S. HRG. 107–935

S. 2480: LAW ENFORCEMENT OFFICERS SAFETY ACT

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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S. 2480: LAW ENFORCEMENT OFFICERS SAFETY ACT

TUESDAY, JULY 23, 2002

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The Committee met, pursuant to notice, at 2:08 p.m., in Room SD–226, Dirksen Senate Office Building, Hon. Patrick Leahy, Chairman of the Committee, presiding.

Present: Senator Leahy.

OPENING STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

Chairman LEAHY. I am pleased to hold this hearing today on the Law Enforcement Officers Safety Act of 2002. This is legislation to prevent current and retired Federal, State, and local law enforcement officers to carry their firearms to be prepared to assist in dangerous situations.

There are 29 Senators, including Senator Baucus, who I know is coming from another matter and will be joining us on this, as well as members of the Senate Judiciary Committee, who go sort of across the spectrum. Senators Thurmond, McConnell, Edwards, Feinstein, Grassley, Sessions, Brownback, Cantwell, DeWine, and also Senator Harkin, the Chairman of the Senate Agriculture Committee, join with Senator Hatch and myself to cosponsor this bill.

I introduced this measure as a companion to H.R. 218, sponsored by Representative Cunningham, who is here with us today. Congressman, I am told you have 267 cosponsors. I am not sure you could get 267 cosponsors, as fractious as things have been these days, to say the sun will rise in the East and set in the West, so it shows there is strong bipartisan support for this legislation. The Fraternal Order of Police strongly support it.

There are currently 740,000 sworn law enforcement officers currently serving in the United States. Since the first recorded police death in 1792, there have been more than 15,000 officers killed in the line of duty. A total of 1,647 died in the line of duty over the last decade. That is an average of 165 deaths per year. Roughly 5 percent of the officers that die are killed taking law enforcement action while in an off-duty capacity. An average of more than 62,000 law enforcement officers are assaulted each year.

Until last year, violent crime in this country declined in each of the preceding 8 years. That has come at a high price, though. It has meant far more police work, especially community policing.

So this Act is designed to protect officers and their families from vindictive criminals and to allow thousands of equipped, trained, and certified law enforcement officers, whether on or off duty or retired, to carry concealed firearms in most situations, thus enabling them to respond immediately to a crime.

I might point out for those who think that a law enforcement officer either off-duty or retired ever faces a threat. We all know that happens all the time. It has been 28 years since I was in law enforcement and I still run into people who remember my kind words as they went off to the slammer for 15 or 20 or 25 years. I thought they would never live long enough to see them get out, but they are out. So I know the feeling.

We have a number of letters of support from Vermont law enforcement officials, including Chief Osburn Glidden of Williston and Officer Wade Johnson of Hinesburg.

I received calls of support for this measure from Chief Trevor Whipple of Barre, and I saw him on Saturday in Barre, and Captain Robert Hawke, the President of the Vermont Police Association. I have a statement endorsing this legislation from the National Organization of Police Organizations and the International Brotherhood of Police Officers.

This is not one of those things that costs any money. We are just saying off-duty and retired officers should be permitted to carry their firearms across State and other jurisdictional lines. We are talking about qualified law enforcement officers and qualified retired law enforcement officers. Nobody is asking to just allow it. You have to hit the basic qualifications. And it preserves any State law that permits citizens from restricting a concealed firearm on private property and preserves any State law that restricts the possession of a firearm on State or local government policy.

But to qualify, a law enforcement officer has to be authorized to use a firearm by the law enforcement agency where he or she works, be in good standing, and meet standards established by the agency to regularly qualify to use a firearm. The officer has to have been retired in good standing, been employed at least 5 years as a law enforcement officer unless forced to retire due to a service-related injury, have a non-forfeitable right to benefits under their retirement plan, and annually complete a State-approved firearms training course. I mean, these are tough requirements. It is not as though we are just going to arm half the world. You have to fit these requirements.

I know that either current police officers or former police officers are never really off-duty. I look forward to hearing the testimony. I am delighted that Congressman Cunningham is here and I know that Steve Young, a good friend, the President of the Fraternal Order of Police, is here, who has spent a lot of time on this. We have had private discussions and others.

[The prepared statement of Chairman Leahy appears as a submission for the record.]

Chairman LEAHY. Congressman Cunningham, I will give away no secrets to mention the comment that the President made to the two of us that we either had a pretty good piece of legislation or one of us had not read it.

[Laughter.]

Chairman LEAHY. But I think we have put together a good coalition here and I am delighted and honored to have you here at the Committee. Please go ahead, sir.

STATEMENT OF HON. RANDY "DUKE" CUNNINGHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CUNNINGHAM. Thank you, Mr. Chairman. I would tell you that besides the cosponsors of the bill, when we did have an opportunity to vote on this bill in the House, it passed with 372 votes. It was tied to the juvenile justice bill, which unfortunately was at the end of the year and then the Senate was not able to take up. The gentlelady from New York, Mrs. McCarthy, who lost her husband to a handgun, is supportive of this bill. Mr. Schumer, who used to be in our body and is now joining you, as I understand it, is speaking in favor of this. So this has wide, not only bipartisan support, but support from different sides of particular issues.

I cannot tell you how happy especially, Mr. Chairman, this makes me. Since 1992, I have been working this issue, waiting for you, not you specifically, but for this day to come where we could have a hearing on this, and I know the law enforcement agencies thank you, as well.

Why have I fought so long? It is three simple reasons. It will make our community safer. It puts cops on the street, more cops on the street, at no cost to the taxpayers. It is a good piece of legislation. Many times, our law enforcement agents do not deal with the best part of our civilization, and when they put these guys away, sometimes these bad guys come back and want retribution. This also protects the law enforcement agents and their families, and I think you will see in the testimony today there are thousands of cases where law enforcement agents have been threatened, have been killed and maligned because they were not allowed to carry a weapon.

This is so important. I think it was exemplified when we had thousands of law enforcement agents here this summer. You and I were invited among all the other Members of Congress to stand on the podium with agents on Law Enforcement Memorial Day with the President of the United States. That is how much they thought of this bill and you and what you are doing here today, and I again want to thank you.

The passage of this legislation will make our communities safer by putting tens of thousands of law enforcement agents on the street, armed and capable of disrupting criminal efforts at places and times where there are currently not any.

Additionally, this legislation will make our law enforcement officers themselves safer. I have heard testimony that supports this from law enforcement officers across the country, as I just previously mentioned.

Finally, enactment of this measure will cost nothing to the taxpayer. It is a rarity these days to be able to have a positive, measurable effect on our communities without spending our tax dollars. When we do find a way, I believe it is incumbent on us to do so. Any community would relish the thought of being able to put more officers on the street. In fact, that is often the main plank of any

crime reduction effort. Here is a way to do just that while preserving precious resources for other legislation.

Again, I would like to offer you a challenge that we in the House hope we will pass this before you. That might be a bad bet on my side, but I think if you are able to pass this, it will put pressure on the Chairman in the House Judiciary to do so and I know the President will sign it right away.

It is a good piece of legislation, Mr. Chairman, and God bless you for having this hearing today.

Chairman LEAHY. I thank you for that. If you send it over here, I would ask the leader to hold it at the desk. I do not care whether it comes over with a House number or a Senate number, I just want to get it passed. So either way, we will try to move it very quickly. I will very quickly be putting it on the agenda in the Senate Judiciary Committee and we will move it on.

I also know that you have got about 14 other places you are supposed to be, so——

Mr. CUNNINGHAM. I have got to over and testify on the supplemental that we are having on the floor right now, Senator, but thank you for this opportunity, and on behalf of law enforcement agencies, thank you.

Chairman LEAHY. Thank you very, very much.

[The prepared statement of Mr. Cunningham appears as a submission for the record.]

Chairman LEAHY. The next panel will be Lieutenant Steve Young, the National President of the Fraternal Order of Police, and Congressman Cunningham talked about the honor we had to be on the podium with Steve Young and the President. It was an honor in both cases. We also have Arthur Gordon, National Executive Board Member of the Federal Law Enforcement Officers Association from Woodbine, Maryland; Deputy Chief of Police David Johnson, Cedar Rapids Police Department, Cedar Rapids, Iowa; and Colonel Lonnie Westphal, Chief of the Colorado State Patrol in Denver, Colorado.

Chief Westphal, I was recently out in Denver and received some logistical help from some of your folks and they were absolutely superb. I just wanted to mention that.

Senator Grassley had intended to be here, but he is stuck on the floor, as sometimes happens. Especially because you are here, Chief John, he wanted to be here, but the nature of the bill that is on the floor, he is the ranking member and required to be there, and I am going to put a statement from him in the record in which, you will not be surprised to know, he praises you.

[The prepared statement of Senator Grassley appears as a submission for the record.]

Chairman LEAHY. I will also include in the record a statement from Senator Thurmond.

[The prepared statement of Senator Thurmond appears as a submission for the record.]

Chairman LEAHY. My good friend, Lieutenant Steve Young of Marion, Ohio, is here, and Steve, why do we not start with you.

STATEMENT OF LIEUTENANT STEVE YOUNG, NATIONAL PRESIDENT, FRATERNAL ORDER OF POLICE, MARION, OHIO

Lieutenant YOUNG. Thank you, Mr. Chairman, and good afternoon. As you said, my name is Steve Young. I am the National President of the Fraternal Order of Police, the largest law enforcement labor organization in the United States, with more than 300,000 members.

I want to begin by extending the sincere gratitude of our nation's rank-and-file officers to you, Mr. Chairman, for holding this hearing. The FOP is sincerely grateful to you and to Ranking Member Hatch for authoring S. 2480, the Law Enforcement Officers Safety Act, which is the subject of today's hearing.

I also want to recognize and thank Representative Randy "Duke" Cunningham for all of his efforts and hard work on this issue in the House. We have been working side by side with Mr. Cunningham for many years now and his commitment to the bill has never wavered.

This bill is not about firearms, it is about officer safety, a fact recognized by you, Mr. Chairman, and the 11 members of this Committee who cosponsor it. I further believe that on September 11, 2001, it became a critical public safety and homeland security issue.

Immediately after the attacks, the ranks of volunteers in New York City, Pennsylvania, Northern Virginia, and Washington, D.C., were swelled by off-duty and retired law enforcement officers and other emergency services personnel from every region of the country who had come to volunteer their services. Many of the law enforcement officers who did so may have been in legal jeopardy.

For instance, the State of New York and New York City restrict the ability of off-duty police officers from other jurisdictions to carry firearms. Across the river in New Jersey, officers not employed by that State were probably not exempt from New Jersey's statute against unlawful possession of a firearm. In Pennsylvania, there is no exemption for out-of-State police officers.

No other emergency response professional who chose to volunteer their professional expertise in response to the attacks on the United States faced any legal jeopardy for crossing a jurisdictional boundary, but law enforcement officers did.

Among the many tools of a professional law enforcement officer are the badge and the gun. The badge symbolizes the officer's authority, and in worst case scenarios, the gun enforces that authority. These tools are given to the officer in trust by the public to enforce the peace and fight crime. In asking Congress to pass this bill, we seek a measured extension of that trust.

In certain situations, an officer's knowledge and training would be rendered virtually useless without a firearm, as would his ability to provide for his own self-defense or that of his family. A police officer may not remember the name and face of every criminal he or she has arrested, but a convicted felon would certainly remember the officer who put them behind prison bars. These violent felons can and do target police officers and they do not care if the officer is in his or her own jurisdiction, nor do they care if the officer is in uniform or not, on duty or off, active or retired.

