

H.R. 218
(Law Enforcement Officers Safety Act of
2004)

An Overview--
A Snapshot Of National
Implementation—
And Issues For IADLEST

A Presentation To IADLEST
June 27, 2006
Michael Ramage, General Counsel
Florida Department of Law Enforcement

Political History

- First concept proposed in 1992 by Law Enforcement Officers Alliance of America and others
- Signed into law by President Bush on July 22, 2004



Refresher: The Federal Law

Carrying of Concealed Firearms by Qualified Retired Law Enforcement Officers

Codified at 18 USC 926C

- (a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is
- a qualified retired law enforcement officer **-and-** who is carrying the identification required by subsection (d)
 - may carry a concealed firearm ... subject to subsection (b).



Who are Qualified Retired LEOs?

(c) As used in this section, the term “qualified retired law enforcement officer” means an individual who –

- (1) **retired in good standing** from service with a public agency as a law enforcement officer, other than for reasons of mental instability
- (2) before such retirement, was **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 had statutory powers of arrest**;
- (3) (A) before such retirement, was regularly employed as a law enforcement officer for an **aggregate of 15 years** or more; or
(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected **disability**, as determined by such agency;

Who are qualified retirees? Cont'd

- (4) has a non-forfeitable right to benefits under the **retirement plan** of the agency;
- (5) during the most recent 12-month period, **has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;**
- **(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and**
- **(7) is not prohibited by Federal law from receiving a firearm**

What weapons are covered?

- "Firearms" are defined by excluding what are NOT "firearms" ...
- e) As used in this section, the term 'firearm' does not include--
 - (1) any machinegun (as defined in section 5845 of the National Firearms Act);
 - (2) any firearm silencer (as defined in section 921 of this title); and
 - (3) any destructive device (as defined in section 921 of this title).

What weapons are covered?

- The concept of “firearms” is very broad.
- With regard to qualified **(active)** law enforcement officers, no limitation on the type of firearm.
- With regard to qualified retired law enforcement officers, **the retiree must carry a firearm “of the same type”** as the retiree used in meeting agency or state standards.

"Firearms"

- A retiree can qualify with a revolver or pistol on the range, and then carry an entirely different weapon "of the same type"
- Active officers don't have restrictions and apparently can carry any firearm, regardless of whether they have qualified with it in their agency capacity

Observations About Qualifications

- The elements of the qualifications are both “historical” and “at time of encounter” (ATE)
- States that “pre-qualify” or “extensively qualify” prior to issuing a card are in effect making a statement that is completely reliable only as the card is issued.

Who are Qualified Retired LEOs?

(c) As used in this section, the term “qualified retired law enforcement officer” means an individual who –

- **H** (1) **retired in good standing** from service with a public agency as a law enforcement officer, other than for reasons of mental instability
- **H** (2) before such retirement, was **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 had statutory powers of arrest;
- **H** (3) (A) before such retirement, was regularly employed as a law enforcement officer for an **aggregate of 15 years** or more; or
(B) **retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency**;

Qualifications (cont.)

- **H** (4) has a non-forfeitable right to benefits under the **retirement plan** of the agency;
- **ATE** (5) during the most recent 12-month period, **has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;**
- **ATE** (6) **is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and**
- **H(?) and ATE** (7) **is not prohibited by Federal law from receiving a firearm**

The Federal Law

Carrying of Concealed Firearms by Qualified Retired Law Enforcement Officers

Codified at 18 USC 926C

- (a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is
- a qualified retired law enforcement officer -and- who is carrying the identification required by subsection (d)
 - may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

