

TESTIMONY

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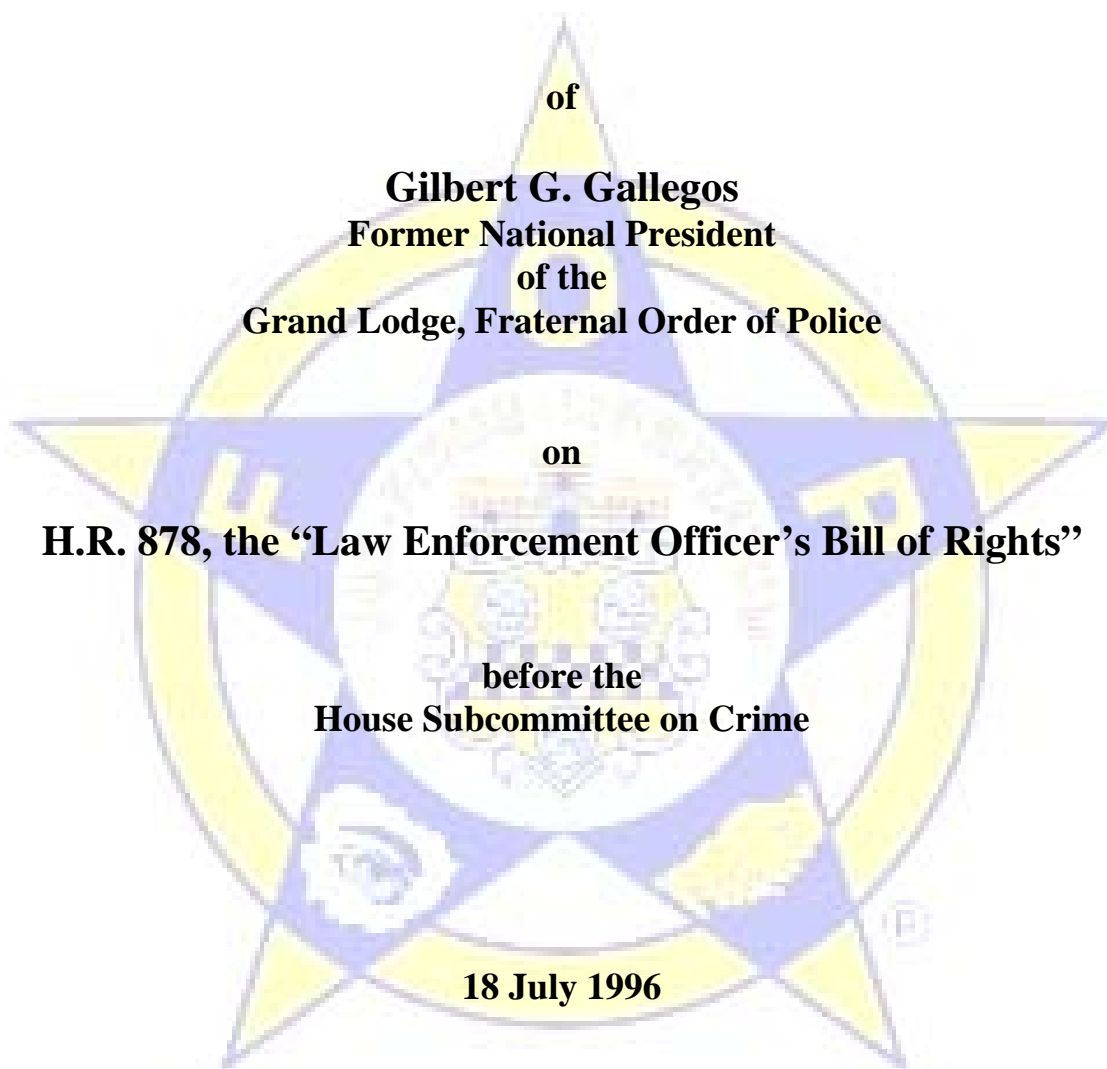
**Gilbert G. Gallegos
Former National President
of the
Grand Lodge, Fraternal Order of Police**

on

H.R. 878, the “Law Enforcement Officer’s Bill of Rights”

