



The Washington Report

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

November 18, 2022

NAPO Meets with DOJ, DHS on Implementation of Police Reform Executive Order

Implementation of the President's Police Reform Executive Order is ramping up and NAPO has participated in several meetings on how to execute various sections of the order, including Section 4, "Officer Wellness", Section 12, "Limiting the Transfer or Purchase of Certain Military Equipment by Law Enforcement", and Section 20, "Supporting Safe and Effective Policing Through Grantmaking".

Section 4

On November 8, NAPO met with staff from the DOJ to discuss Section 4 and how best to ensure officers have access to and use mental wellness programs. Section 4 relates to federal law enforcement officers and police officers only, but as is often the case, federal policy becomes best practice for state and local law enforcement.

NAPO stressed the importance of confidential peer support programs and that we believe these services should be expanded to include broader health and wellness, not just critical incident stress. To ensure all officers across the country have access to such peer support programs, we urged the DOJ to support alternative models to agency-specific peer programs, such as through regional collaborations or through labor or related organizations (Federal criminal investigators are prohibited from collectively bargaining, while Federal police officers can form and join unions). We highlighted the work being done on this front by two of our member organizations, the Massachusetts Coalition of Police and the New Jersey State Policemen's Benevolent Association.

We made it abundantly clear that confidentiality is vital to officers trusting and using these and any mental health services. There must be privacy protections for officers seeking assistance from peer crisis lines and other peer-support services as well as employer assistance programs. These protections for peer support services for Federal law enforcement and police were laid out in the COPS Counseling Act, a bill NAPO worked closely on, which was signed into law in November 2021.

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. We conveyed that 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.

We also highlighted the 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. The Administration must close this gap in the Federal Rules of Evidence.

Sections 12 and 20

On November 15, NAPO participated in a stakeholder meeting with staff from the Department of Homeland Security (DHS) and FEMA to discuss the impact of Sections 12 and 20 on their grant programs. The two main grant programs that are impacted by the executive order are the FEMA Preparedness Grant and the Targeted Violence and Terrorism Prevention Grant. NAPO has serious concerns with Section 12, which greatly restricts state and local law enforcement's access to surplus military equipment through the Department of Defense's (DOD) 1033 program and through grants, such as these two FEMA and DHS programs. The DOD did not participate in this meeting so there was no discussion of the impact on the 1033 program.

The Executive Order is misleading as it seems to allow equipment that was significantly controlled or restricted under President Obama's Executive Order. President Biden's Order allows for the transfer or purchase of tracked or armored vehicles exclusively used for 1) disaster-related emergencies; 2) active shooter scenarios; 3) hostage or other search and rescue operations; or 4) anti-terrorism preparedness, protection, prevention, response, recovery, or relief. What is coming to light is that an agency that has obtained this equipment from the federal government, either through the DOD, DHS or DOJ, can only use it for one of these four purposes and no other purpose, no matter how helpful the vehicle would be in the situation. Even if it would guarantee lives would be saved, it is prohibited to use the equipment if it would be used for something outside of those four categories. This greatly limits an agency's ability to use these vehicles to best protect and serve their communities.

Further, President Biden's Executive Order does not revive the Law Enforcement Equipment Working Group that was established under President Obama – it only mandates that the policies and requirements created by the Working Group – **the latest being from October 1, 2016** – be incorporated into agency and departmental policies regarding acquisition of this equipment. We have found ourselves back in 2016 and without a Working Group to try to improve our access to lifesaving equipment.

Lastly, we discussed how DHS and FEMA will enforce Title VI of the Civil Rights Act and the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act for federal grantees. DHS currently has a Civil Rights Compliance form that all grant recipients must complete, and they are looking to build off that form.

NAPO appreciates the opportunity to take part in this process and have our voice heard. There is a lot of work the Administration must do in a little time to meet the deadlines of the order. NAPO takes our seat at the table very seriously and we will continue to work with the Administration to ensure officers rights and safety are protected as the Order gets implemented.

NAPO Files Amicus Brief in Officer Use of Force Case

NAPO filed a [new amicus brief](#) in the United State Court of Appeals for the 5th Circuit (Texas) in *Crane v City of Arlington, Texas*. This Court of Appeals is one step below the U.S. Supreme Court. In our brief, which was filed with our member organization, the Combined Law Enforcement Associations of Texas

(CLEAT), we are asking the entire Court of Appeals to rehear this case because we believe that the three-judge panel of the Court got their decision wrong.

