



NRA LAW ENFORCEMENT QUARTERLY

CELL PHONE USE BY LAW ENFORCEMENT OFFICERS

**BY SARAH GERVASE
NRA ASSISTANT GENERAL COUNSEL**

Law enforcement officers commonly carry cell phones while on duty, and many officers have questions about whether or not their cell phone records could become part of a criminal or civil case. While the law on the subject has not been settled, the answers to those questions depend largely on whether: 1. police officers are using their own personal or department-issued cell phones, and 2. whether they are using those cell phones for official or personal business. For now, though, the short answer is – probably. Police officers should expect that their cell phone records will be made available to at least some officials if those records contain evidentiary material.

Imagine a few scenarios involving an officer's use of a cell phone. Say a law enforcement officer is involved in an on-duty shooting. The officer's partner takes photographs or video of the scene

using what he has handy and nearby – his cell phone. Could the photos or video on the officer's cell phone be used as evidence in a criminal trial related to the shooting?

Not many courts have considered the question, but the answer is probably “yes.” The reason is that any material on the officer's cell phone becomes evidence like any other, and in a criminal case, the defendant has a legal right to any evidence material to his defense. The State must turn over any records that could be useful to the defendant in order to protect the defendant's right to a fair trial. Such a ruling makes sense, and was the very basis for one of the few court decisions to consider the scenario. In *New Mexico v. Ortiz*, 215 P.3d 811 (N.M. Ct. App. 2009), the court noted that an officer's “privacy rights” and “private interests” in his cell phone records could not trump the defendant's due process rights. The defendant could therefore access the officer's personal cell phone records in an attempt to account for a gap in the videotape evidence being used against the defendant. To protect the officer's privacy in his personal cell phone records, however, the court approved of allowing only limited inspection in the judge's chambers.

The *Ortiz* case involved an officer's on-duty use of his personal cell phone. Would it have made any difference if the cell phone had been issued by the department? Courts have not considered the question, but it seems likely that there would be no difference. Defendants still have a right to a fair trial, and a department's issuance of the cell phone simply makes the phone similar to any other recording device an officer could use to tape an incident or arrest. It is potential evidence, just like any other.

The same goes for any calls, texts, or instant messages an officer might send to a fellow officer. Without the benefit of context or background information, some messages could cast an officer in an unfavorable light and be used by defense attorneys to attack an officer's objectivity, credibility, or general professionalism. Officers should therefore be just as careful with these types of calls and messages among themselves as they would be speaking in front of the general public.

Now what about when an officer uses a cell phone while on-duty for purely personal matters? One recent U.S. Supreme Court case involved an on-duty officer who used his department-issued cell phone to send personal, sexually-



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**Cellphone use,
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explicit text messages. *City of Ontario, California v. Quon*, 130 S. Ct. 2619 (2010) The officer was disciplined when the department found his messages during an audit of overage charges on its cell phones. While the Court did not say that the officer had no reasonable expectation of privacy, the Court did send a strong warning to officers who use their department-issued cell phones for personal communications. Even when an officer does have a legitimate expectation of privacy, the Court noted that it might be reasonable under all of the circumstances for an employer to access those records for work-related misconduct and non-investigatory, work-related purposes such as performance evaluations and compliance with State Open Records Laws. According to the U.S. Supreme Court, then, there is a long list of reasons an officer's personal cell phone use while on-duty could be examined in a legal or employment proceeding.

Officers need to be smart when using their cell phones. Even if there is no departmental policy in place, treat your cell phones as you would any other piece of equipment you carry on-duty. If you use cell phones, do not be shocked when others scrutinize that use later.

Police Pistol Combat Rules Are Online

The updated PPC rules are online at <http://ppc.nra.org/documents/pdf/law/competitions/rulebook.pdf>

The National Police Shooting Championships are scheduled for September 14-19, 2013. See <http://npssc.nra.org> for more information.

LEOSA Welcomes the Military by Requiring New ID Information for All

**BY JAMES M. BARANOWSKI, ASSOCIATE
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ACTION**

On January 2, President Obama signed into law the 2013 National Defense Authorization Act (NDAA). While this annual law is one that few would look to for any changes to the Law Enforcement Officers Safety Act (LEOSA), this year's NDAA contained two substantial amendments you need to be aware of.

