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Open Letter To:

Michelle Schilling
NC Department of Justice, Criminal Justice Standards Division
PO Drawer 149, Raleigh, NC 27602-0149
email MSchilling@ncdoj.gov
see: ¹

Robert N. "Bob" Overton, CCH/RLEO Program "Manager" (correctly: "Administrator")
NC Department of Justice, Criminal Justice Standards Division
PO Drawer 149, Raleigh, NC 27602-0149
email boverton@ncdoj.gov

Any or all people that may ever reside in North Carolina, seek a Concealed Carry Handgun Permit, and/or "teach" North Carolina Concealed Carry Handgun classes/courses.

COMMENT

Regarding or related to "Proposed Changes to North Carolina Administrative Code Chapter 12 Subchapter 9F (12 NCAC 09F) Concealed Handgun Training" (Caps/Emphasis removed)¹

Preamble

"[]We hold these truths to be self-evident, that all [human beings] are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among [Human Beings], deriving their just powers from the consent of the governed,..."²

I do not "consent." Further, I "comment" and "complain."

I am left further "dispirited, burned out, *'fatigued'*" and with the attitude that "The State (Tyrants) Win." "They don't want anyone to teach CCH. Also, they want it to be too paperwork/administratively expensive for anyone to pay for the class and/or 'afford' to offer the class, so they are 'making it impossible' via Busy Idiocy – or Pointless Bureaucracy."

Background

It has been “rumored” for some time that “big” or “these” (request for, or plans to make) changes are “coming.” The stated purposed – from “insiders at DOJ and PPSB” – is that these changes are to “stop, and prevent, future ‘selling of CCH certificates’ – or fraud.”

In March of 2023 I attended PPSB “Long Gun Trainer Certification” and was “told” by Gary “Ray” Bullard and R. Steven “Steve” Johnson – incorrectly – that “Getting NRA [Pistol Instructor] Certified is only four hours and you can do it online.” Both – again incorrectly – expressed the “proposed changes” as if these were already done and in place and there is/was “nothing you [PPS FTs] can do about it.”

Sometime in April, 2023 the Footnote/Reference “1” ⁽¹⁾ “proposed changes to Administrative Code(s)” was/were published by the Register. Very few people in North Carolina – none that I know of personally – know of the Register. I have been too busy with “life” to pay attention this year.

On Friday, June 23, 2023, at 4:55PM I received – along with apparently all other “current CCH Instructors” – an email from “Bob Overton” with four document attachments (3 PDF, one MSWord docx).

I am purposefully omitting two incidents of “close friends of mine” who have been “told” (verbally again) and emailed by Bob Overton in isolation that they must seek and get “other than PPS FT certification” if they want to keep their CCH Instructor certification.

Complaint

The word document attachment to Robert “Bob” Overton’s email – as Johnson and Bullard did above – expresses the “proposed changes” as done or forgone and does not “offer” the hope of the reality of the public comment period, the public “meeting” on August 9th, or the “Request for Legislative Review” through the Office of Administrative Hearings.³

By all appearances – in the name of Attorney General Stein and the Department of Justice – we “were told/ordered” that we would adhere to these changes and not “offered” to comment or any steps that we could take. Overton’s email did – and continues to – cause great confusion, frustration, and fear in many CCH Instructors. As I “do” instructor development – meaning that I train my “replacement(s) or competition” I have taken many calls and received many messages (email and text) from CCH Instructors that are “upset, frustrated and fearful.”⁴

I hereby “formally complain” against Robert N. “Bob” Overton, for his “inexpert” and “insensitive” delivery of this “news” and failure to “offer” to us the options available to us. Re-training, training at all, and/or “remedial” “public relations, communications, and ‘service’ training” is needed for Overton and the “Department and/or Division” in general. Also, he “signatures” himself “Manager” where the staff roster defines his position as “Administrator.”

