



NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS
317 South Patrick Street ~ Alexandria, VA ~ 22314
info@napo.org ~ www.napo.org
(800) 322 - NAPO

**U.S. HOUSE OF REPRESENTATIVES - EDUCATION AND LABOR COMMITTEE
SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR AND PENSIONS**

**Statement of
Thomas J. Nee, President
National Association of Police Organizations
317 South Patrick Street, Alexandria, Virginia 22314**

***H.R. 413, the Public Safety Employer-Employee Cooperation Act of 2009
March 10, 2010***

Chairman Andrews, Ranking Member Price, and members of the Subcommittee, my name is Tom Nee and I am a Patrolman with the Boston Police Department. I also serve as the president of the Boston Police Patrolmen's Association, as well as the National Association of Police Organizations (NAPO). I am submitting this statement today on behalf of NAPO, representing over 241,000 rank-and-file state and local law enforcement officers throughout the United States. NAPO is a coalition of police unions and associations from across the nation, which was organized for the purpose of advancing the interests of America's law enforcement officers through legislative advocacy, political action and education.

I would like to express my gratitude to Chairman Andrews for holding a hearing on this very important issue. I would also like to extend my sincere thanks to Representative Dale Kildee, who not only authored the Public Safety Employer-Employee Cooperation Act, but has been its untiring champion for the past fifteen years.

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 law enforcement, corrections, and fire, are denied the basic rights of collective bargaining. 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.

While many public safety agencies have benefited from a productive partnership between employers and employees, other agencies have not. Approximately twenty states do not fully protect the bargaining rights of public safety employees, and two states – Virginia and North Carolina – completely prohibit public safety employees from collectively bargaining.

Collective bargaining has proven to be the most effective and democratic means by which labor and management, in both the private and public sectors, have achieved cooperation and advancement, improved employment conditions, developed fair and reasonable disciplinary procedures, and increased productivity. History proves that the denial of the right of officers to collectively bargain and the absence of dispute-resolution mechanisms cause poor employee morale, inadequate working conditions, and less effective law enforcement.

The ability of first responders to talk about their jobs with their employers protects the public safety. Collective bargaining has produced measurable staffing, training, equipment, health and safety improvements throughout the nation's police departments resulting in safer police officers and improved local emergency response capabilities.

The Public Safety Employer-Employee Cooperation Act is a bipartisan bill that will guarantee the basic right of law enforcement officers, firefighters and emergency medical service workers in all fifty states to bargain collectively. If enacted into law, this legislation will give public safety officers the right to form and join a union or association of their choosing, but only if they choose to do so. It will allow public safety officers to negotiate working conditions and to seek better salaries, benefits, training and equipment. Most importantly, it will allow public safety officers to have a say in their own workplace, without fear of retaliation, by forcing management to take seriously the bona fide concerns and suggestions for improvement that rightfully come from the men and women who are actually out there doing the work.

It is important to note that while the Public Safety Employer-Employee Cooperation Act provides for fact finding and mediation to resolve disputes, it does not call for mandatory arbitration. This Act also recognizes that public safety is the number one priority for all rank-and-file employees and management, and thus prohibits strikes and lockouts by public safety officers and agencies they serve. States that offer equal or greater collective bargaining rights will be exempt from this federal statute. The legislation will not overturn current state right-to-work or collective bargaining laws – it will only provide basic collective bargaining rights to those who currently do not have them.

Furthermore, this bill specifically gives state and local legislatures the ability to approve or disapprove funding for collective bargaining contracts. State and local representatives will have the final say on matters of spending.

The goal of the Public Safety Employer-Employee Cooperation Act is to create 50 unique state laws, each written and administered by state officials. Ultimately, the federal government should have no role in the bargaining relationship between public safety agencies and employees.

Moreover, the limited federal role in the bill is more than justified by recent changes to the federal-state relationship on public safety issues. In the post-9/11 world, the federal government has come to rely on local public safety agencies to achieve federal objectives. Protecting the homeland from natural and man-made disasters is a responsibility jointly shared by federal, state and local officials, and the Public Safety Employer-Employee Cooperation Act builds upon this intergovernmental approach.

In addition to unsound arguments that this Act would mean unprecedented federal intrusion into state and local decision making, some have raised concerns that granting public safety officers collective bargaining rights would “upset our nation’s carefully developed emergency-response functions”. NAPO finds these objections offensive to the public safety community. One only need to look at the performance and devotion to duty of the union members of the New York City Police and Fire Departments and the Port Authority Police Department on September 11, 2001, to realize that those fears are unfounded. The men and women who become law enforcement officers, fire fighters and emergency medical personnel do so because they have a strong sense of civic duty and they take their duty to serve and protect very seriously. As public safety officers working on the front lines to enforce the law and protect our communities, they have a right, a need, really, to have the trust and support of their federal government.

