20515. If you have any further questions or concerns, please contact Emily Newton at (202) 225-2421.

Thank you again for your testimony.

Sincerely,



Howard Coble

Chairman

Subcommittee on Crime, Terrorism, and Homeland Security

Enclosure

HC/esn

F. JAMES SENSENBRENNER, JR., Wisconsin
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Subcommittee on Crime, Terrorism, and Homeland Security

Howard Coble, Chairman

and

Robert C. "Bobby" Scott

Ranking Democratic Member

Legislative Hearing on

H.R. 218, the "Law Enforcement Officers Safety Act of 2003"

Tuesday, June 15, 2004

2141 Rayburn House Office Building

2:00 p.m.

Witness List

The Honorable Albert C. Eisenberg

Delegate

Virginia House of Delegates

Mr. William Johnson

Executive Director

National Association of Police Organizations, Inc.

Mr. Ronald Ruecker

Superintendent

International Association of Chiefs of Police

Mr. Chuck Canterbury

President

Fraternal Order of Police

STENOGRAPHIC MINUTES
Unrevised and Unedited
Not for Quotation or
Duplication

**HEARING ON H.R. 218, THE 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, D.C.

Committee Hearings

of the

U.S. HOUSE OF REPRESENTATIVES



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2 HEARING ON H.R. 218, THE LAW ENFORCEMENT

3 OFFICERS SAFETY ACT OF 2003

4 Tuesday, June 15, 2004

5 House of Representatives,

6 Subcommittee on Crime, Terrorism, and Homeland Security,

7 Committee on the Judiciary,

8 Washington, D.C.

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

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

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

26 I am a cosponsor of the bill. I am told by the chairman
27 of the full committee, Mr. Sensenbrenner, if we are able to
28 mark it up in subcommittee today, he will schedule it for a
29 markup tomorrow. So it is on a fast track.

30 But it is good to have you all with us and let me give my
31 opening statement, then I will recognize Mr. Scott, then we
32 will proceed to hear from the witnesses.

33 The Subcommittee on Crime, Terrorism, and Homeland
34 Security will conduct the first hearing on H.R. 218, the Law
35 Enforcement Officers Safety Act of 2004. This hearing
36 examines the need for active and retired State and local law

37 enforcement officers to carry concealed firearms in
38 interstate commerce without being required to obtain
39 individual permits for the State in which they are traveling
40 or residing.

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

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

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

57 Police groups in support of this legislation contend that
58 H.R. 218 will allow tens of thousands of trained law
59 enforcement officers to continually serve and protect our
60 communities regardless of jurisdiction or duty status at no
61 cost to taxpayers. Supporters also contend that this will

62 allow off-duty officers to protect themselves at all times.

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

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

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

82 [The H.R. 218 follows:]

83 ***** INSERT *****

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

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

98 In the past, we have considered this bill under the title
99 ``Community Protection Act,`` and I am not clear whether the
100 current name changes signals a change in the focus or the
101 provisions of the bill or in strategies through which to
102 promote it. The rhetoric surrounding the bill has indicated
103 that its purpose is to aid and protect the public by putting
104 tens of thousands of armed additional law enforcement
105 officers in a position to protect the public as they travel
106 from State to State and jurisdiction to jurisdiction.

107 From the name of the current bill, it appears that the
108 emphasis is now on the safety of officers as they travel.

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

113 I assume that the authorization to carry concealed
114 weapons in a State is contemplated to be in connection with
115 the incidental travel by law enforcement officers as opposed
116 to a deliberate individual or ad hoc group, arranged
117 interstate law enforcement efforts, although there does not
118 appear to be anything to prevent such efforts. I do know
119 that it is the specter of individually determined engagement
120 of law enforcement decisions by out-of-State, plainclothed,
121 untrained for the specific situation, involved in law
122 enforcement that gives police chiefs and local and State
123 governments huge concerns.

124 I have heard a number of incidences involving friendly
125 fire deaths and injuries between off-duty and undercover
126 officers of the same force who mistakenly shoot each other
127 due to not knowing who the plainclothes officer was. The
128 engagement of out-of-State officers in law enforcement
129 activities will certainly add to such unfortunate incidences.

130 I am sure that there are anecdotal incidences in which an
131 off-duty officer has saved the day in a gun battle, but from
132 a law enforcement management perspective, I expect that
133 police chiefs see unauthorized, unfamiliar, untrained for the

134 specific situation and condition out-of-State officers as
135 more of a challenge to effective law enforcement than a help.

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

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

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

158 Mr. COBLE. Without objection.

159 [The information of Mr. Scott follows:]

160 ***** SUBCOMMITTEE INSERT *****

161 Mr. COBLE. Our first witness today is the Honorable
162 Albert C. Eisenberg. Mr. Eisenberg became a delegate in the
163 Virginia House of Delegates in 2004. Prior to serving in the
164 House, Mr. Eisenberg served on the Arlington County Board and
165 was a four-time chairman of the County Board from 1984 to
166 1999. Mr. Eisenberg also worked as the Vice President for
167 Government Affairs at the Greater Washington Board of Trade.
168 He received his B.A. in history from the University of
169 Richmond and his Master's in education from the Hampton
170 Institute.

WILLIAM

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

181 Our third witness today is Mr. Ronald Ruecker. Mr.
182 Ruecker was appointed Superintendent of the Department of
183 Oregon State Police in December of 1999. Prior to this, Mr.
184 Ruecker served as Deputy Superintendent, commander of two of
185 the department's three bureaus, and was Director of the

186 Office of Professional Standards. He currently serves as the
187 Fourth Vice President of the International Association of
188 Chiefs of Police. Mr. Ruecker is a graduate of the FBI
189 National Academy and the Program for Senior Executives at the
190 John F. Kennedy School of Government of Harvard University.

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

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

211 Gentlemen, I am told that there will be a vote scheduled
212 on or about 3:00. We operate under the five-minute rule
213 here. Now, you all will not be boiled in oil if you violate
214 that, but the panel that is before you, when you see the
215 amber light appear, that is your warning that the red light
216 is imminent. And when the red light appears, you will--just
217 a moment. When the red light appears, that is your warning
218 that the five minutes have expired.

219 Gentlemen, if you all--it is the practice of the
220 subcommittee to swear in all witnesses appearing before it,
221 and if you would, please, stand and raise your right hand.

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

225 Mr. EISENBERG. I do.

226 Mr. JOHNSON. I do.

227 Mr. RUECKER. I do.

228 Mr. CANTERBURY. I do.

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

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

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

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

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

255 In general, the legislation would preempt State and local

256 | law in permitting qualified law enforcement officers, current
257 | and retired, to carry concealed weapons across State
258 | boundaries, and there are a number of provisions that guide
259 | that.

