



The Washington Report

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

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NAPO Submits Statement for Hearing on Police Practices

NAPO attended the House Judiciary Committee oversight hearing on policing practices this morning and submitted testimony for the official record. The origination of this hearing was a meeting between Committee Chairman Jerry Nadler (D-NY) and the Rev. Al Sharpton on July 23, during when Chairman Nadler agreed to hold this “police misconduct” hearing in the wake of the Department of Justice clearing New York City Police Officer Daniel Pantaleo of any federal criminal charges.

The hearing focused on the role of the federal government in addressing concerns about unconstitutional practices, including “pattern and practice” investigations, racial profiling and use of force, enhancing police accountability, and in developing 21st century policing practices. The Democrats produced seven witnesses that proved that the hearing would be anything but fair and balanced and it largely left out the voice of rank-and-file law enforcement. Witnesses included Gwen Carr, Eric Garner’s mother, the Rev. Al Sharpton, James Blake, a former tennis pro who was mistakenly detained by a New York City officer because he matched the description of a suspect, the Leadership Conference on Civil and Human Rights, the Center for Policing Equity, and Ron Davis, former COPS Office Director and founding partner of 21st Century Policing LLC. This hearing proved to be a direct, political attack on rank-and-file law enforcement by the Democrats that did nothing to advance the conversation around policing in America.

Throughout the hearing, several issues were repeatedly raised by the Democrats on the panel and their witnesses, including mandating data collection on the use of force by officers, banning the use of “chokeholds”, the need to review whether qualified immunity is working as it was intended, ending racial profiling as a policing practice, and the need to make the recommendations of the 21st Century Policing Task Force federal law. The attention these topics received is very concerning to NAPO, particularly as each has its own anti-police bias behind it. We will continue to monitor legislation and Committee efforts to enact these proposals into law.

NAPO submitted testimony, which can be read [here](#), stating our view on policing in America and supporting our nation’s officers who are out protecting our communities on a daily basis.

Michael Palladino, President of the Detectives’ Endowment Association, Inc. of the NYPD, also submitted testimony for the hearing. You can read his testimony [here](#).

Please don’t hesitate to contact NAPO’s Director of Governmental Affairs, Andy Edmiston, at aedmiston@napo.org, if you have any questions about the hearing or the work NAPO is doing to protect the rights of rank-and-file law enforcement.

NAPO Opposes Eric Garner Excessive Use of Force Prevention Act

NAPO strongly opposes the Eric Garner Excessive Use of Force Prevention Act (H.R. 4408), introduced by Representative Hakeem Jeffries (D-NY), which would ban the use of “chokeholds” by law enforcement officers. Specifically, it would add “the application of any pressure to the throat or windpipe which may prevent or hinder breathing or reduce intake of air” to the Federal Criminal Civil Rights Statute, under the Deprivation of Rights Under Color of Law (Section 242 of Title 18, United States Code), making the use of such maneuvers a civil rights violation.

Law enforcement agencies across the country already ban the use of “chokeholds” – the physical maneuver that restricts an individual’s ability to breathe for the purposes of incapacitation – by their officers as a means of less-than lethal force. Instead, officers are trained in vascular neck restraints as a tactic to control a non-compliant or actively resistant individual if de-escalation techniques do not work. Vascular neck restraints are an important part of the police use-of-force continuum that are proven to be an effective way to control combative individuals and prevent injuries to officers without inflicting serious bodily harm to the subjects.

Further, while “chokeholds” are no longer permitted by most law enforcement agencies as a form of less-than lethal force, they are a vital tool for officers to have when use of deadly force is justified. If the subject poses an immediate threat to the safety of the officer or others and a “chokehold” is the officer’s best or only option, it is vital that she is able to use it.

The language of H.R. 4408, however, is overly broad and not only would take away the use of “chokeholds” as part of the use of force continuum, it threatens to ban the use of any vascular neck restraints by law enforcement officers. This places the officer and public safety at risk. Further, H.R. 4408 does not just seek to prohibit the use of “chokeholds” and vascular neck restraints, it would make the use of them a federal civil rights violation.

NAPO cannot support making the use of legitimate and sometimes necessary neck restraints by officers a civil rights violation. We hope Representative Jeffries will strongly consider our serious concerns with this legislation.

NAPO on the Hill: GPO & WEP Repeal, Kelsey Smith Act

GPO & WEP Repeal

NAPO met with staff of Representatives Rodney Davis (R-IL) and Garret Graves (R-LA), who are leading the effort to move the Social Security Fairness Act (H.R. 141) forward in the House. This legislation, which would totally repeal both the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP), continues to be a top priority for NAPO.

