



NATIONAL ASSOCIATION  
of  
POLICE ORGANIZATIONS

116th Congress

2019-2021

Legislative Priorities

**National Association of Police Organizations**

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# **MISSION STATEMENT**

**The National Association of Police Organizations (NAPO)** was established to unite all law enforcement organizations within the United States in order to promote and maintain federal legislation most beneficial to law enforcement in general and the citizens we are sworn to protect.

It is the aim of NAPO to stimulate mutual cooperation between law enforcement organizations and to assist in the economic, social, and professional advancement of all law enforcement officers, whether active or retired.

It is the further aim of NAPO to educate the public concerning the methods and means of achieving more effective crime control and law enforcement so as to establish a more peaceful, tranquil, and free society for all.

NAPO disseminates information to all member organizations and to the public regarding federal legislation and related matters which affect the interest and welfare of its member organizations, the law enforcement profession, and the public.



# **116<sup>TH</sup> CONGRESS (2019-2021)**

## **LEGISLATIVE PRIORITIES**

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# NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS

**NAPO History:** The National Association of Police Organizations (NAPO) is a coalition of police units and associations from across the United States. NAPO was organized for the purpose of advancing the interests of America's law enforcement officers through legislative advocacy, political action, and education.

Founded in 1978, NAPO is the strongest unified voice supporting law enforcement officers in the United States. NAPO represents more than 1,000 police units and associations, over 241,000 sworn law enforcement officers, and more than 100,000 citizens who share a common dedication to fair and effective crime control and law enforcement.

Increasingly, the rights and interests of law enforcement officers—*America's Finest* - have been the subject of legislative, executive, and judicial action in the nation's capital, Washington, D.C. From issues of federal funding of state law enforcement and anti-terrorism efforts, to federal policy on employee health, pensions, and other benefits, the actions of Congress and the Administration significantly impact public safety interests. These interests must be vigorously protected in light of the vital role law enforcement officers play in maintaining the peace and security of American society. NAPO works to influence the course of national affairs where law enforcement interests are concerned.

**NAPO Government Affairs:** NAPO maintains a Washington office to monitor and guide legislative and administrative developments. The Washington office provides information to NAPO's membership on a timely basis so that it can respond from the grassroots level. The *Washington Report*, which provides updates on current issues in which NAPO is engaged, is routinely distributed to the membership.

NAPO has achieved a number of solid legislative and administrative accomplishments for its constituents through the efforts of NAPO's Washington office, that works independently, and in conjunction with

other public safety, public employee, and public employer groups. NAPO has also defeated efforts that would have seriously undermined law enforcement interests.

*The Hill* magazine recognized NAPO as responsible for one of what they called the “Top Ten Lobbying Victories” of 2015. NAPO was acknowledged for its work on the passage of the James Zadroga 9/11 Health and Compensation Reauthorization Act, and continuing health care coverage for 9/11 responders and survivors.

Over the years, NAPO has had a significant impact across many legislative areas, including:

1. Enactment of the Rafael Ramos and Wenjian Liu National Blue Alert Act, named after two NYPD Officers and NAPO members;
2. Restoration of state and local law enforcements’ access to surplus military equipment through the U.S. Department of Defense’s 1033 Program and various Departments of Justice and Homeland Security grant programs;
3. Implementation of final Internal Revenue Service (IRS) Normal Retirement Age rules that protect public safety pension plans and include safe harbors for public safety employees;
4. Enactment of the Law Enforcement Mental Health and Wellness Act;
5. Enactment and renewal of the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA);
6. Enactment of the Police, Fire, and Emergency Officers Educational Assistance Act;
7. Enactment of the Children of Fallen Heroes Scholarship Act;
8. Enactment and renewal of the Bulletproof Vest Partnership Grant Act;
9. Enactment of 1988 legislation, which raised the Public Safety Officers’ Benefit (PSOB) for officers severely disabled or killed in the line of duty from \$50,000 to \$100,000, plus annual cost of living indexing, as well as follow on legislation in 2002, which raised the PSOB base from \$100,000 to \$250,000. The base was raised to \$318,111 in 2011, to \$323,035 in 2013, to \$339,000 in 2015, and to \$359,316 in 2019;
10. Enactment of legislation that made the PSOB death benefit to survivors federal income tax free;

11. Enactment and reauthorization of the James Zadroga 9/11 Health and Compensation Act, which is named after a NAPO member and New York City Detective, including permanent reauthorization of the World Trade Center Health Program;
12. Enactment of the Project Safe Neighborhoods Grant Program Authorization Act;
13. Enactment of the Law Enforcement Officers' Safety Act (H.R. 218, right to carry legislation);
14. Enactment of the Improvements to the Law Enforcement Officers' Safety Act;
15. Enactment of the Violence Against Women Act (VAWA) Reauthorization of 2013;
16. Enactment of the Justice for Victims of Trafficking Act;
17. Enactment of the Recovering Missing Children Act;
18. Delay of the Excise ("Cadillac") Tax on employer-sponsored health plans until 2022;
19. Enactment of the Ryan White HIV/AIDS Treatment Extension Act (includes a provision that protects emergency responders from occupational exposure to communicable diseases);
20. Enactment of the Fair Sentencing Act;
21. Enactment of a Nationwide Interoperable Communications Network for Public Safety;
22. Enactment of the National Amber Alert Act;
23. Enactment of the Securing Cockpits Against Laser Pointers Act;
24. Enactment of the Public Safety Spectrum and Wireless Innovation Act (FIRST NET);
25. Secured \$1 billion in the American Recovery and Reinvestment Act for the Community Oriented Policing Services (COPS) Hiring Program;
26. Enactment of the Adam Walsh Child Protection and Safety Act;
27. Enactment of the Healthcare Enhancement for Local Public Safety (HELP) Retirees Act (allows retired public safety officers to use up to \$3,000 annually from their pension funds, including defined benefit plans and defined contribution plans, to pay for qualified health insurance premiums without taxing these distributions);
28. Enactment of the Combat Meth Act;
29. Enactment of the Disaster Area Health and Environmental Monitoring Act (provides for free medical screenings to first responders, volunteers, and emergency personnel who endure

- serious health risks to respond to national disasters, such as Hurricane Katrina and the September 11, 2001 terrorist attacks);
- 30. Enactment and implementation of the Hometown Heroes Act (expands coverage of the PSOB Program to include those law enforcement officers who suffer debilitating or fatal heart attacks or strokes while on, or related to, active duty or training work);
  - 31. Enactment of the Fair Labor Standards Act (FLSA) Amendments (implemented the United States Supreme Court's decision in the *Garcia* case, upholding the constitutionality of the FLSA as applied to non-federal public employees);
  - 32. Elimination nationwide of the "source tax" on law enforcement retirees' incomes;
  - 33. Enactment of the Violent Crime Control and Law Enforcement Act (omnibus anti-crime legislation);
  - 34. Enactment of the Family and Medical Leave Act;
  - 35. Enactment of legislation which prohibits implementation of the IRS proposal to tax accrued public employee leave as current income; and
  - 36. Enactment of the Don't Tax Our Fall Public Safety Heroes Act, which ensured state death benefits to survivors of law enforcement officers are tax free.

The governmental issues affecting the vital interests of law enforcement officers continue to grow daily as crime, terrorism, and other concerns occupy more of the time of Congress and the Administration. The aforementioned legislative victories are illustrative of the areas where law enforcement participation through NAPO has made, and continues to make a difference.

**NAPO Information and Events:** The NAPO website, ([www.napo.org](http://www.napo.org)) contains important information for law enforcement personnel regarding upcoming legislation, Supreme Court rulings, NAPO seminars and conferences, and safety and security hazards to law enforcement personnel.

Real time information for NAPO news can also be accessed "liking" the National Association of Police Organizations on Facebook ([www.facebook.com](http://www.facebook.com)) or following NAPO on Twitter ([www.twitter.com](http://www.twitter.com)) by using NAPO's Twitter name, "NAPOpolice."

NAPO affiliates and representatives meet frequently with members of Congress and their staff at home and in Washington, D.C. to lobby pending issues of concern. Delegates establish NAPO's legislative goals and priorities at the NAPO Annual Conference. Also, in election years, delegates issue endorsements of candidates for national and Congressional offices who have earned law enforcement's support.

NAPO holds an annual **Legislative Luncheon on Capitol Hill**, which provides an opportunity to honor members of Congress and staffers who have been most supportive of law enforcement. It also provides NAPO's members with a chance to convey NAPO's top legislative priorities to members of Congress and their staff.

The prestigious **TOP COPS Awards®** are presented annually to sworn law enforcement officers from across the country who are nominated by their peers for outstanding service. NAPO held its first **TOP COPS Awards®** ceremony in Washington, D.C. in 1994, with special guests, including the President of the United States, and continues to pay tribute to outstanding law enforcement officers across the country each year.

