



The Washington Report

The Newsletter of the National Association of Police Organizations
Representing America's Finest

April 24, 2020

Congress Passes Additional Funding for Small Business, Testing; NAPO's Phase 5 Stimulus Efforts

On April 23, Congress passed the Paycheck Protection Program and Health Care Enhancement Act, also referred to as the Phase 4 stimulus bill, to provide much needed emergency additional funding to the Paycheck Protection Program for small businesses and to hospitals in areas hard hit by COVID-19 as well as increase testing capabilities at the Federal, State and local levels. The additional resources to support testing is vital to protecting law enforcement officers, who continue to work on the front lines of this pandemic. The ability to test more officers means that fewer have to be sent home to isolate due to exposure, thus more officers on the job and less officers having to unnecessarily use personal sick leave days.

House Democrats continue to pull together their priorities for a phase 5 coronavirus stimulus package and NAPO is actively working to ensure the needs of our members are reflected in it. Our priorities for the phase 5 bill are:

- Establishing a presumption under the Public Safety Officers' Benefits (PSOB) Program that an officer's death or disability due to contracting COVID-19 is in the line of duty;
- Increasing direct funding to localities and law enforcement agencies to help pay or reimburse for all COVID-19 related overtime costs, additional sick and administrative leave, and hazard pay for officers in areas greatly impacted by the coronavirus; and
- Increasing funding for the purchase of PPE for officers.

For information on NAPO's efforts on creating a presumption under PSOB, please read the articles below.

NAPO continues to press Congress to fix how the Department of Labor implemented the Families First Coronavirus Response Act (FFCRA) and its impact on first responders. The DOL rule allows employers of emergency responders, including law enforcement, to exempt themselves from providing the additional 80 hours of paid sick leave given under the bill. We are working with Congressional staff to amend the DOL rule so that should any law enforcement agency order an employee home and not allow them to return to work due to potential COVID-19 exposure, the employer will provide up to 80 hours of paid time off and it will not be taken from the employee's accrued personal leave.

Another option we are pursuing in relation to additional paid sick leave is supplementary funding that goes directly to localities to either pay for or reimburse the cost for COVID-19 related time off for officers. In the meantime, it is important to note that the \$850 million appropriated through the Coronavirus Emergency

Supplemental Fund (CESF) can be used to reimburse for these costs. The CESF money can also be used to pay for and reimburse for overtime costs and hazard pay.

With all of the competing costs fighting for funding through the CESF – including PPE, hazard pay, overtime costs, testing kits, sanitizing equipment – and how the program is being implemented through the Byrne JAG Program, \$850 million is proving to be insufficient to meet all state and local law enforcement needs. NAPO is working with Congressional staff on a provision to provide additional funding directly to agencies through the Community Oriented Policing Services (COPS) Program to help cover personnel related costs as well as help agencies retain officers. We are also exploring whether FEMA state and local law enforcement grant programs can be used to pay for COVID-19 related costs. The FEMA Disaster Assistance Fund and the [FEMA Public Assistance Program](#) can currently be used to cover some of these costs. The State Administering Agency has to apply for those funds.

As you can see, NAPO is exploring every avenue available to ensure that additional funding is made available directly to state and local law enforcement to help with these necessary costs.

House Speaker Nancy Pelosi has stated that she expects to provide desperately needed resources for first responders and state and local governments in the Phase 5 legislation. Senate Minority Leader Charles Schumer made clear he wants to see a “Heroes Fund” for first responders and robust aid for states and localities included in the next stimulus bill. While the White House indicated it is on board with a Phase 5 stimulus bill, Republican Leadership in the House and Senate do not believe a Phase 5 bill is necessary at this moment and if they do take one up, it will be through regular order. We are working with both House and Senate staff to ensure all parties understand and support these pressing issues.

NAPO Supports Senator Peters’ “Heroes Fund” Proposal

NAPO endorsed Senate Homeland Security and Governmental Affairs Committee Ranking Member Gary Peters’ (D-MI) proposal for the creation of a “Heroes Fund”, which not only would provide premium pay for first responders, but also would provide families of officers who die due to exposure to COVID-19 with the full lump sum of what the officer would have received in premium pay.