**before the
House Subcommittee on Crime**

18 July 1996



Good morning, Mr. Chairman and distinguished members of the Subcommittee on Crime. I would like to thank you for giving me the opportunity to address you this morning. My name is Gilbert G. Gallegos, and I am the National President of the Fraternal Order of Police. I am the elected spokesperson of 270,000 rank-and-file police officers—the largest organization of law enforcement professionals in the country. I am here this morning, along with other police organizations pledged to protecting the rights of our brothers and sisters in blue, to talk about three bills of importance to law enforcement officers: H.R. 878, the Law Enforcement Officer’s Bill of Rights, H.R. 1805, which will exempt qualified current and former law enforcement officers from prohibitions to carry concealed firearms, and H.R. 2912, the Alu-O’Hara Public Safety Officers’ Health Benefits Acts. I will address each bill in turn, beginning with the Law Enforcement Officers’ Bill of Rights.

This bill is perhaps the most critical piece of legislation for law enforcement that this committee has addressed in this Congress. I was a police officer in Albuquerque for 25 years, Mr. Chairman, so I know first-hand the difficulties that officers have to face each day—from the cop on the beat to the Chief’s Office. Police officers have, arguably, one of the toughest jobs in the nation. They alone are charged with keeping the streets and neighborhoods of this country safe from crime. And with that enormous responsibility comes enormous pressure—the grueling demands of shift-work, the verbal and physical abuse from the criminal and “undesirable” elements they deal with on an every day basis, and the hostility from citizens at-large. Mr. Chairman, police officers put their life on the line every time they put on their badge and strap on their gun.

Cops are a unique breed though, used to putting the welfare of the citizens we protect ahead of our own, used to placing our lives in danger to protect another’s, and used to putting the call of duty ahead of our own desires. Police officers around the country do their jobs and do them well despite the danger, despite the pressure, and despite the odds. Yet, police accept this and accept it readily; it’s a hard job and we—the men and women in blue—are proud to serve. Today, however, I have come to ask you and the members of this distinguished subcommittee to do something for police officers who have done so much for America and the safety of Americans: adopt the Law Enforcement Officers’ Bill of Rights. They should be afforded the same rights as everyone else. Rights of due process, guaranteed to all citizens by the U.S. Constitution, are being denied to police officers by police management.

The need for this legislation is as simple as it is clear: law enforcement officers are not being treated fairly; their constitutional rights are overlooked and ignored in the name of political or administrative expediency. Mr. Chairman, this is unfair, it’s unconstitutional, and it hurts the men and women who are charged “to protect and serve.” These brave men and women do not enjoy the same protections that other citizens do, that other employees in this country do, and, perhaps most outrageously, that the suspects and criminals—the bad guys they protect us from—do.

While these incarcerated criminals are suing on the grounds that their cold food, melted ice cream, or lack of brand name sneakers is “cruel and unusual punishment,” police officers are unable to find protection from haphazard and arbitrary “disciplinary” or “administrative” actions cynically used by their own departments and agencies to intimidate, coerce, and penalize. And, Mr. Chairman, they can get away with it because, historically, police have had great difficulty in securing their constitutional rights from police management. Despite Supreme Court rulings to the contrary, there

is a mistaken belief that when you put on a badge you somehow have given up some of your rights as a United States citizen. This just isn't the case, Mr. Chairman, and that is the most compelling evidence for the adoption of the Police Officer's Bill of Rights—it makes it quite clear that being a police officer means you don't have to give up your rights.