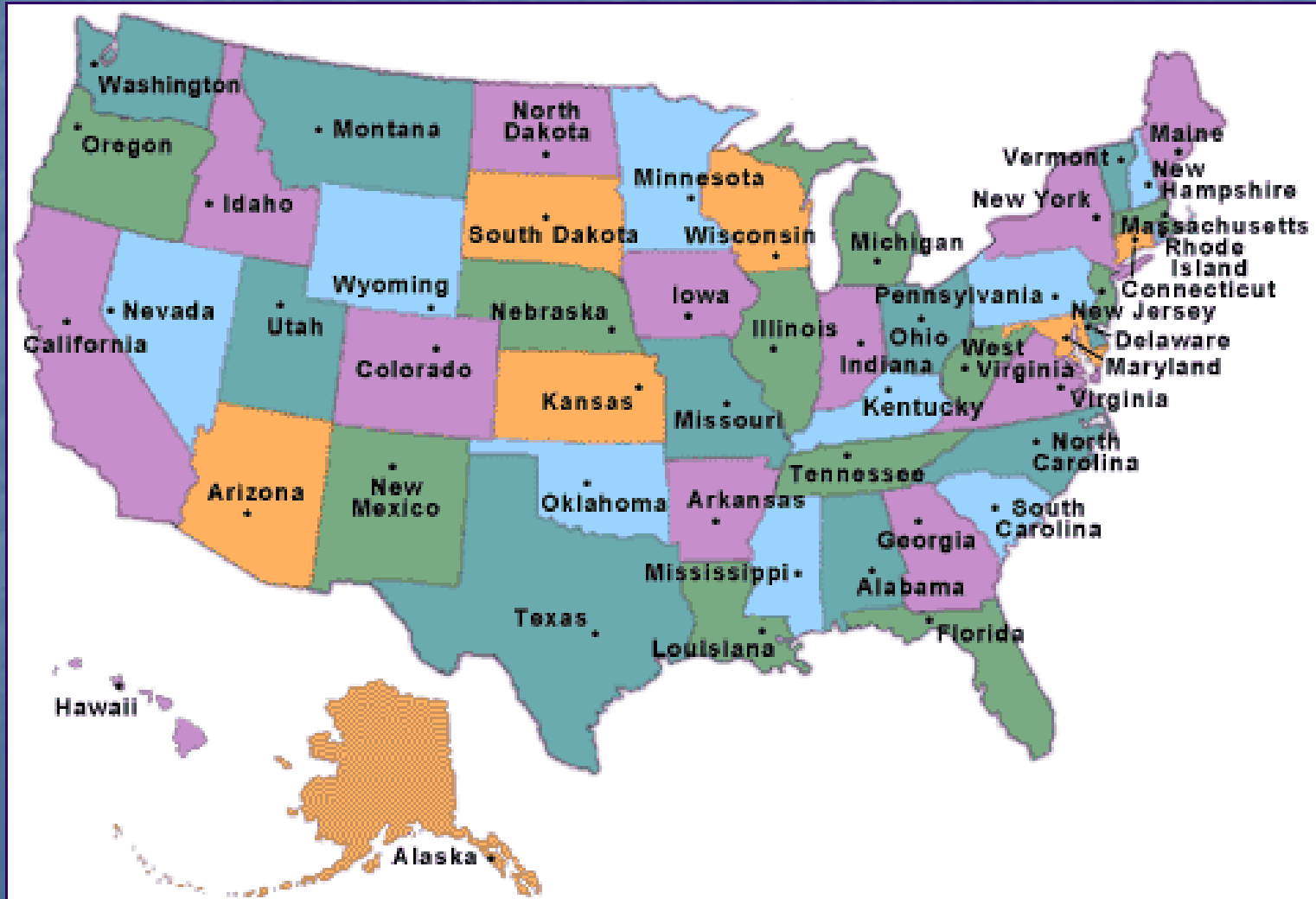
Required ID

- (d) The identification required by this subsection is -
- (1) a photographic identification **issued by the agency from which the individual retired from service** as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm;
 - or
 - (2) (A) a photographic identification issued by the **agency** from which the individual retired from service as a law enforcement officer; **and**
 - (B) a certification **issued by the State in which the individual resides** in that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

1
Card

2
Cards

A quick survey of several states' approaches to HR 218





FLORIDA

*Florida Criminal Justice Standards and Training Commission
Adopted the following Firearms Qualification Standard For
Active Law Enforcement Officers--*

- Florida AG had opened door to retirees to carry with no proficiency at all.
- CJSTC adopted “Minimalist” approach
- State firearms proficiency standards.
- No mandated training segment.
- Qualify every other year beginning July 1, 2006;
- Any officer who fails to meet the required firearms qualification standard shall be removed from sworn duty until he or she has met the required standard.
- Any officer who fails to meet the standard by June 30, 2008, shall have his/her certification made inactive.