Detractors to the Public Safety Employer-Employee Cooperation Act who use national security as an excuse not to give this basic American right to public safety officers seem to be ignoring the facts surrounding the response to the September 11, 2001, terrorist attacks on the World Trade Center. Every New York City police officer who charged into the World Trade Center that day was a union member of the New York City Police Benevolent Association. Every Port Authority officer who risked and ultimately gave his life in the line of duty was a union member of the Port Authority Police Benevolent Association. All of these officers were members of NAPO. Additionally, every New York City fire fighter who responded to the World Trade Center and stood their ground to the death was a union member. Not one of them stopped to consider whether this risk was written in their contract before sacrificing their lives to save the lives of others. Those heroes, whom this nation rightly continues to honor, did not hesitate to do their duty because they knew that, God forbid, if they should die, their wives, husbands and children would be taken care of by their union.

The story of Port Authority Police Officer (and NAPO Director) Paul Nunziato best exemplifies how important collective bargaining rights are to the protection of the health and welfare of public safety officers and their families.

On September 11, 2001 the World Trade Center, the headquarters of the Port Authority of New York and New Jersey and the worldwide symbol of New York and America was attacked. Only 10 Port Authority police officers were working at the World Trade Center police command at the time of the terrorist attacks. Within minutes of the attacks, Port Authority police officers mobilized from all thirteen police commands to respond to the attacks. Officer Nunziato responded from home and was mobilized from his command, PATH, a subway system running between New York and New Jersey. Of the 23 members of his roll call at the PATH police command that day, only 10 came home. The Port Authority Police Department suffered the worst single day loss of life of any law enforcement agency in the history of the United States. Despite the tremendous risks, no Port Authority police officer refused an order to respond to the World Trade Center or to enter the towers on September 11th.

Unfortunately, Officer Nunziato has direct knowledge that the Port Authority’s collective bargaining agreement provides security to its members and their families. Officer Nunziato’s partner, Donald McIntyre, was one of 37 members of his police department who lost their lives in the World Trade Center evacuation effort. Officer McIntyre was married with two young

children; his wife, Jeannine, was pregnant with their third child. Nothing could make up for the loss of Officer McIntyre to his family and that void will never be filled. However, it is comforting to know that Jeannine does not have to worry about paying bills or providing healthcare for her children due in large part to the benefits the Port Authority Police Benevolent Association (PBA) has negotiated for its membership.

The vast majority of the then 1,000 police officers in Officer Nunziato's agency worked steady 8 hour tours on a four day on two day off schedule. The officers had up to six weeks of vacation and additional personal leave time. By the end of the day on September 11th, the Port Authority Police Department switched everyone in the Department to twelve hour tours, seven days a week. Vacations and personal leave time were cancelled. The Port Authority PBA did not file any grievances regarding these changes. Everyone recognized that this was a crisis and that emergency measures needed to be resorted to. The officers' schedule did not return to normal for nearly three years. The bottom line is that, even in states with long and strong histories of collective negotiation rights for public safety personnel, management retains discretion to respond to emergencies and potential security risks without negotiation with employees.

As the health risks associated with exposure to the World Trade Center site following 9/11 become more manifest, officers like Paul Nunziato are protected by their union's efforts to ensure that workers in the rescue and recovery effort are properly monitored and treated for exposure related diseases. Employers cannot be permitted to act unchecked because they do not place workers' interests first. For example, the City of New York repeatedly has denied that any of its police officers, firefighters, EMS personnel or other city workers were sickened by exposure to the World Trade Center site. Officer Nunziato's own agency has resisted classifying legitimate exposure diseases as injuries in the line of duty. Officer Nunziato was exposed that day and continued to be exposed for more than a thousand hours in the months afterward as part of the Ground Zero recovery effort. If it was not for his union, Officer Nunziato and his family would be dealing with his health and medical issues on their own, with no support.

As illustrated by Officer Nunziato's story, unionized officers will do their duty, without as much as a second thought, to protect our nation's security. It is an insult to those who gave their lives to think that their union contracts would have gotten in the way of their doing their jobs.

The public safety is best protected through effective partnerships between first responders on the front lines and the agencies that employ them. The tragic events of 9/11, Hurricane Katrina, and the many recent natural disasters have taught us that the network of federal and local emergency response that our federal government counts on to assist in any disaster must be able to function effectively and efficiently when called upon. To make that happen, we must first ensure that front-line responders are able to discuss with their employer how to best provide emergency services – and this legislation provides the guidelines for those discussions.

For the past 15 years, NAPO, joined by our brothers and sisters in the fire service represented by the International Association of Fire Fighters (IAFF), has led the fight to extend basic collective bargaining rights to all public safety officers. Granting all public safety officers the right to collectively bargain will be long overdue recognition for those who risk their own health and safety to protect the public. These officers deserve this basic American right. Through collective

bargaining, employees find job security and more confidence in their jobs. Unions and associations not only provide a mechanism through which employees can collectively bargain, but they provide the assurance that the employees and their families have someone looking out for their interests and well-being.

NAPO was proud to work with members of the Committee last Congress to pass the Public Safety Employer-Employee Cooperation Act in the House of Representatives with overwhelming bipartisan support. We stand with you again to call on Congress to step up to the plate and act in a comprehensive fashion to mandate collective bargaining in states which do not have it. This legislation would allow law enforcement officers to negotiate on working conditions and to seek better salaries, benefits, and training, to protect their families and the public, and to retain an incentive to go into and then stay in the law enforcement profession.

Thank you for your time and consideration of this important issue and for your continued support of the law enforcement community.

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