



The Washington Report

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

January 11, 2012

FIRST HALF OF THE 112TH CONGRESS – STATUS OF LEGISLATIVE PRIORTIES

LAW ENFORCEMENT OFFICERS BILL OF RIGHTS

On May 5, 2011, Congressman Erick Paulsen (R-MN) introduced the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2011 (H.R.1789). This bill would give officers basic rights and due process and it currently has the support of six cosponsors.

NAPO has been working with several offices in the Senate for the introduction of a companion bill to H.R. 1789.

FUNDING PRIORITIES

The 112th Congress has been involved with efforts to address the growing national debt. As a result, many lawmakers have called for drastic reductions in discretionary spending; adversely affecting funding for law enforcement.

The 112th Congress began without a funding solution for FY11. NAPO worked diligently on our outreach and education regarding the importance of funding COPS Hiring. We held meetings on Capitol Hill with key offices and hosted a briefing on the topic. Thus, funding for law enforcement survived the Congressional effort to dissolve programs and enact unsustainable cutbacks. COPS Hiring received \$246.8 million in FY11. Byrne JAG, a program that works in conjunction with the COPS program received \$431 million in funding.

Fortunately, funding for FY12 was settled before the end of the 2011 calendar year. Ultimately COPS Hiring received \$166 million and Byrne JAG \$270 million. Even so, funding for COPS was not without controversy. The House CJS Appropriations Committee failed to fund the program during mark-up. This was problematic since the COPS program is unauthorized. Current House rules do not allow for amendments to programs that fall under this category. However, the Senate Appropriations Subcommittee markup for CJS funding approved \$200 million for COPS Hiring. Final funding for the Department of Justice was determined by a conference report from both chambers.

Please note the Funding Charts below for some of the key programs NAPO advocated on behalf of.

COPS Hiring	
FY	Final Amount
2013	
2012	\$166,000,000
2011	\$246,800,000
2010	\$298,000,000
2009	\$1,000,000,000
2008	\$20,000,000
2007	\$0
2006	\$0
2005	\$10,000,000
2004	\$114,000,000
2003	\$199,000,000
2002	\$385,000,000
2001	\$408,000,000
2000	\$481,000,000
1999	\$1,201,000,000

BVP Funding		
FY	Amount	Jurisdictions
2013		
2012	Unavailable	
2011	\$24,276,128.00	4,960
2010	\$37,008,811.00	4,127
2009	\$22,720,316.00	3,927
2008	\$20,663,705.00	4,484
2007	\$28,616,096.00	3,981
2006	\$28,901,161.18	4,600
2005	\$23,629,730.93	4,010
2004	\$24,200,000.19	4,783
2003	\$24,000,000.26	5,784
2002	\$23,510,857.72	5,129
2001	\$24,499,999.72	4,447
2000	\$24,005,173.80	3,586
1999	\$22,893,273.41	3,508

Byrne JAG	
FY	Final Amount
2013	
2012	\$470,000,000
2011	\$431,000,000
2010	\$519,000,000
2009	\$546,000,000
2008	\$0
2007	\$0

VALOR	
FY	Final Amount
2013	
2012	\$2,000,000
2011	\$3,000,000
2010	\$800,000*
<i>*FY10 was the first year of funding</i>	

DHS Grant Programs	FY11
Urban Area Security Initiative (UASI)	\$724,000,000
State Homeland Security Grant Program (SHSGP)	\$634,000,000

ALLOCATION OF SPECTRUM
TO BUILD A NATIONAL PUBLIC SAFETY NETWORK (D BLOCK)

At the beginning of 2011, the Administration announced that it would give the D Block spectrum directly to public safety to build a mobile broadband network for police and emergency first responders. This announcement represented a vital victory for law enforcement and America's public safety sector; prior to this announcement the FCC intended to auction off the D Block to the highest bidder.

Over the course of the year NAPO attended a number of meetings, both at the White House and on Capitol Hill on the topic of D Block. A variety of legislation was introduced on the topic. NAPO endorsed Senator Rockefeller's (D-WV) bill, The Public Safety Spectrum and Wireless Innovation Act (S. 911). NAPO also supports the view that the public safety network should be interoperable with other 700MHz bandclasses.

Legislators were tasked with finding revenue offsets to reduce the deficit. The auction of spectrum will result in millions of dollars which will be a favorable offset. Members of Congress still considered the allocation of the D Block to public safety a priority. In December, members in the House released a legislative package that included the allocation of the D Block spectrum to public safety. Although this was a step closer to final passage on this critical legislation, the House legislation still needed work on several provisions; cost, governance, additional spectrum auctions and interoperability.