Let me share a number of stories, Mr. Chairman, that I'm sure will outrage you and the members of this distinguished Committee as much as it did me and my fellow police officers. Rodney Barekman, a nine-year veteran of the Greene County Sheriff's Department in Missouri, was terminated by his the Sheriff for no discernable reason. He and his Lieutenant, John Howard, were fired for talking in a parking lot about firework statutes; they had received a number of calls that evening on the use of fireworks. The pair, having noticed a superior officer with his son at the sight of one of the calls, were placed on paid administrative leave the next day—ostensibly because of this meeting in the parking lot. The department claimed that the officer and his lieutenant met for over an hour in that parking lot, despite radio logs that show their conversation was brief and that they adhered to the Sheriff's policy to have officers contact one another in person rather than communicate by radio. Both of these officers were also employed at Cox Health Systems, until the Sheriff of Greene County contacted the Security Director. They were informed that until the matter with the Sheriff was resolved, they would no longer be working at the hospital. Several days later, the Sheriff insisted that the officers resign. Officer Barekman refused and was fired. Neither officer was given a reason for his dismissal, and the attorneys for the Sheriff's Office and Greene County refused them access to their personnel files, stating that these police officers have no right to access their file, nor be informed of the reasons for their termination. Mr. Chairman, this is outrageous and inexcusable. The Sheriff of Greene County, at the time of this incident, was John T. Pierpont, President of the National Sheriff's Association, an organization of police management that opposes, for equally ill-defined reasons, the adoption of the Law Enforcement Officer's Bill of Rights.

Dale J. Goetz, a distinguished twenty-four year veteran of the Boulder County Sheriff's Department, was promoted up through the ranks and entrusted with a number of supervisory responsibilities, particularly in the training of other officers in his numerous areas of expertise. That is, until scurrilous allegations of third degree sexual assault (the fondling of breasts) were made public by another department. Despite a thirty-day internal investigation, no other "victims" beyond the original, spurious claim were found. Officer Goetz returned to work and on that very day a female officer from Boulder County "remembered" that he had touched her breast while training her and other officers on the shooting range some ten years earlier. Despite the flimsiness of the evidence and a refusal on the part of the prosecutor to allow the second claimant to testify, the officer was brought to trial. Dale Goetz tried to do what was best for the department. In an agreement with the Sheriff's Office, Officer Goetz submitted a signed, but undated letter of resignation, to be used by the Sheriff in the event that he was found guilty. The Sheriff of Boulder County was facing an election that November and, in a cynical ploy contrary to the mutual agreement, made public the resignation *prior to the trial* without contacting Goetz or his attorney. The trial was held, but, at the request of the Sheriff Department's attorneys, it took place after the election. It took less than two hours for a jury to acquit Mr. Goetz, but the Sheriff was quoted in the paper as saying the he did not care what decision the jury made, Dale Goetz was guilty. He was not reinstated. This is clearly a case of politics interfering in good management—but that an experienced officer was lost because he was unable to secure his rights from the practice of management is more than distasteful—it's

unconscionable. A Law Enforcement Officer's Bill of Rights, Mr. Chairman, would have given him the assurances he needed, and the strain of lawsuits on the individual and the morale of the whole department could have been avoided.

Another example, Mr. Chairman, comes from Florida. Officer Michael Hoelbrandt was observed by his Sergeant, Al Roberts, reviewing a grievance letter he was planning to file against Sergeant Roberts for refusing to authorize pay for overtime. The Sergeant demanded that Officer Hoelbrandt meet with him while the two were on duty together on a midnight shift in a parking lot. The officer requested the Fraternal Order of Police representative, also on duty that night, be present because he felt intimidated by Sgt. Roberts' hostile attitude. The representative was made unavailable by dispatch, so Officer Hoelbrandt asked a fellow officer and F.O.P. member whom he met on route to the meeting to come with him as a witness. That officer was ordered away from the scene of the meeting when Hoelbrandt and he arrived by a second sergeant accompanying Sgt. Roberts. Once Officer Hoelbrandt was alone, the two sergeants confronted him and threatened Hoelbrandt with dismissal unless he turned over the grievance letter. He refused and again asked for a union representative. His request was denied and the sergeants made it plain that it was a direct order to relinquish the letter; if he refused he would be "relieved of duty." Denied a witness and a union representative, Hoelbrandt felt that the hostility of the two superior officers placed his job in jeopardy. He relinquished the letter, an abrogation of his rights, because that letter was coerced. Officer Hoelbrandt was later subject to retaliatory administrative and disciplinary actions well after the incidents I describe here, because he attempted to exercise his rights as a citizen—refusing to hand over a letter to his boss, and as an employee and union member—filing the grievance in the first place. Mr. Chairman, with a Law Enforcement Officers' Bill of Rights in place these type of retaliatory actions would be clearly out of place, and, if I may also add, less likely to happen. Indeed, Mr. Chairman, one of the guarantees provided for in the bill is that requests for a union representative must be honored. I submit that the presence of another officer in this situation and similar ones would have allowed a more fair and amicable resolution of the conflict between Officer Hoelbrandt and his two sergeants. With the responsibilities and procedures clearly stated for both sides, there will be less rancor between parties during the course of the future confrontations.

