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## STATEMENT ON POLICY AND POSITION

### DEPARTMENT OF JUSTICE

#### **Increased Penalties for Crimes against Law Enforcement**

There is a serious and growing trend of ambush murders and other armed attacks on law enforcement officers. According to a May 2023 report from the Office of Community Oriented Policing Services (COPS), 331 officers were shot in the line of duty in 2022, of which 62 officers died from their injuries. 126 of those officers were shot and 32 died in ambushes or premeditated, calculated assaults. While the number of officers dying from their injuries may be decreasing, the number of officers being targeted for violence remains persistently high.

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 (also discussed below).

#### **Civil Rights Division, DOJ**

We urge the Assistant Attorney General for the Civil Rights Division to develop close and trusted relationship with law enforcement agencies, rank-and-file officers and their representative organizations. The current Civil Rights Division has made the demonization and prosecution of law enforcement officers who have used force one of its top priorities, which has alienated the law enforcement community and seriously eroded any trust between law enforcement and the DOJ. The Civil Rights Division must view law enforcement as its ally in protecting the civil rights of our nation's citizens.

NAPO understands that the Civil Rights Division must do its job, including investigation of credible allegations of a wrongful use of force by an officer, but we also expect that under the Trump Administration the Division will ensure that the officer is provided notice and an opportunity to be heard before any decision to prosecute is rendered.

Further, NAPO believes that state and local law enforcement, as part of the performance of their duties, are protectors of citizens' civil rights and any attacks on officers is a violation of civil rights. This would give sufficient federal status to justify a DOJ Civil Rights Division prosecution of those who commit violent crimes against state and local law enforcement officers. We strongly urge the Assistant Attorney General of the Civil Rights Division to work collaboratively with law enforcement and ensure federal prosecution, where applicable, of those who commit crimes against officers.

### **Protecting Officer Due Process Rights**

There is a serious need for the implementation of national 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. Procedural protections to officers in the complaint investigation and disciplinary process need to be uniform and guaranteed to officers throughout the country.

Further, national standards for complaint investigation and disciplinary processes would provide greater transparency and accountability to internal investigations, thus increasing public trust.

NAPO strongly supports the enactment of a national “Law Enforcement Officer Bill of Rights”, which would establish officer due process rights and protect the legitimate workplace and procedural rights of officers. For additional recommendations on protecting officer rights, please see the section on “Collective Bargaining” under the Department of Labor.

### **Consent Decrees**

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 apply 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.

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 also believes that organizations representing the rank-and-file officers should be a party to the consent decree as it is the officers who will be implementing the required changes.

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.

Additionally, NAPO backs 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.

## **Full Funding for State and Local Law Enforcement Grant Programs**

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 135,000 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**, the **Law Enforcement Mental Health and Wellness Act (LEMHWA)** and the **Supporting and Treating Officers in Crisis (STOIC) Act** program, both of which promote officer mental wellness and peer mentoring.

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.

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.

With the passage of the **Law Enforcement De-Escalation Training Act** in December 2022, starting in FY 2024, \$20 million in Byrne JAG funding will go towards supporting best practices in de-escalation training and law enforcement/mental health treatment partnerships and to support train-the-trainer trainings nationwide and in FY 2025 a new grant program will flow through Byrne JAG to continually support these purposes.

COPS, together with Byrne JAG, provide state and local law enforcement with necessary funding to assist their efforts to keep communities safe.

Other DOJ state and local law enforcement assistance grant programs NAPO strongly supports:

- The **Bulletproof Vest Partnership (BVP) Grant Program**, a critical resource that helps state and local agencies purchase bullet-resistant body armor for their officers.
- The **Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA)**, which promotes 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, reduce recidivism, and protect public safety.
- **Project Safe Neighborhoods**, which continues to be a vital program in state and local law enforcement efforts to reduce violent crime in our communities.

- The **Body-Worn Camera Policy and Implementation Program** under the Bureau of Justice Assistance (BJA) assists state and local law enforcement agencies purchase and lease body-worn cameras (BWC) and establish BWC programs.

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 DOJ state and local law enforcement assistance programs, especially those mentioned above, be adequately funded.