Congress ended the year without a deal on D Block. Looking forward it will be increasingly difficult for standalone passage of spectrum legislation.

IRS NORMAL RETIREMENT AGE

NAPO has been successful at postponing the enactment date for the IRS Normal Retirement Age first from January 1, 2009, to 2011 and later to its current date; **January 1, 2013**. The IRS-issued regulations began in 2007 and would make public pension plans define normal retirement age for public safety officers in regards to in-service distributions as age 50 and not based on years of service.

In December, NAPO sent another letter to the Commissioner of the IRS reiterating our position on the harmful effects of the Jan 1, 2013 deadline and requesting a change in definition for Normal Retirement Age. Also in December; Congressman Bill Pascrell (D-NJ) sent a follow-up letter to Commissioner Shulman, for which NAPO provided input. Congressman Ron Kind (D-WI), along with Congressmen Jim Gerlach (R-PA) and Richard Neal (D-MA), introduced The Small Business Pension Promotion Act of 2011 (H.R. 3561). NAPO has expressed support for both of these in a NAPO letter and signed onto a collective letter with other Public Pension groups.

NAPO is the premier law enforcement organization on this issue. We are working to see that changes will occur before 2013 and will keep you posted on our efforts and progression on the issue. How the Normal Retirement Age will affect groups is detailed below.

- **In-service distributions**- similar to a Deferred Retirement Option (DROP) plan in that an employee can technically "retire" and start drawing pension checks, but continue working for the employer maintaining the pension plan. However, with an in-service distribution the pension checks are sent directly to the employee, while under a DROP plan the pension checks are sent to an interest-earning account. Therefore, with an in-service distribution, the employee is able to collect both his pension and his pay checks simultaneously. This is what the IRS wants to prevent an employee from doing until he/she reaches "normal retirement age" as defined by the IRS Normal Retirement Age rules - Treasury Regulations Section 1.401(a)-1(b) - which is 50 years of age for public safety officers. This regulation pertains only to in-service distributions, not to DROP plans.

- **Retirement Age:** A public safety officer can still retire after 20 or 25 years of service, even if he or she has not reached the age of 50, and receive a full, unreduced pension as long as he or she severs all employment with the employer who maintains the plan. However, this is considered “Early Unreduced Retirement” not “Normal Retirement Age”. Therefore. . .
- **Health Insurance Benefits:** If an officer retired under “Early Unreduced Retirement” then they do not qualify for HELPS Benefits. Under the HELPS provision, a public safety officer must have retired at “Normal Retirement Age” in order to obtain the privilege to use up to \$3,000 from their retirement savings on a pre-tax basis for use toward health care insurance and long-term care insurance premiums.
- **Combination of Pension Plans:** If a department has a pension plan that is combined with other plans (rolled up with the other State plans such as teachers or government employees) then it cannot qualify for the “Early Unreduced Retirement” therefore forcing officers to wait longer to retire and receive benefits.

RETIREMENT SECURITY

The Government Pensions Offset (GPO) reduces public employees’ Social Security spousal or survivor benefits by two-thirds of their public pension. This is problematic for rank-and-file because if a spouse who paid into Social Security dies, the surviving public safety officer would normally be eligible for half of the deceased’s benefit. However, if the surviving law enforcement officer had not been paying into Social Security while working, the GPO requires the this amount be offset by two-thirds of the survivor’s pension thus eliminating most, if not all of the payment. Current legislation has been introduced in both chambers that would repeal GPO requirements applicable to spouses’, widows’, and parents’ insurance benefits with respect to Old Age Survivors and Disability Insurance (OASDI) payments and in addition repeal Windfall Elimination requirements. (S. 2010 in the Senate has the support of 1 cosponsor and H.R. 1332 in the House has the support of 134 cosponsors.)

Lost income caused by both the GPO and the WEP is a financial strain on law enforcement officers and their families. Although there has been legislation introduced on these topics during consecutive Congresses (with reasonable levels of cosponsors), there has yet to be a substantive movement to advance bills. NAPO remains an active voice on behalf of law enforcement on the topic and continues to lead efforts to actively pass legislation.

