



The Washington Report

The Newsletter of the National Association of Police Organizations

Representing America's Finest

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Outlook: A Biden Presidency and the 117th Congress

While, as of this writing, President Trump has not yet officially conceded, former Vice President Joseph R. Biden will be the 46th President of the United States. Here is an outlook of what the Biden Administration and the 117th Congress (2021-2022) will look like for the law enforcement community. President-Elect Biden has said that he is committed to including all law enforcement voices at the table and we have already reached out to his campaign to move the priorities of our members and the law enforcement community.

Under the Biden Administration, NAPO will be focused on ensuring we have a voice at the table in the discussions around police and criminal justice reform and that state and local law enforcement continue to get the resources and support necessary to serve and protect our communities effectively. While police reform will be a point of contention with the administration, we will have greater opportunities to push our labor and retirement priorities, including protecting public pension plans, repealing the Government Pension Offset (GPO) and Windfall Elimination Provision (WEP), and changing the FLSA Section 7(k) Exemption to standardize overtime.

Over the summer, NAPO's President Mick McHale and Executive Director Bill Johnson were in communication with the Biden Campaign around the issue of police reform after the death of George Floyd. In their conversations with the campaign, Mr. Biden's team expressed his continued support for state and local law enforcement and reiterated his long-held stance that we will have a seat at the table, even over contentious issues. However, in choosing Senator Kamala Harris as his Vice President, Mr. Biden presents us with a person who did not reach out to the law enforcement community nor listen to our concerns when she introduced the Senate companion to the George Floyd Justice in Policing Act.

President-Elect Biden has included "Racial Equity", which encompasses police reform, as one of the top four priorities of his administration. Among the reform issues they pledge to work with Congress to pass are: a national ban on chokeholds; an end to the Department of Defense 1033 Program; the creation of a national use of force model; and improved oversight and accountability in law enforcement, including the establishment of a national police oversight commission. We have serious concerns about each of these issues as they are currently laid out, but we hope President-Elect Biden will keep to his word and include us, the practitioners who have firsthand knowledge of the issues being considered, in the discussion around improving policing practices.

Congress will have a significant say on police reform policies and we will remain engaged with lawmakers and House and Senate leadership on possible legislation. If Republicans win the two Senate run-off elections in Georgia on January 5, they will hold on to the Senate, maintaining the split Congress we have now. It is in this split Congress that the George Floyd Justice in Policing Act passed the House but stalled in the Senate.

Further, House Democrats have lost seats and now only have a slim majority, making moderate Democrats possible power-players as they can join with their Republican colleagues in opposing and stopping legislation. All of this will be vital in the debate on police reform, particularly as the “defund the police” message that was pushed by progressives over the summer and fall hurt Democrats in the election.

If Democrats win both Georgia Senate seats, the Senate will be split 50-50 with Vice President Harris as the tie vote. Under this situation, it will be an uphill battle to make certain damaging police reform policies are not put in place.

Police reform issues will also permeate state and local law enforcement assistance grant funding, much like it did during the Obama Administration when Department of Justice grants were prioritized to those states, localities and agencies that had in place policies on implicit bias, procedural justice and police legitimacy. NAPO strongly believes these types of strings hamper a state or local government or law enforcement agency from accessing vital grant programs and undermine law enforcement’s mission to keep the public safe.

We will keep working with Congress to ensure strong funding for our priority grant programs and fight attempts to use these programs as sticks to move forward police reform policies. In the 117th Congress, we expect continued bipartisan support for the funding of state and local law enforcement grant programs, including the COPS Hiring Program, the Byrne Justice Assistance Grant (Byrne-JAG) Program, the Bulletproof Vest Partnership Grant Program, the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA) and the Law Enforcement Mental Health and Wellness Act.

While police and criminal justice reform may prove to be sticking points with the Administration and Congress, we are confident we can work with the Biden Administration to accomplish several of our non-criminal justice priorities. For example, the Biden Administration is committed to providing significant, flexible funding to state and local governments to help offset the budget holes and revenue shortfalls caused by the coronavirus pandemic. We will work to ensure this funding can be used to pay or reimburse for all COVID-19 related overtime costs, additional sick and administrative leave, and hazard pay for first responders in areas greatly impacted by the coronavirus.

Mr. Biden has said he supports the full repeal of the GPO and WEP, so the Social Security Fairness Act, which currently has an overwhelming 262 bipartisan cosponsors in the House, is another priority we will work with Congress and the Biden Administration to enact into law during the 117th Congress. We will also work with the new Secretary of Labor on changing the Section 7(k) standards so that public safety officers are given the same access to overtime as every other overtime-eligible employee in our nation.

NAPO is hopeful that as President, Mr. Biden will support our labor and retirement priorities, while at least being willing to listen to the criminal justice needs of the law enforcement community. NAPO is committed to working with his presidential transition team and his administration on the priority issues facing rank-and-file law enforcement today.

