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001. letter	Robert Scully to Mark Gearan re connection between NAPO and White House (partial) (1 page)	02/08/1993	P6/b(6)

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NAPD

INSIDE JUSTICE

BY DANIEL KLAIDMAN

Charges Fly Over DOJ Bid to Lobby Police

Charges and countercharges are flying within the Justice Department over who took part in a controversial lobbying effort to secure the endorsement of the nation's second-largest police organization for President George Bush's re-election.

In August, *Legal Times* reported that an employee in the department's Office of Liaison Services had lobbied delegates at the National Association of Police Organizations' annual convention in Tampa. (NAPO eventually endorsed Arkansas Gov. Bill Clinton.)

Robert Scully, NAPO's president, has charged that Senior Liaison Officer Howard Hay doled out Bush-Quayle campaign pins in Tampa and threatened NAPO delegates that an endorsement of the Democratic candidate would close off the group's access to the Justice Department and the White House should the president be re-elected.

Now it appears that Rider Scott, director of the Office of Liaison Services, may have overseen the lobbying operation, despite earlier assurances from Justice spokesman Paul McNulty that Scott played no role in trying to win NAPO's stamp of approval for President Bush. Such conduct would run afoul of the Hatch Act, which restricts the political activities of federal employees.

Two Justice Department sources say



Justice Department official Rider Scott oversaw the effort to lobby police, two sources say.

that Scott, who serves as Justice's point man for law-enforcement and prosecutors' groups, dispatched Hay to Tampa, at least in part to help secure NAPO's endorsement.

"That was a big part of Rider's mission," says one source who asks not to be identified. "The administration wanted

the endorsement badly, and Rider wanted the credit for winning it."

According to one source, Scott stayed in telephone contact with Hay during the weeklong convention in mid-August to monitor Hay's progress and to gauge which way the endorsement was going. The source adds that Scott gave Hay a

list of NAPO board members to try to influence.

Scott hotly denied last week that he played any role in working to gain the police group's endorsement.

"I never directed anyone to act incon-

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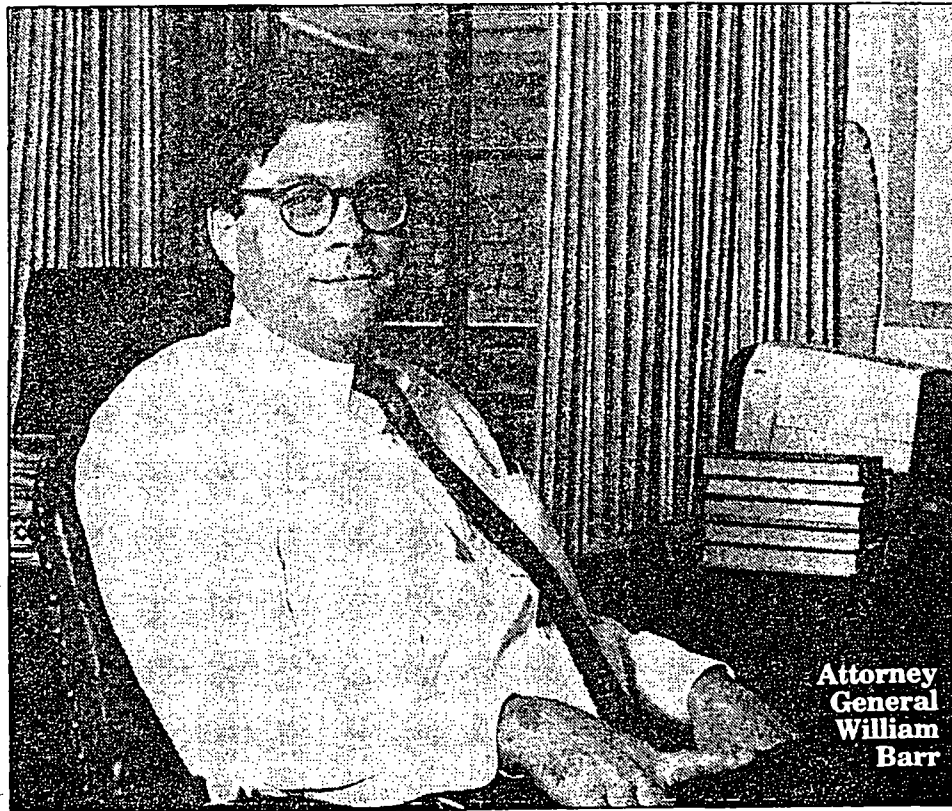
sistent with or in violation of the Hatch Act," says Scott. "Nor did I conduct myself in any way that was in violation with the act."

The Hatch Act prohibits federal employees—except high-level presidential appointees—from distributing campaign materials or doing any election-related lobbying. Both Hay and Scott are covered by the act's prohibitions.

Hay and Scott have both given their versions of events to McNulty, according to a Justice source familiar with the episode. Hay told McNulty that his efforts to sway NAPO delegates were known and sanctioned by Scott, while Scott denied any involvement, the source says. Hay declined to comment for this article.

McNulty heads the department's Office of Policy and Communications and is Scott's immediate supervisor.

Before coming to Main Justice last March, Rider Scott, 43, spent much of his legal career as a prosecutor in Texas. He served for 17 years as an assistant district attorney in the Dallas County District Attorney's Office.



**Attorney
General
William
Barr**

PHILIP JENNET

In 1987, Scott, a longtime Democrat, switched party affiliations when he joined Republican Gov. Bill Clements' personal staff as general counsel. He later became Clements' chief of staff. In 1991, Scott took his first job with the Justice Department as an assistant U.S. attorney for the Southern District of Texas.

Not long after William Barr became attorney general, he met Scott on a speaking trip in Texas and offered him a job at Main Justice. Since taking over the Office of Liaison Services in the spring, Scott has frequently traveled with Barr, who has relied on his aide's expertise on law-enforcement matters.

One source says that Scott's relationship with Barr has been strained since the attorney general learned of the politicking allegations made against Hay.

The source relates that Barr "dressed Rider down" at a recent meeting in the attorney general's office, which was the most recent time that the issue of a police union's endorsement has come up. Scott had emphasized the importance of securing the endorsement of the National Fraternal Order of Police (FOP), the largest and most influential police organization in the country.

Scott denies that he ever raised the subject of the FOP's endorsement with Barr. (The FOP endorsed President Bush earlier this month.) And McNulty says that he does not recall Scott ever discussing the FOP's endorsement.

Whatever Scott or Hay did or did not do to influence the outcome of the NAPO endorsement, it is clear that Justice Department officials were wary of alienating

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the 135,000-member police organization as its leaders gathered in Tampa.

The Bush administration's relations with law-enforcement groups had been deeply damaged by the administration's lack of support for gun control and its perceived inaction on anti-crime legislation.

With the president lagging in the polls, White House and Justice Department officials were eager to shore up support with police groups, traditionally a strong part of the Republican base. But there were rumors that NAPO might endorse Clinton—as it ultimately did—and Justice Department officials were eager to salvage the endorsement.

Deputy Attorney General George Terwilliger III traveled to Tampa to speak to the delegates and to send a signal that the administration wanted their support. He was accompanied by Scott. Neither Scott nor Terwilliger broached the subject of the endorsement with the police group's leaders, according to NAPO leaders who met with the two Justice officials.

While Terwilliger and Scott returned to Washington after one day, Hay, according to a Justice Department source, was told by Scott to stay at the convention until the NAPO board voted on the endorsement. Scott denies that he told Hay to remain, claiming that Hay himself asked if he could stay on until the convention was over.

The controversy has proved to be another in a series of embarrassments for Barr, who is already reeling from accusations that he has politicized the department and that officials have covered up sensitive cases such as the Banco Nazionale del Lavoro scandal. And of course, the Clinton campaign is always happy to advance such accusations.

"I think we just keep seeing over and over again evidence that the administration will stop at nothing to try and get

George Bush re-elected," says Clinton's national press secretary, Avis LaVelle. "It is particularly troublesome that the Department of Justice is being used like this to further the administration's political ends."

Stokes Strokes

Dewey Stokes, head of the National Fraternal Order of Police, says there's no truth to the rumor that the Bush administration offered to appoint him U.S. marshal for the Southern District of Ohio in exchange for his group's endorsement of the president.

"It's a baldfaced lie," Stokes said in a telephone interview last week from his Columbus, Ohio, office. "No one at the White House or the campaign ever talked to me about the marshal's job."

The president won the FOP's blessing earlier this month after a hard-fought battle—including personal lobbying by Bush and his chief of staff, James Baker III—for the prized endorsement. The vote, according to Stokes, was 25 for Bush and 13 for Gov. Bill Clinton, with six abstentions. Stokes, the group's president, does not have a vote except in the event of a tie.

