



The Washington Report

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

January 13, 2023

Last Chance! Nominate an Officer Today for NAPO's 30th Annual TOP COP Awards

Final call to join us in honoring America's Finest by nominating an officer(s) today for outstanding police work in 2022. For consideration, get your nominations to us by Monday, January 16. If you have any questions, please do not hesitate to contact NAPO's Director of Events, Elizabeth Loranger, at eloranger@napo.org or (703) 549-0775.

This year marks the 30th year that NAPO has hosted the TOP COPS Awards[®]. The TOP COPS Awards[®] Dinner will take place on May 12th at the Omni Shoreham Hotel in Washington, D.C., coinciding with National Police Week.

NAPO Priorities: 117th Congress Review

The 117th Congress (2021-2022) was very successful for NAPO in moving our legislative and policy priorities. As the 118th begins, we will take a moment to reflect on and highlight the wins and achievements accomplished over the past two years.

NAPO Priority Legislation Signed into Law

Public Safety Officer Support Act. It makes post-traumatic stress disorder (PTSD) a line of duty injury under the Public Safety Officers' Benefits (PSOB) Program and ensures that officers who suffer from PTSD and those who take or attempt to take their own life as a result of on-duty trauma will be eligible under the program. The Act also covers officers who die by trauma-linked suicide by directing the PSOB Program to presume that suicides are a result of job duties in certain circumstances, such as a mass casualty event, where there is evidence that PTSD would be caused by the trauma.

Protecting America's First Responders Act. It makes it easier for public safety officers disabled in the line of duty to qualify for the federal Public Safety Officer's Benefits (PSOB) Program's disability benefits, ensures that beneficiaries receive the highest award amount possible, and makes certain that all children of public safety officers disabled or killed in the line of duty are able to benefit from the Public Safety Officers' Education Assistance Program. It also includes a two year extension of the COVID presumption for PSOB eligibility for public safety officers who had COVID-19 at the time of death or who are disabled due to COVID-19.

Putting First Responders First Act. It codifies existing IRS regulations making public safety service-connected disability compensation exempt from Federal income taxes starting with the taxable years after December 31, 2026.

Police and Fire Healthcare Protection Act. It improves the HELPS Retirees provision of the Pension Protection Act to help ensure all public pension plans are able to implement it to the benefit of their public safety retirees by removing the direct payment requirement. A public pension plan can now send the \$3,000 tax free money allowed under the HELPS provision from a retiree's pension fund directly to the retiree to help pay for health and long-term care insurance premiums.

Protecting Public Safety Employees' Timely Retirement Act. It modifies the eligible age for the exemption from the 10 percent retirement plan early withdrawal penalty for public safety officers. It establishes the age eligibility at age 50 or 25 years of service under the plan, whichever is earlier.

COPS Counseling Act. It implements confidentiality standards for federal law enforcement peer support counseling programs and directs the U.S. Attorney General to report on best practices and professional standards for state and local peer support counseling programs.

Traumatic Brain Injury and PTSD Law Enforcement Training Act. It provides for much-needed additional training opportunities for law enforcement to improve officer response to persons affected by traumatic brain injury (TBI) and post-traumatic stress disorder (PTSD). It also reauthorizes the Justice and Mental Health Collaboration Program (JMHCP) for five years at \$54 million per year and requires the Centers for Disease Control and Prevention (CDC) to do a study on the prevalence TBI and PTSD in the law enforcement profession.

Justice and Mental Health Collaboration Reauthorization Act. It makes important improvements to the Justice and Mental Health Collaboration Program (JMHCP), including strengthening support for mental health courts and crisis intervention teams; strengthening support for co-responder teams; supporting the integration of 988 into the existing public safety system; amending allowable uses to include suicide prevention in jails and information sharing between mental health systems and jails/prisons; and clarifying that crisis intervention teams can be placed in 911 call centers.

