



NATIONAL ASSOCIATION
of
POLICE ORGANIZATIONS

117th Congress

2021-2023

Legislative Priorities

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.

117TH CONGRESS (2021-2023)

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 and over 241,000 sworn law enforcement officers 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 and local law enforcement and anti-crime 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. Repeal of the Excise ("Cadillac") Tax on employer-sponsored health plans;
2. Enactment of the Rafael Ramos and Wenjian Liu National Blue Alert Act, named after two NYPD Officers and NAPO members;
3. 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;
4. 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;
5. Enactment of the Law Enforcement Mental Health and Wellness Act and the Supporting and Treating Officers in Crisis Act;
6. Enactment and renewal of the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA);
7. Enactment of the Police, Fire, and Emergency Officers Educational Assistance Act;
8. Enactment of the Children of Fallen Heroes Scholarship Act;
9. Permanent Reauthorization of the Bulletproof Vest Partnership Grant Act;
10. 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 \$370,376 in 2021;

11. Enactment of legislation that made the PSOB death benefit to survivors federal income tax free;
12. Enactment of legislation that created a presumption under the PSOB Program that COVID-related deaths and disability are in the line of duty;
13. Enactment and permanent reauthorization of the James Zadroga 9/11 Health and Compensation Act, which is named after a NAPO member and New York City Detective, including the World Trade Center Health Program and the 9/11 Victims Compensation Fund;
14. Enactment of the Project Safe Neighborhoods Grant Program Authorization Act;
15. Enactment of the Law Enforcement Officers' Safety Act (H.R. 218, right to carry legislation);
16. Enactment of the Improvements to the Law Enforcement Officers' Safety Act;
17. Enactment of the Violence Against Women Act (VAWA) Reauthorization of 2013;
18. Enactment of the Justice for Victims of Trafficking Act;
19. Enactment of the Recovering Missing Children Act;
20. Enactment of the Ryan White HIV/AIDS Treatment Extension Act (includes a provision that protects emergency responders from occupational exposure to communicable diseases);
21. Enactment of the Fair Sentencing Act;
22. Enactment of a Nationwide Interoperable Communications Network for Public Safety;
23. Enactment of the National Amber Alert Act;
24. Enactment of the Securing Cockpits Against Laser Pointers Act;
25. Enactment of the Public Safety Spectrum and Wireless Innovation Act (FIRST NET);
26. Secured \$1 billion in the American Recovery and Reinvestment Act for the Community Oriented Policing Services (COPS) Hiring Program;
27. Enactment of the Adam Walsh Child Protection and Safety Act;

28. Enactment of the Healthcare Enhancement for Local Public Safety (HELPS) 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);
29. Enactment of the Combat Meth Act;
30. 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);
31. 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);
32. 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);
33. Elimination nationwide of the "source tax" on law enforcement retirees' incomes;
34. Enactment of the Violent Crime Control and Law Enforcement Act (omnibus anti-crime legislation);
35. Enactment of the Family and Medical Leave Act;
36. Enactment of legislation which prohibits implementation of the IRS proposal to tax accrued public employee leave as current income; and
37. 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) 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) or following NAPO on Twitter (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 National Decertification Index Advisory Group..

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, which may include binding arbitration.
- Prohibit strikes and lockouts by public safety officers and agencies.

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

Recent Legislative History:

117th Congress (2021-2023)

- **H.R. 3225**, “Public Safety Employer-Employee Cooperation Act.”
Sponsor: Rep. Pete Stauber (R-MN)

116th Congress (2019-2021)

- **H.R. 1154**, “Public Safety Employer-Employee Cooperation Act.”
Sponsor: Rep. Dan Kildee (D-MI).
- **S. 1394**, “Public Safety Employer-Employee Cooperation Act.”
Sponsor: Senator Tammy Baldwin (D-WI)

115th 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: 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. 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 and to protect the current collective bargaining rights of officers from being eroded. We oppose any effort to eliminate language from collective bargaining agreements that protects officer due process during investigations of misconduct.

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 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.

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, protect officer due process, and improve transparency and accountability in law enforcement agencies.