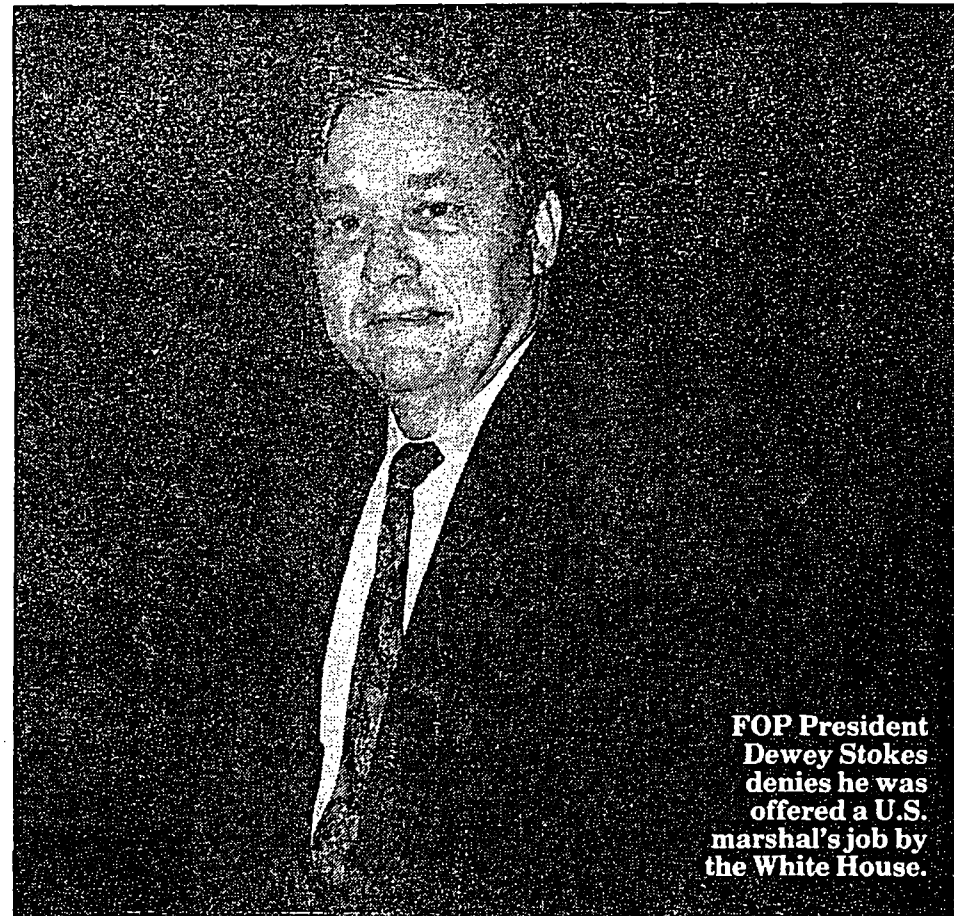
During the summer, Stokes notified GOP officials that he was interested in the

marshal's job and formally applied. But he denies that his interest in the job influenced his group's position on the endorsement in any way.

Rumors of a deal may have been further fueled by recent history. After the Boston Police Patrolmen's Association endorsed Bush in 1988, thus embarrassing Democratic rival Gov. Michael Dukakis in his own backyard, the police union's leader, Robert Guiney, was given the U.S. marshal's job in Massachusetts.

While President Bush received a big boost from police groups during the 1988 campaign, much of that support has since been diluted. In the weeks leading up to the FOP board's endorsement vote, Stokes was highly critical of the administration. Several large police groups have backed Clinton this year, including the National Association of Police Organizations and the International Brotherhood of Police Officers. Many law-enforcement insiders thought Clinton had a fighting chance for the FOP endorsement up until the end.

Although Stokes says that now that his group has endorsed the president, he will support Bush with verve and enthusiasm, the mercurial police leader continues to send out mixed signals. Asked how he would have voted in the event the FOP board deadlocked on the endorsement, Stokes declines comment except to say, "I would have voted my conscience."



**FOP President
Dewey Stokes
denies he was
offered a U.S.
marshal's job by
the White House.**

PHILIP JENNEY



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NAPO WASHINGTON REPORT

November 3, 1989

NAPO TESTIFIES IN OPPOSITION TO POLICE CORPS PROPOSAL

NAPO President Robert Scully testified before a hearing of the House Subcommittee on Crime that while NAPO appreciated the motivation of the sponsors of H.R. 2798, the Police Corps Act, it believes that there are far more effective means of improving and increasing police protection in America. The hearing was held in Washington, D.C. on November 2.

Under the Police Corps proposal high school students would receive federally insured loans for college tuition. Upon completing four years of police work after college they would receive up to \$40,000 from the federal government to repay their college tuition loans. A goal of the measure would be to increase the pool of new police officers. It would be expected to provide 25,000 new officers each year.

In expressing NAPO's opposition, which was voted upon by the delegates to NAPO's August 1989 Convention, Scully made four points:

1. A major assumption underlying the proposal is that there presently exists a national problem in recruiting qualified police officers. While NAPO agrees that in certain areas it is difficult to find qualified officers, in others there are far more qualified applicants than there are positions. Further, even where there are shortages of eligible applicants, these could be overcome by increasing and improving police wages and conditions.

2. Another assumption of the Police Corps proposal is that having college graduates enter police service for four years after graduation would contribute to the quality of police

protection and service. But it is usually only after at least four years that police officers are considered to have enough seasoning that they are not prone to errors resulting from inexperience. Therefore, the departure from police work of Police Corps members after four years would forfeit their best years of service.

3. Under the proposal high school students would be forced to make early decisions with respect to career plans before they had had a chance to explore their options. To expect that such early decisions to engage in police work in exchange for college tuition assistance would be sufficient to sustain long-term motivation for police work is doubtful. Instead, NAPO believes that funds for educational benefits would be better spent on working police officers.

4. Finally, NAPO believes that the cause of increasing the number of police and improving police protection would be better served by adopting a system of statutory collective bargaining for police officers nationwide. Such a system has been proposed in H.R. 2205, introduced on May 3, 1989 by Congressman William Clay of Missouri. NAPO believes that collective bargaining, without the right to strike but with final and binding arbitration, would have a more positive impact upon improved law enforcement than would the Police Corps proposal.

**LAW ENFORCEMENT STEERING COMMITTEE
RESOLVES TO CONTINUE COALITION EFFORTS**

A "summit conference" of the leaders of the twelve leading national police organizations resolved to continue and expand their joint efforts to advance law enforcement interests on a national level on a broad spectrum of issues.

Attending the meetings on behalf of NAPO were National President Robert Scully, Executive Vice President William Pattison and Legislative Counsel Jules Bernstein. The meetings were held in Alexandria, Virginia between October 24-26.

Trio of police stress indexes defined

By **TERRY CONSTANT**

Police officers have one of the highest suicide rates in the nation, possibly the highest. They have a high divorce rate, about second in the nation. They are problem drinkers about twice as often as the general population. These facts are warning signals for unseen problems which are not being handled.

Researchers use suicide, divorce and alcoholism rates as three key indexes of stress in a group of people. Clearly, police work is stressful. Hans Selye, one of the foremost researchers on stress in the world, said police work is "the most stressful occupation in America, even surpassing the formidable stresses of air traffic control."

One study in Detroit concluded that the single, most important factor that led to a police suicide was marital discord.

Studies in New York show that almost all officers are intoxicated at the time they commit suicide.

The three indexes of stress are intertwined for police officers. Police officers need to recognize the importance of these facts and provide policies and programs to reduce stress in areas reflected by these facts.

CHRONIC STRESS

Police stress is not always unique or obvious. Almost any single stressor in police work can be found in another occupation. What is unique is all the different stressors in one job. Many people see the dangers of acute stressors such as post-shooting trauma and have programs dealing with them. These stressors are easy to see because of the intense emotional strain a person suffers. But what about the not so obvious chronic stressors - are they important?

The lessons from the war crimes committed at MyLai in the Vietnam War help answer the question. In 1972, Dr. M. Scott Peck chaired a committee of three psychiatrists appointed by the Army Surgeon General to study the MyLai incident and recommend research to understand its causes. Why did these U.S. soldiers kill 500 to 600 unarmed civilians? Peck believes chronic stress was an important factor leading 200 U.S. soldiers to commit this atrocity.

Chronic stress has at least two effects on people. First, prolonged stress causes people to regress. Their psychological growth reverses, and they become more

immature. They rapidly become more childish and primitive. A common example is a sick person who is miserable and in pain for several days. Any wife will agree that her husband becomes self-centered, whiny and irritable. He expects constant attention and care and he behaves like a young, selfish child. People naturally regress during chronic discomfort.

Second, chronic stress numbs people's sensitivity. They can't stand to continually see human misery. They must stop feeling or they won't survive. The mind has this defense mechanism so people can continue working in horrible situations. If they kept their normal sensitivity, they would fall apart.

As they become insensitive to their own suffering, they become insensitive to the suffering of others. When treated with indignity they lose not only a sense of their own dignity, but also the dignity of others. The pain of others stops bothering them, and they are no longer bothered when they hurt others.

The men in the Charlie Company had suffered chronic stress for months prior to going into MyLai. Their actions were primitive and self-centered; the veneer of civilization was gone. They killed unarmed humans with insensitivity and no regret. The two effects of stress were obvious in their deeds.

Chronic stress doesn't account for all that happened at MyLai, but it was an important contributor. The parallel to police work is obvious and very important for police officials.

Police officers encounter stressors in call after call that sap their strength. Debilitation from this daily stress accumulates, making officers more vulnerable to traumatic incidents and normal pressures of life. The weakening process is often too slow to see; neither a person nor his friends are aware of the damage being done.

Programs for acute stress are important but are limited in their value for two reasons. First, they are a reaction to trauma that has occurred; an officer is already suffering. Important support can be given to the officer, but almost nothing can be done to prevent an incident that causes trauma. How does a police official stop an officer's partner from being killed next to him?

Second, few officers are involved in traumatic incidents in a year compared with the whole department that meets stress in call after call.

If chronic stressors are identified, then police officials can take proactive steps. They can do something before an officer becomes another suicide statistic.

Departments should stop making artificial distinctions between job-related and personal problems. The two are interwoven and contribute to each other. The end result is a group of people under the greatest stress in any job in the United States.

OBSCURER STRESSORS

What are the chronic stressors of day-to-day police work? They vary among departments, shifts and people. Some are common and need to be named. This article describes only three sources of repeating stress. It doesn't discuss all police stress but gives the gist about obscure stress.

Traffic Stops

Police officers stop cars during any given week for various reasons. They may hear excuses to gain their sympathies or indignities to demean them. A certain percentage of the people in the stops try to kill or injure the officers, yet officers are expected to be friendly at best, or neutral at worst.

A common view of police work is that we are all members of the community working for the safety and prosperity of everyone. Even in a traffic stop, a police officer is expected to work with the driver for the good of the community. After all, isn't the driver a good person who has merely made a small, temporary mistake?

