



# The Washington Report

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

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March 5, 2021

## House Passes George Floyd Justice in Policing Act

The House passed George Floyd Justice in Policing Act (H.R. 1280) on March 4 by a party-line vote of 220-212. It is the exact same bill the House passed on June 25, 2020, which NAPO strongly opposed. There has been no outreach over the past nine months since the bill initially passed the House to address our concerns and the concerns of the larger law enforcement community. It seems as if this is a political move to check off a box rather than an honest attempt to develop polices to change policing practices for the better in this country.

NAPO is disappointed that House Democrats took up this bill without even a conversation about our significant issues with it. The most concerning aspects of the George Floyd Justice in Policing Act are the practical elimination of qualified immunity, the change of the *Graham v Connor* legal standard of “objective reasonableness” for the use of force to “only when necessary”, and the clear disdain for officer due process, which runs throughout the bill. These provisions are incredibly concerning taken together as they remove any legal protections for officers while making it easier to prosecute them for mistakes on the job, not just criminal acts.

While there are a few of the areas in the legislation where we have strong opposition, there are others where we agree on the intention and goal. It is by gaining the buy-in of the law enforcement community that any reforms will enjoy greater implementation and execution by agencies across the country.

However, Democrats continue to ignore the needs and concerns of the law enforcement community in pushing police reform. NAPO sent [a letter to House leadership](#) and members of Congress opposing the George Floyd Justice in Policing Act and asking that law enforcement have a seat at the table to develop police reform policies that will improve policing practices, particularly regarding ensuring greater transparency, accountability, and training in law enforcement.

We have not stood by and opposed any and all efforts to make policing better. We worked closely with Senator Tim Scott (R-SC) on the JUSTICE Act, which addresses many of the same issues as the George Floyd Justice in Policing Act. The biggest difference is that in the drafting of the JUSTICE Act, the law enforcement community was included at the table. The JUSTICE Act largely takes into account our concerns around ensuring officer due process, protecting qualified immunity for officers, supporting the [National Consensus Policy on Use of Force](#) which NAPO helped author, and guarding officer privacy and confidentiality rights.

Senate leadership has not indicated when it will take up the House-passed Justice in Policing Act, which does not have enough support to overcome a filibuster as it is currently written. We are engaging with Senator Scott and Republicans as well as Democratic senators on reform efforts and possible amendments to the George Floyd Justice in Policing Act to ensure our concerns and priorities are met in the final product, especially as regards protecting qualified immunity. We will keep our members up to date on the status of this bill and our efforts on police reform.

## **Senate Begins Debate on House-Passed COVID Aid Package**

The House passed the American Rescue Plan (H.R. 1319), President Biden's \$1.9 trillion coronavirus aid package, on February 27 by a vote of 219-212. The aid package includes aid to state and local governments to help address budget and revenue shortfalls caused by the pandemic and to help with vaccine distribution. The package also includes additional \$1,400 tax rebate checks, \$300 of weekly federal unemployment insurance through October, an additional \$30 billion for FEMA's Disaster Relief Fund for health care and first responder personal protective equipment and supplies, aid for communities and small businesses, and funding to help schools reopen safely. It also included a raise in the federal minimum wage to \$15/hour, which the Senate Parliamentarian ruled was against Senate reconciliation rules, so it was stripped from the bill before the Senate began consideration of it on March 4.

With the \$15 minimum wage provision removed, it should make it easier for the Senate to pass the American Rescue Plan as two Democratic Senators, Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ) opposed its inclusion in the package. It also frees up funding within in the package to go towards other provisions, such as assistance towards saving failing multi-employer pension plans. In addition to added provisions, tweaks will be made on the Senate floor to how the state and local aid will be distributed to gain the support of moderate Democrats.

NAPO worked to ensure that direct aid to state and local governments remained in the American Rescue Plan. The funding to state and local governments would go to help fill budget holes caused by the pandemic and assist in covering the continue costs of responding to the coronavirus. The Senate will be making some significant changes to the state and local aid provision that passed the House, including reducing funding to local governments and putting restrictions on how the funding can be spent. The amount of funding going to states (\$195.3 billion) would remain the same, but cities and localities would receive slightly less funding under the Senate amendment. Counties would receive \$60.1 billion, metropolitan cities \$42 billion, and small cities and counties \$18 billion.

Funding to states and localities will be distributed in two rounds. In the first round, states and localities will receive 50 percent of the funding upfront. For the remaining funding, states with a high portion of unemployed individuals would receive it with the first round of funding. The rest of the states would not receive the remainder of the aid until they have spent at least 80 percent of the first round of funding or 60 days prior to the start of their 2023 fiscal year, whichever comes first.