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 16,000 jurisdictions with over \$14 billion in funding to hire more than 130,000 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; improving law enforcement and community relations; and addressing emerging law enforcement needs.

In recent years, the COPS Office has taken on additional NAPO priorities such as the National Blue Alert Network, the Officer Safety and Wellness Working Group, and the Law Enforcement Mental Health and Wellness Act (LEMHWA). In Fiscal Year 2021, the COPS Office also took over the Supporting and Treating Officers in Crisis (STOIC) Act program, which will be combined with LEMHWA to create a larger program to promote officer mental wellness and peer mentoring.

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.

Recent Legislative History:

115th Congress (2017-2019)

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

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. The COPS Program should not be used as a tool to move a distinct political agenda at the expense of critical funding for the hiring and retention of officers as well as 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 \$522 million in federal funds for the purchase of almost 1.4 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.

The 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 permanently reauthorized the program in 2019 at \$30 million per year.

NAPO Position: Over the past decade, this vital program has enabled the protection of well 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.

NAPO strongly supports fully funding the BVP Grant Program 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. Over 2019 and 2020, there were at least 415 known police officer suicides. 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)** and the **Supporting and Treating Officers in Crisis (STOIC) Act (Public Law No. 116-32)**, 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. These programs will help law enforcement agencies establish or enhance mental health care services for their officers by making grants available to initiate and expand peer mentoring 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.

Through the Community Oriented Policing Services (COPS) Program, these programs will provide grant funding to help agencies establish and grow peer mentoring mental health and wellness 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.

Further, officers are first and foremost 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 those services will be confidential.

Only 22 states provide confidentiality protections to critical incident debriefs and peer support services. In these states, the group debriefings, conducted by peer support and mental health professionals, are protected. Do-not-discuss orders are suspended for the duration of the debriefing and officers are free to discuss their feelings and concerns. All communications and records kept during these debriefings may not be disclosed in a civil, criminal, or administrative proceeding, with certain, limited exceptions.

Recent Legislative History:

117th Congress (2021-2023)

- **S. 1502**, “COPS Counseling Act.” Sponsor: Senator Catherine Cortez Masto

116th Congress (2019-2021)

- **H.R. 2368**, “Supporting and Treating Officers in Crisis Act.” Sponsor: Rep. Guy Reschenthaler (R-PA)
- **S. 998**, “Supporting and Treating Officers in Crisis Act.” Sponsor: Senator Josh Hawley (R-MO). **PASSED.**
- **H.R. 6694**, “COPS Counseling Act.” Sponsor: Rep. David Trone (D-MD)
- **S. 3434**, “COPS Counseling Act.” Sponsor: Senator Catherine Cortez Masto (D-NV).

115th 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.

While Congress appropriated \$8 million for these programs in FY 2021, our nation’s law enforcement need much more than this. Significant funding is needed for the establishment and expansion of confidential peer counseling services in order to adequately meet the demand for officer peer mentoring programs in cities and states across the country.

NAPO is proud to have supported the Law Enforcement Mental Health and Wellness Act and the STOIC Act and we will continue working to ensure full and robust funding for peer mentoring programs and mental health services for all officers. Further, NAPO supports legislation to make all communications made by officers to crisis counseling services (including peer services), and all records related to the communications, confidential.

RETIREMENT SECURITY

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:

117th Congress (2021-2023)

- **H.R. 82**, “Social Security Fairness Act.” Sponsor: Rep. Rodney Davis (R-IL)
- **S. 1302**, “Social Security Fairness Act.” Sponsor: Senator Sherrod Brown (D-OH)
- **H.R. 2337**, “Public Servants Protection and Fairness Act.: Sponsor: Rep. Richard Neal (D-MA)

116th 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).
- **H.R. 4540**, “Public Servants Protection and Fairness Act.” Sponsor: Rep. Richard Neal (D-MA)
- **H.R. 3934**, “Equal Treatment of Public Servants Act.” Sponsor: Rep. Kevin Brady (R-TX)

115th 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)

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.

