



# The Washington Report

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

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**June 18, 2021**

## **NAPO Victory! Priority PSOB Legislation Passed by Senate**

The Senate passed the Protecting America's First Responders Act (S. 1511) on June 10 by unanimous consent. This is a major victory for NAPO as we have been working on this legislation over the past three years. NAPO worked closely with Senator Charles Grassley (R-IA) and Congressman Bill Pascrell (D-NJ) to introduce this bill, which will make it easier for public safety officers disabled in the line of duty to qualify for the federal Public Safety Officer's Benefits (PSOB) Program's disability benefits, in addition to several other important programmatic changes.

Senator Grassley and Congressman Pascrell have been very vocal about the unfair and inconsistent application of the program's "very stringent requirements" for officers disabled in the line of duty. They share our concerns that the stringent requirements for PSOB disability benefits make it extremely difficult for officers to qualify, and that the PSOB regulations regarding disability benefits do not match up with what Congress intended when it created the disability benefit in 1990.

The Protecting America's First Responders Act will ease 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 will automatically qualify for the PSOB disability benefit. Disabled officers have been left behind and this bill will ensure they are not forgotten.

Additionally, the Protecting America's First Responders Act will 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.

The goal of this important legislation is to help protect the ability of survivors, disabled officers and their families to get the benefits they so rightly deserve and we will continue working to ensure this goal is achieved. We thank Senator Grassley and Representative Pascrell for their continued support of the law enforcement community. NAPO is now focusing our efforts on the House so that we can see this important bill sent to the President's desk to be signed into law.

## NAPO on the Hill: Police Reform

Senator Cory Booker (D-NJ) tried to back-door a deal on police reform that had the backing of only two law enforcement organizations (the FOP and the IACP). Senator Booker froze out NAPO and other police groups, despite the fact that NAPO represents a majority of law enforcement officers in the senator's state of New Jersey. This proposal is entirely of Senator Booker's doing as the other two main negotiators – Senator Tim Scott (R-SC) and Congresswoman Karen Bass (D-CA) – were not involved in its drafting. The other members of Congress and Senators who have been involved in the negotiations also did not have a hand in the drafting of the proposal.

NAPO was able to obtain the most updated text of Senator Booker's draft police reform bill and we have grave concerns with it. We mobilized immediately in opposition to the proposal and encouraged negotiators to reject it as it is untenable. It seems that our strong efforts against it have made an impact as negotiators are going back to the drawing table on a new proposal. We will continue to push against Senator Booker's draft bill to ensure no provisions from it make their way into any new proposals put forward.

The reasons for our opposition are too many to completely list (Senator Booker's proposal runs to 125 pages), but in general, the proposal:

- Adds four new federal criminal offenses to incarcerate state and local police officers (Sec. 101).
- Removes the “knowing” *mens rea* requirement for the new criminal federal obstruction crime it establishes (Sec. 101).
- Defines Deadly Force to include Taser use in certain circumstances, carotid restraints, and even the “position or posture” of a suspect (Definitions, Sec. 2).
- Does away with both Sovereign Immunity for both State and Federal law enforcement agencies, and does not protect officer's Qualified Immunity at all. In fact, it *reminds* readers that they can still sue *individual* officers “*under this section or under any other source of law*” (Sec. 102).
- Expands pattern and practice investigations and specifically adds prosecutors, not just investigators, to the process (Sec. 103).
- Authorizes \$750,000,000.00 (you read that right) for the investigation and prosecution of individual state and local officers involved in use of force incidents (Sec. 104).
- Calls for the national establishment of Civilian Review Boards (Sec. 114).
- Defines “Serious Misconduct Complaint Information” to *include complaints that were not sustained* (Sec. 201).
- Establishes a public “National Police Accountability Database” into which individual officer information would be entered, without basic due process protections of notice and an opportunity to be heard; officers would only be allowed to include a “personal statement” *after* their personal information had already been added to the database (Sec. 202).
- Expands an FBI national database to collect information on all state and local officers' use of force, including “less lethal” force, which is defined to include touching someone with a hand (Sec. 223).
- Provides for lawsuits against individual law enforcement officers in State and Federal courts for alleged acts of discrimination, which are defined to include disparate impact of official agency policies (Sec. 312).
- Does away with no-knock warrants in drug cases where destruction of evidence is occurring (Sec. 361).
- Restricts the justification defense for officers in use of force cases (Sec. 363).
- Bans facial recognition technology (Sec. 372 and others).
- *Requires* discipline of officers for bodycam policy violations, without requiring due process (Sec. 372).