ADDITIONAL ISSUES OF INTEREST TO LAW ENFORCEMENT

Public Safety Officers’ Benefits (PSOB)

NAPO has been a longstanding advocate for Public Safety Officers’ Benefits (PSOB). We acknowledge that there is still work that needs to be done in order to make certain all public safety officers who have become permanently and completely disabled in the line of duty are given the benefits they deserve in recognition for their sacrifice.

In October, Senator Patrick Leahy introduced The Public Safety Officers’ Benefits Improvements Act of 2011, (S. 1696 in the Senate and H.R. 1668 in the House). NAPO does support legislation that makes important changes to the Public Safety Officers’ Benefits program that will increase or protect benefits, expedite claims and help the program with its education and outreach to the first responder community. However, we are concerned that current legislation does not go far enough in protecting officers from recent developments within the Bulletproof Vest Partnership program (BVP).

Attorney General Eric Holder announced a requirement that departments which receive funds for the BVP program will now be required to have mandatory wear policies. As a key contributor in the development of the Bulletproof Vest Partnership program and the law enforcement leader on implementation and improvements, NAPO recognizes the vital importance of modern body armor, however, officers who are harmed in the line of duty (or their survivors) should not be hindered by this policy when their PSOB benefits are considered. It is imperative that future legislation reflects this concern. An officer's compliance with mandatory wear policies has too many unforeseeable circumstances to justify making payment of death benefits contingent on compliance with a blanket policy.

NAPO appreciates efforts to improve the PSOB program to ensure that it meets the needs of the families of officers who selflessly gave their lives for the safety of our communities. We believe that current legislation needs to reflect legislative changes that address this concern and ensures that officers who rightfully deserve these benefits are in no way denied them.

Officer Safety and The National Blue Alert

2011, was a deadly year for law enforcement, with a total of 177 officer fatalities. In March, Attorney General Eric Holder called for the launch of the Law Enforcement Officer Safety initiative, to which NAPO provided vital input on behalf of rank-and-file.

Throughout the remainder of the year NAPO participated in planning sessions of the Officer Safety and Wellness group as well as in the inaugural meeting. NAPO is committed to ensuring that safety and wellness needs of officers are addressed on a federal level.

The National Blue Alert Act of 2011, (S. 657 in the Senate and H.R. 365 in the House) would establish a National Blue Alert communications network within the Department of Justice to disseminate information when a law enforcement officer is seriously injured or killed in the line of duty. This legislation garnered substantial momentum in the Senate.

In September, the Senate Judiciary Committee favorably reported S. 657 out of committee to be placed on the Senate Legislative Calendar (Calendar No. 160). During the committee mark-up, Senator Patrick Leahy (D-VT) offered an amendment on behalf of the Sponsors: Senators Benjamin Cardin (D-MD) and Lindsay Graham (R-SC). The amendment was reported favorably and is helpful to rank-and-file by improving the bill in several ways.

First, it defines "law enforcement officer" to be consistent with that used in the Public Safety Officers' Death Benefits Act. Secondly, the amendment clarifies that the Blue Alert Coordinator should provide assistance to States and local governments that are currently using Blue Alert plans. Next, and perhaps the most prominent change affecting NAPO is the addition of a representative from a law enforcement organization representing rank-and-file officers to the advisory group. Finally, the role of the coordinator is more clearly defined.

Even though the National Blue Alert reported out of committee with bipartisan support of fourteen votes, four Republican Senators voted against passage. This includes Senators Tom Coburn, (R-OK), Orrin Hatch (R-UT), Michael Lee (R-UT) and Jeff Sessions (R-AL).

In December, Majority Leader Harry Reid (D-NV) asked unanimous consent that the Senate pass S. 657 (Calendar No. 160). Although NAPO and our members put forth considerable efforts in support of

the bill, a Senate Republican did object to the request, thus hindering this effort for passage. Moving forward NAPO will continue to concentrate our efforts in the House to push for the advancement of this legislation.

NAPO has been at the forefront of Officer Safety and continues to distinguish itself as a leader on the topic for rank-and-file.

NAPO and FAA Reauthorization Efforts - Securing Cockpits against Lasers, Helicopter Noise

NAPO represents the Federal Flight Deck Officers Association and maintains a keen interest in the successful completion and implementation of the Securing Cockpits Against Lasers legislation. Thanks to the swift action taken by NAPO, the United States Senate included Senate Amendment 8, by Senator Sheldon Whitehouse (D-RI) to The FAA Air Transportation Modernization and Safety Improvement Act (S. 223 in the Senate and H.R. 386 in the House).