If an officer approaches a car with a friendly attitude, his guard is down. He can't keep his defenses up and view a person as his friend at the same time. People are on guard against those they view as enemies, not friends. If an officer continually approaches cars with a friendly attitude, the chief will eventually get a call that one of his officers is lying in a pool of blood on the street.

If an officer approaches a driver thinking this might be the one who attacks him, he will come across as rude, gruff and uncaring. It's hard to be on guard for your life and appear friendly at the same time. When an officer approaches cars with a guarded attitude, the chief will get a call that he has a cynical, brutal cop who has no business serving the community.

The officer is in a dilemma. Considering someone a friend or an enemy produces opposite mental states. A person can't hold both attitudes at the same time. He is caught in a double bind, a no-win situation. For an officer, the situation is chronic stress with a cumulative effect of breaking down his defenses and making him prey to other pressures and to diseases such as ulcers. The stress of double-bind situations is well documented in psychological research.

Professional vs. military conflict

A police department is both a professional and military organization, and these two aspects oppose each other.

The classic professions of history are doctor, lawyer and minister. They require a basic education, a bachelor's degree, and a three-year professional school. The professional is then licensed and endorsed by an agency. He is considered to be an expert in his field and is expected to use his expertise for the good of his clients. He has much discretion in how he serves the people who call upon him.

The military is opposite. The people are well trained, but the chain of command tells them how to do almost everything. Orders, rules and regulations cover every facet of life in the military. Everything is done by the book with very little discretion left for people doing their jobs.

Police officers aren't professionals in the classic sense, but they are similar. An officer must have a minimum amount of education before he goes through an academy and field training. He is commissioned and in some places, licensed. His duty is to use his training and authority for the good of the community. When someone calls the police, they expect the officer to make decisions to handle the situation.

The officer decides what he can and should do, but he runs head-on into orders, rules and regulations. Police departments have learned from experience the value of having procedures and policies. Yet the events of life are too complex to handle by preset rules. People must evaluate situations and make decisions.

The problem comes for the officer when he is at the scene of a call. After learning the facts, he will decide what course of action is required to meet the needs of the people. Often that course does not follow procedures. If he follows procedures exactly, he knows he won't fully help the people, and is frustrated. The people will think he is shirking his responsibility and will be frustrated.

If the officer follows his own judgment, he is taking a risk. If everything goes well, he is safe, but if things go badly, he is subject to discipline because he didn't follow procedures. The community and department expect officers to use their judgment, but when they do, there is a danger they will be disciplined.

Isolation

When people are isolated, they become disoriented and confused. Their behavior changes drastically. They can become apathetic to the point of illness or death. Social isolation in police officers fosters the attitude that "it's us against them." They begin to view the public like the soldiers at My Lai viewed those civilians - they're the enemy.

As officers become socially isolated they suffer effects similar to physical isolation. The effects of social isolation are most prominent in the first six years of an officer's career.

Officers tend to associate only with other officers. When they go out with another couple, it is often another police couple. Officers want their spouses to go to police parties with them, but when their spouses want them to go to their office party, the answer is no. Officers make excuses that they don't want to hear the old ticket story again or they just don't fit in.

Police officers learn street wisdom. They develop confidence in themselves to handle situations in practical ways. Officers begin to look down on others because they don't have savvy in the real world. Police mostly see the seamy side of life that other people don't see, and since other people don't understand this side of life, officers feel superior.

Ironically, officers are the ones who are losing real-world wisdom; the world isn't comprised only of criminals and fools. They judge the world from a limited perspective and see everything with a jaundiced eye.

Police work lacks balance. A doctor loses a patient today but brings a baby into the world tomorrow. Most jobs have a healthy balance, the good things are mixed with the bad. Not so in police work. In call after call, officers only see criminals or people making fools of themselves. The police aren't called to a reunion party when everyone is acting properly. They are called when someone gets drunk and decides he can whip anyone around. The officer making the arrest sees the man then, not when he is working hard for his family. It's not amazing that some officers think that 98 percent of the people in the world are no good, and the two percent who are good are the police.

The examples given are stresses that police don't normally recognize. Anyone in police work can think of common frustrations such as seeing criminals getting out of jail on bond in a short time or being released completely. The point is there are chronic stresses in police work, and departments need to do something about them, not just the obvious traumatic incidents.

WHAT CAN BE DONE?

Police officials should stop distinguishing between personal problems and job-related problems. Many departments look closely into the personal lives of applicants during background investigations. Departments won't hire people who have major personal problems. They understand the importance of a person's personal life in police work.

After the person is hired a strange thing happens. Many departments forget the importance of a police officer's personal life when it comes time to help him. The fact remains that police work affects an officer's personal life - especially the family - and his personal life affects job performance. Any separation of the two is unreal.

Officials can't stop stress in police work, but they can recognize it and help officers in three areas. First, they can provide help to individual officers. Second, family life can be helped. Third, the stress caused by the police organization itself can be reduced.

Direct help for individual officers can come in many forms. Every large department should have a psychologist and a chaplain for the officers and ensure that insurance plans have good provisions for outpatient counseling with outside psychologists, psychiatrists and therapists. Doubly important is confidentiality; the department should not know when an officer uses a department counselor or insurance for counseling.

Programs for individuals often help reduce organizational stress. When a department provides a psychologist and a chaplain, the officers see that someone at the top does understand their problems and is trying to help. This perception is much better than the attitude of many officers that no one at the top cares.

Even worse, officers often believe that administration is out to get them. Departments need to have policies for transferring people temporarily for family problems. The inconveniences of helping an officer for a short time far outweigh the problems of handling a police suicide or a lawsuit because an officer exploded during a critical call.

Officers and supervisors should be taught about the symptoms and effects of job stress. Proactive training helps ward off stress when officers encounter

it. When an officer suffers from stress, reactive counseling and training such as biofeedback should be available.

Departments can reduce officer isolation and do community relations at the same time by supporting community activities such as youth athletics or charitable organizations. Official support could be given for officers to be coaches and referees in leagues. Officials should actively look for positions on boards of directors for community organizations such as mental health associations and seek to place officers as representatives of the police department. Police will get balance in their lives and citizens will better understand the police. A cooperative attitude will grow on both sides.

Family life can be helped in several ways. Counseling through the psychologist and chaplain should be available for family members. Orientation seminars for spouses will let them learn about the department first hand. Spouses don't understand the department and often have a biased opinion after hearing officers gripe.

The police organization is very important in the lives of its officers and often creates stress unwittingly. Orders and regulations tend to sound oppressive in their pronouncements when they don't need to. If a passage mainly gives information for handling a situation, then why word any of it in the imperative orders. Orders and regulations can be reviewed by someone trained to see the human impact that certain wordings have on people.

Poor communication causes chiefs and officers as much grief as anything. Departments can improve by having a consultant design a complete system of communication. A simple, well-written newsletter for information - not propaganda - bridges the communication gap.

Police officers are suffering from stress, and one result is lessened service to the community. All police stress needs to be defined and combated, not just a few obvious ones. The task is difficult, but the rewards for doing it surpass the effort.

Terry Constant is chaplain for the Fort Worth Police Department.

Legislation

FAMILY LEAVE BILL SENT TO PRESIDENT, BUT HOUSE VOTE FALLS BELOW TWO-THIRDS

The House Sept. 10 approved legislation requiring federal agencies and other large employers to provide up to 12 weeks of unpaid leave to workers on the birth or adoption of a child or to care for a seriously-ill family member, but the 241-161 vote was well below the two-thirds majority needed to override a threatened veto by President Bush.

The bill (S 5), which passed the Senate last month by voice vote, now goes to the White House.

House Republicans said following the vote that President Bush will veto the legislation but also will offer a compromise plan providing tax credits to encourage businesses to put family leave programs in place for their workers.

During the House debate, Democratic and Republican supporters appealed to the president to recognize the growing burden on families by signing the legislation.

But Republican opponents strongly objected to the interference of government in matters which they said should be handled privately between management and labor. Imposing a new federal mandate on business in the current economy, opponents said, would raise labor costs and could lead to layoffs and reductions in other types of benefits.

Party Breakdown

The House-Senate conference report was adopted with the support of 203 Democrats, 37 Republicans, and one independent. Forty-two Democrats and 119 Republicans voted against passage.

Proponents who hoped to increase the margin of approval over last November's vote of 253-177 on a similar bill were disappointed by the high number of absences—32 compared with four previously. The non-voting members included 22 Democrats and 10 Republicans. Bush's July 1990 veto of an earlier version of the bill was sustained in the House by a vote of 232-195.

GOP opponents accused the House Democratic leadership of playing election-year politics with family leave and trying to embarrass the president. Rep. William F. Goodling (R-Pa), the ranking minority member of the House Education and Labor Committee, observed that the measure cleared the Senate and the House last fall, but the conference committee did not meet until this summer. Proponents said their efforts to discuss a compromise with the administration were rebuffed by the White House.

Goodling also argued that the bill discriminates against employees who work for exempt companies with fewer than 50 employees.

Small Firms Exempted

The bill's supporters pointed out that only about 5 percent of employers and 50 percent of workers in the United States are covered because of the exemption for companies with fewer than 50 employees. In addition, only those employees who have worked for such

firms for 1,250 hours over a 12-month period (an average of 25 hours per week) would be eligible for family or medical leave.

Eligible employees would be entitled to job protection and continued health insurance benefit for leave that is used to take care of a serious personal illness or the serious illness of a child, spouse, or parent. Unpaid leave also could be used for the birth or adoption of a child. Medical certification would be required to verify a serious illness.

Under the bill, employees could choose to substitute available employer-provided paid leave for any part of the 12-week period. For example, an employee with three weeks of available paid vacation and three weeks of available sick leave could elect to subtract those weeks from the 12 weeks and would be entitled to only 6 weeks of unpaid leave.