Though most police officers must retire after specific time served, 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.

The Social Security Fairness Act currently has 202 bipartisan cosponsors. In the meeting we discussed two of the most likely paths forward: 1) getting the bill to 290 cosponsors, which would force a vote on the House floor, much like we did with the Middle Class Health Benefits Tax Repeal Act; and 2) getting 20 Democrats and 20 Republicans to sign on in support of the bill as an amendment to another piece of must-pass legislation. Attaining 40 equally split bipartisan cosponsors to an amendment makes it a privileged amendment, which means it can be called up without debate.

Congressman Davis and Graves are looking for opportunities to pass the Social Security Fairness Act as an amendment. Meanwhile, we continue to push for additional cosponsors to hit the 290 mark and push the importance of repealing the GPO and WEP. To find out if your representative has signed on as a cosponsor to H.R. 141 or to get information about the bill, contact Andy Edmiston at aedmiston@napo.org.

NAPO thanks Congressmen Davis and Graves for their continued dedication ensuring public employees get the retirement benefits they rightly deserve.

Kelsey Smith Act

NAPO met with the staff of members of the Senate Commerce Committee – Senators Tammy Baldwin (D-WI), Tammy Duckworth (D-IL), Gary Peters (D-MI), Rick Scott (R-FL), and Deb Fischer (R-NE) – to discuss the Kelsey Smith Act and educate them about its importance. It is our hope that we will garner enough support from members of the Committee, which has jurisdiction over this bill as it relates to telecommunications, to ensure the Committee will take up and approve the bill as soon as possible.

The Kelsey Smith Act would require telecommunications companies to give law enforcement information about the location of a subscriber's phone when there is an emergency involving the risk of death or serious physical injury. While current law does not prohibit these companies from giving location information to police in emergencies, it does not require them to do so and there is no uniform standard in the industry for responding to such requests.

Kelsey Smith was tragically abducted and murdered in June 2007. It took Verizon four days after the initial emergency request to give law enforcement the geographic coordinates of Kelsey's phone. After the information was received, it only took 45 minutes for law enforcement to find her body. Unfortunately, the Kelsey Smith case is not uncommon. Problems with service provider responsiveness to law enforcement requests are real and widespread.

Twenty-four states have passed their own versions of the Kelsey Smith Act, thanks to the dedication and hard work of Kelsey's parents, Greg and Melissa Smith. NAPO is working to ensure that Congress passes a federal minimum standard for telecommunications companies to respond to law enforcement emergency

geolocation requests so that law enforcement in every state across the country has speedy access to this vital information in emergency situations.

All offices were receptive to the idea behind the bill, with a couple expressing possible privacy concerns about the release of location data to law enforcement. The various issues surrounding the distrust of tech companies and growing privacy concerns by some in Congress about law enforcement's access to individuals' electronic communications are complicating the issue at hand. We need to ensure that this is seen as a law enforcement issue and not as part of the larger privacy debate in order to have a chance to move this bill forward.

We continue to meet with members of the Commerce Committee to educate them on the Kelsey Smith Act and ensure that we can resolve any issues and concerns in order to move the bill forward.

Chairman Neal Introduces His Version of WEP Reform

House Ways and Means Committee Chairman Richard Neal (D-MA) introduced the Public Servants Protection and Fairness Act (H.R. 4540), which would reform the Windfall Elimination Provision (WEP) to reduce its impact on public employees' Social Security benefits. The bill would create a new formula – the Public Servant Protection (PSP) formula – designed to more accurately account for years a public employee paid into Social Security versus the years paid into a public pension system in a non-Social Security covered position. The PSP would only apply to individuals who are receiving a pension from a non-Social Security covered position *and* have less than 30 years of substantial work in Social Security covered employment. It would maintain all current WEP exemptions.

The PSP would start for new retirees as of 2022, and individuals would receive the higher of the two formulas – the PSP or the current WEP. Current retirees and those becoming eligible for Social Security before 2022 would receive a monthly payment of \$150 to lessen the impact of the WEP. However, if the impact of the WEP is less than \$150, the retiree would receive the amount by which the WEP reduced their Social Security benefit.

NAPO is considering the Public Servants Protection and Fairness Act to ensure that it does not do any additional harm to public servants. We are also considering the Equal Treatment for Public Servants Act, introduced by Ranking Member Kevin Brady (R-TX), which similarly reforms the WEP formula. While the Equal Treatment for Public Servants Act is comparable in terms of the new formula, it would eliminate the WEP exemption, which is a big concern for NAPO.