We have compiled the names of 54 officers, all of whom were off-duty when they were killed. Yet despite not being on the clock, the circumstances of their deaths qualified them as having died in the line of duty. To the best of our knowledge, these officers were unarmed when they answered the call. Some were killed when they placed themselves in harm's way to help a victim or stop a crime in progress. Others were recognized or discovered to be police officers or identified themselves as such, prompting their assailants to kill them.

With your permission, Mr. Chairman, I would like this document to be entered into the record.

Chairman LEAHY. It will be.

Lieutenant YOUNG. The fate of these 54 officers should remind all of us that law enforcement is a dangerous profession. There is no legislation, Act of Congress, or government regulation which will change this sobering fact. However, the adoption of S. 2480 will, at the very least, give officers who do choose to carry their firearms a chance to defend themselves and their families whenever and wherever the criminal may strike.

I also want to share with you a happier example about an off-duty officer who was legally carrying a firearm off-duty. His courage and heroism under fire earned him the recognition of Parade Magazine and the IACP, who named him "Police Officer of the Year" in 2000.

Police Officer Dennis Devitte, a 20-year veteran of the Las Vegas Police Department, was off-duty at a sports bar late one evening when the establishment was attacked by three armed assailants, two of which opened fire on the crowd. Devitte did not hesitate. He pulled his tiny .25-caliber pistol, and knowing he would have to get very close to make sure he hit his target, charged a man firing a .40-caliber semi-automatic. Officer Devitte got within one foot, fired, and killed the gunman, but not before he was shot eight times. The remaining two gunmen fled the robbery and the robbery was thwarted.

All six civilians wounded by the gunman recovered. One witness described Officer Devitte's action as "the most courageous thing I've ever seen." Although seriously injured, Officer Devitte was back on the job 6 months later. So it is ironic to me that the IACP would oppose this legislation when their own choice for "Police Officer of the Year" for 2000 earned this recognition for his heroic actions while he was off-duty and armed. Perhaps they will be able to explain this contradiction today.

I also want to refute an argument raised by the bill's opponents who object to this measure because it preempts State law. In the view of the FOP, the Congress has the power under the Full Faith and Credit Clause of the Constitution to extend full faith and credit to police officers who have met the criteria to carry firearms set by one State and make those credentials applicable in all States. The bill maintains the States' power to set their own requirements for their officers in training and qualifying in the use of weapons.

We believe that S. 2480 carefully defines who in law enforcement will not be able to carry a weapon under this bill. Active officers must admit to qualification standards established by the agency, and retired officers must requalify with their firearm at their own

expense every 12 months and meet the same standards as active officers in the State in which they reside. This is a narrow universe of persons who are qualified and worthy of the measured extension of the trust that this legislation would provide.

Further, Congress has previously acted to force States to recognize concealed carry permits by other States on the basis of employment. In June 1993, Congress passed P.L. 103–55, the Armored Car Industry Reciprocity Act. This legislation mandated reciprocity for weapons' licenses issued to armored car company crew members. Similarly, 2 weeks ago, the House voted overwhelmingly to create an exemption from State and local prohibitions on the carrying of firearm for airline pilots who volunteer to become Federal Flight Deck Officers. Mr. Chairman, if Congress can mandate that private security guards and airline pilots can carry in all States, I do not think it should balk at extending the same authority to fully sworn, fully trained law enforcement officers employed by government agencies.

The aim of the bill, allowing qualified active and retired law enforcement officers to carry their firearms outside their jurisdiction, is not controversial. This legislation has widespread bipartisan support. The companion bill to S. 2480, H.R. 218, the Community Protection Act, currently has 261 sponsors.

Just 2 years ago, the House passed an amendment identical to this bill on the floor by an overwhelming vote of 372 to 53. Though the underlying measure was defeated, it is clear that the House recognized the merits of this legislation and it is my hope that this Committee will, as well.

Mr. Chairman and members of the Committee, it is an increasingly dangerous world that the men and women in blue are asked to patrol. We need the ability to defend ourselves against the very criminals that we pursue as part of our sworn duty because the dangers inherent to our profession do not end with the shift. Mr. Chairman and other Members of Congress and the administration, you saw firsthand the support of the rank-and-file officers for this measure on May 15 right here on the West Front of the Capitol.

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

Chairman LEAHY. Thank you, Lieutenant. I would note it was not just the reaction of the officers on the West Front of the Capitol on that, but it is your own dedication and your own efforts on this, conversations you and I have had, my staff and you have had, and others, and the fact that you are pushing this as a basis to make our community safer and I appreciate that very much.

Lieutenant YOUNG. Thank you, sir.

[The prepared statement of Lt. Young appears as a submission for the record.]

Chairman LEAHY. Mr. Gordon wants to testify on behalf of the Federal Law Enforcement Officers Association and is an officer in that organization's National Executive Board. He has had 27 years as an ATF agent. He has been a firearms instructor for the ATF for 17 years, which means he can shoot probably a lot better than I can. He served in ATF's headquarters in firearms training for two-and-a-half years. He has helped to write many of the current

firearms training courses currently used by the agents nationwide, so I appreciate both your service and your expertise. Welcome, Mr. Gordon. The floor is yours.

STATEMENT OF ARTHUR GORDON, NATIONAL EXECUTIVE BOARD MEMBER, FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION, WOODBINE, MARYLAND

Mr. GORDON. Thank you. On behalf of the Federal Law Enforcement Officers Association, we thank the Chairman, ranking member, and members of the Committee for inviting us. We are pleased to be here today to express our support for S. 2480, the Law Enforcement Officers Safety Act of 2002, a common sense, bipartisan legislative proposal that will enable retired Federal agents to defend themselves and their families as well as to continue to protect the American citizens.

My name is Art Gordon. I am a member of the National Executive Board of the Federal Law Enforcement Officers Association, a professional association made up of volunteers exclusively representing criminal investigators, the special agents from the Department of Justice, the Department of Treasury, and many other Federal agencies. There are approximately 32,000 Federal agents in America. Although I am an agent with the Bureau of Alcohol, Tobacco, and Firearms, Baltimore Field Division, I am not here today representing the agency, only FLEOA.

Personally, I have 27 years of service as an ATF agent and have been a firearms instructor for ATF for 17 years. In addition, I have served in ATF's headquarters firearms training program for two-and-a-half years, where I assisted in writing many of the current firearms training courses currently used by ATF agents across the country. I have been eligible to retire for the past 2 years.

FLEOA supports the Law Enforcement Officers Safety Act of 2002, S. 2480, for several reasons. One of these reasons is for exactly what the title of the bill states, law enforcement officer safety. Over the years, every Federal agent from every single agency has arrested people who only remember the face of the agent who arrested him or her. Being arrested means someone getting into your face. We get into people's faces. We also have to process the person through the criminal justice system and sometimes testify against them in court.

Over the years, an agent can do this hundreds of times and the face of the people arrested can blur. However, for the people only getting arrested once, twice, or even a half-dozen times, those days tend to stand out in their memory. The ultimate nightmare for an agent is to be walking with his or her family and be approached by someone who states, "Hey, agent, remember me?" These are the words that would make any cop's heart skip a beat until we learn if the person is friend or foe. If the person has nefarious intentions and the agent is retired, well, let us say that is a nightmare we do not want to see the conclusion of.

The Law Enforcement Officers Safety Act of 2002 will give the retired agent not only the chance to totally defend him or herself, but will also permit them to protect any citizen if they stumble across a crime occurring. Back in 1999, Senator Grassley authored the Federal Law Enforcement Good Samaritan Act. The Com-

mittee, under the leadership of Senators Hatch and Leahy, approved the legislative proposal and it was signed into law. This law allowed Federal agents to take reasonable action for a crime that occurs in their presence while we are off-duty.

S. 2480 is an extension of this common sense law, for if I retired yesterday, is there any difference in me today? A Federal agent usually qualifies with their everyday firearm at least four times a year and qualifies with various other weapons throughout each year. Also included in the training exercise are shoot/don't shoot scenarios and the legal aspects of using deadly force.

The current requirement for Federal agents hired before 1984 to retire is 20 years of service and to be the age of 50. For agents hired after 1984, they can retire with 25 years of service at any age or 20 years of service at the age of 50. I am sure all present here today will agree that life does not end at 50. There are many more productive years left. In fact, many Federal agents continue in their profession either working as private investigators, or with State or local criminal justice agencies, or become teachers utilizing their expertise in the field to instruct the next generation.

Once you count the initial training at Quantico, Virginia, or Glynco, Georgia, add in four times a year firearms qualification, plus the multitude of other training course, this results in an investment that the American citizen deserves to continue to get something back from.

At the start of every Congressional session, FLEOA surveys its members, querying them on what issues are important to them. For each of the past few Congressional sessions, this issue has been in the top three. FLEOA has approximately 60 chapters across America, and over the years the President of FLEOA has attended hundreds of chapter meetings. This issue has always been one that members have brought up because they truly have been concerned about this.

For all these reasons, FLEOA believes S. 2480 should be approved in this Committee and on the full floor of the Senate and signed into law.

On behalf of Mike Miskinis, Chapter President of FLEOA's Utah Chapter, retired Secret Service agent; Frank Puleo, Chapter President of FLEOA's Vermont Chapter, currently an agent with HHS OIG but also a future retiree; and for all the members of the Federal Law Enforcement Officers Association, I thank you for holding this hearing today and I look forward to answering any questions of the Committee.

Chairman LEAHY. Thank you for your remarks.

[The prepared statement of Mr. Gordon appears as a submission for the record.]

Chairman LEAHY. I will now turn to Senator Baucus.

STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Thank you very much, Mr. Chairman. It was not too many years ago I was sitting next to you on this Committee.

Chairman LEAHY. We still miss you.

Senator BAUCUS. I miss this Committee. This Committee was probably—I enjoyed as much and had more fun in just trying to address just basic constitutional issues that really affect and go to the heart of our country, and I thank you for the great job you are doing in conducting and chairing this Committee.

Mr. Chairman, I also thank you in the spirit of being a great leader of this Committee for allowing me to testify on the bill that you have introduced, which I think is very needed and very important, particularly at this time.

This bill, I think, will pay enormous dividends for the American people. It will allow qualified active duty and retired law enforcement officers to carry their weapons regardless of State and local restrictions on carrying concealed weapons, to allow these officers to carry their weapons across State and other jurisdictional lines.

The legislation also addresses a critical officer safety and public safety need. Law enforcement officers are trained. They are trained professionals. They are dedicated, dedicated public servants, sworn to uphold the law and protect the citizens of our country. They are always on duty, even when they are not in uniform or patrolling a beat. After September 11, the role of law enforcement officers in our communities is even more important as they constitute our front-line defense against terrorism here at home.

It just makes sense to be sure that law enforcement officers have the means to protect themselves and the public at all times, because they could be called upon to protect themselves or the public at any time. Particularly, it makes sense in rural States like mine of Montana, where law enforcement officers are stretched thin, there is so much territory to cover.

Your bill also will enhance public safety by allowing the nation to tap into the wealth of training and knowledge that is our law enforcement community, without costing our Federal taxpayers a dime. Law enforcement officers have training. They have expertise in detecting and preventing the crime that ordinary citizens just do not have. The bill also makes sure that officers can maximize that training in the event of an emergency, regardless of jurisdiction and regardless of whether an officer was officially on duty.

And, it does a good job of balancing the rights of States and private citizens by preserving State laws that permit private citizens to prohibit concealed weapons on their own property, and State laws that ban firearms on State or local property.

Mr. Chairman, I commend you for your bill. I think it is very timely, it is very important, and I hope that your Committee, Mr. Chairman, can mark this up quickly and get it out quickly on the floor because it is part of the major effort that we now need to undertake just to better protect ourselves in America, and I thank you again very much for what you are doing.

Chairman LEAHY. I thank you very much. I thank you for your strong support of it and I am hoping we can get it out of the Committee at our next markup and quickly on the consent calendar. Thank you.