NAPO also sponsors an **Annual Law Enforcement Pension and Benefits Seminar**, and has sponsored seminars on prevention of law enforcement officer suicide, union responses to critical incidents, federal election law for police associations, the *Garrity* decision, collective bargaining, the Fair Labor Standards Act (FLSA), law enforcement stress management, drug testing, the Americans with Disabilities Act (ADA), and public relations.

**NAPO Public Affairs:** In 2002, NAPO established the **National Association of Police Organizations Relief Fund**, dedicated to providing "for the physical, medical, emotional, and spiritual well-being of law enforcement officers and their families who have suffered hardship as a result of catastrophe, storm, flood, earthquake, fire, evacuation, relocation, disaster, war, or other acts or accidents of nature or man." The Relief Fund has been extremely successful in assisting officers in the aftermath of Hurricane Katrina and Superstorm Sandy, flooding in the Midwest, and wildfires in Texas, as well as quietly aiding families with an ill or deceased loved one.

NAPO established a sister 501(c)(3) research and education organization in 1991, the **Police Research and Education Project (PREP)**. PREP has

conducted research on law enforcement stress and its effect on the family under the auspices of National Institute of Justice grants.

In 1994, the **National Law Enforcement Officers' Rights Center** was established under PREP to protect officers' legal and constitutional rights. The Rights Center is the first legal support center established to help law enforcement officers deal with the increase of litigation sweeping through the law enforcement community.

The Rights Center has filed many *amicus curiae* ("friend of the court") briefs on behalf of law enforcement officers with the U.S. Supreme Court, as well as numerous federal and state appellate courts. The Rights Center has also published surveys on states' tort liability rules, collective bargaining laws, and a law enforcement officer's right to carry a firearm off-duty.

The Rights Center has won several important U.S. Supreme Court cases for law enforcement officers. Thanks to NAPO and the Rights Center, law enforcement officers can now restrain dangerous persons to ensure a safe search of a site during the execution of a warrant, and may lawfully arrest suspects who refuse to identify themselves in legitimate *Terry* stops. NAPO has also been instrumental in securing qualified immunity rights for officers in civil rights and use of force cases. The Rights Center and NAPO will continue to file *amicus curiae* briefs to represent America's Finest in the courts of the United States.

NAPO is a founding member of the **National Law Enforcement Officers Memorial Fund (NLEOMF)**. NAPO's efforts led to the successful passage of legislation that established the Memorial and NAPO representatives served on the site selection and inscription committees. NAPO, through its members, raised over \$1 million for the Memorial.

NAPO also serves, or has served, as a board or coalition member for the National Law Enforcement and Corrections Technology Advisory Council (LECTAC), the National Armor Advisory Board and Summit (reviews current issues regarding body armor design and usage), the National Blue Mass (held for law enforcement officers during National Police Week), the National Blue Alert Advisory Group, the National Center for Missing and Exploited Children, the Target Capabilities Working Groups of the U.S. Department of Homeland Security, the Public Safety Sub Council of the

National Occupational Research Agenda of the National Institute for Occupational Safety and Health, the American College of Occupational and Environmental Medicine Task Group on Medical Guidelines for Law Enforcement Officers, the Collective Bargaining Coalition (lobbies Congress on legislation to extend basic collective bargaining rights to public safety officers), the National Executive Committee of the Coalition to Preserve Retirement Security (Social Security issues), the National Conference on Public Employee Retirement Systems, the Crime Prevention Council of America, the National Blue Alert Advisory Group, and the United States Presidential Transition Teams for the Departments of Justice and Homeland Security.

**NAPO has been, and will continue to be, the strongest unified voice for law enforcement officers in the United States.**

# **RIGHTS OF LAW ENFORCEMENT OFFICERS**

## **PUBLIC SAFETY EMPLOYER - EMPLOYEE COOPERATION ACT “COLLECTIVE BARGAINING”**

**Background:** Congress has long recognized the benefits of a cooperative working relationship between labor and management. Over the years, Congress has extended collective bargaining rights to public employees including letter carriers, postal clerks, public transit employees, and congressional employees. However, under federal and state laws, some public safety employees, including those in law enforcement, corrections, and fire, are denied the basic right of collective bargaining.

While many public safety agencies have benefited from a productive partnership between employers and employees, other agencies have not. Currently, many states do not allow public safety employees the fundamental right to bargain with their employers. History shows that denying workers the right to bargain collectively causes poor morale, the waste of resources, unfair and inadequate working conditions, and low productivity. Ultimately, it is the public's safety and security that is jeopardized by such poor working conditions for police.

**If enacted into law, the “Public Safety Employer-Employee Cooperation Act” would do the following:**

- Give the right to public safety officers to form and join a union or association of their own choosing, but only if they wish to.
- Give the right to public safety officers to bargain over wages, hours, and working conditions, but preserve legitimate management rights.
- Provide for fact finding and mediation to resolve disputes, but would not require binding arbitration.
- Prohibit strikes and lockouts by public safety officers and agencies.

- Protect current state laws, certifications, and collective bargaining agreements.

### **Recent Legislative History:**

#### 116<sup>th</sup> Congress (2019-2021)

- **H.R. 1154**, “Public Safety Employer-Employee Cooperation Act.”  
Sponsor: Rep. Dan Kildee (D-MI).

#### 115<sup>th</sup> Congress (2017-2019)

- **H.R. 4846**, “Public Safety Employer-Employee Cooperation Act.”  
Sponsor: Rep. Dan Kildee (D-MI).
- **S. 2845**, “Public Safety Employer-Employee Cooperation Act”  
Sponsor: Senator Tammy Baldwin (D-WI).

**NAPO Position:** Federal law has extended collective bargaining to a number of different sectors, but not to public safety officers. There are many law enforcement officers who put their lives on the line every day to preserve the security and peace that our nation enjoys. However, these same officers are denied the basic American rights of collective bargaining for wages, hours, and safe working conditions.

This legislation extends basic collective bargaining rights to state and local public safety officers. The bill prohibits strikes and does *not* call for mandatory arbitration. In addition, states that offer equal or greater collective bargaining rights would be exempt from this federal statute. The Public Safety Employer-Employee Cooperation Act will not overturn current collective bargaining laws – it will only provide the most basic of collective bargaining rights to those who currently do not have them.

NAPO will continue working to actively support the passage of this important legislation.

## **STATE AND LOCAL LAW ENFORCEMENT OFFICER BILL OF RIGHTS**

**Background:** Throughout the country, many states lack coherent guidelines and procedures for law enforcement departments to follow to protect law enforcement officers' due process rights. Sworn law enforcement officers are held to an extremely high standard of personal and professional conduct, due to the enormous responsibilities they exercise. However, many officers are denied the same basic due process

rights that all other citizens enjoy. In approximately fifty percent of the states, officers enjoy some legal protections against false accusations and abusive conduct. However, this leaves hundreds of thousands of officers with limited or no due process or who face limitations or retaliation when exercising these rights.

In addition, sometimes individuals are reluctant to file a complaint against an officer, perceiving correctly or incorrectly that management will not take the complaint seriously and conduct an inquiry. Often departments lack any guidelines and procedures for handling and investigating complaints, thus raising doubts about officer accountability.

**If enacted into law, the “Law Enforcement Officer Bill of Rights” would provide officers with the following:**

- Officers would have the right to engage in civic activity and would not be prohibited from running for elective office because of their profession.
- Departments would have to establish effective procedures for receipt, review, and investigation of law enforcement and other complaints against law enforcement officers.
- If disciplinary action is foreseeable, officers would be notified of the investigation, the nature of the alleged violation, the eventual outcome of the inquiry, and the recommendations made to superiors by the investigators.
- Questioning of a law enforcement officer would be conducted at reasonable times, preferably while the officer is on duty, unless exigent circumstances apply.
- Questioning of the law enforcement officer would take place at the offices of those conducting the investigation or at the place where the officer reports to work, unless the officer consents to another location.
- A single investigator would question officers, and the officer would be informed of the name, rank, and command of the officer conducting the investigation.
- Officers could not be threatened, harassed, or promised rewards to induce the answering of any question.
- Officers under investigation would be entitled to have legal counsel or any other individual of their choice present at the questioning.
- Officers would be entitled to a hearing, notification in advance of the date of the hearing, and access to transcripts and other relevant documents and evidence generated by the hearing. The officer would

also be entitled to be represented by legal counsel or another representative at the hearing.

- Officers could obtain declaratory or injunctive relief in state or federal court for violations of this law, including retaliation for the exercise of these or any other rights under federal, state, or local law.
- Officers would have the opportunity to comment in writing on any adverse materials placed in his or her personnel file.
- There would be defined 'just cause' factors to be considered by the hearing officer or board for an officer to be found guilty or liable for disciplinary action; and mitigating factors would also be noted, which could reduce the severity of the disciplinary action.
- This law would only preempt those provisions in state, county, or municipal laws, which provide lesser officer protection, but would not preempt those providing equal or greater protection.

### **Recent Legislative History:**

112<sup>th</sup> Congress (2011-2013)

- **H.R. 1789**, "State and Local Law Enforcement Discipline, Accountability and Due Process Act." Sponsor: Rep. Erik Paulsen (R-MN).