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

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

277 | The bill could significantly impact municipal liability.
278 | The chief law enforcement officer of a State or locality is
279 | responsible for the transfer of a firearm to a law
280 | enforcement officer. These agencies dictate policies and

281 procedures as well as training and tactics for handling
282 firearms, including level and type of firearm training, the
283 particular type of weapon the department uses, and so on and
284 so forth. Just because a law enforcement official knows how
285 to handle a weapon doesn't mean they know the practices,
286 laws, and protocols of the jurisdiction in which they carry
287 it. What may be okay in one State could get an officer into
288 deep trouble in another.

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

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

306 exercising police powers.

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

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

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

323 I know that in my jurisdiction, we had a situation where
324 Arlington does not have sovereign immunity in the District of
325 Columbia. An Arlington police officer chased bank robbers
326 across the District line. Criminals fired at the officer,
327 who stopped his vehicle. The robbers sped into the E Street
328 expressway, crashed into a light pole, severed the legs of an
329 Agriculture Department employee. A civil suit was brought
330 against the county on the basis of training and protocols,

331 protocol issues concerning the Arlington police officer, and
332 in the end, the county had to cough up \$5 million. As a
333 result of the judgment, we had to raise taxes three times.

334 Making the decision to permit current or retired police
335 officers to carry firearms across State and jurisdictional
336 boundaries would increase the number of firearms on the
337 street. I believe that. There is no more basic
338 responsibility or fundamental and historic State and local
339 responsibility than public safety. It has been and is
340 reserved to our constituents to determine. We know what the
341 citizens decide in one community could be different from
342 another. It's a basic right which is fundamental to our
343 system of government.

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

347 Mr. COBLE. Thank you, Mr. Eisenberg.

348 [The statement of Mr. Eisenberg follows:]

349 ***** INSERT *****

350

Mr. COBLE. Mr. Johnson?

351 STATEMENT OF WILLIAM J. JOHNSON, EXECUTIVE DIRECTOR, NATIONAL
352 ASSOCIATION OF POLICE ORGANIZATIONS

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

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

373 Now criminals, by definition, are not deterred by State
374 statutes. Criminals do not observe jurisdictional lines when

375 seeking revenge against law enforcement officers who have
376 enforced society's laws against them. What makes H.R. 218 so
377 important is that criminals do not punch a time clock. There
378 is no off-duty time for those who target police officers and
379 their families.

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

OVERSTATED

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

394 An example of this came in January of 2001 when
395 Lieutenant Luther Lutz of the Los Angeles Police Department
396 left a shopping mall while off duty. Lieutenant Lutz noticed
397 two men fighting over an object, which turned out to be a
398 gun. Immediately, the lieutenant announced himself as a
399 police officer and directly intervened. One of the men

400 wrestled the gun away from the other and a shot was fired.
401 The lieutenant, who was armed although off duty, drew his
402 weapon and fired upon the shooter, stopping him from killing
403 the victim. As it turned out, the men fighting were both
404 violent gang members, but the work of the police officer even
405 when off duty is blind to such allegiances.

406 Now, some might say that H.R. 218 might somehow encourage
407 vigilantism. This is not true. It is imperative to
408 understand that officers who are off duty have families and
409 take vacations just like you and I. They desire nothing more
410 than to enjoy their time off. Officers do not seek out
411 confrontations, but it would be tragic if officers were
412 denied the ability to respond when threats to the public
413 safety do arise. Honed by years of experience, it is rare
414 for an officer on or off duty to even discharge his or her
415 firearm. Officers utilize the knowledge gained from numerous
416 on-duty situations to achieve a non-lethal conclusion to many
417 dangerous situations.

418 We understand that in the past, areas of concern such as
419 liability and officer proficiency have also been raised.
420 H.R. 218 has been refined over time and the current bill
421 addresses these concerns. Officers will have to be in good
422 standing to carry their firearm. Retired officers will still
423 be required to pass the same rigorous and thorough State
424 firearm standards as their active peers. H.R. 218 does not

425 | infringe upon State laws restricting possession of firearms
426 | on private property, nor does it infringe on laws regarding
427 | possession of firearms on State property or government
428 | installations.

429 | We would respectfully suggest to the committee that H.R.
430 | 218 only focuses on police officers' right to carry their
431 | firearms. State and Federal law regarding self-defense and
432 | the use of force remain unaffected by this bill.

433 | Now, some may say that States should be afforded the
434 | option to opt out if they do not agree. We believe this
435 | language or such language would substantially weaken the
436 | bill. The needs of officers to protect themselves would be
437 | hindered by the same patchwork of coverage that exists today.

438 | Others might call for States to opt in, rendering the bill
439 | nothing more than a framework which the individual States
440 | could ratify if they so wish. This would produce the same
441 | results as the status quo and would not address the
442 | overarching need of a unifying Federal bill to protect all
443 | officers across all jurisdictions. Again, criminals and
444 | terrorist threats ignore by definition legal and
445 | jurisdictional limits.

446 | H.R. 218 currently enjoys strong, strong bipartisan
447 | support, as of this morning, I believe 296 cosponsors. Its
448 | Senate companion, S. 253, was accepted by the Senate
449 | Judiciary 18 to one, and the full Senate considered it as an

450 amendment to other legislation in March of this year. That
451 same language as the House bill contained was overwhelmingly
452 approved by the Senate 91 to eight.

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

457 Mr. COBLE. Thank you, Mr. Johnson.

458 [The statement of Mr. Johnson follows:]

459 ***** INSERT *****

460

Mr. COBLE. Mr. Ruecker?

461 STATEMENT OF RONALD RUECKER, SUPERINTENDENT, DEPARTMENT OF
462 OREGON STATE POLICE, AND FOURTH VICE PRESIDENT, INTERNATIONAL
463 ASSOCIATION OF CHIEFS OF POLICE

464 Mr. RUECKER. Thank you, Mr. Chairman, members of the
465 committee. I want to thank you for the opportunity to be
466 here and testify on this bill. I have written testimony
467 which I would respectfully request to be made available to
468 you and--

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

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

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

480 Within the bill, there are a number of practical issues
481 that arise, including the various disparity in firearms
482 training levels and a number of other things that differ from
483 State to State. And in my State in particular, just to
484 illustrate that there is an early opinion that even reserve

485 | police officers may be covered by this bill, which I do not
486 | think is the intention of the legislation, but that seems to
487 | be the early opinion out there.

