

LEGISLATIVE RESOLUTION
NAPO's 43rd Annual National Convention, 2021

**RESOLUTION CALLING ON THE DEPARTMENT OF JUSTICE TO FEDERALLY
PROSECUTE THOSE WHO THREATEN OR HARM LAW ENFORCEMENT OFFICERS**

WHEREAS, Each day, hundreds of thousands of federal, state, and local law enforcement officers put their lives on the line to serve and protect our nation and communities; and

WHEREAS, There is a serious and growing trend of armed attacks on law enforcement officers. According to a [May 2021 report](#) from the Office of Community Oriented Policing Services (COPS), 312 officers were shot in the line of duty in 2020, of which 47 officers died from their injuries and 268 survived. 218 of those officers were shot and 45 died in ambushes or premeditated, calculated assaults; and

WHEREAS, Increased penalties make important differences in the attitudes of criminals towards public safety officers and can ensure protection for the community. Any persons contemplating harming an officer must know that they will face serious punishments; and

WHEREAS, 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 attack on officers who are engaged in such duties should be viewed by the Civil Rights Division as a violation of protected federal civil rights; and

WHEREAS, NAPO supports the utilization of existing federal criminal provisions to address 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.

THEREFORE LET IT BE RESOLVED, That NAPO urges the U.S. Department of Justice Civil Rights Division to use current law and statutes to the fullest extent possible to prosecute those who commit crimes against law enforcement officers. Division staff must work collaboratively with law enforcement and ensure federal prosecution, where applicable, of those who commit crimes against officers.

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**RESOLUTION CALLING FOR THE FEDERAL PROSECUTION OF THOSE WHO ATTACK
OR HARM FEDERALLY FUNDED LAW ENFORCEMENT OFFICERS**

WHEREAS, The Federal government has long recognized state and local law enforcement as vital partners in its fight against domestic crime and terrorism; and

WHEREAS, State and local law enforcement play a large role in the national effort to secure this country by preventing and deterring terrorist attacks and protecting against and responding to threats and hazards to the nation; and

WHEREAS, Since their inception, the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS) Hiring Program and the Bureau of Justice Assistance Byrne Justice Assistance Grants (Byrne JAG) Program have helped state and local law enforcement agencies across the country hire and retain hundreds of thousands of officers, understanding their important role in protecting our nation's citizens from threats; and

WHEREAS, The alarming and growing trend of ambushed murders and other armed, premeditated attacks on law enforcement officers is an assault on the rule of law and the ability of Federal government to ensure the public safety to our nation's citizens.

THEREFORE LET IT BE RESOLVED, That NAPO calls on the Department of Justice and the Offices of United States Attorneys across the country to federally prosecute those who threaten or harm law enforcement officers whose positions are supported by federal funding, including, but not limited to the COPS Hiring Program, Byrne JAG and other grant programs through the Departments of Justice and Homeland security, and whose agencies receive such funding.

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**RESOLUTION CALLING ON THE SWIFT PROSECUTION OF THOSE WHO ATTACK OR
HARM LAW ENFORCEMENT OFFICERS**

WHEREAS, Persistent and nationwide calls for the killing of officers and anti-police rhetoric continue with little to no abatement, which significantly undermines respect for law enforcement officers and the laws they are bound to enforce, and consequently, destabilizes public safety; and

WHEREAS, Every year, the number of officers killed by firearms has increased. According to the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS), 312 law enforcement officers were shot in the line of duty in 2020. This is a 13 percent increase over the number of officers shot in the line of duty in 2019 and a 20 percent increase over those shot in 2018. Further, 49 percent of shooting incidents in 2020 involved a discernable element of premeditation, which is a 7 percent increase over 2019; and

WHEREAS, The lack of prosecution of suspects who have threatened officers with harm is too often ignored while federal, state and local prosecutors are otherwise eager to make their mark by rushing to impose criminal charges against officers confronted with the difficult choice to use deadly force; and

WHEREAS, Tepid responses to the targeting of law enforcement officers with violence do nothing to discourage future attacks, which is why federal, state and local prosecutors must use current law and statutes to the fullest extent possible to penalize those who harm or target for harm law enforcement officers.

THEREFORE LET IT BE RESOLVED, That NAPO urges federal, state and local prosecutors to swiftly and fully prosecute those who attack or harm law enforcement officers to ensure that those who would contemplate doing so receive the message that such acts are unacceptable and will be punished to the fullest extent of the law. Penalizing those who violently target law enforcement officers will make important differences in the attitudes of criminals toward public safety officers and ensure protection for the community.