**NAPO'S Position:** NAPO recognizes a serious need for the implementation of standards and procedures to guide both state and local law enforcement agencies and law enforcement officers during internal investigations, administrative hearings, and evaluation of citizen complaints. Too often law enforcement officers are subjected to the whim of their departments or local politics during internal investigations and administrative hearings.

NAPO also supports the implementation of standards to guide law enforcement agencies in developing and operating a fair and effective investigative process. Individuals should have the right to file a complaint, to have the complaint investigated, and to be informed of its final disposition, including learning the outcome of the investigation and any resulting disciplinary action.

Consequently, NAPO has actively fought for the enactment of this legislation since 1990. In consultation with attorneys representing law enforcement officers, NAPO will continue to exert every effort with Congress and other national interest groups to support this legislation.

# **STATE & LOCAL LAW ENFORCEMENT ASSISTANCE PROGRAMS**

## **COPS PROGRAM & BYRNE JAG PROGRAM**

**Background:** Serving as the lead national law enforcement organization, NAPO worked tirelessly with members of Congress and the Administration to enact the **Community Oriented Policing Services (COPS)** Program in 1994. Since its inception, the COPS Office, within the United States Department of Justice (DOJ), has been extremely successful in implementing and carrying out its designated objectives. To date, the COPS Hiring Program has assisted over 13,000 jurisdictions with over \$14 billion in funding to hire more than 127,000 community police officers across the United States. This funding has contributed to continued success in combating crime, drug use, and gangs; reducing and preventing the manufacture, distribution, and use of illegal drugs; and addressing emerging law enforcement needs.

In addition to the COPS Program, state and local law enforcement benefit greatly from the **Edward Byrne Memorial Justice Assistance Grant (Byrne JAG)** Program, as it is the only comprehensive federal crime-fighting program. It allows for a system wide approach that enables communities to target resources to their most pressing local needs. This important program funds state and local law enforcement, including multi-jurisdictional drug and gang task forces, information sharing and technology, county jails, prosecutors, drug courts, and juvenile delinquency and drug treatment programs. In fact, it is the only source of federal funding for multi-jurisdictional task forces and prosecutors.

COPS, together with Byrne JAG, provide state and local law enforcement with necessary funding to assist their efforts to keep communities safe.

NAPO has expended great efforts every fiscal year to urge Congress and the Administration to fund these vital grant programs.

## **Recent Legislative History:**

### **115<sup>th</sup> Congress (2017-2019)**

- **S. 2774**, “COPS Reauthorization Act of 2018.” Sponsor: Senator Amy Klobuchar (D-MN).

### **114<sup>th</sup> Congress (2015-2017)**

- **S. 2401**, “COPS Improvements Act of 2015.” Sponsor: Senator Amy Klobuchar (D-MN).
- **H.R. 2318**, “COPS Improvement and Reauthorization Act of 2015.” Sponsor: Rep. David Reichert (R-WA).

**NAPO Position:** Most law enforcement officials and the public recognize the benefits of putting more police on the street, which is why initiatives to put and maintain more officers in the field to promote community policing and fight crime should be continued. As major cities across the country are facing an increase in violent crime and community-police relations are strained, now is not the time to put additional stresses on state and local police forces by leaving them short-handed. It is vital that the COPS Hiring Program and the Byrne-JAG Program be adequately funded. NAPO will continue to fight for the resources needed to serve communities efficiently and effectively.

In addition to our continued efforts to reauthorize and increase funding for the COPS and Byrne-JAG programs, we are also fighting to preserve the original intent of the COPS Program: to support the hiring and retention of community police officers. In recent years, the COPS Program has shifted away from its original intent and has become a tool to move a distinct political agenda including policies such as “implicit bias” training, “procedural justice” and “police legitimacy”. These policies were pushed at the expense of critical funding for the hiring and retention of officers. That funding should have been focused on officer and community safety measures such as lowering response time for emergency calls and two officer patrol units.

NAPO strongly supports fully funding the COPS Hiring Program and maintaining the program’s original intent – helping states and localities hire and retain community police officers to ensure they can protect and serve America’s communities efficiently and effectively.

# BULLETPROOF VEST PARTNERSHIP GRANT PROGRAM

**Background:** In 1998, with NAPO's support, Congress enacted legislation that created a grant program through the Department of Justice (DOJ) to help fund state and local law enforcement efforts to purchase bullet resistant vests for their officers, the Bulletproof Vest Partnership (BVP) Grant Program. Since the program's inception, the BVP Grant Program has awarded more than 13,000 jurisdictions a total of \$447 million in federal funds for the purchase of over one million vests.

The BVP Grant Program is a critical resource for state and local jurisdictions that saves lives. To date, more than 3,000 law enforcement officers have survived shootings thanks to their bullet resistant vests. Those officers are only a fraction of the over 900,000 law enforcement officers who put their lives at risk every day to protect our nation's communities.

While many officers are protected by bullet-resistant armor, an alarming number of officers, many in small departments across the United States, are not afforded this same protection due to local budget constraints, which is what makes this program so vital.

BVP Program provides matching grants only for body armor that meets the strict performance standard requirements set by the Bureau of Justice Assistance, ensuring agencies are only purchasing top quality vests. Further, in the 2016 reauthorization, the BVP Program became the only purchasing program within the Departments of Justice, Defense and Homeland security that gives female officers the ability to buy vests that fit their bodies.

Congress has reauthorized the program four times, most recently in 2016, reauthorizing the program at \$25 million per year through fiscal year 2020.

## **Recent Legislative History:**

### **114<sup>th</sup> Congress (2015-2017)**

- **S. 125**, "Bulletproof Vest Partnership Grant Program Reauthorization Act of 2015." Sponsor: Senator Patrick Leahy (D-VT). **PASSED**.
- **H.R. 228**, "Bulletproof Vest Partnership Grant Act of 2015." Sponsor: Rep. Frank LoBiondo (R-NJ).

**NAPO Position:** Over the past decade, this vital program has enabled the protection of over one million officers. Fully funding the BVP Grant Program will ensure that all of America's law enforcement officers are provided with the life-saving protection they need. This grant program has enabled small and large law enforcement departments alike to obtain protective equipment to safeguard their officers. Additionally, the Program needs to be made permanent. We should not have to fight every four years to ensure the continuance of this necessary and lifesaving program.

NAPO will continue to pursue reauthorization of BVP Grant Program and urge full funding of the Program at its authorized level of \$25 million in order to safeguard the lives of America's law enforcement officers by ensuring they are afforded the necessary protection.

## LAW ENFORCEMENT MENTAL HEALTH & WELLNESS

**Background:** An April 2018 white paper by the Ruderman Family Foundation found that first responders are more likely to die from suicide than in the line of duty. In 2018, there were at least 159 police officer suicides compared to 145 line of duty deaths. Additionally, according to the National Study of Police Suicides, officers are 2.5 times more likely to die from suicides than from homicides, a much more sobering statistic. As suicides among police officers are often reported as accidents or met with official silence, definitive numbers are hard to come by.

State and local law enforcement officers are our nation's first responders. They respond to our country's greatest tragedies as well as violent crimes and horrible accidents that unfortunately occur more frequently in our communities. They have seen and experienced horrors that they cannot forget, yet they still put their lives on the line every day to protect and serve our communities.

In passing the **Law Enforcement Mental Health and Wellness Act (Public Law No. 115-113)** on December 22, 2017, Congress recognized the stress and strain of the job and acted to help give officers the resources they need to address their emotional and mental wellbeing. This Act will help law enforcement agencies establish or enhance mental health care services for their officers by making grants available to initiate peer

mentoring pilot programs, developing resources for mental health providers based on the specific mental health challenges faced by law enforcement, and supporting law enforcement officers by studying the effectiveness of crisis hotlines and annual mental health checks.

The Act allows for Community Oriented Policing Services (COPS) Program funding to be used by agencies to establish peer mentoring mental health and wellness pilot programs. Peer mentoring and peer support programs have proven vital to successful officer mental health and wellness programs as officers are able to cope more effectively by talking with someone who knows and understands what they are going through.

In a peer mentoring program, peer mentors are trained to identify whether the officer is struggling in a way that might require further intervention and how to refer the officer to the necessary services. Often, peer mentors work closely with clinicians who are able to help with such references.

While allowing COPS Program funds to be used to help agencies and departments establish peer mentoring programs is a start, our nation's law enforcement need much more than this. Congress must appropriate significant funding specifically for the pilot programs in order to adequately meet the demand for officer peer mentoring programs in cities and states across the country.

### **Recent Legislative History:**

115<sup>th</sup> Congress (2017-2019)

- **H.R. 2228**, “Law Enforcement Mental Health and Wellness Act.” Sponsor: Rep. Susan Brooks (R-IN). **PASSED**.
- **S. 867**, “Law Enforcement Mental Health and Wellness Act.” Sponsor: Senator Joe Donnelly (D-IN).