EXPANSION OF THE HELPS RETIREES ACT

Background: The Healthcare Enhancement for Local Public Safety (HELPS) Retirees provision of the Pension Protection Act of 2006 provided public safety officers, who often retire earlier than other occupations because of the physical demands and unique job hazards they face, with means to more affordable healthcare options. This provision is important as many law enforcement retirees lose their employer-provided health insurance and are years away from being Medicare-eligible, forcing them to spend their retirement money on health insurance premiums.

Unfortunately, health care costs have gone up dramatically since 2006 and the \$3,000 per year permitted under the provision is no longer adequate to cover even half a year's worth of health insurance premiums. The **Public Safety Retirees Healthcare Protection Act** would increase the amount of tax-free money retired public safety officers are allowed to take from their pension funds annually to up to \$6,000 to pay for qualified health insurance premiums.

Unfortunately, many public pension plans, particularly small plans, have not implemented this important provision due to the administrative burden of the direct payment requirement. For retirees to benefit from HELPS, the pension plan must pay the money directly to the insurer – it does not go to the retiree. In states and localities that do not provide retiree healthcare that can mean hundreds of different insurance plans that must be tracked. The direct payment requirement must be repealed to make it easier for public pension plans to implement the HELPS Retirees provision.

Recent Legislative History:

116th Congress (2019-2021)

- **H.R. 4897**, “Public Safety Retirees Healthcare Protection Act.”
Sponsor: Rep. Dan Lipinski (D-IL)
- **H.R. 6436**, “Police and Fire Healthcare Protection Act.” Sponsor:
Rep. Steve Chabot (R-OH)

NAPO Position: Together these simple fixes would continue the purpose and intention of the original HELPS Retirees Act: to help preserve the retirement security and the health of those public servants who selflessly serve and protect our communities.

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 March 2020 report from the Office of Community Oriented Policing Services (COPS), 273 officers were shot in the line of duty in 2019, of which 44 officers died from their injuries and 229 survived. 87 of those officers were shot and 14 died 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:

117th Congress (2021-2023)

- **H.R. 72**, “Thin Blue Line Act.” Sponsor: Rep. Vern Buchanan (R-FL)
- **S. 1595**, “Thin Blue Line Act.” Sponsor: Senator Patrick Toomey (R-PA)
- **H.R. 3079**, “Protect and Serve Act.” Sponsor: Rep. John Rutherford (R-FL)
- **S. 774**, “Protect and Serve Act.” Sponsor: Senator Thom Tillis (R-NC)
- **H.R. 3080**, “Back the Blue Act.” Sponsor: Rep. Don Bacon (R-NE)
- **S. 1599**, “Back the Blue Act.” Sponsor: Senator John Cornyn (R-TX)
- **H.R. 1690**, “Defending Our Defenders Act.” Sponsor: Rep. Yvette Herrell (R-NM)
- **S. 619**, “Defending Our Defenders Act.” Sponsor: Senator Tom Cotton (R-AR)

116th Congress (2019-2021)

- **H.R. 99**, “Thin Blue Line Act.” Sponsor: Rep. Vern Buchanan (R-FL)
- **S. 1508**, “Thin Blue Line Act.” Sponsor: Senator Patrick Toomey (R-PA)
- **H.R. 1325**, “Protect and Serve Act.” Sponsor: Rep. John Rutherford (R-FL)
- **S. 4605**, “Protect and Serve Act.” Sponsor: Senator Thom Tillis (R-NC)
- **H.R. 5395**, “Back the Blue Act.” Sponsor: Rep. Don Bacon (R-NE)
- **S. 1480**, “Back the Blue Act.” Sponsor: Senator John Cornyn (R-TX)

115th 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)

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 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 2020 and 2021, Congress recognized the importance of MIOTCRA and funded it at \$33 million and \$35 million, respectively. This funding is vital to ensuring better law enforcement and community responses to persons experiencing mental health and substance abuse crises.

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.

POLICE REFORM

Background: The House passed the George Floyd Justice in Policing Act of 2020 (H.R. 7120) on June 25, 2020. Law enforcement was unfairly locked out of the discussion and development of this overhaul of their

profession. The result was a bill with which the law enforcement community had significant concerns.