This bill, Mr. Chairman, will prohibit the arbitrary rewarding of friends and punishing of "enemies" that happens in some police departments and law enforcement agencies where politics plays a role. The unique position of a law enforcement officer often puts him or her in a difficult position, particularly if their superiors are political figures as well as law enforcement agents. The officer's relationship to his chief or other superior should not benefit or adversely effect the department's or agency's review on his performance or their position on disciplinary matters. But oftentimes it does, and, in many departments this power is routinely abused. For instance, in nearby Virginia, Sheriff Robert Day fired two of his deputies because they had actively supported his opponent in the election. They were fired in 1992, and it took two years of legal battle before U.S. District Judge Jackson Kiser ruled that they were improperly dismissed—solely for political reasons. Of course, the officers in question cannot be fired for activities, so the newly elected sheriff claimed that his two deputies used vulgar language, made sexual remarks to female employees, and used improper tactics in their investigations. These claims were groundless, but it took two years to clear these officers' names. In law enforcement, an officer whose reputation is tarnished by mere accusation, will find it almost impossible to find employment in public safety. The bill of rights, Mr. Chairman, will

insulate officers from the politics of favoritism.

But the fact that police officers must fight for these rights each time in costly court and arbitration hearings is mentally and physically exhausting—for the officer, the department, the morale of the force and the profession. Remember that officers must pay for legal fees often at their own expense, where the department can rely on the broader funds of the city, county, or state. The officers are at a distinct disadvantage in every case, Mr. Chairman, and the departments they work for know it. Management may lose if the case or the hearing goes the distance, but the financial and emotional costs are often prohibitive for rank-and-file officers. The very men and women we depend on to protect our homes and neighborhoods are left without the legal and procedural recourse available to every American. Why? Because we do not have a bill of rights clearly spelling out for ourselves and for management, the rights due police officers in internal investigations.

Mr. Chairman, we know that police officers are entitled to these rights—every American is—but it has only been in the last thirty years that those rights have been recognized by the courts of law. In *Garrity v. New Jersey* (1967), the Supreme Court of the United States ruled that testimony coerced from an officer who was threatened with termination if he did not waive his rights constituted a violation of that officer's due process rights. It is very important to realize, Mr. Chairman, that prior to this case, it was commonly held that police officers, upon taking up the badge had, implicitly, relinquished their rights as a citizen—that they could be compelled to incriminate themselves, waive their right to due process, or forfeit their jobs. More importantly, prior to *Garrity*, it was considered acceptable to threaten an officer with termination if he failed to follow an order to waive his constitutional rights. Others argued that whole police officers could indeed invoke the privileges of their constitutional rights, they had no “right” to employment as a police officer and could be dismissed for such invocations.

Garrity changed all that, but the point of law and the holding of the court has been consistently misunderstood and misapplied in the lower courts. This is the primary need for the legislation and the argument for why federal, congressional action is needed in this area. It would simply place into the statutes the correct holding of the Supreme Court. The rights of police officers do exist; they are spelled out in the United States Constitution; they have been ruled on as a matter of law in the highest court in the land. And yet, Mr. Chairman, there is still evidence, overwhelming evidence, that these rights are being ignored by police management, simply because the correct holding of the court has not been consistently applied. Police officers need your help—we need a bill of rights.