We continue to work with both Chairman Neal's and Ranking Member Brady's staff to ensure the best bill for public sector retirees moves forward. That being said, our involvement in WEP reform does not impact our push to repeal the GPO and WEP, as our work with Representatives Graves and Davis illustrates.

Please contact Andy Edmiston at aedmiston@napo.org if you have any questions about either WEP reform legislation. NAPO will keep our members updated on the status of both bills and our efforts to repeal the WEP.

NAPO Endorses Bill to Enhance Screening for Trafficked Fentanyl

NAPO endorsed the Screening All Fentanyl-Enhanced (SAFE) Mail Act of 2019 (S. 2323), introduced by Senator Ed Markey (D-MA), which would support the research, development and implementation of screening technology to enhance the screening of all inbound international mail and express cargo into the United States for fentanyl and other illicit opioids.

Fentanyl, particularly illicitly manufactured fentanyl, and other synthetic drugs are having deadly consequences on communities across the country, both big and small. Because illicit fentanyl is so powerful — just a few salt-sized grains can kill an adult — small amounts go a long way for drug traffickers. These relatively small and potent amounts mean fentanyl is difficult and hazardous to detect, making them easy to traffic across the border through international mail and a danger to those trying to stop its importation.

U.S. Customs and Border Protection (CBP) is on the front lines of the battle to detect and halt illegal fentanyl and other synthetic drugs being trafficked into the United States. Unfortunately, it is only able to screen a small fraction of all inbound international mail and express cargo into the country. The SAFE Mail Act would address this serious gap by supporting and promoting research and development of technology to help the CBP, the U.S. Postal Service, and other governmental and private entities achieve the automated screening of all international mail and express cargo into the United States from countries determined to be high-risk for illicit fentanyl and other illicit synthetic opioids.

This legislation compliments the INTERDICT Act, which was enacted into law with NAPO support in 2018, that provides CBP with resources and training to purchase equipment to screen for fentanyl, and the POWER Act, which would provide state and local law enforcement with such screening equipment to use in the field.

NAPO looks forward to working with Senator Markey to move this important legislation.

Senate Appropriators Approve FY 20 DOJ Appropriations

The same day that Congress passed a continuing resolution to ensure the federal government remains open and allow Congressional appropriators more time to finalize Fiscal 2020 spending, the Senate Appropriations Committee approved the FY 20 Commerce, Justice, Science and Related Agencies (CJS) Appropriations Act. The bill continues strong funding for state and local law enforcement assistance programs, including NAPO's priority grant programs.

The bill would fund the Byrne Justice Assistance Grant (Byrne JAG) Program at \$545 million, with \$100 million of that going towards reimbursing state and local law enforcement for providing security for the Democrat and Republican Presidential Nominating Conventions. It would provide the Bulletproof Vest Partnership (BVP) Grant Program with \$27.5 million, just shy of the authorized level of \$30 million. The spending measure also includes \$10 million for the POLICE Act through the COPS Program, which provides active shooter training for officers, \$33 million for the Mentally Ill Treatment and Crime Reduction Act (MIOTCRA), and \$47 million for the COPS Program anti-meth and anti-heroin task force programs.

Importantly, the CJS Appropriations bill would fund the COPS Hiring Program at \$245 million, including \$5 million for the Law Enforcement Mental Health and Wellness Act Program - \$3 million more than the program received in Fiscal 2019. This Program was created by the Law Enforcement Mental Health and Wellness Act in 2018 and the grants are to improve the delivery of and access to mental health and wellness services for law enforcement through training and technical assistance, demonstration projects, and implementation of promising practices related to peer mentoring mental health and wellness programs that are national in scope and responsive to the solicitation topic requirements. While \$5 million is not the funding level we want for this program, NAPO supports any additional funding for officer peer mentoring programs.

The current continuing resolution runs through November 22, 2019, giving appropriators until just before Thanksgiving to finalize and pass Fiscal 2020 appropriations. NAPO continues working with lawmakers to support appropriate funding levels for our priority grant programs.

If you have any questions about the issues or legislation discussed in this issue of the Washington Report, contact Andy Edmiston at aedmiston@napo.org or (703) 549-0775. Please monitor NAPO's website, www.napo.org, and Facebook page: National Association of Police Organizations, and follow us on Twitter at NAPOpolice for breaking news and updates.