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Representing America's Finest

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UPDATE: Congress Passes FY 2023 Consolidated Appropriations Act with 9/11 Health Funding Included

On December 23, Congress passed the final Fiscal Year 2023 appropriations bill just in time to avert a government shutdown. In a major win for NAPO and 9/11 responders and survivors across the country, an additional \$1 billion in funding for the 9/11 World Trade Center Health Program (WTCHP) was included in the spending measure. While this is short of the \$3 billion we have been calling for, this money will allow the program to avert any cuts to services until at least FY 2027 and give us more time to achieve an agreement on long-term funding that will make the WTCHP whole.

NAPO worked with Senator Kirsten Gillibrand (D-NY) on an amendment to the Consolidated Appropriations Act, brokered with Senate Majority Leader Charles Schumer (D-NY) and Minority Leader Mitch McConnell (R-KY), to provide \$1 billion for the program and provide for research on the emerging mental and physical impacts of 9/11 on children. The Senate considered a total of 17 amendments, including Gillibrand amendment, in the debate over the appropriations bill. The amendment passed by an overwhelming vote of 90-6.

NAPO fought hard for the passage of the James Zadroga 9/11 Health and Compensation Act in 2010 and its reauthorization in 2015 to ensure our nation took care of the victims and first responders who are coping with 9/11-related chronic health conditions. James Zadroga, a New York City Police Department Detective and member of NAPO, died of respiratory disease caused by his exposure to toxic chemicals during rescue and recovery efforts at Ground Zero. Today, the WTCHP provides medical treatment and monitoring for over 120,000 9/11 responders and survivors who live in every State and in 434 out of 435 Congressional Districts.

Costs for the program and increases in participation by injured 9/11 responders and survivors have increased beyond what was projected in the 2015 extension. The WTCHP now faces a projected funding shortfall of \$3.064 billion dollars over the next ten years because of those increased costs. This \$1 billion in additional funding will delay any cuts to services through Fiscal 2027. For the time being, 9/11 responders and survivors, who experienced and responded to the worst terrorist attack on our nation's soil, will not have to worry about losing the health care they depend on.

NAPO thanks Senator Gillibrand for her dogged and steadfast efforts to get this vital funding for the WTCHP across the finish line. We will work closely with the Senator next year to start laying the groundwork yet again for a permanent solution to address the remaining funding shortfall before the program has to consider service cuts.

NAPO's Priority Retirement Provisions Included in FY 2023 Consolidated Appropriations Act

On December 23, Congress passed the Fiscal 2023 Consolidated Appropriations Act, which funds the federal government and all its departments, agencies, and programs through the rest of this fiscal year. In a significant victory for NAPO and our members, our priority retirement provisions were passed as part of bill: the Putting First Responders First Act, the Police and Fire Healthcare Protection Act, and the Protecting Public Safety Employees' Timely Retirement Act.

The **Putting First Responders First Act** codifies existing IRS regulations making public safety service-connected disability compensation exempt from Federal income taxes. While we pressed for this provision to be immediately enacted, the spending measure delays its enactment until the taxable years after December 31, 2026.

The **Police and Fire Healthcare Protection Act** improves the HELPS Retirees provision of the Pension Protection Act to help ensure all public pension plans are able to implement it to the benefit of their public safety retirees by removing the direct payment requirement.

Under the HELPS Retirees provision, qualified, retired public safety officers can use up to \$3,000 annually from their pension funds tax-free, including defined benefit plans and defined contribution plans, to pay for qualified health insurance and long-term care insurance premiums. However, the money must go directly from the pension fund to the health or insurance company in order to get the tax-free benefit. This direct payment requirement has been a hindrance for many pension plans to participating in HELPS. By removing the direct payment requirement, the pension fund can now send the money directly to the retiree to help pay for health and long-term care insurance premiums.

The **Protecting Public Safety Employees' Timely Retirement Act** modifies the eligible age for the exemption from the retirement plan early withdrawal penalty for public safety officers. It establishes the age eligibility at age 50 or 25 years of service under the plan, whichever is earlier.