**NAPO Position:** Our nation's law enforcement officers have given up so much to protect and serve our communities. The least we can do is ensure they have the mental health and wellness services they need for the safety of themselves, their families and communities. NAPO is proud to have supported the Law Enforcement Mental Health and Wellness Act and it is time that we ensure full and robust implementation of the Act for peer mentoring programs and mental health services for all officers.

# **RETIREMENT SECURITY**

Protecting and preserving public pension plans is a top priority for NAPO. During the 116<sup>th</sup> Congress, there will be a tremendous amount of political pressure to reform public pensions and NAPO will continue to be a staunch defender of the value of pension plans to the retirement security of hundreds of thousands of public safety officers across the country.

## **GOVERNMENT PENSION OFFSET & WINDFALL ELIMINATION PROVISION REFORM**

**Background:** The Government Pension Offset (GPO) reduces public employees' Social Security spousal or survivor benefit by two-thirds of their public pension, and often leads to negative effects on law enforcement officers' retirements. If a spouse who paid into Social Security dies, the surviving public safety officer would normally be eligible for half of the deceased's benefit. However, if the surviving law enforcement officer had not been paying into Social Security while working, the GPO requires that this amount be offset by two-thirds of the survivor's pension, eliminating most, or all of the payment. Because of their profession, many law enforcement officers do not pay into Social Security; however, if they had not served at all, they would receive the full allotment of the spouse's benefit.

In addition to the GPO, public safety employees are also adversely affected by the Windfall Elimination Provision (WEP). Although most law enforcement officers retire after a specific length of service, usually while in their early to mid-fifties, many look for new opportunities to serve their communities. 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 their rightfully earned Social Security retirement benefit, their pension heavily offsets it, thus vastly reducing the amount they receive.

GPO and WEP were intended to be “leveling” responses, but only serve to hurt public safety officers. Nine out of ten public employees affected by the GPO lose their *entire* spousal benefit, even though their spouses paid

Social Security for many years. The WEP causes hard-working public safety officers to lose the benefits *they earned themselves*, thus punishing those who selflessly serve and protect our communities.

### **Recent Legislative History:**

#### 116<sup>th</sup> Congress (2019-2021)

- **H.R. 141**, “Social Security Fairness Act.” Sponsor: Rep. Rodney Davis (R-IL).
- **S. 521**, “Social Security Fairness Act.” Sponsor: Senator Sherrod Brown (D-OH).

#### 115<sup>th</sup> Congress (2017-2019)

- **H.R. 1205**, “Social Security Fairness Act.” Sponsor: Rep. Rodney Davis (R-IL).
- **S. 915**, “Social Security Fairness Act.” Sponsor: Senator Sherrod Brown (D-OH).
- **H.R. 6933**, “Equal Treatment for Public Servants Act of 2018.” Sponsor: Rep. Kevin Brady (R-TX)

#### 114<sup>th</sup> Congress (2015-2017)

- **S. 1651**, “Social Security Fairness Act.” Sponsor: Senator Sherrod Brown (D-OH).
- **H.R. 973**, “Social Security Fairness Act.” Sponsor: Rep. Rodney Davis (R-IL).
- **H.R. 711**, “Equal Treatment for Public Servants Act of 2015.” Sponsor: Rep. Kevin Brady (R-TX).

**NAPO Position:** Law enforcement officers and public employees across the United States are concerned about their retirement benefits and the impact of the GPO and WEP.

The loss of income caused by the GPO and WEP is a financial strain on law enforcement officers and their families, an additional strain that those who spent their careers on the front lines protecting our nation’s communities do not need. By significantly scaling back and reducing Social Security benefits for law enforcement officers and their survivors, as the GPO and WEP do, officers and their families are provided much less protection against financial difficulties. This is no way to honor those who have chosen to serve our nation and its communities.

While NAPO’s priority remains the full repeal the GPO and WEP from Title II of the Social Security Act, we understand there are significant fiscal

challenges associated with this effort. We therefore also support efforts to meaningfully reform the provisions. NAPO will continue to actively work to ensure passage of legislation to alleviate the burdens the GPO and WEP place on public safety officers across the country.

## **MANDATORY SOCIAL SECURITY PARTICIPATION**

**Background:** The Social Security program is an important source of future retirement security for millions of Americans. NAPO realizes that the program needs to be restructured and its financing put on sound footing for future generations of retirees, in view of projections that the Social Security Trust Fund will be exhausted by 2037.

State and local governments were excluded from the Social Security Act of 1935 because there were (and still are) questions as to the extent to which the federal government could tax state and local governments. Also, many state and local governments had their own pension systems. The 1950 amendments to the Act allowed state and local governments to voluntarily participate in the Social Security program, and a number of states joined the system. In July of 1991, Social Security was made mandatory for state and local government employees who do not participate in any employer/employee retirement system.

Mandating Social Security taxes on the 70 percent of public safety officers not presently covered would have a dramatic and negative impact on the recruitment and retention of well-qualified public safety officers. In addition, it would constitute an unfunded mandate on public safety agencies, amounting to more than \$1 billion in the first year alone. Under a mandatory Social Security system, law enforcement officers would pay more for fewer benefits, when compared to their current pension plans.

Social Security was not designed for and does not address the special needs of law enforcement officers as follows:

1. Officers and their families need the security of service-connected disability and death benefits. Social Security benefits do not provide anywhere near the same level of benefits of current public safety pension plans, and provide no disability benefits unless one is totally unable to perform any work, not just public safety work.

2. Social Security is not appropriate for public safety officers who normally retire prior to, or around 55 years of age, due to the stresses, dangers, and injuries of the job. Unlike current plans, where officers may retire after 20 or more years of service, Social Security would not pay these individuals until they reached 62, 67, or even 70 years of age. Forcing police officers to work until the age of 70 would negatively impact public safety.

If enacted into law, mandatory Social Security taxes on public safety workers would do the following:

- A majority of state and local government entities would both pay the newly imposed 6.2 percent tax, (the employer's half of the 12.4 percent Social Security tax), and retain their current pension systems, because they are required to do so by law or collective bargaining agreements. Imposing Social Security taxes on these state and local governments would strain their budgets and would have serious consequences on the pay and working conditions of their public safety officers.
- Officers would automatically suffer a *de facto* pay decrease through the newly imposed 6.2 percent tax, (the employee's half of the 12.4 percent Social Security tax), and it would become more difficult to retain the most qualified officers.
- Because raising taxes to make up the difference is not politically feasible, state and local governments would likely take two or more of the following actions: (1) decrease the number of public safety officers to retain current pay levels and benefits; (2) reduce the pay of law enforcement officers; (3) freeze future cost-of-living increases; or (4) not provide public safety officers with the essential equipment and resources needed to effectively perform their work.
- Most state and local governments would pay the 6.2 percent tax by proportionally reducing their contributions to current pension systems. Trying to blend the special needs of actuarially funded pensions systems with the structure of Social Security would create serious complications and costs for benefit design and administration, as well as collective bargaining. Over time, mandatory Social Security taxes, even if only applied to new hires, would threaten the financial viability of sound, secure, and long-standing retirement systems, eventually destroying the existing retirement and disability benefits for public safety officers.

- Reducing employer and employee contributions to current pension plans in order to pay Social Security taxes would have serious repercussions for those employees already having vested rights and would make it difficult to recruit the best candidates for public safety work. Over time, the increasing transfer of significant contributions (of both employers and employees) from pension funds to Social Security would severely reduce the investment income, as more grandfathered employees in the current systems retire and new employees covered by Social Security are hired to replace them. This would cause pension funds to be under-funded and reduce benefits, seriously harming the future benefits paid to retirees.
- Significantly scaling back and reducing current retirement pensions, death benefits, and line-of-duty disability pay for public safety officers, even if done only for new hires, would provide public safety officers and their families with much less protection. This would cause law enforcement and firefighting to become much less desirable as careers. Retention of current public safety officers and recruitment of new officers would become difficult.

**NAPO Position:** NAPO supports a long-term solution, *so long as* such a solution does not mandate that all or some state and local government employees, including newly hired ones and their employing agencies, be required to pay Social Security taxes. Adding presently non-covered public safety workers will not fix the basic problems of Social Security. While it will bring new workers into the Social Security system, the system will also have to assume a liability for these new workers, which will eventually have to be paid.

Even if Social Security taxes were limited to new hires, the likely consequences of mandatory Social Security taxes, including reduced benefits, lower salaries, and/or frozen cost-of-living increases, would make law enforcement and fire safety work less financially desirable. It makes no sense whatsoever to tamper with a system of pension funds that is working well and paying needed benefits to those who serve and protect the public.

There has not been any recent legislation on this issue. NAPO will continue to serve as the key representative of law enforcement in defending this issue before members of Congress.

# **CRIMINAL JUSTICE**

## **INCREASED PENALTIES FOR CRIMES AGAINST LAW ENFORCEMENT OFFICERS**

**Background:** There is a serious and growing trend of ambushed murders and other armed attacks on law enforcement officers. According to a January 2019 report from the Office of Community Oriented Policing Services (COPS), 2018 saw a 24 percent increase in the number of officers shot and killed compared to 2017. 28 officers were shot in ambushes or premeditated, calculated assaults.