The case involves the ability of officers to defend themselves, using force when reasonably believed necessary, against a person who was refusing to comply with the officers' lawful instructions, and using a motor vehicle as a deadly weapon to strike and run over at least one officer. We believe the panel's decision conflicts with the federal constitutional law as enunciated by the Supreme Court and that the panel deviated from following the constitution in favor of adopting "woke" ideas about policing. It seems as if the panel would prefer a society where officers would need to ignore obvious violations of the law that happen right in front of them if the offender(s) indicate they do not wish to obey the police.

We hope that the full Court of Appeals listens to reason and agrees to review and overturn the panel's decision. NAPO will keep our members informed of any further action in this case.

NAPO on the Hill: WEP Reform; Retirement Priorities

Windfall Elimination Provision (WEP) Reform

NAPO sent **a letter** on November 16 to House Ways and Means Committee Chairman Richard Neal (D-MA) and Ranking Member Kevin Brady (R-TX) urging them to act on Windfall Elimination Provision (WEP) reform during the lame duck period.

During the Committee's September 20, 2022, markup of H.R. 82, the Social Security Fairness Act, both Chairman Neal and Ranking Member Brady pledged to work together in good faith to find a compromise between Chairman Neal's bill, the Public Servants Protection and Fairness Act (H.R. 2337), and Ranking Member Brady's bill, the Equal Treatment of Public Servants Act (H.R. 5834).

Both Neal and Brady have long been proponents of WEP reform and clearly understand how this provision unfairly penalizes public safety officers for choosing a public service profession that mandates early retirement by taking away hard-earned, and much needed benefits. While NAPO prefers full repeal of the WEP, the debate during the markup of H.R. 82 made it evident that is not a political possibility at the moment, despite the bill's 305 bipartisan cosponsors.

In our letter, NAPO strongly urged the inclusion of the current WEP exemptions in any WEP reform proposal and that those exemptions are extended to the new benefit formula. Most officers retire after 20 to 25 years of service and must find a second job, which is often covered by Social Security. Without the exemptions, these public servants will be hard hit by the WEP simply because they had to take a job in a covered position after retirement from their non-covered job. Further, we requested that a benefit guarantee, much like the one in H.R. 2337, be included in the compromise proposal to ensure that reform will not further harm public safety officers' retirement benefits.

We stand ready to work with the Committee to accomplish meaningful WEP reform that helps restore retirement security to public employees across this nation.

Public Safety Retirement Priorities

The House Ways and Means Committee and the Senate Finance Committee are working to finalizing a broad retirement package before the end of the year and staff is diligently working through the differences between the House's Securing a Strong Retirement Act and the Senate's Enhancing American Retirement Now (EARN) Act.

Three of NAPO's priority retirement provisions were included as part of the EARN Act: Putting First Responders First Act, Police and Fire Health Care Protection Act, and Protecting Public Safety Employees' Timely Retirement Act. The Putting First Responders First Act was also included in the Securing a Strong Retirement Act. NAPO sent **a letter** to the leadership of both Committees on November 15 underscoring the importance of including these first responder related provisions in the final negotiated retirement package.

The Putting First Responders First Act, as included in both the EARN Act and Securing a Strong Retirement Act, would exclude certain disability-related first responder retirement payments from gross income. This provision provides significant tax relief to those who have been disabled serving their country and communities.

The Police and Fire Health Care Protection Act, which would repeal the direct payment requirement from the HELPS Retirees provision of the Pension Protection Act of 2006, which allows eligible retired public safety officers to exclude from gross income up to \$3,000 annually to pay for qualified health insurance or long-term care premiums. With the repeal, the money would go directly from the pension plan to the retiree to pay for insurance premiums, making implementation of the HELPS provision easier for pension plans.

Lastly, the Protecting Public Safety Employees' Timely Retirement Act, which would modify the eligible age for the exemption from the retirement plan early withdrawal penalty for public safety officers. It would establish the age eligibility at age 50 or 25 years of service under the plan, whichever is earlier. This would protect many public safety retirees from being penalized for withdrawing their rightfully earned retirement funds after reaching their prescribed normal retirement age.