The first amendment to LEOSA is one that current and former members of our military will appreciate. Previously unable to qualify for the privilege LEOSA affords due to a lack of "arrest" authority, military police and law enforcement are now able to qualify under the "apprehension" authority afforded to them by 10 U.S.C. § 807(b), the Uniform Code of Military Justice.

While this long overdue change to the law opens the door to those formerly frustrated by LEOSA's unwavering arrest authority language, it comes with a catch. In an effort to limit the ability to qualify to only those who serve or have served in a military police or law enforcement billet, and not just those that have or had UCMJ apprehension authority, the amendment makes a seemingly small yet ultimately significant change to the identification card requirement which impacts everyone.

Prior to the amendment, LEOSA required Qualified Law Enforcement Officers (QLEO) to carry a photographic identification card issued by their agency and Qualified Retired Law Enforcement Officers (QRLEO) to carry one issued by their former agencies. The statute was intentionally vague on the content and format of these ID's, accounting for the many different forms and formats of ID's issued by agencies throughout the country.

That all changed on January 2nd. QLEO's must now carry a photographic ID



that "identifies the employee as a police or law enforcement officer of the agency," and QRLEO's must carry a photographic ID "that identifies the person has having been employed as a police or law enforcement officer."

While seemingly insignificant, this change will likely cause substantial difficulties for many individuals that already have significant problems obtaining the required identification card from their agencies and especially for those who qualify but do not hold or never held the title of police or LEO; a problem that is only compounded by the fact that LEOSA does not bestow either an explicit right to obtain the required photographic ID or a federal remedy for an agency's failure to issue one.

For the military, no plan has been proposed for the issuance of these ID's and no amendments have been made to the DoD's misguided LEOSA policy (DoDI 5525.12), but one should expect the verification process to be bogged down with red tape, especially for those who served over ten years but did not retire in a military police or LE MOS or whose LEOSA qualification time comes from a secondary billet/MOS.

We will keep you updated as the amendments are implemented, but before you start planning that welcome to the LEOSA community party for our military members you would be well advised to take a moment to check your own ID to ensure you still qualify for the guest list.

James M. Baranowski is associate legislative counsel at the NRA's Institute for Legislative Action and a member of the International Law Enforcement Educators and Trainers Association. He is also a decorated combat veteran, having served over eight years in the United States Marine Corps both as an officer with 1st Reconnaissance Battalion and as a judge advocate. His numerous awards and decorations most proudly include the Navy and Marine Corps Commendation Medal with Valor, which he received for his actions during a sniper attack on his unit in Fallujah, Iraq.

Those Pesky Trigger Pull Requirements

By Dwight Van Horn

The 2012 National Police Shooting Championships was my 32nd year as either a competitor or match official. This year, watching the Referees weigh single action trigger pulls in the various matches, reminded me of my early years of competing when I used to think that the minimum required trigger pull weights were my goal.

Back in those days, we only had to worry about the 2½-pound requirement for the Distinguished Revolver. Like many shooters, especially new shooters, that's what I felt my single action pull had to be. If I had a trigger pull that was 2 pounds 9 ounces, that was too heavy; it had to be 2½. So, every time I had my trigger weighed, I was hoping the Referee didn't breathe anywhere close to the weights. Even if they didn't, sometimes it wouldn't pass and I'd have to make a mad dash to the rear and see if I could get another ½ ounce added to the single action trigger pull to make the minimum. Not a very good way to start a match where you're trying to get one of our discipline's most coveted awards.

In those early years I, again like most new shooters, was shooting the 50-yard stages in single action. As my skills improved, I started shooting the 50-yard stages, both Distinguished and 1500s, double action. At that point, the single-action trigger pull requirement is irrelevant to the shooter. The engagement surfaces of the hammer and trigger for single-action shots have absolutely no connection whatsoever to the hammer and trigger engagement surfaces used for double action shots. That's true with S&W, Colt and Ruger revolvers. The parts obviously look a little different, but the engagements are essentially the same in all three; there is no interaction

at all between SA and DA engagements. If you are shooting your Distinguished revolver DA only at the 50-yard line, you need to make your SA trigger lift well above 2½ pounds to ensure your revolver can easily make minimum trigger pull weight and you don't have to have last minute adjustments made to your revolver.