NAPO supports utilizing existing federal criminal processes to prosecute (1) the assault and murder of federally-funded state and local law enforcement officers, such as those officers whose agencies or jurisdictions receive aid from the federal DOJ or DHS; and (2) the assault and murder of state and local officers engaged in the protection of federally recognized civil rights, such as those officers attacked while safeguarding protests. We also are aggressively lobbying for new and increased nationwide penalties on those who harm or target for harm public safety officers by making the murder or attempted murder of a state or local police officer an aggravating factor in sentencing determinations.

### **Recent Legislative History:**

#### 116<sup>th</sup> Congress (2019-2021)

- **H.R. 99**, “Thin Blue Line Act.” Sponsor: Rep. Vern Buchanan (R-FL)
- **H.R. 1325**, “Protect and Serve Act.” Sponsor: Rep. John Rutherford (R-FL).

#### 115<sup>th</sup> Congress (2017-2019)

- **H.R. 115**, “Thin Blue Line Act.” Sponsor: Rep. Vern Buchanan (R-FL)
- **S. 1085**, “Thin Blue Line Act.” Sponsor: Senator Patrick Toomey (R-PA).
- **H.R. 2437**, “Back the Blue Act.” Sponsor: Rep. Ted Poe (R-TX).
- **S. 1134**, “Back the Blue Act.” Sponsor: Senator John Cornyn (R-TX).

- **H.R. 5698**, “Protect and Serve Act.” Sponsor: Rep. John Rutherford (R-FL).
- **S. 2794**, “Protect and Serve Act.” Sponsor: Senator Orrin Hatch (R-UT).

#### 114<sup>th</sup> Congress (2015-2017)

- **H.R. 814**, “Thin Blue Line Act.” Sponsor: Rep. David Jolly (R-FL).
- **S. 2034**, “Thin Blue Line Act.” Sponsor: Senator Pat Toomey (R-PA)
- **H.R. 5809**, “Back the Blue Act.” Sponsor: Rep. Ted Poe (R-TX)
- **S. 3184**, “Back the Blue Act.” Sponsor: Senator John Cornyn (R-TX)
- **H.R. 4760**, “Blue Lives Matter Act.” Sponsor: Rep. Ken Buck (R-CO).

**NAPO Position:** NAPO strongly supports legislation, at both the federal and state level, that would increase penalties for crimes committed against law enforcement officers. Establishing stricter penalties for those who harm law enforcement officers will deter crime. Any persons contemplating harming an officer must know that they will face serious punishment.

NAPO will continue to work with key members of Congress to ensure that those who harm or attempt to harm public safety officers are subject to the strictest penalties.

The aforementioned actions will add another layer of safety for the nation’s law enforcement officers, who put their lives on the line each day to protect our communities.

## **MENTAL HEALTH TREATMENT FOR OFFENDERS & TRAINING FOR LAW ENFORCEMENT**

**Background:** Individuals with mental illnesses are significantly overrepresented in the prison and jail population. State and local governments are increasingly finding the need for greater collaboration between criminal justice, juvenile justice, and mental health and substance abuse treatment systems to better allocate resources across systems, increase connections to needed services, and reduce recidivism.

Further, law enforcement officers are increasingly on the front lines in responding to and intervening in mental and behavioral health crises. Officers need to be given the tools and training necessary to identify and

respond to mental health issues in the communities they serve. This will support improved responses and outcomes to interactions between police officers and persons affected by mental illness.

The Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA) was signed into law by President George W. Bush in 2004, and authorized a \$50 million grant program to be administered by the U.S. Department of Justice. The law created the Justice and Mental Health Collaboration Program (JMHCP) to help states and counties design and implement collaborative efforts between criminal justice and mental health systems.

In 2016, Congress reauthorized the MIOTCRA for an additional five years. The reauthorization bill expanded training for law enforcement to identify and respond appropriately to individuals with mental illnesses. It also supported the development of law enforcement receiving centers to assess individuals in custody for mental health and substance abuse treatment needs, as an alternative to jail booking.

For Fiscal Years 2018 and 2019, Congress recognized the importance of MIOTCRA and funded it at \$30 million and \$31 million, respectively, \$18 million over previous fiscal years.

### **Recent Legislative History:**

#### 114<sup>th</sup> Congress (2015-2017)

- **S. 993**, “Comprehensive Justice and Mental Health Act.” Sponsor: Senator Al Franken (D-MN). **PASSED** (as part of the 21<sup>st</sup> Century Cures Act).
- **H.R. 1854**, “Comprehensive Justice and Mental Health Act.” Sponsor: Rep. Doug Collins (R-GA).
- **H.R. 731**, “Justice and Mental Health Collaboration Act.” Sponsor: Rep. Richard Nugent (R-FL).
- **S. 2002**, “Mental Health and Safe Communities Act.” Sponsor: Senator John Cornyn (R-TX). **PASSED** (as part of the 21<sup>st</sup> Century Cures Act).
- **H.R. 3722**, “Mental Health and Safe Communities Act.” Sponsor: Rep. Martha McSally (R-AZ).
- **H.R. 5864**, “Mental Health Training Enhancement for First Responders Act.” Sponsor: Rep. Jerry McNerney (D-CA).

**NAPO Position:** NAPO is a strong supporter of MIOTCRA and expanded mental health and crisis intervention training for law enforcement officers. MIOTCRA helps criminal justice and mental health agencies work collaboratively towards better outcomes. It helps law enforcement agencies across the United States in their responsibilities in assisting citizens with mental health conditions.

NAPO continues to support efforts to improve access to mental health services for people who come into contact with the criminal justice system, and to provide law enforcement officers the tools and training they need to identify and respond to mental health issues in the communities they serve.

## **SENTENCING & CORRECTIONS REFORM**

**Background:** With the enactment of the FIRST STEP Act (Public Law No. 115-391) in 2018, NAPO remains concerned that the greatest benefits of the Act go to high-recidivism offenders – most notably, drug traffickers, the most serious of whom also receive reduced mandatory minimum sentences under the Act. If history tells us anything, this will create more crime in our communities and impose a greater resource burden on law enforcement. Additionally, it will put the lives of officers and citizens at risk.

In an effort to placate the law enforcement community, which nearly unanimously opposed the FIRST STEP Act, the Act includes a provision expressing the Sense of Congress that a portion of any savings from the release of thousands of federal prisoners into our communities should be reinvested into state and local law enforcement, including for the hiring and training of officers. A Sense of Congress does not equate to actual federal support and resources that will be necessary to deal with the increased stresses on state and local departments and agencies as a result of the release of these federal prisoners.

### **Recent Legislative History:**

115<sup>th</sup> Congress (2017-2019)

- **S. 756**, “FIRST STEP Act.” Sponsor: Senator Dan Sullivan (R-AK). **PASSED over NAPO objections.**
- **H.R. 5682**, “FIRST STEP Act.” Sponsor: Rep. Doug Collins (R-GA).
- **S. 1917**, “Sentencing Reform and Corrections Act.” Sponsor: Senator Charles Grassley (R-IA).

- **S. 1994**, “CORRECTIONS Act.” Sponsor: Senator John Cornyn (R-TX).

#### 114<sup>th</sup> Congress (2015-2017)

- **S. 502**, “Smarter Sentencing Act of 2015.” Sponsor: Senator Mike Lee (R-UT).
- **H.R. 920**, “Smarter Sentencing Act of 2015.” Sponsor: Rep. Raul Labrador (R-ID).
- **S. 2123**, “Sentencing Reform and Corrections Act.” Sponsor: Senator Charles Grassley (R-IA).

**NAPO Position:** The implementation of the FIRST STEP Act will lead to increased crime in our communities and NAPO strongly believes it is incumbent on Congress to provide states and localities with the support and resources needed to keep our officers and our communities safe. Congress must go above and beyond the Sense of Congress and actually fund state and local law enforcement programs with adequate funding to protect our communities from the consequences of the FIRST STEP Act.

NAPO will also continue to work with Congress and the Department of Justice as it implements the Act, particularly regarding the creation of the Risk Assessment Tool, to ensure that high risk criminals, including drug traffickers, are appropriately labeled and not able to obtain good time credits.

Outside of the FIRST STEP Act, NAPO also urges the U.S. Sentencing Commission and Congress to review the application of “firearm enhancement” sentencing guidelines, to clarify that these enhancements should not automatically apply when a law enforcement officer is prosecuted and he/she is routinely carrying his/her duty weapon.

NAPO will continue to review and stay engaged on legislation that would impact law enforcement, federal sentencing guidelines and the criminal justice system as a whole.

## **IMMIGRATION AND BORDER SECURITY: CRIME CONTROL AND SANCTUARY CITIES**

**Background:** According to the Federal Bureau of Investigation (FBI), there are approximately 33,000 violent street gangs, motorcycle gangs, and prison gangs with about 1.4 million members criminally active in the U.S. and Puerto Rico today. Gangs have been directly linked to drug and gun trafficking, prostitution and human trafficking, fraud, violent maiming, and assault and murder.