Florida

COURSE OF FIRE

Stage 1

Hip position from the holster
Single target, 1 to 3-yard line
2 rounds in 4 seconds
Repeat 1 time for a total of 4 rounds

Stage 2

Two hand high point from ready gun
Single target, 3 yard line
2 rounds in 1 second
Repeat two times for a total of 6 rounds

Stage 3

Two hand high point from the holster
Single target, 7-yard line
2 rounds in 4 seconds from the holster
2 rounds in 4 seconds from ready gun position
2 rounds in 4 seconds from ready gun position

Stage 4

Two hand high point from the holster
Single target, 7 -yard line
3 rounds in 5 seconds
Repeat for a total of 6 rounds

Stage 5

Two hand high point from the holster
Single target, 7-yard line
Mandatory reload
12 rounds in 45 seconds

Stage 6

Two hand high point from the holster
Single target, 15 yard line
6 rounds in 30 seconds
Minimum Score
Total of 40 rounds
Minimum Score of 80%
32 of 40 rounds in the scoring area



ADDITIONAL REQUIREMENTS

The B-21E target or its equivalent is required

The qualification course of fire shall be conducted in **daylight** conditions

An officer must **qualify with the type of weapon that is to be carried**

The qualification **course of fire must be administered by a CJSTC certified firearms instructor**

The qualification course of fire shall be conducted at either a **CJSTC certified training school range, an agency range or a private range**

Remedial training and qualification may be conducted by the employing agency



Florida's "Minimalist" approach:



STATE OF FLORIDA Florida Criminal Justice Standards and Training Commission

Firearms Proficiency Verification Card

This Certifies That: _____

has on _____, 20____ achieved a passing score on the minimum firearms proficiency course of fire established under and applicable to law enforcement officers by Chapter 943, Florida Statutes.

In issuing this card, the Florida Criminal Justice Standards and Training Commission and the undersigned make no representation as to the current status of the named person as an active or retired law enforcement officer. That determination should be made at the time of an encounter with the person presenting this card.

Range Instructor's Signature: _____

Range Instructor's Printed Name: _____

Range Instructor's CJSTC Certification Expires: _____



Florida 2006

- Legislature FAILED to pass the bill authorizing CJSTC interaction with retirees
- Retirees can fire the course, if done by CJSTC certified instructor
- No "official" card; recommending ranges use the CJSTC format for cards
- Status under LEOSA will be determined at time of encounter (ATE)
- Agencies can accommodate their own retirees or retirees can find venues offering them opportunity to fire the course (as long as by certified firearms instructor)



Florida 2006

- NO state involvement in determining one's status as an active or qualified retired law enforcement officer
- ANYONE can, at own expense, go to range and fire the course and can get proof of "passing"
- Status under LEOSA to be made at time of encounter with law enforcement, not at the time someone was on the range.
- Legislation will be reintroduced in 2007 to authorize the CJSTC standardized card



Florida Concealed Firearms

Florida also grants reciprocity with numerous other states with regard to state-issued concealed firearms license.

To date, reciprocity in 29 states.

(Retired Florida resident cops get license free.)

FLORIDA'S RECIPROCITY STATES

Alabama	Alaska	Arizona	Arkansas
Colorado	Delaware	Georgia	Idaho
Indiana	Kentucky	Louisiana	Michigan
Mississippi	Missouri	Montana	New Hampshire
New Mexico	North Carolina	North Dakota	Ohio
Oklahoma	Pennsylvania	South Dakota	Tennessee
Texas	Utah	Vermont	
Virginia	Wyoming		



Illinois' Approach: Extensive State Involvement


- Allows Illinois LETSB to regulate, including “annual certification of law enforcement officers qualified under federal law to carry a concealed weapon.”
- *Mandatory Background Checks:*

“No law enforcement agency may knowingly employ a person, or certify a retired law enforcement officer qualified under federal law to carry a concealed weapon, unless (i) a criminal background investigation has been completed....”
- Authorizes ILETSB to “initiate, administer, and conduct annual firearm certification courses consistent with the requirements enumerated in the Peace Officer Firearm Training Act for retired law enforcement officers qualified under federal law to carry a concealed weapon.”



Section 1720.240 Eligibility Requirements

- Among required elements for getting certification, the person must have
" ...authorized an investigation to determine if the applicant has been convicted of any disqualifying criminal offenses, and the results of the investigation reveal no findings of guilt for any disqualifying offenses specified in the Act and the FOID (Firearms Owner Identification) Card Act..."
 - Must possess a valid FOID Card identifying him or her;
- Application signed under penalty of perjury.



