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Representing America's Finest

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NAPO Victory! IRS Proposed Rules on Normal Retirement Age Respond to NAPO's Concerns

On January 27, 2016, the IRS published proposed rules on normal retirement age for governmental plans which adds more safe harbors to the normal retirement age requirement, including three safe harbors specifically for qualified public safety employees. These new safe harbors directly respond to concerns raised by NAPO that the 2007 IRS final regulations would harm public safety officers' retirements. Since 2007, NAPO has expended every possible effort to ensure that public safety pension plans would not be adversely affected by the IRS final regulations on normal retirement age and the proposed rules reflect all of our efforts.

In the spring of 2007, the IRS issued final regulations that were supposed to take effect January 1, 2009, dealing with **in-service distributions** after normal retirement age. The regulations would allow payment of benefits to an employee upon reaching normal retirement age, whether or not the employee has stopped working for the employer maintaining the plan. However, the regulations stipulate that pension plans must specifically define normal retirement age, or redefine normal retirement age, so that it is not based in any way on years of service.

The regulations state that normal retirement age under a plan must be an age that is "not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed." For most workers, a normal retirement age that falls between ages 55 and 62 would meet the new IRS standard. The IRS has made an exception for plans where the majority of the plan participants are qualified public safety employees. For such plans, a normal retirement age of 50 or later would be qualified under the new standard.

This exception for public safety officers does not protect all officers from having their retirements adversely affected. Typical public safety pension plans are designed around years of service, often ranging from 20 to 25 years, and not a set, arbitrary age, due to the physical and mental strain of the profession.

Since the release of the final regulations in 2007, NAPO has been working with Congress and other public sector organizations to delay or rescind these regulations. NAPO was successful at delaying the regulations as they relate to governmental plans and our continued efforts to exclude governmental plans from these regulations led to the new proposed regulations.

While the proposed regulations would apply the reasonably representative requirement in the 2007 normal retirement age regulations for governmental plans, as defined above, **it includes three safe harbors specifically for qualified public safety employees:**

1. A normal retirement age of age 50 or later is deemed to satisfy the reasonably representative requirement;

2. A normal retirement age that is the participant's age when the sum of the participant's age plus the number of years of service that have been credited to the participant under the plan equals 70 or more; and
3. Any age with at least 20 years of service.

Additionally, under the proposed regulations, employers could treat the public safety employees within the pension plan differently than general or municipal employees. Governmental plans could use one or more of the safe harbors for qualified public safety employees even if a different normal retirement age(s) is used for other categories of employees within the plan. Municipalities would not have to create a new plan just to allow public safety employees to benefit from these new regulations.

The new proposed IRS regulations are a huge victory for NAPO and a testament to all of our efforts to protect public safety officers' retirement security.

There is a 90 day comment period for the regulations. NAPO will continue to work to ensure that the safe harbors for qualified public safety employees remain in the final rules and keep our members updated on its status.

You can view the IRS proposed regulations regarding the applicability of normal retirement age regulations to governmental pension plans here: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-01639.pdf>

NAPO VICTORY! House Judiciary Committee Approves Comprehensive Justice and Mental Health Act

On January 12th, the House Judiciary Committee approved the Comprehensive Justice and Mental Health Act (CJMHA), H.R. 1854. This bipartisan bill, which was passed by the Senate on December 10, 2015, is expected to pass through the committee easily. This legislation is one of NAPO's top legislative priorities for the 114th Congress and we have worked hard to ensure that it does not meet opposition in Committee.

The CJMHA expands the bipartisan, proven initiatives in the Mentally Ill Offender Treatment and Crime Reduction Act of 2004, which provides training for law enforcement to identify and respond appropriately to individuals with mental illnesses; mental health courts and other collaborative responses individuals in custody for mental health and substance abuse treatment need.

The CJMHA ensures a comprehensive response to individuals with mental illness in the criminal justice system, including support for veterans treatment courts, reauthorization of mental health courts and law enforcement training through MIOTCRA, increased focus on resources and training for jails and prisons, implementation of best practices for federal law enforcement, and innovative training at police academies.

This important legislation will make certain that state and local governments can continue to design and implement sound initiatives that improve the criminal justice system, increase public safety, reduce state and local spending, and help individuals with mental disorders.

NAPO will continue to update our members on the progress of the CJMHA. If you have any questions, please contact Andy Edmiston at aedmiston@napo.org.

