



The Washington Report

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

January 22, 2021

NAPO Speaks with Leadership of Biden-Harris DOJ Team

NAPO's leadership spoke to Vanita Gupta, President Biden's nominee for Associate Attorney General, and Kristen Clarke, the nominee for Assistant Attorney General for the Civil Rights Division, regarding the transition and their priorities as regards to law enforcement for the Department of Justice (DOJ) under the Biden Administration. Both Ms. Gupta and Ms. Clarke stressed the importance of open lines of communication and that they value the input of NAPO.

As Associate Attorney General, Ms. Gupta will be the third highest official in the DOJ, overseeing the Civil Rights Division, the Office of Community Oriented Policing Services (COPS), the Office of Justice Programs (which houses the Bureau of Justice Assistance), the Public Safety Officer's Benefits (PSOB) Program, and the Community Relations Service, amongst other divisions of the Department. Ms. Clarke will head up the Civil Rights Division under Ms. Gupta, a role which Ms. Gupta held under President Obama.

Under this DOJ leadership team, we can expect a very active Civil Rights Division, much like it was under the Obama Administration, greater scrutiny of state and local law enforcement, and changes in priorities for funding for state and local law enforcement assistance programs to reward grants to those agencies that have implemented or are implementing certain police reform policies.

While NAPO did not always agree with Ms. Gupta as head of the Civil Rights Division, we had a good working relationship with her, and we look forward to working with her in her new leadership position and with Ms. Clarke to protect the rights of officers and ensure our state and local law enforcement have the support and resources necessary to serve and protect our communities.

President Biden Announces New Executive Orders Impacting Law Enforcement

The Biden Administration released a list of the executive actions that the President will be taking through the end of January. January 26, which the Administration is calling "Equity" day, the President will be issuing executive orders to create a law enforcement commission and reinstate restrictions on state and local law enforcement's access to equipment through the Department of Defense 1033 program.

During the transition, Biden stated that he will form another commission, much like the 21st Century Policing Task Force created by President Obama and the Commission on Law Enforcement and the Administration of Justice established by President Trump, to examine policing and criminal justice system and recommend

changes for the betterment of the system. NAPO had a seat on the 21st Century Policing Task Force and we provided significant input to President Trump's Commission. We are working to ensure that rank-and-file law enforcement have a voice and are represented in the work of the commission President Biden will be creating.

As for the executive order restricting law enforcement's access to surplus military equipment, NAPO is very concerned that it will simply put back into place the prohibitions on certain, necessary equipment such as riot helmets, riot shields, and armored personnel transport vehicles. The lack of such personal protective gear can have life threatening consequences for officers. It is yet to be seen whether President Biden's executive order on this issue will include the creation a law enforcement equipment working group to review restricted equipment and determine whether such restrictions are hampering the work of law enforcement or putting officers' lives in danger unnecessarily. NAPO is pressing for law enforcement to have input on the equipment that will be restricted.

Programs like the Department of Defense's 1033 program and grant programs at the Departments of Justice and Homeland Security have been vital resources in allowing state and local law enforcement to acquire items used in search and rescue operations, disaster response, and active shooter situations that they otherwise would not be able to afford. This equipment has not led to the "militarization" of police, but rather has proven to be essential in protecting communities against violent criminals and terrorists.

America's law enforcement officers work each day to protect and serve their communities, often at great personal risk to themselves. NAPO has reached out to the Administration and is urging them to give our officers access to the lifesaving gear they need to defend themselves and the civilians they are sworn to protect.

First NDI Advisory Group Meeting Held

NAPO Executive Director Bill Johnson participated in the first meeting of the Nation Decertification Index (NDI) Expansion Advisory Group. NAPO was invited by the International Association of Directors of Law Enforcement Standards and Training (IADLEST), in partnership with the Department of Justice, Bureau of Justice Assistance (BJA), to participate in this advisory group to maintain and expand the NDI database. The purpose of this committee is to help design the expansion of the NDI to assist with the implementation of President Trump's Executive Order on Safe Policing for Safe Communities.

As part of his work on the advisory group, Johnson has been appointed to the governance committee which is tasked with developing the policies of the NDI, including the definitions of terms and methods that will be used in governing the database.

Assuming the Biden Administration continues with the expansion of the National Decertification Index (NDI), the database will serve as a national registry of certificate or license revocation actions relating to officer misconduct. Based on recommendations from this advisory group, the NDI expansion will facilitate the sharing of information between and among federal, state, local, tribal, and territorial law enforcement agencies regarding instances of excessive use of force, the tracking of terminations, resignations, retirements, and de-certifications, related to on-duty improper use of force, and the establishment of standards to ensure fair due process prior to inclusion of officers in the database. The database expansion program is contemplated to take 6 to 12 months to complete.

