



# The Washington Report

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

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July 24, 2020

## **NAPO Victory! Congress Passes Coronavirus Presumption Under PSOB**

Congress passed S. 3607, the Safeguarding America's First Responders Act, which establishes a presumption under the Public Safety Officers' Benefits (PSOB) Program that an officer's death or disability due to contracting COVID-19 is in the line of duty. The bill is on its way to the President's desk to be signed into law. This is a big victory for NAPO. To date, 139 officers have died in the line of duty due to COVID-19 and now their families will get the benefits they rightly deserve.

To qualify for the presumption, the officer must have:

- Engaged in a line of duty action or activity between January 1, 2020 and December 31, 2021; and
- Received a diagnosis of COVID-19 (or evidence indicates that the officer had COVID-19) during the 45-day period beginning on the last day of duty of the officer. For death benefits, evidence must indicate that the officer had COVID-19 or complications from COVID-19 at the time of death.

NAPO worked closely with the bill's sponsor, Senator Charles Grassley (R-IA), and his staff on this legislation and we fought to ensure its passage through the House and Senate. We look forward to President Trump signing it into law.

## **Amendment Restricting Access to 1033 Program Defeated**

As part of its debate on the National Defense Authorization Act (NDAA) for Fiscal 2021, S. 4049, the Senate took up a pair of amendments regarding the Department of Defense's 1033 program. This program has been vital resource in allowing state and local law enforcement to acquire surplus military equipment used in search and rescue operations, disaster response, and active shooter situations that they otherwise would not be able to afford.

NAPO focused our efforts on opposing the amendment offered by Senator Brian Schatz (D-HI), which was defeated thanks to our efforts. We took the lead on defeating this proposal, lobbying Senate staff up until the very start of the vote. This amendment would have severely limited state and local law enforcement's access to this equipment, including protective and defensive equipment – equipment that has proven to be essential in protecting communities against violent criminals. Additionally, under the guise of oversight, the amendment would have placed such onerous requirements on agencies that wish to procure this surplus equipment as to make any agency hesitant to participate in the program.

NAPO attempted to work with staff and lobbyists supporting Senator Schatz's amendment to include language in it that would explicitly state that the transfer of personal protective equipment shall not be prohibited, but our request was refused.

The second amendment offered by Senator James Inhofe (R-OK), which was adopted, did not contain all the restrictions and notice requirements of the Schatz amendment. It would ban bayonets, weaponized drones, weaponized tracked combat vehicles, and grenades (other than stun or flash bang grenades) and require all agencies that receive equipment through the 1033 program provide annual training on the constitutional rights of U.S. citizens and de-escalation of force to its officers.

After years of fighting restrictions to state and local law enforcement's ability to obtain surplus military equipment, we won back access to this lifesaving gear with President Trump's Executive Order on August 28, 2017. That executive order repealed the Obama executive order that severely limited law enforcement's access to surplus military equipment. NAPO will continue to fight any efforts to place limitations again on this defensive, protective equipment.

The House passed its version of the NDAA on July 21 and it did not include any restrictions on the 1033 program. The House Defense Appropriations Act for Fiscal 2021 does include similar restrictions and requirements to the Schatz amendment, but it is unlikely to pass the Senate. We will continue to monitor any attempted changes to the 1033 program or our ability to acquire such equipment.

## **Blocking Deadly Fentanyl Imports Act Included in NDAA**

In a victory for NAPO, the Senate agreed to include the language of the Blocking Deadly Fentanyl Imports Act, S. 400, in its version of the NDAA. This language updates the Foreign Assistance Act (FAA) to include countries that are significant sources of illicit fentanyl and similar synthetic opioids on the annual "Majors List". Countries placed on the list for their role in the production and trafficking of fentanyl need to have three things in place in order to avoid losing access to U.S. aid: have and use emergency scheduling procedures similar to those of the U.S.; take significant steps to prosecute criminals for the manufacture or distribution of these drugs; and make a good faith effort to require the registration of pill presses.

The Blocking Deadly Fentanyl Imports Act will enhance law enforcement's efforts to stop the trafficking and importation of these drugs into the country. This is important as our nation is experiencing a significant drug crisis, which has only been exacerbated by the coronavirus pandemic. According to the National Institute on Drug Abuse, more than 70,200 Americans died from drug overdoses in 2017 alone and opioids were involved in over 47,600 of those deaths. Many of these deaths were from using fentanyl or its synthetic analogues.