### **Officer Mental Health and Wellness**

According to [Blue H.E.L.P.](#), 143 current or active-duty officers died by suicide in 2024 and 167 in 2023. In 2022, there were 223 officer suicides. These are just the numbers that are reported and tracked. Additionally, according to the National Study of Police Suicides, officers are 2.5 times more likely to die from suicides than from homicides, a sobering statistic.

In passing the **Law Enforcement Mental Health and Wellness Act (Public Law No. 115-113)**, the **Supporting and Treating Officers in Crisis (STOIC) Act (PL 116-32)**, and the **COPS Counseling Act (PL 117-60)** – all NAPO priority legislation – 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 Acts are helping law enforcement agencies establish or enhance mental health care services for their officers by making grants available to initiate peer mentoring pilot 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 check-ups.

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 Fiscal 2024, Congress appropriated \$10 million for LEMHWA and STOIC combined and while this is significantly more than the \$2 million these programs started with, it does not come close to meeting the demand for these services. Sufficiently funding the LEMHWA and STOIC Programs will help give all officers access to confidential, peer mentoring and state-of-the-art treatments for mental health concerns, including PTSD and acute stress disorder. By recognizing the instances of these disorders within the profession and guaranteeing treatments and resources are widely available, we can work to ensure that suicide will no longer be one of the top killers of public safety officers.

Further, officers are 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 they will be confidential.

Only 22 states provide confidentiality protections to critical incident debriefs and peer support services.<sup>1</sup> In these states, the group debriefings, conducted by peer support and mental health professionals, are

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<sup>1</sup> <https://le.utah.gov/interim/2017/pdf/00002716.pdf>

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. For examples, see the [Texas](#) and [Washington](#) state laws.

Additionally, there is a gap in the Federal Rules of Evidence governing confidentiality in officer use-of-force peer debriefs - these debriefings are not currently protected, although the statements of a criminal suspect in the very same incident who speaks to a therapist *would be* privileged from disclosure. A result of this gap is that officers are sometimes advised by counsel not to participate in the debriefings and therefore do not get the benefits available from the experience.

**NAPO strongly supports the need to enact legislation that makes all communications made by officers to crisis counseling services (including peer services), and all records related to the communications, confidential.**

We also believe that the Federal Rules of Evidence must be amended to expand the privileges section (Rule 501) to exclude from introduction into evidence in federal proceedings statements made by an officer in the context of critical incident peer debriefs and peer-involved mental health care for officers involved in highly stressful situations.

## **FENTANYL: OFFICE OF NATIONAL DRUG CONTROL POLICY; U.S. TRADE REPRESENTATIVE**

### **Permanent Scheduling of Fentanyl as a Schedule 1 Drug**

NAPO supports making permanent the current classwide scheduling of all fentanyl-related substances as Schedule 1 drugs under the Controlled Substances Act, giving law enforcement the tools and resources necessary to combat and deter fentanyl in our nation's communities.

The spread of fentanyl in our communities is devastating. It is being mixed with already deadly illicit drugs, hidden in counterfeit drugs, and being peddled at alarmingly high rates. According to the National Institute on Drug Abuse, more than 107,941 Americans died from drug overdoses in 2022 and synthetic opioids were involved in over 73,838 of those deaths, a significant increase in opioid-related overdose deaths over previous years. Many of these deaths were from using synthetic analogues of fentanyl.

NAPO has long fought for resources to support law enforcement's efforts to combat fentanyl, its analogues, and similar opioids. Permanently scheduling all fentanyl-related substances as Schedule 1 drugs will significantly help the fight against the spread of this deadly poison in our communities.

### **Closing the De Minimis Loophole**

NAPO supports the closure a loophole in U.S. trade law, known as Section 321 de minimis, that is facilitating the importation of millions of pounds of fentanyl and other illicit drugs to the U.S. market.

Our nation's law enforcement are battling the trafficking of illegal narcotics on multiple fronts, from our southern border to Asian supply chains selling via e-commerce and shipping drugs like fentanyl in small packages by air cargo and the international mail system. The de minimis loophole is severely

exacerbating the opioid crisis and contributing to deaths in our country by allowing fentanyl and other illegal opioids to enter our market duty free and largely uninspected.