Affirmative Review of Disqualification under the Police Training Act 50 ILCS 705

§ 6.1. **Decertification** of full-time and part-time police officers.

(a) The Board must review police officer conduct and records to ensure that no police officer is certified or provided a valid waiver if that police officer has been convicted of a felony offense under the laws of this State or any other state which if committed in this State would be punishable as a felony.

(Also reviews for disqualifying misdemeanors)



Illinois Permits / Documentation

Section 1720.260 Permits

- a) When an applicant has satisfied the requirements of this Subpart, the Board shall issue a concealed firearm permit. The permit shall certify that the permittee is qualified by the State to carry a concealed firearm under federal law and the provisions of this Subpart, and shall contain:
 - 1) The permittee's legal name, as shown on the application;
 - 2) The permittee's date of birth;
 - 3) The type of firearm permitted to be carried;
 - 4) A permit number;
 - 5) The date of issuance and expiration of the permit; and
 - 6) The title of the permit, the State Seal, and instructions to the permit holder.



Illinois Permit, continued

- b) The Board shall mail an approved permit to the applicant's residential address or mailing address shown on the application.
- c) The permit to carry a concealed firearm is not valid unless the permit card is in the permittee's possession and accompanied by a valid FOID Card and the photographic identification issued by the law enforcement agency from which the permittee retired.
- d) The permittee shall present his or her permit upon demand for inspection by a law enforcement officer.
- e) All permit cards or other written authorization shall remain the property of the State and the permittee shall surrender his or her card to the Director or a designated representative upon written notice setting forth the reasons for such surrender.
- f) All permit holders must maintain a current address and telephone number with the Board and report any changes within 10 days after the change.
- g) Permits shall expire 12 months from the date of issue.



State of Washington

- EHB 2951:
 - Has undergone statutory background check and is not ineligible to possess a firearm;
 - Qualification by local law enforcement agency or individual certified to provide firearms training;
 - Valid for one year;
 - Statutory fee of \$36 plus cost assessed by FBI for federal check, with \$\$ distributed in same manner as is done for concealed weapons permits.



Maryland's Approach

Restrictions:

IF ARMED, the Officer MUST possess a valid POLICE AGENCY photo ID AND this HR218 Certification. Firearm: Pistol/Revolver.

Canton, Mark Angelo

B
218
2.3.70052387.2 000 87 05 22 13 16

If found, return to:
LICENSING DIVISION
7751 Washington Boulevard
Jessup, Maryland 20794

MSP

Card is Property of MARYLAND STATE POLICE



218-000487



State of Maryland

Retired L.E.O.S.A. Certification



White
Male
6-02
225
BLACK
BROWN
License Number:
28-008
Expires:
11/17/2006

This person has been designated by the State of Maryland as a Retired Law Enforcement Officer for purposes of carrying a concealed firearm. This person is NOT eligible to carry a concealed firearm if under the influence of drugs, alcohol, or any other substance, or if prohibited by federal or state law. This certification does NOT exempt the holder from any state or federal laws or regulations. This certification does NOT authorize you to carry a firearm on public or government property, or from federal prohibited areas or locations. This certification is valid under ALL circumstances.

Baltimore City Police Dept.
Canton, Mark Angelo

Supervisor



Maryland's Approach:

If armed, the Officer must possess a valid POLICE AGENCY photo ID and this HR218 Certification.
Firearm: Pistol/Revolver



Restrictht

IF ARMED: the Officer MUST possess a valid POLICE AGENCY photo ID AND this HR218 Certification. Firearm: Pistol/Revolver.

B
218
2.3.70052387.2 000 87 05 .22 13 '6

If found, return to: LICENSING DIVISION
7751 Washington Boulevard
Jessup, Maryland 20794

MSP
Card is Property of MARYLAND STATE POLICE




218-000487

State of Maryland
Retired L.E.O.S.A. Certification

White
Male
6-02
225

BLACK
BROWN

License Number: **28-008**
Expires: **11/17/2006**

This certification is issued pursuant to Article 27, Section 343 of the Annotated Code of Maryland. It authorizes the holder to carry a concealed handgun for purposes of carrying a concealed handgun for the State of Maryland. This certification does NOT authorize the holder to carry a handgun in a vehicle, on a public premises, or in a public place. This certification does NOT authorize the holder to carry a handgun in a vehicle, on a public premises, or in a public place.