NAPO appreciates the opportunity to participate in this advisory committee. We support the premise of ensuring that officers who have substantiated serious allegations of misconduct can no longer practice law

enforcement. However, as part of the committee, Johnson will work to ensure those allegations must have been officially and fairly adjudicated and that officers have due process before they are placed in the NDI database.

NAPO's Winter Seminar & Annual Roundtable Luncheon

Marriot Harbor Beach Resort & Spa, Fort Lauderdale, Florida

February 24- 26, 2021

REGISTER TODAY

NAPO's Winter Seminar at the Marriott Harbor Beach Resort in Fort Lauderdale, Florida is quickly approaching. The 2021 Winter Seminar will focus on the incoming Biden Administration and what that means for Civil Rights Investigations, Qualified Immunity and Police Reforms. The impact of the COVID-19 pandemic on law enforcement will also be addressed. NAPO's Winter Executive Board Meeting will be held on Wednesday, February 24 and the Annual Roundtable Luncheon will be held on Friday, February 26.

The Fort Lauderdale Marriott Harbor Beach & Spa, located on a quarter mile stretch of pristine private beach, offers a lagoon-style pool, watersports, luxury spa and unique restaurants. The resort is the perfect location for the shopping and dining on Las Olas Boulevard and is just 15 minutes from the Fort Lauderdale International Airport.

Information regarding online registration, hotel reservation link and discounts for airfare on Delta and United will be available next week at www.napo.org/winterseminar. In the meantime, the registration, COVID waiver and agenda are attached. Please feel free to complete the Registration and COVID Waiver and return to: eloranger@napo.org or fax to NAPO at (703) 683-0515. We look forward to seeing you in Florida!

Biden Rolls Out COVID Relief Plan

President Biden rolled out his Administration's COVID relief plan – the first of his two phases for aid – and has stated that this is his top priority for this first 100 days. The \$1.9 trillion aid package, which the Administration is calling the "American Rescue Plan", is comprised of emergency measures to meet what they view as the nation's most-pressing health care and economic needs. Biden announced that he plans to follow this package with a broader relief plan that will be unveiled in the coming weeks.

President Biden's aid package includes \$350 billion in additional aid to state and local governments to help address budget and revenue shortfalls caused by the pandemic and to help with vaccine distribution. Aid to state and local governments to offset budget holes is imperative. Without it, police departments across the nation will essentially be defunded as officers are laid off, academy classes are canceled, community policing programs are gutted, and vital training is postponed. The inclusion of aid to state and local governments is essential to ensuring we are able to retain trained and experienced officers and law enforcement agencies are able to continue to serve and protect the public.

The package also includes additional \$1,400 tax rebate checks, \$400 of weekly federal unemployment insurance through September, \$440 billion for communities and small businesses, an additional \$30 billion

for FEMA's Disaster Relief Fund for health care and first responder personal protective equipment and supplies, \$130 billion to help schools reopen safely, and \$20 billion to establish a universal vaccination program. It also includes a raise in the federal minimum wage to \$15/hour, which has many business groups balking at the plan.

President Biden has indicated that he wants to move his COVID relief package through with bipartisan support, which means he will need to negotiate and compromise with Republicans, many who have stated they are uncomfortable with the plan's price tag. If the Administration cannot get enough Republican support, they will look for ways to get around Republicans altogether, including considering eliminating the filibuster. While Biden has previously stated he is against doing that, many in the Democratic party are in favor of doing away with the legislative filibuster.

Also impeding the way of enacting the American Rescue Plan is the pending impeachment trial of former President Trump in the Senate. Republicans have indicated that they will not allow Senate business to continue simultaneously as the trial proceeds, which will push back any debate and movement on the COVID aid package. Speaker Pelosi has not indicated when she will send the articles of impeachment over to the Senate.

NAPO will continue to press Congress to pass another COVID relief package that includes significant, flexible aid to state and local governments, addition COVID-related sick leave, funding for overtime and hazard pay, and PPE for first responders.

Social Security Fairness Act Reintroduced

Congressmen Rodney Davis (R-IL) wasted no time in reintroducing the Social Security Fairness Act (H.R. 82) on January 4 and beginning the push to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP). The Social Security Fairness Act reached an all-time high 264 cosponsors last Congress and already has 21 bipartisan cosponsors.

Though most police officers retire after a specific term of service, usually in their early- to mid-fifties, many look for new opportunities to serve their community. Yet, when they retire from a non-Social Security paying job and move to one that does pay into Social Security, they are penalized by the WEP. Instead of receiving full support from their rightfully earned Social Security retirement benefit, their pension heavily offsets it, thus vastly reducing the amount they receive.

