



The Washington Report

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

August 30, 2023

Register Now for NAPO's 2023 Legal Seminar *(For Public Safety Officers, Unions, Associations, and the Attorneys and Law Firms who Represent Them.)*

October 22 – October 24, 2023 ~ Hyatt Regency Lake Tahoe

Join NAPO at our [Legal Seminar, Defending the Protectors: Current Issues for Attorneys & Law Enforcement Leaders](#). This is the perfect seminar for those representing Public Safety Employees and Associations.

Earn up to 14.5 Hours of CLE Credits, including 2 Hours of Ethics!

The Key Issues to be discussed:

- Civil Rights Charges for On-Duty Conduct
- Qualified Immunity
- Legal Issues When Dealing with the Media
- Recruiting & Retaining Issues
- Tactics and Strategies for Collective Bargaining in Today's Environment
- Artificial Intelligence & Discipline
- Ethical Issues in High-Profile Cases

The Seminar will feature a two-hour ethics section led by nationally recognized expert Professor Larry J. Cohen. Professor Cohen will feature real-life ethical scenarios encountered by public safety labor attorneys.

For registration and information including hotel reservations, transportation discounts, and updates to the meeting agenda check out NAPO's 2023 Legal Seminar webpage: www.napo.org/legal23

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

NAPO Meets with DOJ Regarding PSOSA Implementation

NAPO met with the Director of the Department of Justice's Bureau of Justice Assistance, Karhlton Moore, and the Acting Principal Deputy Assistant Attorney General for the Office of Justice Programs, Brent Cohen, to discuss the ongoing implementation of the Public Safety Officers Support Act (PSOSA). The

one-year anniversary of the passage of PSOSA was on August 16. This important law makes post-traumatic stress disorder (PTSD) a line of duty injury under the Public Safety Officers' Benefits (PSOB) Program and ensure that officers who suffer from PTSD and those who take or attempt to take their own life due to on-duty trauma will be eligible under the program. The law also covers officers who die by trauma-linked suicide by directing the PSOB Program to presume that suicides are a result of job duties in certain circumstances, such as a mass casualty event, where there is evidence that PTSD would be caused by the trauma.

NAPO played a significant role in the writing of PSOSA and successful implementation of the law by the PSOB Office is a top priority for us. According to the DOJ, nearly 150 claims have been submitted to PSOB for benefits under PSOSA since the law was enacted, but not even a handful have been approved. The main challenge the PSOB Office is facing when it comes to PTSD-related suicide claims is that not enough information is being provided by the applicant, which is delaying the approval of claims. It is important that the application includes some connection between a line of duty action and the suicide or attempted suicide. This can simply be a record of the traumatic event(s) the officer experienced while on duty. The more information that can be provided in the application for a death or disability claim under PSOSA, the stronger the claim will be.

NAPO urges officers, whether they are currently struggling with their mental health or not, and their families to document any traumas or traumatic events the officer has experienced on the job; any instance where the officer said they want to get help; any time the officer or a family member called a peer mentoring or crisis line for help. The PSOB Office is looking for such documentation if there is no straight diagnosis of PTSD.

The PSOB Office has compiled a [FAQ on PSOSA](#) to help understand what the law does, who can file a claim, and how to successfully submit an application. NAPO will continue to work with the DOJ and the PSOB Office to ensure PSOSA is being implemented according to the intent of the law.

Deadline for 9/11 Responders to Apply for PSOB Benefits Under PAFRA is November 17, 2023

The Protecting America's First Responders Act (PAFRA) established a two-year window from enactment (November 18, 2021) specifically for 9/11 responders to file a disability claim under the Act for an injury sustained in the line of duty as a result of the 9/11 terrorist attacks, assuming no claim had already been filed or the claim had been denied on the fact that the injury did not meet the old disability requirements. It also allows families of 9/11 responders catastrophically injured because of the attacks, but who died of those injuries prior to being able to apply for benefits, to apply for death benefits within the two-year window.

The two-year window is important because under PSOB statute, a claim has to be filed within 3 years of the injury or death and PSOB considers September 11, 2001 the date of injury for 9/11 responders. **The two-year window for 9/11 responders to submit a claim ends November 17, 2023.** To meet the deadline, an officer or their family only need to start a claim application on the [PSOB website \(PSOB.gov\)](#) - the application does not need to be completed by November 17.