I overheard a couple of competitors comment to the Referees while getting their revolvers weighed this year that they could probably lift the table with their SA trigger pulls. Maybe just a little bit less than that should be your goal, and you'll never have a problem passing the trigger pull weights again. If you are a competitor who shoots SA at the 50, find a good, competent gunsmith to adjust your SA pull to about 2¾ to 3 pounds, and you won't have to worry about making weight in the future. Practice a little with that slightly increased weight, and you'll be used to it in no time at all.

The same would apply for trigger pull weights for pistols. Again, if you are shooting a DA pistol, the sear engagement surfaces for DA and SA are not the same. For DA pistols firing in SA and 1911 style pistols, the engagement surfaces are always the same. The 3½-pound minimum weight should not be your goal. Again, find a good competent gunsmith who can give you a good, clean-breaking, no over-travel trigger pull of about 3¾ to 4 pounds and you can confidently walk to the Referees' table and know you don't have to worry about making weight. A few rounds down the practice range, and you'll be all dialed in to that new weight for many rounds to come.

And to paraphrase my good friend, 10-time NPSC Champion Philip Hempill: If you can't shoot a 3 or 4 pound trigger, you ought to take up knitting!



Dwight retired from the Los Angeles County Sheriff's Dept. in 1999 after a 27-year law enforcement career. He shot NRA PPC for 22 years, Double Police Distinguished, 1490 Honorary Club. Since 1998 he has been a Referee, Chief Referee and Chief Range Officer at the NPSC. Dwight has served on the NRA Board of Directors since 1998.

10th Anniverary **ILEETA** Training Conference & Expo

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The Commonwealth of Virginia is requesting help to raise funds for the building of a Public Safety Memorial to be located in the Capitol in Richmond.

As a 501(c)(3) non-profit organization, the Virginia Shield Foundation recognizes, honors and supports public safety officers and their families. Your charitable donation will help honor public safety personnel who have given their lives in service to others and support the Commonwealth Public Safety Memorial to ensure their ultimate sacrifice is never forgotten.

For more information, please visit the web site at www.VirginiaShield.org.

Police Pursuits Outdoors

The objective of "Police Pursuits Outdoors" is to record hunting adventures with law enforcement officers globally. The officers will talk about their assigned duties and other law enforcement related topics while the hunt is captured on video.

"Police Pursuits Outdoors" recognizes law enforcement officers throughout the U.S. who place themselves in harm's way for our safety. "Police Pursuits Outdoors" is going to be unlike any other outdoor show currently airing on television; there is not another outdoor show exclusively dedicated to law enforcement. Every police officer participating in these expeditions must be a certified peace officer in his or her respective state.

Find out more about "Police Pursuits Outdoors" and contact them through their website at www.policepursuitsoutdoors.com or on Facebook. A portion of the sales of game calls sold through www.brothersinarmsgamecalls.com goes back to Wounded Warrior, Thin Blue Line and other charities involving fire, police and military.

Retired and Off-Duty Officer Self-Defense Insurance

The NRA Endorsed Insurance Program is proud to recognize the sacrifices made by law enforcement officers. To show their appreciation, the program is offering a discounted self-defense coverage for retired law enforcement officers and off-duty police officers who are NRA members. The coverage starts at only \$50 annually and is designed to affordably protect retired and off-duty officers. With limits up to \$250,000, officers can receive coverage for criminal and civil defense costs, the cost of civil suit defense, and criminal defense reimbursement.

Purchasing this coverage is easy! Simply visit www.lawenforcementselfdefense.com and select the option to purchase coverage on the right. For more information or to speak directly to a representative call the NRA Endorsed Insurance Program toll-free at 877.672.3006.

Program Administered by Lockton Risk Services



National Police Week 2013

Visit the National Firearms Museum

During your visit to our nation's capitol, be sure to consider visiting the National Firearms Museum located at the National Rifle Association headquarters in Fairfax, Virginia.

The museum features over 15,000 square feet of exhibits that feature and highlight over 3,000 rare and historic firearms. The museum tells the compelling story of Americans and their guns, and features some of the rarest and most historically significant firearms related artifacts on public display.