Senator BAUCUS. Good. Thank you again, Mr. Chairman.

Chairman LEAHY. I know you are supposed to be, as I said earlier, at another meeting. I appreciate you taking the time to come by.

[The prepared statement of Senator Baucus appears as a submission for the record.]

Chairman LEAHY. Colonel Westphal, you are here representing the IACP and you are currently Vice President, am I correct in that?

Col. Westphal. That is correct, Senator.

Chairman LEAHY. You were appointed to the position of Chief of the Colorado State Patrol in October 1995. You had served with them for 21 years before that, since 1974, the year that I was ending my law enforcement career. Please go ahead, Colonel.

STATEMENT OF COLONEL LONNIE J. WESTPHAL, CHIEF, COLORADO STATE PATROL, DENVER, COLORADO

Col. Westphal. Good afternoon, Senator Leahy. I am pleased to be here this afternoon to present the views of the International Association of Chiefs of Police on S. 2480, the Law Enforcement Officers Safety Act of 2002.

As you know, the IACP is the world's oldest and largest association of law enforcement executives, with more than 19,000 members in 100 countries. Before I address our concerns with this legislation, I would like to express my gratitude and the gratitude of the IACP to the Committee for your continuing support of the nation's law enforcement agencies and law enforcement officers.

I sort of feel like, Senator, the only red tree in a forest of pine trees today——

[Laughter.]

Col. Westphal.—but as you know, the IACP has some serious concerns with the Law Enforcement Officers Safety Act. Our opposition is based primarily on the fundamental belief that States and localities should determine who is eligible to carry firearms in their community.

Over the years, the IACP has consistently opposed any Federal legislative proposals that would either preempt and/or mandate the liberalization of an individual State's laws that would allow citizens of other States to carry concealed weapons in that State without meeting its requirements. The IACP believes it is essential that State governments maintain the ability to legislate concealed carry laws that best fit the needs of their community. This applies to the laws covering private citizens as well as active and former law enforcement personnel. The IACP also believes that each State should retain the power to determine whether they want police officers that are trained and supervised by agencies outside of their State to carry weapons in their jurisdictions.

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

However, in addition to these fundamental questions over the preemption of State and local firearms laws, the IACP is also concerned with the impact this legislation may have on the safety of our officers and our community. There can be no doubt that police

executives are deeply concerned for the safety of our officers. We understand the proponents of S. 2480 contend that police officers need to protect themselves and their families while traveling and that undercover officers may be targets if recognized on vacation and travel. These are certainly considerations, but they must be balanced against the potential dangers involved.

In fact, one of the reasons that this legislation was especially troubling to our nation's law enforcement executives is because they could, in fact, threaten the safety of officers by creating tragic situations where officers from other jurisdictions are wounded or killed by local officers.

Police departments throughout the nation train their officers to respond as a team to dangerous situations. This teamwork requires months of training to develop and provides the officers with an understanding of how their coworkers will respond when faced with different situations. Injecting an armed, unknown officer who has received different training and is operating under different assumptions can turn an already dangerous situation deadly.

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

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

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

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

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

This concludes my statement, Senator and Mr. Chairman, I will respond to any questions.

Chairman LEAHY. Thank you very much.

[The prepared statement of Col. Westphal appears as a submission for the record.]

Chairman LEAHY. Next, we will hear from Deputy Chief of Police David Johnson, from the Cedar Rapids Police Department in Cedar Rapids, Iowa.

STATEMENT OF DAVID JOHNSON, DEPUTY CHIEF OF POLICE, CEDAR RAPIDS POLICE DEPARTMENT, CEDAR RAPIDS, IOWA

Mr. JOHNSON. Mr. Chairman, members of the Senate Committee on the Judiciary, my name is David Johnson and I am currently the Deputy Chief of Police in Cedar Rapids, Iowa. I have been a police officer for over 30 years and my career as a cop started right here in Washington, D.C.

In 1971, I logged my first patrol as a police officer in the Washington Metropolitan Police Department in the Seventh District. Since 1974, I have been with the Cedar Rapids Police Department. I am a past President of the Iowa Association of Chiefs of Police and Peace Officers and I am also a life member of the Law Enforcement Alliance of America.

The Law Enforcement Officers Safety Act of 2002 is an idea first introduced to Congress 10 years ago. In 1992, H.R. 4897, the first version of this legislation, was born with a bipartisan introduction by Congressman Cunningham of California and Congressman Ralph Hall of Texas.

In the decades since then, the support for this legislation has grown dramatically. Today, it is still a bipartisan effort with strong support from both sides of the aisle in the House, the Senate, and in this very Committee, where a bipartisan majority of ten Senators have signed on as cosponsors.

Mr. Chairman and members of the Committee, I would like to share with you a few examples of just how vital this legislation is to the safety of police officers and our community. Police officers like doctors, fire fighters, and other emergency personnel are never really off-duty. In some States, it is the law. These public servants perform countless acts of courage and face many moments of danger well after they have finished their shift, and some even after they have ended their tour of duty.

Consider the story of Officer Wendell Smith, Jr., a veteran of the Washington Metropolitan Police Department. Officer Smith worked here in the District of Columbia, but he lived in the State of Maryland. When returning home after his shift in February 1997, Officer Smith was robbed at gunpoint. Just hours before, this officer with his gun on his side might have been able to have a fighting chance. But without legislation such as S. 2480 in place, Officer

Smith was barred from carrying his firearm and had to secure it out of reach. When the robbers discovered his badge and realized that he as a police officer, they executed him in cold blood. Officer Smith was killed because he was forced to be unarmed. On the day of this officer's murder, the legislation that could have saved his life had been sitting idle in Congress for 5 years. Now, 10 years after its introduction, it is still not law.

In March of 2001, a student opened fire at a high school in San Diego, California. However, the shooter was not the only person with a gun. Off-duty San Diego police officer Robert Clark was also on campus, running an errand. When he heard the shots, he immediately took action, drew his concealed firearm, and ran to the scene of the crime. He confronted the shooter in the school bathroom and held him at gunpoint, preventing the shooter from entering the hallway and continuing the massacre.

When on-duty officers arrived for back-up, Officer Clark worked with the two deputies—deputies from a different law enforcement agency than his, I might add—to disarm the shooter and take him into custody. Once the scene was secured, Officer Clark then administered first aid to the two shooting victims found in the bathroom. For his bravery, Officer Robert Clark was given his department's highest honor.

There is not enough time left in this hearing or even in this session of Congress to share with you every heroic story of off-duty or retired officers intervening to save lives. You have heard some from me, and certainly you have heard stories from your constituents about how this legislation can and will save lives.

Since September 11, our entire nation has been forced to rethink our vigilance for the safety of our borders, our communities, our families, and ourselves. We do not know if, when, or how terror will strike again. What we do know is that in any given time of day, roughly 70 percent of our nation's police officers are off duty. S. 2480 can empower those off-duty officers, plus the countless trained and qualified law enforcement officers, with the tools they need to make a difference.

This is homeland security that does not require us to trample on civil liberties, homeland security that can be done without playing musical chairs with Federal public safety personnel, and homeland security that will not bust the budget. That is one of the reasons why this bill is so widely supported by Democrats, Republicans, and Independents.

Mr. Chairman and members of the Committee, I thank you for giving this legislation a hearing and allowing me to testify today. On behalf of myself, fellow members of the Law Enforcement Alliance of America, and police officers everywhere, I would ask your help in seeing to it that S. 2480 becomes law this year. Thank you.

Chairman LEAHY. Thank you very much.

[The prepared statement of Mr. Johnson appears as a submission for the record.]

Chairman LEAHY. I need to remember to turn my microphone on. We just had these new microphones installed. You turn them on or off. Why do we turn them on or off? We sometimes found, with Senator's very busy times, sometimes they only get together actually during these Committee meetings and sometimes there are

those who have heard a new joke, and sometimes they are whispering, and sometimes they get calls from their constituents saying, what are you doing? This would never happen to police officers.

[Laughter.]

Chairman LEAHY. You would never have something over an open microphone, like in a car or something, that you wish had not been heard. So now we have to turn them on and off.

I have a statement by Senator Hatch which will go in the record.

[The prepared statement of Senator Hatch appears as a submission for the record.]

Chairman LEAHY. What I will do, because other Senators are unable to come, we will take this testimony and submit questions for the record.

I would note also that tomorrow marks the fourth anniversary of the shooting of two Capitol Police Officers, Officer Jacob Chestnut and Detective John Gibson, who were slain in the line of duty while protecting the Capitol in 1998. I knew both those officers well. At 3 tomorrow afternoon, there is a short memorial service at what we now call the Memorial Door over at the Capitol. I intend to be there and others will.

What we have been doing is usually both the House and the Senate pause for a moment of reflection, if we are having a debate, for these two officers. It kind of reminds us right at home, even in a place like the United States Capitol, which is usually considered the most safe place anywhere, that dangers lurk even here. In this case, it was the officers who died defending the Members of Congress and those who come here. It would be hard to know two better or nicer officers than those two.

I recall the day very well. I was on the plane back to Vermont and got off the plane and was met by a staff member in my office in Vermont with a very shocked look on his face who gave me the news. One of the officers, I had seen just that morning. I said, this is not possible. Unfortunately, it was possible.

So we know these things happen, and I appreciate the service of all of you, Colonel, Deputy Chief, Mr. Gordon, Lieutenant Young. Those of us in civilian life do not often take time to say thank you. For those of us who had the opportunity to serve in law enforcement, as I did, we know the thanks are due, but let me say on behalf of the whole Committee, again, is the one thing that every one of us would join on this Committee, Republican and Democrat, is to say thank you.

We will stand in recess.

[Whereupon, at 2:55 p.m., the Committee was adjourned.]

[Submissions for the record follow.]

SUBMISSIONS FOR THE RECORD

Statement of Senator Baucus
Senate Committee on the Judiciary
Hearing on S. 2480, the Law Enforcement Officers Safety Act
July 23, 2002
2:00 p.m.

Mr. Chairman and members of the Senate Judiciary Committee, thank-you for allowing me testify today on such an important piece of legislation – the Law Enforcement Officers Safety Act, or S. 2480. I would like to commend you, Mr. Chairman, for introducing S. 2480 and I am proud to be an original co-sponsor of that bill.

The Law Enforcement Officers Safety Act is really a very simple bill, Mr. Chairman, that will pay enormous dividends for the American people. It will allow qualified active duty and retired law enforcement officers to carry their weapons, regardless of state and local restrictions on carrying concealed firearms. The Act will also allow these officers to carry their weapons across state and other jurisdictional lines.

Mr. Chairman, S. 2480 addresses a critical officer safety and public safety need. Law enforcement officers are trained professionals and dedicated public servants. They are sworn to uphold the law and protect the citizens of this country. They are always "on duty," even when they're not in uniform or patrolling a beat. After September 11, the role of law enforcement officers in our communities is even more important, as they constitute our front-line defense against terrorism here at home.

It just makes sense to make sure law enforcement officers have the means to protect themselves and the public at all times, because they could be called upon to protect themselves or the public at any time. It particularly makes sense in rural states like Montana, where law enforcement officers are stretched thin because they have so much territory to cover.

Mr. Chairman, S. 2480 will enhance public safety by allowing the nation to tap into the wealth of training and knowledge that is our law enforcement community, without costing the federal taxpayer a dime. Law enforcement officers have training and expertise in detecting and preventing crime that ordinary citizens just don't have. S. 2480 will make sure that officers can maximize that training in the event of an emergency, regardless of jurisdiction, and regardless of whether an officer was officially "on duty."