PAFRA eased the strict requirements for disabled officers to qualify for PSOB disability benefits, ensuring that officers who are catastrophically injured in the line of duty, but can perform some level of meaningful

work, would still qualify for the much-needed benefit. Further, officers who become quadriplegic, paraplegic, or blind due to the line of duty injury automatically qualify for the PSOB disability benefit.

If you have any questions on the PSOB Program or filing a claim under PSOSA or PAFRA, please contact NAPO's Director of Governmental Affairs, Andy Edmiston, at aedmiston@napo.org or (703) 549-0775.

IRS Delays Implementation of Roth Catch-up Requirement

On August 25, the IRS announced it is giving governmental retirement plans until 2026 to come into compliance with the new requirement, passed as part of SECURE 2.0, that any catch-up contributions made by individuals earning more than \$145,000 in 401(k) and similar retirement plans must be made in an after-tax, or Roth, basis. Plans must also give participants earning less than \$145,000 the option to make catch-up contributions in a Roth basis.

Under SECURE 2.0, which became law in December 2022, governmental plans had until 2024 to come into compliance with the Roth catch-up contributions requirement. This was problematic as many governmental plans do not currently provide for Roth contributions in their structure or have the legal authority under state or local statutes to offer after-tax catch-up contributions. NAPO joined members of the [Public Pension Network on a letter to the IRS](#) back in May urging it to grant governmental plans additional transition time to come into compliance. Without a delayed effective date, some governmental plans would have lost the ability to make catch-up contributions at the end of this year and would not regain that ability until the necessary authority to offer Roth contributions could be added to their structure.

The new Roth catch-up contribution rule applies to an employee who participates in a 401(k), 403(b), or governmental 457(b) plan whose wages are covered by Social Security.

This two-year delay in the implementation of the Roth catch-up requirement is a positive outcome for governmental plans and we are grateful the IRS listened to the concerns of governmental plans and their plan participants.

In its announcement, the IRS also clarified that plan participants who are 50 years of age and over can continue to make catch-up contributions after 2023, regardless of income.

[Internal Revenue Notice 2023-62](#)

NAPO Meets with House Labor Caucus

NAPO met with the new Executive Director of the House Labor Caucus to discuss our labor priorities. The Labor Caucus is an official caucus in the House co-chaired by Representatives Mark Pocan (D-WI), Donald Norcross (D-NJ), Debbie Dingell (D-MI), and Steven Horsford (D-NV) and is comprised of over 120 members.

The outreach from the House Labor Caucus to NAPO is significant given that just two years ago, Democrats and labor activists were willing to strip law enforcement from major labor reform legislation. In the meeting, NAPO discussed our frustrations with what occurred and the need to support full collective bargaining rights for law enforcement officers. We urged the Caucus to back the Public Safety Employer-Employee Cooperation Act (H.R. 3539), which will guarantee that law enforcement officers, firefighters, and

emergency medical service workers in all 50 states have the right to discuss workplace issues with their employers.

We also discussed NAPO's opposition to the District of Columbia's Comprehensive Policing and Justice Reform Amendment Act (CPJRAA), enacted in January 2023, and our concerns with the statute as Congress's efforts to overturn the law were unsuccessful. The CPJRAA stripped the men and women of the Metropolitan Police Department of their right to bargain over accountability or disciplinary issues. This created substandard collective bargaining rights for the officers, setting them apart from their fellow public servants in the District, who are allowed to bargain over disciplinary issues. We must ensure that this effort is not replicated in other cities and jurisdictions and work to protect law enforcement collective bargaining rights.

Lastly, we touched on the need for pre-Medicare retiree healthcare for public safety officers and to protect public pension plans. We look forward to building a strong relationship with the House Labor Caucus and working with them to promote and protect the collective bargaining rights of all public safety officers.

NAPO Opposes NYC Congestion Pricing Program

NAPO has concerns with the newly approved Central Business District Tolling Program of New York City (Congestion Pricing), which is expected to go into effect in April of 2024 and will charge commuters up to \$23 just to enter New York City below 60th Street. While emergency vehicles will be exempt, the officers of the New York City Police Department and the Port Authority Police Department who live outside of the City will be subject to the new toll.

The Congestion Pricing puts an undue burden on our public safety officers who commute into the City every day to serve and protect its citizens. Law enforcement officers work nonstandard hours and can be called in to duty on short notice at any time of day to any precinct. Driving into the City for work is a necessity for them, not an elective convenience. This toll would cost officers approximately \$6,000 annually just to commute to and from work *in addition to* the expensive bridge and tunnel tolls that they currently must pay. The Congestion Pricing plan will undoubtedly cause NYPD and PAPD officers to consider leaving their jobs due to this extra financial burden, jeopardizing already understaffed departments.