Just one year after *Garrity*, the Supreme Court heard a similar case, *Gardner v. Broderick*. In this case, another police officer was threatened with dismissal for refusing to waive his constitutional rights. This officer did not, and he was fired. Mr. Chairman, just one year after the landmark case of *Garrity*, another police officer was forced to fight all the way to the Supreme Court to get his superiors to recognize his rights. It is very likely that, without adopting the Law Enforcement Officers' Bill of Rights that this will have to happen again and again—especially in the states without collective bargaining agreements.

Let me say a word about that. The opponents of this bill will claim that it attempts to force collective bargaining down the throats of the states. On the contrary, Mr. Chairman, in states where collective

bargaining agreements do exist, the officers in those localities can and do fight for the guarantees that appear in this legislation. But this bill, Mr. Chairman, would provide access to the constitutional rights of all police officers in all states. Much of why I am here today, Mr. Chairman, and the others who stand with the 270,000 members of the Fraternal Order of Police is to fight for those cops who have been unable to secure these guarantees on their own. They can't fight these battles themselves, so as National President of the F.O.P., I am fighting for them. And the gentlemen who join me today on this panel are fighting for them, too, Mr. Chairman. We are not trying to secure collective bargaining rights or impose such on the states which have not elected to have them. What this legislation does, Mr. Chairman, is provide guaranteed access to the constitutional rights that cops possess from misapplication or misunderstanding on the local and state level—especially for those cops who have not been able to secure them on their own.

Let me now address, in turn, a number of the objections raised by opponents of the Law Enforcement Officers' Bill of Rights:

First, there is the claim that this legislation would protect bad cops. Mr. Chairman, this bill does not protect jobs, it protects rights. Believe me when I tell you that no police officer or police department wants to work with a bad or brutal cop. It should also be noted that this bill protects the rights of officers under internal, non-criminal investigations only. Sadly, anyone under investigation for allegations of criminal activity is protected by much more stringent guidelines to ensure that their rights are not violated by law enforcement procedures. Police officers are held to a much higher standard of personal and professional conduct—as well they should be, considering the enormous responsibility they hold. Sometimes, however, this higher standard and increased visibility subjects police officers to false accusations from criminals and others in society who have no other motivation in making such allegations than to disrupt law enforcement activities. This bill will not protect bad cops, Mr. Chairman, it will protect good ones.

A second claim made by opponents of the bill, chiefly the police management organizations, is their view that the adoption of the bill of rights is “unwarranted federal intrusion” of their department or agency. This claim, too, is meritless, and I find it curious that police management argues that a police officers' bill of rights would in any way harm the flexibility of their individual departments or agencies. This is not “unwarranted federal intrusion,” Mr. Chairman, but a carefully targeted law that places into the statutes the rights given police officers under the Constitution, rights that were upheld by Supreme Court decisions since 1967.

I also think it strange when police management groups object to the adoption of a bill of rights as an “intentional procedural hurdle,” placed in the way by police labor groups to make their jobs harder. Well, that is just nonsense. The procedural “hurdles” are far less specific than even the most routine arrest. Criminals are often let loose because of a failure to observe every nuance of the civil rights code. Much of this argument stems from objections to the “level of detail” in the bill. Mr. Chairman, it is important to realize that each line, each “level of detail” in the bill depends upon the discretion of the individual department and the police officers. For instance, the provision stating that the questioning of a police officer under investigation is to be held during “reasonable hours,” that is, “preferably” when the officer is on duty. This is not at all an inflexible directive. It further states that “exigent circumstances” would allow a great deal of discretion in the hands of police management.

If swift action is called for, this same section allows an “emergency suspension” of the officer in question. This provision, too, allows the local departments full discretion. I have to conclude, Mr. Chairman, that this argument is groundless.