Law Enforcement De-Escalation Training Act. It provides a dedicated stream of funding to local and state law enforcement agencies to train their officers—as well as mental health professionals working with those officers—in de-escalation tactics, alternatives to use of force, safely responding to mental or behavioral health crises, successfully participating on a crisis intervention team, and making referrals to community-based mental and behavioral health services and support and other social programs.

Providing Resources, Officers, and Technology to Eradicate Cyber Threats to (PROTECT) Our Children Act. It reauthorizes for two years the Internet Crimes Against Children Task Force Program, which is a national network of 61 coordinated task forces representing over 3,500 federal, state, and local law enforcement and prosecutorial agencies that are continually engaged in proactive and reactive investigations and prosecutions of persons involved in child abuse and exploitation involving the internet.

Better Cybercrime Metrics Act. It establishes standardized metrics for tracking cybercrime that would help law enforcement, policy makers, and criminologists better understand the scope and size of cybercrime in the United States. It also mandates the FBI integrate the new cybercrime metrics into its current reporting systems and databases, making it easier for state and local law enforcement to collect and report on data on cybercrime incidents in their jurisdictions.

Jaime Zapata and Victor Avila Federal Officers and Employees Protection Act. It ensures justice is served by applying federal extra territorial jurisdiction to federal murder or attempted murder cases of federal law enforcement officers. It is a simple fix to a hole in federal law that ensures that federal law enforcement officers serving abroad receive the same protections as those serving at home.

Help Find the Missing Act. It closes loopholes in America's missing persons systems – the National Missing Persons and Unidentified Persons System (NamUs), the FBI's National Crime Information Center (NCIC), and the National DNA Index System (NDIS) – by facilitating data sharing between the systems, streamlining the missing persons reporting process and ensuring that law enforcement databases are more accessible and comprehensive.

NAPO Priority Legislation Passed by the House or the Senate

Invest to Protect Act. The Senate version of this bill was passed by unanimous consent on August 1, 2022. The House version of this bill passed by a vote of 360-64 on September 22, 2022. The House and Senate could not agree to a compromise version of the bill before the end of the 117th Congress. It would create a broad grant program through the Department of Justice (DOJ) specifically for small state, local or tribal law enforcement agencies that will give them resources to train their officers, provide mental health resources for their officers, and retain and hire officers. A small agency is defined as one that employs 125 sworn law enforcement officers or less.

Fighting PTSD Act. This bill was passed by the Senate by unanimous consent on August 1, 2022. It would require the Attorney General to propose a program for making treatment for post-traumatic stress disorder and acute stress disorder available to public safety officers.

VICTIM Act. This bill was passed by the House by a vote of 250-178 on September 22, 2022. It would establish a grant program at the Department of Justice (DOJ) to help state, tribal, and local law enforcement agencies improve their clearance rates for homicides and non-fatal shootings. The grant funding can be used to hire additional detectives, officers, and personnel to support efforts to improve clearance rates as well as train detectives and police personnel to investigate, solve, and respond to homicides and non-fatal shootings.

Strong Communities Act. This bill was passed by the Senate by unanimous consent on August 1, 2022. It would allow for COPS Hiring Program funds to be used to pay for local law enforcement recruits to attend schools or academies if the recruits agree to serve in the communities in which they live.

Residential Substance Use Disorder Treatment Act. This bill was passed by the Senate by unanimous consent on July 30, 2021. It would reauthorize the Residential Substance Use Disorder Treatment program for the next five years at \$40 million annually. This program provides funding, training and technical assistance for states and local governments to develop and implement critical substance use disorder treatment programs in state, local, and tribal correctional and detention facilities and to create and maintain community reintegration services for individuals upon release to the community.

NAPO is already working on getting these important bills reintroduced in the new 118th Congress and it is our priority to see them all signed into law this Congress.

Additional NAPO Victories

Securing funding for the 9/11 World Trade Center Health Program (WTCHP). An additional \$1 billion in funding for the WTCHP was included in the Fiscal 2023 Consolidated Appropriations Act. While this is short of the \$3 billion we have been calling for, this money will allow the program to avert any cuts to services

until at least FY 2027 and give us more time to achieve an agreement on long-term funding that will make the WTCHP whole.