Cross-border crime by gangs is a significant concern for law enforcement as it impacts communities both along our Southwest border and across the country as drugs trafficked across the border are transported and sold on our neighborhood streets. Along with drugs, gangs bring an increase in assaults, larceny and burglary to our communities. Targeting aliens associated with criminal gangs and violent crimes for deportation would give law enforcement an important tool in fighting cross-border gang crimes as well as the steady growth in gang participation nationwide.

Sanctuary policies in cities and jurisdictions across the country, however, make it difficult for law enforcement to effectively protect communities from violent criminal aliens. The country's immigration system relies on local law enforcement complying with immigration detainers - requests from the Department of Homeland Security (DHS) for local law enforcement to hold an illegal immigrant temporarily - to give federal law enforcement an opportunity to take the individual into custody. Sanctuary cities forbid their local law enforcement from fully cooperating with federal immigration officials, which has led to the release of violent criminals back into our communities.

Complicating the matter, several courts have ruled that local law enforcement officers may be sued for violating the Fourth Amendment if they comply with an immigration detainer, even if the detainer was lawfully issued and the detention would have been legal if carried out by DHS. This means that dangerous criminals cannot be held and must be released.

## **Recent Legislative History:**

### **115<sup>th</sup> Congress (2017-2019)**

- **S. 52**, A bill to make aliens associated with a criminal gang inadmissible, deportable, and ineligible for various forms of relief. Sponsor: Senator Charles Grassley (R-IA).
- **S. 87**, “Stop Dangerous Sanctuary Cities Act.” Sponsor: Senator Pat Toomey (R-PA).
- **H.R. 400**, “Stop Dangerous Sanctuary Cities Act.” Sponsor: Rep. Diane Black (R-TN)
- **S. 1757**, “Building America’s Trust Act.” Sponsor: Senator John Cornyn (R-TX).

### **114<sup>th</sup> Congress (2015-2017)**

- **S. 2146**, “Stop Sanctuary Policies and Protect Americans Act.” Sponsor: Senator David Vitter (R-LA).
- **S. 3100**, “Stop Dangerous Sanctuary Cities Act.” Sponsor: Senator Pat Toomey (R-PA).
- **H.R. 5654**, “Stop Dangerous Sanctuary Cities Act.” Sponsor: Rep. Diane Black (R-TN).

**NAPO Position:** NAPO supports the elimination of sanctuary jurisdictions, which pose real threats to the American people, and increases penalties for criminals who re-enter the United States illegally, which provides federal, state and local law enforcement vital tools to help keep our communities safe. We also believe that aliens associated with gangs should be barred from entering the country and those already in the country should be ineligible for deferred deportation and should be removed expeditiously.

NAPO also supports legislation that explicitly states that local law enforcement officers have legal authority to comply with immigration detainees.

## **EXTRADITION OF COP- KILLERS**

**Background:** Under the U.S. – Mexico Extradition Treaty, enacted in 1980, both countries may refuse to extradite their nationals, unless the country seeking extradition assures that the death penalty will not be imposed. In 2001, the Mexican Supreme Court ruled that this language encompasses the extradition of anyone who faces the possibility of the death penalty *or* life in prison. This ruling requires the United States to

assure a sentence of a fixed number of years in order to prosecute a criminal who has fled to Mexico, which is impossible as neither a judge nor a prosecutor can make such a judgment in advance of a trial. Since 2001, many violent felons have fled to Mexico to evade prosecution under the auspices of this ruling.

Mexico is not the only country that harbors violent felons who have fled the United States to avoid facing justice. Joanne Chesimard is the only woman on the FBI's most wanted terrorist list for her role in the cold-blooded killing of New Jersey State Trooper Werner Foerster in 1973. She fled to Cuba and is currently living free there. Her ability – and the ability of other felons like her – to live life freely after the horrendous acts she committed is an affront to the men and women who have dedicated their lives to protecting our communities as law enforcement officers – above all to the family and friends of police officers who have made the ultimate sacrifice.

### **Recent Legislative History:**

114<sup>th</sup> Congress (2015-2017)

- **H.R. 2189**, “Walter Patterson and Werner Foerster Justice and Extradition Act.” Sponsor: Rep. Christopher Smith (R-NJ).

**NAPO Position:** NAPO continues to lobby the Administration and Congress to reconsider the U.S. – Mexico Extradition Treaty and to encourage the Mexican government to work with the Mexican Supreme Court to reconsider its 2001 decision blocking extradition to the United States.

Additionally, NAPO is lobbying the Administration to prioritize the extradition of cop-killers and terrorists as a precondition to any further normalization of diplomatic relations between the United States and Cuba. This was a priority for NAPO under the Obama Administration, which opened the door to restoring relations with Cuba, and it continues to be our priority under the Trump Administration.

Federal action will ensure that this growing issue of the United States Government's inability to extradite violent criminals who flee to Mexico, Cuba or other criminal havens is rightly addressed. NAPO will continue to work to ensure that all criminals who flee the United States are promptly returned.

# **PUBLIC SAFETY OFFICERS' BENEFITS & HEALTHCARE**

## **PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM**

**Background:** The Public Safety Officers' Benefits (PSOB) Act 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. The families of public safety officers who have fallen or have become completely and permanently disabled in the line of duty rely on the benefits promised to them by the PSOB Act to continue on with their lives.

The PSOB Act not only provides death benefits to the eligible survivors of public safety officers, but also offers financial assistance for higher education for the spouses and children of federal, state, and local public safety officers through the Public Safety Officers' Educational Assistance (PSOEA) Act.

In addition, healthcare coverage as an included benefit is now becoming increasingly necessary, given the continuously escalating costs of healthcare. Healthcare coverage as an included benefit would remove a great financial burden from the loved ones of those who so selflessly gave their lives for the safety of our communities.

### **Recent Legislative History:**

#### 116<sup>th</sup> Congress (2019-2021)

- **H.R. 1210**, “Heroes Lesley Zerebny and Gilbert Vega First Responders Survivors Support Act.” Sponsor: Rep. Raul Ruiz (D-CA).

#### 115<sup>th</sup> Congress (2017-2019)

- **S. 419**, “PSOB Improvement Act of 2017.” Sponsor: Senator Charles Grassley (R-IA). **PASSED**.
- **H.R. 5060**, “Heroes Lesley Zerebny and Gilbert Vega First Responders Survivors Support Act.” Sponsor: Rep. Raul Ruiz (D-CA).

#### 114<sup>th</sup> Congress (2015-2017)

- **S. 322**, “Don’t Tax Our Fallen Public Safety Heroes Act.” Sponsor: Senator Kelly Ayotte (R-NH).
- **H.R. 606**, “Don’t Tax Our Fallen Public Safety Heroes Act.” Sponsor: Rep. Erik Paulsen (R-MN). **PASSED**.
- **H.R. 5123**, “Honoring Emergency Response Officers (HERO) Benefits Reform Act of 2016.” Sponsor: Rep. Bill Pascrell, Jr.
- **S. 2944**, “PSOB Improvement Act of 2016.” Sponsor: Senator Charles Grassley (R-IA).
- **H.R. 5743**, “PSOB Improvement Act of 2016.” Sponsor: Rep. Peter King (R-NY).

**NAPO Position:** NAPO will continue to actively work on improvements to the PSOB Program to ensure that survivors of law enforcement officers killed in the line of duty and officers catastrophically injured in the line of duty are provided every available resource and benefit.

NAPO also supports efforts to ensure that survivors of an officer whose death was the result of Post Traumatic Stress Disorder (PTSD), including suicide, receive PSOB death benefits.

## **“CADILLAC” HEALTH INSURANCE PLAN TAX**

**Background:** A “Cadillac” or “gold-plated” health insurance plan is a high cost policy. Beginning in 2022, the Patient Protection and Affordable Care Act, also known as “ObamaCare”, imposes a new 40% annual excise tax on taxpayers who are covered by high-cost health insurance plans, (with premiums at or above \$10,200 for an individual or \$27,500 for a family), including worker and employer contributions to flexible spending or healthcare savings accounts. (Higher thresholds are set for workers in high-risk professions, such as public safety officers (\$11,850 for an individual and \$30,950 for a family plan)).

As the excise tax is based on the cost of health care plans regardless of what it covers or why it costs so much, it will not only hit luxury health care plans, but also comprehensive plans and plans that cover predominantly public safety officers, older workers and women. According to the American Health Police Institute, the excise tax thresholds, which increase over time for inflation only as measured by the Consumer Price Index and not historically higher medical cost inflation, will impact “average plan[s]” by 2031. The higher thresholds for

individuals engaged in high-risk professions will not protect our plans from being affected.

Over the years, law enforcement officers through collective bargaining have often given up pay increases in order to secure better health care coverage. Under the excise tax, they risk being penalized for entering into those good faith agreements with their employing jurisdictions. NAPO is seriously concerned that public safety employees will be forced to pay the excise tax in the form of wage cuts, higher premiums, increased out-of-pocket costs, and lower benefits.

