

PUBLIC SAFETY EMPLOYER / EMPLOYEE COOPERATION ACT

“COLLECTIVE BARGAINING”

BACKGROUND

Congress has long recognized the benefits of a mutual working relationship between labor and management. Over the years, Congress has extended collective bargaining rights to public employees including letter carriers, postal clerks, public transit employees and congressional employees. However, under federal and state laws, some public safety officers, law enforcement, corrections and fire, are denied the basic rights of collective bargaining. While many public safety agencies have benefited from a productive partnership between employers and employees, other agencies have not. Currently, many states do not provide public safety employees with the fundamental right to bargain with their employers. History proves that denying workers the right to bargain collectively causes poor morale, work stoppages, unfair and inadequate working conditions and low productivity.

NAPO POSITION

Federal law has extended collective bargaining to a number of different sectors but not to public safety officers. There are many law enforcement officers who put their lives on the line every day to preserve the security and peace that our communities enjoy. However, these same individuals are denied the basic rights of collective bargaining for wages, hours and safe working conditions. This legislation extends basic collective bargaining rights to state and local public safety officers. The bill prohibits strikes and does *not* call for mandatory arbitration. In addition, states that offer equal or greater collective bargaining rights would be exempt from this federal statute. NAPO applauds the efforts of Representative Kildee and Senator Gregg and will continue working in a coalition with the International Association of Firefighters (IAFF) and other law enforcement organizations, to actively support the passage of S. 513.

H.R. 1249 / S. 513, if enacted into law, would do the following:

- Give the right to public safety officers to form and join a union.
- Give the right to public safety officers to bargain over wages, hours and working conditions.
- Provide for fact finding and mediation to resolve disputes, but would not require binding arbitration.
- Prohibit strikes and lockouts by public safety officers and agencies.
- Protect current state laws, certifications and collective bargaining agreements.
- Preserve management rights.

COMMUNITY ORIENTED POLICING SERVICES (COPS) PROGRAM

BACKGROUND

On September 13, 1994, President Clinton signed into law the 'Violent Crime Control and Law Enforcement Act of 1994.' This law authorized for six years the funding of grants to state and local jurisdictions to add 100,000 new community focused police officers to our streets and to promote community oriented policing throughout our cities. Also, the Office of Community Oriented Policing Services (COPS) was established under the Department of Justice to

administer the program. NAPO served as the leading law enforcement organization, working tirelessly with members of Congress and the administration, to enact the COPS program. Since its inception the COPS Office has been extremely successful in implementing and carrying out its designated objectives. To date, the COPS Office has funded over 110,000 community police officers in 11,300 communities and countless resources including enhanced crime fighting technology, equipment and the development of innovative partnerships with communities to fight crime. The original authorization for the COPS program expired at the end of Fiscal Year 2000, however efforts to reauthorize the program failed and law enforcement are now faced with a fight each year to keep the program funded. The proposed legislation would ensure the programs future and funding for the next six years. NAPO supports the efforts to insure the program's continuation and will continue to support officer retention, hiring of new police officers, school resource officers, scholarships for active law enforcement officers and the funding for new technologies and initiatives.

NAPO POSITION

It is NAPO'S opinion that the initiative to put more cops on the street, to promote community policing and fight crime should be continued. Most law enforcement officials and the public recognize the benefits of putting more police on the street. The steady decline of violent crime over the last nine years is evidence of the success of this program. However, we recognize the fact that we must not become complacent with our past success. There is still a lot of work to be done and we will continue to fight for the resources needed to serve our communities adequately. In the Administration's proposed FY 2006 budget, the COPS office will be reduced in funding to less than \$118 million and the hiring and retention programs will be eliminated. NAPO, through press conferences, meetings and constant Hill and agency correspondence, will continue to oppose such a restructuring. The proven effects on crime reduction seen due to the program should make COPS an integral part of any homeland security design. The fight for continuing the COPS program is part of a larger argument on the merits of direct funding to state and local law enforcement. While the Administration argues that federal monies should go through the Governors for distribution, NAPO has stressed through letters and press conference remarks, the importance of facilitated directed local funding programs, like the COPS program. If monies are focused only to the state house, the bureaucracy and time entailed will only delay needed funds and remove local decision-making abilities from those who know local needs best. In a time when heightened terrorist alerts threaten citizens and city budget coffers alike, funds to combat terrorist threats should not be delayed in trickling down from the State Houses while the majority of first responders defend cities and towns. NAPO strongly supports Senator Biden and Representative Weiner's legislation in the 109th Congress to reauthorize the COPS program.

STATE AND LOCAL LAW ENFORCEMENT DISCIPLINE, ACCOUNTABILITY AND DUE PROCESS ACT

"POLICE OFFICER BILL OF RIGHTS"

H.R. 354

BACKGROUND

Throughout the country, many states lack coherent guidelines and procedures for police departments to follow to protect law enforcement officers' due process rights. Sworn law

enforcement officers are held to an extremely high standard of personal and professional conduct, due to the enormous responsibilities they are given. However, many officers are denied the same basic due process rights that citizens enjoy. In roughly half of the states in this country, officers enjoy some legal protections against false accusations and abusive conduct, but hundreds of thousands of officers have very limited due process and First Amendment rights and confront limitations on their exercise of those and other rights. In addition, sometimes individuals, including other officers, are reluctant to file a complaint against an officer, perceiving correctly or incorrectly that management will not take the complaint seriously and conduct an inquiry. Often departments lack any guidelines and procedures for handling and investigating complaints, thus raising doubts about officer accountability.