I also think S. 2480 does a good job balancing the rights of states and private citizens, by preserving state laws that permit private citizens to prohibit concealed weapons on their own property, and state laws that ban firearms on state or local property. It also makes sure that only qualified law enforcement officers with training in the proper use of firearms would be exempt from state and local laws prohibiting concealed weapons.

In short, Mr. Chairman, I urge this Committee to mark-up and pass S. 2480, and send it to the Senate floor as soon as possible. It is vital that we take advantage of every available opportunity to enhance our law enforcement capabilities and protect our citizens.

RANDY "DUKE" CUNNINGHAM
51ST DISTRICT, CALIFORNIA

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
DEFENSE
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION
DISTRICT OF COLUMBIA

PERMANENT SELECT COMMITTEE ON INTELLIGENCE

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House of Representatives
Washington, DC 20515–0551

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E-MAIL VIA WEB SITE:
http://www.house.gov/cunningham/

July 23rd, 2002

Mr. Chairman, I thank you for the opportunity to speak before this committee today on a bill that is very important to me, S. 2480. As you are aware, I am the sponsor of H.R. 218 in the House – an identical bill to S.2480. I have introduced this measure every Congress since 1992, and am confident that this will be the year it passes.

Why have I fought for this bill for so long? Three simple reasons: It will make our communities safer, it will provide better protection for our law enforcement personnel, and it will cost the taxpayer nothing. Additionally, it is the number one legislative priority of numerous national law enforcement organizations including the Fraternal Order of Police and the Law Enforcement Alliance of America, and I believe in helping them carry out their already difficult job. This point was made especially clear to me when I joined you, Mr. Chairman, on the dais with President Bush at the National Peace Officer Memorial.

Passage of this legislation will make our communities safer by putting tens of thousands of law enforcement officers on the street, armed and capable of disrupting criminal efforts, at places and times that they currently are not there. This not only adds to the number of armed, trained, and qualified law enforcement personnel on the streets, it diminishes the opportunity for criminals to commit crime without law enforcement intervention. I believe that this threat alone provides a deterrent that will reduce the crime rate. If even one criminal decides not to commit a crime, or is foiled in an attempt because this bill becomes law, then we as legislators have done something that the

PRINTED ON RECYCLED PAPER

American public expects of us –we have made our country a safer place. Our families and communities will not only feel safer; they will actually be safer. Not smoke and mirrors, but tangible results.

Additionally, this legislation will make our law enforcement officers themselves safer. I have heard the testimony of law enforcement officers from across the country that convinces me that our law enforcement officers face a much higher off-duty threat than do average citizens. This is because many of the felons they arrest would like nothing more than to get revenge on the officer that put them away, or confiscated their drugs or ill-gotten assets. And they know the time to get to that officer is when he is off duty, and usually not allowed to carry his weapon. Let's take that opportunity away from the criminals in our society by giving law enforcement officers the tools to protect themselves.

Finally, enactment of this measure will cost nothing to the taxpayer. It is rare these days to be able to have a positive, measurable effect on our communities without spending our tax dollars. When we do find a way, I believe it is incumbent on us to do so. Any community would relish the thought of being able to put more officers on the street. In fact that is often the main plank of any crime reduction effort. Here is a way to do just that while preserving precious resources for other legislation.

When all is said and done, passage of this bill will reduce crime, reduce the threat to off duty officers and their families, and act as a deterrent to terrorist elements – all at no cost. This is a win for everyone, and in that spirit I challenge you to a race. Let's see who can get this measure passed first – this body, or me and my distinguished colleagues in the other body. Fight's on.

Town of Williston
7900 Williston Road
Williston, VT 05495
FAX (802) 878-4591

1763

Town Manager
878-0919

Town Clerk/Treasurer
878-5121

Planning/Zoning
878-6704

Lister/Assessor
878-1091

Public Works
878-1239

Recreation
878-1239

Police
878-6611

Fire
878-5622

Dorothy Alling
Memorial Library
878-4918

Williston Central
School
878-2762

Williston Police Department
7878 Williston Road
Williston, VT 05495

June 6, 2002

Senator Patrick Leahy
Court House Plaza
199 Main Street
Burlington, VT 05401

Dear Senator Leahy:

I am writing to express my support of the Law Enforcement Officers Safety Act of 2002, S. 2480.

I believe this Bill will promote better law enforcement and improved public safety of the citizens of Vermont and all across the United States.

In the wake of past events I feel we must do everything we can to increase the number of qualified persons on the streets who are armed and trained to protect themselves and others.

I believe terrorism is not going to end in the United States and I believe this is one step, which can be taken against terrorism by all law enforcement officers in the country.

I believe we must keep this bill simple, and have reasonable standards, as in your correspondence of May 20, 2002 in order for it to work. This is an effective measure to increase the number of armed law enforcement officers in our communities at little or no expense to taxpayers.

Sincerely,

Osburn Glidden
Chief of Police
Williston Police Department

Telephone: 802.878.6611
Facsimile: 802.872.1124

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

P.O. Box 326, Lewisberry, PA 17339

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FEDERAL EMERGENCY MANAGEMENT AGENCY - OIG
GENERAL SERVICES ADMIN.
Federal Protective Service & OIG
HEALTH & HUMAN SERVICES
Food & Drug Administration & OIG
HOUSING & URBAN DEVELOPMENT - OIG
INTERIOR
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OIG & Labor Racketeering
NATIONAL AERONAUTICS & SPACE ADMIN. - OIG
NUCLEAR REGULATORY COMMISSION - OIG
POSTAL SERVICE
Inspection Service & OIG
RAILROAD RETIREMENT BOARD - OIG
SECURITIES & EXCHANGE COMMISSION - OIG
SMALL BUSINESS ADMINISTRATION - OIG
SOCIAL SECURITY ADMINISTRATION - OIG
STATE DEPARTMENT
Bureau of Diplomatic Security & OIG
TRANSPORTATION
Coast Guard Investigative Service
Federal Aviation Administration
OIG
TREASURY
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TESTIMONY OF

ARTHUR GORDON
NATIONAL EXECUTVE BOARD OFFICER

WITH

RICHARD J. GALLO
NATIONAL PRESIDENT

FEDERAL LAW ENFORCEMENT
OFFICERS ASSOCIATION

BEFORE THE

JUDICIARY COMMITEE
UNITED STATES SENATE

CONCERNING

S. 2480
LAW ENFORCEMENT OFFICERS
SAFETY ACT OF 2002

ON
JULY 23, 2002

On behalf of the Federal Law Enforcement Officers Association (FLEOA), we thank the Chairman, Ranking Member and members of the Committee for inviting us. We are pleased to be here today to express our support for Senate Bill 2480, the Law Enforcement Officers Safety Act of 2002, a common sense bi-partisan legislative proposal that enables retired federal agents to defend themselves and their families as well as to continue to protect the American Citizen.

My name is Art Gordon. I am an officer on the National Executive Board of the Federal Law Enforcement Officers Association, a professional association made up of volunteers, exclusively representing criminal investigator and special agents from the Department of Justice, the Department of Treasury and many other federal agencies. There are approximately 32,000 federal agents in America. Although I am an agent with the Bureau of ATF, Baltimore Field Division, I am not here today representing the agency, only FLEOA. Personally, I have 27 years of service as an ATF Agent, and have been a firearms instructor for ATF for 17 years. In addition, I have served in ATF's Headquarters Firearms Training for 2 ½ years where I assisted in writing many of the current firearms training courses currently used by ATF Agents across the United States. I have Bachelor of Science in Criminal Justice and a Master of Arts in Criminal Justice and Forensic Science from George Washington University. I have been eligible to retire for the past 3 years.

FLEOA supports The Law Enforcement Officers Safety Act of 2002, S.2480, for several reasons. One of these reasons is for exactly what the title of the bill states: LAW ENFORCEMENT OFFICER SAFETY. Over the years, every federal agent from every single agency has arrested people who only remember the face of the agent who arrested him or her. And there is no doubt about it, arresting someone means getting into their face… putting on handcuffs is a very personal matter. We also have to process the person through the criminal justice system, and sometimes testify against them in court. Over the years, an agent can do this hundreds of times; and the faces of the people arrested can blur. However for the person only getting arrested once, twice or even a half dozen time – those days tend to stand out in their memory. The ultimate nightmare for an agent is to be walking with his or her family and be approached by someone who states:

"Hey Agent, remember me?"

These are the words that would make any cop's heart skip a beat, until we learn if the person is friend or foe. If the person has nefarious intentions and the agent is retired … well lets say that this is a nightmare that we do not want to see the conclusion of.

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

The Law Enforcement Safety Act of 2002 will give the retired agent not only the chance to totally defend him or her self, but will also permit them to protect any citizen if they stumble across a crime occurring. Back in 1999, Senator Grassley authored the Federal Law Enforcement Good Samaritan Act. This Committee under the leadership of Senators Leahy and Hatch approved that legislative proposal, and it was signed into law. This law allowed off-duty federal agents to take reasonable action if a crime occurs in their presence.

Senate bill 2480 is an extension of that common sense law – for if I retired yesterday, is there any difference in me today? A federal agent usually qualifies with their everyday firearm at least four times a year, and qualifies with various other weapons throughout each year. Also included in training exercises are "shoot/don't shoot" scenarios and the legal aspects of using deadly force. The current requirements for federal agents hired before 1984 to retire is 20 years of service and to be the age of fifty. For agents hired after 1984, they can retire with 25 years of service at any age, or the 20 years of service at the age of fifty. I am sure all present here today will agree that life does not end at fifty, there are many more productive years left. In fact, many federal agents continue in the profession either working as private investigators, state or local criminal justice agencies, or become teachers utilizing their experiences in the field to instruct the next generation. The American Taxpayer invests a lot in its federal law enforcement officers, especially once you count the initial training in Quantico, VA, or Glynco, GA; add in the four times a year firearms qualification, plus the multitude of other training courses, and this results in an investment that the American Citizen deserves to continue to get something back from.

At the start of every Congressional session, FLEOA surveys its members querying them on what issues are important to them. For each of the past few congressional sessions, this issue has been in the top three. FLEOA has approximately 60 chapters across America, and over the years the President of FLEOA has attended hundreds of chapter meetings. This issue has always been one that members have brought up because they truly have been concerned about this.

For all these reasons, FLEOA believes Senate Bill 2480 should be approved in this committee and on the full floor of the Senate and signed into law.

On behalf of Mike Miskinis, Chapter President of FLEOA's Utah Chapter, retired Secret Service Agent; Frank Puleo, Chapter President of FLEOA's Vermont Chapter, currently an Agent with the HHS-OIG but also a future retiree; and for all the members of the Federal Law Enforcement Officers Association, I thank you for holding this hearing, and I look forward to answering any questions of the committee.

* * * * *

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

Remarks of Senator Charles E. Grassley on the "Law Enforcement Officers Safety Act of 2002" Committee on the Judiciary July 23, 2002

Mr. Chairman:

I want to thank you for holding this hearing on the Law Enforcement Officers Safety Act of 2002.

Our concerted national effort to strengthen security here at home will be bolstered by the positive provisions of this legislation. We cannot afford to overlook the tremendous asset we have as a nation in the thousands of very dedicated and professional current and former law enforcement officers living and working across the country.

I am pleased to welcome here today one of those dedicated law enforcement professionals from my home state of Iowa. Joining us is Deputy Chief David E. Johnson of the Cedar Rapids Police Department. He is currently functioning as the Commander of the Field Operations Division there and brings with him over 30 years of experience in police work.

On behalf of the Committee, I welcome you Deputy Chief Johnson. We value your insight and look forward to hearing your comments on this important topic.

Thank You.