Senator Whitehouse's amendment would secure aircraft cockpits against laser pointers and would make the aiming of a laser beam at an aircraft or in its flight path a punishable offense. S.AMDT.8 was approved 96 -1.

In January of 2011, the House Subcommittee on Crime, Terrorism, and Homeland Security held a voice vote resulting in favorable passage of H.R. 386.

The FAA Air Transportation modernization and Safety Improvements Act passed the Senate and is currently being considered for conference action.

Law enforcement is also impacted by the FAA Reauthorization bill due to Helicopter Noise Relief legislation. In October, NAPO worked on an important provision to The Los Angeles Residential Helicopter Noise Relief Act of 2011, (H.R. 2677) that was sponsored by Congressman Howard Berman (D-CA). NAPO is concerned with the original language of H.R. 2677, "the Administrator may exempt helicopter operations related to emergency, law enforcement, or military activities from requirements . . ." we believe the language needs to be changed so as not to have an adverse effect on law enforcement.

NAPO proposes that the language of the legislation be changed from "may exempt" to "shall exempt".

Overall, NAPO agrees with the intent of Congressman Berman's underlying bill; it is important for helicopter operators to fly safely while minimizing noise impact on the surrounding communities. Equally important is the ability of first responders to preserve public safety. NAPO also weighed in on Senator Charles Schumer's (D-NY) amendment, The Controlling Helicopter Noise Pollution In Residential Areas Act, that was adopted to the FAA Reauthorization bill also requesting that the language be changed from "may provide" to "shall provide".

NAPO is committed to supporting efforts that protect our national security and continues to take the lead to advocate these key provisions within the FAA Reauthorization legislation.

National Criminal Justice Commission

During the Senate deliberations on the FY12 Commerce-Justice and Science (CJS) funding package, Senator Jim Webb (D-VA) offered his bill, The National Criminal Justice Commission Act of 2011, as

Senate Amendment 750 (S.A. 750). NAPO was the only law enforcement organization to actively oppose this amendment. NAPO supported the original version of Senator Webb's Crime Commission Bill (S. 714) in the 111th Congress but, over time, as the bill morphed into a different piece of legislation NAPO was compelled to withdraw its support.

Our primary opposition to the amendment was based on the clauses affecting the selection of members for the Commission. Specifically, the proposed selection of the members to serve on this panel does not represent a balance of political parties. Further, rank-and-file should be specifically identified to be appointed to the commission. Finally, additional details regarding memberships needed to be specifically outlined.

A secondary concern with the legislation is the restrictive timeframe within which the commission was to complete its findings. The 18-month timeframe is insufficient and is largely based on President Lyndon Johnson's 1965 Commission on Law Enforcement and Administration of Justice. For comparison purposes, it took the Prison Rape Commission five years on that one issue and over four years for a Forensic Commission. The timeframe of 18 months is just not workable.

The amendment authorized \$5 million in new spending over two fiscal years which must be offset. The recommended offset was through the Department of Justice's Office of Justice Program's Administrative Account. Rather than fund this proposed study, the money could be put to better use by putting officers directly in our communities through funding for the COPS Hiring program.

NAPO served as the law enforcement leader in working against the passage of S.A. 750. NAPO was the only law enforcement group to oppose this flawed legislation. Our efforts were successful and S.A. 750 failed to garner the 60 votes necessary to pass with the final vote count: 57 to 43.

NAPO agrees with the Crime Commission's underlying intent to examine our criminal justice system. However, rank-and-file officers are the most visible form of government in America. It is essential they be represented by a secured seat on the commission. It is in the best interest of all parties involved to ensure officers have the support they need to succeed. NAPO will continue to provide updates of our work to advance the interests of America's law enforcement through advocacy.

Save the Dates!

Please Make Note of NAPO's 2012 Events

24th Annual Police, Fire, EMS & Municipal Employee Pension & Benefits Seminar

Sunday, January 15 – Tuesday, January 17, 2012
Caesar's Palace -- Las Vegas, Nevada

Annual Legal Rights and Legislative Seminar

Friday, May 11, 2012
The Mayflower Hotel -- Washington, District of Columbia

19th Annual TOP COPS Awards

Saturday, May 12, 2012
The Mayflower Hotel -- Washington, District of Columbia

NAPO's 34th Annual Convention

Saturday, July 21 – Wednesday, July 25, 2012
Palm Beach County Florida

Please visit www.napo.org for detailed event information and exhibiting/sponsorship opportunities.

Contact us at (800) 322-6276 or via e-mail: info@napo.org with any questions.