Law enforcement officers and emergency responders are on the front lines of the coronavirus crisis our nation is facing, serving and protecting our communities, often with little to no personal protective equipment (PPE), putting themselves at high risk of exposure to this very communicable disease. While our officers are in our communities facing the unprecedented threat of the coronavirus, many of their families are in home lock down, adding a financial hardship on top of the stresses of the job. Senator Peters’ Coronavirus “Heroes Fund” Proposal would give essential frontline workers, including law enforcement officers, \$13/hour premium pay on top of their regular wages, up to a total of \$25,000, for all hours worked through December 31, 2020. Providing premium pay for first responders while they are serving their communities in this time of crisis is the right thing to do to honor their bravery and sacrifice. NAPO thanks Senator Peters’ for his support of America’s first responder community.

PSOB Releases Guidance on COVID-19 Related Officer Deaths

On April 9, the U.S. Department of Justice’s Public Safety Officers’ Benefits (PSOB) Program issued [an important update](#) regarding how it will handle COVID-19 law enforcement officer death and disability cases.

NAPO spoke with the leadership of the PSOB Program, the Bureau of Justice Assistance, and the Office of Justice Programs on the need to assure that the PSOB death and disability benefits will be available to officers

and their survivors if they are injured or die due to COVID-19 illness or exposure. In our conversations, we expressly brought up the subject of how to prove the exposure, and the link between the exposure and the illness/death.

The response from PSOB in their update is about as good as we could have hoped. Please note the explicit reference to incident reports as an example of documentary evidence that may be considered, which is something that NAPO first proposed in our conversations with program and Departmental leadership. That also goes for the implicit recognition that medical testing for officers is going to be frequently unavailable. This is as close as we can get to a statutory presumption in favor of our officers, until Congress also acts.

NAPO has pressed House Judiciary Committee staff on the importance of creating a presumption in law that an officer who contracts COVID-19 did so in the course of their duties and are automatically eligible for PSOB benefits. In response, on April 14, Committee Chairman Jerry Nadler (D-NY) introduced the Public Safety Officer Pandemic Response Act (H.R. 6505), which NAPO supports on the condition that specific language changes are made to ensure every public safety officer who contracts COVID-19 as a result of their service receive the benefits to which they are entitled. We are working to pass this bill in any way possible, by including in the next Phase 5 stimulus bill, on its own or as part of another piece of must-pass legislation.

Until we are successful in passing that legislation, please see the below recommendations, which we sent to our members on March 30, which we hope you will never have to use, but please do keep in mind so that we can do our part to make sure officers and their survivors are taken care of.

As you know, the PSOB program works like a life insurance program for officers killed (or grievously injured) in the line of duty. It covers almost all law enforcement officers in the United States. The key point about coverage is that it is for “line of duty” deaths and injuries. For Corona/COVID-19 (as well as for other illnesses contracted due to on the job exposure) the important thing to keep in mind is that the “claimant” (the officer or officer’s survivors) will need to show that it was more likely than not that the illness and/or death was due to exposure to the virus while the officer was performing a line of duty activity or action. Unfortunately, there is no presumption in the PSOB program that an illness or injury/death of an officer was due to an on the job exposure. Some states do have such a presumption, but the national PSOB program does not.

So, what should we do to protect our officers and their families in the terrible event that an officer is stricken with this illness and dies?

1. Document, document, document every possible, likely or confirmed exposure to the virus. This includes calls for service to a facility or location where the illness/virus is suspected or confirmed, as well as contacts with individuals who are exhibiting symptoms of the infection (dry cough, fever, shortness of breath) whether or not they have received a confirmed medical diagnosis. Obviously, if the location, such as a hospital ER or a nursing home, already is known or reported to be serving infected persons, that information should be documented.
2. How to document? Include the relevant facts in any official report that you are required to make, and also take the time to note it yourself in any personal log or report. If it’s an official police department report, that’s the best, but even personal notes, made at the time of the incident, will be considered by the PSOB program in evaluating a claim.
3. What to document? Location (type of facility, on the street, vehicle, enclosed space, etc.); whether it’s known, reported or suspected that persons with Corona/COVID-19 are/were present; proximity of contact; length of time of contact. Was the person out of the country recently? Where? Have they been in contact with other persons or locations where Corona/COVID-19 has been reported or suspected?

