



NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

Representing America's Finest

317 South Patrick Street. ~ Alexandria, Virginia ~ 22314-3501
(703) 549-0775 ~ (800) 322-NAPO ~ Fax: (703) 684-0515
www.napo.org ~ Email: info@napo.org

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General Counsel

The Honorable Merrick Garland
Attorney General of the United States
United States Department of Justice
900 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

RE: Executive Order 14074 Section 5 – Establishing a National Law Enforcement Accountability Database

Dear Attorney General Garland:

On behalf of the National Association of Police Organizations (NAPO), representing over 241,000 sworn law enforcement officers from across the country, I am submitting comments on the implementation of the National Law Enforcement Accountability Database, pursuant to Section 5 of Executive Order 14074 on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety.

Section 5(b)(ii)

This subsection calls for the inclusion in the Accountability Database of records documenting officer misconduct, including, “records of criminal convictions; suspension of a law enforcement officer’s enforcement authorities, such as decertification; terminations; civil judgements... related to official duties; and resignations or retirements while under investigation for serious misconduct or sustained complaints”. NAPO recommends that only those allegations or findings of *serious* misconduct that are substantiated and adjudicated should be included in the Accountability Database.

Careful attention should be given to the seriousness of the criminal convictions or reasons for an officer’s suspension of enforcement authorities before mandating the inclusions of such records in the Database. An officer struggling with substance abuse issues could be convicted of a DUI that occurred while off-duty and subsequently have their enforcement authorities suspended while they seek treatment. An officer could have their enforcement authorities suspended temporarily if they are experiencing a mental health crisis and are seeking professional help. Section 4 of the Executive Order recognizes the toll the job takes on an officer’s mental health and wellness as do many law enforcement agencies, which have programs to help officers struggling with substance abuse or with a mental health crisis. We cannot punish these officers by including such instances in a national database, particularly if they have received help and remain officers in good standing with their departments.

NAPO recommends only serious criminal convictions, permanent suspension of enforcement authorities, and decertification be included in the Database. If an officer's enforcement authorities are suspended and he is allowed to return to full duty at that agency after the completion of the suspension, such information should not be included in the database.

Additionally, civil judgments related to official duties do not always equate to an officer's wrongdoing. Civil judgments are generally settlements between a department and private citizens that often reflect the desire of a department to quickly end a lawsuit and not that an officer's actions were wrong. To include civil judgments against an officer could smear a good officer's name, ruin their reputation, and end their career when there has been no misconduct by the officer.

NAPO recommends that civil judgments are not included in the Accountability Database.

Section 5(b)(iv)

The Executive Order only allows for officers to petition to remove information about themselves from the Database on the "grounds it is inaccurate or that it is predicated on an official proceeding that lacked appropriate due process protections". With this provision, the data will have already been posted before an officer is able to petition to remove it. There is no timeframe stated in the Executive Order for the petition process, so an officer's reputation could be ruined, and job opportunities missed due to factually inaccurate information being uploaded into the database.

NAPO strongly advises that robust due process procedures are put in place and occur *prior* to officer records being uploaded into the national database. These should include, at a minimum, the bedrock guarantees of Anglo-American jurisprudence: sufficient notice, an opportunity to be heard, and review by a neutral fact-finder.

Section 5(c)(ii)

It is important that the Department take the carrot and not the stick approach to encouraging submissions into the Accountability Database through technical support, grant funding, and other resources. Additionally, ensuring there is sufficient due process prior to adding an officer's name to the Database would remove a possible obstacle for agencies that do not want to smear their officers' good names.

We appreciate your consideration of our comments and recommendations on Section 5 and the establishment of a National Law Enforcement Accountability Database and we look forward to continue working with you to improve policing practices in America. If NAPO can provide any additional information on our comments as you move forward with establishing the Database, please feel free to contact me at (703) 549-0775.

Sincerely,



William J. Johnson, Esq.
Executive Director