NEWS RELEASE

ORRIN HATCH

United States Senator for Utah

July 23, 2002 Contact: Margarita Tapia, 202/224-5225

STATEMENT OF SENATOR ORRIN G. HATCH
RANKING REPUBLICAN MEMBER
Before the SENATE JUDICIARY COMMITTEE
Hearing on

"Law Enforcement Officers Safety Act, S. 2480"

I want to begin by thanking Chairman Leahy for holding this important hearing today on S. 2480, the "Law Enforcement Officers Safety Act." Enactment of S. 2480 will help protect the American public, our Nation's law enforcement officers, and their families by exempting qualified active and retired law enforcement officers from certain local and State prohibitions on the carrying of concealed firearms. I am proud to cosponsor with Senator Leahy this legislation that has the support of over 100 federal, state and local police organizations, including the Fraternal Order of Police, the National Troopers Coalition, the National Sheriff's Association, and the Law enforcement Alliance of America. The 30 Senate cosponsors and 267 House cosponsors symbolize the widespread and bipartisan support this legislation commands on Capitol Hill, and I am hopeful that it will become law this year.

I agree with Lieutenant Young and the FOP that this legislation is about officer safety and not about guns. The Law Enforcement Officers Safety Act permits qualified law enforcement officers and retired officers to carry, with the appropriate identification, a concealed firearm that has been shipped or transported in interstate or foreign commerce regardless of State or local laws. Our legislation clearly defines what is meant by "qualified law enforcement officer" and "qualified retired law enforcement officer" to ensure that those individuals permitted to carry concealed firearms are highly trained professionals. This reasonable and sensible approach will go a long way in providing off-duty and retired officers the security they need, and deserve, to protect themselves and others at all times.

I understand that some have voiced concern that this legislation may encroach on State laws. While our legislation puts the safety of law enforcement officers and the public first, it also respects State laws that permit private persons to prohibit or restrict the possession of concealed weapons on their properties, and that prohibit or restrict the possession of firearms on any State or local government properties, installations, buildings, bases or parks.

The valiant men and women who dedicate their lives to protecting the public are not capable of turning off their sense of duty when they happen to be out of uniform. They and their families accept that this dedication exposes them to risks of retaliation and vengeance at all times. This legislation not only will provide law enforcement officers with a legal means to protect themselves and their families when they travel interstate, it will also provide added security to the American public. By enabling qualified active duty and retired law enforcement officers to carry firearms while off-duty, retired or outside their own jurisdictions, more trained law enforcement officers will be on our streets to enforce the law and to respond to crises.

I look forward to hearing from all of our witnesses who will be testifying to their first-hand knowledge of and experience with law enforcement safety issues. Specifically, I commend Lieutenant Young for his 25 years of service, and his commitment to representing the interests of law enforcement officials across the country. The American public is grateful for law enforcement officials' dedication to protecting our families and communities. That level of dedication doesn't wane when an officer is off-duty or retired, and it only makes sense that qualified officers be allowed to serve the public at all times in a safe manner. I will continue to work with Chairman Leahy and my colleagues in both Houses to ensure that the Law Enforcement Officers Safety Act is signed into law this year.

# # # #

Testimony of Deputy Chief of Police David Johnson
Cedar Rapids Police Department
Cedar Rapids, Iowa
Before the Senate Committee on the Judiciary
Hearing on S. 2480 the Law Enforcement Officers Safety Act of 2002

Mr. Chairman, Members of the Senate Committee on the Judiciary. My name is David Johnson and I am currently the Deputy Chief of Police in Cedar Rapids Iowa. I've been a police officer for over 30 years, and my career as a cop started right here with the Washington Metropolitan Police Department as a patrolman in the 7th District.

In 1974, just as you Mr. Chairman were coming from Vermont to the Senate, I was headed West, to the home state of Senator Grassley where I took a job as a police officer for the Cedar Rapids, Iowa Police Department. After 28 years, I'm still on the job in Cedar Rapids, serving as the Deputy Chief of Police. I have a bachelors degree in Criminal Justice and I am a graduate of the FBI's National Academy, 156th session.

I am a past President of the Iowa Association of Chiefs of Police and Peace Officers and I am also a Life Member of the Law Enforcement Alliance of America.

The Law Enforcement Officers Safety Act of 2002 is an idea first introduced to Congress ten years ago. Congressman Randy "Duke" Cunningham of California, working with retired officer and Law Enforcement Alliance of America Executive Director, James J. Fotis, drafted the original legislation that sought to allow qualified active and retired law enforcement officers the ability to carry the firearms across state lines without facing prosecution. In 1992, H.R. 4897, the first version of this legislation, was born with a bi-partisan introduction by Congressman Cunningham and Congressman Ralph Hall of Texas.

In the decade since then, the support for this legislation has grown dramatically. Today it is still a bipartisan effort, with strong support from both sides of the isle in both Chambers and in this very Committee where a bi-partisan majority of ten Senators have signed on as co-sponsors. Over 100 state and local police organizations have joined in support of the bill. S. 2480 has the support of national police groups like the Fraternal Order of Police, the National Troopers Coalition, the National Sheriff's Association, the Federal Law Enforcement Officers Association, The International Brotherhood of Police Officers, the National Association of Police Organizations and the Law Enforcement Alliance of America.

There is good reason these organizations have been joined by 28 Senators and 267 Representatives in supporting this legislation – it saveslives, it protects our communities and it doesn't cost a dime. You'll hear some concerns about what might happen if this legislation becomes law. Some folks might suggest on-duty police will end up shooting it out with off-duty police. Some people may claim that lawsuits and liability will bankrupt police departments. All I ask is that you listen to these concerns, and then take a look at what is happening right now in the various states.

Mr. Chairman, in your home state of Vermont, no one needs a permit to carry a concealed handgun. Off duty and retired police officers as well as the general public are presently allowed to carry concealed firearms. Is Vermont full of police officers shooting other police officers? Are lawsuits from off duty shootings bankrupting police agencies? Absolutely not.

In many other states, off duty officers, with their police ID, can carry their firearm concealed statewide, not just in the city or county where they work. In Senator Feinstein's California, an off duty officer from the little town of Lodi can carry in the big city of Los Angeles and vice versa.

Retired officers who meet provisions similar to those in S. 2480 can also carry though out the state. California, like other similar states does not suffer from a deluge of off duty shooting lawsuits or on or off duty police officers shooting each other. The ideas behind S. 2480 are working safely and responsibly today in California and elsewhere, we want that same success to be applied through a uniform standard, everywhere.

Mr. Chairman, Members of the Committee, I'd like to share with you a few examples of just how vital this legislation is to the safety of police officers and our communities. Police officers, like doctors, fire-fighters or other emergency personnel are never really off-duty. In some states, it is the law. These public servants perform countless acts of courage and face many moments of danger well after they have finished their shift and some, even after they have ended their tour of duty.

Consider the story of Officer Wendell Smith Jr., a veteran of the Washington Metropolitan Police Department. Officer Smith worked here in the District of Columbia, but he lived in the State of Maryland. When returning home after his shift in February of 1997, Officer Smith was robbed at gunpoint. Just hours before, this officer with his gun at his side, might have had a fighting chance. But without legislation like S. 2480 in place, Officer Smith was barred from carrying his firearm, and had to secure it out of reach. When the robbers discovered his badge and realized they were attacking a police officer, they executed him in cold blood. Officer Smith was killed because he was forced to be unarmed. On the day of this officer's murder, the legislation that could have saved his life had been sitting idle in Congress for five years. Now, ten years after its introduction, it is still not law.

America's men and women in blue can't always avoid trouble just because they are off duty. And being off duty doesn't mean they can't make a difference. Let me share with you an example of some of the great things that have happened when an off duty officer has the tools available to respond as they are trained.

In March of 2001, a student opened fire at his high school in San Diego, California. However, the shooter wasn't the only person with a gun. Off duty San Diego Police Officer Robert Clark was also on campus, running an errand. When he heard the shots, he took immediate action, drew his concealed firearm and ran to the scene of the crime. He confronted the shooter in a school bathroom and held him at gun point, preventing the shooter from entering the hallway and continuing the massacre.

When on duty officers arrived for back-up, Officer Clark worked with two deputies - - deputies from a different law enforcement agency than his own I might add - - to disarm the shooter and take him into custody. Once the scene was secured, Officer Clark then administered first aid to two shooting victims found in the bathroom. For his bravery Officer Robert Clark was given his department's highest honor.

Off duty officers like Robert Clark make the headlines time after time when they are able to use their firearm to save lives, while out of uniform and off duty. Even the International Association of Chiefs of Police knows the role armed off duty officers play. In 2000, they named Officer Dennis Devitte of the Las Vegas Police Department as their "Officer of the Year." IACP along with Parade Magazine honored him for his daring shootout with three armed robbers.

Officer Devitte drew his "off duty" gun and charged masked gunmen who had opened fire in the crowded bar. His bravery saved the lives of every innocent person in the room, as he killed one robber and sent the other two fleeing. Officer Devitte was shot 8 times, but the same spirit of courage that called him into action helped him survive, even after losing six units of blood and requiring his knee to be completely rebuilt. In just 6 months, this brave officer was back on the job.

The acts of courage aren't limited to off duty officers -- retired officers save lives too. In New Jersey a retired officer witnessed the shooting of a police officer in a traffic stop. Because no law existed that would allow this retired officer to be armed, he had no other option but to run to the fallen officer's side, call for help, grab the fallen officer's firearm and handcuffs and take off in pursuit of the would-be cop killer. This retired officer was not just brave, he also had the skills honed from a career on the streets. He succeeded in capturing and handcuffing the attacker.

There isn't enough time left in this hearing or even this session of Congress to share with you every heroic story of off duty or retired officers intervening to save lives. You've heard some from me and certainly you've heard stories from your constituents about how this legislation can and will save lives.

Since September 11th, our entire nation has been forced to rethink our vigilance for the safety of our borders, our communities, our families and ourselves. We do not know if, when or how terror will strike again. What we do know is that in any given time of day, roughly 70% of our nation's police officers are off duty. S. 2480 can empower those off duty officers, plus the countless trained and qualified retired law enforcement officers with the tools they need to make a difference. This is homeland security that doesn't require us to trample on civil liberties, homeland security that can be done without playing musical chairs with federal public safety personnel, and homeland security that won't bust the budget. That's one of the reason why this bill is so widely supported, by Democrats, Republicans and Independents.

Mr. Chairman, Members of the Committee, I thank you for giving this legislation a hearing and allowing me to testify today. On behalf of myself, fellow members of the Law Enforcement Alliance of America and police officers everywhere, I would ask your help in seeing to it that S. 2480 becomes law this year.

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Officer Sue Albert

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Police Service Dog "Doc"

Police Service Dog "Tiger"

June 8, 2002

Senator Patrick Leahy
United States Senate
Washington, DC 20510-4502

Dear Senator Leahy,

This letter is intended to express support for the Law Enforcement Officers Safety Act of 2002, S. 2480.

The goal of permitting current and retired local, state, and federal law enforcement officers to carry a concealed firearms at all times is a good one. A Vermont example is that many of our small police agencies commonly rely upon "off-duty" police officers to assist their "on-duty" colleagues with emergencies. Public safety will be enhanced when this legislation becomes law.

This proposed legislation is important to law enforcement. Please continue to support this legislation in order for it to be signed into law this year. Thank you for your on-going efforts of supporting law enforcement.

Sincerely,

Wade M. Johnson

Wade M. Johnson
Community Police Officer

"First In Community Policing"

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Louisville, Kentucky

State Secretary
DENIS SPALDING
Jefferson County, Kentucky

July 22, 2002

Senator Mitch McConnell
SR-361-A Senate Russell Office Building
Washington, DC 20510-1702

Senator McConnell,

On behalf of the 8, 300 members of the Kentucky State Lodge of the Fraternal Order of Police, I want to thank you for being a cosponsor of S-2480 the "Law Enforcement Officers Safety Act". Other than S-952, S-2480 is the most important legislation currently before the United States Senate that effects the Law Enforcement Community and helps protect our Officers, in such a positive manner. We applaud you and your colleagues who have joined together to pass this vital piece of legislation.

