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NAPO Priorities for the President's Commission on Law Enforcement

Panel on Retention of Officers

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Statement of William J. Johnson, Executive Director, National Association of Police Organizations

My name is William Johnson and I serve as Executive Director of the National Association of Police Organizations (NAPO). I am submitting this statement today on behalf of NAPO, representing over 241,000 active and retired 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.

There has perhaps never been such a challenging time in our nation's history to be a law enforcement officer. The crimes and physical dangers, assaults and risks have always been with us. The National Law Enforcement Officers Memorial includes the names of officers killed in the line of duty as far back as 1786. The equally detrimental psychic toll taken on officers and their families as a result of confronting human misery and evil day after day for years, is also as old as human history. But today, as opposed to earlier epochs in our country's history, many elected officials, academicians and media personalities vociferously and doggedly identify the police as part of society's problems. Even during the extraordinarily violent times of the Prohibition Era, or during the societal unrest of the 1960s, elected officials and the media supported the efforts of American law enforcement to restore and maintain public order and safety.

Unfortunately, as recent history shows, public figures and mass media seem to have found it politically expedient, or a means to garner attention, by deliberately and falsely painting officers as brutal, racist and corrupt. When the occupant of the highest elected office in the land in the previous administration routinely tossed about phrases such as "we all know that," or "we need to acknowledge that," or "our history shows that," officers and the U.S. criminal justice system are biased, racist, and flawed, or that they are historic oppressors of American citizens, other elected and appointed officials, and the media, took their cue, and cynically and opportunistically jumped in.

The resultant environment within which officers are today called to serve has thus been shaped in such a way as to threaten disastrous consequences for the recruitment, and especially the retention, of qualified officers. The findings and recommendations of this panel, and this Commission, therefore, will be of vital importance to the retention, safety and efficacy of our nation's police forces, and the public they serve.

Officer Mental Health and Wellness

One area of great concern that results from this working environment is officer mental health and wellness, and this directly relates to the development and retention of well-qualified and healthy

officers. Officers are forced to deal with a career's worth of human misery, wickedness and sorrow. The abused child, the adolescent rape victim, the mother killed by a drunk driver, the baby hit by stray bullets, the grandmother beaten half to death for a few dollars. These are not stories in the news for the officers involved. They do not have the luxury of turning away, they have to respond to the situation and take responsibility for it. This is what passes for "normal" in their work world. The work that officers do each day and the environments in which they are placed take a huge toll on the human mind, body, and soul. Many of our officers suffer from PTSD.

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. 60 officers have taken their own lives so far this year. These are just the numbers that are reported and tracked. Many officers are reluctant to seek help, especially through services offered by their agency. They worry about confidentiality, fear that admitting their need for help will jeopardize their employment or believe the mental health specialists provided will not understand what they are going through, what they have experienced.

Every officer in this nation should have access to a peer mentoring program. One cannot overstate the importance of confidential, peer mentoring services to supporting officers' mental health and wellness. These services must have the buy-in of the rank-and-file officers and their representative organizations and cannot be seen as controlled by management in order to be truly successful. Peer-led counseling services are a way for officers to address their mental health concerns before they escalate and ensure they get the help they need.

I will not go into great detail about the merits and best practices of peer mentoring programs as part of a department's or agency's officer safety and wellness program as the Department of Justice's Office of Community Oriented Policing Services (COPS) released two excellent reports covering these issues in March of 2019: [Law Enforcement Mental Health and Wellness Act Report to Congress](#) and [Law Enforcement Mental Health and Wellness Programs: Eleven Case Studies](#). The COPS Office worked closely with NAPO and law enforcement organizations and agencies across the country on these two reports they should be mandatory reading for the Commission.

Recommendations 13, 14, 15, and 18 from the [Law Enforcement Mental Health and Wellness Act Report to Congress](#) regarding peer mentoring programs are vital ones that NAPO urges the Commission to include in its final recommendations on Officer Safety, Health and Wellness:

Recommendation 13¹: Support the expansion of peer support programs to ensure all officers have access to this important wellness service.

