

TESTIMONY

of

Bernard H. Teodorski
then National Vice President
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on

H.R. 218, the "Community Protection Initiative of 1997"

and H.R. 339

"To amend Title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry certain concealed firearms in the State, and to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns."

Discussion Draft of the

"Law Enforcement and Community Protection Act of 1997"

before the

House Committee on the Judiciary Subcommittee on Crime

22 July 1997

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 Bernard H. Teodorski, and I am the National Vice President of the Fraternal Order of Police and Chairman of its Legislative Committee. I am the elected spokesperson of over 270,000 rank-and-file police officers--the largest organization of law enforcement professionals in the country.

I would like to take this opportunity to first thank Chairman McCollum for his strong leadership on this, and many other issues, and his role in scheduling this hearing today. The Fraternal Order of Police is holding its 53rd Biennial Conference in the Chairman's home district next month, and we are pleased to be able to have him join us as the keynote speaker. Mr. Chairman, thank you.

I am here this morning to talk about an issue of great importance to law enforcement officers: legislation which will exempt qualified active and retired law enforcement officers from prohibitions to carry concealed firearms.

The enactment of such legislation has been a long-standing legislative goal of the Fraternal Order of Police. We supported, in the 104th Congress, legislation introduced by then-Congressman Jim Ross Lightfoot (R-IA) and our National President, Gilbert G. Gallegos, testified before this Subcommittee last July in favor of that legislation.

A few weeks later, on 1 August, the F.O.P. joined Senator Orrin G. Hatch, Chairman of the Judiciary Committee, to announce the introduction of S. 2010, which contained language drafted with the input of the F.O.P. We strongly supported that bill, as did other police organizations and interested groups which were unable to agree on either the legislation offered by then-Congressman Lightfoot and another bill also being discussed here today, H.R. 218, sponsored by Congressman Cunningham.

The Hatch language, which is now included in Title IV-A of S. 3, the Republican omnibus crime bill, would permit active and retired qualified law enforcement officers to carry concealed firearms while engaged in interstate commerce. The F.O.P. supports a careful definition of the term "qualified law enforcement officer." Those who carry concealed firearms in interstate commerce should be officers who have received law enforcement training, exercise 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, any bill adopted must contain language ensuring that those law enforcement officers who are carrying these weapons, while off-duty or retired, be qualified to use them.

The F.O.P. is concerned that H.R. 218 does not adequately define what we mean by "qualified law enforcement officer." While we appreciate Congressman Cunningham's long-standing interest in this matter and agree with him on the substantive aims of the legislation, we prefer the language proposed by Senator Hatch, and that contained in your draft, Mr. Chairman. We do look forward, though, to cooperating with Congressman Cunningham and his staff in working to pass legislation that accomplishes what we do agree on—that law enforcement officers qualified in the use of firearms should be given the authority to carry them even when traveling outside their own jurisdiction.

Further, H.R. 339, introduced by Congressman Cliff Stearns, contains nearly identical language to that of Senator Hatch, giving qualified active and retired law enforcement officers the authority to carry their firearms when engaging in interjurisdictional travel. However, the National Fraternal Order of Police is unable to give this bill our support because it also contains language changing current Federal law with respect to the carrying of concealed firearms for private citizens. We, as an organization, believe very strongly that the issue of concealed weapons for private citizens is one best left to the States.

Again, I want to thank Congressman Stearns for his efforts on behalf of law enforcement in this bill—we have the same goal and support much of the same language. I hope that we can reach an agreement with him and work to develop a bill that would accomplish the objectives of Section 2 of H.R. 339.

Lastly, I would like to thank Chairman McCollum for his leadership on this issue, and his support of provisions similar to the Hatch and Lightfoot bills, will exempt active law enforcement officers from State and local prohibitions on carrying concealed firearms. While it does not yet address the needs of retired officers, we look forward to the opportunity to continue to work with you on this issue, and to hopefully build on the excellent foundation provided by the draft.

I do want to clarify, for the record, the understanding of the F.O.P. on Section 2(b)(1) of your draft proposal, which states that a "State or political subdivision thereof may require" that a qualified active law enforcement officer notify the "appropriate authorities" of his or her intent to carry in that jurisdiction. It further states that this requirement shall not apply to an officer who is simply "passing through...without undue delay." If made law, any qualified active law enforcement officer would be able to carry his or her firearm anywhere within the jurisdiction of the United States. However, a State may pass legislation which would require officers who choose to carry to notify the State Police, county sheriff, or whomever the State legislature designates as the "appropriate authority." No State or local government, however, will be able to restrict or prohibit qualified active law enforcement officers who choose to carry, even if notification is required.

While it is not our intent to replace the patchwork of State concealed carry laws for law enforcement officers with a patchwork of notification provisions, we recognized that this is designed to keep officers from endangering one another through mistaken identity.

Let me now address more generally the reason and need for this legislation from the perspective of law enforcement.

