



# The Washington Report

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

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**February 28, 2020**

## **NAPO Submits Testimony to Presidential Commission**

On February 27, NAPO submitted the testimony of President Mick McHale to the President's Commission on Law Enforcement and the Administration of Justice in conjunction with its hearing on Officer Safety, Health and Wellness. McHale's written remarks focused on the issues of officer mental health and wellness, specifically the topics of peer mentoring programs, confidentiality of critical incident stress debriefings, and PTSD as a covered condition under workers' compensation laws.

McHale made six recommendations to the Commission in his testimony:

- Support the expansion of peer support programs to ensure all officers have access to this important wellness service;
- Support the expansion of peer programs to include broader health and wellness, not just critical incident stress;
- Support alternative models to agency-specific peer programs, such as through labor organizations;
- Support legislation that makes all communications made by officers to crisis counseling services (including peer services), and all records related to the communications, confidential;
- Support an amendment the Federal Rules of Evidence to expand the privileges section (Rule 501) to exclude from introduction into evidence in federal proceedings statements made by an officer in the context of critical incident peer debriefs and peer-involved mental health care for officers involved in highly stressful situations; and
- Support legislation or mandate that "mental-only" PTSD injuries be covered under workers' compensation for first responders and that the PTSD will be presumed to be work-related.

The Commission was created by President Trump on October 28, 2019 and is studying issues related to law enforcement and the criminal justice system. It will make recommendations to the Attorney General on actions that can be taken to prevent, reduce, and control crime, increase respect for the law, and assist victims. The Attorney General must submit a report with recommendations to the President by October 27.

McHale's testimony can be viewed [here](#).

## **NAPO Continues Push to Repeal GPO and WEP**

NAPO continues its outreach to Members of Congress that have not yet signed on in support of the Social Security Fairness Act (H.R. 141), which would repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP). The past two weeks we focused our efforts on representatives from Arizona (Reps. Paul Gosar, Andy Biggs, David Schweikert, Debbie Lesko and Greg Stanton) and Florida (Reps. Matt

Gaetz, Neal Dunn, Al Lawson, Michael Waltz, Stephanie Murphy, Daniel Webster, Gus Bilirakis, Ross Spano, Vern Buchanan and Greg Steube) and have urged them to join us in supporting this important legislation.

Due to our ongoing efforts, the Social Security Fairness Act now has 244 bipartisan cosponsors. This is well on our way to our goal to get to 290 to force a vote on the House floor, much like we did with the Middle Class Health Benefits Tax Repeal Act in July 2019. We will be meeting regularly with Representatives Rodney Davis (R-IL) and Garret Graves (R-LA), the bills primary sponsors, and our broad coalition of stakeholders to continue a full-court press to get to 290 cosponsors and make our case that this is a top priority for a large, bipartisan contingent of Congress.

Though most police officers must retire after specific time served, usually in their early- to mid-fifties, many look for new opportunities to serve their community. Yet, when they retire from a non-Social Security paying job and move to one that does pay into Social Security, they are penalized by the WEP. Instead of receiving full support from their rightfully earned Social Security retirement benefit, their pension heavily offsets it, thus vastly reducing the amount they receive.

More troubling is the effect of GPO on a police officer's retirement. If a spouse who paid into Social Security dies, the surviving public safety officer should be eligible for half of the deceased's benefit. However, GPO requires that this amount be offset by two-thirds of the survivor's pension, eliminating most or all of the payment. By professional need, many police officers are outside of Social Security but if they had not served at all, they would receive the full allotment of the spouse's benefit.

GPO and WEP were meant as a "leveling" response but only serve to hurt public safety officers. By totally repealing both GPO and WEP, the Social Security Fairness Act would preserve the retirement security of those who selflessly serve and protect our communities.

To find out if your representative has signed on as a cosponsor to H.R. 141 or to get information about the bill, contact Andy Edmiston at [aedmiston@napo.org](mailto:aedmiston@napo.org).

## **NAPO Supports Police & Fire Health Care Protection Act**

The HELPS Retirees provision of the Pension Protection Act of 2006 provides public safety officers, who often retire earlier than other occupations because of the physical demands and unique job hazards they face, with means to more affordable healthcare options. This provision is important as many law enforcement retirees lose their employer-provided health insurance and are years away from being Medicare-eligible, forcing them to spend their retirement money on health insurance premiums. However, many public pension plans, particularly small plans, have not implemented this important provision due to the administrative burden of the direct payment requirement.

To address this issue, NAPO endorsed the Police and Fire Health Care Protection Act, sponsored by Representative Steve Chabot (R-OH), which would repeal the direct payment requirement, making it easier for public pension plans to implement the HELPS Retirees provision. This bill will help preserve the retirement security and the health of those public servants who selflessly serve and protect our communities.

The Police and Fire Health Care Protection Act compliments the Public Safety Retiree Healthcare Protection Act, which would increase the amount of tax-free money retired public safety officers are allowed to take from their pension funds annually under the HELPS provision from \$3,000 to \$6,000 to pay for qualified health insurance premiums.