Issue: Roster(s)

The "Division" proposes that "rosters" be kept by CCH Instructors according to "the schedule" of NCGS § 121-4⁵ and § 132-8.1⁶. Neither of the cited statutes contain a schedule or "anything at all to do with private business/enterprise." The "official form" attached in the Overton email and available at the DOJ's webpage says across the top: "(This form MUST be kept on file for all courses. Do Not Submit to CJ Standards.)" The proposed rule change also states at (12): "The instructor must be able to produce the student list for inspection by Division staff for audit purposes." The two statements are cancelling, contradictory and confusing⁴.

⁴ see the 'message board'. I have received several 'messages' and had to instruct fellow instructors several times on the phone: The State is not creating a 'registry'. Read the top of the (sample) form: Do Not Submit to CJ Standards.

No other Instructor that I know of has "looked up" the Departments/Statutes (Natural and Cultural Resources 121-4 and 132-8.1 Standards; surveys [abbreviated]). Neither is applicable to private business/enterprise. The last sentence of 132-8.1 states: It shall be the duty of the head of each State agency and the governing body of each county, municipality and other **subdivision of government** to cooperate with the Department of Natural and Cultural Resources in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the records of said agency, county, municipality, or other **subdivision of government**.

DOJ/CJS "should" demand "lists" from the Sheriffs Offices. I know that "a not insignificant percent" of people that took CCH classes from me did not seek a permit from the Sheriff. Their privacy is of concern to me. The 'privacy' of CCH permit holders is guaranteed by previous "change/amendment" mandating that "CCH Permit" data is not public information. See: § 14-415.17. Permit; sheriff to retain a list of permittees; confidentiality of list and permit application information;...⁹

If the DOJ (through the Division) wants 'specific' class or individual information: go to court and get a subpoena and/or warrant for the "private" information.

Issue: Pre-Delivery (Notifications/Reports)

A "bureaucratic nightmare." Already, several instructors have asked me to create an 'app, webpage/web-app/web-program, or other automatic-generation program' to create a set of at least ten "Pre-Deliveries" for every single day to 'cover' all possibilities of classes. For example: "one each for a one-day class at all three of the possible ranges that I use." This would create 3x365 (1,095) pre-delivery pages for the one instructor. As well as: 2 (or more) 'modification notifications', at least 2 'cancellation' notifications, and at least one "Post-Delivery" per class. Their "stated purposes" are: (1) Meet the 'letter of the law [Code]', and, (2) "flood" (or Denial Of Service 'Attack') the Division. (see ¹ the 'proposed changes' submission has the "No fiscal impact" checkbox checked.)

Instructors – myself included – do not always do classes according to this “government (employee) run school” schedule/philosophy. We are “private businesses” that provide (or sell) a “private service” to “private individuals.” We have to work “around” our customers schedules.

The “proposed changes” and “Pre-Delivery Form” (attached to the Overton email, “CCH-2”) do not allow for “multiple” or more than one Instructor per class. We are not all “ruthless competitors.” Approximately half of all classes “conducted by me” have been “in concert” with other CCH Instructors.

Undue Hardship, Danger/Liability Example

Because of the “real world and effective” nature of “my training/instruction” I have often received requests to do ‘an emergency class’ for someone under a “specific threat, clear and present **immediate** danger.” Under the “proposed at least 30 days (pre delivery) requirement” these people would be: left at risk; or, the instructor (me) and the ‘student’ would have to “do” two classes (one ‘for real’ without a certificate and an understanding to try to ‘open carry’, and another ‘for red tape and a certificate’). The “proposed changes” do not “offer” an emergency or urgent ‘need’ option.

Define: audit

As with the “rosters” – the stated (this time only ‘verbally’ or in un-official communications) purpose of pre-delivery is “(real time) audit” of classes. In this instance, I believe, the “Division/Commission” means that an “agent (contract or direct employee)” will “sit in” during a class and directly report (or take some form of action) against instructors for “purported failings.” While with the “rosters” “audit” appears to mean – as is in the ‘finance industries’ – to review, investigate and verify all information **after** an event or ‘filing’.