NAPO Meets with Attorney General Lynch, Top DOJ Officials

On January 28, 2016, NAPO's Executive Director Bill Johnson met with Attorney General Loretta Lynch and representatives of other law enforcement organizations to discuss implementation of the recommendations of the Task Force on 21st Century Policing. In addition to Attorney General Lynch, COPS Office Director Ron Davis, Assistant Attorney General Karol Mason for the Bureau of Justice Assistance and Assistant Attorney General Vanita Gupta for the Civil Rights Division were at the meeting. NAPO was the only rank-and-file organization in attendance and the meeting was dominated by organizations representing police executives and management.

The Attorney General spoke of her desire to get all of the groups to support the ["Six Pillars"](#) of the recommendations from the Task Force and that she wants the Department of Justice (DOJ) "to direct the change that is coming" to policing in America. The DOJ wants to define the "best way" to run police departments.

The Attorney General stated that she wants to change police training and is partnering with the National Organization of Black Law Enforcement Executives (NOBLE) on this effort and she is glad that they are "taking the lead" as she believes racial minorities in law enforcement need to be seen as leading the change.

Additionally, the Attorney General spoke of her visits to police and sheriff departments across the country and her conversations with rank-and-file law enforcement officers at the local level about Task Force recommendations. She believes that these officers were "not inhibited" and "very candid" with their thoughts on the recommendations of the Task Force and she came away with the belief that the recommendations are supported at all levels within those police departments. NAPO questions how candid officers will be with the Attorney General with their chief sitting in the room and raises the question as to why the Attorney General has not considered sitting down with police unions to get a broader feel for how the Task Force's recommendations affect rank-and-file officers. NAPO continues to push the DOJ to include police unions in discussions around the implementation of the Task Force recommendations as it is the rank-and-file officers who will be the most impacted.

The Attorney General also touched on the DOJ's suspension of the equitable sharing program under the Asset Forfeiture Fund and regretted that they could not tell their state and local law enforcement partners beforehand. She assured the group that the suspension is only temporary.

With key DOJ leadership in the room, Johnson took the opportunity to once again raise NAPO's ideas about overcoming constitutional hurdles to federal prosecution of crimes against state and local law enforcement officers. NAPO has previously discussed the two options with Assistant Attorney General Gupta:

1. Any state or local officer within a jurisdiction that has received federal funding for law enforcement purposes is thereby covered with sufficient federal interest to justify federal criminal charges if that officer is a victim of assault or homicide; and
2. Any officer who by virtue of his or her status as a state or local officer would be a potential defendant in a federal civil rights case also thereby has sufficient federal status to justify federal prosecutions of violent crimes against that officer.

The Attorney General was the only one to comment on Johnson's suggestions, giving a non-committal statement that that the DOJ does what it can within the law as it already exists.

Johnson also brought up NAPO's concerns with the PSOB program, specifically the unacceptable delays in claim determinations and the new process for deciding "speeding" cases. Please see [NAPO's letter to the Director of PSOB](#) for more details on our concerns regarding "speeding" cases.

NAPO continues to engage the Administration and members of Congress to ensure our officers' voices are heard loud and clear, and they receive the protection and support they need.

If you have any questions about this meeting or NAPO's engagement with the Administration around these issues, please contact Bill Johnson at bjohnson@napo.org.

NAPO Meetings on Capitol Hill: BVP Reauthorization, Mental Health Bills

Bulletproof Vest Partnership (BVP) Grant Program Reauthorization

NAPO met with **Congressman Frank LoBiondo's (R-NJ)** staff regarding the BVP Grant Program Act of 2015, which will extend the authorization of the BVP Grant Program through fiscal year 2018. Congressman LoBiondo introduced the bill, H.R. 228, in January of 2015. The Senate version of the bill, S. 125, sponsored by Senator Patrick Leahy (D-VT), passed the Senate by unanimous consent on May 6, 2015.

H.R. 228 is currently stuck in the House Judiciary Committee. Congressman Jim Sensenbrenner (R-WI) has put a hold on the bill in Committee as part of a review he wants to do of all law enforcement grant programs. Congressman Sensenbrenner feels that the BVP Grant Program may be duplicating funding already available through the Byrne Justice Assistance Grant (Byrne JAG) Program. Although funding can be made available through Byrne JAG for bulletproof vests (as it was this year), it is not often guaranteed with all of the issues competing for funding within Byrne JAG. NAPO strongly believes that the BVP Grant Program is essential and must be its own program to ensure that state and local law enforcement agencies get the assistance they need to purchase bullet resistant vests for their officers.