As the Senior Senator from Kentucky, you are aware of our unique geography among States, where Kentucky shares a border with seven other States. Kentucky has over 200 Cities and Towns that are on the State Border, or a few miles from it. with nothing but a line on a map or a river separating those citizens from cities and towns in other States, and criminals who reside in those cities and towns.

The criminals that Law Enforcement Officers have to deal with have no respect for State Lines or jurisdictions, and as a result, they move freely between States and jurisdictions carrying their weapons wherever they go, with a total disregard for the safety of any citizen, or the Law Enforcement Officer who is sworn to "Serve and Protect", these criminals might encounter.

If, on the other hand, a fully trained Law Enforcement Officer, travels across a State Line for business or recreation and encounters one of these criminals, the Officer is unarmed, because to be armed would be a crime, and in some cases it would be a felony! When you think how absurd this situation is, you would laugh except this is no laughing matter, because the very core thing Officers do is to protect and serve others.

In this mobile society, Officers need the ability to protect themselves and others regardless of where they are. Trained Law Enforcement Professionals will act like the professionals they are, regardless of where they are at.

Most Law Enforcement Officers in Kentucky have, since 1974, had the right to carry concealed weapons anywhere in the Commonwealth, on or off duty. To my knowledge in those 28 years we have not had any incidents where a Officer acted improperly with a concealed weapon in or out of his jurisdiction. Again, trained Law Enforcement Professionals will respond like the trained professionals they are!

Again Senator McConnell, I want to thank you for your much appreciated support of this vital legislation that will go a long way to help protect the men and women of Law Enforcement who put it on the line every day for those citizens they "Serve and Protect".

Fraternally,

Martin D. Scott Jr.

Martin D. Scott Jr.
State President

cc/file
State Secretary

Statement of Senator Patrick Leahy
Chairman
Senate Committee on the Judiciary
Hearing on "The Law Enforcement Officers Safety Act of 2002, S. 2480"
July 23, 2002

I am pleased today to hold this hearing on the Law Enforcement Officers Safety Act of 2002, legislation to permit current and retired Federal, State and local law enforcement officers to carry their firearms to be prepared to assist in dangerous situations. I am proud that 29 Senators – including Senator Baucus, who joins us today as a witness, and Members of the Judiciary Committee, Senators Thurmond, McConnell, Edwards, Feinstein, Grassley, Sessions, Brownback, Cantwell, DeWine, and Harkin – have joined Senator Hatch and me to cosponsor this bill in an effort to make our communities safer and to better protect law enforcement officers and their families.

I introduced this measure as a companion to H.R. 218, sponsored by Representative Cunningham, who is joining today to testify on the bill's behalf. The House bill has garnered 267 cosponsors from both sides of the aisle. In both the House and the Senate there is strong bipartisan support for this legislation. It is strongly supported by the Fraternal Order of Police.

There are approximately 740,000 sworn law enforcement officers currently serving in the United States. Since the first recorded police death in 1792, there have been more than 16,000 law enforcement officers killed in the line of duty. A total of 1,789 law enforcement officers died in the line of duty over the last decade, an average of 180 deaths per year. In 2001 alone, there were 232 police deaths, representing a 49 percent increase from the 156 officers who died in 2000. Roughly 5 percent of officers who die are killed taking law enforcement action while in an off-duty capacity. On average, more than 62,000 law enforcement officers are assaulted each year, resulting in some 21,000 injuries.

Until last year, violent crime in this country had declined each of the preceding 8 years. Indeed, it had fallen by 40 percent from a high of 4 million violent crimes in 1993. This dramatic decline, though, has come at a heavy price. Community policing and the outstanding work of so many law enforcement officers were vital keys in our crime control efforts. Unfortunately, last year the downward trend in violent crime did not continue and violent crime turned upward.

The Law Enforcement Officers Safety Act of 2002 is designed to protect officers and their families from vindictive criminals and to allow thousands of equipped, trained and certified law enforcement officers, whether on- or off-duty or retired, to carry concealed firearms in most situations, thus enabling them to respond immediately to a crime. Many members of the law enforcement community feel that such national legislation is necessary due to the patchwork of conceal-carry laws in State and local jurisdictions.

I submit for the record letters of support for S. 2480 from a variety of Vermont law

enforcement officials, including Chief Osburn Glidden of Williston, and Officer Wade Johnson of Hinesburg. I also state for the record that I have received calls of support for this measure from Chief Trevor Whipple of Barre, and Captain Robert Hawke, the President of the Vermont Police Association. I also submit for the record a statement endorsing this legislation from the National Organization of Police Organizations, and the International Brotherhood of Police Officers.

Off-duty and retired officers should be permitted to carry their firearms across State and other jurisdictional lines, at no cost to taxpayers, in order better to serve and protect our communities. Our bill would permit qualified law enforcement officers and qualified retired law enforcement officers across the nation to carry concealed firearms in most situations. It also preserves, however, any State law that permits citizens from restricting a concealed firearm on private property and preserves any State law that restricts the possession of a firearm on State or local government property.

To qualify for the bill's uniform standards a law enforcement officer must be authorized to use a firearm by the law enforcement agency where he or she works, be in good standing with that agency, and meet any standards established by that agency to regularly qualify to use a firearm.

A qualified retired law enforcement officer under the bill must have retired in good standing, been employed at least five years as a law enforcement officer unless forced to retire due to a service-related injury, have a non-forfeitable right to benefits under the law enforcement agency's retirement plan, and annually complete a State-approved firearms training course.

As a result, our bipartisan legislation maintains the State or local jurisdiction's power to determine whether a law enforcement officer or retired law enforcement officer is qualified in the use of a firearm.

As a former State prosecutor, I know that law enforcement officers are never "off-duty." They are dedicated public servants trained to uphold the law and keep the peace. When there is a threat to the peace or to our public safety, law enforcement officers are sworn to answer that call. The Law Enforcement Officers Safety Act enables law enforcement officers across the nation to be armed and prepared when they answer that call, no matter where, when, or in what form it comes.

I look forward to hearing testimony today on this legislation. I want to thank, in particular, my good friend and the President of the Fraternal Order of Police, Steve Young of Ohio, for being with us today. His dedication on this matter has led all of us to focus on this measure that will help make our communities safer and protect those who are sworn to guard and serve the American public. It is my hope that we can consider and pass this legislation without delay to make our communities safer and to better protect law enforcement officers and their families.

Statement of U.S. Senator Mitch McConnell
Senate Judiciary Committee Hearing on S. 2480
The Law Enforcement Officers Safety Act

- Mr. Chairman, I would first like to thank you for introducing S. 2480, "The Law Enforcement Officers Safety Act" in the Senate. As you know, I am an original co-sponsor of this bill. It will go a long way to helping police officers protect themselves, their families, and our communities while they are off-duty.

- Second, I applaud you for holding a hearing today on this legislation. I look forward to the testimony from our distinguished witnesses and hope that the Committee can quickly complete its work on this legislation so that we can get it enacted this year.

- Mr. Chairman, America's law enforcement officers place themselves in harm's way every day so that our cities and towns can be safe. They walk the beat, investigate crimes, interview witnesses, and testify at trial to put the bad guys away.

- Sometimes, they make the ultimate sacrifice in the line of duty to stop robberies, thwart murders and rapes, and prevent other crimes. As we saw on September 11, when duty calls, they rush into dangerous situations, heedless of their own safety and welfare, to save the lives of individuals whom they have never met. We should all be grateful for such selflessness.

- But police officers also face danger off-duty. They can earn the enmity of the criminals they arrest and help send to prison and may be the target for retribution, either by the criminals themselves or by their family and friends. And, like any other citizen, they can simply be at the wrong place at the wrong time–in the check-out lane or at an ATM during an attempted robbery. Criminals do not wait until an officer is on duty to strike.

- Unfortunately, many officers are prohibited from carrying their firearm while they are off-duty or when they are traveling to other jurisdictions. This situation leaves them vulnerable to criminals who seek revenge. It also deprives our communities of trained and equipped professionals who can meet emergencies when they arise.

- "The Law Enforcement Officers Safety Act" will allow certified current and former police officers to carry their firearms while off-duty. This will enable them to defend themselves and others.

- Because S. 2480 is vital to the safety of law enforcement officers and citizens alike, it has been endorsed by the Grand Lodge of the Fraternal Order of Police and, in my home state, the Kentucky State Lodge of the Fraternal Order of Police. Martin Scott, State President of the Kentucky F.O.P., put it well when he said:

- "The criminals that law enforcement officers have to deal with have no respect for State lines or jurisdictions, and as a result, they move freely between States and jurisdictions carrying their weapons wherever they go, with a total disregard for the safety of any citizen, or the law enforcement officer who is sworn to 'Serve and Protect.' "

That just about says it all: our off-duty police officers are at a grave disadvantage to the criminals who would do them harm. This situation must be remedied, and S. 2480 is the answer we need.

So, Mr. Chairman, again, I want to thank you for your leadership on this issue, and I look forward to working with you so that we can finally remove an obstacle that is preventing law enforcement officers from protecting themselves and their families and from fully protecting our communities. I ask that Mr. Scott's letter be placed in the record. Thank you.

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Testimony for the Senate Judiciary Committee,

Submitted by William J. Johnson, Executive Director,

National Association of Police Organizations.

July 23, 2002.

Mr. Chairman, Senator Hatch, members of the Senate Judiciary Committee, My name is William J. Johnson and I am the Executive Director of the National Association of Police Organizations. NAPO is a coalition of police unions and associations from across the United States that serves here in Washington D.C. to advance the interests of America's law enforcement through legislative and legal advocacy.

On behalf of 220,000 rank-and-file police officers, I would like to thank you for this hearing today on an issue of paramount concern to the safety of law enforcement officers, their families and our nation.

NAPO has fought tirelessly since 1992 to insure the ability of off duty and retired police officers to carry their firearm when traveling across state lines. In the House, NAPO has worked for the passage of H.R. 218 and we would like to thank the Chairman, Senator Patrick Leahy and Ranking Republican member, Senator Orrin Hatch, for introducing S. 2480, the 'Law Enforcement Officers Safety Act of 2002,' in the Senate. If enacted, this bill will rightly allow off duty and retired police officers to carry their firearms for self protection, the protection of their families and the general public. Current officers are skilled in weapons handling and retired officers would still have to complete continual certification tests to insure their abilities.

NAPO'S support of S. 2480 is three fold. First, this legislation will properly clarify right to carry laws for law enforcement officers across the nation. Second, it will serve to better protect the men and women of law enforcement, and their families, who are at greater risk from acts of revenge and reprisals from criminals. Lastly, as the

needs and responsibilities of homeland security increase, the legislation will serve to better protect the welfare of the general public as qualified and trained officers carry their side arm while traveling.

First, there currently exists a chaotic patchwork of inconsistent laws across the United States, varying state-to-state and jurisdiction-to-jurisdiction, as to the legality of law enforcement officers carrying their side arms. Police officers are often confronted with these varying and confusing state statutes when traveling across state lines and are made to feel like criminals themselves when unsure of each state's intricate and unique carry laws. These includes what type of weapon they may carry, weather or not they can carry one at all, whether it can be loaded or not, weather the weapon has to be concealed or exposed, where it can be kept in the automobile, in what condition and whether it matters that the officer is on or off-duty. A single transcending statute for law enforcement officers would facilitate current confusion and better protect their safety.