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

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

509 | There most certainly will be circumstances when officers

510 are on vacation and traveling with their families in which
511 they are not going to be able to be recognized. Some of
512 these officers are undercover narcotics officers who by the
513 definition of their position are not recognized even in their
514 own community as being a police officer. So we send those
515 officers to some other jurisdiction where they have no power
516 of arrest, where they have no authority whatsoever than any
517 other private citizen, and we put them in a position of
518 having, perhaps having to first be identified as a police
519 officer under circumstances in which--

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

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

528 Mr. COBLE. I thank you, sir.

529 [The statement of Mr. Ruecker follows:]

530 ***** INSERT *****

531

Mr. COBLE. Mr. Canterbury?

532 | STATEMENT OF CHUCK CANTERBURY, NATIONAL PRESIDENT, GRAND
533 | LODGE, FRATERNAL ORDER OF POLICE

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

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

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

556 law enforcement officers.

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

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

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

577 Consider the case of Detective Charles Edward Harris, a
578 20-year veteran of the Southern Pines Police Department in
579 North Carolina. Detective Harris was targeted after drug
580 dealers spotted him attending a Crime Watch meeting in an

581 apartment complex. His killers waited until off duty, rang
582 the doorbell at his home, then shot and killed him. His
583 wife, who was home at the time, was also hit.

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

595 Mr. COBLE. Without objection.

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

604 The premise of this legislation is not unprecedented.
605 Congress has previously acted to force States to recognize

606 concealed carry permits issued by other States on the basis
607 of employment and the dangers inherent to the nature of that
608 employment. Congress has passed laws mandating reciprocity
609 for weapons licenses issued to armored car company crew
610 members and more recently voted overwhelmingly to exempt
611 airline pilots who volunteer to become Federal flight deck
612 officers from State and local firearm laws.

613 Mr. Chairman, if Congress can mandate that private
614 security guards and airline pilots can carry in all States, I
615 do not think it should balk in extending the same authority
616 to fully sworn, fully trained law enforcement officers
617 employed by government entities which are carefully defined
618 by the bill. Active officers must meet the qualification
619 standards established by the agency, and retired officers
620 must requalify with their firearm at their own expense every
621 12 months and meet the same standards as active officers in
622 the State in which they reside.

623 This bill is not controversial. The legislation has
624 widespread bipartisan support, and that total includes 11 of
625 the 13 members of this subcommittee, all of who cosponsored
626 this legislation.

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

630 Mr. COBLE. Thank you, Mr. Canterbury.

631 [The statement of Mr. Canterbury follows:]

632 ***** INSERT *****

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

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

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

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

654 Mr. COBLE. Mr. Johnson--thank you, Mr. Eisenberg.

655 Mr. Johnson, according to your testimony, H.R. 218
656 requires that officers must be in good standing to carry
657 their firearm and retired officers would be required to pass

658 the same firearms training as active duty officers.
659 Elaborate on this point, if you will, and explain how States
660 would verify that an officer is in good standing and current
661 on firearms qualifications.

662 Mr. JOHNSON. Yes, Mr. Chairman. From reviewing the
663 language of H.R. 218, I think there's two points. One is
664 that, addressing the States' rights issue which some
665 opponents have raised, the language of the proposed bill
666 itself indicates that it's the standards established by the
667 agency and established--the standards established by the
668 State within which the officer's employing agency is located
669 which sets the firearms standards regarding training and
670 requalification ^{WITH} ~~for~~ which that officer has to comply.

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

680 So I believe that the concern regarding both States'
681 rights is adequately addressed in the legislation and that
682 there is no Federal intrusion on States setting their own

683 qualifications, and both active and retired law enforcement
684 officers are required to maintain that qualification.

685 Mr. COBLE. Thank you, Mr. Johnson.

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

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

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

693 Mr. COBLE. Yes, in their own State.

694 Mr. RUECKER. Oh, to that, I cannot--I do not know, Mr.
695 Chairman.

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

698 Mr. RUECKER. People coming to our State.

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

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

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

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

711 Mr. COBLE. All right, sir.

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

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

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

728 But there is--the national average would be a minimum of
729 48 hours of firearms training at the basic academies in the
730 country and the average minimum score for qualification in
731 the country is 77 percentile, and that's an average across
732 the board, with the lowest being 70 percent.

733 Mr. COBLE. I thank you, sir. I see my time has expired.

734 The gentleman from Virginia?

735 Mr. SCOTT. Thank you, Mr. Chairman.

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

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

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

744 Mr. CANTERBURY. That one was within the jurisdiction.

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

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

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

755 Mr. CANTERBURY. Yes, I believe it would.

756 Mr. SCOTT. Okay. People are mentioning standards and
757 the percentages. Do any of these rural police departments or

758 sheriffs' offices have virtually no standards, no training?

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

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

768 Mr. JOHNSON. Yes, sir. However, the language of H.R.
769 218 indicates that to be a qualified law enforcement officer,
770 it has to be someone who is already authorized by their
771 agency to carry a firearm. So--

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

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

783 laws of--

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

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

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

797 Mr. SCOTT. Right.

798 Mr. JOHNSON. --that would be determined by the law of
799 the jurisdiction where the act occurred.

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

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

806 Mr. SCOTT. So if someone came out of Charles City
807 County, Virginia, a jurisdiction population 6,000, ended up

808 | in New York City where they have, obviously, much better
809 | training, they would be judged in their action or in their
810 | decision by the standard for New York City, not Charles City
811 | County where he was trained?

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

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

817 | Mr. JOHNSON. I think that any officer, any person may or
818 | may not know in a given situation who's who and that every
819 | officer in every department that I'm aware of, the officers'
820 | basic--most basic training is you don't shoot at what you
821 | think. You fire as an absolute last resort, only at what you
822 | know. That type of situation that you're talking about
823 | there--

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

828 | Mr. CANTERBURY. Congressman, I believe the answer to
829 | that would be, in a department of 40,000 people in the City
830 | of New York, they wouldn't know either. It's police
831 | training, firearms training, and I think the misnomer here is
832 | that this authorizes the officers the right to carry.

833 They're not going into other jurisdictions to work. This
834 would be a situation of last resort for the purpose of saving
835 a life. When an EMT crosses a State line, he doesn't leave
836 his CPR skills in the next city, and the standards for CPR
837 are different in every State.