Yet another objection often raised by police management groups in opposition to the bill of rights are spurious arguments that the adoption of this legislation would create an unwelcome and adversarial atmosphere in the workplace. Again, Mr. Chairman, I find their objection to be without evidence or merit. There is no “adversarial atmosphere” in the many states and localities which have a bill of rights in place. Indeed, Mr. Chairman, the preponderance of the evidence suggests the very opposite: the level of antipathy is greatly lowered with clear guarantees and guidelines are in place. In many ways, the bill of rights is proactive in this regard and preventive in nature. With the rights of employees clearly spelled out, neither side is likely to overstep their bounds and mistakes are more likely avoided.

Mr. Chairman, disciplinary and administrative actions are part of the job; cops accept that and recognize that management has a compelling duty to discipline its officers. And that discipline can and ought to be strong—the responsibilities of a police officer are not to be taken lightly. A police officer may not like being written up any more than a citizen likes receiving a speeding ticket, but as long as the same rules are applied fairly to everyone, the desired effect occurs and the mistake or error in judgement is corrected. In the case of police officers, the rules are not fairly applied; the system is coercive, not corrective. Discipline we can accept, but when police management attempts to strip us of our rights, or fires us for asserting them—those attempts do create a hostile “adversarial” atmosphere in the workplace that can have a debilitating effect on morale and performance. This is the very situation that we, and the opponents of the bill, want to avoid. Mr. Chairman, the adoption of the police officers’ bill of rights will prevent, not create, an adversarial atmosphere in police departments.

Others arguments against the adoption of the Law Enforcement Officers’ Bill of Rights include the political and administrative costs to the localities. Mr. Chairman, again, the evidence demonstrates the exact opposite. With a bill of rights in place, courts will no longer be the only venue for securing the rights of police officers, because they will be secure in the statutes. Police officers will no longer have to fight all the way to the Supreme Court, because most of the disputes will be handled within the individual departments and agencies—where they should be. As I stated earlier, Mr. Chairman, officers do not object to discipline—we are used to it, without it, we would not be effective on the job—but we will, in every instance, object to the abrogation of our rights.

In demonstrating the obvious need for this legislation, Mr. Chairman, I do not mean to suggest that there is a conspiracy among police management to systematically deprive their employees of their rights. I’m a Deputy Chief myself, and I can assure you that is not the intention of management. But, Mr. Chairman, the misapplication and lack of hard guidelines in the area of police officers’ rights allows the abuse to take place. The adoption of the bill of rights would make the Supreme Court rulings and the points of law they uphold clear and unambiguous. It will protect officers; it will protect management, and it will protect the image of police and police departments.

Now let me turn to H.R. 1805, a bill which will permit off-duty and retired qualified law

enforcement officers to carry concealed firearms while engaged in interstate commerce. The F.O.P., in 1805, carefully defines the term “qualified law enforcement officer.” Those who carry concealed firearms in interstate commerce should be officers who have received police training, exercised police powers, and did, or do, in the course of performing their duties, carry a firearm. As a matter of safety to these officers and the public they protect, the bill adopted must contain language that ensures that those law enforcement officers who are carrying these weapons while off-duty or retired must be qualified to use them.

We also support H.R. 1805 because of included language because it provides important safeguards against officers endangering one another through mistaken identity. The bill provides state, local, and federal law enforcement officers, who are increasingly becoming targets of the criminal element, with a means to legally protect themselves and their families while off-duty or in their retirement years. H.R. 1805 also provides the immediate benefits of placing on the street trained, dedicated, and qualified officers in a position where they can assist their brother and sister officers and the citizenry no matter where the need arises. But, H.R. 1805 contains language that would allow states to require officers in their jurisdiction to report their presence and the fact that they are carrying concealed firearms. States and localities have an obligation to protect their officers, and this safeguard will prevent tragic accidents and the possibility that officers might inadvertently endanger one another in the chaos of a moment. For this reason, the F.O.P. supports H.R. 1805, and we urge you, Mr. Chairman, and the members of this subcommittee to adopt it over its similar counterpart.

Now to address the H.R. 2912, the Alu-O’Hara Public Safety Officers Health Benefits Act. The purpose of this legislation is as clear as it is just. States who refuse to continue to provide health insurance benefits to law enforcement officers that have retired or received an injury in the line of duty that prevents their return to the uniform, will have their federal funding for law enforcement reduced by one-third.