Currently, the amounts a retired public safety officer withdraws from a retirement plan before reaching age 50 are called "early" or "premature" distributions and are subject to an additional 10 percent early withdrawal tax. The Protecting Public Safety Employees' Timely Retirement Act allows an officer who has retired after 25 years of service, even if it is before age 50, to be exempt from the 10 percent withdrawal penalty.

While NAPO celebrates the inclusion of these provisions in the omnibus spending measure, we did not get a win on WEP reform, which was not included in this bill. We will continue the fight to repeal both the GPO and WEP or at the very least achieve WEP reform next Congress.

FY 2023 Omnibus Spending Package Extends Fentanyl Scheduling, Funds NAPO Priority Grant Programs

Fentanyl Scheduling Extension

The massive Fiscal Year 2023 consolidated appropriations package includes a temporary extension of the Drug Enforcement Agency's (DEA) temporary classwide scheduling of all fentanyl-related substances as Schedule 1 drugs under the Controlled Substances Act – making them illegal – through December 31, 2024. While NAPO pushed for the scheduling to be made permanent, we count this extension as a win as an end or even a

lapse in this scheduling would threaten law enforcement's efforts to fight fentanyl and similar opioids that are scourging communities across the country. The classification of fentanyl as a Schedule 1 substance is necessary for all law enforcement actions on fentanyl, allowing law enforcement to prosecute criminals who make and distribute the drug.

We will use the extension of fentanyl's status as a Schedule 1 drug to continue to work with our partners in Congress and the law enforcement community on a permanent solution to dealing with fentanyl in order that we do not have to continue to fight to keep these dangerous drugs scheduled.

NAPO Priority Grant Programs

NAPO's priority grant programs are sufficiently funded in the FY 2023 Consolidated Appropriations Act and the various requirements the House tried to place on those programs to force its police reform policies on state and local law enforcement were largely rejected in the final bill. NAPO pushed hard to ensure those police reform provisions were not included in the final bill.

Within the COPS Office, Congress funded the COPS Program at \$662.9 million, of which, \$324 million went to the COPS Hiring Program, \$12 million for active shooter training, \$51 million for anti-meth and heroin task forces, and \$45 million for grants under the STOP School Violence Act. Appropriators also provided \$10 million for the Law Enforcement Mental Health and Wellness Grant Program and the Supporting and Treating Officers in Crisis (STOIC) Program, which provide funding and resources for training, peer mentoring and mental health program activities. The funding for the COPS Office is approximately a \$150 million increase over what was appropriated for COPS for Fiscal 2022.

Further, \$45 million of the \$662.9 million in COPS Office funding is allocated for community policing development activities, which include co-responder crisis teams, de-escalation and duty to intervene training, accreditation support, and diversity and anti-bias training.

The Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA) is funded at \$45 million, illustrating the strong support amongst members of Congress to ensure adequate funding for crisis intervention teams (CIT) and other mental health training for law enforcement. Further, \$10 million under the Byrne Justice Assistance Grant (Byrne JAG) program is appropriated to provide officer training on responding to individuals with mental illness or disabilities.

The Byrne JAG program also received a significant increase in funding over FY 22 levels and is funded at \$770.8 million, with carves outs for the mental health training, the VALOR Program (\$13 million) and Project Safe Neighborhoods (\$20 million), among others.

Other DOJ NAPO priorities were funded at similar levels to last fiscal year: \$30 million for the Bulletproof Vest Partnership (BVP) Grant Program; \$20 million for the Adam Walsh Act; and \$82 million for the STOP School Violence Act through the Bureau of Justice Assistance (BJA). The spending measure also included \$445 million for grants programs to respond to the opioid crisis and substance abuse in our communities.

Congress also provided \$120 million through BJA for programs to improve community – police relations, of which \$35 million is appropriated for the Body-Worn Camera Initiative to help agencies purchase and maintain body-worn cameras, \$35 million for community recidivism reduction programs, and \$50 million for the community violence intervention and prevention initiative.

Once the omnibus is signed into law, departments have 60 days to send out grant solicitations and we will push out those solicitations for our priority grant programs to our members.