Recommendation 14²: Support the expansion of peer programs to include broader health and wellness, not just critical incident stress.

Recommendation 15³: Support alternative models to agency-specific peer programs, such as through regional collaborations or labor organizations.

Recommendation 18⁴: Improve legislative privacy protections for officers seeking assistance from peer crisis lines and other peer-support services.

¹ [Law Enforcement Mental Health and Wellness Act Report to Congress](#), p. 32

² [Law Enforcement Mental Health and Wellness Act Report to Congress](#), p. 33

³ [Law Enforcement Mental Health and Wellness Act Report to Congress](#), p. 33

We cannot stress enough the importance of **Recommendation 18** from the *Report to Congress*. Officers are public servants. Unless the strictest privacy standards are established and maintained, an officer's mental health care, including that through peer mentoring services, can be discoverable on the public record, used in court proceedings, or affect their employment. Officers feel more comfortable admitting their concerns and asking questions and are more likely to take advantage of mental health services when they know they will be confidential.

NAPO strongly supports Recommendation 18 and the need to enact legislation that makes all communications made by officers to crisis counseling services (including peer services), and all records related to the communications, confidential.

Further Recommendation: Amend the Federal Rules of Evidence to expand the privileges section (Rule 501) to exclude from introduction into evidence in federal proceedings statements made by an officer in the context of critical incident peer debriefs and peer-involved mental health care for officers involved in highly stressful situations.

Supporting the mental health of officers and providing resources and services they will use to preserve and protect their mental health and wellness not only saves lives, but it helps agencies retain experienced officers who might otherwise burn out or turn away from policing due to the mental stresses of the job. This is a vital issue that cuts across and impacts all the work of the Commission.

Public Perception of Law Enforcement and Officer Rights

Another area of concern that impacts officer retention is the public perception of law enforcement and the laws they enforce. NAPO sincerely appreciates the opportunity to work with the Commission, the Department's COPS Office, the Attorney General and other appropriate stakeholders to advance the goal of safer encounters, and a conscious, higher public satisfaction with America's officers and agencies. The Attorney General has expressed great concern regarding how common it has become for persons in contact with the police to resist, obstruct, interfere, thwart and even attack officers. Mr. Barr said he would like to see the public encouraged to "comply, *then* complain." NAPO has 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.

In addition to supporting community education programs such as "comply, *then* complain", we urge the Commission to recommend protecting officers' rights and ensuring officers' Constitutional rights are protected during both workplace and critical incident investigations.

It should come as no surprise that American law officers, like any other human beings, are likely to treat others the way they themselves are treated. We rightfully demand that officers treat others with impartiality, fairness, equity and justice. We expect officers to engage in dialogue and to do their best to consider all sides of a situation before making a judgement. Yet if officers are deprived of these same fundamental indicia of respect and worth in their own workplaces, we cannot reasonably expect them to exhibit and provide these qualities to the public they serve once they walk out the precinct doors.

⁴ [*Law Enforcement Mental Health and Wellness Act Report to Congress*, p. 36](#)

There is a serious need for the implementation of minimal national 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 first-blush reaction of their department or the expediencies of local politics during internal investigations and administrative hearings.

NAPO strongly recommends enacting a national “Law Enforcement Officer Bill of Rights”. Please see the [Law Enforcement Officer’s Procedural Bill of Rights Act](#), which establishes officer due process rights and the attached fact sheet on this proposal.

In this current environment particularly, agencies are more likely to attract and retain officers if the officers know that their due process rights are protected and they will not lose their jobs or their reputations for politically expedient reasons.