NAPO'S POSITION

NAPO recognizes a serious need for the implementation of standards and procedures to guide both state and local law enforcement agencies and law enforcement officers during internal investigations, administrative hearings, and evaluation of citizen complaints. Too often law enforcement officers are subjected to the whim of their departments or local politics during internal investigations and administrative hearings. NAPO also supports the implementation of standards to guide police departments in developing and operating a fair and effective complaint process. Individuals should have the right to file a complaint, to have the complaint investigated, and to be informed of its final disposition, including learning the outcome of the investigation and any resulting disciplinary action. Consequently, NAPO'S members have unanimously resolved to urge the enactment of this legislation. In consultation with attorneys representing law enforcement officers, NAPO has worked with other national police groups to support this legislation.

HIGHLIGHTS: WHAT THE LEGISLATION WOULD DO FOR OFFICERS

- Officers would have the right to engage in political activity and would not be prohibited from running for elective office because of their profession, subject to narrow limitations.
- Departments would have to establish effective procedures for receipt, review, and investigation of police and other complaints against law enforcement officers.
- If disciplinary action is expected, officers would be notified of the investigation, the nature of the alleged violation, the eventual outcome of the inquiry, and the recommendations made to superiors by the investigators.
- Questioning of a law enforcement officer would be conducted at reasonable times, preferably while the officer is on duty, unless exigent circumstances apply.
- Questioning of the law enforcement officer would take place at the offices of those conducting the investigation or at the place where the officer reports to work, unless the officer consents to another location.
- A single investigator would question officers, and the officer would be informed of the name, rank, and command of the officer conducting the investigation.
- Officers could not be threatened, harassed, or promised rewards to

induce the answering of any question.

- Officers under investigation would be entitled to have counsel or any other individual of their choice present at the interrogation.
- Officers would be entitled to a hearing, notification in advance of the date of the disciplinary hearing, and access to transcripts and other relevant documents and evidence generated by the hearing. The officer would also be entitled to be represented by counsel or another non-attorney representative at the hearing.
- Officers could obtain declaratory or injunctive relief in state or federal court for violations of this law, including retaliation for the exercise of these or any other rights under federal, state, or local law.
- Officers would have the opportunity to comment in writing on any adverse materials placed in his or her personnel file.
- There would be five 'just cause' factors to be considered by the hearing officer or board for an officer to be found guilty or liable for disciplinary action; and there would be mitigating factors, which could reduce the severity of the disciplinary action.
- This law would only preempt those provisions in state, county, or municipal laws, which provide lesser officer protection, but would not preempt those providing equal or greater protection.

GOVERNMENT PENSION OFFSET and WINDFALL ELIMINATION PROVISION LEGISLATION

BACKGROUND

The Government Pension Offset was instituted in 1977 and later amended in 1983, to create a two-thirds offset on spousal or survivor's Social Security benefits for retirees who collect a pension from a job outside Social Security. There are about 350,000 former local, State and Federal employees who are affected by the offset. The law unfairly offsets a recipient's Social Security benefit even though their spouse's pension was covered by Social Security. As an example, if a man collects a Social Security benefit of \$800 a month and his wife collects a government pension from a job outside Social Security of \$900 a month, the wife would, in the absence of GPO, be eligible for a spousal benefit of half her husband's retirement benefit, or \$400 a month. GPO, however, requires that this amount be offset by two-thirds of her pension—or \$600—so, as a result, she receives nothing. In contrast, had she never worked at all, she would receive the \$400 spousal benefit.

The Windfall Elimination Provision (WEP) was adopted as part of the Social Security Amendments of 1983 and affects an individual's Social Security if that person became eligible for a federal, State or local government pension after 1985 based on work not covered by Social Security. The regular formula for computing a Social Security benefit is based on Average Indexed Monthly Earning (AIME). The benefit is figured by taking 90 percent of the first \$505 of the AIME; 32 percent of the next \$505 to \$3,043; and 15 percent of \$3,043 and over. These figures are indexed each year. In contrast, the WEP formula unfairly over penalizes lower paid

government employees who have had a career in both the public and private sector by taking only 40 percent of the first \$505 of the AIME. While the other percentages remain the same, this thereby reduces the benefit by more than half.

NAPO POSITION

NAPO supports the efforts of Congressman McKeon to repeal Title II of the Social Security Act. NAPO also stands behind the efforts of Representative Jefferson and Senator Mikulski in the 109th Congress to eliminate the Government Pension Offset for combined monthly benefits of \$1,200 or less. NAPO also supports indexing the \$1,200 figure for future increases in the cost of living, a provision contained in these bills. NAPO further supports the efforts of Senator Feinstein and her work on the Windfall Elimination Provision. NAPO feels there must be some equity when lawmakers distinguish between pensions earned by someone in the private sector vs. the public sector.

INTERNET POLICE OFFICERS PROTECTION ACT

BACKGROUND

Last year, the New York Daily News discovered a website listing police officer addresses and other personal information. NAPO believes there is a compelling state interest in ensuring that law enforcement officers are protected on and off the job. There is legitimate concern that the posting of personal information about cops could easily be used to intimidate the officers and perhaps endanger their families. Free speech does not include the ability to terrorize officers. Congressman Anthony Weiner (D-NY) has drafted a bill which would prohibit the posting of threatening material, and empower law enforcement agencies to compel internet service providers from prohibiting access to such sites - in case the information is posted on a foreign server.

NAPO POSITION

NAPO supports Congressman Weiner's legislation to protect the personal information of police officers and the identities of their families. Information like this can be very dangerous to law enforcement officers if it gets into the wrong hands. It is important to prohibit publication of sensitive personal information about police officers on the internet.