- Limits tear gas and OC spray to only be used against “violent” offenders, not to disperse crowds (Sec. 393).
- Provides \$50,000,000.00 for reinstatement of offenders’ suspended or revoked drivers licenses, and \$0 for addressing officer suicides (Sec. 803, Sec. 1004).
- Calls for looking at the *repeal of state and local misdemeanor crime enforcement* (Sec. 806).
- Greatly limits legitimate law enforcement tools, including further restricting the 1033 Program (Sec. 364).
- Severely restricts the confidentiality of peer-counselor communications by officers who have gone through a critical incident, such as a use of force (Sec. 1002).
- Offers, apparently in exchange for all of the foregoing, not more than “a total of 6 months” disability coverage under the Public Safety Officer’s Benefits (PSOB) Program (Sec. 1301); and repeal of the Social Security WEP and GPO provisions, *which are already covered in other legislation NAPO has helped support* (Sections 1102, 1103).

Senator Booker’s proposal in effect sets up a situation where the Department of Justice will be managing the hiring, training, deployment, and policy, including use of force and equipment, for every state and local agency. It would make law enforcement more dangerous and difficult for officers and it would exacerbate the already dire recruitment and retention issues facing state and local agencies.

NAPO is not alone in our serious concerns with the proposal and the law enforcement community is largely unified in our concerns, except for the two organizations that support it (the FOP and the IACP). Senate and House support is imperative to pass any legislation and this proposal does not seem like it will win many Republicans or moderate Democrats over.

NAPO asked our membership to join us in opposing Senator Booker’s police reform proposal by contacting their Congressional Representatives and Senators and sharing our concerns with the proposal. Ensuring this proposal does not move forward will protect American law enforcement from a catastrophe. NAPO continues to express our concerns to members of Congress and we stand ready to work with negotiators on reform proposals that take into consideration the concerns and needs of both law enforcement and the communities they serve.

## **NAPO in the News**

NAPO’s Executive Director Bill Johnson was quoted in a June 13, 2021 *USA Today* article entitled, “[Qualified immunity divides lawmakers in police reform talks. What is that legal defense?](#)” As stated in its title, the article focuses on the arguments of the proponents and opponents of qualified immunity and the state of Congressional police reform negotiations over changing the legal doctrine. Johnson was quoted addressing the misconception of what qualified immunity does and the consequences of eliminating this legal protection for officers acting in good faith as they serve and protect their communities.

Qualified immunity "does not shield officers from criminal misconduct, and it does not shield officers who knowingly violate someone's rights. But if an officer in good faith violates someone's rights and didn't even know that right exists, for instance, then in a situation like that the Supreme Court said it's not a part of American jurisprudence to hold a person liable [in that] situation," said Bill Johnson, executive director of the National Association of Police Organizations.

Police groups argue that accountability exists in other forms and that cases like the criminal prosecution of former Minneapolis police officer Derek Chauvin were not ultimately influenced by qualified immunity.

Johnson also said ending qualified immunity would be damaging to police morale and recruitment, [which have already been low after a year of calls to reimagine American policing](#).

"I think to the extent it changes behavior at all – if qualified immunity were taken away and if there were a raft of monetary penalties against officers – it would change things in that it would make people say, ‘I do not want to do this work as a cop, and I’m going to find an easier job elsewhere,’” he said.

"You’re much more likely to get the proper result that you want through correct training and giving positive reinforcement for when they’re doing the right thing as opposed to punishment."

NAPO will continue to ensure our members’ voices are heard loud and clear on the Hill, with the Administration, and in the media.

## **NAPO Meets with Senior Advisor to the President**

NAPO participated in a meeting with Cedric Richmond, Senior Advisor to the President and Director of the White House Office of Public Engagement, staff from the White House Domestic Policy Council and representatives from major national law enforcement organizations to discuss how best to combat violent crime, particularly rising gun crime, in our communities. It was an open discussion than ranged from the latest violent crime statistics and the increase of illegal guns in our communities to the pressures facing police departments and officers as they look to serve and protect with fewer resources, unsustainable staffing levels, and a hatred for the uniforms they wear and the laws they are bound to enforce.

Mr. Richmond indicated he would like to hold these meetings regularly, with NAPO and the other representatives agreeing that a continued open dialogue on how best we can support each other is of the utmost importance. We look forward to our continued discussions with the White House and the Domestic Policy Council on the needs of our nation’s law enforcement and how the Administration can best help the officers on the street serve and protect our communities.

## **NAPO Meets with Office of the Associate Attorney General**

NAPO met with staff from the Department of Justice (DOJ) Office of the Associate Attorney General, which oversees the Civil Rights Division, Community Relations Service, Office of Justice Programs, Office on Violence Against Women, and the Community Oriented Policing Services (COPS) Office. The purpose of the meeting was to get our thoughts and priorities on how the Department can promote best practices and innovation in policing. Staff was specifically interested in possible research areas the DOJ should consider, programmatic priorities for DOJ grants, gaps in data that need to be filled to better support the field, and ways the use of monitors can be improved when they are required in consent decrees with police departments.