Further, to receive the second round of aid, states would have to prove that the funding would not go towards staving off a tax increase that they otherwise would enact and that it would not be used to fund state pension plans. The Senate amendment would also put restrictions on what the funding can be used for:

- Aid to small businesses, nonprofits and households;
- Aid to impacted industries such as tourism, travel and hospitality;
- Funding government services that were reduced due to the pandemic and related revenue losses; and
- Making necessary infrastructure investments.

While the funding would no longer be as flexible, it would still help states and localities maintain their police forces and avoid having to layoff or furlough officers and agency personnel.

We also worked to address the issue of additional paid COVID-related sick leave for first responders in the American Rescue Plan, which includes an extension of the payroll tax credit for employers to provide additional COVID-related paid sick leave to their employees. The Families First Coronavirus Response Act, which mandated employers provide this paid leave but exempted emergency responders and health care workers from benefiting from this leave, expired on December 31, 2020. There was not enough support to renew the mandate in the reconciliation package, so the House extended the tax credit to employers and amended it to include state and local governments so that first responders would be covered. Paid sick leave coverage for all employers would be voluntary and the hope is that the tax credit would be an incentive for employers to provide COVID-related paid sick leave for their employees.

As it is a payroll tax credit, state and local governments would recoup the FICA Social Security and Medicare taxes they pay for the qualified paid leave wages. This is not a perfect solution as those states that do not pay into Social Security would not benefit as much from the credit, but they would recoup some of the costs of providing additional leave. The tax credit would begin with amounts paid after March 31, 2021 and end on September 30, 2021.

Majority Leader Schumer will need every Senate Democrat voting yes to get this bill over the finish line. It is expected that the Senate will pass the American Rescue Plan by a party line vote, with Vice President Harris casting the tie-breaking vote, by March 6. While the changes to state and local aid will cause some consternation in the House, leadership has indicated that they will take up the Senate-passed version as soon as March 8.

Democrats and the Administration are aiming to pass this COVID aid package by March 14 when the enhanced federal unemployment insurance ends.

## **NAPO-Backed LEOSA Reform Act Reintroduced**

The National Association of Police Organizations (NAPO) is proud to have worked with members of Congress to enact the Law Enforcement Officers Safety Act (LEOSA) in 2004 to allow well-qualified off-duty and retired officers to carry their firearms for the protection of themselves, their families and our nation's communities. Since its enactment, we have pushed for and supported several amendments to improve the law to ensure that it is easily, fairly and broadly implemented across the country. However, today, qualified off-duty, and retired officers continue to encounter unnecessary roadblocks when exercising their legal right to carry a firearm.

We worked with Congressman Don Bacon (R-NE) to introduce the LEOSA Reform Act last Congress to address specific issues that well-qualified active and retired law enforcement officers are facing when exercising their right to protect themselves and others under the law. The important bill would expand the areas qualified current or retired officers are allowed to carry a firearm, including on a Gun Free School Zone; on state, local and private property otherwise open to the public; and in certain federal facilities. It will allow qualified officers and retired officers to carry an ammunition magazine of any capacity that is not prohibited by federal law. Importantly, it will reform qualifications standards to alleviate undue burdens for those carrying under LEOSA.

With the rise in targeted violence against law enforcement officers and violent crimes in our communities, allowing all qualified officers and retirees, who have sworn to serve and protect our communities, to be armed

in accordance with LEOSA would allow them to respond more efficiently and effectively in emergencies for the safety of themselves and those around them. The LEOSA Reform Act will go a long way to ensuring all qualified off-duty and retired officers across the country can legally carry their firearm under the law. On behalf of the 241,000 rank-and-file law enforcement officers we represent, we thank Congressman Bacon, Congressman Henry Cuellar (D-TX), Congressman John Rutherford (R-FL) and Congressman Pete Stauber (R-MN) for their strong and continued support of the law enforcement community, and NAPO looks forward to working with them to pass the LEOSA Reform Act.

## **NAPO Meets with DOJ Senior Staff**

NAPO met with senior staff of the Department of Justice (DOJ) from the Office of the Attorney General and the Office of the Deputy Attorney General and other national law enforcement groups to discuss our priorities for the Department. The staff stated that they want to make these meetings quarterly to discuss relevant issues facing officers in the streets and how the DOJ can best assist its state and local law enforcement partners.