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**RESOLUTION OPPOSING LOWERING THE THRESHOLDS FOR
FEDERAL CRIMINAL CIVIL RIGHTS VIOLATIONS**

WHEREAS, The George Floyd Justice in Policing Act (H.R. 1280) and a draft police reform proposal proffered by Senator Cory Booker (D-NJ) that is backed by the International Association of Chiefs of Police and the Fraternal Order of Police would practically eliminate or significantly alter well settled constitutional protections under 18 U.S.C. 242 (Section 242), the Deprivation of Rights Under Color of Law; and

WHEREAS, Since the 1945 case *Screws v. United States*, 325 U.S. 91, the U.S. Supreme Court has consistently held that prosecutions under Section 242 require proof that the officer had a specific intent to deprive a person of a federal right made explicit by a court decision or other rule of law; and

WHEREAS, Lowering the thresholds for Section 242 would be a radical departure from constitutional requirements that currently apply only to officers who “willfully” deprive any person of their rights; and

WHEREAS, The expansion of Section 242 to include new ways to investigate, prosecute, punish, discipline and incarcerate individual officers for deprivation of rights and lower the threshold for prosecution would expose officers to civil and criminal penalties for actions that at most would have been an administrative issue; and

WHEREAS, Lowering the thresholds for federal civil rights prosecutions by law enforcement officers will take away long standing, good faith legal protections for officers and will cause hesitation due to fear of possible repercussions, putting the lives of the officer and civilians at risk in life or death situations.

THEREFORE LET IT BE RESOLVED, That NAPO opposes any efforts to lower or expand the thresholds for federal criminal civil rights prosecutions and we will continue working to protect law enforcement officers who are out on our nation's streets, operating in good faith, trying their best to protect the people who work and live in our communities.

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RESOLUTION IN OPPOSITION OF EFFORTS TO DEFUND POLICE

WHEREAS, Law enforcement officers know as well as anyone else, and better than most, the urgent need for better housing, health care, jobs creation and social services in marginalized communities; and

WHEREAS, The vital services for protection of life and property that law enforcement agencies provide are no less urgent, as evidenced by the rise in violent crime in cities and communities across the country; and

WHEREAS, The “defund the police” movement has created a false choice. We need good, effective, ethical and vigorous enforcement of just laws *and* we need greater job opportunities, better schools, better access to mental health care and renewed infrastructure; and

WHEREAS, Recent experiments in cities across our country have demonstrated that the withdrawal or prohibition of traditional police services has not resulted in anything like a peaceful utopia of brotherhood and plenty. Rather, the real-world consequences are communities and neighborhoods being overwhelmed by a marked uptick in violent crime; and

WHEREAS, Defunding or abolishing police departments will not increase community trust or improve public safety. It is by ensuring departments have enough officers to dedicate to community policing and by improving the ability of officers to recognize and properly respond to mental health and substance abuse crises that we can help to build essential partnerships with all sectors of the communities we serve; and

WHEREAS, NAPO is urging the Administration, the United States Congress and state and local governments to roundly reject calls for defunding the police and instead recognize that the men and women who serve their communities as law enforcement officers are a vital and indispensable part of protecting and enhancing the health, safety and welfare of our towns, cities and states.

THEREFORE LET IT BE RESOLVED, That NAPO opposes efforts to “defund the police” and calls on Congress to fully fund vital state and local law enforcement grant programs, without strings, to allow states and localities to retain qualified officers and hire additional officers to focus on community policing and to ensure officers, departments and the communities they serve have the tools and training necessary to improve responses and outcomes to interactions with persons affected by mental illness and substance abuse.

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**RESOLUTION IN SUPPORT OF PROTECTING LAW ENFORCEMENT OFFICERS' RIGHT
TO BARGAIN OVER ACCOUNTABILITY AND DISCIPLINARY ACTIONS**

WHEREAS, With the death of George Floyd in May 2020 and the push for police reform, support within the Democratic party for law enforcement collective bargaining rights has waned and there are calls to strip and prohibit any language that would allow law enforcement officers – and only law enforcement officers – to bargain over accountability or disciplinary issues in their collective bargaining agreements; and

WHEREAS, Democrats and the larger labor community are willing to leave sworn law enforcement officers behind in their push to expand basic collective bargaining rights to public servants and have cut law enforcement out of the Public Service Freedom to Negotiate Act; and

WHEREAS, Democrats have repeatedly attempted to prohibit law enforcement officers' ability to bargain over accountability and disciplinary actions, in both current and future collective bargaining agreements, by including such language in the George Floyd Justice in Policing Act and the House-passed Fiscal 2021 Commerce, Justice, Science and Related Agencies Appropriations Act; and

WHEREAS, Currently, collective bargaining units representing a public profession, including public safety sectors, have the right to negotiate over accountability and disciplinary issues; and

WHEREAS, NAPO firmly believes that law enforcement officers, who put their lives on the line every day to serve and protect our nation and its communities, should have the basic American right to sit down and discuss all workplace issues with their employers; and

WHEREAS, History shows that denying workers the right to bargain collectively causes poor morale, the waste of resources, unfair and inadequate working conditions, and low productivity. It is ultimately the public's safety and security that is jeopardized by poor working conditions for public safety officers.