Supreme Court Sides with NAPO in *Vega v. Tekoh*. The United States Supreme Court issued its [decision in the case of *Vega v. Tekoh*](#) on June 23, 2022, and agreed with NAPO that a Miranda violation does not provide a basis for a 1983 claim. NAPO filed an [amicus curiae brief](#) on March 7, 2022, in the U.S. Supreme Court arguing that a Miranda violation does not equate to a federal civil rights violation.

The issue in this case was whether individual officers can be held personally liable in a federal civil rights action for Miranda warning violations. In current practice, the remedy for a violation of Miranda warnings is that the statement obtained in violation of Miranda cannot generally be used against the defendant in a criminal trial. In this case, the U.S. Court of Appeals for the Ninth Circuit (one step below the Supreme Court) held that individual officers can be held personally liable for a federal civil rights violation where they violated the Miranda warning requirements.

NAPO argues in the brief that this holding by the Ninth Circuit is clearly erroneous and would only lead to further damage to law enforcement efforts at a time when violent crime is spiking, and morale is low. Also, technically, Miranda is only violated when the statement is actually introduced at trial, and this action is in the hands of prosecutors, lawyers, and judges, not the officer who may or may not have properly Mirandized the suspect months or even years earlier.

Federal COVID Presumption Still in Place

The federal COVID presumption for eligibility for the Public Safety Officer's Benefits (PSOB) Program for public safety officers who had COVID-19 at the time of death or who are disabled due to COVID-19 is still in effect. **The presumption will last through December 31, 2023, or until the end of the COVID-19 pandemic, whichever occurs later.** Even if your state or locality is no longer recognizing COVID-related deaths or disabilities as line of duty, the PSOB Office will accept the claim as long as it meets the following criteria for qualifying for the presumption:

- 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.

With officers continuing to die from COVID or suffering from long-term COVID complications due to contracting the disease in the line of duty, we must ensure that they and their families apply for and get the PSOB death or disability benefits.

Mental Health Parity Opt-Out Repealed for Non-Federal Governmental Health Plans

The Fiscal Year 2023 Consolidated Appropriations Act that was passed by Congress at the end of last year included several NAPO priorities, from additional funding for the 9/11 World Trade Center Health Program to provisions protecting public safety retirement security. It also included a provision that ends the ability of

health plans offered by nonfederal governmental entities, such as states and localities, to completely opt out of the federal mental health and addiction parity requirements. The parity requirements dictate that health plans cover mental health and substance use disorder treatments in a manner not less restrictive or more costly to enrollees than for physical health treatment.

According to the Centers for Medicare and Medicaid Services (CMS), [approximately 200 state and local governmental plans](#) have opted out of these mental health and addiction parity protections. While the great majority of state and local governmental plans do provide equal coverage for these treatments, the public safety officers and public servants covered by those almost 200 plans have been struggling with limited access to and high financial burdens for receiving necessary mental health and substance use disorder care.

With the passage of the FY 2023 Consolidated Appropriations Act, all nonfederal governmental health plans will have to cover mental health and substance use disorder treatments in the same way they cover physical health services and treatments. NAPO will work with our partners in the public sector health care and mental health communities to understand the process and timeframe for health care plans to come into compliance with the mental health parity law.

NAPO's Legislative Scorecard for the 117th Congress Available

Find out how your representatives and senators voted on NAPO's priority legislation by reviewing NAPO's Legislative Scorecard for the 117th Congress, which is available on our [website](#) under Washington Report. The results include all [recorded votes](#) that impacted NAPO's members during the 117th Congress (2021-2022). The Legislative Scorecard includes a description of the votes analyzed and NAPO's stance on each of the votes as well as spreadsheets detailing how Members of Congress voted on each of our priority bills.

