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Representing America's Finest

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NAPO Opposes Bill Forcing Dangerous De-Escalation Practices on State and Local Law Enforcement

Representative Gwen Moore (D-WI) has reintroduced legislation, the Preventing Tragedies Between Police and Communities Act (H.R. 3060), which NAPO strongly opposes. This bill would require law enforcement officers to undergo training on de-escalation techniques and then use those techniques to assist in reducing the need for them to use force. If agencies do not comply with providing such training they will be at risk of losing vital Byrne Justice Assistance Grant (Byrne JAG) funding.

NAPO takes serious issue with the underlining assumption of this legislation that the current legal standard of “objective reasonableness” for the use of force outlined in the 1989 U.S. Supreme Court decision *Graham v. Connor* is not sufficient to guide officers’ decisions. 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 has to be reasonable given what the officer perceived to be the threat at the time, not the public’s perspective after the fact.

Additionally, NAPO takes issue with several of the specific de-escalation training requirements in the bill as we believe they are more likely to result in increased officer injuries and death. One example is the Critical Decision-Making Model, which is a time-consuming, unrealistic and paralyzing thought process for officers under threat that also disregards the Constitutional legal standard for use of force.

A second example is the requirement for training on communication and negotiation de-escalation practices. While many offenders and despairing persons can certainly be helped with effective communications and negotiation techniques, it is equally certain that many offenders and desperate persons cannot. Policies must recognize that or the safety of the officer and the public he or she is protecting will no longer be the paramount objective.

Lastly, we have serious concerns that this bill would negatively impact the availability of resources for officers to use to keep our communities safe by tying the ability of state and local governments to be awarded much-needed grants to the implementation of these unrealistic and often dangerous training requirements.

The men and women who actually do this difficult and often dangerous job deserve to have their own lives, and the ability to protect themselves, defended. It is very clear to NAPO that this legislation is the result of the work of academicians and was written without the consultation of the men and women who do this job every day.

NAPO has once again made Representative Moore aware of our serious concerns with this legislation. We will continue to work to ensure that Congress does not force such dangerous and impractical requirements for the use of force on state and local law enforcement officers. Rank and file officers must have a voice in the development of any such training or standards as it is their lives on the line.

If you have any questions about this legislation, please contact Andy Edmiston at aedmiston@napo.org.

Congressional Hearing on Social Security and State and Local Compliance

On June 29, the House Committee on Ways and Means Subcommittees on Social Security and Oversight held a joint hearing regarding the complexities and challenges of Social Security coverage and payroll compliance for state and local governments. The purpose of the hearing was to see how effectively the Social Security Administration (SSA), the Internal Revenue Service (IRS), and State Social Security Administrators work together to provide Social Security coverage to public employees.

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. Additionally, 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.

Ninety-four percent of employees working in the United States are covered by Social Security. Approximately six million public sector employees are not covered by Social Security because they are members of a qualifying public retirement system, including most state and local law enforcement officers. Social Security was not designed for and does not address the special needs of law enforcement officers. 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.

Additionally, 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 66 or 67 years of age. Forcing police officers to work until the age of 67 would negatively impact public safety.

NAPO attended the hearing to ensure that mandatory coverage for all state and local public employees was not part of the discussion. The Chairman of the Subcommittee on Social Security, Sam Johnson (R-TX), stated in his opening statement that mandatory Social Security was not the intent of the hearing nor part of the discussion. While most Committee member statements and questions to witnesses that followed did not raise the issue, the Chairman of the Subcommittee on Oversight, Vern Buchanan (R-FL), did have a line of questioning that was concerning to NAPO even though it was not specifically regarding mandatory Social Security. Chairman Buchanan had concerns regarding the financial stability of public pension plans and what, if any, is the federal government's responsibility to bail out failing and mismanaged plans or ensure that plan participants have some sort of retirement on which they can rely.

Just as NAPO opposes mandatory Social Security coverage for all state and local public employees, we also oppose federal intervention into public pension systems. Chairman Buchanan's questions did not delve too deep into what would be the federal government's role in public pensions, and when he was told by the witness for the

IRS that the federal government had no liability for failing plans, he ended his questions. Chairman Buchanan is a strong friend of the law enforcement community and the champion of the Thin Blue Line, so we will make sure his staff is fully educated on the strength of public pension systems and importance of public pensions for state and local law enforcement officers.

House Moves on DOJ Appropriations Measure

Despite not having passed a budget, which determines how much funding gets allocated for the fiscal year, House appropriators are starting to move on fiscal 2018 spending measures in the hopes of completing the appropriations process before the September 30, 2017 deadline. On June 29, the House Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies (CJS) marked up its fiscal 2018 spending bill.