More troubling is the effect of GPO on a police officer's retirement. If a spouse who paid into Social Security dies, the surviving public safety officer should be eligible for half of the deceased's benefit. However, GPO requires that this amount be offset by two-thirds of the survivor's pension, eliminating most or all of the payment. By professional need, many police officers are outside of Social Security but if they had not served at all, they would receive the full allotment of the spouse's benefit.

GPO and WEP were meant as a "leveling" response but only serve to hurt public safety officers. By totally repealing both GPO and WEP, the Social Security Fairness Act would preserve the retirement security of those who selflessly serve and protect our communities.

With President Biden stating that he supports the repeal of the GPO and WEP, NAPO will be exerting every effort to surpass the record bipartisan support for the bill in the last Congress and to finally push this important legislation over the finish line. NAPO thanks Representative Davis for his leadership on and dedication to the full repeal of the GPO and WEP.

NAPO Endorsed Bill Codifying Qualified Immunity Protections Reintroduced

NAPO once again pledged its support for the Qualified Immunity Act of 2021 (H.R. 288), introduced by Representative Jim Banks (R-IN). Qualified immunity is an important protection for the men and women in law enforcement who put their lives on the line every day to protect our communities. This legislation recognizes that Courts have repeatedly noted that the doctrine does not shield the inept or willfully blind but does protect 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. By codifying the currently accepted doctrine of qualified immunity, the Qualified Immunity Act will ensure that violations of known rights are punished, and those officers who performed their duties reasonably are shielded from harassment.

We thank Representative Banks for his efforts to safeguard officers’ qualified immunity protections and we look forward to working with him to pass the Qualified Immunity Act into law.

Thin Blue Line Act Reintroduced

NAPO priority legislation, the Thin Blue Line Act, was reintroduced as H.R. 72 by Congressman Vern Buchanan (R-FL) on January 4. This important bill would increase penalties on those who harm or target for harm public safety officers by making the murder or attempted murder of a local police officer, firefighter, or first responder an aggravating factor in death penalty determinations in federal court. This would be applicable whether they were targeted or murdered on duty, because of the performance of their duty, or because of their status as a public official. The only requirement is that the homicide provide federal jurisdiction.

This bill is critical, as law enforcement officer assaults, injuries, and deaths have increased sharply in recent years. According to a March 2020 report from the Office of Community Oriented Policing Services (COPS), 273 officers were shot in the line of duty in 2019, of which 44 officers died from their injuries and 229 survived. 87 of those officers were shot and 14 died in ambushes or premeditated, calculated assaults. Establishing stricter penalties for those who harm or target for harm law enforcement officers will deter violent crime. Any persons contemplating harming an officer must know that they will face serious punishments. NAPO strongly believes that increased penalties make important differences in the attitudes of criminals toward public safety officers, and ensure protection for the community.

We look forward to working with Congressman Buchanan to move this important legislation this Congress.

NAPO in the News

NAPO Executive Director Bill Johnson was interviewed for a January 15 *CNN* article, entitled “[Police Respond Differently When It’s a Left-Wing Protest, Study Finds](#)”. The article discusses the findings of a study, “Policing counter-protest”, by Lesley Wood of York University in Toronto, Canada, which looked at 64 protests in the United States that occurred during 2017 and 2018 and argued that left-leaning protestors were far more likely to be arrested than right-leaning protestors.

Johnson was asked to respond to the study and to the question of whether police see left-wing groups such as Black Lives Matter, antifa and Occupy as more threatening than right-wing groups like Patriot Prayer and Proud Boys. Johnson questioned some of Wood’s conclusions.

"The author explains that leftist counter-protesters deliberately utilize the tactic of 'no platforming,' which is defined thus: 'No Platforming means disrupting rallies that aim to promote racist or fascist ideologies by organizing such large counter protests that the planned speeches cannot be heard,'" Johnson told CNN by email.

"If I'm reading the study correctly, leftist counter-protesters are thus more likely to be arrested because by definition they are breaking the law by deliberately trying to shut down lawfully permitted rightist demonstrations," Johnson said.

Johnson also pointed out that the left-wing protesters include, in Wood's words, "communist, anarchist and socialist antifascists."

Those ideologies, Johnson said, "share a common thread of wishing to tear down an existing legal/political/social structure and replace it with something else. By definition, then, we would expect protesters who are adherents of those ideologies to overtly present anti-social behavior to a greater degree and extent than other groups who do not share that same wish. And thus we would expect more arrests."

And he noted that Wood's paper includes little data about the reason for protester arrests or the results.

"There is no indication of the judicial disposition of the charges: Were they sustained? Shown to be false? That would seem to be an important bit of data," Johnson said.

NAPO will continue to ensure our members' voices are heard loud and clear on the Hill, with the Administration, and in the media.

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