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

844 Mr. COBLE. Thank you, Mr. Scott.

845 Ms. JACKSON LEE. Mr. Chairman?

846 Mr. COBLE. I believe the gentleman from Virginia--

847 Ms. JACKSON LEE. Can I just yield for a moment? I'm
848 departing from the hearing and I wanted to offer my
849 apologies, Mr. Chairman, because I'm very interested in this
850 hearing. I have a meeting with President Karzai of
851 Afghanistan starting right now and I apologize. I know
852 that's far away from the United States, but I'm very
853 interested in this issue and met with a number of individuals
854 and would like to work with you all on it and just would say
855 that if we can work through the issue of liability, I would
856 appreciate it, if we have discussions. But I'm going to beg
857 the pardon of the chairman and the ranking member and I thank

858 | you so very much for holding this hearing.

859 | Mr. COBLE. You are indeed excused.

860 | Ms. JACKSON LEE. Thank you.

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

862 | I believe the gentleman from Virginia was first in
863 | attendance, so I now recognize him for five minutes.

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

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

877 | If you have a police officer in Virginia, let's say, and
878 | he is off duty and he is in a locality that doesn't allow him
879 | to have a concealed weapon, or if he comes into D.C. at a
880 | shopping mall there, what are you doing or what can we do to
881 | protect him if he can't carry a weapon to protect himself,
882 | let's say from one of the gangs that might be coming after

883 | him or his family?

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

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

897 | Mr. CANTERBURY. Absolutely.

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

900 | Mr. COBLE. The gentleman from California, Mr. Schiff, is
901 | recognized for five minutes.

902 | Mr. SCHIFF. Mr. Chairman, I just wanted to comment
903 | briefly on the bill and then yield back the balance of my
904 | time. I appreciate the chairman and ranking member for the
905 | hearing and the markup and the opportunity to participate.
906 | The bill has a great number of cosponsors and has been long
907 | overdue to be brought up on the House floor.

908 As the measure would permit qualified current and former
909 law enforcement members to carry concealed firearms across
910 jurisdiction and respond to some of the dangers encountered
911 during police work and the reality that officers have to
912 respond to emergency situations when they're off duty, I
913 support the measure and I want to once again thank the
914 chairman and the ranking member for bringing up this piece of
915 legislation and urge my fellow colleagues to support it, as
916 well.

917 I yield back the balance of my time.

918 Mr. COBLE. I thank the gentleman.

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

921 Mr. KELLER. Well, thank you, Mr. Chairman. Just a brief
922 statement about this legislation. I think this is a very
923 common sense piece of legislation that will likely pass both
924 Houses of Congress with more than a 90 percent approval rate.

925 There are some, however, it's been suggested at this
926 hearing, and it may be offered a little bit later at the
927 markup, that say we should have some sort of opt-out
928 amendment which is being proposed in the name of States'
929 rights.

930 I certainly don't question or doubt the motives of those
931 who make that argument. You can make it with a straight
932 face. But I would just say that that argument, and if there

933 | is an amendment, would essentially gut the bill and give us
934 | the same inconsistent patchwork of coverage that exists
935 | today, and let me give you an example.

936 | If a law enforcement officer from my hometown of Orlando,
937 | Florida, decided to take his family on vacation to
938 | Washington, D.C., to see the monuments, he would have to go
939 | through six separate jurisdictions--Florida, Georgia, South
940 | Carolina, North Carolina, Virginia, D.C. How odd it would be
941 | if, as he's driving through Florida, which is legal, he gets
942 | to Georgia and they decide to opt out, now he's not allowed
943 | to have the gun in the car. Then he gets to South Carolina.
944 | That's legal. Then he gets to North Carolina. Now he's
945 | violating the law because they've opted out. Then he gets to
946 | Virginia and that's legal. Then he gets to D.C. and they've
947 | opted out. It just--it's a very inconsistent, nonsensical
948 | patchwork that really needs to be fixed.

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

956 | It just wouldn't make sense.

957 | That's why this bill is so attractive to so many people

958 | on both sides of the aisle. It's a common sense piece of
959 | legislation. Of course, if pilots are allowed to have guns,
960 | a licensed law enforcement officer should be allowed to have
961 | a gun to protect himself, his family, and the people he's
962 | around.

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

969 | Mr. Chairman, I yield back.

970 | Mr. COBLE. I thank the gentleman.

971 | I believe the gentleman from Indiana was next in line,
972 | recognized for five minutes.

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

977 | But I do respect the service represented by this panel.
978 | My father's brother was on the job in the City of Chicago for
979 | 25 years, so I have some experience in my immediate family
980 | with families that wait every day at dinner for people to
981 | come home. And I have a very soft spot in my heart for the
982 | law enforcement community and for police officers in general.

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

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

1000 Mr. CANTERBURY. As an organization, we have not taken a
1001 stand on concealed carry by citizens. The major purpose for
1002 that is that we believe that the current legislation, the
1003 reciprocity agreements that are in existence have not proven
1004 to be a problem. And so in the last number of years,
1005 probably the last eight, we have been concentrating solely on
1006 the effort of law enforcement officers to carry off duty to
1007 protect our family and fellow citizens and the organization

1008 | has actually not taken a proactive role either way--

1009 | Mr. PENCE. Okay.

1010 | Mr. CANTERBURY. --in concealed carry by citizens.

1011 | Mr. PENCE. Let me ask you one other question, if I may.

1012 | This legislation would make it legal for anyone defined as a
1013 | law enforcement officer to carry a concealed weapon in any
1014 | State. This really is an honest question for me. Does
1015 | that--I assume that term would be defined on a State-by-State
1016 | basis. Does that definition vary widely from State to State?

1017 | Mr. CANTERBURY. It does vary from State to State, but I
1018 | believe the wording of the Federal legislation provides
1019 | enough fail-safe to make sure that they have to meet the
1020 | State standards for whatever a law enforcement officer is in
1021 | that State. In the last ten to 12 years, that has been so
1022 | much more standardized than it used to be that a number of
1023 | States, and I'm sure that most of you are familiar with the
1024 | recruiting efforts in law enforcement have been very tough in
1025 | the last few years, so almost every State has developed some
1026 | sort of lateral transfer of certified police officers and
1027 | that definitely demonstrates that there has been a
1028 | heightening of the training standards. So I don't believe
1029 | that would actually be a problem.

1030 | Mr. PENCE. Would the term ``certified police officers``
1031 | be a more contemporary term of art? Would it be a more
1032 | specific term that the committee should consider in the way

1033 of--

1034 Mr. CANTERBURY. I believe the current language is
1035 sufficient, Congressman.

1036 Mr. PENCE. That response--

1037 Mr. JOHNSON. Yes, sir. I believe in the proposed
1038 Section 926(b), paragraph C does contain a definition for the
1039 term ``qualified law enforcement officer,`` which I think
1040 does address the issues that you've raised and the concerns
1041 that opponents may have regarding the bill. I think that
1042 it's broad enough to encompass those officers who are well
1043 qualified and trained. At the same time, there are
1044 sufficient safeguards to assure that people, for example, who
1045 are not allowed under Federal law to receive any firearm
1046 cannot take advantage of this as a loophole, for example.