Republican Tax Credit Plan

House Republicans Sept. 10 said that Bush plans to offer a compromise plan providing tax credits to encourage businesses to adopt family leave programs for their workers.

House Republican Leader Robert Michel (R-Ill) and Republican Whip Newt Gingrich (R-Ga) said Republicans are willing to work with the Democrats on a compromise package that would provide a tax credit to employers with 500 or fewer workers who have family leave programs in place. Asked about the cost of the proposal, Gingrich said the White House believes the cost is small, since the credit only would be available to employers when an employee actually goes on family leave, but an offset would be provided.

Gingrich said he is optimistic that it will be possible to reach a compromise family leave agreement before Congress adjourns next month.

SES

EXECUTIVES MAY LEAVE IN 1994, OPENING UP CHANCES FOR PROMOTIONS

The 1991 pay raise for the Senior Executive Service could cause large numbers of those executives to retire in 1994, but no one can be sure if a mass retirement will happen, Carol Bonosaro, president of the Senior Executives Association, told a meeting of the National Advisory Council on the Public Services Sept. 10.

Bonosaro also said any mass retirement would deprive the government of experienced managers.

However, Constance Berry Newman, a former director of the Office of Personnel Management, told the group that those retirements could give opportunities to a new generation of managers.

The SES yearly salary range is \$82,000 to \$104,000, she noted.

Bonosaro explained that, as of this Dec. 30, 30 percent of SES members will be eligible to retire early with enhanced benefits based on their three highest-paid years because of the pay raise, and that percentage will rise to 36 percent by December 1993.

Some agencies, she added, have higher percentages of managers who could leave with those higher bene-

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STATEMENT OF
ROBERT SCULLY
PRESIDENT
NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS
SUBMITTED TO
THE HOUSE SUBCOMMITTEE ON LABOR STANDARDS
REGARDING THE
FAIR LABOR STANDARDS ACT SALARY TEST

SEPTEMBER 16, 1992

On behalf of the National Association of Police Organizations (NAPO), consisting of approximately 135,000 law enforcement officers in the United States, I am submitting this statement to the House Subcommittee on Labor Standards in connection with its hearings scheduled for September 16, 1992, in which it will be considering the positions of various parties concerning the U.S. Department of Labor's ("DOL") so-called Fair Labor Standards Act ("FLSA") "salary test" as it applies to public sector employees.

On behalf of its members, NAPO wishes to advise the Subcommittee that for the reasons set forth herein it believes that DOL's salary test for determining FLSA non-exempt status as it has existed for many years should not be revised or amended in any way. NAPO believes that the salary test continues to serve highly important social, employment and economic objectives in both the public and private sectors. Indeed, NAPO believes that the recent action of Secretary of Labor Lynn Martin eliminating the so-called FLSA "docking rule" aspect of the salary test by regulation issued on August 19, 1992,¹ was ill-advised and that if any legislative action is needed it would be for the Subcommittee to report out legislation requiring the Secretary of Labor to reinstate the docking rule as it existed prior to the issuance of Secretary Martin's regulations.

^{1/} Under the docking rule, employees who have been subject to having their pay reduced for absences of less than a day have been treated as non-exempt hourly employees.

NAPO believes that the continued utilization of the salary test for determining FLSA non-exempt status is critical to upholding the original and continuing objectives of the Fair Labor Standards Act. The basic purpose of the Act, which remains a critically important public policy objective particularly during the current period of high unemployment, is to inhibit employers from working employees excessive hours. The reasons underlying this policy are (1) to discourage employers from working employees long hours and thereby permit employees to use their spare time for family, health and recreational activities, and (2) to encourage employers to hire additional employees at straight time if extra hours of work are required so as to reduce unemployment.

Accordingly, if public employers now complain that they must pay overtime compensation to employees for extra hours worked, this is a condition entirely within their control and power to eliminate by hiring additional employees. Such a course would unquestionably result in reducing unemployment which has reached unprecedented levels.

Instead, both public and private sector employers now come to Congress asking it to stand the venerable FLSA on its head. Their objective is to be able to work employees longer hours at the same pay without overtime compensation, thereby cutting their wages and requiring them to perform more work for less pay. This form of thinking, which ironically is shared by the current Secretary of Labor, is a clear distortion of the FLSA.

NAPO believes that if the Fair Labor Standards Act provisions are not accomplishing their intended purposes so that employers are working employees at overtime rather than hiring more employees, the correct answer surely is not to eliminate time-and-one half. Instead it should be to impose double-time for overtime. This would cause employers to hire more employees at straight time pay thereby reducing the number of overtime hours worked and its corresponding high costs. In any case, the purpose of the FLSA was to avoid employees working long hours for reduced pay as management appears to have forgotten.

Further, when the FLSA was amended in 1974 to cover Federal, State and local police officers, the very same public employers who are now seeking relief from Congress argued in connection with policing that the standard FLSA 40 hour work week should not be made applicable to police. Instead, they obtained in § 7(k) of the FLSA an exception for law enforcement, which established a longer basic work period of 171 hours in a four week work cycle after which FLSA overtime would have to be paid. This exemption for law enforcement continues in effect today so that in a twenty-eight day cycle public employers must pay their police officers overtime only after their first 171 hours of work. In some places, after 171 hours of work are performed by law enforcement officers, employees are placed on involuntary leave in order to avoid the payment of FLSA overtime. What is now being proposed would be to work hourly police officers for an unlimited number of hours each month beyond 171 at a fixed amount of pay without the

payment of any overtime. Such a result would be particularly unconscionable in light of the extraordinarily hazardous and stressful nature of police work.

It is claimed by employers that one motivation for their desire for an amendment is to obtain protection from unexpected liability for overtime pay due under the FLSA and under Department of Labor's salary test regulations and court decisions upholding employer liability under the docking rule. First, the so-called "unexpected liability" is not unexpected at all. Indeed, when the Supreme Court ruled in 1985 in the Garcia case that public employers were subject to the provisions of the FLSA, State and local governments came to Congress once again seeking relief from the FLSA. A compromise was reached and legislation was enacted in 1986 permitting State and local governments to provide overtime pay to public employees in the form of compensatory time rather than monetary compensation. DOL regulations were issued to that effect. At the same time the longstanding DOL regulations providing that employees who were not paid on a salary basis were entitled to overtime compensation were not changed. This meant that public employees who were required to clock in and out, were subject to docking of their pay for absences of less than a day, or were subject to other restrictions associated with their status as "hourly" rather than "salaried" employees were immediately subject to the overtime provisions of the FLSA as has been the case in the private sector for many years. In fact, requests by public employers to amend the regulations defining salaried employees so

as to exempt public employees from coverage were rejected by DOL in 1985 and thereafter.

Thus, the employers' claim that back wage liability is unexpected is erroneous. Public employers have known full well that they are required to pay overtime wages to their employees who are considered non-salaried under the DOL regulations, and many of them presently are paying such overtime or are meeting the long-standing criteria for exemption. Others have chosen instead to ignore their legal obligations. It is utterly disingenuous for employers to come to Congress requesting legislation to retroactively repeal employee entitlement to overtime wages that they should have begun paying long ago. Hence, enacting such legislation would be blatantly unjust.

In addition to the foregoing, the proposals that are being advanced by management raise serious constitutional questions since they seek to deprive individuals of accrued statutory, legal and property rights and also propose to deprive Federal and State courts of jurisdiction over pending FLSA cases.

In the case of law enforcement, the legislation being sought would deprive tens of thousands of hourly superior officers of their entitlement to FLSA overtime, and encourage police departments to exploit them by assigning them to long tours of unpaid overtime duty in their extremely hazardous and stressful jobs. These employees work shoulder-to-shoulder with street officers who would continue to receive FLSA overtime. Hence, pay differentials between superior officers and the rank-and-file would

quickly be eroded causing pay compression and inversion and resultant morale problems because supervisors would earn less than their "supervisees."

Accordingly, NAPO believes that the passage of such legislation as is being proposed would do a serious disservice to effective and efficient law enforcement and to tens of thousands of law enforcement officers who are continuously asked by State and local governments to risk both life and limb on behalf of the public.

CONCLUSION

The House Subcommittee on Labor Standards and the House Committee on Labor and Education have long been champions and protectors of wage standards for American workers and ought not be involved in enacting legislation which would encourage wage cutting on the one hand and unemployment on the other. Both of these are results that would occur from adopting the course that is being proposed by Secretary of Labor Martin and employers. NAPO submits that the proponents of such changes are wrong and that if anything, the efforts that have already been undertaken by the Secretary of Labor to weaken the salary test by revoking the docking rule prospectively through regulations should be repudiated and reversed by Congress.

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NATO News Service

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National Association of Police Organizations, Inc.

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NATO WASHINGTON REPORT

November 3, 1989

NATO TESTIFIES IN OPPOSITION TO POLICE CORPS PROPOSAL

NATO President Robert Scully testified before a hearing of the House Subcommittee on Crime that while NATO appreciated the motivation of the sponsors of H.R. 2798, the Police Corps Act, it believes that there are far more effective means of improving and increasing police protection in America. The hearing was held in Washington, D.C. on November 2.

Under the Police Corps proposal high school students would receive federally insured loans for college tuition. Upon completing four years of police work after college they would receive up to \$40,000 from the federal government to repay their college tuition loans. A goal of the measure would be to increase the pool of new police officers. It would be expected to provide 25,000 new officers each year.

In expressing NATO's opposition, which was voted upon by the delegates to NATO's August 1989 Convention, Scully made four points:

1. A major assumption underlying the proposal is that there presently exists a national problem in recruiting qualified police officers. While NATO agrees that in certain areas it is difficult to find qualified officers, in others there are far more qualified applicants than there are positions. Further, even where there are shortages of eligible applicants, these could be overcome by increasing and improving police wages and conditions.