NAPO sent [a letter](#) to the Chairman of the Metropolitan Transportation Association expressing our concerns with the Congestion Pricing plan and urging the MTA to reconsider it and at the very least exempt law enforcement officers from the toll. The toll will impact more than just the number of vehicles driving into Manhattan, it will affect public safety.

NAPO Opposes Bill to End Equitable Sharing Program

NAPO advised House leadership of our opposition to the Fifth Amendment Integrity Restoration (FAIR) Act of 2023, H.R. 1525, as approved by the House Judiciary Committee in [a letter](#) sent on August 23. The Judiciary Committee approved the FAIR Act unanimously despite the stated concerns of the law enforcement community.

This legislation would eliminate the federal asset forfeiture equitable sharing program, a vital program that provides state and local law enforcement agencies with a means to participate in federal task forces to prevent and foil serious criminal activity and terrorism, purchase equipment, upgrade technology, engage their communities, and better train and protect their officers.

Given the remarkable success of the equitable sharing program in creating and sustaining effective partnerships between federal, state, and local law enforcement in the fight against violent crime, the proposed elimination of this program in the FAIR Act is inexplicable. In regard to claims of abuse within the program, any examples of abuse are anomalies in an otherwise successful collaboration between the federal government and its state and local partners.

NAPO fears the elimination of equitable sharing payments will not only force agencies to cut training for officers and scrap the purchase of needed new technology and equipment, but it may also cause agencies to reconsider their ability to participate in joint task forces with the federal government. The effects of this will be far reaching and are not only harmful to law enforcement, but also to the public they are sworn to protect.

NAPO will continue to engage with leadership regarding our opposition to the FAIR Act and work to protect the equitable sharing program.

September Outlook: Fiscal 2024 Appropriations & NDAA

The Senate comes back from August Recess on September 5 and the House returns on September 12 with a lot of work on their plate with the most pressing being funding the federal government which runs out of money on September 30. The Senate has passed none of the twelve Fiscal Year 2024 appropriations measures and the House has only passed the Military Construction – VA spending bill. With so much to be done in such a short timeframe, House and Senate leadership agree that a short-term continuing resolution (CR) is needed to extend FY 2023 funding until Congress can agree upon and pass the FY 24 appropriations bills.

House Speaker Kevin McCarthy (R-CA) is facing strong headwinds against a CR from the House Freedom Caucus who have stated they are not afraid of shutting down the government to get the spending cuts and policy priorities they want accomplished. The issue is that those spending cuts and policies will not go anywhere in the Democratic-controlled Senate and are opposed by the White House. While Congress figures out how to keep the federal government open and fund it for the next fiscal year, NAPO is working with appropriators to ensure that our priority grant programs within the Departments of Justice and Homeland Security do not face significant cuts.

In both the House and Senate versions of the Commerce, Justice, Science Appropriations and the Homeland Security Appropriations bills, we have been successful so far in protecting our priority grant programs from considerable cuts. NAPO continues to be involved in the appropriations process and is working to ensure that state and local law enforcement assistance grant programs are sufficiently funded in FY 24.

In addition to funding the federal government, Congress also must pass the final National Defense Authorization Act (NDAA) for Fiscal 2024. The House passed its NDAA on July 14 and the Senate passed its version on July 27. The House and Senate must now come together in a conference committee to work out the differences between the two versions and come up with a final NDAA that can pass both chambers. NAPO has several important provisions that were included in the House and Senate NDAA that we are working to ensure remain in the final legislation: funding for the 9/11 World Trade Center Health Program, the FEND Off Fentanyl Act, and protecting state and local law enforcements' access to surplus military equipment through the Department of Defense's 1033 Program.

NAPO will be calling on both the House and Senate conferees to maintain these important provisions in the final NDAA for Fiscal 2024.

NAPO's Legislative Positions & Sponsor/Cosponsor Updates

NAPO's updated "Sponsor/Cosponsor" spreadsheet is available on [NAPO's website](#). The spreadsheet accompanies the latest "[Legislative Positions](#)" document, which is also available on the NAPO website. NAPO's Legislative Positions is a document that highlights all the legislation that we have taken an official position on or are monitoring during the 118th Congress. It is continually updated to reflect the work we are doing on Capitol Hill.

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 updates this spreadsheet regularly and continues to ensure our voice is heard on Capitol Hill.

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