### **Recent Legislative History:**

#### **116<sup>th</sup> Congress (2019-2021)**

- **H.R. 748**, “Middle Class Health Benefits Tax Repeal Act of 2017.” Sponsor: Rep. Joe Courtney (D-CT).

#### **115<sup>th</sup> Congress (2017-2019)**

- **H.R. 173**, “Middle Class Health Benefits Tax Repeal Act of 2017.” Sponsor: Rep. Mike Kelly (R-PA).
- **S. 58**, “Middle Class Health Benefits Tax Repeal Act of 2017.” Sponsor: Senator Dean Heller (R-NV).

#### **114<sup>th</sup> Congress (2015-2017)**

- **H.R. 879**, “Ax the Tax on Middle Class Americans’ Health Plans Act.” Sponsor: Rep. Frank Guinta (R-NH) on February 11, 2015.
- **H.R. 2050**, “Middle Class Health Benefits Tax Repeal Act of 2017.” Sponsor: Rep. Joe Courtney (D-CT).
- **S. 2045**, “Middle Class Health Benefits Tax Repeal Act of 2017.” Sponsor: Senator Dean Heller (R-NV).

**NAPO Position:** NAPO continues to fight against the “Cadillac” health insurance plan tax, as the new tax will negatively impact public safety officers. We will expend all available efforts to pass the “Middle Class Health Benefits Tax Repeal Act,” which will completely repeal the “Cadillac” tax.

## **PERMANENT REAUTHORIZATION OF THE 9/11 VICTIMS COMPENSATION FUND**

**Background:** On September 11, 2018, our nation observed the 17<sup>th</sup> anniversary of the deadliest terrorist attack on our nation’s soil. As we remember those who died that day, we also must recognize those we

continue to lose as the lasting effects of 9/11 make themselves known. We have lost more federal, state and local law enforcement officers from 9/11-related illnesses over the past 17 years than we lost on September 11, 2001. 9/11 responders and survivors are still battling serious health crises resulting from exposure to the toxins at Ground Zero.

NAPO fought hard for the passage of the James Zadroga 9/11 Health and Compensation Act in 2010 and its reauthorization in 2015 to ensure our nation took care of the victims and first responders who are coping with 9/11-related chronic health conditions. James Zadroga, a New York City Police Department Detective and member of NAPO, died of respiratory disease caused by his exposure to toxic chemicals during rescue and recovery efforts at Ground Zero.

In 2015, Congress, recognizing the importance of these programs, reauthorized the World Trade Center Health Program until 2090 and reauthorized and fully-funded the 9/11 Victims Compensation Fund (VCF) at \$7.3 billion for 5 years. Unfortunately, this has proven to not be enough as the Special Master of the VCF indicated in a February 2019 report that given the significant increase in claims just from the last year alone, the Fund will not be able to fully compensate all claims.

The VCF saw a 36 percent increase in claims between September 2017 to September 2018, and a 94 percent increase in eligible “deceased claims” – claims by families of 9/11 survivors who have succumbed to their 9/11-related illnesses. Further, as of June 2018, 88,484 first responders and survivors have registered with the World Trade Center Health Program, of which approximately 10,000 have a 9/11-related cancer. In 2018 alone, the Health Program saw more than a 260% increase in participants. What these numbers mean is that claims to the VCF will continue to grow and the need to permanently reauthorize and fully fund the VCF is imperative.

### **Recent Legislative History:**

116<sup>th</sup> Congress (2019-2021)

- **H.R. 1327**, “Never Forget the Heroes: Permanent Reauthorization of the September 11<sup>th</sup> Victims Compensation Fund Act.” Sponsor: Rep. Carolyn Maloney (D-NY).
- **S. 546**, “Never Forget the Heroes: Permanent Reauthorization of the September 11<sup>th</sup> Victims Compensation Fund Act.” Sponsor: Senator Kirsten Gillibrand (D-NY).

## 115th Congress (2017-2019)

- **H.R. 7062**, “Never Forget the Heroes: Permanent Reauthorization of the September 11<sup>th</sup> Victims Compensation Fund Act.” Sponsor: Rep. Carolyn Maloney (D-NY).
- **S. 3591**, “Never Forget the Heroes: Permanent Reauthorization of the September 11<sup>th</sup> Victims Compensation Fund Act.” Sponsor: Senator Kirsten Gillibrand (D-NY).

**NAPO’s Position:** The September 11<sup>th</sup> Victims Compensation Fund honors those who made the ultimate sacrifice to protect our nation. It is our obligation and duty to remember these heroes and ensure that survivors who risked their lives to protect us continue to receive the compensation that they deserve. NAPO will be pushing for full and permanent reauthorization of this vital program.

## **FLSA SECTION 7(k) EXEMPTION**

**Background:** When Congress first intended to apply the Fair Labor Standards Act (FLSA) to state and local governments in 1974, it enacted a partial overtime exemption for public safety employees as 29 U.S.C. § 207(k). As written, the Section 7(k) exemption set an overtime threshold of 216 hours in a 28-day period. However, Section 7(k) also authorized the Secretary of Labor to conduct a study of the average number of hours worked by fire protection and law enforcement personnel, and to establish by rule different overtime thresholds depending on the result of that study.

Before the Secretary’s study was complete, the U.S. Supreme Court had held in *National League of Cities v. Usery*, 426 U.S. 833 (1976), that the FLSA could not constitutionally be applied to state and local governments. In response, the Secretary’s study reviewed the work hours of only Federal employees. When a court found the failure to include state and local firefighter and law enforcement hours in the study was erroneous, the Secretary redid the study, and published the final results at 48 F.R. 40518 (September 8, 1983). After the Supreme Court reversed *National League of Cities* in *Garcia v. San Antonio Metropolitan Transit Authority*, the Secretary issued the overtime standards as 29 C.F.R. § 553.230. Those standards set the maximum hours for law enforcement personnel at 171 hours in a 28-day work period, with lower maximum standards if work periods of less than 28 days are chosen; the firefighter maximum threshold is 212.

The Section 7(k) exemption thus means that public safety employees must work longer hours to be eligible for overtime under the FLSA than virtually all other overtime-eligible employees, and do not begin to receive overtime under the FLSA until they work the equivalent of a 43-hour week.

**NAPO Position:** Much has changed in the 35 years since the Secretary's work hours study was concluded. Today, the average work hours for law enforcement personnel are much less than 171 hours in a 28-day period. In most of the country, law enforcement officers work the equivalent of 40-hour weeks. In some parts of the country, the prevailing hours are even less than 40 hours a week owing to the particular shift schedules used by employers.

The thresholds in 29 C.F.R. § 553.230 are simply outdated and no longer accurate, and they have not been for many years. The Section 7(k) standards must be changed so that public safety officers are given the same access to overtime as every other overtime-eligible employee in our nation. This will result in a substantial change for the better in the work lives of officers across the country.

## **HEALTH BENEFIT ACCOUNTS**

**Background:** Use of **Flexible Spending Arrangements** (FSAs, voluntarily created accounts funded by pre-tax earnings, designed to cover qualified medical expenses) were severely limited by the Affordable Care Act.

Beginning in 2013, the amount an officer could contribute to a FSA was decreased from \$5,000 per year to \$2,500 per year. These accounts' end-of-year balances do not roll over from year to year, and the remaining funds are forfeited. This hurt many law enforcement officers who had been regularly contributing more than \$2,500 into these accounts.

The Responsible Additions and Increases to Sustain Employee Health Benefits Act would increase the allowable contribution level back to \$5,000, with an additional \$500 for each additional dependent above two dependents, and allow a carryforward into the next year for unused amounts in such plans.

Further, current law only allows **Health Savings Accounts** (HSAs, tax-advantaged medical savings accounts that can be used for out-of-pocket medical, dental, and vision costs) to be purchased for certain high-deductible health insurance plans, and contributions are restricted to levels that are often substantially lower than deductibles.

The Health Savings Act would ensure HSAs may be used more broadly, thereby increasing patient choice in how their healthcare dollars are spent. Additionally, it would allow parents to set up an HSA for their child, while allowing the contributor to claim an after-tax deduction. The bill would also raise the contribution limit to match the maximum out-of-pocket limit. Finally, the Health Savings Act would provide bankruptcy protections to HSAs in the same way retirement accounts are currently protected.

### **Recent Legislative History:**

#### 116<sup>th</sup> Congress (2019-2021)

- **H.R. 603**, “Health Savings Account Expansion Act of 2019.” Sponsor: Rep. Mike Gallagher (R-WI).

#### 115<sup>th</sup> Congress (2017-2019)

- **H.R. 35**, “Health Savings Act of 2017.” Sponsor: Rep. Michael Burgess (R-TX).
- **S. 403**, “Health Savings Act of 2017.” Sponsor: Senator Orrin Hatch (R-UT).
- **H.R. 1204**, “Responsible Additions and Increases to Sustain Employee Health Benefits Act of 2015.” Sponsor: Rep. Steve Stivers (R-OH).
- **S. 3242**, “Responsible Additions and Increases to Sustain Employee Health Benefits Act.” Sponsor: Senator Roy Blunt (R-MO).