We thank the bill's sponsor, Senator Patrick Toomey (R-PA), for his efforts to curb the import of these deadly drugs and we will work to ensure this provision is included in the final version of the NDAA.

## **NAPO Testifies Before President's Commission on Law Enforcement & the Administration of Justice**

NAPO testified before the President's Commission on Law Enforcement and the Administration of Justice on July 8 and on July 22, on the issues of Community Trust and Respect for Law Enforcement and the Rule of Law, respectively.

NAPO's President Mick McHale testified before the Commission on the issue of community trust and respect for law enforcement on July 8. McHale began by discussing NAPO's work with the COPS Office to release a public service announcement promoting "comply, then complain." He noted that in Florida, departments have had success engaging the community by utilizing the services of community leaders to educate their particular constituencies or congregations to do just this. Confrontations and obstruction go down, so long as the citizen believes that a complaint the next day will be treated seriously and evaluated fairly.

McHale emphasized the importance of police unions playing an active part in these liaisons as they represent the police officers who interact with these communities on a daily basis. It is the relationship between the community and the officers serving them that matters most. He also touched on the need to incorporate safe environments for violent criminals to turn themselves in to police. This promotes officer and community safety and is a proven way to de-escalate potentially violent situations.

Further, as there has been a growing call from community leaders across the nation for police departments to hire more officers that reflect the makeup of the communities they serve, McHale noted that the requirement that candidates have a four-year college degree can be a hindrance to achieving that goal. He suggested that departments be more flexible in their education requirements by creating programs that allow individuals to become officers while working towards meeting the requirement. Departments can also use work experience to augment years in school to help potential candidates meet educational requirements. If departments want to look more like the communities they serve, they must provide opportunities for members of the community to become officers. This will improve community relations and lead to increased respect for officers on the street.

Lieutenant Mark Young, President of the Detroit Police Lieutenants and Sergeants Association (DPLSA) and the Vice President for Associate Members for NAPO, testified on respect for the rule of law on July 22. Young began his testimony by addressing the unique situation we find ourselves in with the coronavirus pandemic and the new challenges to the rule of law that it has brought. Activist judges and prosecutors, defense attorneys and advocates have managed to begin clearing out our nation's prison and jail populations under the guise of compassionate release.

The mass release of inmates – whether in response to a public health emergency or under the guise of criminal justice reform – has not been coupled with the safeguards, support and resources to state and local services that would be necessary for communities to handle the influx of newly released prisoners. While prison reforms have led to lower prison populations and some budget savings, it has resulted in increased stresses on local and county budgets and resources, not to mention the economic cost to victims of property and other crimes. Violent crimes, particularly gun-related crimes, have significantly increased in major cities across the country.

Tack on to that lax prosecution by activist prosecutors and police officers have now found themselves in a situation where they been tasked to reduce crime only to feel like they have been thrust into a Roadrunner and Wile E. Coyote cartoon. Further, in this current environment, where criminals are getting multiple bites at the apple to offend, law enforcement are at additional risk of having to recapture the offender at a time when every use of force action is being scrutinized and misinterpreted.

Young focused on the experiences of the Detroit Police Officers he represents and called for renewed restrictions on inmate release policies, particularly as they relate to the pandemic, and for increase oversight for federally-funded pre-trial services. As federal dollars are going towards bailing out criminals, we must ensure that the accused face justice and our communities are protected.

Young also stated that the lack of prosecution of suspects who have threatened officers with harm is too often ignored while prosecutors are otherwise eager to make their mark by rushing to impose criminal charges against officers confronted with the difficult choice to use deadly force. He pressed for more accountability for prosecutors and called for increased penalties for the assault and murder of a law enforcement officer.

Both Young and McHale testified on the need to enact a national standard for protecting officer due process and guidelines for openly processing citizen complaints. Respect for law enforcement must include respect for officers' due process rights during both workplace and critical incident investigations.

The July 22 hearing was the last hearing of the Commission as it looks to wrap up its work and report its findings to the Attorney General. The Attorney General must submit a report with recommendations to the President by October 27. NAPO appreciates the opportunity to share our insights and recommendations with the Commission. We look forward to continue our work with the Commission to promote and protect our nation's law enforcement officers.