Secondly, for law enforcement, the right to carry will help protect officers and their families who may be marked targets by criminals. While most see the work of crime fighting by the men and women of law enforcement as a benefit to society, some unfortunately see law enforcement as the enemy. Society asks the men and women of law enforcement to protect the social welfare and stand between it and the anarchy of crime and violence. On this front line, law enforcement defends our safety for us and is therefor constantly in the eye of crime. Yet, when off duty, they are currently left unprotected from this threat. Criminals will not be deterred by state statutes or prevented from going outside of jurisdictional lines when seeking retribution and revenge against law enforcement officers who have enforced society's laws upon them. Though the officer's shift might be over, the safety of being off duty is painfully transparent because to the criminal, they are still the officer who enacted the arrest, jailed a fellow gang member or foiled the crime.

Lastly, for the public, law enforcement's right to carry will mean additional protection to our streets and communities, as trained and properly qualified current and former law enforcement officers travel outside of their jurisdictions. In a time when local law enforcement is stretched to the limit confronting the new and varied threats of terrorism, community crime prevention will have to share the plate with substantial local security concerns. A right to carry law for law

enforcement should be made an intrinsic part of any homeland security plan because as the needs of homeland security increase, these first responders will be able to bring their experience and expertise to situations where before they might have been unable to act.

In conclusion, S. 2480 is necessary and beneficial for the general welfare of both the public and the law enforcement community. This legislation will clarify the varied laws that exist today, protect officers and their families when traveling from the constant threat we ask them to accept and safeguard the homeland security of our nation. Thank you for this opportunity to present the concerns of America's police.

REPORTER

STATEMENT BY SENATOR STROM THURMOND (R-SC) BEFORE THE SENATE JUDICIARY COMMITTEE REGARDING THE LAW ENFORCEMENT OFFICERS' SAFETY ACT OF 2002, TUESDAY, JULY 23, 2002, SD-226, 2:00 PM.

Mr. Chairman:

Thank you for holding this important hearing today on S. 2480, the Law Enforcement Officers' Safety Act of 2002. This bill, if enacted into law, would provide important public safety benefits by allowing current and former law enforcement officers to carry concealed handguns when traveling outside of their home jurisdictions. Not only would this legislation better enable law enforcement officers to protect the general public when the officers are off-duty and out-of-pocket, but it would also protect the safety of individual officers who heed the call to assist their fellow citizens.

Today's hearing is particularly timely because of the problems facing law enforcement today. We live in a time when terrorists, who reside within our own borders, seek to do us harm. This bill would provide an important tool to the anti-terrorism efforts of our Nation's law enforcement. I commend Chairman Leahy for his work in this area, and I am proud to join as a cosponsor of this common-sense piece of legislation.

The Law Enforcement Officers' Safety Act is critical because many state and local governments have made it unlawful for officers from other jurisdictions to carry concealed weapons, even if the officers are fully qualified to handle firearms. While I am always sensitive to the prerogatives of local governments, these local laws erect substantial barriers to law enforcement officers who offer their professional services during times of emergency. In this particular instance, Congress should not hesitate to act. It is simply unconscionable to expose law enforcement officers to criminal liability if they choose to volunteer their time and services. For example, many officers from New Jersey volunteered in New York City on September 11. It goes without saying that in the hours after the terrorist attacks, no one questioned the New Jersey police officers, who risked their lives to assist people in need, about whether they were in compliance with New York law.

This legislation would also protect the lives of law-abiding officers who will inevitably offer help during emergencies. Currently, officers who comply with the laws of other jurisdictions have to do without an essential tool of their profession, potentially placing themselves in great

danger. We should not give officers the choice of either providing assistance without the use of a firearm or breaking the law so that they will be prepared to protect others, and themselves, effectively.

Additionally, this legislation would apply to retired law enforcement officers. This provision is important because there are numerous retired officers who are perfectly capable of providing effective assistance should an emergency arise. As an illustration, the target retirement age for Federal agents is 50. I think that we can all agree that former officers have many years of productivity after the age of 50. We should encourage retired officers to help people in need, without the worry of violating local laws.

I want to stress that the bill would require a retired agent to meet certain qualifications, including adequate experience during the officer's career and recent firearms training requirements. The bill sets up strict guidelines, so that only qualified people are exempt from local firearms laws.

Some detractors of this legislation have argued that it opens up to liability police departments whose officers

carry concealed firearms in other jurisdictions. In my view, this argument is overblown. For example, in the state of Vermont, any person may carry a concealed handgun. There is no indication that Vermont police departments have been burdened by litigation expenses. The state of New Jersey provides another example. Since 1996, the state has allowed retired law enforcement officers to carry concealed handguns. For the last six years, this policy has worked well and has not sparked an increase in litigation. The fact remains that law enforcement officers are professionals, and whether on or off-duty, they will act in accordance with their training.

Nevertheless, I am willing to address this concern by supporting a carefully drawn amendment that would exempt police departments from liability and would ensure that individual police officers are responsible for their own actions. If liability concerns impede the movement of this bill, I hope that we would be able to agree on an amendment that will protect the interests of police departments.

Mr. Chairman, thank you for holding this hearing today on a very important piece of legislation. The Law Enforcement Officers Safety Act of 2002 will significantly

enhance the security of American citizens as they go about their everyday lives. It will do so by removing restrictions that deter qualified current and former law enforcement officers from carrying firearms as they travel away from their home jurisdictions. This legislation has the potential to assist our Nation's law enforcement officers, who are public servants of the highest caliber, in their efforts to save lives. It will enable officers to comply with the law and to intervene in situations where law enforcement expertise is needed on a timely basis. I am pleased to support this bill, and I look forward to our discussion today.

- END -

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

TESTIMONY

Statement of

Colonel Lonnie J. Westphal

5th Vice-President

Of the

International Association of Chiefs of Police

On S. 2480, the Law Enforcement Officers Safety Act

Before the

Committee on the Judiciary
United States Senate

July 23, 2002

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Good Afternoon, Senator Leahy, Senator Hatch and members of the Committee.

I am pleased to be here this afternoon to present the views of the International Association of Chiefs of Police on S. 2480, the Law Enforcement Officers Safety Act of 2002. As you know, the IACP is the world's oldest and largest association of law enforcement executives, with more than 19,000 members in 100 countries. Before I address our concerns with this legislation, I would like to express my gratitude and the gratitude of the IACP to this committee for your continuing support of this nation's law enforcement agencies and law enforcement officers.

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

In addition, authority for police officers to carry firearms when off-duty, use-of-force policies and firearms training standards vary significantly from state to state. Why

should a police chief who has employed the most rigorous training program, a strict standard of accountability and stringent policies be forced to permit officers who may not meet those standards to carry a concealed weapon in his or her jurisdiction?

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

There can be no doubt that police executives are deeply concerned for the safety of our officers. We understand the proponents of S. 2480 contend that police officers need to protect themselves and their families while traveling, and that undercover officers may be targets if recognized on vacation or travel. These are considerations, but they must be balanced against the potential dangers involved. In fact, one of the reasons that this legislation is especially troubling to our nation's law enforcement executives is because they could in fact threaten the safety of police officers by creating tragic situations where officers from other jurisdictions are wounded or killed by the local officers. Police departments throughout the nation train their officers to respond as a team to dangerous situations. This teamwork requires months of training to develop and provides the officers with an understanding of how their coworkers will respond when faced with different situations. Injecting an armed, unknown officer, who has received different training and is operating under different assumptions, can turn an already dangerous situation deadly.

In addition, the IACP believes that this legislation would do little to improve the safety of communities. It is important to remember that a police officer's authority to enforce the law is limited to the jurisdiction in which they serve. An officer, upon leaving

his jurisdiction, has no arrest powers or other authority to enforce the law. That is the responsibility of the local law enforcement agencies.

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

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

Finally, the IACP is also concerned over the liability of law enforcement agencies for the actions of off-duty officer who uses or misuses their weapon while out of state. If an off-duty officer who uses or misuses their weapon while in another state, it is likely that their department will be forced to defend itself against liability charges in another

state. The resources that mounting this defense would require could be better spent serving the communities we represent.

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

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

Testimony of Lt. Steve Young
National President
Fraternal Order of Police
Before the Senate Judiciary Committee
Hearing on "The Law Enforcement Officers Safety Act, S. 2480"

Good afternoon, Mr. Chairman and distinguished members of the Committee on the Judiciary. My name is Lieutenant Steve Young, and I am the National President of the Fraternal Order of Police, the largest law enforcement labor organization in the United States.

I want to begin by extending the sincere gratitude of our nation's rank-and-file officers to you, Mr. Chairman, for holding this hearing as well as the gratitude of the Fraternal Order of Police to you and to Ranking Member Hatch for authoring S. 2480, the "Law Enforcement Officers' Safety Act," which is the subject of this hearing. Both of you have proven time and time again throughout your careers that you stand ready to help police officers across the country. Your work on this legislation is perhaps the strongest example of that support.

To the Fraternal Order of Police, its members and rank-and-file officers across the nation, whatever their representative organization, the enactment of legislation exempting qualified active and retired law enforcement officers from State and local prohibitions on the carrying of concealed firearms is a top legislative priority. For the past three Congresses, the F.O.P. has worked to pass such legislation. It seems that each and every year, our bill would be favorably reported in the House Judiciary Committee, but was always derailed by the "firearms politics." Mr. Chairman and members of this Committee, this legislation has never been a "firearms issue"--it is an officer safety issue. And it is my belief that, on September 11, 2001, it became a critical public safety and homeland security issue. For this reason, the F.O.P. has made the enactment of S. 2480, the "Law Enforcement Officers' Safety Act," its highest legislative priority.

Our nation's police officers are as much guardians of our security as they are our protectors from crime and violence. We allow our children to play in local parks because we know our streets are patrolled by the men and women of our local police department. We trust them to keep our homes and neighborhoods safe. They provide us with a sense of security in all aspects of our daily lives.

The events of September 11 have caused many of us to wonder if we will ever feel safe in our homes, neighborhoods, or offices again. But on the other hand, September 11 also produced extraordinary tales of heroism--of men and women risking their lives to save others. Too often, we forget the everyday heroism of our police officers and firefighters. The tragedies at the World Trade Center and the Pentagon reminded us how much we depend on these everyday heroes.

I do not believe that Americans have to or will ever accept the idea that we must live in fear of terrorism, any more than we ever accepted we must live in fear of crime. But I believe that all of us would be comforted by the knowledge that, no matter what happens, a police officer--maybe in uniform, maybe not--is ready to come to the aid of his fellow citizens and honor their oath to protect and serve. It is for this reason that S. 2480 is an important public safety and homeland

security issue.

Law enforcement officers are a dedicated and trained body of men and women who, unlike other professionals, are rarely "off-duty." Their instincts, their desire to help and their fidelity to an oath to serve and protect their fellow citizens never retires and never goes off the clock. Consider the case of John Perry, a Lieutenant with the New York City Police Department who, on his morning off, had just filed his retirement papers at Police Headquarters in lower Manhattan. When the first airliner struck the World Trade Center, off-duty Lt. Perry rushed to the scene. There he joined Police Captain Timothy Pearson and other officers evacuating victims from the second-floor mezzanine of the north tower. John Perry never made it out.

Lt. John Perry spent his day off responding to one of the greatest tragedies our nation has ever endured. He was the only off-duty officer to be lost that day. John Perry risked his life to do his duty--and he did not worry about whether or not he punched his time card.