Baltimore City Police Dept.
Canton, Mark Angelo

Supervisor


“The person identified hereon has been certified by the State of Maryland as a qualified retired law enforcement officer for purposes of carrying a concealed firearm in accordance with 18 USC Section 976C. You cannot carry firearm if under the influence of any intoxicating or hallucinatory substance, or if prohibited by federal law from receiving a firearm. You are NOT exempt from limitations on carrying a firearm on private or governmental property or from federal prohibitions on the right to possess a firearm. This certification does NOT authorize you to take law enforcement action under ANY circumstances.”

Restrictions: **Carry, M. King**

IF ARMED: the Officer MUST possess a valid POLICE AGENCY photo ID AND this HR218 Certification. Firearm: Pistol/Revolver

B
218
2.3.70052387.2 000 87 05 22 13 16

If found, return to: LICENSING DIVISION
7751 Washington Boulevard
Jessup, Maryland 20794

MSP
Card is Property of MARYLAND STATE POLICE



218-000487

State of Maryland
Retired L.E.O.S.A. Certification

White
Male
5-02
225

BLACK
BROWN

License Number: **28-008**
Expires: **11/17/2006**

The person identified hereon has been certified by the State of Maryland as a qualified retired law enforcement officer for purposes of carrying a concealed firearm in accordance with 18 USC 976C. You cannot carry firearm if under the influence of any intoxicating or hallucinatory substance, or if prohibited by federal law from receiving a firearm. You are NOT exempt from limitations on carrying a firearm on private or governmental property, or from federal prohibitions on the right to possess a firearm. This certification does NOT authorize you to take law enforcement action under ANY circumstances.

Baltimore City Police Dept.
Canton, Mark Angelo

Supervisor
[Signature]



California's approach – No statewide system yet Agencies Doing On Own

- L.A. County Sheriff:
 - Is qualifying its own retirees, regardless of whether California resident or not;
 - Tests administered by appointment on a daily basis at Biscailuz Pistol Range;
 - At NO COST to retired officers other than cost of purchasing ammo at-site;
 - Successful retirees immediately issued a certification card, to be carried with Department's retired officer credentials



Oregon's approach

- The Oregon Police Policy Committee of the Board on Department of Public Safety Standards and Training (DPSST) approved Basic Police Practical Qualifications Course to meet HR 218 requirements.
 - 10, 7, 5, 3 and 2 yard shooting skills.
 - 100% score (all 25 shots in the "5" zone)
- Agencies can provide to their own retirees or other retirees. Private ranges allowed to qualify retirees, too.
- Preferred State Standard Firearms Qualification Card recommended for use.



Georgia's approach:

- Initially, Attorney General opinion indicated since no state standards, retirees could not qualify under HR 218
- Georgia implemented standards, effective January 1, 2006.
 - Yearly firearms qualification
 - Yearly 1 hour training on agency's use of force policy
 - Part of the officers' required annual 20 hours
- Minimum course of fire is Georgia Semi-Auto Pistol Qualification Course; agencies can exceed
- Retired officers can now elect to comply with the active officer minimum standards
- A POST-certified firearms instructor certifies the classroom training and firearms qualification on a POST approved form. POST does not seek out remaining "926C(d)" information. Retired officer's agency's responsibilities, not POST's.
- Firearms certification by POST-certified firearms instructor.
- Classroom training by POST-certified general instructor or the firearms instructor.



Virginia's Approach

- Managed via Virginia State Police;
- Issues retirees a photo authorization card based on user-submitted passport photo or portrait taken at a Firearms Transaction Center;
- Must complete prescribed safety brief and course of fire;
- Virginia retirees can attend firearms' training along with active officers at one of seven state ranges;
- Out of state – can use a commercial or agency range but still must do training;
- Virginia maintains fingerprints and holder will be revoked if he/she becomes ineligible



Arizona's approach

- Has statewide active officer standards:
 - Once a year; 50 shot day & night shoot, plus FATS or similar "judgment" shoot;
- Each agency decides whether to open its range to its retirees;
- Private ranges can open to retirees to let them shoot;
- Statute requires agencies to issue "honorably retired card" if subject is qualified retired law enforcement officer on the date of retirement but expressly says no duty to determine that retiree remains or has remained qualified.