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

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

## **NAPO Submits Statement for Hearing on COVID-19 and Its Impact on Social Security Benefits**

On July 17, the House Ways and Means Subcommittee on Social Security held a hearing on the "Impact of COVID-19 on Social Security and Its Beneficiaries". NAPO submitted a [statement for the record](#) requesting that the Subcommittee consider the Social Security Fairness Act (H.R. 141), which would repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP), as a significant way to limit the financial impact of COVID-19 on Social Security beneficiaries.

With the continued spread of COVID-19, seniors and retirees are the most vulnerable population, both in regard to their health and retirement. The swift downturn of the stock market and the economy has no doubt impacted their retirement security and they need as much financial support as possible. This support can come swiftly in the form of increased Social Security benefits from a repeal of the GPO and the WEP.

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

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

GPO and WEP were meant as a "leveling" response but only serve to hurt public safety officers. In this economic environment we have found ourselves in, the total repeal of both the GPO and WEP would have

an immediate impact on preserving the retirement security of those who selflessly chose to serve our communities and would help stabilize the economy.

NAPO continues to push for the repeal of the GPO and WEP as a way to safeguard the retirement security of millions of retired public servants across the country who are struggling financially due to the coronavirus pandemic.

## **NAPO Supports Bill Making PTSD a Line of Duty Injury under PSOB**

NAPO pledged our support for the Public Safety Officer Support Act of 2020 (H.R. 7568), which would make post-traumatic stress disorder (PTSD) a line of duty injury under the Public Safety Officers' Benefits (PSOB) Program and ensure that officers who suffer from PTSD and those who take or attempt to take their own life as a result of that diagnosis will be covered under the program. NAPO worked closely with the bill's sponsor, Representative David Trone (D-MD), on this legislation.

According to [Blue H.E.L.P.](#), 228 current or active duty officers died by suicide in 2019, well over the 128 officers that were killed in the line of duty last year. In 2018, there were 172 officer suicides. 98 officers have taken their own lives so far this year. These are just the numbers that are reported and tracked. Additionally, according to the National Study of Police Suicides, officers are 2.5 times more likely to die from suicides than from homicides, a sobering statistic.

State and local law enforcement officers are our nation's first responders. They respond to our country's greatest tragedies as well as violent and abhorrent crimes that unfortunately occur with some frequency in our neighborhoods. 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. These stresses and strains of the job have a direct impact on an officers' mental wellbeing, and agencies are only now working to ensure officers have access to the resources they need to address their emotional and mental health.

As we, as a country, have so far largely failed to provide officers with the mental health services necessary to protect their mental wellbeing, it is only right that we make certain their families are taken care of after such a tragic loss. NAPO looks forward to working with Rep. Trone to pass this important bill.

## **Congress Looks to Start Negotiations on Next Coronavirus Aid Package**

The White House, Republican and Democratic Congressional leadership are working towards beginning discussions around the next coronavirus aid package, which the White House hopes to have wrapped by the time Congress adjourns for a month-long recess on August 7.

The Democrats passed the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, H.R. 6800, which provided extensive aid in response to the COVID-19 pandemic, over 2 months ago. While the need for aid increases, particularly for state and local governments who are facing serious budget holes and revenue shortages, the Senate took no action on the HEROES Act and the White House and Republicans are expected to release their proposal – CARES 2 – next week.

In regards to NAPO's priorities, the current draft of their proposal would not provide any new funding to state and local governments, but it would provide some flexibility for the use of existing state aid, allowing it to be used to make up for revenue shortfalls and extending the date for using that aid. It would prohibit the use of those funds for pension and retirement benefits and states must maintain their own budgeted spending levels. The funding cannot be used to supplant state spending or to replenish rainy day funds. NAPO believes this will be a major point of negotiations between Republicans and Democrats, who are calling for robust aid to state and local government.

The Republican proposal would include \$105 billion for education and schools, which could provide some relief to state and local government budgets, but not enough to prevent budget cuts, wage freezes, and furloughs of essential personnel.

CARES 2 will be the starting point for discussions for the next coronavirus aid package. Given that negotiations have yet to begin and both parties are very far apart, it is difficult to see a compromise bill being voted on in the next two weeks. It is expected that Congress will push back its August recess and remain in session until an agreement is reached.

NAPO continues to press Congressional leaders to support additional, flexible economic assistance to state and local governments in this next aid package. We are also pushing for funding to help law enforcement agencies pay for COVID-19 related overtime, hazard pay and additional sick leave. Direct aid to state and local governments would go a long way to covering these costs and preventing pending furloughs and layoffs of officers and agency employees.

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