Mr. Chairman, we hear a lot of rhetoric from elected officials on all levels of government, particularly at election time, about the war on crime. In many ways, however, this is an accurate summation of the efforts of law enforcement every day on the streets and the neighborhoods of America. There *is* a war on crime, Mr. Chairman, and it’s a war being fought with limited resources by a dedicated and selfless body of men and women in every police department and law enforcement agency in this country. Mr. Chairman, there is a wall in this city that lists the names of every officer who gave their lives in the line of duty, who made the ultimate sacrifice while doing their job. This “war memorial” is currently the only one that, sadly, adds more and more names every year. I hope very much that someday we will no longer have to add names to that wall. In a very real sense, Mr. Chairman, the law enforcement officers are the front-line soldiers in the war on crime, and we honor the memories of the fallen one week each year, but we cannot afford to forget the ones who also served with honor and distinction who, thankfully did not have to make the ultimate sacrifice. The F.O.P. and all law enforcement officers feel very strongly that these men and women, who pledged to serve and protect their fellow Americans, who retire or are unable to return to duty because of injuries sustained in the course of performing their sworn duty, are not forgotten. We owe these men and women, Mr. Chairman, and we think it only right that they be provided with continued health benefits once their service to their communities has come to an end. That, Mr. Chairman, is our duty to them.

I would also like to comment briefly on legislation offered by Mr. Johnston of Florida, which would, if passed, create a registry of every law enforcement officer in the country. The ostensible purpose of this registry would be to ensure that so-called “rogue police officers” do not roam from jurisdiction to jurisdiction, repeatedly hired by innocent police executives unaware of their past misdeeds.

Mr. Chairman, this Congress significantly weakened the 1996 Anti-Terrorism bill because of concern for the civil rights of our citizens. I cannot believe that this same Congress would turn its back on the privacy and due process rights of 600,000 police officers because of police management failures.

The bad police officers in West Palm Beach, who are the poster boys for this legislation, never would have been on that force in the first place if a thorough background investigation had been done by management. Furthermore, even if the proposed legislation had been in place it would not have flagged these officers because they had never been decertified by their previous police departments.

Sound police management includes screening and recruiting of good officers, and it includes decertifying bad ones. If management had done its job in West Palm Beach a tragedy could have been averted.

We would urge police executives to look for the flaws in their own screening systems before they look to sacrifice still more constitutional right of police officers.

Again, Mr. Chairman, I thank you and the other members of this distinguished Subcommittee for inviting me here today to testify on behalf of the Fraternal Order of Police. I urge you to again lend weight to the matters I have brought to your attention today, and those offered by N.A.P.O. and I.B.P.O. The Law Enforcement Officer’s Bill of Rights is important to police officers, Mr. Chairman, and I thank Congressman Lightfoot for his sponsorship of the bill and of H.R. 1805. He has long been a leader in law enforcement issues. I would also like to thank Congressman Deutsch for his bill and continued support to law enforcement. Again, I thank you Mr. Chairman and ranking member Mr. Schumer. Both of you have demonstrated time and time again your unwavering support of law enforcement and its officers. All of us here representing those officers hope we can count on it again.

ADDENDUM TO THE TESTIMONY OF GILBERT G. GALLEGOS NATIONAL PRESIDENT, FRATERNAL ORDER OF POLICE

Mr. Chairman, let me state unequivocally for the record that the Law Enforcement Officers' Bill of Rights is not a set of "special" rights or greater rights than those enjoyed by any other citizen or public employee. Though the comparison of a police officer to the city sanitation worker is not entirely an accurate one because of the extreme difference in the nature of the duties and responsibilities, I can point out that the companion case to *Gardener v. Broderick* dealt directly with sanitation employees.