NAPO thanked the staff for convening the meeting and for intending to make them a regular occurrence, which will be key to ensuring open lines of communication between the Department and the law enforcement community. Our top priority is for the Department and its leadership to support law enforcement and step up against anti-police rhetoric. We also discussed the importance of supporting and expanding officer mental health and wellness programs through the Office of Community Oriented Policing Services (COPS) and the Bureau of Justice Assistance, such as the Law Enforcement Mental Health and Wellness Act, ensuring violent attacks against officers are prosecuted, fully funding and supporting our priority grant programs, and the Public Safety Officers Benefits (PBOS) Program.

NAPO looks forward to working with the DOJ leadership to support the important work of state and local law enforcement and the officers serving and protecting their communities.

## **NAPO on the Hill: House Judiciary Committee**

NAPO spoke with majority staff of the House Judiciary Committee discuss our priority issues and legislation for the first session of the 117<sup>th</sup> Congress and area where we can work together. We discussed the need for legislation to enhance officer safety by increasing penalties for the murder, attempted murder, or assault of federal, state, and local law enforcement officers and the Protecting America's First Responders Act as well as the Committee's priorities for this year.

**Increased penalties for the murder, attempted murder, or assault of a federal, state or local law enforcement officer** because of their status as a public safety officer will deter such crimes and bring greater protections to officers and the communities they serve. NAPO is backing two bills that would provide increased penalties for such violent crimes against officers – the **Back the Blue Act** and the **Protect and Serve Act**.

**Protecting America's First Responders Act.** This bill would make it easier for public safety officers disabled in the line of duty to qualify for the Public Safety Officer's Benefits (PSOB) Program's disability benefits. It would also ensure that beneficiaries receive the highest award amount possible and it will make certain that all children of public safety officers disabled or killed in the line of duty are able to benefit from the Public Safety Officers' Education Assistance program.

There is little support from the Democratic side of the Committee to take any action on increased penalties for law enforcement. Although the House passed the George Floyd Justice in Policing Act this week, the Committee will continue to focus on police reform, including what it considers the serious issue of white supremacy groups infiltrating law enforcement and how to prevent it from occurring. This will be the topic of an upcoming hearing in the Committee. The Committee will also be focused on immigration reform and several gun control measures, including expanding background checks.

The Committee is also interested in expanding partnerships between law enforcement and the social services and public and mental health communities to help improve responses to mental health and substance abuse calls for service. This is an area of great importance to NAPO and we hope we can work with the Committee to increase training for officers, promote integrated response teams and shift some non-emergency related calls for service to other local agencies.

As for the Protecting America's First Responders Act, it seems like our best bet to move this bill forward will be through the Senate Judiciary Committee. The House Judiciary Committee majority staff indicated it will not be a partner in moving our priority criminal justice and officer safety and wellness legislation forward this Congress.

NAPO continues to meet with members of the House and Senate to gain support for our priority legislation.

## **Senate Judiciary Committee Approves Merrick Garland Nomination to be Attorney General**

The Senate Judiciary Committee approved Merrick Garland's nomination to be United States Attorney General on March 1 by a bipartisan vote of 15-7. Senate Democrats tried to expedite his confirmation vote, but Senator Tom Cotton (R-AK) blocked that attempt stating that there are still outstanding questions he has that Judge Garland needs to address. The Senate will most likely vote to confirm Judge Garland with strong bipartisan support the week of March 8.

During his Senate confirmation hearing, Judge Garland was asked by Senator Josh Hawley (R-MO) if he supported defunding the police. The Judge stated that "President Biden does not support defunding the police and neither do I." Separately, stated he supports police accountability, and he would support legislation to overhaul police practices, but did not go into details about specific reform policies. Judge Garland also agreed with Democratic Committee members that the Department as the authority and responsibility to conduct pattern and practice investigations. Overall, throughout his testimony, he was supportive of state and local law enforcement and the need to give them the support and resources needed to effectively serve and protect their communities.

While Judge Garland is considered a relatively moderate pick for Biden, the President has nominated more progressive candidates to serve under him in the Department of Justice (DOJ). Lisa Monaco, President Obama's homeland security advisor, is nominated for Deputy Attorney General. Vanita Gupta, president of the Leadership Conference on Civil and Human Rights and the Assistant Attorney General for the Civil Rights Division under President Obama, is nominated for Associate Attorney General. Rounding out top leadership of the DOJ is Kristen Clarke, the president of the Lawyer's Committee for Civil Rights Under Law, who is nominated for Assistant Attorney General for the Civil Rights Division.

The Senate Judiciary Committee is scheduled to hold confirmation hearings on both Ms. Monaco and Ms. Gupta the week of March 8.

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