

**President's Commission on Law Enforcement and the Administration of Justice
Hearing on Officer Safety, Health, and Wellness
February 27, 2020**

Statement of Michael McHale, President, National Association of Police Organizations

This testimony focuses on officer mental health and wellness and includes the topics of peer mentoring programs, confidentiality of critical incident stress debriefings, and post-traumatic stress disorder (PTSD) as a covered condition under workers' compensation laws.

My name is Mick McHale and I am the President of the National Association of Police Organizations (NAPO) and the President of the Southwest Florida Police Benevolent Association. I am submitting this statement today on behalf of NAPO, representing over 241,000 active and retired law enforcement officers throughout the United States. NAPO is a coalition of police unions and associations from across the nation, which was organized for the purpose of advancing the interests of America's law enforcement officers through legislative advocacy, political action and education.

State and local law enforcement officers are our nation's first responders. They respond to our country's greatest tragedies as well as violent and abhorrent crimes that unfortunately occur with some frequency in our communities. They have seen and experienced horrors that they cannot forget, yet they continue to put their lives on the line every day to protect and serve our communities. These daily realities of the job most certainly affect officers' mental health and wellness.

According to [Blue H.E.L.P.](#), 228 current or active duty officers died by suicide in 2019, well over the 128 officers that were killed in the line of duty last year. In 2018, there were 172 officer suicides. 28 officers have taken their own lives so far this year. These are just the numbers that are reported and tracked. With officer suicides an area of great and increasing concern, it is vital that officers have access to trusted, confidential mental health and wellness services.

Given the time and space constraints of this testimony, I will focus on two topics that are top priorities for NAPO: officer peer mentoring programs and post-traumatic stress disorder (PTSD) as a covered condition under workers' compensation.

Many officers are reluctant to seek help, especially through services offered by their agency. They worry about confidentiality, fear that admitting their need for help will jeopardize their employment or believe the mental health specialists provided will not understand what they are going through, what they have experienced. This is where peer support programs play a vital role, whether they are peer crisis lines, peer-led critical incident stress debriefings, or other peer support services.

I will not go into great detail about the merits and best practices of peer mentoring programs as part of a department's or agency's officer safety and wellness program as the Department of Justice's Office of Community Oriented Policing Services (COPS) released two excellent reports covering these issues in March of 2019: [Law Enforcement Mental Health and Wellness Act Report to Congress](#) and [Law Enforcement Mental Health and Wellness Programs: Eleven Case Studies](#). The COPS Office worked closely with NAPO and law enforcement organizations and agencies across the country on these two reports and I consider them mandatory reading for the Commission and this Working Group.

Every officer in this nation should have access to a peer mentoring program. Recommendations 13, 14, 15, and 18 from the [Law Enforcement Mental Health and Wellness Act Report to Congress](#) regarding peer mentoring programs are vital ones that NAPO urges the Commission to include in its final recommendations on Officer Safety, Health and Wellness:

Recommendation 13¹: Support the expansion of peer support programs to ensure all officers have access to this important wellness service.

Recommendation 14²: Support the expansion of peer programs to include broader health and wellness, not just critical incident stress.

Recommendation 15³: Support alternative models to agency-specific peer programs, such as through regional collaborations or labor organizations.

Recommendation 18⁴: Improve legislative privacy protections for officers seeking assistance from peer crisis lines and other peer-support services.

Regarding **Recommendation 15**, I want to highlight the [Peer Support Quiz](https://masscoppeersupportquiz.org) (masscoppeersupportquiz.org) that is offered by one of NAPO's member organizations, the Massachusetts Coalition of Police (MassCOP), and supported by the American Foundation for Suicide Prevention. This is the first in the nation, statewide Police Union Peer Support program that is available for any officer – not just union members – who need to and want to use it. The self-check quiz serves as a convenient and safe way for officers to anonymously communicate with a peer support officer about available service options so they can address their mental health concerns before they escalate. MassCOP has partnered with the Leader Program at McLean Hospital (<https://www.mcleanhospital.org/treatment/leader>) to provide mental health and addiction services for those officers who need it.

Because this program is run by the Union – an organization highly trusted by rank-and-file officers – officers may be more willing to seek and use the services because they trust that the Union has their best interest at heart. If a department or agency establishes its own mental health and wellness programs, it is imperative that they collaborate with the union or officer association in order to ensure they get the buy-in of rank-and-file officers, those who will be using these services. Without the input and support of these organizations, line officers could distrust a program run by their department and decide not to use it for fear it could negatively impact their job.

This brings me to **Recommendation 18**. 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.⁵ In these states, the group debriefings, conducted by peer support and mental health professionals, are 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-

¹ [Law Enforcement Mental Health and Wellness Act Report to Congress](#), p. 32

² [Law Enforcement Mental Health and Wellness Act Report to Congress](#), p. 33

³ [Law Enforcement Mental Health and Wellness Act Report to Congress](#), p. 33

⁴ [Law Enforcement Mental Health and Wellness Act Report to Congress](#), p. 36

⁵ <https://le.utah.gov/interim/2017/pdf/00002716.pdf>

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 Recommendation 18 and 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.

Further Recommendation: Amend the Federal Rules of Evidence 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.

While peer mentoring and mental health and wellness programs can be extremely effective at preventing the development of post-traumatic stress symptoms, these symptoms are sometimes unavoidable given what officers experience in the course of their duties. Further, hundreds of thousands of police officers across the nation do not have access to any form of workplace mental health and wellness programs. These law enforcement officers have to foot the bill for their own mental health services – a big obstacle to ensuring officers get the mental health and wellness help they need.

Two-thirds of states cover PTSD under their workers' compensation programs. However, state laws covering PTSD vary to a great extent: some cover only if there is a corresponding physical injury, some will only provide coverage if the qualifying event was “unusual” or “sudden” and then some do cover “mental-only” injuries.⁶ We believe that all states should provide “mental-only” coverage to ensure all law enforcement officers struggling with work-related PTSD are covered.

NAPO's member organizations have been leading the charge in their states to either establish or strengthen state workers' compensation laws relating to covering first responder PTSD, including the Florida Police Benevolent Association. I helped lead the efforts on behalf of the Florida PBA to enact a law in Florida in 2018 (SB 376)⁷ to expand workers' compensation to allow first responders to seek treatment and take time off following a PTSD diagnosis, whether or not a physical injury also occurred.

Arizona, California, Colorado, Connecticut, Florida, Idaho, Louisiana, Nevada, New Hampshire, New Mexico, Oregon, Texas, and Washington have all passed laws addressing benefits for first responders with “mental-only” PTSD injuries. In 2019, at least 26 states considered new legislation addressing workers' compensation coverage for PTSD and other “mental-only” injuries for first responders.⁸

Recommendation: Support legislation or mandate that “mental-only” PTSD injuries be covered under workers' compensation for first responders and that the PTSD will be presumed to be work-related.

I appreciate the opportunity to share these insights with you, and urge you to carefully consider them moving forward, as your recommendations on Officer Safety, Health and Wellness will greatly impact our officers.

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⁶ <https://www.gerberholderlaw.com/workers-comp-ptsd-by-state/>

⁷ <https://www.flsenate.gov/Session/Bill/2018/376/BillText/Filed/PDF>

⁸ https://www.ncci.com/Articles/Documents/II_Regulatory-Legislative-Trends2019.pdf