Whenever there is a threat to the peace or to public safety, the police officer is sworn to answer the call of duty, on the clock or off. On September 11, the ranks of volunteers in New York City, Pennsylvania, northern Virginia and Washington, D.C. were swelled by retired law enforcement officers and off-duty officers from every region of the country who had come to offer their services. Police officers, firefighters, and EMS personnel worked side-by-side, with each professional relying on one another to assist according to their specialized training and experience. The help rendered by these public safety officers was received with gratitude, by the victims and their fellow emergency response personnel. It did not matter whether they were off-duty or not--they knew they could count on a particular level of training and professionalism from these volunteers. Yet off-duty and retired law enforcement officers were in legal jeopardy as a result of their volunteer efforts.

As the World Trade Center burned, many off-duty and retired officers rushed to New York and New Jersey, hoping to help the victims of the attack and provide relief for the exhausted New York City police officers. These well-intentioned volunteers may have been in violation of State and local law beacuse New York and New York City restrict the ability of off-duty police officers from other jurisdictions to carry their firearms. Similarly, across the river in New Jersey, which was used as a staging and recovery area, armed law enforcement officers not employed by that State may not have been eligible for exemption from New Jersey's statute against unlawful weapons possession. Any armed officer crossing a jurisdictional boundary to volunteer his time in response to this tragedy may have been breaking the law.

Pennsylvania, the only State on 11 September without casualties on the ground, has no exception for police officers employed outside of Pennsylvania. Off-duty police officers that, without hesitation, volunteered in response to the scene were undoubtedly in violation of State law if they carried their firearms with them while assisting their colleagues in Pennsylvania.

I feel certain that most of the officers who volunteered had their firearms with them. And why shouldn't they? None of the other professional volunteers on 11 September left their tools, instincts or training behind, and yet only police officers were exposed to legal jeopardy while at

or traveling to the site of the attacks.

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

When the Fraternal Order of Police talks about the passage of S. 2480 as an officer safety issue, we mean it. A police officer cannot remember the name and face of every criminal he or she has locked behind bars, but criminals often have long and exacting memories. Passage of this legislation will give police officers the legal means to defend themselves and their families from vengeful, violent acts. Police officers are frequently finding that they, and their families, are targets in uniform and out, off-duty and on, active and retired.

We have compiled the following information from data obtained by National Law Enforcement Officers' Memorial. With your permission, Mr. Chairman, I would like this document to be entered into the record. In the last ten years, more than sixteen hundred police officers have been added to the Wall of Remembrance in Judiciary Square. Of these, fifty-four (54) officers were not "on-duty" when they were killed. Yet despite not being on the clock, the circumstances of their deaths qualified them as having died "in the line of duty." Some of these officers put themselves into danger by having rushed to aid a victim or interfered with a suspect committing a crime. Other officers were murdered by criminals they'd arrested, and still others were killed because their assailants learned that they were police officers.

To the best of our knowledge, these officers were unarmed when they answered the call--and paid the ultimate price. If they had been armed, would they have lived? This is an impossible question to answer, knowing that, on average, more than one hundred and fifty armed and uniformed officers die in the line of duty each year. But one thing is certain: even one life saved demonstrates the need for this legislation.

Permit me to provide a few examples:

- Detective Donald Miller, a ten-year veteran with the New Bern Police Department in North Carolina was off-duty on 23 December 2001. He and his wife had just finished their visit to their newborn child in the hospital when the detective observed a man driving recklessly through the hospital parking lot. He confronted the man, who drew a

handgun and fired--striking Miller in the head. Detective Miller, father of two, died two days later on Christmas Day.

- Officer Dominick J. Infantes, Jr., a seven-year veteran with the Jersey City Police Department in New Jersey, was attacked by two men wielding a pipe on 4 July 2001. Infantes was off-duty when he asked two men to stop setting off fireworks near playing children. He identified himself as a police officer, but the two killers did not believe him because Infantes did not have a gun. He died two days later, a newlywed at the age of twenty-nine, from his injuries. More than 5,500 police officers, including some from as far away as Canada and Ireland attended his funeral.

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

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

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

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

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

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

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

- Officer Robert Porter, a seven-year veteran with the Philadelphia Police Department, was killed in an ambush. While dropping off an item at a local tavern, his partner was confronted by several bar patrons whom he had previously arrested. The two officers left the tavern when the argument was settled and drove away. The three suspects caught up with the two partners, drove up to the passenger side and fired into the vehicle. Officer Porter, though not the intended target, was killed.
- Officer Ronald Levert Richardson served nine years with the District of Columbia Department of Corrections. He was shot and killed outside his home by suspects seeking to prevent him from testifying at a drug trial.
- Officer Oliver Wendell Smith, Jr., of the Metropolitan Police Department in Washington, D.C. was off-duty when he was robbed at gunpoint. Upon discovering the victim was a police officer, the robbers shot and killed him.
- Officer Charles Kirksey Todd, a three-year veteran of the Police Department in Mayfield, Kentucky was attending a wedding off-duty when one guest attacked another with a knife. The officer was fatally stabbed trying to subdue the attacker.
- Officer Ernest Andrew Whitten, a twelve-year veteran of the Albertville Police Department in Alabama, was shot and killed in his home because of a case he had made against the suspect.

Law enforcement is a dangerous profession; there is no legislation, act of Congress or government regulation which will change this sobering fact. However, the adoption of S. 2480 will, at the very least, give officers who do choose to carry a chance to defend themselves and their families if confronted with the situations like those I have just described.

This legislation is about officer safety. Police officers are patrolling our streets and keeping our communities safe, and Congress must do its part by working to make police officers safe by passing this critically important piece of legislation.

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

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

The remaining two gunmen fled. All six civilians wounded in the assault recovered. One witness described Officer Devitte's action as "the most courageous thing I've ever seen." Officer

Devitte lost six units of blood, his gun hand was badly damaged and his knee had to be entirely reconstructed with bones taken from a cadaver. And yet, he was back on the job six months later.

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

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

It is ironic to me that the IACP opposes this legislation when their own choice for "Police Officer of the Year" for 2000 and an Honorable Mention are police officers whose heroic acts which earned them this recognition occurred while they were off-duty and armed. Perhaps they will be able to explain this contradiction today.

According to a 24 March 2000 letter, the IACP objects to this bill for four reasons. The first is a philosophical opposition to Federal legislation preempting State laws. We respectfully disagree with this reasoning. Congress has the power, under the "full faith and credit" clause of the Constitution, to extend full faith and credit to police officers who have met the criteria to carry firearms set by one State, and make those credentials applicable and recognized in all States and territories in these United States. States and localities issue firearms to their police officers and set their own requirements for their officers in training and qualifying in the use of these weapons. This legislation maintains the States' power to set these requirements and determine whether or not an active or retired officer is qualified in the use of the firearm, and would allow only this narrow universe of persons to carry their firearms when traveling outside their jurisdiction. We believe this is similar to the States' issuance of drivers' licenses--the standards may differ slightly from State to State, but all States recognize that the drivers have been certified to operate a motor vehicle on public roadways. I sincerely doubt that the IACP has a philosophical objection to recognizing a driver's license in one State from a State with lower or different standards for their drivers.

We believe that S. 2480 carefully defines who will and will not be able to carry under this bill Only employees of a government agency who are or were authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law, and have or had statutory powers of arrest will be able to carry their firearms if this legislation is enacted. Active officers must be authorized to carry a firearm and meet the standards established by the agency which require the employee to regularly qualify in the use of a firearm, and retired officers must have retired in good standing from a government agency with a nonforfeitable right to benefits under the retirement plan of the agency in order to be considered "qualified." In addition, retired officers who wish to carry under this bill must requalify with their firearm at their own expense every twelve (12) months and meet the standards for training and qualification to carry a firearm in the State in which they reside.

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

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

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

Similarly, two weeks ago the House voted overwhelmingly to deputize airline pilots who volunteer to perform as "Federal flight deck officers." Section 2(f)(3) of H.R. 4635, the "Arming Pilots Against Terrorists Act," states: "PREEMPTION- Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from one State to another State."

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

Another objection raised by the IACP is that such legislation would jeopardize the lives of officers who might mistake a fellow officer from outside the jurisdiction for an armed assailant. There have been and will be incidents of friendly fire--police who, tragically, mistakenly shoot a fellow officer. Such a shooting occurred here in Washington, D.C. somewhat recently, in fact. These incidents are tragedies, just like training accidents or other accidental injuries or deaths. You cannot legislate against tragedy. However, it is clear to me from the facts that police

officers are in far more danger from vengeful, armed assailants than from their fellow officers.

Thirdly, the IACP maintains that the bill would do little to improve the safety of our communities. I submit that, especially since last September, we have dispensed with that argument.

Finally, the IACP erects the straw man of liability--that the departments are financially at risk if an off-duty officer is involved in an incident outside his home jurisdiction. First of all, an off-duty officer who elects to carry his or her firearm when traveling is liable for his own actions, not the department which employs him or her. Secondly, the chiefs should remember, if they can, that police officers are trained how and when to use firearms and the proper method of escalating force in the variety of situations which may confront them. Most police officers will serve their entire careers without ever having drawn their firearm in the line of duty, so there is no reason to think, as the IACP intimates, that the nation will suddenly be overrun by out-of-control vacation cops drawing guns on jaywalkers. It's irresponsible to portray their officers in that way.

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

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

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

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

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

The companion bill to S. 2480, H.R. 218, the "Community Protection Act," currently has two hundred and sixty-one (261) cosponsors. Just two years ago, the House passed an amendment

identical to the bill on the floor by an overwhelming vote of 372-53. Though the underlying measure was defeated, it is clear that the House of Representatives discerned the merits of the bill. It is my hope that this Committee will as well.

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

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

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

H.R. 218/S. 2480: It's About Officer Safety

When the Fraternal Order of Police talks about the passage of H.R. 218/S. 2480 as an officer safety issue, we mean it. A police officer may not remember the name and face of every criminal he or she has locked behind bars, but criminals often have long and exacting memories. A law enforcement officer is a target in uniform and out; active and retired; on duty and off.

We have compiled the following information from data obtained by National Law Enforcement Officers' Memorial. The fifty-four (54) officers listed below appear, or will appear, on the Wall of Remembrance in Judiciary Square because they were killed in the line of duty. But, unlike most officers on the Wall, these officers were not "on-duty" when they were killed. Yet even though they were not on the clock, the circumstances of their death qualified them as having died "in the line of duty."

Law enforcement officers are a dedicated and trained body of men and women, who, unlike other professionals, are rarely "off-duty." When there is a threat to the peace or to public safety, the police officer is sworn to answer the call of duty. The men and women listed below were off-duty and, to the best of our knowledge, they were unarmed when they answered the call--and paid the ultimate price. If they had been armed, would they have lived? More than one hundred armed and uniformed officers die in the line of duty each year. But one thing is certain: even one life saved demonstrates the need for this legislation.

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

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

Officer Dominick J. Infantes, Jr., a seven year veteran with the New Jersey City Police Department, was attacked by two men wielding a pipe on 4 July 2001. He died two days later from severe head injuries. Infantes was off-duty when he asked two men to stop setting off fireworks near playing children. He identified himself as a police officer, but the two killers did not believe him because Infantes did not have a gun.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Officer Robert Porter, a seven-year veteran with the Philadelphia Police Department, was killed in an ambush. While dropping off an item at a local tavern, his partner was confronted by several bar patrons whom he had previously arrested. The two officers left the tavern when the argument was settled and drove away. The three suspects caught up with the two partners, drove up to the passenger side and fired into the vehicle. Officer Porter, though not the intended target, was killed.

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

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

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

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

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

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

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

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

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

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

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

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

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

Law enforcement is a dangerous profession; there is no legislation, act of Congress or government regulation which will change this sobering fact. However, there are ways to increase the level of personal safety for police officers. One of the most important officer safety issues for the F.O.P. is the adoption H.R. 218, the "Community Protection Act," which would enable qualified active and retired law enforcement officers to carry their firearms when traveling outside their home jurisdictions.

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