Numerous displays graphically illustrate the history of law enforcement in America, from the earliest flintlock pistols of the colonial militias to the newest police-issued sidearms of modern day; from Dirty Harry's original 29 Smith and Wesson magnum, to the tragically twisted police service revolver recovered from the ashes of



the World Trade Center all these and many, many more are prominently displayed in the museum's – "Long Arm of the Law" gallery.

The National Firearms Museum is located at the NRA Headquarters, 11250 Waples Mill Road in Fairfax, Virginia. Our museum store offers a huge selection of firearms related books, museum and NRA souvenirs. Contact us at (703) 267-1600 and visit us on the web at NRAmuseum.org.

NRA Law Enforcement Division's New Badge



The NRA Law Enforcement Division has released a new law enforcement badge.

The new badge is similar to the very popular 50th Anniversary badge that was released last year to commemorate the division's history. "We had many requests to make available a non-anniversary edition of the NRA Law Enforcement Division badge,"

said Glen Hoyer, the Division Director.

Smith & Warren makes this beautifully-handcrafted badge, which is die-struck from solid brass, cloisonné enameled, highly polished and then coated with a pure 24 karat gold electroplate. Each badge comes with a heavy-duty pin and safety catch attachment on its rear, and is mounted in a black velvet display box featuring the official NRA logo.

The new badge is available through the NRA Program Materials Center website at <http://materials.nrahq.org> for \$69.95, plus shipping & handling and sales tax where required.

For a limited time, we will make available a custom badge to those who wish to have a badge number (up to 4 numbers) of their choice on the

Sheepdog Seminars



Teaching 300 days a year to military and law enforcement, Lt. Col. Dave Grossman now brings "The Bulletproof Mind" lectures to mainstream America.

With the rise in gun sales and CCW applications, Col. Grossman has felt compelled to bring this essential information to gun owners across America.

To paraphrase Jeff Cooper, owning a firearm no more prepares you for a gunfight than owning a piano makes you ready for Carnegie Hall.

Your mind is your primary weapon. Bulletproof it now.

For dates and locations, go to www.sheepdogseminars.com.

badge. The custom-numbered badges will only be available through the division by emailing EBailiff@nrahq.org for an order form. The custom numbered badges will be \$79.95 plus appropriate tax and shipping and will take 8-10 weeks for delivery, as they are made to order.

"The custom numbered badges are great for a promotion or retirement gift, as well as, for those who collect badges and like particular numbers," added Hoyer.

“Officer Down”—Now What?

The worst news any law enforcement agency can hear is that an officer has been killed. Statistics show that on average a law enforcement officer is killed in the line of duty every 2 ½ days. How does an agency respond to those devastating words, “Officer down”?

Since 1996, Concerns of Police Survivors (C.O.P.S.) has presented the highly-acclaimed training the “Traumas of Law Enforcement” to help agencies deal with officer death. C.O.P.S. plans the trainings in key cities across the country each year and every year approximately 700 local, county, state, and federal law enforcement officers/officials attend this training.

“This training was perhaps one of the most renewing and refreshing professional experiences I have had for some time. It was sort of like chicken soup for police officers’ souls,” stated Chief R. Keith Wood, Maryville (MO) Police Department, after attending C.O.P.S. training sessions.

The curriculum of the training will focus on the tools needed to develop general orders addressing traumatic issues affecting officers and to sensitize them to emotional support needs of the fallen officers’ surviving families. The main topics covered are appropriate death notification, funeral protocol, the need for emotional debriefings following critical incidents, law enforcement suicide, officer disability, traumatized officers, the effects of officer deaths on the co-workers, appropriate methods for dealing with survivors after the funeral, and the importance of support for officers that continue on the job.