#### 114<sup>th</sup> Congress (2015-2017)

- **H.R. 1185**, “Responsible Additions and Increases to Sustain Employee Health Benefits Act of 2015.” Sponsor: Rep. Steve Stivers (R-OH).
- **S. 3242**, “Responsible Additions and Increases to Sustain Employee Health Benefits Act.” Sponsor: Senator Kelly Ayotte (R-NH).
- **H.R. 1196**, “Health Savings Act of 2015.” Sponsor: Rep. Michael Burgess (R-TX).

**NAPO’s Position:** In today’s economic climate, it is important to maximize personal savings, especially in regard to an officer’s annual healthcare expense. Officers use FSAs to fund expenses that are unlikely

to decrease. Therefore, NAPO is committed to increasing the limit on what an officer may contribute.

NAPO is a strong supporter of the Health Savings Act, which would expand the use of HSAs, allowing more Americans to put aside money for themselves and their children to help mitigate the rising cost of deductibles and out-of-pocket healthcare expenses.

## **ADDITIONAL ISSUES OF INTEREST**

### **FEDERAL CONSENT DECREES**

**Background:** Consent decrees are used to remedy violations of rights and protect the party that faces injury. Consent decrees should not be used to further any policy extraneous to the protection of those rights or be expanded to apply to parties not involved in the litigation.

State and local governments have often found their interests and judgments in managing their own affairs vitiated by the federal courts' structuring of consent decrees. Under the previous Administration, consent decrees exemplified a top-down, Washington knows best, one-size-fits all, coercive approach to how state and local policing should be done, what officers should look like, and even what they should think and believe. Such agreements do not instill a sense of partnership between the Department of Justice and the law enforcement agencies they address, which affects the efficacy of the consent decrees. They also have deleterious effects on officer morale and public safety as rank-and-file officers feel attacked and unsupported by their governments and political officials.

Under the Trump Administration, the Department of Justice has moved away from this top-down approach and has operated under new principles and procedures for civil consent decrees with state and local governmental agencies. The new guidelines require that the Department provide state and local governmental entities an adequate opportunity to respond to any allegations of legal violations; require special caution before using a

consent decree to resolve disputes with state or local governmental entities; limit the circumstances in which a consent decree may be appropriate; and limit the terms for consent decrees with state and local governmental entities, including terms requiring the use of monitors.

**NAPO Position:** NAPO strongly supports the new Justice Department guidelines implemented under the Trump Administration in November 2018, which protect the interests of state and local governments in managing their own affairs and limit the duration of federal consent decrees to which state and local governments are party. The guidelines also ensure that consent decrees do not over-reach in forcing superfluous policies on police departments.

NAPO will work to ensure the Justice Department stays true to these principles and procedures and we are willing to take legislative action, if necessary, to control the scope and timeframe of federal consent decrees.

## **POSTAL POLICE OFFICERS' DUTIES & FIREARMS**

**Background:** There are over 600 Postal Police Officers (PPOs) that patrol in and around select Postal Service facilities in the United States, including Puerto Rico. These are the uniformed law enforcement officers of the U.S. Postal Inspection Service (USPIS), a federal law enforcement agency. Pursuant to Title 18 U.S.C. § 3061(C), the Postal Service, and thereby the USPIS, are authorized to employ police officers to enforce Federal law. Simply put, PPOs are police officers. They wear police uniforms, carry police badges, have arrest authority, operate police vehicles (both on and off postal property), and are trained at the federal law enforcement accredited (FLETC) police academy. These officers have not been appropriately and fully utilized by the United States Postal Service.

Additionally, PPOs are issued a service firearm and as a condition of employment must, semi-annually, demonstrate firearm proficiency. While on duty and in uniform, a PPO must always carry their weapon. However, based on antiquated Agency policy, PPOs are not permitted to retain their agency weapon when off-duty, nor are they permitted to carry a personally owned firearm onto postal property.

This means when commuting to and from work, a PPO is unarmed, despite having satisfied the definition of law enforcement officer in the Law

Enforcement Officers Safety Act (LEOSA 18 U.S.C. §926B). This is a dire situation involving Second Amendment rights, police officer safety, public safety, and basic common-sense. All federal Agencies - *with the exception of the Postal Inspection Service* - have done away with these archaic policies that restrict the carriage of personally owned firearms by law enforcement officers.

However, after a strong push from NAPO and our member organization, the Postal Police Officers Association, the U.S. Postal Service is conducting a pilot program with PPOs to allow the use of an agency authorized personally owned weapon as a duty weapon, thus allowing PPOs to carry off-duty. NAPO views this as a victory for officer safety and we will work to ensure the pilot program is quickly expanded into a permanent policy.

**NAPO Position:** NAPO will continue to work with the Postal Police Officers' Association and Congress to develop legislative strategies to ensure PPOs are properly utilized, compensated, and protected.

**For further information on any of these issues, please contact  
NAPO at (800) 322-NAPO or (703) 549-0775,  
or email NAPO at [info@napo.org](mailto:info@napo.org)**

# SAMPLE LETTER

(Date)

The Honorable \_\_\_\_\_  
United States Senate  
Washington, D.C. 20510

Dear Senator \_\_\_\_\_:

*OR*

The Honorable \_\_\_\_\_  
United States House of Representatives  
Washington, D.C. 20515

Dear Representative \_\_\_\_\_:

On behalf of the (*your association or union*), representing (# of officers) from (*your state or city*), I would like to bring to your attention an issue of extreme importance to the law enforcement community. As Congress considers the (*name of issue and/or bill number*), I respectfully ask that you (*support or oppose*) passage of this legislation.

(*In this paragraph, discuss reasons for supporting or opposing the legislation*).

I hope that you will (*support or oppose*) passage of (*name of issue and/or bill number*). Thank you for your consideration. I look forward to hearing your views on this matter and would be happy to provide any further information you may need.

Sincerely,

(*Your name and title or address*)

**Please send a copy of your Congressional correspondence and any responses you receive to the NAPO office to assist our legislative efforts.**

# KEY CONTACTS

**Capitol Switchboard: 202-224-3121**

**Department of Justice: 202-514-2000**

**Bureau of Justice Assistance: 202-616-6500**

**Public Safety Officer's Benefits (PSOB) Program: 1-888-744-6513**

**COPS Office: 1-800-421-6770**

**Department of Labor: 1-866-487-2365**

**Department of Homeland Security: 202-282-8000**

## Senate

### *Republicans*

**Majority Leader:** Senator Mitch McConnell (R-KY) 202-224-2541

**Majority Whip:** Senator John Thune (R-SD) 202-224-2321

### *Democrats*

**Minority Leader:** Senator Chuck Schumer (D-NY) 202-224-6542

**Minority Whip:** Senator Richard Durbin (D-IL) 202-224-2152

### **Senate Judiciary Committee 202-224-5225**

Chairman: Senator Lindsey Graham (R-SC)

Ranking Member: Senator Dianne Feinstein (D-CA)

### **Senate Homeland Security Committee 202-224-4751**

Chairman: Senator Ron Johnson (R-WI)

Ranking Member: Senator Gary Peters (D-MI)

### **Senate Appropriations Committee 202-224-7257**

Chairman: Senator Richard Shelby (R-MS)

Ranking Member: Senator Patrick Leahy (D-VT)

### **Senate Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies 202-224-5202**

Chairman: Senator Jerry Moran (R-KS)

Ranking Member: Senator Jeanne Shaheen (D-NH)

## **House of Representatives**

### ***Democrats***

**Speaker:** Congresswoman Nancy Pelosi (D-CA) 202-225-4965

**Majority Leader:** Congressman Steny Hoyer (D-MD) 202-225-4131

**Majority Whip:** Congressman Jim Clyburn (D-SC) 202-225-3315

### ***Republicans***

**Minority Leader:** Congressman Kevin McCarthy (R-CA) 202-225-2915

**Republican Whip:** Congressman Steve Scalise (R-LA) 202-225-3015

### **Co-Chairs of the House Law Enforcement Caucus**

Congressman Bill Pascrell, Jr. (D-NJ) 202-225-5751

Congressman John Rutherford (R-FL) 202-225-2501

### **House Committee on the Judiciary 202-225-3951**

Chairman: Congressman Jerrold Nadler (D-NY)

Ranking Member: Congressman Doug Collins (R-GA)

### **House Committee on Homeland Security 202-226-8417**

Chairman: Congressman Bennie Thompson (D-MS)

Ranking Member: Congressman Mike Rogers (R-AL)

### **House Appropriations Committee 202-225-2771**

Chairman: Congresswoman Nita Lowey (D-NY)

Ranking Member: Congresswoman Kay Granger (R-TX)

### **House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies (202) 225-3351**

Chairman: Congressman José Serrano (D-NY)

Ranking Member: Congressman Robert Aderholt (R-AL)

# **NOTES**