Texas' approach:

- Has active officer firearms qualifications;
- Officers must qualify annually;
- HR 218 being implemented on local level by individual agencies
- At present, no overall state coordination



Hawaii's approach

- Hawaii's Attorney General is responsible for implementing HR 218
- Process underway, but details not known.
- Police departments have own standards for their officers (Hawaii does not have a POST)
- In practice, annual qualification for active officers
- No state ranges – operated by counties and/or agencies; some private ranges.



North Dakota's approach

- ND has statewide peace officer standards.
- Annual sidearm qualifications on POST approved course, under POST approved sidearm qualification standards.
- Conducted by POST certified f/a instructor.
- If retiree shoots and passes, instructor notifies POST.
- POST issues letter to retiree.
- Retiree schedules his/her shoots, and former agency responsible for issuing other identification.




Kentucky's approach

- Retiree can receive certification ID card from former agency OR
- Retiree can qualify by shooting firearms standard for civilian concealed course: 11 of 20 shots; 21 feet; annual qualification.
- Retirees can shoot with policy agency firearms instructor, civilian CCDW instructor, or Dept. of Criminal Justice Training firearms instructor.
- Cap of \$20 on fee to be charged.



Kentucky's approach

- Instructor completes form and sends to KSP
- KSP issues photo ID card to retiree at no cost
- Dept. of CJ Training, KY Fish & Wildlife and Military Affairs MUST make ranges available 4x year.
- Active Officers must annually qualify on same standard as retirees.
- 2006 Session included out-of-state retirees in group entitled to KSP's qualification card.



Nevada's approach:

- Legislation empowered Nevada Sheriffs' and Chiefs' Associations to establish criteria for retired officers to conform with HR 218;
- Nevada law enforcement agencies conduct the criminal history and facilitate the retired status certification
- The Clark County (Las Vegas) procedure:
 - Obtain a packet with information including list of approved firearms instructors;
 - In presence of an approved instructor, demonstrate proficiency (at least 70%);
 - Completes "Retirement Qualification and Waiver"
 - Presents "Agency Qualification Letter" that is photocopied for file and returned. This is letterhead letter affirming the retired in good standing, 15 aggregate years, power of arrest, etc. obligations of HR 218.
 - Must do annually.
 - Receives card about two weeks after submitting required material.



STATE OF NEVADA

RETIRED PEACE OFFICER
FIREARMS CERTIFICATION
(NRS 202.3655)



AGENCY CERTIFYING : DOUGLAS COUNTY SHERIFF'S OFFICE

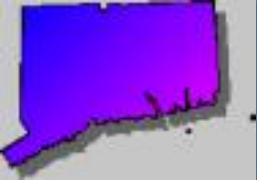
NAME: (LAST, FIRST MI) : DOE, JOHN L.

DATE OF BIRTH: 00-00-0000

EXPIRATION DATE: 00-00-0000

FIREARMS TYPE: REVOLVER AND SEMI-AUTO

THIS CARD IS ISSUED PURSUANT TO THE LAW ENFORCEMENT SAFETY ACT OF 2004. THIS CARD MUST ACCOMPANY VALID PHOTOGRAPHIC IDENTIFICATION FROM A GOVERNMENT LAW ENFORCEMENT AGENCY.



Connecticut's Approach

Involves the state in checking officer's status

One week retiree firearms qualification period; appointments are scheduled

Proof of certification entered into CSP database

State does a criminal history check

Retiree Concealed Handgun Carry Authorization Application Checklist HR-218

Connecticut State Police Retiree's and those out-of-state retired police officers now residing in CT, desiring authorization to carry concealed handguns should complete and bring this form, along with all required materials on your scheduled qualification date to:

Connecticut State Police Firearms Training Unit
#100 Nod Road
Weatogue, CT. 06089

Name: _____ Date: _____

Date of Retirement: _____

Home Address: _____ **Full street address, no P.O.**

Home Phone: _____

***** If retired from out-of-state police Dept., attach notarized affidavit to this application*****

Affidavit (If applicable) Valid Connecticut Pistol Permit

SPBI Results

Qualification dates for 2005: October 15, 2005 October 22, 2005
November 5, 2005

You must confirm your attendance date with the Firearms Training Unit (860) 658-1925.