LOCATIONS & DATES

January 7-9, 2013 ~ Charleston, SC

Training Location: Embassy Suites Charleston Convention Center

January 28-30, 2013 ~ Location: Las Vegas, NV

Training Location: Embassy Suites Las Vegas

February 11-13, 2013 ~ Location: Louisville, KY

Training Location: Holiday Inn Louisville East

February 25-27, 2013 ~ Location: Des Moines (Altoona), IA

Training Location: Prairie Meadows Events & Conference Center

March 4-6, 2013 ~ Location: Alexandria, LA

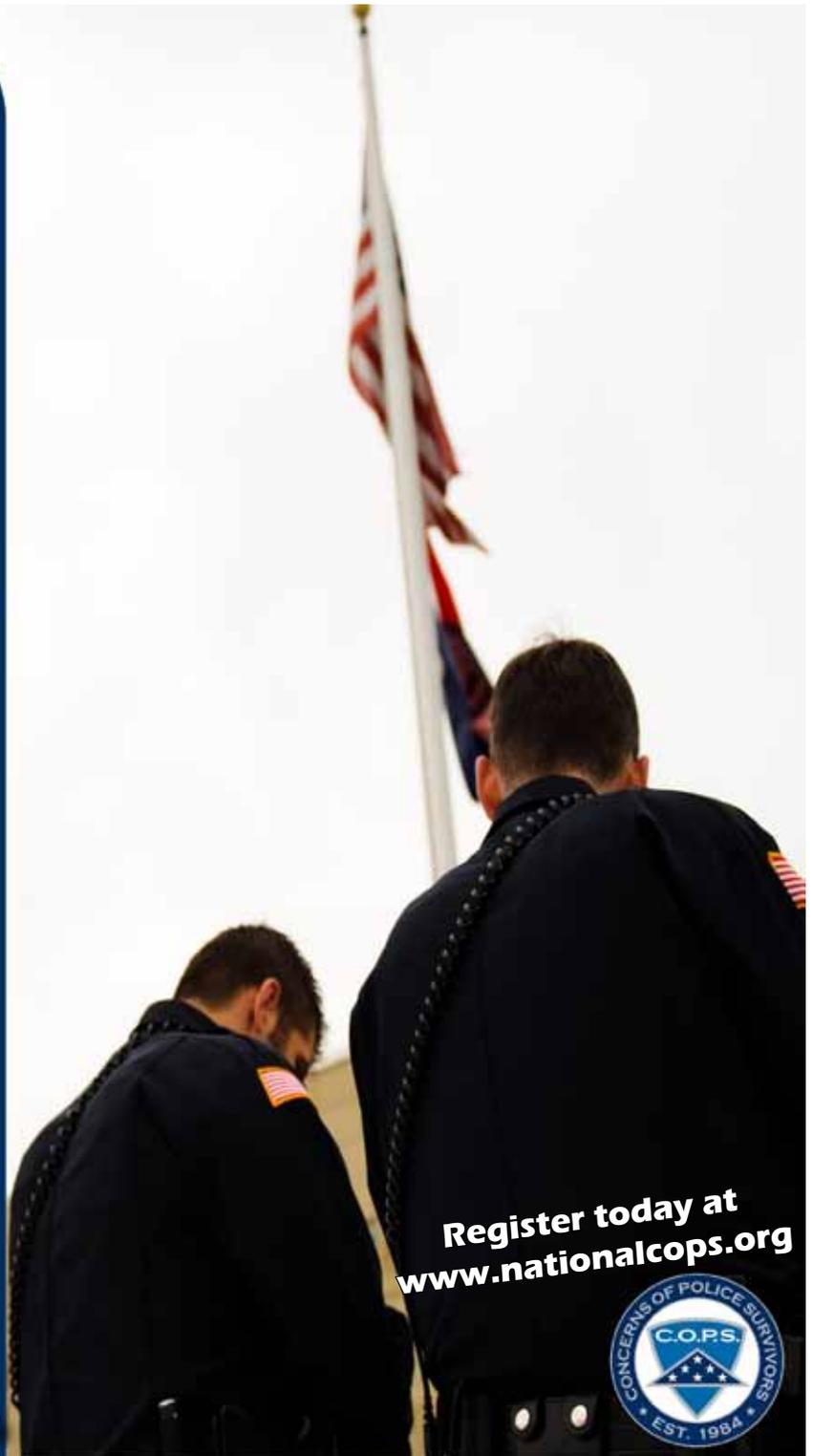
Training Location: Best Western of Alexandria Conference Center

March 11-13, 2013 ~ Location: Seattle, WA

Training Location: Sea-Tac International Airport Office Building

March 25-27, 2013 ~ Location: Atlantic City (Galloway), NJ

Training Location: Richard Stockton College Performing Arts Center



**Register today at
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2013 NRA Law Enforcement Firearm Instructor Development Schools

<http://LE.NRA.org/Training> • LE@nrahq.org • (703) 267-1640

New schools are added often. Check website frequently for current Training Schedule.