Both the House Ways and Means Committee and the Senate Finance Committee view the retirement package as priority legislation, and they are pressing to include it as part of a must-pass year end package. We continue to meet with lawmakers and staff to press for our priority provisions to be included in the final package.

Congress Passes First Responder FAIR Retiree Act

In a victory for NAPO, the Senate passed the First Responder Fair Return for Employees on Their Initial Retirement Earned (RETIRE) Act, H.R. 521, by unanimous consent on November 18. The House passed the bill on July 12 by a unanimous vote of 417-0. This bill, now on its way to the President's desk to be signed into law, is sponsored by Representative Gerald Connolly (D-VA) and would help federal firefighters, law enforcement officers, Customs and Border Protection officials, and other federal employees with potentially dangerous jobs receive their full retirement benefits if they get disabled while on duty. Currently, federal public safety officers may lose their early retirement benefits if they are injured on the job, even if they return to federal service in another position.

This bill will ensure that those who choose to serve their country as federal public safety officers maintain their earned retirement benefits if disabled in the line of duty. NAPO thanks Rep. Connolly for his commitment to seeing this important bill across the finish line.

NAPO on the Hill: Funding the 9/11 WTC Health Program

NAPO is continuing to meet with the staff of members of the House Energy and Commerce Committee, which has jurisdiction over the 9/11 Responder and Survivor Health Funding Corrections Act (H.R. 4965),

to garner strong support for the bill. This bill would provide additional funding to the 9/11 World Trade Center Health Program (WTCHP), which will face a budget shortfall starting in 2025, causing the program to have to limit spending and reduce services for new enrollees as soon as next year.

In addition to ensuring the program is sufficiently funded, the 9/11 Responder and Survivor Health Funding Corrections Act also makes important changes to improve the ability of the WTCHP to certify both health care providers and WTC-related health conditions, as well as increase funding for research activities. While passage of the bill in its entirety is important, our top priority is ensuring the continuation of the WTCHP's important work on behalf our nation's first responders.

In our meetings, we are urging Committee members to cosponsor the bill to show support for providing the needed additional \$3 billion in funding to ensure the WTCHP does not need to cut services to 9/11 responders and survivors. Additionally, we request that they support including the bill or just the \$3 billion in funding in any must-pass legislation Congress considers this year.

Senator Kirsten Gillibrand (D-NY) has submitted the /11 Responder and Survivor Health Funding Corrections Act as an amendment to the FY 2023 National Defense Authorization Act (NDAA). The Senate is expected to take up the NDAA after Thanksgiving and we will press leadership to include this vital amendment. We are committed to seeing this funding passed in any vehicle we can attach it to in order to protect the health and wellbeing of 9/11 responders and survivors.

NAPO's 30th Annual TOP COP Awards

Nominate an Officer Today

Don't let your TOP COPS nominations get lost in the year-end shuffle! The *January 11, 2023* deadline for nominations will be here before you know it.

Please take the time to nominate examples of outstanding police work for this prestigious award. We count on you, our members, to help us get the word about TOP COPS out and obtain nominations for officers nationwide. Join us in honoring America's Finest by nominating a case today. The **nomination form** must be postmarked or faxed to (703) 684-0515 by **January 11, 2023**. If you have any questions please do not hesitate to contact NAPO's Director of Events, Elizabeth Loranger, at elorange@napo.org or (703) 549-0775.

2023 will mark the thirtieth year that NAPO has hosted the TOP COPS Awards®. The TOP COP Awards® Dinner will take place on May 12th at the Omni Shoreham Hotel in Washington, D.C., again coinciding with National Police Week.

Nominate an officer today and with your help and partnership, the TOP COPS Awards® will continue to be a tremendous success!

Senate Passes Reauthorization of ICAC Task Force Program

In a victory for NAPO, the Senate passed the Providing Resources, Officers, and Technology to Eradicate Cyber Threats to (PROTECT) Our Children Act (S. 4834), sponsored by Senators John Cornyn (R-TX) and Richard Blumenthal (D-CT), by unanimous consent on November 15. This bill is a straight two-year straight reauthorization of the Internet Crimes Against Children Task Force Program, which is a national network of 61 coordinated task forces representing over 3,500 federal, state, and local law enforcement and prosecutorial agencies. These agencies are continually engaged in proactive and reactive investigations and prosecutions of persons involved in child abuse and exploitation involving the internet.