1047 Mr. PENCE. It seems to me that the benefit of this
1048 legislation, in my judgment, has to do with this specific
1049 application of it to individuals who have worn the uniform in
1050 a way that is reflective of public service. The
1051 Superintendent had a comment.

1052 Mr. RUECKER. Yes, thank you. I think that there are in
1053 the main, in the mainstream definition of what we would all
1054 think about when we think of certified police officers,
1055 you're not likely to have a lot of problems. It's in the
1056 exceptions and in the variations from State to State on what
1057 does that mean where you're going to see someone with an

1058 extremely narrow law enforcement purpose, or an authorization
1059 at home being covered under this bill when I suspect none of
1060 the panelists here, or most of us would not, nor would the
1061 committee think that's what they had intended.

1062 Mr. PENCE. Mr. Eisenberg, please.

1063 Mr. EISENBERG. Thank you. My concern is that if you
1064 pass the bill as written, that it would place people in civil
1065 and legal jeopardy in a number of circumstances. And so I
1066 ask the committee that if you proceed with this bill, that
1067 you find ways to solve the liability problem and the civil
1068 liability problem and the problem that occurs when somebody
1069 may find themselves responding to an event that anybody,
1070 certainly a law enforcement officer, would and should respond
1071 to.

1072 But there's another liability issue here, a legal one,
1073 not just a civil one, and that is when they might end up
1074 committing a misdemeanor or even a felony because they don't
1075 know the rules, protocols, or laws of the State while they
1076 are carrying that weapon. Now, if there's some kind of
1077 reciprocity, if there's some kind of additional standards, if
1078 there's some way to protect these law enforcement officers
1079 from stepping into something they don't want to step in
1080 because they don't know, then the bill will be better.

1081 I still have problems with the bill, but please do
1082 something to deal with the civil liability and the potential

1083 | for getting into more serious trouble simply because they
1084 | respond to an incident and don't know legally what they're
1085 | getting into.

1086 | Mr. PENCE. I thank the chairman.

1087 | Mr. COBLE. I thank the gentleman.

1088 | The gentleman from Florida, Mr. Feeney, is recognized for
1089 | five minutes.

1090 | Mr. FEENEY. Thank you, Mr. Chairman and members of the
1091 | panel. One of the concerns, Mr. Canterbury, you sort of
1092 | touched on in your speech, and that is with respect to the
1093 | requirements, the qualifications and the certification
1094 | requirements for police officers to be able to carry weapons,
1095 | and the suggestion was that some local jurisdictions may have
1096 | very lax or unfortunate standards. But isn't it true in most
1097 | States that local jurisdictions use State certification
1098 | boards for their minimum standards and then they build upon
1099 | those where they deem appropriate and have, if anything,
1100 | higher requirements at their local levels than the State
1101 | tends to have?

1102 | Mr. CANTERBURY. I would say that's an accurate
1103 | statement, Congressman.

1104 | Mr. FEENEY. One of the legitimate concerns raised by Mr.
1105 | Eisenberg is the liability issue to the agency that does
1106 | the--basically grants the original certification which is
1107 | subsequently used in an outside jurisdiction, and then, of

1108 course, the potential liability to individual members of the
1109 traveling public.

1110 But isn't it true, Mr. Eisenberg, with respect to the
1111 officers that happen to carry a weapon with them, they're
1112 duty bound to know the law even though the law is so complex
1113 in the 5,000 local jurisdictions and 50 States, and then
1114 you've got the Federal Government. It is true when we travel
1115 we're all sort of bound under legal theory to know the law
1116 even though the law is unknowable in its current form.

1117 Mr. EISENBERG. But they are acting as if they are on
1118 duty when they are not legally on duty, and you end up with a
1119 potential civil liability, again, that goes both to the
1120 jurisdiction that issued the firearm to begin with and
1121 potentially to the law enforcement official who has stepped
1122 over the bounds. And then again, you've got that misdemeanor
1123 felony, this legal issue that hangs there if they respond and
1124 don't know that you can't hit somebody with a baton more than
1125 X-number of times in this State, but you can in that State.

1126 Mr. FEENEY. Well, I grant your point, but I would
1127 suggest to you there are probably local jurisdictions and
1128 maybe places in California, for example, where carrying an
1129 aerosol spray can can have you civilly liable or for a
1130 misdemeanor. So the fact of the matter is, the law has
1131 become so complex that people that do undertake to carry
1132 these weapons are going to have to engage in a very cautious

1133 manner.

1134 And with respect to the underlying agencies, I think that
1135 you also raise a legitimate concern. But other than--because
1136 these officers are not being deputized in one State to travel
1137 to another jurisdiction to fight crime. What, in fact, is
1138 happening is the only theory of liability I'm aware of that
1139 you could hold the underlying agency that certified the
1140 officer that then makes his or her own decision to travel
1141 with a weapon, the only theories I can think of are agency,
1142 and, of course, there is no agency because you have not been
1143 authorized to do anything, or the dangerous instrumentality
1144 theory that the owner of a gun or a vehicle or a lawn mower
1145 may be liable, which every State has a different standard.

1146 Mr. EISENBERG. Not to belabor this, except--I agree with
1147 you and I think your points are well taken. The only thing I
1148 would add to that is that would a law enforcement officer in
1149 another State, bound by those laws, he or she may be
1150 committing an act for which they could be sued. And all I
1151 suggest to the panel, knowing that this legislation has
1152 substantial support behind it, is to think hard and think
1153 well about how to address these particular issues.

1154 Mr. FEENEY. I think it's a good suggestion that we maybe
1155 have some time to think about. I just want to say, because I
1156 don't know whether--how far we'll get today with some of the
1157 agendas we have over in the House and other events going on,

1158 but I will tell you, I have no doubt that there are a lot of
1159 local policy officials that would like to opt out of this
1160 clause, and this is the first time I've ever lived in
1161 Washington, D.C. I know they have similar gun restriction
1162 laws as New York City. They also have some of the highest
1163 rates of violent crime traditionally.

1164 When I went to my dry cleaners today, they hand out a
1165 sheet with all of the local violent crimes that have been
1166 committed within a five-block area of my neighborhood. It
1167 looks like a nuclear black cloud. I know of places in
1168 Florida, where there are more guns than there are people, and
1169 people leave their door windows open to their car, the keys
1170 in the ignition, all the windows to their house open because
1171 they have no crime.