While there were recorded votes on NAPO's priority legislation in the House, there was only one Senate roll call vote on our priorities in the 117th Congress. NAPO had numerous legislative victories in the Senate that were passed by unanimous consent, which does not record how each individual senator voted for the legislation. The purpose of the Scorecard is to only track yea/nay votes in order that we can attribute support or opposition to senators on NAPO's priority legislation and analyze their support for our positions in a meaningful way.

To get a fuller picture of individual representative's and senator's support for our issues, particularly for the Senate where we only have one vote to score for the entire 117th, please see our [Sponsor/Cosponsor spreadsheet](#). This is a useful tool to check if your Members of Congress support pieces of legislation that have been introduced that will impact our members.

If you have any questions about the Legislative Scorecard or any of the legislation that NAPO is currently working on, please contact Andy Edmiston at aedmiston@napo.org.

NAPO Supports Prosecutors Need to Prosecute Act

NAPO pledged our support for H.R. 27, the Prosecutors Need to Prosecute Act, sponsored by Congresswoman Nicole Malliotakis (R-NY).

Cities and communities across the country are experiencing the consequences of lax prosecution by district attorneys and state and local prosecutors. According to the Major Cities Chiefs Association, major cities have experienced a 50 percent increase in homicides and an approximately 36 percent rise in aggravated assaults

compared to 2019. Our nation's state and local law enforcement officers risk their lives to apprehend violent suspects and defendants to protect the public, only to see those criminals released due to the decisions of certain prosecutors who do not respect the rule of law. Frequently, the suspects are habitual criminals who return to society only to again reoffend.

This legislation would require any district attorneys' and prosecutors' offices that receive federal funding through the Byrne Justice Assistance Grant (Byrne JAG) program to report annually the number of cases they decline to prosecute, the number of crimes that are committed by repeat offenders, and the number of criminals released. The collection of this data would make prosecutorial decision making more transparent and accountable, ensuring the safety of our communities and our officers.

NAPO thanks Congresswoman Malliotakis for her continued support of the law enforcement community and we look forward to working with her to pass this important legislation.

NAPO-Backed Bill to Counter State Bail Reform Reintroduced

NAPO pledged our support once again for H.R. 304, the Stop Enabling Repeat Violence and Endangering (SERVE) Our Communities Act, sponsored by Representative Elise Stefanik (R-NY), which incentivizes states to allow judges to consider "dangerousness" when determining whether to release a repeat offender before trial. Rep. Stefanik reintroduced this legislation to help counter the adverse consequences communities across New York are experiencing under the State bail reform law that was enacted last year.

States, such as New York, and localities are increasingly embracing bail reform, and these efforts are supported by millions of dollars in federal grant monies to help states and municipalities enact pre-trial release programs. These programs, which allow accused criminals to await their trial at home, rather than in jail, often serve repeat, dangerous criminals, with little oversight, putting public safety at risk. Increased judicial discretion in considering whether the individual poses a danger to the community when determining bail or pre-trial release services would combat crime and ensure our justice system does not act as a revolving door for violent offenders.

Specifically, the SERVE Our Communities Act would authorize \$10 million for the administration of anti-recidivism grants through the Department of Justice. To be eligible for funding, a state or locality must have:

- A law on the books that allows a state court or magistrate to consider the danger an individual poses to the community when determining bail or pretrial release conditions;
- Taken steps in the previous calendar year to hire and retain law enforcement or prosecutorial staff; or
- Administered a public awareness campaign in the previous calendar year to combat anti-police sentiment and improve community-police relations.

NAPO thanks Representative Stefanik for her continued support of the law enforcement community and we look forward to working with her to see this important bill passed into law.

Social Security Fairness Act Reintroduced

Congressmen Garret Graves (R-LA) wasted no time in reintroducing the Social Security Fairness Act (H.R. 82) and beginning the push to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP). This legislation continues to be a top priority for NAPO.

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

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

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

Last Congress, although the Social Security Fairness Act reached an all-time high of 305 cosponsors, we were unable to force a vote on the House floor due to leadership opposition. NAPO will be exerting every effort to surpass the record bipartisan support for the bill in the last Congress and to finally push this important legislation over the finish line. NAPO thanks Representative Graves for his leadership on and dedication to the full repeal of the GPO and WEP.