We thank Representative Chabot for his efforts to protect the health and financial security of first responder retirees and we are working with his staff on how best to move this important bill forward.

## NAPO on the Hill: 116<sup>th</sup> Priorities

NAPO met with the staff of Representatives John Rutherford (R-FL) and Bill Pascrell (D-NJ), co-chairs of the House Law Enforcement Caucus, to discuss the legislation we are prioritizing for National Police Week (week of May 11). NAPO works in conjunction with other national law enforcement organizations – both management and labor – to push a list of bills we all agree on and support to move during National Police Week. The support of the House Law Enforcement Caucus is vital to moving our priorities.

We discussed the need for legislation to enhance officer safety by increasing penalties for the murder, attempted murder, or assault of federal, state, and local law enforcement officers, legislation to ease the requirements for officers to qualify for the Public Safety Officers' Benefits (PSOB) Program disability benefits, the Law Enforcement Suicide Data Collection Act, the LEOSA Reform Act, and our first responder tax package.

**The Back the Blue Act (S. 1480 / H.R. 5395)** would increase penalties for the murder, attempted murder, or assault of a federal, state or local law enforcement officer because of their status as a public safety officer will deter such crimes and bring greater protections to officers and the communities they serve. Senator John Cornyn (R-TX) and Representative Don Bacon (R-NE) are the sponsors of the Back the Blue Act.

**The Protecting America's First Responders Act (S. 1208 / H.R. 2812)** would make it easier for public safety officers disabled in the line of duty to qualify for the Public Safety Officer's Benefits (PSOB) Program's disability benefits. It would also ensure that beneficiaries receive the highest award amount possible and it will make certain that all children of public safety officers disabled or killed in the line of duty are able to benefit from the Public Safety Officers' Education Assistance program. Senator Charles Grassley (R-IA) and Representative Pascrell are the sponsors of this bill. S. 1208 passed the Senate on May 16, 2019.

**The Law Enforcement Suicide Data Collection Act (S. 2746 / H.R. 3735)** would require the Department of Justice to establish a program to collect data on law enforcement and former law enforcement suicides at the local, State, and Federal level. It is sponsored by Senator Catherine Cortez Masto (D-NV) and Representative Mike Quigley (D-IL).

**The LEOSA Reform Act (H.R. 1156)** would ensure the Law Enforcement Officers Safety Act (LEOSA) is more fairly and broadly implemented. The bill would expand the areas qualified current or retired officers are allowed to carry a firearm, including on a Gun Free School Zone; on state, local and private property otherwise open to the public; and in certain federal facilities. It will allow qualified officers and retired officers to carry an ammunition magazine of any capacity that is not prohibited by federal law. Importantly, it will reform qualifications standards to alleviate undue burdens for those carrying under LEOSA. Representative Rutherford is an original cosponsor of the LEOSA Reform Act, which is sponsored by Representative Bacon.

**The First Responders Tax Relief** package consists of the Supporting America's First Responders Act (H.R. 5342), the Putting First Responders First Act (H.R. 2560 / S. 1278), and the Public Safety Retirees Healthcare Protection Act (H.R. 4897). Representative Pascrell sits on the Ways and Means Committee and will be a strong ally in moving this package.

The House Law Enforcement Caucus is supportive of our efforts and House Leadership has indicated that they will work with us to move bipartisan legislation to the floor during National Police Week. We have much work to do to ensure that these bills are ready to move and have enough bipartisan support both in Committee and on the floor. NAPO continues meeting with members of the House and Senate to gain support for our priority legislation. If you have any questions about NAPO's meetings on the Hill or the issues addressed, please contact Andy Edmiston at [aedmiston@napo.org](mailto:aedmiston@napo.org).

## **NAPO Endorses Bill to Provide TBI and PTSD Training to Law Enforcement**

Representatives Bill Pascrell, Jr. (D-NJ), John Rutherford (R-FL), Don Bacon (R-NE), Val Demings (D-FL) and T.J. Cox (D-CA) introduced the Traumatic Brain Injury and Post-Traumatic Street Disorder Law Enforcement Training Act. This important legislation would provide for much-needed additional training opportunities for law enforcement to improve officer response to persons affected by traumatic brain injury (TBI) and post-traumatic stress disorder (PTSD). According to the Centers for Disease Control and Prevention, about 2.87 million TBI-related emergency department visits, hospitalizations, and deaths occurred in the United States in 2014. Approximately, 7 percent of Americans will experience PTSD in their lifetime.

Law enforcement officers are increasingly on the front lines in responding to and intervening in mental and behavioral health crises, including individuals with TBI or PTSD. Officers must be given the tools and training they need to identify and respond to mental health issues in the communities they serve. For these reasons, NAPO strongly supports federal funding and programs to help agencies train their officers to recognize and identify symptoms of TBI and PTSD so they can better respond to these situations. The TBI and PTSD Law Enforcement Training Act would make training and guidance available that departments can use as a basis to support improved responses and outcomes to interactions between police officers and persons affected by TBI and PTSD.