Range fee, if any, is payable to some hosting agencies; amount varies.

NRA Tuition = \$595 per person

HANDGUN & SHOTGUN

Mar 4-8 Henryetta, OK
 Mar 18-22 Summerville, SC
 Apr 1-5 San Diego, CA
 Apr 8-12 Bethlehem, PA
 Apr 15-19 Garden Plain, KS
 Apr 15-19 Pearl, MS
 May 6-10 Kankakee, IL
 May 6-10 Smithton, PA
 May 13-17 Gunnison, CO
 May 13-17 Memphis, TN
 Jun 3-7 Harrisburg, PA
 Jun 3-7 Winchester, VA
 Jun 17-21 Pittsburgh, PA
 Jun 24-28 Mexico, MO
 Jun 24-28 Stapleton, AL
 Jul 8-12 Manchester, NJ
 Jul 15-19 Deland, FL
 Sep 9-13 Bethlehem, PA
 Sep 16-20 Garden Plain, KS
 Sep 23-27 Alton, VA
 Sep 23-27 Canton, MI
 Sep 23-27 Florence, AL
 Oct 7-11 Arnett, OK
 Oct 21-25 Defiance, MO
 Oct 28-Nov 1 Colts Neck, NJ
 Nov 11-15 Pearl, MS

Jul 22-26 Egg Harbor Twp, NJ
 Aug 12-16 Chino, CA
 Sep 30-Oct 4 Manchester, NJ
 Sep 30-Oct 4 Summerville, SC
 Oct 7-11 Deland, FL
 Oct 7-11 Florence, AL
 Oct 7-11 Garden Plain, KS
 Oct 21-25 Harrisburg, PA
 Nov 4-8 Pittsburgh, PA

PRECISION RIFLE

Jul 15-19 Memphis, TN
 Jul 22-26 Pittsburgh, PA
 Sep 16-20 Bethlehem, PA
 Sep 30-Oct 4 Henryetta, OK
 Oct 21-25 Florence, AL
 Dec 2-6 Garden Plain, KS
 Dec 2-6 Pearl, MS

SELECT-FIRE

Mar 11-15 San Antonio, TX
 Mar 25-29 Florence, AL
 May 6-10 Mexico, MO
 Jun 3-7 Henryetta, OK
 Aug 12-16 Maryville, TN
 Sep 30-Oct 4 Littleton, CO

TACTICAL SHOOTING

Apr 1-5 Manchester, NJ
 Apr 15-19 Bethlehem, PA
 Apr 15-19 Florence, AL
 Jun 17-21 Elizabethtown, PA
 Jul 22-26 Pearl, MS
 Jul 29-Aug 2 Egg Harbor Twp, NJ
 Aug 19-23 Littleton, CO
 Sep 9-13 Tupelo, MS
 Sep 16-20 Smithton, PA
 Sep 23-27 Marana, AZ
 Sep 30-Oct 4 Bethlehem, PA
 Oct 28-Nov 1 Summerville, SC
 Nov 4-8 Florence, AL
 Dec 2-6 Deland, FL