Amongst the priorities we raised in the meeting was for the DOJ to endorse and request full funding for the Community Oriented Policing Services (COPS) Hiring Program while maintaining its intended focus of assisting state and local law enforcement agencies hire and retain officers to promote community policing and fight crime in our communities. Relatedly, we asked the staff to support research into two person units

for all patrol shifts and patrol assignments to increase officer safety and reduce instances of officer use of force. Many departments are understaffed and do not have this capability, but we believe that COPS Hiring Program funds should be directed to increasing the numbers of community police officers on our streets and ensuring they can do their job safely and effectively.

The need to research and understand the importance of confidentiality of peer mentoring services for law enforcement officers, both at the federal and state levels, was also raised. Ensuring confidentiality of these services will increase trust in and use of them by officers. Unless the strictest privacy standards are established and maintained, an officer's mental health care, including that through peer mentoring services, can be discoverable on the public record, used in court proceedings, or affect their employment. Officers feel more comfortable admitting their concerns and asking questions and are more likely to take advantage of mental health services when they know they will be confidential. All communications made by officers to crisis counseling services (including peer services), and all records related to the communications, must be confidential.

We also discussed the Civil Rights Division looking into using current law and statutes to prosecute those who commit crimes against law enforcement officers. NAPO believes that state and local law enforcement, as part of the performance of their duties, are protectors of citizens' civil rights and thus any attacks on officers who are engaged in such duties should be viewed by the Civil Rights Division as a violation of protected federal civil rights.

Lastly, we reviewed our position on the use of monitors for federal consent decrees with law enforcement agencies. NAPO supports a mandatory time limit for monitoring programs instituted under federal consent decrees. We also support term limits for monitors to ensure impartiality and fairness in evaluating the provisions of a consent decree, especially one that has gone on for many years. This will protect the interests of state and local governments in managing their own affairs.

NAPO appreciates the continued opportunity to provide our priorities and insights to DOJ leadership staff. The open lines of communications that we have established will help us and the Department serve our members better.

## **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 the President's FY 2022 Budget Request for the Community Oriented Policing Services (COPS) Office and the new DOJ Body-Worn Camera policy for task force officers and federal law enforcement officers. The meeting was to provide an update on these new federal proposals and to gain feedback from state and local law enforcement partners.

President's FY 22 budget proposes \$651 million, which is more than double what the program was appropriated in Fiscal 2021. The proposal allocates \$537 million of that for the COPS Hiring Program, out of which \$8 million would go towards the Law Enforcement Mental Health and Wellness Act and Supporting and Treating Officers in Crisis (STOIC) Act programs. It also allocates \$20 million for the Collaborative Reform Program, which provides technical assistance and training for departments to help them address systemic issues, and \$35 million for community policing development.

The proposed budget would add new conditions and priority preferences for the COPS Hiring Program to focus grant funding to agencies that partner with community organizations to implement community violent intervention (CVI) strategies, which aim to reduce gun violence through tools other than incarceration and

want to hire officers to dedicate to those strategies. It also prioritizes for funding those jurisdictions that want to implement hiring practices to help law enforcement agencies “mirror the racial diversity of the communities they serve”.

Deputy Attorney General Lisa Monaco issued a [memo](#) directing the heads of the ATF, DEA, FBI, and USMS to develop a body-worn camera policy for their agencies that will cover the use of body-worn cameras by federal agents during a preplanned attempt to serve an arrest warrant or other preplanned arrest, including the apprehension of fugitives sought on state and local warrants or during the execution of a search or seizure warrant or order. Since October 2020, the [DOJ has permitted](#) state and local task force officers to utilize their department-issued body-worn cameras in such situations and the Department is encouraging its task force partners to require officers to use their body-worn cameras.

NAPO appreciates the continued open lines of communication and the solicitation of our input on these policies and looks forward to continuing these meetings with the Department.

## **NAPO Supports the American Body-Worn Camera Act**

NAPO pledged its support for the American Body-Worn Camera (ABC) Act of 2021 sponsored by Representative Michael Guest (R-MS), which will create and authorize a grant program through the Department of Justice to assist state and local law enforcement agencies implement and sustain body-worn camera programs.

This grant program will help increase transparency and accountability in policing and enhance community trust in our profession. To ensure the successful implementation of a body-worn camera program, an agency must obtain buy-in from every level of the department, especially the rank-and-file officers on the street who wear the cameras. With its [Body-Worn Camera Toolkit](#), the U.S. Department of Justice’s Bureau of Justice Assistance has found that best practices for departmental body-worn camera programs include engaging the community, prosecutors and rank-and-file officers on body-worn camera issues and allowing for a significant degree of officer discretion.

The ABC Act of 2021 specifies that policies and procedures regarding the use of body-worn cameras by officers must be developed with the input of rank-and-file officers or their representatives in addition to the community, prosecutors and organizations representing crime victims. By taking into consideration the concerns and needs of both law enforcement and the communities they serve, the body-worn camera grant program created by this legislation is assured greater implementation and execution by agencies across the country. The ABC Act of 2021 will help us move forward with improving our relationship with our communities.

***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.***