The F.O.P. seeks the enactment of legislation which would exempt active and retired law enforcement officers from laws in States and other jurisdictions prohibiting the carrying of concealed firearms. This exemption would apply only to active law enforcement officers and retired law enforcement officers who, under certain conditions, are qualified to carry firearms. A police officer is charged with keeping the peace and protecting our streets and neighborhoods from crime. The tools of the police officer are the badge and the gun. The badge symbolizes the

officer's authority; the gun enforces it. These tools are given to the officer, in trust, by the public to enforce the peace and fight crime. We seek a measured extension of that trust.

We support legislation which would permit an active law enforcement officer who carries a firearm in the course of executing his sworn duty to carry a concealed firearm into jurisdictions where such might otherwise be prohibited.

Likewise, a law enforcement officer who retires from active duty for reasons other than mental disability or separation from service for disciplinary actions which would have prevented his or her carrying of a firearm, may carry a firearm into jurisdictions where such might otherwise be prohibited, provided that he or she meets the agency's or department's requirements for firearms training at the time of retirement and is not prevented by federal law from receiving a firearm.

Further, we believe that the former officer must also meet such requirements as have been established by the State in which the individual resides with respect to training and qualification in the use of firearms, and that the officer has a nonforfeitable right to benefits under the agency's retirement plan. In this way, we ensure that the individuals covered are in fact law enforcement officers, who have been trained and entrusted by their communities with the use of firearms for the public good, who chose law enforcement as a career--not a passing interest. This definition of "qualified" current and retired law enforcement officers ensures that anyone permitted to carry a concealed firearm is, or was, a law enforcement officer, entrusted by the public to carry his or her weapon on duty and is qualified to carry, or to continue to carry, that weapon when traveling outside the officer's own jurisdiction.

Such legislation is important to law enforcement officers for reasons of personal safety, in order to protect themselves and their loved ones. Police officers are frequently finding that they, and/or their families, are the target of vindictive criminals. A police officer may not remember all the faces of all the criminals he or she puts behind bars, but each one of those criminals does remember. We need a bill that gives all police officers the means to legally protect themselves and their loved ones where and when the criminal strikes—even while off-duty or retired.

Criminals do not give up their weapons when they cross State lines, and police officers should not be required to do so.

This concept has a great deal of support, not only with the rank-and-file officer, but the general public as well. Quite simply, this bill will put thousands more police officers on the street at any given time, ready and able to assist their brother and sister officers and the public wherever and whenever the need occurs—at no cost to the taxpayer!

Law enforcement officers are a dedicated and trained body of men and women sworn to uphold the law and keep the peace. Unlike other professions, a police officer is rarely "off-duty." When there is a threat to the peace or public safety, the police officer is sworn to answer the call of duty. Officers who are traveling from one jurisdiction to another do not leave their instincts or training behind, but without their weapon, that knowledge and training is rendered virtually useless. We support a bill which would provide the means for law enforcement officers to enforce the law and keep the peace—enabling them to put to use that training and answer the call

to duty when the 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.

Earlier, I made reference to States' rights. 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 carry-conceal laws in the States and other jurisdictions often results in a paradox for law enforcement officers—State, local, and Federal--sometimes placing 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. Criminals do not disarm themselves when they travel from jurisdiction to jurisdiction, nor are criminals ever "off-duty." Similarly, the law should not disarm police officers because they cross a state line or jurisdictional boundary.

Finally, Congress has the power, under the "full faith and credit" clause of the United States Constitution, to extend full faith and credit to police officers who have met the criteria set by State authorities to carry concealed firearms and make those credentials applicable and recognized in all States and territories in these United States. It is, therefore, not an intrusion on the power of the States.

Legislation exempting law enforcement officers from prohibitions on the carrying of concealed firearms is a matter of personal safety for the brave men and women who carry those firearms to defend our homes, neighborhoods and families against crime. This was demonstrated in the District earlier this year: a badge and uniform did not deter a depraved individual from murdering Officer Brian Gibson. In fact, he was murdered for the simple reason that he was a police officer. Officer Oliver Wendell Smith, Jr., was killed off-duty in Maryland—perhaps because his assailant discovered that he was a police officer while robbing him of his wallet. He was unarmed. Officer Robert Johnson, also of the Metropolitan Police Department, had just gotten off-duty when he identified himself as a law enforcement officer to a troublemaker. That troublemaker" was a convicted violent felon—a drug dealer—who was in violation of his curfew when he returned to kill Officer Johnson and wound another officer.

Mr. Chairman and members of this Subcommittee, it is an increasingly dangerous world that the men and women wearing the badge are asked to patrol. Crime overall is dropping, and that we count as a victory. However, the degree of violence in the crimes being committed is becoming almost incomprehensible in terms of sheer brutality. Even more striking is the remorselessness 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 of this bill is that thousands of violent criminals will hate to see it pass.

Mr. Chairman and Members of this distinguished Subcommittee, I want to thank you for the opportunity to testify before you here today on this issue.