2. Another assumption of the Police Corps proposal is that having college graduates enter police service for four years after graduation would contribute to the quality of police

protection and service. But it is usually only after at least four years that police officers are considered to have enough seasoning that they are not prone to errors resulting from inexperience. Therefore, the departure from police work of Police Corps members after four years would forfeit their best years of service.

3. Under the proposal high school students would be forced to make early decisions with respect to career plans before they had had a chance to explore their options. To expect that such early decisions to engage in police work in exchange for college tuition assistance would be sufficient to sustain long-term motivation for police work is doubtful. Instead, NAPO believes that funds for educational benefits would be better spent on working police officers.

4. Finally, NAPO believes that the cause of increasing the number of police and improving police protection would be better served by adopting a system of statutory collective bargaining for police officers nationwide. Such a system has been proposed in H.R. 2205, introduced on May 3, 1989 by Congressman William Clay of Missouri. NAPO believes that collective bargaining, without the right to strike but with final and binding arbitration, would have a more positive impact upon improved law enforcement than would the Police Corps proposal.

LAW ENFORCEMENT STEERING COMMITTEE
RESOLVES TO CONTINUE COALITION EFFORTS

A "summit conference" of the leaders of the twelve leading national police organizations resolved to continue and expand their joint efforts to advance law enforcement interests on a national level on a broad spectrum of issues.

Attending the meetings on behalf of NAPO were National President Robert Scully, Executive Vice President William Pattison and Legislative Counsel Jules Bernstein. The meetings were held in Alexandria, Virginia between October 24-26.



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NAPO WASHINGTON REPORT

November 13, 1992

STUDY URGING END TO LAW ENFORCEMENT EXEMPTION FROM AGE DISCRIMINATION LAW SENT TO CONGRESS BY EEOC

A study concluding that a provision of the Age Discrimination in Employment Act (ADEA) enacted in 1986 exempting state and local governments from the ban on mandatory retirement based on age for public safety officers should be permitted to expire at the end of 1993 was submitted to Congress on October 20. The study was prepared by the Center for Applied Behavioral Sciences at Penn State University. It was commissioned by the Equal Employment Opportunity Commission (EEOC) and the United States Department of Labor. The study was submitted to Congress by EEOC without either supporting or rejecting the study's conclusions.

In addition to urging the elimination of the public safety officer exemption from the ADEA ban on mandatory retirement, the study also recommends that the maximum age restrictions on entry into police and fire jobs be eliminated.

How to approach this issue will be an important question for police and fire organizations during the 103rd Congress which convenes on January 5.

A summary of the Penn State report and an order form for the full study may be obtained from Joy Struble, 207 Research Building D, Penn State University, University Park, PA 16802, telephone (814) 863-1011.

ANTI-CAR THEFT ACT PASSED

One of the few anti-crime measures passed by the 102nd Congress before adjournment -- the Anti-Carjacking Act (HR 4542) -- was signed into law by President Bush on October 25.

The law makes carjacking a federal crime with a maximum penalty of life in prison when the theft results in death. The bill also requires that major car parts be marked with ID numbers that would be registered in an FBI parts registry.

The final version included a compromise on labeling between Charles E. Schumer (D-NY), Chairman of the House Judiciary Subcommittee on Crime and Criminal Justice, and Energy and Commerce Chairman John D. Dingell, (D-Mich). Dingell had argued that labeling had not been proved effective but would cost auto makers millions of dollars. The compromise phases in the labeling over the next five years, gradually increasing the number of vehicles for which marking is required. The bill allows the Attorney General to determine whether the marking program is effective and exempts from the system certain cars with auto theft devices.

The bill also provides start-up funding to link state motor vehicle departments by computer so that each state will have access to other states' lists of valid titles, and requires insurance companies selling junk or salvage vehicles to verify that the vehicles are not stolen. NAPO supported this legislation as part of a coalition of law enforcement organizations, consumer groups and insurance companies.

CONGRESS REVAMPS JUVENILE JUSTICE LAW

The Juvenile Justice and Delinquency Prevention Act, which has been unevenly enforced in the past, will be strengthened through a reauthorization bill signed recently by President Bush.

H.R. 5194 will reauthorize the act for four years, focusing on six key areas: expanding the state formula grant program, setting up a new state challenge program composed of 10 goals, creating a new title on delinquency prevention, strengthening juvenile gang prevention and intervention, expanding existing programs to help provide justice for abused and neglected children, and strengthening efforts to help runaway and homeless youth.

The bill also would authorize the president to conduct a White House Conference on Juvenile Justice within 18 months after enactment.

"The American juvenile justice system is in crisis," maintained Sen. Herbert Kohl (D-Wis), Chairman of the Senate Judiciary Subcommittee on Juvenile Justice and sponsor of the reauthorization legislation in the Senate. "Given dramatic increases in arrests of adolescents for murder, assault and weapon use nationwide, this legislation comes none too soon."

Senate Judiciary Committee Chairman Joseph R. Biden, Jr. (D-Del) agreed. "For years the administration has been unwilling to utilize prevention tools to combat juvenile crime and delinquency. New and creative programs to link the state challenge grants and incentive grants will enable local governments to invest in prevention programs and form the vital link between the federal government and state and local officials on the front lines of the national effort to fight juvenile crime and prevent delinquency" he concluded.

The bill includes new provisions developed by Sen. Frank R. Lautenberg (D-NJ) and Rep. William F. Goodling (R-PA) establishing a "mentoring" program. Under the legislation, OJJDP is given authority to award grants to local institutions that link "at-risk" children with responsible adults such as police officers. An "at-risk youth" is defined as "a youth at risk of educational failure or dropping out of school or involvement in delinquent activities." Each adult in the program would be charged with developing a one-

to-one relationship with a youth, "providing the youth with academic assistance and exposure to new experiences that enhance the youth's ability to become a responsible citizen."

The bill authorizes "such sums as are necessary" for the mentoring program. But actual funding would depend on separate appropriations legislation being approved by Congress.

The bill authorizes \$50 million in new grants for anti-gang programs. Government agencies as well as private nonprofit organizations would be eligible to receive the funds.

At the urging of Sen. Nancy Kassebaum (R-KAN), Congress added provisions to the bill establishing a new juvenile boot camp program. Up to 10 military-style boot camps could be established, probably on closed military installations, and each would house 150 to 250 juvenile offenders. The law requires that the boot camps would provide "a highly regimented schedule of discipline, physical training, work, drill, and ceremony characteristic of military basic training," as well as drug abuse treatment, mental health counseling, and regular and remedial education programs.

LANDMARK PUBLICATION ON THE USE OF DEADLY FORCE ISSUED BY POLICE RESEARCH GROUP

The Police Executive Research Forum ("PERF"), a Washington, D.C.-based policing "think tank," has issued a comprehensive source book entitled "Deadly Force: What We Know -- A Practitioner's Desk Reference on Police Involved Shootings," which is designed to serve as a reference source on the use of deadly force.

Written by PERF Associate Director William Geller and Police Executive Michael Scott, the 656-page reference work provides data and practical advice on such critical issues as shootings of police officers by "friendly fire"; violence-reduction and conflict-management training; justifying actions to local officials; averting civil disorders after a controversial shooting; an

early warning system for "problem shooters"; overcoming the credibility gap; and creating sound policies that reduce civil liability.

"This state-of-the-art research report provides police officials, civilian oversight agencies, policy makers, journalists, community leaders, scholars and trainers ready access to authoritative information needed to reduce the costs -- in lives and dollars -- associated with avoidable shootings," said PERF Executive Director Darrel Stephens. "The early overwhelming response to this book by nationally renowned police leaders and scholars underscores the fact that nothing quite like this reference tool has ever before been compiled."

"Deadly Force: What We Know" reveals that lawsuits are filed against police departments each year at the rate of about one for every 30 officers in the United States; about 40 percent of these suits allege abuse of force. Further, 70 percent of officers involved in shootings leave police work within five years, due to emotional strain and lack of departmental support.

"With increased civil liability, decreased police morale, and the emergence of urban riots as a deadly response to perceived police abuse of force, no city official is prepared to address police-involved shootings without a thorough knowledge of all the issues," said Boise, Idaho Police Chief and PERF President James Carvino. "This book, which advocates a national reporting system for incidents of deadly force, provides the foundation for formulating the kind of informed response we so desperately need today."

"Deadly Force: What We Know" is available by writing to PERF Publications, 2300 M Street, N.W., Washington, D.C. 20037, telephone (202) 466-7820. The book is \$30.00 in paperback or \$40 in hard cover plus \$3.50 for shipping and handling. Fax orders should go to: (202) 466-7826. VISA and Mastercard accepted. Discounts available on orders of 10 or more.

**SENATE JUDICIARY COMMITTEE CHAIRMAN BIDEN
ISSUES REPORT ON SURVEY OF DOMESTIC VIOLENCE**

More than 1.1 million incidents of domestic violence against women -- including murder, rape and aggravated assault -- were reported to police in 1991, according to a report released on October 2, 1992 by Senator Joseph R. Biden, Jr. (D-DE). "VIOLENCE AGAINST WOMEN: A WEEK IN THE LIFE OF AMERICA" provides the first national estimate of crimes against women reported to the police as "domestic" violence. It also recounts 200 selected incidents of violence against women during one week in September 1992.

The report was prepared for Senator Biden by the majority staff of the Senate Judiciary Committee.

"This nation will be powerless to change the course of violence against women, unless and until its citizens fully realize the devastation this violence yields," Biden said. "This report shows us that no one is immune. Violence happens to young women and old women, to rich women and poor women, to homeless women and working women."

The report contains several new statistics on the scope of violence against women in America, including:

- 1.13 million women in 1991 reported incidents of domestic violence (including murder, rape, aggravated assault and simple assault). That means that at least 21,000 incidents were reported to police every week last year;
- 16 percent of all reported sexual assaults in 1991 occurred in domestic situations; and
- 20 percent of all reported aggravated assaults in 1991 occurred in domestic situations.