End of the 116th Congress, Lame Duck Session: COVID Relief, Appropriations and NDAA

Congress is back for the first time since the elections and has a full plate for the lame duck session. In addition to a COVID relief package, Congress has just three weeks to agree to and finalize Fiscal Year 2021 appropriations before government funding runs out on December 11. Senate Majority Leader Mitch McConnell (R-KY) and House Speaker Nancy Pelosi (D-CA) have agreed that their preference is to pass an omnibus spending measure that funds the government through the end of the fiscal year rather than another

continuing resolution into the beginning of 2021. A continuing resolution would fund the government and all of its programs at the Fiscal 2020 spending levels. President Trump also weighed in this week that he prefers an omnibus to another continuing resolution. However, House and Senate appropriators have just started to negotiate the differences between the twelve appropriations bills. Majority Leader McConnell stated that the chances of being able to pass an omnibus spending package will most likely be decided by how far appropriators get in their negotiations this week.

While the top-line numbers are not far off, there remains some significant differences in the policy priorities between the House-passed appropriations and the Senate draft bills (the Senate never marked up or passed any of the twelve appropriations bills, only releasing the drafts on November 10). For NAPO, we have serious concerns with the House-passed Commerce, Justice, Science and Related Agencies (CJS) appropriations bill, which includes funding for many of the provisions of the George Floyd Justice in Policing Act. One of the most concerning provisions requires that state and local law enforcement agencies be certified by the Attorney General to have met certain standards laid out in the legislation in order to receive FY 2021 state and local law enforcement assistance grants. One of the requirements that must be met to receive grant funding is the elimination of collective bargaining agreement language that protects officer due process during investigations of misconduct.

NAPO sent [a letter to the leadership of the House and Senate Appropriations Committees](#), who are negotiating the final spending package, requesting that they not include any provisions that would hamper a state or local government or law enforcement agency from accessing these vital grant programs. As Congress has yet to unify around police reform policies, we strongly feel these controversial provisions should be left out of the final Fiscal 2021 appropriations bill.

If top appropriators are unable to come to an agreement soon, which is looking less and less likely, Congress will have to pass a continuing resolution that will last at least into January for the new Congress and Administration to take up.

COVID relief talks are still on-going, with both sides agreeing that Congress must act before the end of the year but continuing to dig into their respective positions. The Democrats, backed by President-Elect Biden, are sticking to their approximately \$2.4 trillion dollar package, while top Republicans are pushing for much smaller, more targeted relief. The hope of House and Senate leadership is to agree to a stand-alone relief legislation, but if that is not possible, relief talks will shift to the year-end spending package.

Finally, House and Senate negotiators are making progress on the Fiscal 2021 National Defense Authorization Act (NDAA). NAPO sent [a letter to the leaders of the House and Senate Armed Services Committees](#) urging them to preserve the Department of Defense 1033 Program, which allows State, local and Tribal law enforcement to acquire items used in search and rescue operations, disaster response, and active shooter situations that they otherwise would not be able to afford. In our letter, we request that the final NDAA not include onerous requirements for obtaining the equipment, supported by House Democrats, that would essentially prevent agencies from being able to participate in the program.

The biggest hurdle for finalizing the NDAA is a bipartisan provision included in both the House and Senate bills that would require the renaming of military bases named in honor of Confederates, which Democrats have stated is a red line for them and has drawn a veto threat from President Trump. If they cannot convince the President to remove the veto threat, there is a chance Congress will push acting on the NDAA until early 2021. This would be the first time in nearly 60 years Congress will fail to enact a NDAA.

In the lame duck session, NAPO is working to ensure our priority grant programs are sufficiently funded, without strings attached, and to secure our COVID priorities in any final relief legislation or year-end appropriations package.

National Blue Alert Network Update

The Blue Alert Advisory Group, of which NAPO is a member, in conjunction with the Justice Department's Community Oriented Policing Services (COPS) Office, is continuing to work on establishing Blue Alert systems in all 50 states. Currently, fifteen states and Washington, D.C. do not have Blue Alert networks. Getting Blue Alert plans up and running in all 50 states is a priority for NAPO as it ensures the National Blue Alert Network we fought so hard to get enacted as part of the Rafael Ramos and Wenjian Liu National Blue Alert Act works efficiently and effectively to protect officers from harm.

This year, New Jersey joined the ranks of states that prioritize officer safety and are part of the National Blue Alert Network. There is Blue Alert legislation currently pending in several states, including New York and Iowa, where NAPO's member organizations are playing an integral role in moving the legislation.

As part of its work, the National Blue Alert Network is tracking law enforcement officers shot, both fatally and non-fatally, in the line of duty. This data is important as the number of officers killed in the line of duty every year does not reflect the reality of how often officers are being shot. The COPS Office awarded the National Fraternal Order of Police a grant to help the National Blue Alert Network track officer shootings. So far this year, 241 officers have been shot in the line of duty, of which 44 have been killed.