NAPO Endorsed Bill Codifying Qualified Immunity Protections Reintroduced

NAPO continues to support H.R. 233, the Qualified Immunity Act, reintroduced by Representative Jim Banks (R-IN). Qualified immunity is an important protection for the men and women in law enforcement who put their lives on the line every day to protect our communities. This legislation recognizes that Courts have repeatedly noted that the doctrine does not shield the inept or willfully blind but does protect law enforcement officers from attempts to impose "after-the-fact" liability for actions that no reasonable official could have known were unlawful at the time. By codifying the currently accepted doctrine of qualified immunity, the Qualified Immunity Act will ensure that violations of known rights are punished, and those officers who performed their duties reasonably are shielded from harassment.

We thank Representative Banks for his continued efforts to safeguard officers' qualified immunity protections and we look forward to working with him to pass the Qualified Immunity Act into law.

Thin Blue Line Act Reintroduced

NAPO priority legislation, the Thin Blue Line Act, was reintroduced as H.R. 130 by Congressman Vern Buchanan (R-FL). This important bill would increase penalties on those who harm or target for harm public safety officers by making the murder or attempted murder of a local police officer, firefighter, or first responder an aggravating factor in death penalty determinations in federal court. This would be applicable whether they were targeted or murdered on duty, because of the performance of their duty, or because of their status as a public official. The only requirement is that the homicide provide federal jurisdiction.

This bill is critical, as law enforcement officer assaults, injuries, and deaths have increased sharply in recent years. According to a May 2022 report from the Office of Community Oriented Policing Services (COPS),

346 officers were shot in the line of duty in 2021, of which 64 officers died from their injuries and 287 survived. 133 of those officers were shot and 32 died in ambushes or premeditated, calculated assaults. Establishing stricter penalties for those who harm or target for harm law enforcement officers will deter violent crime. Any persons contemplating harming an officer must know that they will face serious punishments. NAPO strongly believes that increased penalties make important differences in the attitudes of criminals toward public safety officers and ensure protection for the community.

We look forward to working with Congressman Buchanan to move this important legislation this Congress.

It's Not Too Late! Register for NAPO's Pension & Benefits Seminar

January 29 - 31, 2023

Caesars Palace Hotel & Casino ~ Las Vegas, Nevada

Please join us at [NAPO's 34th Annual Police, Fire, EMS, & Municipal Employee Pension & Benefits Seminar](#), January 29 – 31, 2023, at Caesars Palace Hotel & Casino in Las Vegas, Nevada. Our goal for the 2023 Pension & Benefits Seminar is to educate pension and union representatives along with their providers on the latest issues surrounding the pension and benefits industry.

The seminar will focus on the current challenging situation and causes for concern in today's pension and benefits environment. Soaring inflation, stagflation, and a general recession are rearing their heads, and the market, after years of run-up, has turned bearish. Politically, both parties will be analyzing the results of the midterm elections, and how those results will influence the economic policies which are a major dividing line between them. Global corporate taxation, socially conscious investing, mounting national debt, and expansion of IRS taxation and reporting powers are just some of the issues being debated. We will examine these areas and more as we evaluate the effect of these trends on public employment benefits and security, and the overall economic situation for the near- and mid-term.

Take an active role in improving the future of your fund by [registering today](#). You will find information regarding registration, hotel reservations and the full agenda on NAPO's website: www.napo.org/PB23 or download the attached brochure and fax to NAPO at (703) 684-0515.

Don't miss out! REGISTER NOW!

NAPO's Executive Board Meeting will be held in conjunction with the Pension & Benefits Seminar on January 29, 1:30 p.m. – 3:30 p.m.

If you have any questions or need additional information, please do not hesitate to contact NAPO's Director of Events, Elizabeth Loranger, at eloranger@napo.org or (703) 549 -0775.

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