As respect for law enforcement and the retention of officers go hand in hand, **NAPO reiterates our recommendation that the Commission publicly support the legitimate workplace and adjudicative rights of officers.**

Collective Bargaining

The right to collectively bargain is another workplace right that helps ensure officer retention. While many public safety agencies benefit from a productive partnership between the agency and employees, many other agencies are not able to. 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, unsafe 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 officers.

NAPO recommends that the Commission supports granting all law enforcement officers in all 50 states the right to discuss workplace issues with their employers. We support the [Public Safety Employer-Employee Cooperation Act](#) as it would provide a framework for such discussions, while respecting the right and flexibility of states to write their own laws for public sector workers. The public safety is best protected through effective partnerships between first responders on the front lines and the agencies that employ them. The right to collectively bargain ensures that public safety officers can meet with local officials to discuss how they do their jobs and how best to protect the public.

Please see the attached studies and reports in support of public safety collective bargaining and officer due process rights: *Collective Bargaining Can Reduce Turnover and Improve Public Safety*, *American Police Unions: A Hindrance or Help to Innovation*, *Police Recruitment and Retention for the New Millennium*, and *Police Reform from the Bottom Up: Officers and Their Unions as Agents of Change*.

Increased Penalties for Crimes against Law Enforcement

Providing increased protections for officers’ lives is essential to officer recruitment and retention. Law enforcement officer assaults, injuries, and deaths have increased sharply in recent years. 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.

Increased penalties make important differences in the attitudes of criminal towards public safety officers and can ensure protection for the community. NAPO supports enacting new federal criminal provisions to address (1) the assault and murder of federally funded state or local law enforcement officers, such as those officers whose agencies receive aid from 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 political demonstrations or protests. We believe there should be increased penalties for 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.

Expand Officer's Right to Carry under the Law Enforcement Officers Safety Act (LEOSA)

To further promote the protection of officers, NAPO supports the [LEOSA Reform Act](#), which would ensure the Law Enforcement Officers Safety Act (LEOSA) is more fairly and broadly implemented. In a time when law enforcement officers are being targeted for violence simply because of the uniform they wear, allowing officers to carry their firearms off-duty for the protection of themselves, their families and our nation's communities is important to ensuring they feel safe in their position. We believe that officers who feel they are able to protect themselves and their families are less likely to leave the job due to safety concerns.

Retirement Benefits

A recent study by the National Institute on Retirement Security (NIRS), entitled [State and Local Employee Views on Their Jobs, Pay and Benefits](#), demonstrates that retirement and health benefits are closely tied to job satisfaction. NIRS broke out the data further by profession and created [fact sheets on law enforcement](#) and their views on their jobs and retirement benefits.

Protecting and preserving public pension plans is a top priority for NAPO. This is not a labor issue; it is a public safety issue. Cities, such as [Palm Beach, Florida](#), who have downgraded their pension plans or switched to 401(k)-style plans have seen qualified, trained officers leave for other jurisdictions that provide traditional pension benefit plans. They also find it harder to recruit new officers to replace those who have left. Protecting the benefits these officers were promised is one of the best ways of ensuring officer retention and increase recruitment.

In addition to protecting public pensions, NAPO strongly urges the Commission to support the repeal of the Social Security Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP). The GPO and WEP were meant as “leveling” responses for the Social Security program, but in their application only serve to hurt public safety officers and their spouses. Repealing both the GPO and WEP would help preserve the retirement security of those who selflessly serve and protect our communities. Please see the attached fact sheet for more information about these detrimental provisions.

NAPO also supports a First Responders Tax Relief Package consists of the [Supporting America's First Responders Act](#) (H.R. 5342), the [Putting First Responders First Act](#) (H.R. 2560 / S. 1278), and the [Public Safety Retirees Healthcare Protection Act](#) (H.R. 4897). These provisions would help protect retired officers' and families' financial security and thus serve to improve the retention of qualified and experienced officers.

I appreciate the opportunity to share these insights with you, and urge you to carefully consider them moving forward, as the Commission's recommendations will greatly impact our officers, their families, and the American public whom they serve.