This bill would also require the CDC to collect data and issue a report on the prevalence and incidence of TBI among first responders. This information would help us more fully understand the physical and mental health impacts of the profession and provide a basis for additional resources to assist officers suffering from TBI.

NAPO looks forward to working with Representatives Pascrell, Rutherford, Bacon, Demings and Cox on moving this bill forward.

## **NAPO Opposes Trio of Anti-Law Enforcement Bills**

NAPO has indicated our opposition to three bills that were introduced by Congressman Hank Johnson (D-GA) that show utter distrust of police officers and contempt for the policies in place that protect certain officer due process rights.

The first bill, the Cooling-Off Period Elimination Act (H.R. 5778), would make any law enforcement agency or department ineligible for Justice Department (DOJ) law enforcement grant programs if it allows for a cooling-off period for officers after an officer involved shooting. Many departments have cooling-off periods as part of their department policies or included in their collective bargaining agreements for rank-and-file officers.

Research has shown that in high stress situations, such as officer-involved shootings, the phenomenon of “selective attention” kicks in and officers often focus only on those items and behaviors crucial to their safety and the public’s safety. Other elements of the situation are not processed and often cannot be fully recollected, if remembered at all, until well after the stressful situation is over. NAPO strongly believes that cooling-off periods legitimately exist to help officers accurately and truthfully recall events and eliminating them would be detrimental to both internal and external investigations.

Further, NAPO is concerned that the Cooling-Off Elimination Act pursues its goals through penalties to vital DOJ law enforcement grants, such as the Byrne Justice Assistance Grant (Byrne JAG) Program and the COPS Hiring Programs.

The second bill introduced by Congressman Johnson is the Police Accountability Act (H.R. 5777), which would make it a federal crime for a law enforcement officer to assault or kill an individual. The Congressman introduced this bill last Congress and it did not gain any traction.

Currently, any crime committed by a state or local police officer is already federally punishable and prosecutable if the officer violated an individual's federal constitutional rights. As this obviously includes homicides, there is no need for this legislation. We do not need to create duplicative federal law to produce witch hunts against officers whose use of deadly force was justifiable under law simply because they used deadly force.

Lastly, Congressman Johnson reintroduced the Grand Jury Reform Act (H.R. 5779), which would mandate a governor appoint a special prosecutor in cases where a law enforcement officer used deadly force.

NAPO has strong concerns with the requirement that a governor must appoint a special prosecutor in every case when an officer uses deadly force in the course of carrying out his official duties and that use of force results in the death of that person. The sole purpose of that special prosecutor is to determine if criminal charges should be brought against the officer. NAPO fears that an independent prosecutor would be under a great deal of pressure to justify his work. There is a risk that decisions to prosecute would be made based on politics, not on the law and admissible evidence. NAPO is concerned that an officer would be indicted, even if he did nothing wrong.

NAPO expressed our serious concerns with these three bills to Congressman Johnson and we hope he will take them into consideration. We are working to ensure that these harmful proposals do not move forward.

## **NAPO's 2020 Lobby Day Legislative Breakfast & Legislative Awards Luncheon**

Please join NAPO on May 13, 2020 for our Legislative Day on Capitol Hill. Use this opportunity to lobby Congressional Representatives and Senators on behalf of your members concerning the issues which affect law enforcement. Prior to lobbying Capitol Hill, plan to attend NAPO's Legislative Breakfast for an update on NAPO's legislative priorities, results to date from the 116<sup>th</sup> Congress, and to receive handouts to use during your Hill visits.

While on Capitol Hill be sure to stop by NAPO's Legislative Awards Luncheon, where several Representatives, Senators and their staff will be recognized for their continued support of Law Enforcement.

**If you would like NAPO to help set up your Capitol Hill appointments, please contact Andy Edmiston, NAPO's Director of Governmental Affairs, at (800) 322-6276 or [aedmiston@napo.org](mailto:aedmiston@napo.org), by May 1<sup>st</sup>.**

You can register [online](#) or using the attached registration form. Visit [NAPO's website](#) for more information.

**Advanced Registration is Required to attend NAPO's Legislative Awards Luncheon.** Please contact Elizabeth Loranger, NAPO's Director of Events, for additional information on the Legislative Breakfast or Legislative Luncheon at (800) 322-6276 or [eloranger@napo.org](mailto:eloranger@napo.org).

## 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](mailto:aedmiston@napo.org).

*If you have any questions about the issues or legislation discussed in this issue of the Washington Report, contact Andy Edmiston at [aedmiston@napo.org](mailto:aedmiston@napo.org) or (703) 549-0775. Please monitor NAPO's website, [www.napo.org](http://www.napo.org), and Facebook page: National Association of Police Organizations, and follow us on Twitter at [NAPOpolice](https://twitter.com/NAPOpolice) for breaking news and updates.*