4. Medical info: Whether you were informed that there was already a diagnosis of Corona/COVID-19 for that person/location. Or, in the absence of a formal diagnosis, especially since testing is still lagging, note such things as “I observed the person had a fever, a dry cough, and was complaining of shortness of breath, which I recognized as symptoms of infection by the Corona/COVID-19 virus, according to published guidance by the United States CDC.”

NAPO sincerely hopes that none of you will ever need to use this advice, but please do distribute it to your members so that, if the very worst should happen, we can at least have a better chance of supporting families and survivors.

View PSOB Guidance [here](#).

View NAPO’s Letter to DOJ leadership calling for a presumption [here](#).

NAPO Supports Bill Establishing a PSOB Presumption that All COVID-19 Exposures in Line of Duty

NAPO strongly supports the intent of the Public Safety Officer Pandemic Response Act of 2020 (H.R. 6509), introduced by House Judiciary Committee Chairman Jerry Nadler (D-NY) and we have asked for a small technical change for us to fully throw our weight behind it. Creating a presumption under PSOB that all COVID-19 related deaths or disabilities occurred in the line of duty is a top priority for us.

The PSOB Program was designed to offer peace of mind to men and women seeking careers in public safety and to make a strong statement about the value that American Society places on the contributions of those who serve their communities in potentially dangerous circumstances, such as the current coronavirus pandemic.

While the PSOB Program does cover line of duty deaths and disabilities due to infectious diseases, we feel strongly that COVID-19 is unique and presents its own challenges in proving line of duty exposure. While with most other infectious diseases, it is easy to pinpoint the source and details surrounding the exposure, but this situation is more difficult with the new coronavirus and its asymptomatic spread. Every day, we are learning more about COVID-19. First, it was believed it could only be spread by close human contact. Now, experts know that it can also be spread through the air. Individuals can be carriers of COVID-19 without being symptomatic. Officers have been protecting our communities with little to no personal protective equipment (PPE), putting themselves at high risk of exposure to this very communicable disease.

The Public Safety Officer Pandemic Response Act intends to establish that COVID-19 shall be presumed to have been contracted as a result of the officer’s service for the purposes of PSOB death and disability benefits. It would create a specific standard for COVID-19-related disability this is based on whether a PSOB claimant is permanently prevented from performing any gainful work as a public safety officer due to their COVID-19 diagnosis. Finally, it would recognize the physical toll 9/11 related illnesses have had on first responders by covering under the PSOB Program those public safety officers whose 9/11 related illness are compounded by a COVID-19 diagnosis and lead to their death or disability.

For these reasons, NAPO wholeheartedly supports the intent of this legislation. However, we believe the presumption language must be modified so that it corresponds to the existing eligibility criteria utilized by the PSOB Program. This change needs to be made to ensure no public safety officer who is intended to be covered is inadvertently denied benefits.

NAPO told Chairman Nadler that we stand ready to work with him to ensure every public safety officer who contracts COVID-19 as a result of their service receive the benefits to which they are entitled.

NAPO Opposes Bill to Significantly Expand Compassionate Release in Response to COVID-19

NAPO opposes the COVID-19 Correctional Facility Emergency Response Act of 2020 (H.R. 6414), which was introduced by House Judiciary Chairman Jerry Nadler (D-NY). This bill would, among other things, provide for the immediate release of low-risk inmates over the age of 50 who have chronic conditions such as diabetes, heart disease and asthma in order to stave off outbreaks of COVID-19 in state and local correctional facilities.

We strongly feel that this legislation would negatively impact public safety, especially at this time when social services and public safety are already stretched thin due to the coronavirus pandemic. A majority of states are currently under lock down orders and essential services across the country are struggling to serve communities due to a lack of sufficient staff as more and more individuals are exposed to COVID-19 and sent into isolation. Police Departments in the areas hit the hardest by this novel virus are being decimated as more officers are contracting it or being sent into home isolation.