(THIS SPACE FOR FIREARMS TRAINING UNIT USE ONLY)

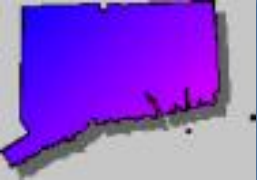
Date received: _____

Approved

Not approved for the following reason: _____

Date Certification Issued: _____

Date entered into database: _____ ID# _____



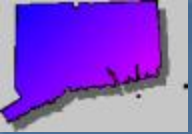
Connecticut's Approach

“Release” required before firing on the course

RELEASE & INDEMNIFICATION FIREARMS TRAINING

I, _____, in consideration of the willingness of the Division of State Police to allow my participation in firearms training and with acknowledgment of the risks inherent in this activity, agree to release, discharge, indemnify and hold harmless the State of Connecticut, the Department of Public Safety, Division of State Police and their respective agents, employees, and representatives from and against any and all claims, demands, actions, causes of action, judgments, executions, damages, costs and expenses which I, my heirs, executors, administrators or assigns now have or may have against the aforesaid for any and all losses, costs, expenses (including attorney's fees), damages and injuries known or unknown, and injuries to property, real or personal, arising out of my participation in firearms training sessions conducted by the Division of State Police.

It is understood and agreed that this instrument is a full and final release of all claims of every nature and kind whatsoever and that this instrument releases claims that are, at this time, unknown and unsuspected.



Connecticut's Approach

May qualify on one handgun per session.

Initially must submit:

- Completed retiree application
- Retired out-of-state police officers, now residing in Connecticut, **MUST** provide a notarized affidavit from their police department indicating compliance with H.R. 218 as a “qualified retired law enforcement officer”.
- Results of criminal history check provided by SPBI.
- Completed fingerprint card DPS-125-c.
- Completed “Release and Indemnification” form.
- Ammunition as described below, with your own eye and hearing protection.
- Valid State of Connecticut Pistol Permit

For recertification, must submit:

- DPS-846-c to SPBI , Middletown, CT. Bring results with you on your re-qualification date.
- Bring your current retiree permit.
- Ammunition as described below, with your own eye and hearing protection.
- Valid State of Connecticut Pistol Permit

Once successfully complete the program, provided with a certificate indicating compliance with H.R. 218 and the make, model, serial number and caliber of the handgun with which qualified, and a photo identification card. Both of these documents are valid for one year.

Retirees receive no notification regarding the expiration of credentials. It is solely retiree's responsibility to renew in timely manner.

Now the courts
are getting
involved...

1 STEPHEN H. SILVER
California State Bar No. 38241
2 DEAN WEINREICH
California State Bar No. 169255
3 SILVER, HADDEN & SILVER
1428 Second Street
4 P.O. Box 2161
Santa Monica, CA 90407-2161
5 (310) 393-1486
6 Attorneys for Plaintiff/Petitioner Robert Reza

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
JUL 11 2005
ALAN SLATER, Clerk of the Court
BY: ENRIQUE VELOZ, DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ORANGE

11 ROBERT REZA, an individual,
12 Plaintiff/Petitioner,
13 vs.
14 STATE OF CALIFORNIA; STATE
DEPARTMENT OF JUSTICE; PATRICK
15 LUNNEY individually and in his official
capacity; WILFREDO CID individually and
16 in his official capacity; RICK OULES
individually and in his official capacity;
17 JOHN M. GAINES individually and in his
official capacity; and DOES 1 through 100,
18 inclusive,
19 Defendants/Respondents.

Case No. 05CC08053
VERIFIED COMPLAINT FOR
DAMAGES [42 U.S.C. §1983],
DECLARATORY RELIEF [C.C.P.
§1060], INJUNCTION [C.C.P. §525]
AND PETITION FOR WRIT OF
MANDATE [C.C.P §1085]

JUDGE COREY S. GRAMM
DEPT. C8

21 Plaintiff/Petitioner alleges as follows:

22 PARTIES

23 1. Plaintiff/Petitioner Robert Reza (hereinafter referred to as "Plaintiff/Petitioner"),
24 is, and at all times herein mentioned was, an honorably retired peace officer, employed by
25 Defendants/Respondents in the capacity of Special Agent until his retirement on or about March
26 3, 2004. As a Special Agent, Plaintiff/Petitioner was authorized to carry a concealed firearm
27 both on and off duty, and derived his authority to act as a peace officer in all respects from Penal
28 Code Section 830.1.