The most significant concerns include amending Section 242 of Title 18 United States Code to lower the standard for *mens rea* and the practical elimination of qualified immunity for law enforcement officers. Combined, these two provisions take away any legal protections for officers while making it easier to prosecute them for mistakes on the job, not just criminal acts. With the change to qualified immunity, an officer can go to prison for an unintentional act that unknowingly broke an unknown law. NAPO believes in holding officers accountable for their actions, but the consequence of this would be making criminals out of decent officers enforcing the laws in good faith.

Another provision of serious concern is the change proposed to the current legal standard of “objective reasonableness” for the use of force outlined in the 1989 U.S. Supreme Court decision *Graham v. Connor*. The Supreme Court has repeatedly said that the most important factor to consider in applying force is the threat faced by the officer or others *at the scene*. The use of force must be reasonable given what the officer perceived to be the threat at the time, not with the 20/20 vision of hindsight.

Finally, one of the underlying assumptions that runs throughout the George Floyd Justice in Policing Act is that law enforcement officers should not be given the right to due process, a right we give all citizens, a right all unions work to protect for their members in disciplinary actions. This is incredibly concerning. Law enforcement officers must be given due process 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.

It is very evident that the George Floyd Justice in Policing Act was written without the consultation of law enforcement practitioners. For any police reform to be truly successful, the views of rank-and-file officers, who work tirelessly to keep our communities safe and have firsthand knowledge of the issues that are being considered, must be engaged. Law enforcement officers have a significant stake in the outcomes of any forthcoming

policies and legislation, both as public safety officers who are responsible for carrying out the law, and as citizens of communities that will be impacted by new policies on public safety. It is, quite literally, a matter of life and death for them when considering when and how they may defend themselves.

Recent Legislative History:

117th Congress (2021-2023)

- **H.R. 677**, “JUSTICE Act.” Sponsor: Rep. Pete Stauber (R-MN)
- **H.R. 1280**, “George Floyd Justice in Policing Act.” Sponsor: Rep. Karen Bass (D-CA)

116th Congress (2019-2021)

- **H.R. 7210**, “George Floyd Justice in Policing Act of 2020.” Sponsor: Rep. Karen Bass (D-CA)
- **S. 3912**, “George Floyd Justice in Policing Act of 2020.” Sponsor: Senator Cory Booker (D-NJ)
- **S. 3985**, “JUSTICE Act.” Sponsor: Senator Tim Scott (R-SC)
- **H.R. 7278**, “JUSTICE Act.” Sponsor: Rep. Pete Stauber (R-MN)

NAPO Position: As an organization representing rank-and-file officers, NAPO supports improving policing practices. NAPO participates on the National Decertification Index (NDI) Expansion Advisory Group. With its expansion, the NDI will potentially include mechanisms for tracking criminal convictions of law enforcement officers for on-duty conduct and civil judgments against officers for improper use of excessive force where the officer resigns or retires while the investigation into the use of force is ongoing. In all instances, the NDI will limit such entries to cases where the officer has been afforded due process pursuant to the local jurisdiction’s statutes and regulations.

NAPO supports training on de-escalation and communication techniques to help officers to stabilize situations and reduce the immediate threat so that more time, options, and resources can be used to resolve the situation without requiring the use of force. Such training will go much further in achieving the goals of this legislation to reduce the use of lethal force than the lessening of legal protections for officers. NAPO also believes that

rank-and-file officers, as practitioners, must play a role in developing national training standards.

Data collection on the use of force can be an important factor in improving the perception of integrity and transparency in policing. It is important that the data collected on the use of force reflects the entirety of the situation: use of force by officers and use of force against officers, and not just force using firearms. The Federal Bureau of Investigation began collecting such data in their Use of Force Database in 2019, which they established in collaboration with state and local law enforcement. NAPO supports the FBI's Use of Force Database and promoting greater use of it by federal, state, and local law enforcement agencies.