The broad release of inmates as a response to this virus does not take into account the needs of the broader public safety system and our communities. Now is not the time to circumvent the normal processes for inmate release. This will put undue burden on resources and put our communities at greater risk of harm.

While NAPO supports true second chances that bring about the productive return of prisoners to their communities, we oppose broad inmate release policies in response to COVID-19 that could harm public safety. Such significant changes should first be thoroughly examined and must include the input of the federal, state and local public safety community, which plays an integral role in the system.

NAPO made Chairman Nadler aware of our opposition to this legislation and urged him to strongly consider our concerns with the COVID-19 Correctional Facility Emergency Response Act. We can work together to find common ground on how best to protect inmates, correctional officers and facility staff as well as the public at large during this unprecedented crisis.

NAPO in the News

On April 12, NAPO Executive Director Bill Johnson was interviewed for a *Washington Times* article entitled, “Chicago Hides Names of Released Prisoners from Police”. The article examines how counties like Cook County, Illinois are releasing hundreds of inmates in an attempt to control coronavirus outbreaks in correctional facilities and not alerting local law enforcement, crime victims or the public about who is being released. While numerous violent felons have been released, advocates continue to stand by the position that the names and information of those being released should not be made public in order to protect them.

Johnson stated that the information should not be shielded from the public:

“‘It is really stunning, and I don’t use that word lightly,’ he said. ‘For a public defender to say we don’t want to release information on who is coming into and out of the system is a betrayal of the legitimate need of the public’s right to know. I think it is very shortsighted and kind of ironic that an office titled public defender can be so antagonistic to the safeguards the public requires.’”

NAPO opposes the indiscriminate mass release of inmates in response to the coronavirus pandemic. The release violent criminals without informing the public or the crime victims does little to promote public safety.

The full article can be viewed here: <https://www.washingtontimes.com/news/2020/apr/12/chicago-hides-names-cook-county-prisoners-released/>

The article was also picked up by *The Daily Mail*: <https://www.dailymail.co.uk/news/article-8217941/Chicago-not-sharing-names-released-prisoners-want-protect-PRIVACY.html>

NAPO will continue to ensure our members' voices are heard loud and clear on the Hill, with the Administration, and in the media. If you have any questions about the publication cited above, please contact Bill Johnson at: bjohnson@napo.org.

The 27th Annual TOP COPS Awards® Dinner: UPDATE

Thank you for your patience as we have worked through the details of rescheduling the 2020 TOP COPS AWARDS!

The 2020 TOP COPS Awards will be held on Sunday, October 18 at the JW Marriott Beach Resort in Marco Island, Florida. The Awards Dinner will be held in conjunction with the NAPO's previously scheduled Attorney Seminar.

Formal Invitations will be mailed in early June. Information can also be found on the [NAPO website](#) and will be updated as information is available. If you have questions or need assistance, please do not hesitate to contact us at (703) 549-0775.

NAPO's Legislative Positions & Sponsor/Cosponsor Updates

NAPO's updated "Sponsor/Cosponsor" spreadsheet is available at the following link: <http://www.napo.org/washington-report/sponsor-cosponsor-spreadsheet/>. The spreadsheet accompanies the latest "Legislative Positions" document, which is available at the following link: <http://www.napo.org/washington-report/legislative-priorities/>. NAPO's Legislative Positions is a document that highlights all the legislation that we have taken an official position on or are monitoring during the 116th Congress. It is continually updated to reflect the work we are doing on Capitol Hill.

The "Sponsor/Cosponsor" spreadsheet is a useful tool to check if your members of Congress have supported pieces of legislation that will impact our members. NAPO updates this spreadsheet regularly and continues to ensure our voice is heard on Capitol Hill.

If you have any questions about any of the legislation that NAPO is currently working, please contact Andy Edmiston at: aedmiston@napo.org.

Please monitor NAPO's website, www.napo.org, and Facebook page: National Association of Police Organizations, and follow us on Twitter at NAPOpolice for breaking news and updates.