1172 And I would suggest to you that the most efficient tax
1173 way you can possibly protect your locality is to have an
1174 unknowable amount of current and former police officers all
1175 over the place so that every would-be criminal and every
1176 would-be terrorist has to guess who is current or former
1177 active duty and who may be armed. I think it has a great
1178 deterrent potential, and I happen to be totally in favor of
1179 the bill. Thank you for your testimony.

1180 Mr. COBLE. I thank the gentleman from Florida.

1181 The gentleman from Virginia is recognized, Mr. Goodlatte.

1182 Mr. GOODLATTE. Thank you, Mr. Chairman. If I might,

1183 I'd--

1184 Mr. COBLE. Strike that, Bob. I think I owe an apology
1185 to Mr. Chabot, the gentleman from Ohio, I think preceded you
1186 here, Mr. Goodlatte.

1187 Mr. GOODLATTE. Yes, I was hoping that--

1188 Mr. COBLE. I apologize. Mr. Chabot, you are recognized
1189 for five minutes.

1190 Mr. CHABOT. I'd be happy to yield if the gentleman would
1191 like to ask questions, but if not--okay. I just have a
1192 couple and many of the questions that I would have had have
1193 already been asked, and I apologize because I had some
1194 constituents in the back room so wasn't here the entire time,
1195 but just a couple of questions, and these, again, may have
1196 been responded to.

1197 But there was some implication in some of the questions
1198 that were asked about the standards perhaps in a community
1199 where they only have 6,000 people being inferior to, say, New
1200 York City or some other larger community. I don't believe
1201 that's necessarily the case. I think, as was mentioned,
1202 there are minimum standards in police departments all over
1203 the country. But if somebody could just address that
1204 particular issue about standards nowadays. I'm not talking
1205 50 years ago. I'm talking about the actual standards in the
1206 real world nowadays in communities all over the country,
1207 irregardless of the size of that particular community. Could

1208 somebody talk that issue, and I'd be happy to hear from
1209 anyone. Mr. Johnson?

1210 Mr. JOHNSON. Yes, sir. I worked for a small police
1211 department in Maine that maybe had eight people year-round.
1212 They'd hire extra people as needed, ^{for a community of} maybe 5,000 people. But
1213 there, even in a very small community, we were subject to
1214 very strictly enforced State guidelines and my understanding
1215 is that every single State mandates, particularly with the
1216 use of force and particularly with regard to firearms,
1217 adherence to State-level and State-enforced rules for the
1218 carrying and use of deadly force by all officers, and it was
1219 drilled into us regardless of the size we were that the
1220 number one duty we had as a law enforcement officer, the very
1221 first duty was to enforce the Constitution, and that included
1222 avoiding deadly force.

1223 Supreme Court cases that dealt with liability to officers
1224 and to their employing agencies were very carefully gone
1225 over. It was absolutely understood that it was an absolute
1226 last resort, that we had no particular license to go out and
1227 apply deadly force at will, certainly nothing of the sort.
1228 It was an ultimate and very last ditch responsibility, to be
1229 avoided if we could, but to be utilized to save our life or
1230 someone else's life if necessary.

1231 And to my knowledge--I only have personal knowledge in
1232 Virginia, Maine, and Florida--but to my knowledge, every

1233 State has a similar program of instruction for all their
1234 officers. You must be State-certified, and part of that
1235 certification is knowing and following the State rules on
1236 these very subjects.

1237 Mr. CHABOT. Okay. Any other panel member want to add
1238 something?

1239 Mr. EISENBERG. Just quickly.

1240 Mr. CHABOT. Mr. Eisenberg?

1241 Mr. EISENBERG. In the situation we've talked about, you
1242 have a police officer who is a regular citizen in somebody
1243 else's State. He or she may act in protection of someone in
1244 trouble, but it's like the difference between a law and a
1245 regulation. You violate a law, there's a certain set of
1246 penalties that are provided. But there are also penalties
1247 for violating regulations and in the broad sense we're
1248 talking about here, if the people are not aware of the
1249 protocols and the, not so much the standards but the actions
1250 that they may take, they may step over the line. That's my
1251 concern--

1252 Mr. CHABOT. Okay, thank you.

1253 Mr. EISENBERG. --as a legislator.

1254 Mr. CHABOT. Mr. Canterbury?

1255 Mr. CANTERBURY. Congressman, with all due respect to Mr.
1256 Eisenberg, this is about--this is not about liability, it's
1257 about lives. It's about police officers' lives and citizens'

1258 lives and every police officer that walks a beat, as I did
1259 for 26 years, worried about liability every day that I went
1260 to work. It was the buzz word 26 years ago. It was the buzz
1261 words when I left January 2.

1262 We're not going into the jurisdictions looking to fight
1263 crime. We're going into jurisdictions to live our lives, go
1264 to the dry cleaners and pick up our laundry and go home. But
1265 if we are confronted with an armed combatant or the dry
1266 cleaner is being robbed when I get there, as a trained
1267 professional, I want the ability to be able to save the dry
1268 cleaner's life or my life.

1269 Mr. CHABOT. Thank you very much.

1270 Mr. Chairman, I note that the yellow light is already
1271 illuminated, so rather than ask another question, I'll yield
1272 back the balance of my time. Thank you.

1273 Mr. COBLE. The gentleman from Virginia is recognized for
1274 five minutes--the other gentleman from Virginia.

1275 Mr. GOODLATTE. Yes, it's working, it's just the light
1276 burned out. Your questions were so intense, the light burned
1277 out.

1278 [Laughter.]

1279 Mr. GOODLATTE. I guess in response to this question
1280 about whether or not people should be worried about liability
1281 in other States, I'd say that people enter States by the
1282 millions every day in which they may be unfamiliar with a

1283 whole host of laws that might impose liability on them,
1284 whether that is for driving a motor vehicle or obeying laws
1285 relating to any kind of criminal activity, regarding any
1286 types of behavior that the States may have differing laws on.

1287 I wonder if each one of you would respond to that
1288 concern. Is there--we'll start with you, Mr. Canterbury. Is
1289 there a reason to draw a distinction between this
1290 constitutionally protected right and other types of behavior?

1291 We're going to exclude the guns from these States. We're
1292 certainly not going to pass laws or allow States to pass laws
1293 excluding the people from entering the other States and I
1294 wonder why we should make that distinction in the case of
1295 firearms for legally trained, professionally trained law
1296 enforcement officers.