Data collection, training, and certification all cost a significant amount of money, yet the George Floyd Justice in Policing Act does not provide additional funding to help states and localities comply with the many mandates of the bill. In fact, to ensure compliance, it penalizes states and law enforcement agencies by taking away all or part of the Byrne Justice Assistance Grant (Byrne JAG) and the Community Oriented Policing Services (COPS) Grant funding. The consequence of this on all sectors of the criminal justice system will be long lasting. At a time when it is well known that state and local governments are facing serious budget and revenue holes due to the coronavirus pandemic and officers are facing furloughs and layoffs, this legislation assumes that somehow governments will have the funding to comply with the requirements of the bill. To incentivize compliance with any police reform policies, funding must be provided, and it is imperative that all sides have had their voices heard.

NAPO will work to ensure rank-and-file law enforcement have a voice at the table when the Administration and Congress once again takes up police reform.

Further, 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:

117th Congress (2021-2023)

- **S. 42**, “Stop Dangerous Sanctuary Cities Act.” Sponsor: Senator Pat Toomey (R-PA)

116th Congress (2019-2021)

- **S. 1644**, “Stop Dangerous Sanctuary Cities Act.” Sponsor: Senator Pat Toomey (R-PA)
- **H.R. 3000**, “Stop Dangerous Sanctuary Cities Act.” Sponsor: Rep. Tom McClintock (R-CA)

115th 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).

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 detainers.

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:

116th Congress (2019-2021)

- **H.Res. 92**, A resolution calling for the immediate extradition of Joanne Chesimard and all other fugitives from justice. Sponsor: Rep. Peter King (R-NY)
- **S.Res. 232**, A resolution calling for the immediate extradition of Joanne Chesimard and all other fugitives from justice. Sponsor: Senator Robert Menendez (D-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.

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 is working 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) Program 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 Program to continue on with their lives.

The PSOB Program not only provides death and disability benefits to eligible public safety officers and their survivors, 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) Program.

The current state of the PSOB Program, however, does little to instill confidence in officers that the federal government will do its part to take

care of them should they become disabled in the line of duty, which is why we worked to introduce the Protecting America’s First Responders Act.

The stringent requirements for PSOB disability benefits make it extremely difficult for officers to qualify, which goes against what Congress intended when it created the disability benefit in 1990. The strict requirements for disabled officers to qualify for PSOB disability benefits must be eased in order to ensure that officers who are catastrophically injured in the line of duty, but can still perform some level of meaningful work, would still qualify for the much-needed benefit. The PSOB Program has largely left disabled officers have been behind.

Recent Legislative History:

117th Congress (2021-2023)

- **H.R. 483**, “Heroes Lesley Zerebny and Gilbert Vega First Responders Survivors Support Act.” Sponsor: Rep. Raul Ruiz (D-CA)
- **H.R. 2936**, “Protecting America’s First Responders Act.” Sponsor: Rep. Bill Pascrell, Jr. (D-NJ)
- **S. 1511**, “Protecting America’s First Responders Act.” Sponsor: Senator Charles Grassley (R-IA)
- **H.R. 3071**, “Public Safety Officer Support Act.” Sponsor: Rep. David Trone (D-MD)

116th Congress (2019-2021)

- **H.R. 2812**, “Protecting America’s First Responders Act.” Sponsor: Rep. Bill Pascrell, Jr. (D-NJ)
- **S. 1208**, “Protecting America’s First Responders Act.” Sponsor: Senator Charles Grassley (R-IA)
- **S. 3607**, “Safeguarding America’s First Responders Act.” Sponsor: Senator Charles Grassley (R-IA) **PASSED**
- **H.R. 1210**, “Heroes Lesley Zerebny and Gilbert Vega First Responders Survivors Support Act.” Sponsor: Rep. Raul Ruiz (D-CA)
- **S. 465**, “Heroes Lesley Zerebny and Gilbert Vega First Responders Survivors Support Act.” Sponsor: Senator Tammy Duckworth (D-IL)
- **H.R. 7568**, “Public Safety Officer Support Act.” Sponsor: Rep. David Trone (D-MD)

NAPO Position: NAPO is actively working to improve 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, and worked to introduce the Public Safety Officer Support Act.

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 change will result in a substantial change for the better in the work lives of officers across the country.

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 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. Consent decrees often exemplify 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 (DOJ) 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.