TACTICAL SHOTGUN

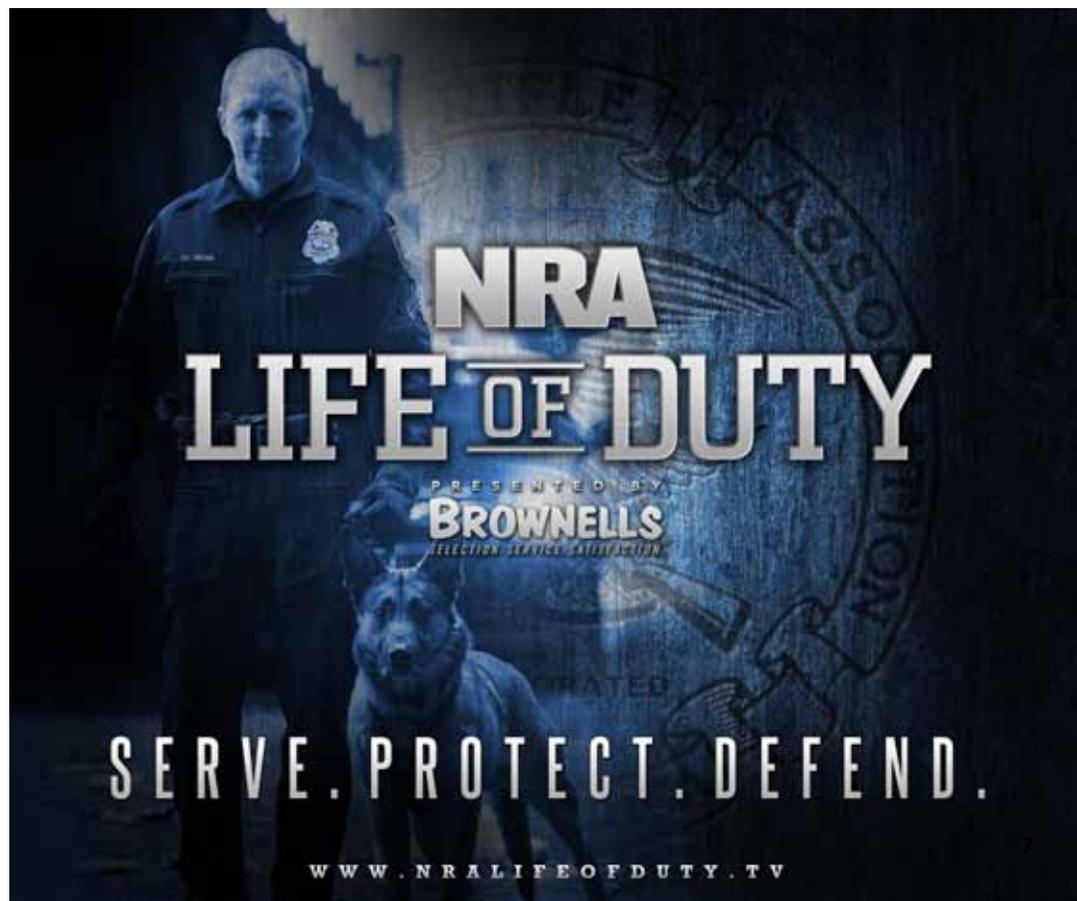
Jun 10-14 Smithton, PA
 Jun 24-28 Alamosa, CO
 Sep 23-27 Bethlehem, PA

HANDGUN

Mar 11-15 Deland, FL
 Apr 8-12 Chino, CA
 Apr 8-12 Marana, AZ
 Apr 22-26 Littleton, CO
 May 20-24 Deland, FL
 Jun 3-7 St Petersburg, FL
 Jun 10-4 Valhalla, NY
 Aug 5-9 Maryville, TN
 Sep 23-27 Deland, FL
 Nov 4-8 Deland, FL

PATROL RIFLE

Mar 11-15 Florence, AL
 Mar 18-22 Palm Bay, FL
 Apr 8-12 Columbus, GA
 Apr 8-12 Henryetta, OK
 Apr 22-26 Bethlehem, PA
 Apr 29-May 3 Pearl, MS
 May 13-17 Bedford, PA
 May 13-17 Littleton, CO
 Jun 10-14 Garden Plain, KS
 Jun 24-28 Memphis, TN
 Jul 15-19 Smithton, PA



NRA Law Enforcement Firearm Manuals and Training Aids



To order training aids and materials on CD:
<http://LECDs.nra.org>

To order printed manuals:
<http://materials.nrahq.org/go>



DISCIPLINES AVAILABLE:
Handgun Handgun/Shotgun
Patrol Rifle Tactical Shotgun
Precision Rifle

Sales of these items are restricted to NRA Certified Instructors, sworn Law Enforcement Officers, bona fide Law enforcement agencies, armed security companies, and the U.S. military. Once your order is received, you may be contacted by a member of the Law Enforcement Activities Division to verify eligibility.

Scan this code with your smartphone or tablet to get more information about the NRA Law Enforcement Division.



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