Discussed in the most recent Advisory Group meeting was the need to include data collection on officer assaults, not just shootings. The number of officers shot in the line of duty does not even come close to representing how often officers are violently assaulted. As we have seen with the riots across the country this year, officers have been hospitalized from injuries due to thrown bricks, rocks, bottles and other projectiles. Understanding the bigger picture of violence against officers is vital to being able to stop it.

The COPS Office and the Advisory Group continue to work with stakeholders in the remaining states to push for legislation to establish Blue Alert Plans. If you are interested in receiving information and resources on how to establish a Blue Alert plan or you wish to participate in the state-level working group, please contact the NAPO Office at (703) 549-0775 or info@napo.org.

The following information is provided by NAPO's long-time sponsor,

Humana[®]

Grandfathered Health Plans - Changes Don't Always Equal Loss of Status

The Affordable Care Act, often referred to simply as the ACA, can be a complex and trying exercise for fund trustees and administrators. This is especially true for those plans that self-insured and are concerned with losing the current grandfathered status of their plan(s).

Now the ACA does allow for certain changes in grandfathered plans without losing status. Such changes are often related to a percentage increase in premiums, co-pays and contributions, as well as pharmacy formularies. Allowed changes and other parameters are available for review at www.HealthCare.gov.

As funds are faced with increased costs, and often issues with contributions, moving only the Medicare eligible members, to a fully insured Medicare Advantage Health Plan and/or a fully insured Medicare Part D

pharmacy plan, could be part of the solution. These Medicare Advantage plans can help maintain costs and benefits, and possibly provide cost savings and benefit improvements.

In reviewing the ACA and the concerns expressed by fund trustees and administrators, in regards to placing their current grandfathered status in jeopardy, the Humana Legal Department has done its due diligence is confident in stating:

Removing retirees from the eligible population of a self-insured medical and/or prescription drug plan is not a change that would result in the self-insured plan losing its ACA grandfathered status. Likewise, it is unlikely the self-insured medical and/or prescription drug plan would lose its ACA grandfathered status if, later, those retirees were moved back to the self-insured medical and/or prescription drug plan. A plan that continues to exist loses its grandfathered status only if it makes one of six changes delineated in federal regulation; reducing the population eligible for the plan is not one of them.¹

As each plan, and its covered Medicare eligible retirees, has different needs, it is highly recommended that the plan fiduciaries seek out guidance and review all available options to fulfill their mission. For more information about the contents of this article, please contact 888-666-0710.

Ron Abrahall, RN
National Labor Relations Representative
HUMANA | Group Medicare

¹*It is highly recommended that you seek out your own legal opinion prior to making any decisions and use this information for educational purposes only.*

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Humana Group Medicare works extensively with Taft-Hartley Funds, union-sponsored VEBA trusts, union health and welfare funds and other groups in both the private and public sectors that cover more collectively bargained retirees.

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Humana is one of the largest and most experienced insurance carriers in the nation. While many insurers moved away from Medicare after the Balanced Budget Act of 1997, we continue to maintain, and build on, our commitment to the retiree population. We continue to expand our PPO and HMO networks, adding to our ability to serve your retirees anywhere in the United States and Puerto Rico. An industry leader in Group Medicare, we are committed to bringing cost-saving, innovative approaches to retiree health coverage.

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MEDICARE-ELIGIBLE RETIREE PROGRAMS

- Our plans include many programs for members. Humana provides case management, early identification programs and support services that can help improve patient outcomes and reduce costs.
- Our members have access to a variety of health education programs and condition-specific information at [Humana.com](https://www.humana.com). Members receive SmartSummary®, Humana's award-winning personalized benefits statements, making it easy to review a summary of health benefit use.



BENEFITS YOUR RETIREEES CAN DEPEND ON

- Our Group Medicare PPO and HMO plans provide comprehensive benefits covering all Medicare Part A and Part B services plus other extra benefits and services. Our plans can include Medicare Part D prescription drug benefits with the flexibility to provide benefits through the coverage gap.
- Broad provider networks can help your members get care when they need it. All plans come with maximum out-of-pocket limits for your retirees' financial protection and provide for emergency coverage while traveling worldwide.



POTENTIAL SAVINGS FOR YOUR MEDICARE-ELIGIBLE RETIREEES

- Humana can help you maintain the benefit levels your members have come to expect. In many cases, we can lower costs significantly for your plan and your retirees, saving precious dollars in retirement.
- If you are concerned about the affordability of retiree medical and prescription drug benefits, we can work with you to design a plan to meet your needs and objectives. Humana can provide many flexible options for medical and prescription drug benefits including customized plans for larger groups.

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