NAPO Position: The DOJ should provide state and local governmental entities, including rank-and-file officers and their representatives, 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 strongly supports protecting the interests of state and local governments in managing their own affairs and limiting the duration of federal consent decrees to which state and local governments are party. Further, consent decrees should not over-reach in forcing superfluous policies on police departments.

NAPO will work to seek a mandatory time limit for monitoring programs instituted under federal consent decrees. This will protect the interests of state and local governments in managing their own affairs. Further, we are willing to take legislative action, if necessary, to control the scope and timeframe of federal consent decrees.

DEPARTMENT OF DEFENSE EQUIPMENT FOR STATE & LOCAL LAW ENFORCEMENT AGENCIES

Background: The Department of Defense 1033 program, and similar grant programs at the Departments of Justice and Homeland Security that assist state and local law enforcement in acquiring surplus military equipment, have been vital resources in allowing agencies acquire items

used in search and rescue operations, disaster response, and active shooter situations that they otherwise would not be able to afford.

President Barack Obama issued Executive Order 13688, which greatly limited state and local law enforcement's access to surplus military equipment in January 2015. NAPO participated in the Federal Interagency Law Enforcement Equipment Working Group, established under the Executive Order, and worked to ensure that defensive gear like helmets and shields remained available.

NAPO continued to oppose restrictions on this vital equipment and worked with President Trump on the issuance of Executive Order 13809 in August 2017 to restore state and local law enforcement's access to this lifesaving equipment.

In the Fiscal Year 2021 National Defense Authorization Act, Congress prohibited the transfer of bayonets, grenades, weaponized tracked combat vehicles, and weaponized drones – items that are not used in community policing – to State, local or Tribal law enforcement agencies under the 1033 program. It also requires that any law enforcement agency that receives surplus military equipment from the program trains its officers on “respect for the rights of citizens under the Constitution of the United States and de-escalation of force.”

The Biden Administration indicated that it will issue new restrictions to the 1033 program similar to those placed on it through Executive Order 13688.

Recent Legislative History:

117th Congress (2021-2023)

- **S. 1597**, “Lifesaving Gear for Police Act.” Sponsor: Senator Patrick Toomey (R-PA)

116th Congress (2019-2021)

- **S. 1537**, “Lifesaving Gear for Police Act.” Sponsor: Senator Patrick Toomey (R-PA)

115th Congress (2017-2019)

- **S. 1087**, “Lifesaving Gear for Police Act.” Sponsor: Senator Patrick Toomey (R-PA)

- **H.R. 426**, “Protecting Lives Using Surplus Equipment Act.”
Sponsor: Rep. John Ratcliffe (R-TX)

NAPO Position: NAPO continues to stress that the vast majority of equipment provided under the 1033 program is defensive in nature. We do not believe this equipment has led to the “militarization” of police, but rather has proven to be essential in protecting communities against violent criminals, terrorists and natural disasters. Changing the 1033 Program to restrict the equipment available to law enforcement agencies across the nation would limit departments’ ability to keep our communities and our officers safe.

NAPO will continue to engage the Administration and members of Congress on this issue to ensure law enforcement agencies have all necessary tools to protect our citizens and the officers serving them.

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**

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,

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;

www.psob.gov

COPS Office: 1-800-421-6770

Department of Labor: 1-866-487-2365

Department of Homeland Security: 202-282-8000

Senate

Democrats

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

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

Republicans

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

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

Senate Judiciary Committee 202-224-5225

Chairman: Senator Richard Durbin (D-IL)

Ranking Member: Senator Charles Grassley (R-IA)

Senate Homeland Security Committee 202-224-4751

Chairman: Senator Gary Peters (D-MI)

Ranking Member: Senator Ron Johnson (R-WI)

Senate Appropriations Committee 202-224-7257

Chairman: Senator Patrick Leahy (D-VT)

Ranking Member: Senator Richard Shelby (R-AL)

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

Chairman: Senator Jeanne Shaheen (D-NH)
Ranking Member: Senator Jerry Moran (R-KS)

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 Jim Jordan (R-OH)

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 Rosa DeLauro (D-CT)
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)

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