In addition to these new statistics, the report also chronicles a sampling of violent acts committed against American women during the week of September 1 - 7, 1992:

- A 26-year-old Connecticut woman was attacked by her boyfriend of five years. He broke her right arm with a

hammer;

- A 46-year-old New Mexico woman was beaten and pushed out of a moving car by her husband. She spent three days in the hospital recovering from a broken tailbone and other injuries;
- Two Nebraska women went to play tennis on a university campus early in the morning where they were attacked by three men, who raped them. The attackers later admitted they had been stalking them and had similarly attacked other women; and
- A 21-year-old Florida woman was beaten in the head by her father with a three-inch diameter pipe. He was arrested after neighbors called the police.

"These stories show, in gripping detail, the tragic human fact of violence -- violence that destroys individual lives, rips apart families, and sends children on to repeat the violence of their parents," Biden said. "Our snapshot of one week in the life of violence against women demonstrates not only the extent but also the depth of the brutality experienced by individual women."

The report also urges passage of Biden's Violence Against Women Act which the Senate Judiciary Committee unanimously approved in July 1991. The bill is the first comprehensive package of federal initiatives designed to combat violence against women. It would reinforce state domestic violence laws by providing for interstate enforcement of protective "stay-away" orders; declare rape a "hate" crime and create a civil rights remedy for victims of sexual assaults; and increase penalties for federal sex crimes.

Copies of the report are available by calling the Senate Judiciary Committee at (202) 224-8050.

**CHIEF JUSTICE REHNQUIST OPPOSES
FURTHER FEDERALIZATION OF CRIMES**

In a September 15 speech at the University of Wisconsin, United States Supreme Court Chief Justice William H. Rehnquist urged lawmakers against funneling all sorts of new crimes into the Federal courts on the ground that doing so is clogging the Federal judicial system and threatening to change its fundamental nature.

According to Rehnquist, if current trends continue the United States Court of Appeals for the Ninth Circuit, which has jurisdiction over nine Western states including California, will require 382 appellate judges by the year 2022 which is more than twice the current size of the entire Federal appellate bench.

Rehnquist called for a "wide-scale debate over two important questions: What should be required to make an offense a Federal crime? And should certain categories of criminal offenses now prosecuted in the Federal courts more appropriately be shifted to the State courts?"

According to Rehnquist, "Federalization of crimes has had enormous political appeal over the past decade. Hardly a congressional session goes by without an attempt to add new sections to the Federal criminal code. And the Attorney General has made increased Federal criminal prosecutions a centerpiece of his crime-fighting policy."

Rehnquist pointed to the many new drug crimes and violent crimes added to the Federal criminal code in recent years as well as the proposed efforts to federalize murders committed with a firearm.

DIRECTORY OF CRIMINAL JUSTICE INFORMATION SOURCES PUBLISHED

The Justice Department's National Institute of Justice recently published the eighth edition of its "Directory of Criminal Justice Information Sources" (NCJ-125728) which provides a list of

176 organizations involved in providing criminal justice information. Among the organizations included are professional associations, academic institutions and government agencies. Each listing includes the name, address and telephone number of the organization, information about the size of the organization's staff, a description of the publications it offers and other relevant data. To obtain a copy of the directory contact the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850. Telephone numbers (800) 851-3420 or (301) 251-5500.

REPORT ON CAPITAL PUNISHMENT AVAILABLE

A report entitled "Capital Punishment 1991" has been issued by the Bureau of Justice Statistics which provides detailed data on death sentencing, including: the number of executions carried out last year, trends in executions since 1930, the number of prisoners in each states' death row, the average time between the imposition of the death sentence and execution; rates of successful appeals; crimes that can be punished by capital punishment in states that provide a death penalty; methods of execution; changes in death penalty laws last year and recent court rulings dealing with capital punishment and other information. The report is available from the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850. Telephone numbers (800) 732-3277 or (301) 251-5500.

OFFICE OF JUSTICE PROGRAMS ANNUAL REPORT ISSUED

The Federal Office of Justice Programs, an agency of the United States Department of Justice that includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention and the Office for Victims of Crime, recently

published its fiscal year 1991 annual report which describes research efforts and grantmaking in various law enforcement program areas.

A copy of the report may be obtained from the Office of Justice Programs, 633 Indiana Avenue, N.W., Washington, D.C. 20530. Telephone number (202) 307-0703.

NAPO SPONSORS POLICE STRESS MANAGEMENT WORKSHOP

The National Association of Police Organizations is conducting a seminar on "Police Stress and Family Well-Being" at the Breckenridge Ski Resort in Breckenridge, Colorado, from January 31 - February 4, 1993.

As stated by NAPO President Robert Scully:

On May 20, 1992, Congresswoman Patricia Schroeder (D-CO), Chairperson of the Select Committee on Children, Youth and Families held a hearing on "On the Front Lines: Police Stress and Family Well-Being."

In her opening statement Ms. Schroeder stated in part, "I am pleased that today the Select Committee will begin taking a look at conditions of police work that get little attention but can profoundly affect the well-being of officers, their families, and their work.

Without relief, officers can bring society's problems home to their families. These concerns multiply at home because of ever-present safety concerns, and the unpredictable and rotating shift schedules that come with the job. Officer and family stress can lead to a range of problems, including emotional numbness, communication breakdown, officer burnout, depression, suicide, alcoholism, and marital problems. Today, there is new evidence that self-reports of family violence are twice as high in police families as in the general population. Because of these problems, the police family often becomes another victim."

NAPO believes that stress management belongs high on the agenda of the police community and we are sponsoring this seminar for that reason.

Further details may be obtained by writing to NAPO at its new Washington, D.C. office: 750 First Street, N.E., Suite 935, Washington, D.C. 20002.

Jules Bernstein
Linda Lipsett
Legislative Counsel

Gun Lobby Asserts Gains In Congressional Elections

But Brady Bill Supporters Predict Enactment

By Gary Lee
Washington Post Staff Writer

The National Rifle Association says there is a net gain in gun sympathizers among members of the 103rd Congress and is girding for a new fight over the Brady bill, which proposes a seven-day waiting period for prospective gun buyers that the lobby group opposes.

NRA chief lobbyist James Baker said that the number of House members receiving its "A" rating on gun issues increased from 147 to 199 as a result of last week's congressional elections.

But several of the NRA's leading congressional allies were voted out of office in Tuesday's elections, including Sen. Robert W. Kasten Jr. (R-Wis.). And a number of gun control proponents the gun lobby tried to oust survived the elections—including Reps. Vic Fazio (D-Calif.), Herbert H. Bateman (R-Va.) and Mike Synar (D-Okla.).

In August, the American Rifleman, a magazine published by the NRA, listed 24 House members it targeted for defeat. Only two—Reps. John W. Cox Jr. (D-Ill.) and Mary Rose Oakar (D-Ohio)—lost their seats. And Oakar was vulnerable because of overdrafts at the House Bank.

"My race proved that you can stand up to the gun lobby and win," said Synar, a Brady bill backer who survived a costly, high-profile NRA campaign to defeat him for renomination last summer. "Even in my home of Oklahoma, which is a strong hunting state, 80 percent of voters favor a waiting period as a way of helping law enforcement. I have no doubt that the Brady bill will now become law."

After President-elect Clinton endorsed the Brady bill during his election bid, the NRA launched an all-out campaign for pro-gun legislators. "Elect a Clinton-proof Congress," said an advertisement circulated widely among NRA members. The NRA gave \$1.8 million in political action committee money to congressional candidates, Baker said.

Last week, 230 lawmakers with an "A" or a "B" rating by the NRA won seats in the House, compared with 219 members who had received the lobby group's top marks in the previous Congress, according to NRA lobbyist Baker. The Brady bill passed the House by a vote of 239 to 186 in May 1991, but died after it was combined with the omnibus crime bill.

Baker said that the new lawmakers receiving the NRA's top rating include Reps.-elect Martin R. Hoke (R-Ohio), James M. Talent (R-Mo.) and Pat Danner (D-Mo.). For incumbent lawmakers, the ratings are based on voting records and for new legislators on the results of questionnaires, Baker said.

Brady bill "supporters are going to do everything they can to get the bill to Clinton. And we're going to try to keep that from happening," Baker said. Instead, the NRA is going to renew its push for legislation requiring gun dealers to make an instant background check on gun buyers. "Clearly there's going to be a fight," Baker said.

Susan Whitmore, spokeswoman for Handgun Control Inc., the leading gun control lobby, agreed that a fight is in the works but predicted that Congress will enact a bill this year.

Of the 109 newly elected House members, 57 are supporters of the Brady bill, Whitmore said.

The NRA "spent \$1.8 million in a desperate attempt to elect a Congress that will oppose the Brady bill and they failed miserably," said Sarah Brady, chairman of Handgun Control Inc. and wife of James Brady, the former White House spokesman for whom the bill was named. He was wounded severely in the 1981 assassination attempt on President Ronald Reagan.

In an attempt to buttress opposition to the Brady bill in the Senate, which passed it 67 to 32 in a June 1991 vote, the NRA is backing Georgia GOP senatorial candidate Paul Coverdell, a gun supporter, over incumbent Sen. Wyche Fowler Jr. (D), a Brady bill backer, in a runoff scheduled for Nov. 24.

Already a heavy donor to Coverdell's election campaign, the NRA will make an additional contribution, Baker said. It might also run advertisements and send Charlton Heston, the actor and NRA supporter, to help in the campaign.

Of the 11 new members of the Senate, the NRA counts Lauch Faircloth (R-N.C.), Byron L. Dorgan (D-N.D.) and Ben Nighthorse Campbell (D-Colo.) among its allies, Baker said. Forty senators received an NRA "A" rating, he said.