Despite the President including \$207 million for the Community Oriented Police Services (COPS) Hiring Program, and increase over the fiscal 2017 funding level, House Appropriators continued their efforts to eliminate the program in the spending measure. Over the objections of many subcommittee Democrats, Republicans approved zeroing out the COPS Hiring Program stating there was not enough money to fund every important program. Republicans, particularly House Republicans, have consistently put the COPS Program on the chopping block dating back to President George W. Bush's administration. While they were successful during his administration, in recent years, we have been able to work with a bipartisan group of Senators to ensure this vital hiring program continues to be funded. If we are not able to get funding included for the COPS Hiring Program during the House Appropriations Committee markup or during floor debate, we will once again look to the Senate to save this program.

The CJS appropriations bill was strong on other law enforcement grant programs, including NAPO's priority grant programs: Byrne Justice Assistance Grant (Byrne JAG) Program, the Bulletproof Vest Partnership (BVP) Grant Program, and the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA). The bill would fund Byrne JAG at \$500 million, which is almost double the President's proposal and \$24 million more than fiscal 2017. The BVP Program remains steady at \$22.5 million as does MIOTCRA at \$12 million.

The spending measure also includes \$20 million for the Adam Walsh Act, \$103 million to fight opioids, \$11 million for anti-meth programs through the COPS Office and \$10 million for active shooter police training.

It is uncertain how and when Congress will pass appropriations measures for fiscal 2018, given that the appropriations process started so late this year. Congress first needs to negotiate a bipartisan budget agreement in order to set spending levels and avoid returning to the spending cuts imposed by the Budget Control Act in 2013. Those cuts, also referred to as "sequestration", would mandate automatic across-the-board cuts to all departments and agencies to meet the budget levels set in the Act. House Republicans can move their own budget proposal, but it will fall flat in the Senate where bipartisan agreement is necessary.

NAPO will continue to work with lawmakers to ensure the COPS Hiring Program is funded in fiscal 2018 and that there is adequate funding provided for our priority grant programs. If you have any questions, please contact Andy Edmiston at aedmiston@napo.org.

NAPO on the Hill: Meetings with House and Senate Judiciary & Appropriations Staff

As the House begins to move on its appropriations bills, NAPO, together with other national law enforcement organizations representing management and rank-and-file officers, are meeting with key Republican and

Democratic staff of the House and Senate Judiciary and CJS Appropriations Committees to discuss our top funding priorities and the need to protect vital Department of Justice (DOJ) state and local law enforcement grant programs – specifically the importance of the COPS Hiring program and the Byrne Justice Assistance Grant (Byrne-JAG) program. We have met with **Congressmen John Ratcliffe (R-TX) and Derek Kilmer (D-WA) and Senator Lisa Murkowski (R-AK).**

The June 29 mark up of the CJS appropriations bill in the Appropriations Subcommittee did not allow for amendments to be offered, with Chairman John Culberson (R-TX) stating that they would allow debate on the bill and amendments to be offered during full committee markup of the measure. While there was support for amending the bill to include funding for the COPS Hiring Program, there was not an opportunity to do so.

The Senate has consistently been supportive of the COPS Hiring Program and has funded the program in every recent fiscal year despite the House’s efforts to eliminate the program. In our meeting with Senator Murkowski, her staff stated that the COPS Hiring Program is vital to Alaskan law enforcement and she is dedicated to see it funded in fiscal 2018. We appreciate the Senate’s bipartisan support of this key program.

We will continue meeting with key members of both the Judiciary and Appropriations Committees to shore up support for our priority grant programs, particularly the COP Hiring Program, as the appropriations process moves forward.

NAPO’s Latest Legislative Positions & Sponsor/Cosponsor Updates

NAPO’s updated “Sponsor/Cosponsor” spreadsheet is available at the following link: <http://www.napo.org/washington-report/sponsor-cosponsor-spreadsheet/>. The spreadsheet accompanies the latest “Legislative Positions” document, which is available at the following link: <http://www.napo.org/washington-report/legislative-priorities/>

The “Sponsor/Cosponsor” spreadsheet is a useful tool to check if your members of Congress have supported pieces of legislation that will impact our members. NAPO will update this spreadsheet regularly, and continue to ensure our voice is heard on Capitol Hill.

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

LAST CHANCE! Join NAPO for Our 39th Annual Convention in New York City

If you have not yet registered to join us at our 39th Annual Convention, it is not too late. **Please complete the [registration form](#) and mail it with payment to the NAPO office. Registrations may also be emailed to registrations@napo.org or faxed to (703) 684-0515.** Registrations received July 10 – July 20 will be charged a late registration fee of \$50. Registrations received after July 20 and on-site are discouraged; however, if you are unable to register in advance, you may do so on-site for an additional \$100 per person. Registration fees include the cost of convention materials, special events and food functions. Only registered individuals may attend convention events. Spouses, guests, and children must register if they wish to attend any convention events.