1297 Mr. CANTERBURY. I don't think there should be a
1298 distinction. When I enter the State, the Commonwealth of
1299 Virginia, if I was inclined to speed, my speed detector on my
1300 dash, or radar detector on my dash would be illegal. It
1301 would be a liability if I had one, and I don't know how many
1302 people stop at the State line and put them in the trunk. But
1303 it's the same thing, in our opinion--and I agree with you
1304 that any jurisdiction, the neighboring city that for me has
1305 laws that I'm not familiar with, but I'm allowed to carry in
1306 that jurisdiction. I just do not believe that that liability
1307 question is any greater than any other liability with any

1308 | other product that we would have.

1309 | Mr. GOODLATTE. Superintendent Ruecker?

1310 | Mr. RUECKER. Thank you. I would tend to agree with you
1311 | except that in the unique circumstance here, a firearm in the
1312 | possession of a police officer and when used as deadly
1313 | physical force is just for one purpose. You don't draw that
1314 | weapon for any other reason than to shoot somebody. So the
1315 | consequences are much greater for this particular type of
1316 | circumstance than for other types of regulation. No one
1317 | would support the notion of--

1318 | Mr. GOODLATTE. But aren't the consequences equally as
1319 | severe when that officer is present in that State and faces a
1320 | situation in which deadly force might be necessary, or at
1321 | least removing the revolver to attempt to deter somebody from
1322 | using deadly force themselves or to stop a crime for
1323 | occurring? Isn't the risk just as great on the other side?
1324 | Don't we take that risk every day with every police officer
1325 | in every community in the country?

1326 | Mr. RUECKER. Yes, we do. However--

1327 | Mr. GOODLATTE. And for good reason.

1328 | Mr. RUECKER. --persons out of their jurisdiction, far
1329 | out--the problem associated with this is that that officer is
1330 | only going to have one tool available to them, no
1331 | communications, no other resources, maybe not even an ability
1332 | to be recognized by other officers that he or she is a police

1333 officer, and that is what worries me. I think that there are
1334 a lot of things about this bill that would not be problematic
1335 and the IACP does not want to be perceived as saying
1336 otherwise. There are many points on which we would agree.

1337 But I and we are very concerned about the unintended
1338 negative consequences that could come from this. It's almost
1339 a certainty that some police officer or somebody and their
1340 family is going to get killed as a result of the passage of
1341 this bill as not. Certainly--

1342 Mr. GOODLATTE. But don't you think that there are going
1343 to be plenty of other people--I would argue there would be
1344 far more people whose lives would be saved, including perhaps
1345 some police officers, because they are able to have this
1346 weapon with them because they've been trained to use that
1347 weapon and that's the very purpose for which they carry the
1348 weapon, is to protect themselves and the lives of others.

1349 That being the case, and I certainly understand that
1350 there are different rules and different protocols and
1351 additional risks attached, but I would think they would be
1352 far outweighed by the benefit of having effectively
1353 additional law enforcement presence in areas where crimes
1354 might take place.

1355 Mr. RUECKER. Yes, sir. My final comment would be that
1356 it's not about the main--to me, it's the scope. It's, you
1357 know, without restriction, all retirees. I don't have in my

1358 State the ability to sort of decertify somebody that's
1359 retired and maybe they haven't been a police officer for 30
1360 years. They no longer know the law. I mean, certainly they
1361 know how they were trained in the core of their duties, but
1362 things change over time. People's health deteriorates. I'm
1363 not going to have any ability to limit that. If they can
1364 show up at the range and qualify, they're going to be good to
1365 go for the rest of their life. Is that the best policy? I'm
1366 not sure.

1367 Mr. GOODLATTE. Thank you, Superintendent. My time is
1368 expired, Mr. Chairman. I don't know if you want to allow the
1369 other two witnesses to answer the question or not, but--

1370 Mr. COBLE. That would be fine. Go ahead.

1371 Mr. GOODLATTE. Mr. Johnson?

1372 Mr. JOHNSON. Yes, sir. Thank you. Regarding the Second
1373 Amendment concern that some folks might have, our view is--

1374 Mr. COBLE. Mr. Johnson, if you would suspend. What was
1375 your question, Bob?

1376 Mr. GOODLATTE. It was rather lengthy, but the question
1377 was why we should be concerned about this particular
1378 potential liability when people enter other States by the
1379 millions every day--

1380 Mr. COBLE. Okay.

1381 Mr. GOODLATTE. --and have all kinds of different
1382 liabilities that they may not be aware of when they enter

1383 | those States--

1384 | Mr. COBLE. You may continue, Mr. Johnson.

1385 | Mr. GOODLATTE. --and wouldn't the benefit of having an
1386 | additional law enforcement officer present outweigh the
1387 | additional risk which certainly would be attendant to
1388 | somebody who didn't know all the rules.

1389 | Mr. COBLE. I just didn't hear the question. Go ahead,
1390 | Mr. Johnson.

1391 | Mr. JOHNSON. Yes, sir. Thank you, Mr. Chairman. I
1392 | think that the Congress would be extending, protecting the
1393 | right that is included in the Second Amendment to a
1394 | particularly well-qualified group of individuals.

1395 | Regarding the various patchwork of laws and potential
1396 | liability across--that exists today across the United States,
1397 | our view is that H.R. 218 helps solve that problem because it
1398 | creates a unified Federal rule that clearly defines who may
1399 | carry legally across the United States. We're actually
1400 | helping to solve this problem of liability and patchwork
1401 | application of laws that exists today by creating and
1402 | allowing well-qualified individuals who are already
1403 | authorized by their own agencies to carry a firearm to do so
1404 | nationally.

1405 | Just one final point. In 19--it was either 1988 or 1989
1406 | when the State of Florida enacted legislation that allowed
1407 | private citizens to carry a concealed firearm. There were

1408 predictions that this would be the Old West. People would
1409 have six-guns on their hip. There would be shootouts in the
1410 streets of Miami. It didn't happen. The type of people,
1411 like law enforcement officers, who play by the rules, who are
1412 well qualified, who undergo rigorous background checks,
1413 criminal checks, psychological stability checks, retraining
1414 every year, these are the type of people that we want out
1415 there, that we already trust to use good judgment in carrying
1416 a weapon, and we would all benefit as well as the officers
1417 themselves would benefit from this additional protection for
1418 the public.

1419 Mr. GOODLATTE. Thank you.

1420 Mr. COBLE. The gentleman's time has expired. The
1421 gentleman--oh, Mr. Eisenberg, do you want to respond to that?

1422 Mr. EISENBERG. Only very quickly. I think as the
1423 legislation is written, police officers are put in harm's
1424 way. In response to your question, a gun is different. Its
1425 consequences are greater than just about anything else I can
1426 think of in terms of the situations we're talking about, and
1427 if the law enforcement officers--

1428 Mr. GOODLATTE. Mr. Eisenberg, far more people are killed
1429 every year with automobiles than with guns.

1430 Mr. EISENBERG. I understand, but we're talking here
1431 about something where somebody does something intentionally.