In (2014-2016, I don’t remember) the NC Legislature ‘removed’ the language that required every ‘student’ of a CCH Class to submit an “Instructor/Course Evaluation” (student audit). The ‘students’ were required to “mail” those evaluations to “CJS (Commission/Division).” Ed Zapolsky said “the Division could not handle/process them” and was shredding them so that’s why the “evaluation / audit (to the Division directly)” was discontinued. Nobody told “Permitium” so it is still included in all applications submitted to all Sheriffs. As stated above, § 14-415.17⁹ requires the Sheriffs Offices to turn this information over to SBI. The “Division/Commission” can get the information from the SBI.

Rhetorical: What makes “the Division” think that the “bad instructors” who “falsify, fraud, and ‘sell certificates’” now, won’t just “falsify, fraud, and ‘sell certificates’” **more** to ‘offset the headache’ of all this nonsense paperwork? Particularly in “this” industry, the phrase: “Signs (laws, codes, ordinances) do NOT stop or deter a ‘determined criminal (villain, bad-guy)’ “ comes to mind.

Issue: Private Protective Services Board (and LE)

The DOJ (Commission/Division) “forgot” to submit to the Legislature for ‘amendment’ that the PPSB 20 hour class qualifies an individual (person, citizen, resident) for a CCH Permit.⁹

§ 14-415.12A. Firearms safety and training course exemption for qualified sworn law enforcement officers and certain other persons.

(b) A person who is licensed or registered by the North Carolina Private Protective Services Board under Article 1 of Chapter 74C of the General Statutes as an armed security guard, who also has a firearm registration permit issued by the Board in compliance with G.S. 74C-13, is deemed to have satisfied the requirement under G.S. 14-415.12(a)(4) that an applicant successfully complete an approved firearms safety and training course. (1997-274, s. 1; 2005-211, s. 2; 2010-104, s. 2; 2014-119, s. 7(b); 2015-105, s. 1; 2015-264, s. 36(a).)

“Thank you!” (Sarcasm.) Now tell the Sheriffs and “permitium”. Police, Sheriff’s Deputies, Other Law Enforcement, (LE means all of the previous throughout) and Security Officers have been coming to me for years for a “CCH Certificate” (or full class) because (especially LE) DOES NOT KNOW that they are “qualified under the law” and exempted from the “Minimum 8 hours class.” Some LE that ‘admit’ that they never fully qualified at the range (day and night) I do ‘put through the class’ and make them fire the 30 rounds – but others I just “give” a CCH Certificate to (so they don’t have to ‘argue’ with a Sheriffs Office). Permitium only allows a “series of numbers similar to the numbers imprinted on CJS CCH Certificates”. If the “proposed changes” go into effect as written: I will no longer offer any ‘assistance’ to LE and will not ‘ease the process’ for Security by issuing a certificate. I will tell them all to “fight it out with your Sheriff. Good luck trying to get a LE to follow, let alone ‘read’ the Law.” And: I will no longer dedicate ‘as much time as I do’ to “CCH” in my Guard Classes.

In 2021 I “had to” remind/instruct the Specialized Firearms Instructor, the elected Sheriff themselves, and a ‘group’ of new deputies that they DO NOT have to take a class or get a CCH certificate. They are LE! (This was in a southern county and I contacted Chad Thompson at NCJA while they were there so he could ‘get them in/on-line’. I call(ed) this “Coloring Inside The Blue Lines.”) In the end, I “gave” four Deputies Certificates because the Sheriff’s deputies and their administrative/clerical staff could not “figure out” how to submit the applications (in permitium) without “that number.”

The exclusion of PPSB “Trainers” from pre-qualification as “CCH” Instructors is ‘defeated’ by the Law (not the code) “qualifying” PPSB Training for a CCH Permit. I recommend: do not “strike” (remove) (b) PPSB Trainers from the “qualifying/approved” list in the code. The “confusion” in both Boards and Commissions about the PPSB comes from: PPSB originally was “under” DOJ, as the books are still published and sold by NCJA (see next, Red Book), “of course” PPSB was ‘approved’ and that’s why the “Training” did and still does qualify 74C-13 “armed personnel” for CCH Permits. Though “confusing” to the “Division/Commission” the solution is for The Commission to “approve” the Trainers because the Law “makes it so.”