The Supreme Court ruled in *Uniformed Sanitation Men Association v. Commission of Sanitation* (1968), as in *Garrity* and *Gardener*, that employment in a city or state government cannot be conditional with ceding the Fifth Amendment or due process rights, nor can workers be terminated or threatened with termination for asserting those rights. In this case, 15 sanitation workers were fired from their jobs for asserting and refusing to waive their constitutional rights. You see, Mr. Chairman, the sanitation workers do indeed have the very same rights, and, do find themselves threatened with termination, though much more infrequently, because they choose to assert the rights granted all Americans under the Constitution.

Why then is there such a need for a Law Enforcement Officers' Bill of Rights? It is because of the nature of police work, the importance of police conduct, and the constant interaction between police officers and the public. Ask your average citizen what city or local employee or agency he or she is most likely to come in contact with and odds are that answer will be a police officer or police department. From a cat stuck in a tree, or cars breaking down on the highway, the police officer is the most visible servant of the public good. A police officer, in the course of carrying out his or her sworn duties, is subject to a degree of scrutiny that other city employees do not face. Mr. Chairman, the Supreme Court has ruled that police officers have the same constitutional rights as any other citizen. They have also ruled that sanitation workers have these same rights. No government—state, local, or federal—can revoke these rights as a condition of employment, nor can they have a policy stating that the assertion of these rights is grounds for termination. Yet, state and local governments do deny police officers their due process rights. That is a fact, Mr. Chairman. I do not know that sanitation workers, since the 1968 Supreme Court ruling, have to face internal investigations or termination without the right of due process. Despite Supreme Court rulings in 1967 and 1968, police officers *do*, and the consistent misapplication of the Supreme Court holdings in lower courts makes the fight for these rights an expensive and risky prospect.

The bill of rights singles out police officers, not for special protection or greater rights than any other city employee, but to recognize this very simple fact—because of the nature of police work and the constant contact with the public, guidelines protecting police officers from unfair treatment should be more clear for police management and police officers than for any other employee of the city or state government. Circumstances demand it.

Let me counter your comparison with, in my view, a more accurate one. The Americans with

Disabilities Act is very similar in concept to the Law Enforcement Officers' Bill of Rights. Do these Americans possess any greater rights than you or I? Of course not, but because of their condition or disability they require greater legislative attention to ensure that the constitutional rights are not abridged by others because of that disability. Police officers are similar in this regard, Mr. Chairman, because of the high visibility and nature of their work—a “handicap” if you will—they are exposed to greater risk of unfair treatment and their civil rights are more threatened in course of performing their sworn duty. Congress has never failed to act when a segment of Americans were being denied their constitutional rights, as police officers are on a daily basis. Mr. Chairman, please realize that the provisions in this legislation are not special or greater rights than that of any other American or government employee, but merely a guarantee protecting the constitutional rights police officers do have from management and governments who seek to abridge or abrogate them in the name of administrative or political expediency.

Further, the management groups opposed to this legislation will trot out the argument that this is federalization of state and local labor problem; that Washington is once again intruding on states' rights. In the very same testimony, Mr. Chairman, you will hear them state a need for the federal government to compile a database containing the names and other personal information about any individual who served, or serves, as a police officer. How they can say in one breath that police officers do not need a bill of rights and that the federal has no place in guaranteeing any set of its citizens their constitutional rights, but that the danger of “rogue cops” supersedes the civil rights of the individual officers—that, in effect, the federal government should compile a list of these officers and their backgrounds, devised by management, which those individual officers will not be able to access, nor comment upon its contents. In a word, Mr. Chairman, this is outrageous.

To use the very same argument, Mr. Chairman, will the federal government also compile a database of sanitation workers, or animal control personnel to ensure that no “rogue dog-catchers” will be hired? Of course not. We understand that the nature of police work is such that it requires men and women of high caliber, character, and ability. Applicants for police work should conform to the highest standards are subject to—or should be subject to—rigorous background checks by the local or state government who hire them. To state that police officers do not need in the statutes a guarantee to protect their constitutional rights, and then propose legislation that undermines those very rights is preposterous. It is the responsibility of the government that hires police officers to complete a thorough background check, not that of the federal government.