JOSEPH R. BIDEN, JR
DELAWARE



United States Senate

WASHINGTON, D.C.

October 14, 1992

Mr. Robert Scully
President
National Association of
Police Organizations
1920 L Street, N.W., Suite 602
Washington, D.C. 20036

Dear Bob:

It has been a long eleven months since we started our efforts to deliver a tough, meaningful crime bill to the American people. I know that you have devoted countless hours to this effort since November.

And, over the past weeks, I have never seen anyone devote more time and energy to any goal -- especially during one very long night. In fact, in my twenty years in the United States Senate, I don't know if I have ever had a night quite like that one.

Despite the fact that we could not overcome our opposition, we still got much closer than anyone believed we would. I appreciate all the time and energy that went into your work, and I thank you.

Sincerely,

A handwritten signature in black ink, appearing to be "JR" or "JB", written over a vertical line.

Joseph R. Biden, Jr.



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NAPO WASHINGTON REPORT

October 19, 1992

CRIME, TAX AND FAMILY LEAVE BILLS KILLED AS CONGRESS ADJOURNS

The 102nd Congress, which adjourned on October 9, saw meager results for law enforcement officers mainly because they were caught in the political crossfire between the Bush Administration and a Congress controlled by Democrats. The principal victims of the political "gridlock" that characterized the 102nd Congress were a Crime Bill that had been more than two years in the making, a Tax Bill that contained a number of provisions that would have protected, strengthened and improved fringe benefit entitlements of law enforcement officers and a Family and Medical Leave Bill that would have guaranteed employees up to 12 weeks of unpaid leave in connection with the birth or adoption of a child or a family medical emergency.

Crime Bill

The Crime Bill that NAPO sought to enact provided tougher penalties for violent crimes, money for prison construction, anti-gang programs, a 5-day waiting period for handgun purchases (Brady Bill), crime victim compensation, anti-terrorism programs, new Federal death penalty provisions, money for new Federal criminal investigators, \$1 billion for state/local law enforcement, habeas corpus reform, establishment of a National Commission to Support Law Enforcement, police officer scholarship funds, a program to combat police officer stress and many other innovative anti-crime

measures.

But even though the bill had passed the House of Representatives last November, and had the support of a majority of Senators, law enforcement supporters of the measure could not muster the 60 votes necessary to end a Republican filibuster against the bill. The October 2 cloture vote was 55 in favor and 43 against. A listing of how Senators voted on cloture is attached.

The day before the cloture vote, in a last ditch effort to save the Crime Bill, a group of law enforcement leaders, including NAPO President Robert Scully, offered to mediate between Attorney General William Barr and Senate Judiciary Committee Chairman Joseph Biden. The position that these law enforcement leaders took was that crime was too important to be made the subject of partisan politics, and that the American people deserved to have this badly-needed legislation passed before Congress adjourned. Their offer of mediation was accepted and they met with Senator Biden and the Justice Department until 2:30 a.m. attempting to hammer out an agreement. The only significant differences between the parties involved narrow changes in habeas corpus procedures that the law enforcement leaders did not believe to be worth holding up all of the anti-crime measures in the Crime Bill. They reasoned that habeas corpus petitions involve individuals who are already in jail and are not committing any crimes while the other provisions of the Crime Bill dealt with efforts to prevent and prosecute new crimes.

Unfortunately, Attorney General Barr and the Bush Administration would not yield on habeas corpus although Senator Biden was willing to make major concessions to achieve agreement. Indeed, Senator Biden suggested that the habeas corpus provisions be dropped from the bill and taken up by a new Congress in January, thereby allowing the bill's anti-crime provisions to be enacted. But this proposal was unacceptable to the Bush Administration and

the mediation efforts failed.

A further reason that observers believe motivated the Administration's opposition to the Crime Bill was that it also contained the Brady Bill that would have imposed a national 5-day minimum waiting period for the purchase of handguns. Four living ex-Presidents, Nixon, Ford, Carter and Reagan, all support the Brady Bill, and so do six former United States Attorneys General. Nevertheless continuing pleas by law enforcement leaders to President Bush to support the Brady Bill fell on deaf ears.

Tax Bill

The Tax Bill met a similar fate although it succeeded in passing both the House and the Senate. However, President Bush said it would be vetoed on the ground that it contained several tax increase provisions.

The Tax Bill originally was designed to provide assistance for inner cities and other blighted areas through the establishment of so-called "enterprise zones," and would have provided tax incentives for businesses that made investments in such areas. But Congress added provisions which would have provided a number of other tax breaks totalling \$27 billion over five years and at the same time included revenue producing measures that would have raised an equal amount.

Insofar as law enforcement was concerned the bill would have:

- 1) granted relief needed to deal with the so-called Internal Revenue Code section 415 problem wherein public employee pension plans are threatened with loss of their tax exempt status if a single participant receives a benefit exceeding the statutory limits;

- 2) provided for the extension of the tax exempt status of employer-provided education benefits which had expired on June 30, 1992; and

3) raised the amounts of annual public employee pay subject to tax deferral to more than the present \$7500 on an indexed basis in connection with section 457 deferred compensation plans.

The proposed Tax Bill also would have dealt with the problem of retired law enforcement officers in certain States who are now being asked by the IRS to pay back taxes on their disability pensions based upon heart disease and hypertension which are conclusively presumed to be job related under State law. The IRS does not consider the pensions to be non-taxable under these circumstances. The Tax Bill would have wiped out the back Federal tax liability for pensions of these officers for 1989-1991.

Two provisions that would have assisted law enforcement officers were dropped from the Tax Bill during a House-Senate conference. One section would have limited the ability of States to impose a so-called "source tax" on the pensions of retirees who have moved to other States. The other would have extended the tax-exempt status of prepaid legal service plans. The tax exempt status of these plans expired on June 30.

Family and Medical Leave Bill

On September 22, President Bush exercised his veto power over the Family and Medical Leave Bill which had passed both the House and Senate. The bill would have required both public and private sector employers to grant up to 12 weeks of unpaid leave for the birth or adoption of a child, or for the serious illness of the worker or an immediate family member. Congress was unable to override the President's veto so that the bill is dead for this congressional session. President Bush vetoed a similar measure in 1990. The bill has been supported by NAPO for several years.

Summing Up

In summing up the results of the 102nd Congress NAPO President Robert Scully declared:

Unfortunately law enforcement officers were the innocent victims of a political gang war in Washington, D.C., in 1992 resulting from the fact that the White House is controlled by the Republicans and Congress is in Democratic hands. I believe that police officers have suffered the consequences of divided government long enough and that if Bill Clinton, who NAPO supports, is elected President, the political gridlock that has kept the Federal Government paralyzed will come to an end.

President Scully appeared with Governor Clinton at a press conference in Detroit, Michigan, on Saturday, October 17, at which Sarah Brady, who has been campaigning for passage of the Brady Bill for the last 5 years, announced her endorsement of the Clinton-Gore ticket. Governor Clinton is committed to working for passage of the Brady Bill if he is elected President.

In addition to NAPO, the Clinton-Gore ticket has been endorsed by the International Brotherhood of Police Officers and the International Union of Police Associations.

LABOR DEPARTMENT RESTRICTS FLSA COVERAGE

The United States Department of Labor ("DOL") has made final its proposed regulations issued a year ago designed to broaden the exemption of public sector employees from coverage under the Fair Labor Standards Act ("FLSA") by narrowing the so-called "salary test" for determining FLSA exempt status. Previously, one of the criteria for declaring public employees to be FLSA non-exempt and entitled to FLSA overtime compensation was the fact that they were subject to having their pay docked for absences of less than a day. Under the Labor Department's new rules such "docking" would not be considered in determining FLSA non-exempt

status. The Labor Department did not make its rule retroactive as it had originally proposed in order to wipe out past public employer FLSA overtime liability. The Department indicated that to do so through regulations would probably be unlawful and that legislation would be needed to accomplish this objective.

The most severe adverse impact of the new rule would be upon certain supervisory public employees who might otherwise be FLSA exempt as executive or administrative employees. However, as to superior officers in law enforcement, the fact that they are subject to loss of pay in connection with disciplinary proceedings and are otherwise treated as hourly employees should continue to entitle them to FLSA overtime and non-exempt status.

In a related development, the House Subcommittee on Labor Standards conducted a hearing on September 16, in which it heard witnesses on the issue of whether the Fair Labor Standards Act should be amended to eliminate the FLSA salary test entirely.

NAPO President Robert Scully advised the Subcommittee that any change in the salary test would be unfair to law enforcement officers who under existing law may be required to work 171 hours in a 28 day work cycle before they are entitled to receive FLSA overtime. A copy of President Scully's statement to the Subcommittee is attached.

Despite vigorous efforts by State and local governments to have Congress act to limit FLSA coverage for public employees, no such legislation was enacted in the 102nd Congress. However, congressional observers believe that similar efforts will be undertaken early in the 103rd Congress.

**PSOB BENEFITS PAID OUT IN FISCAL 1992
IN CONNECTION WITH 123 POLICE OFFICER DEATHS**

The survivors of 123 police officers killed in the line of duty received death benefits from the Federal Government under the Public Safety Officers Benefit Program (PSOB) in fiscal year 1992 which ended on September 30.

Commencing October 1, 1992, the amount of the PSOB benefit was increased to \$123,520.00 as a result of Federal legislation pushed by NAPO in 1988 which raised the PSOB benefit from \$50,000 to \$100,000 and included future indexing based upon increases in the cost-of-living. The death benefit in fiscal 1991 was \$119,894.00.

The PSOB program was expanded by Congress in 1990 to cover public safety officers permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty.

Information regarding the PSOB benefit may be obtained by calling the Bureau of Justice Assistance in Washington, D.C. at (202) 307-0635.