NAPO is currently working with Congressman LoBiondo's office to add cosponsors to the bill, which currently has 29 cosponsors. A significant number of cosponsors will signal not only to Judiciary Committee leadership that this bill has broad support, but it will also convey the program's importance to House leadership. **Please join NAPO in our push for cosponsors. Contact your Representative(s) and urge them to sign on to this vital legislation.** A list of all current cosponsors by state can be found [here](#).

We will continue to expend all available efforts to garner support for this legislation and will keep our members updated on its status. If you have any questions, please contact Andy Edmiston at aedmiston@napo.org.

Criminal Justice and Mental Health

NAPO met with **Senator John Cornyn's (R-TX)** judiciary staff to discuss the upcoming Senate Judiciary Committee hearing on mental health and the criminal justice system, which will touch on aspects of the Senator's legislation, the Mental Health and Safe Communities Act, S. 2002, which NAPO supports. The hearing looks to build off momentum created after the Senate passed the Comprehensive Justice and Mental Health Act on December 10, 2015, and the House Judiciary Committee approved the bill on January 12, 2016. These two bills complement each other in assuring criminal justice and mental health agencies can work collaboratively towards better outcomes.

The Mental Health and Safe Communities Act will help the mentally ill receive the treatment they need to heal and prevent potential danger to the community by improving crisis response and prevention by local officials, increasing treatment-based alternatives for mentally ill offenders, and improving the current background check system without expanding it.

NAPO also discussed Senator Cornyn's plans to reintroduce the Line of Duty Act, which would create a new federal crime for the killing, attempted killing, or conspiring to kill a federally funded public safety officer. It also increases the resources available to aid in the prosecution of those who attempt to harm or murder any public safety officer. NAPO expressed our strong support for the bill and its reintroduction and we look forward to working with Senator Cornyn to move this important legislation.

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

DOJ Releases FAQ on Suspension of Equitable Sharing Payments

On December 21, 2015, the Department of Justice (DOJ) announced it was suspending equitable sharing payments under the Asset Forfeiture Program due to Congress cutting \$1.2 billion from the program in the 2016 appropriations bills passed at the end of last year. This drastic cut to the equitable sharing program occurred without the input of the law enforcement community, which sent a [letter](#) to the Administration and Congressional leadership opposing the move and urging Congress to reconsider.

In response to our letter and questions from the state and local law enforcement community, the DOJ provided a [fact sheet](#) with further information and background about the budget situation and the Department's ongoing efforts to support state and law enforcement.

In a call with the DOJ, staff from the Asset Forfeiture unit emphasized that the Equitable Sharing Program remains up and running even though payments are on hold. The DOJ continues to review and process requests for sharing with the goal that, if the budget situation improves, the Department will be able to resume payments with only minimal processing time. The Asset Forfeiture Program continues to provide separate funding for Joint Law Enforcement Operations (JLEO) – overtime payments – in support of state and local law enforcement agencies.

In addition to funding cuts, members of Congress are continuing to look for ways to reform the program, which they believe is being abused by state and local law enforcement agencies. We are working with the DOJ and other stakeholders to ensure that any legislation proposed on asset forfeiture reform does not have significant impact on equitable sharing payments or state and local law enforcement's ability to participate in JLEO.

NAPO will continue to update our members on the status of the Equitable Sharing Program and our efforts to reinstate it. If you have any questions, please contact Andy Edmiston at aedmiston@napo.org.

NAPO's Legislative Scorecard for the 114th Congress, Mid-Term Report

NAPO has completed a mid-term "Legislative Scorecard" for the 114th Congress, which can be viewed at the following site: http://www.napo.org/files/6214/5322/3127/NAPO_114th_Congress_Mid-Term_Scorecard_2015.pdf

The results include all votes that impacted NAPO's members in the House of Representatives and Senate during the first half of the 114th Congress. The "Legislative Scorecard" includes the following documents:

- A description of the votes studied during this Congress, as well as NAPO's stance on each of the votes;
- A map depicting the level of Congressional support for the law enforcement community across the country;
- A chart reflecting support by political party in the House and the Senate;
- A table, which details the average level of support in the House and Senate by state; and
- Excel spreadsheets, which detail House & Senate support by member and state.

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

NAPO's Sponsor/Cosponsor Spreadsheet

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 Andrea Edmiston at: aedmiston@napo.org.

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