The Section 321 de minimis provision, which was first established under the Tariff Act of 1930, has failed to keep up with the modern marketplace and the explosion of e-commerce shipments of individually packaged goods from around the globe that are sent directly to American consumers. It is an outdated provision that has become a dangerous gateway that allows millions of direct mail shipments of illicit narcotics from anywhere in the world to enter the U.S. market virtually uninspected, destroying families and entire communities and overwhelming law enforcement agencies, like those that we represent.

Eliminating de minimis e-commerce shipments will help staunch the surge of illicit narcotics that are exploiting this loophole to wreak havoc across the country, and ease the burden on our law enforcement resources, which are stretched thin among a multitude of priority areas. We cannot take action only after this drug enters our country; we must fight it before it is shipped into our markets from China and other countries.

## **SURPLUS MILITARY EQUIPMENT: DEPARTMENTS OF DEFENSE, JUSTICE, AND HOMELAND SECURITY**

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 in his first administration on the issuance of Executive Order 13809 in August 2017 to restore state and local law enforcement's access to this lifesaving equipment. Unfortunately, President Biden reinstated President Obama's Executive Order 13688 on May 25, 2022, and expanded it to not only include equipment acquired through the 1033 program, but also equipment purchased through grants through the Departments of Justice and Homeland Security.

President Biden's Executive Order 14074 also places new restrictions on the use of search and rescue vehicles obtained by state and local law enforcement through these programs, which we believe limits our ability to protect the public in emergency situations.

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. Restricting the equipment available to law enforcement agencies across the nation through

programs like the 1033 program would limit departments' ability to keep our communities and our officers safe.

We support the repeal of the restrictions put in place by Executive Order 14074 on equipment acquired through the Departments of Defense, Justice, and Homeland Security.

## DEPARTMENT OF LABOR

### **Collective Bargaining**

While many public safety agencies benefit from a productive partnership between the agency and employees, many other agencies are not able to. 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, unsafe 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 officers.

NAPO strongly believes that all law enforcement officers in all 50 states should be granted the right to discuss workplace issues with their employers. We support the [Public Safety Employer-Employee Cooperation Act](#) as it would provide a framework for such discussions, while respecting the right and flexibility of states to write their own laws for public sector workers. The public safety is best protected through effective partnerships between first responders on the front lines and the agencies that employ them. The right to collectively bargain ensures that public safety officers can meet with local officials to discuss how they do their jobs and how best to protect the public.

NAPO is very concerned about previous attempts by Congress to require state and local governments and law enforcement agencies to eliminate collective bargaining agreement language that is alleged to prevent investigations of law enforcement misconduct in order to be eligible to receive Department of Justice state and local law enforcement assistance grants. We know of no such language in any collective bargaining agreements that would prevent internal or criminal investigations, but we must ensure that the rightfully bargained provisions that protect an officer's legitimate due process rights are safeguarded.

We do not condone shielding officers who have committed crimes and that is not the intent of such collective bargaining agreement provisions. Police unions, just like all other unions, do, however, have a legal duty to protect their members' right to due process. This is a fundamental right possessed by all citizens, a right *all* unions must also honor as part of their statutory and legal duty of fair representation. Blaming unions is how management avoids taking blame for not following the processes and procedures agreed to – by both sides – in a collective bargaining agreement. NAPO strongly opposes any attempt at curbing officers' rights to bargain over wages, hours *and* working conditions.

## PUBLIC SECTOR RETIREMENT: TREASURY DEPARTMENT

Studies by the National Institute on Retirement Security (NIRS), including the [State and Local Employee Views on Their Jobs, Pay and Benefits](#), the [Enduring Challenges: Examining the Experiences of States that Closed Pension Plans](#), and the [Alaska Teacher Recruitment and Retention Study](#), demonstrate that

retirement and health benefits are closely tied to job satisfaction. NIRS broke out the data further by profession and created [fact sheets on law enforcement](#) and their views on their jobs and retirement benefits.

Protecting and preserving public defined benefit pension plans is a top priority for NAPO. This is not a labor issue; it is a public safety issue. Cities, such as [Palm Beach, Florida](#), and states like Alaska, who have downgraded their pension plans or switched to 401(k)-style plans have seen qualified, trained officers leave for other jurisdictions that provide traditional pension benefit plans. They also find it harder to recruit new officers to replace those who have left. Protecting the benefits these officers were promised is one of the best ways of ensuring officer retention and increase recruitment.

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