Additionally, these task forces provide forensic and investigative technical assistance to law enforcement and prosecutors as well as provide community education information to parents, educators, prosecutors, law enforcement, and others concerned with child exploitation.

NAPO thanks Senators Cornyn and Blumenthal for their commitment to reauthorize this the Internet Crimes Against Children Task Force Program and ensure continued protection of our children on the internet.

NAPO Supports Recruit and Retain Act

NAPO pledged our support for S. 5103, the Recruit and Retain Act, sponsored by Senators Deb Fischer (R-NE) and Chris Coons (D-DE). This legislation would boost recruitment opportunities by expanding the Department of Justice's Community Oriented Policing Services (COPS) Program to help agencies that are both understaffed and struggling to attract new applicants. The bill would also create a new program to encourage partnerships between schools and police departments to foster a stronger local pipeline for law enforcement careers.

Law Enforcement agencies across the country serving urban, rural, big, and small communities are struggling to enlist qualified candidates to help alleviate staffing shortages. Through important changes to the COPS Program, the Recruit and Retain Act would help remove financial obstacles to the law enforcement application process and aid in the recruitment of community police officers through the creation of a Pipeline Partnership Program. It also takes steps towards understanding how the profession found itself in this recruitment and retention crisis so we can get the tools and support we need to reverse it. NAPO thanks Senators Fischer and Coons for their support of the law enforcement community.

NAPO Opposes Forced Deployment of Federal Air Marshals to Southern Border

NAPO joined with our member organization, the Air Marshal National Council (AMNC), to urge the halting of the forced deployment of Federal Air Marshals to the southern border.

Up until November 7, 21-day deployments to the southern border have been voluntary for Federal Air Marshals, but now they are mandatory. During these deployments, air marshals are not using their law enforcement skills to help secure the border, but are tasked with non-law enforcement jobs, including janitorial duties. The Federal Air Marshal Service is understaffed and covering the fewest number of flights since before September 11, 2001. We strongly question the decision by the Department of Homeland Security to divert much-needed aviation security to the southern border especially as we enter the busiest travel season of the year, particularly as a Federal emergency has not been declared at the border. The jobs

air marshals are being asked to do at the border are well below their skill level and a waste of important resources. Further, it puts an incredible strain on an already stressed workforce.

NAPO and the AMNC sent letters to [President Biden](#), [Department of Homeland Security Secretary Alejandro Mayorkas](#), the [House Committee on Homeland Security](#) and the [Senate Committee on Homeland Security and Governmental Affairs](#) requesting a stop in these forced deployments for the sake of our air marshals and our nation's aviation security.

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January 29 - 31, 2023

Caesars Palace Hotel & Casino ~ Las Vegas, Nevada

Register Here

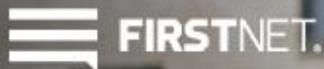
Please join us at [NAPO's 34th Annual Police, Fire, EMS, & Municipal Employee Pension & Benefits Seminar](#), January 29 – 31, 2023, at Caesars Palace Hotel & Casino in Las Vegas, Nevada. Our goal for the 2023 Pension & Benefits Seminar is to educate pension and union representatives along with their providers on the latest issues surrounding the pension and benefits industry.

The seminar will focus on the current challenging situation and causes for concern in today's pension and benefits environment. Soaring inflation, stagflation, and a general recession are rearing their heads, and the market, after years of run-up, has turned bearish. Politically, both parties will be analyzing the results of the midterm elections, and how those results will influence the economic policies which are a major dividing line between them. Global corporate taxation, socially conscious investing, mounting national debt, and expansion of IRS taxation and reporting powers are just some of the issues being debated. We will examine these areas and more as we evaluate the effect of these trends on public employment benefits and security, and the overall economic situation for the near- and mid-term.

Take an active role in improving the future of your fund by registering today. You will find information regarding registration, hotel reservations and the full agenda on NAPO's website: www.napo.org/PB23 or download the attached brochure and fax to NAPO at (703) 684-0515.

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

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