Regardless of your state's
approach...

HR 218 has defined a new reality in
street level encounters...

...are your recruits being trained in
a way to cope with that reality?

POST Considerations--

- No implementation and “minimalist” approach states will mean officers on the street will have to make most “status” determinations;
- No uniform certification card format
 - Do your officers know the basics to look for on them?
- Heavy involvement states may relieve much of the “status” determination issues, but officers on street still have to know the HR 218 factors—
 - Heavy involvement states’ documents could give rise to false appearance of “conforming”
 - Status can change...

Many States are doing extensive prequalification backgrounds, licensing, etc.
But they are not the "final answer."

State certification can be misused, and may actually become unreliable over the course of its 12-month "life".

It may actually mislead street officers who encounter retirees with guns.

HOW?

Qualifications Issues

- Example: “Ralph” and “Roberta”
 - Retired Ralph fires the course successfully, goes home and announces his accomplishment to wife, Roberta, who responds “Big Deal. Get a life! There’s more to life than your gun!”;
 - Ralph becomes increasingly resentful of her comment and during an argument a month later, he batters her and is charged with misdemeanor battery.
 - Two months later, he pleads guilty to battery of his spouse—a misdemeanor crime of domestic violence.
 - He is no longer qualified to receive a firearm under federal law.
 - Notwithstanding this ongoing disqualification, the ID card in his pocket appears valid on its face for 9 more months. Ralph is encountered by a policeman two months later, found to have a concealed gun, presents his ID, and is allowed to continue on his way since the officer believes at face value Ralph is a qualified retired officer under no disqualifications.

POST Considerations--

- Do recruits receive orientation as to the basic requirements of HR 218?
- Are basic recruit curricula addressing HR 218 in the context of discussions of crimes related to carrying concealed firearms?
- Are they being alerted to the potential for terrorists, criminals, etc. to use counterfeited credentials as a means of justifying being armed?
- Are they being made aware that they may not be able to discern all the answers during the encounter...and that a prosecutor may have to charge later?

POST Considerations--

- Officer Safety and Judgment:
 - Are officer safety courses addressing the fact that there will be larger numbers of armed retired (and out-of-jurisdiction active) officers who may interject themselves into an armed enforcement mode without proper easily verified "cop" identification, without radio, without the tools to intervene safely, and who may likely be an "unknown" armed subject" to the responding officers?

POST Considerations--

- Officer Safety and Judgment:
 - Does your basic recruit training include discussions of “off duty armed intervention” scenarios and how dangerous they can be?
 - Officer as the intervener
 - Officer responding to the scene where an off duty cop has engaged in armed intervention

POST Considerations--

- Liability and Authority:
 - Are officers being reminded that while HR 218 grants them the ability to carry into other states, their jurisdictional authority does not follow with them?
 - Do they know some states impose a citizen's duty to retreat before using deadly force?
 - Do they recognize they are effecting a "citizen's arrest" if they use their guns to arrest a person outside their lawful jurisdiction?
 - Do they know the liability exposure derived from such actions?

POST Considerations--

- Whose responsibility is it to get these issues presented to the officers?
 - Agencies?
 - POSTS ?
 - Academies?
 - All of the above?

POST Considerations--

The implementation of HR 218 varies greatly throughout the nation.

“Achieved firearms standards” proof and ID cards vary greatly.

What can be discerned about one possessing the card varies greatly.

Officers on the street need to know about the law...and how to react to those claiming to be entitled to carry a concealed firearm under its authority.

POST Considerations--

The work related to implementing HR 218 is not over just because you state has a system to issue identification cards.

POST Considerations--

**ARE YOU EQUIPPING YOUR OFFICERS
WITH THE UNDERSTANDING AND TOOLS
TO COPE WITH THE POST-218 REALITY?**

Questions?

This slide presentation will be
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FDLE General Counsel's Web Page
found at FDLE's site:

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