As far as LE ‘taking classes or seeking workaround certificates for the Permitium (bad contractor) problems’: “That’s all (on) CJS!” says me. The “proposed changes” would require B.L.E.T. classes to be “CCH Pre- and Post-Delivered and Rostered” also. (See next, and this whole section, it might be a “good” thing to require BLET to teach “CCH Law”.)

Issue: NCJA's "Red Book"

Question: Why "allow" (in law or code) any 'course' other than "NCJA Model" if you are going to require that the "NCJA Model 'content' be included or delivered during the course" and that the instructor responsibilities include, "Provide each student with a current copy of the "Concealed Carry Handgun Training" (Red book) manual as published by the North Carolina Justice Academy. The contents of this manual must be included in the curriculum for the CCH course.[]" (underline and 'availability for purchase or review' removed)

I currently use the "NCJA Model" and have always "included" a paper copy of the book in 'my' classes. I have been asked by an "NRA Home Defense/CC" and a USCCA (now Delta Defense) Instructor: "But, what about 'my' book[s]?"

Further, what happens to people that have "written their own" books and made them available to their 'students' at a far better price and with far better 'content' than the Red Book? I am aware that the "answer from the government" would be: "Just raise your prices to your customers to cover the additional costs."

Solution One: Fix the language to say "If the course is NCJA Model then... must..." and see Two, next:

Solution Two: Instead of "printing" the electronic book and charging 'costs' for it simply 'publish' the book on NCJA's website or DOJ's and make it free* (included in the program costs or paid for by the tax payers).

My solution: I will buy one copy, cut the binding off of it, scan it and upload it to "internet servers/services" and provide links to "the public" and direct to "my/our students" thereby meeting "the letter of the law."

See next Issue: Government Competition with Private Business

Issue: Government Competition with Private Business

See Above, Red Book. I am well aware of the "exemption afforded to NCJA" in the Umstead Act (§ 66-58. Sale of merchandise or services by governmental units)^{7 and 8}. I am also well aware of the 'mis-interpreted' sections that make Law Enforcement Officers 'think' that they are 'excluded' (from all Law).

In America generally – and North Carolina specifically – we "allow" our LE/LEOs to bend or break "the rules" a lot. For example: A restaurant has a "NO WEAPONS" sign clearly and conspicuously posted at all entrances. Two uniformed (including guns) police officers and two fire-fighters come in to "eat lunch and have a break." The proprietor (from a no-gun State originally) approaches the table and tells the police officers that they can't have their guns in the building. The proprietor is: "in the right; within their rights; and just plain right." The "exception" for Law Enforcement about such things, in every place in law that it can be found, says: "...in the line of duty." Eating a meal is not "in the line of duty."

“Most of us” (NC-ians/Americans) “enjoy” the “added sense of safety” that armed, uniformed law enforcement being in our otherwise “gun free zones” gives us so we “allow” LEOs – even when “off duty.” However, food for thought using the ‘food place example’ above: George Floyd’s family lives here (N.C.) and may own/operate businesses, including ‘food service’. They do not “feel safe” around LEOs.

The Umstead Act § 66-58^{7 and 8}

§ 66-58 exempts – specifically – “Counties and Municipalities” (with reference to other laws that adds up to “based (up)on Limited Qualified Immunity”). This exemption is for “the tax payers” of the County or Municipality, **not the individual employees** (of the tax payers). Meaning that “the residents” of the County or Municipality do not “pay for” the crimes (violating 66-58 is a “criminal misdemeanor”) of the employees of the County or Municipality.

For example (“hypothetically”): The City of Dunn (where I live) “votes” in a Council meeting to provide an “at cost” and/or “cheaper than Private classes” CCH Class to the residents of Dunn. The Council “maths” and decides that they can “offer this service to the residents” at \$20.00 per student. They will use “City Hall” for the classroom portion and the “City Firing Range” for the “practical” qualifications. The City’s (or the PD’s) Specialized Instructor – Firearms has (on their own or with City money) received “CCH Instructor” approval and certification and purchased an adequate number of Red Books and Certificates. No private “Instructor” or “business that teaches CCH” can “sue” to stop the City from “competing (some say unfairly) with the private business” nor can they “sue” for “lost revenues.”