THEREFORE LET IT BE RESOLVED, That NAPO will actively oppose restrictions to law enforcement collective bargaining rights as we are not willing to accept substandard rights for officers, setting them apart from their counterparts in public safety and public service, and take steps backwards from where we are today. NAPO will continue to work with Representative Pete Stauber (R-MN), sponsor of the Public Safety Employer-Employee Cooperation Act (H.R. 3225), to expand basic collective bargaining rights – including the right to negotiate over disciplinary actions – to all public safety officers.

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**RESOLUTION CONCERNING THE NEED TO ASSURE DUE PROCESS PRIOR TO
ADDING AN OFFICER TO A NATIONAL DECERTIFICATION INDEX**

WHEREAS, NAPO supports ensuring that officers who have proven allegations of serious misconduct against them no longer serve as law enforcement officers, but we can and must ensure officers have due process before they are decertified; and

WHEREAS, Several police reform proposals and legislation being circulated in Congress do not grant law enforcement officers the basic right of due process before adding them to a national decertification index; and

WHEREAS, The George Floyd Justice in Policing Act (H.R. 1280) provides officers no due process before adding their names and every complaint lodged against them – both substantiated and unsubstantiated – to a National Police Misconduct Database; and

WHEREAS, Senator Cory Booker (D-NJ) circulated a draft police reform proposal that would establish 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; and

WHEREAS, Too often law enforcement officers are subjected to the whim of their departments or local politics during internal investigations and administrative hearings. The right to basic procedural protections for officers in the complaint investigation and disciplinary process is a right that needs to be uniform and guaranteed to officers throughout the country; and

WHEREAS, Taking away officers’ due process rights is not the way to improve police accountability and transparency; and

WHEREAS, NAPO continues to press for only those officers who have substantiated serious allegations of misconduct, which have been officially and fairly adjudicated, to be added to a national decertification database.

THEREFORE LET IT BE RESOLVED, That NAPO urges Congress to assure that due process is a precondition to including any law enforcement officer on a national decertification index.

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RESOLUTION CONCERNING THE NEED TO PROTECT QUALIFIED IMMUNITY

WHEREAS, Qualified immunity applies only to civil suits, and even then, to a small subset of cases. The doctrine only applies, if at all, to cases where no reasonable governmental official would have known that they were violating a clearly established constitutional or statutory right; and

WHEREAS, Courts have noted repeatedly that the doctrine does not shield the inept or willfully blind, but does protect governmental officials, not just law enforcement officers, from attempts to impose “after-the-fact” liability for actions that *no reasonable official could have known were unlawful* at the time. *Violations of known rights are punished*; and

WHEREAS, Officers do not award themselves qualified immunity, courts do. The same independent judiciary that the Constitution requires supervise officers in matters such as warrant issuance and evidence collection and the affording of due process to suspects, has also recognized that a functioning society requires that officers are provided this qualified immunity in applicable cases; and

WHEREAS, Without qualified immunity the orderly administration of justice would come to a halt amidst paralyzing fear of liability for unknowingly violating an unknown and unknowable right; and

WHEREAS, law enforcement officers may have *qualified* immunity only, which is narrow and carefully structured in its application; as opposed to the *absolute* immunity that judges, prosecutors, and Members of Congress enjoy, all of whom make their own decisions over the course of hours, weeks or months, not in a split second on the street; and

WHEREAS, If qualified immunity was eliminated, an officer could go to prison for an unintentional act that unknowingly broke an unknown, and unknowable, right; and

WHEREAS, Law enforcement officers work under very stressful situations and decisions about whether to use force are often split second. It is reasonable for an officer to move quickly if delay would gravely endanger their lives or the lives of others. Officers cannot operate safely and effectively if paralyzed with fear of liability; and

WHEREAS, The threat of the elimination of qualified immunity has already caused decent, experienced officers and newly hired officers alike to question whether the risks of the profession are worth the noble job of serving and protecting their communities.

THEREFORE LET IT BE RESOLVED, That NAPO will exert every effort to safeguard qualified immunity for the men and women in law enforcement who put their lives on the line every day to protect our communities. Protecting qualified immunity will ensure that violations of known rights continue to be punished and those officers who performed their duties reasonably are shielded from harassment.