1432 Mr. GOODLATTE. Sometimes they do them intentionally with

1433 automobiles.

1434 Mr. EISENBERG. Well, okay. People--

1435 Mr. GOODLATTE. And there's a great debate over whether
1436 somebody who enters an automobile under the influence of
1437 various things are doing their act intentionally, but--

1438 Mr. EISENBERG. In this circumstance, a police officer is
1439 acting as if he or she were on duty. They are taking a step
1440 in a jurisdiction that they do not know well, with the
1441 procedures that they do not know well--there are certain
1442 procedures when you can draw your weapon, when you can fire
1443 that weapon, and under what circumstances. These are things
1444 that put these people in jeopardy if not appropriately
1445 addressed, not just legal, not just liability at being sued.
1446 If somebody gets sued and they have to pay the judgment, it
1447 can cost them quite a bit for the rest of their lives.

1448 In other cases, it's a legal liability. If you do
1449 something that that law says you cannot do in a State and you
1450 don't know about it and you pull that trigger, now you're
1451 dealing with misdemeanor or felony and it's a tragedy for all
1452 concerned.

1453 I just ask, think about this and how to fix the problem.
1454 I'm not saying not to do something, I'm saying think about
1455 those liabilities and how you will fix that problem--

1456 Mr. COBLE. The gentleman's time has expired.

1457 The gentleman from Wisconsin is recognized for five

1458 minutes.

1459 Mr. GREEN. Thank you, Mr. Chairman.

1460 Superintendent Ruecker, and I apologize for being out of
1461 the room for much of the time, but I heard your testimony. I
1462 think you said that you think with the passage of this
1463 legislation, it is just as likely that a law enforcement
1464 officer or his family would be wounded as if a crime were to
1465 be thwarted or a criminal were to be apprehended. Could you
1466 explain that, because I'm not sure I quite follow that.

1467 Mr. RUECKER. Yes, sir. Certainly statistically, that
1468 would be a lower number of incidents. But what I'm saying is
1469 having police officers carrying firearms outside their
1470 jurisdiction and concealed, as the bill would allow, would
1471 most certainly produce some outcomes. But just as certainly,
1472 it would--there's almost a certainty that there would be
1473 accidents that wouldn't happen because you just have firearms
1474 around in a place where a person is maybe not have their
1475 usual places of storage, care, and retention and all that.
1476 You're in a hotel room someplace on vacation. You've got a
1477 firearm. You wouldn't otherwise have it with you.

1478 I'd just say that--or in some circumstance out on the
1479 street, somebody is going to be mistaken for a bad guy when
1480 they're a good guy or a good gal and someone's going to get
1481 in a situation that is going to go badly because people don't
1482 know who's who.

1483 Mr. GREEN. But that latter point is an argument against
1484 all concealed carry laws around the nation, not this
1485 legislation, correct? I mean, do you really think that
1486 suddenly allowing law enforcement officers going from one
1487 State to another to have concealed carry, that suddenly the
1488 public is going to be so alerted to this that they're going
1489 to wonder if every single person walking down the street
1490 might be packing? I mean, I--

1491 Mr. RUECKER. No, sir.

1492 Mr. GREEN. Right. I didn't think so.

1493 Let me ask this question of Mr. Johnson. Superintendent
1494 Ruecker's testimony, he seemed to be raising the issue of
1495 whether retired law enforcement would be keeping their skills
1496 and their training over the years. I think I heard you
1497 testify earlier that in order for a retired officer to be
1498 using concealed carry that they'd have to be in good
1499 standing. Could you tell me what exactly that means and what
1500 sort of training, what sort of practice they have to
1501 maintain?

1502 Mr. JOHNSON. Yes, sir. And I was referring to proposed
1503 Section 926(c), subsection (c)(5), talking about retired law
1504 enforcement officers. Among other qualifications, one of the
1505 qualifications they have to have is that, quote, "during the
1506 most recent 12-month period, that that officer has met, at
1507 the expense of the individual, the State standards for

1508 training and qualification for active law enforcement
1509 officers to carry firearms.''

1510 Mr. GREEN. So this isn't a case where someone is
1511 suddenly, you know, ten years after retiring or walking away
1512 from the force, they've received no training, no practice,
1513 they haven't had to think about this or follow good practices
1514 that they're carrying a weapon. We're talking about someone
1515 who has had to have at least taken the active steps of--at
1516 his or her own cost--maintained his good standing--

1517 Mr. JOHNSON. Yes, sir, and has actually demonstrated
1518 that to the satisfaction of the agency, that they are still
1519 able to correctly and safely and accurately handle their
1520 firearm.

1521 Mr. GREEN. Okay, good. Mr. Chairman, I have no more
1522 questions.

1523 Mr. COBLE. I thank the gentleman.

1524 Folks, we're about ready to go into a markup. Let me
1525 visit with my friend from the land of the palmetto, my
1526 neighbor to the South. Mr. Canterbury, this will be a
1527 friendly question because I'm a cosponsor of the bill, but
1528 let me play devil's advocate with you for a minute. In your
1529 testimony, I believe you said that the great majority of the
1530 States permit officers to carry concealed weapons back and
1531 forth. An opponent of this bill would say to you, well, why
1532 do we need H.R. 218 then? How would you respond to that?

1533 Mr. CANTERBURY. That would be in their own jurisdictions
1534 or in their own State. For instance, in South Carolina, I
1535 can carry anywhere in my State. But when I cross over into
1536 Brunswick County, I would be in violation of North Carolina
1537 law.

1538 Mr. COBLE. I got you. Okay. Thank you, sir.

1539 Gentlemen, we appreciate very much you all being here. I
1540 thank you for your testimony. The subcommittee appreciates
1541 this contribution.

1542 This concludes the legislative hearing on H.R. 218.

1543 [Pause.]

1544 Mr. COBLE. This concludes the legislative hearing on
1545 H.R. 218, the Law Enforcement Officers Safety Act of 2003.
1546 The record will remain open for one week, and we will now
1547 move on to markup of H.R. 218. We stand adjourned, and you
1548 gentlemen are excused. Thank you again for your attendance.

1549 Just be at ease for a few minutes. We'll rearrange the
1550 room for the markup.

1551 [Whereupon, at 3:35 p.m., the subcommittee was
1552 adjourned.]

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