Example Part 2 (“hypothetically”): The Specialized Instructor – Firearms under their own name “Dunn Cop CCH, LLC” offers the same class and a “anti-trust” rate of \$20.00 payable to them because they have “talked to the Chief” and are going to use City Hall, the PD Range (and equipment, targets, PD ammunition) and they ‘ordered the Certificates from CJS using PD money also’. Private business (instructors, me) could “sue” that individual officer and “press” the local DA for a criminal charge.

We “could” block/sue them. We don’t. Every time that this “hypothetical” has been “real” I try to “discuss and reason” with the Department and the individual officer/instructor. And, I ‘assist’* them free of charge. *Provide targets, get ‘private’ ranges to allow them to shoot qualifications for ‘big discounts’ or free, help them ‘run the range’, teach the ‘revolver’ portion[s] in their entirety, help them with the paperwork, and ‘more’.

Given all of the above, and the ‘striking’ of (b)PPSB from “pre-qualifications” for CCH, it would only be ‘fair’ that Specialized Instructor – Firearms (a) also be stricken. Maybe for “LE” it is only “four hours of online class[es]” through the NRA as Bullard and Johnson mentioned. If you are going to “moonlight” in Private Industry, you must not do so using the ‘proceeds of tax money’ to compete with ‘net tax payers’ (thereby risking their continued ability to pay taxes at all).

END COMMENT
Closing 'remark(s)'

I have completed and am 'word of mouth' instructing and advising as many CCH Instructors and 'anyone' that thinks they may be 'effected' by the "proposed changes" to complete and mail a Request for Legislative Review.³ Because of the weekend, now the 'holiday', and 'life in general' outside of 'government employ' mine will not go in the mail until Wednesday, July 5, 2023.

I do 'hope and plan' to attend on August 9, 2023 – even though I have no 'hope' that anything will come of that meeting. Too many "angry" CCH Instructors want only to go there to "vent".

What most of us "wish to vent" but do not have time to thoughtfully consider it because we are "buried in Administrative Living Nightmares as a direct result of being a 'private citizen/business in an overly government regulated (tyrant-ed) industry (and State and Union of "several states")": We pay you (taxes and 'fees to the program') – M. Schilling and R. Overton – to "help us" and you only "Lord" over us.

Post (-amble or -delivery), July 4, 2023

"[]and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security."²

*"He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for **the sole purpose of fatiguing them** into compliance with his measures."^{2-bold added}*

"He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people, and eat out their substance."²

"I was only/simply doing My Job [or following orders]."

~ Every defendant – "former" government employee – at the Nuremburg Trials, 1945-1946

Completely **fatigued**,

/s/ Dean L. Wiley

REFERENCE (Numbered Superscripts)

- 1: North Carolina Register, April 3, 2023 pages 1928, and 1937-1939
<https://files.nc.gov/oah/documents/2023-04/Volume-37-Issue-19-April-3-2023.pdf?VersionId=8OQI5NnMEY0NGcyUOCE.hWXOXzyVU33k>
2. Declaration of Independence of the Thirteen States of America, “modernized”
<https://www.archives.gov/founding-docs/declaration-transcript>
3. Request for Legislative Review (and/or extend dates) <https://www.oah.nc.gov/documents/template-requesting-legislative-review-rule>
4. <https://carolinafirearmsforum.com/index.php?threads/concealed-carry-administrative-rule-changes.142175/>
5. https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_121/GS_121-4.pdf
6. https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_132/GS_132-8.1.pdf
7. <https://canons.sog.unc.edu/2009/11/competing-making-a-profit/>
8. Umstead Act
https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_66/GS_66-58.html
9. https://www.ncleg.net/enactedlegislation/statutes/html/byarticle/chapter_14/article_54b.html
10. <http://reports.oah.state.nc.us/ncac/title%2012%20-%20justice/chapter%2009%20-%20criminal%20justice%20education%20and%20training%20standards/subchapter%20f/subchapter%20of%20rules.html>