Jules Bernstein
Linda Lipsett
Legislative Counsel

SENATE CLOTURE VOTE ON CRIME BILL
OCTOBER 2, 1992

YEAS

Adams (D-WA)
Akaka (D-HI)
Baucus (D-MT)
Bentsen (D-TX)
Biden (D-DE)
Bingaman (D-NM)
Boren (D-OK)
Bradley (D-NJ)
Bryan (D-NV)
Bumpers (D-AR)
Burdick, Jocelyn (D-ND)
Byrd (D-WV)
Chafee (R-RI)
Conrad (D-ND)
Cranston (D-CA)
Daschle (D-SD)
DeConcini (D-AZ)
Dixon (D-IL)

Dodd (D-CT)
Exon (D-NE)
Ford (D-KY)
Fowler (D-GA)
Glenn (D-OH)
Gore (D-TN)
Graham (D-FL)
Harkin (D-IA)
Hollings (D-SC)
Inouye (D-HI)
Jeffords (R-VT)
Kassebaum (R-KS)
Kennedy (D-MA)
Kerrey (D-NE)
Kerry (D-MA)
Kohl (D-WI)
Lautenberg (D-NJ)
Leahy (D-VT)

Levin (D-MI)
Lieberman (D-CT)
Metzenbaum (D-OH)
Mikulski (D-MD)
Mitchell (D-ME)
Moynihan (D-NY)
Nunn (D-GA)
Pell (D-RI)
Pryor (D-AR)
Riegle (D-MI)
Robb (D-VA)
Rockefeller (D-WV)
Sanford (D-NC)
Sarbanes (D-MD)
Sasser (D-TN)
Simon (D-IL)
Wellstone (D-MN)
Wirth (D-CO)
Wofford (D-PA)

NEAS

Bond (R-MO)
Breaux (D-LA)
Brown (R-CO)
Burns (R-MT)
Coats (R-IN)
Cochran (R-MS)
Cohen (R-ME)
Craig (R-ID)
D'Amato (R-NY)
Danforth (R-MO)
Dole (R-KS)
Domenici (R-NM)
Garn (R-UT)
Gorton (R-WA)

Gramm (R-TX)
Grassley (R-IA)
Hatch (R-UT)
Hatfield (R-OR)
Heflin (D-AL)
Helms (R-NC)
Johnston (D-LA)
Kasten (R-WI)
Lott (R-MS)
Lugar (R-IN)
Mack (R-FL)
McCain (R-AZ)
McConnell (R-KY)
Murkowski (R-AK)

Nickles (R-OK)
Packwood (R-OR)
Pressler (R-SD)
Roth (R-DE)
Rudman (R-NH)
Seymour (R-CA)
Shelby (D-AL)
Simpson (R-WY)
Smith (R-NH)
Specter (R-PA)
Stevens (R-AK)
Symms (R-ID)
Thurmond (R-SC)
Wallop (R-WY)
Warner (R-VA)

NOT VOTING

Durenberger (R-MN)

Reid (D-NV)

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President
ROBERT SCULLY
President, Detroit
Police Officers Assn.
Detroit, MI

Legislative Counsel:
JULES BERNSTEIN
LINDA LIPSETT

STATEMENT OF
ROBERT SCULLY
PRESIDENT
NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS
SUBMITTED TO
THE HOUSE SUBCOMMITTEE ON LABOR STANDARDS
REGARDING THE
FAIR LABOR STANDARDS ACT SALARY TEST

SEPTEMBER 16, 1992

On behalf of the National Association of Police Organizations (NAPO), consisting of approximately 135,000 law enforcement officers in the United States, I am submitting this statement to the House Subcommittee on Labor Standards in connection with its hearings scheduled for September 16, 1992, in which it will be considering the positions of various parties concerning the U.S. Department of Labor's ("DOL") so-called Fair Labor Standards Act ("FLSA") "salary test" as it applies to public sector employees.

On behalf of its members, NAPO wishes to advise the Subcommittee that for the reasons set forth herein it believes that DOL's salary test for determining FLSA non-exempt status as it has existed for many years should not be revised or amended in any way. NAPO believes that the salary test continues to serve highly important social, employment and economic objectives in both the public and private sectors. Indeed, NAPO believes that the recent action of Secretary of Labor Lynn Martin eliminating the so-called FLSA "docking rule" aspect of the salary test by regulation issued on August 19, 1992,¹ was ill-advised and that if any legislative action is needed it would be for the Subcommittee to report out legislation requiring the Secretary of Labor to reinstate the docking rule as it existed prior to the issuance of Secretary Martin's regulations.

^{1/} Under the docking rule, employees who have been subject to having their pay reduced for absences of less than a day have been treated as non-exempt hourly employees.

NAPO believes that the continued utilization of the salary test for determining FLSA non-exempt status is critical to upholding the original and continuing objectives of the Fair Labor Standards Act. The basic purpose of the Act, which remains a critically important public policy objective particularly during the current period of high unemployment, is to inhibit employers from working employees excessive hours. The reasons underlying this policy are (1) to discourage employers from working employees long hours and thereby permit employees to use their spare time for family, health and recreational activities, and (2) to encourage employers to hire additional employees at straight time if extra hours of work are required so as to reduce unemployment.

Accordingly, if public employers now complain that they must pay overtime compensation to employees for extra hours worked, this is a condition entirely within their control and power to eliminate by hiring additional employees. Such a course would unquestionably result in reducing unemployment which has reached unprecedented levels.

Instead, both public and private sector employers now come to Congress asking it to stand the venerable FLSA on its head. Their objective is to be able to work employees longer hours at the same pay without overtime compensation, thereby cutting their wages and requiring them to perform more work for less pay. This form of thinking, which ironically is shared by the current Secretary of Labor, is a clear distortion of the FLSA.

NAPO believes that if the Fair Labor Standards Act provisions are not accomplishing their intended purposes so that employers are working employees at overtime rather than hiring more employees, the correct answer surely is not to eliminate time-and-one half. Instead it should be to impose double-time for overtime. This would cause employers to hire more employees at straight time pay thereby reducing the number of overtime hours worked and its corresponding high costs. In any case, the purpose of the FLSA was to avoid employees working long hours for reduced pay as management appears to have forgotten.

Further, when the FLSA was amended in 1974 to cover Federal, State and local police officers, the very same public employers who are now seeking relief from Congress argued in connection with policing that the standard FLSA 40 hour work week should not be made applicable to police. Instead, they obtained in § 7(k) of the FLSA an exception for law enforcement, which established a longer basic work period of 171 hours in a four week work cycle after which FLSA overtime would have to be paid. This exemption for law enforcement continues in effect today so that in a twenty-eight day cycle public employers must pay their police officers overtime only after their first 171 hours of work. In some places, after 171 hours of work are performed by law enforcement officers, employees are placed on involuntary leave in order to avoid the payment of FLSA overtime. What is now being proposed would be to work hourly police officers for an unlimited number of hours each month beyond 171 at a fixed amount of pay without the

payment of any overtime. Such a result would be particularly unconscionable in light of the extraordinarily hazardous and stressful nature of police work.

It is claimed by employers that one motivation for their desire for an amendment is to obtain protection from unexpected liability for overtime pay due under the FLSA and under Department of Labor's salary test regulations and court decisions upholding employer liability under the docking rule. First, the so-called "unexpected liability" is not unexpected at all. Indeed, when the Supreme Court ruled in 1985 in the Garcia case that public employers were subject to the provisions of the FLSA, State and local governments came to Congress once again seeking relief from the FLSA. A compromise was reached and legislation was enacted in 1986 permitting State and local governments to provide overtime pay to public employees in the form of compensatory time rather than monetary compensation. DOL regulations were issued to that effect. At the same time the longstanding DOL regulations providing that employees who were not paid on a salary basis were entitled to overtime compensation were not changed. This meant that public employees who were required to clock in and out, were subject to docking of their pay for absences of less than a day, or were subject to other restrictions associated with their status as "hourly" rather than "salaried" employees were immediately subject to the overtime provisions of the FLSA as has been the case in the private sector for many years. In fact, requests by public employers to amend the regulations defining salaried employees so

as to exempt public employees from coverage were rejected by DOL in 1985 and thereafter.

Thus, the employers' claim that back wage liability is unexpected is erroneous. Public employers have known full well that they are required to pay overtime wages to their employees who are considered non-salaried under the DOL regulations, and many of them presently are paying such overtime or are meeting the long-standing criteria for exemption. Others have chosen instead to ignore their legal obligations. It is utterly disingenuous for employers to come to Congress requesting legislation to retroactively repeal employee entitlement to overtime wages that they should have begun paying long ago. Hence, enacting such legislation would be blatantly unjust.

In addition to the foregoing, the proposals that are being advanced by management raise serious constitutional questions since they seek to deprive individuals of accrued statutory, legal and property rights and also propose to deprive Federal and State courts of jurisdiction over pending FLSA cases.

In the case of law enforcement, the legislation being sought would deprive tens of thousands of hourly superior officers of their entitlement to FLSA overtime, and encourage police departments to exploit them by assigning them to long tours of unpaid overtime duty in their extremely hazardous and stressful jobs. These employees work shoulder-to-shoulder with street officers who would continue to receive FLSA overtime. Hence, pay differentials between superior officers and the rank-and-file would

quickly be eroded causing pay compression and inversion and resultant morale problems because supervisors would earn less than their "supervisees."

Accordingly, NAPO believes that the passage of such legislation as is being proposed would do a serious disservice to effective and efficient law enforcement and to tens of thousands of law enforcement officers who are continuously asked by State and local governments to risk both life and limb on behalf of the public.

CONCLUSION

The House Subcommittee on Labor Standards and the House Committee on Labor and Education have long been champions and protectors of wage standards for American workers and ought not be involved in enacting legislation which would encourage wage cutting on the one hand and unemployment on the other. Both of these are results that would occur from adopting the course that is being proposed by Secretary of Labor Martin and employers. NAPO submits that the proponents of such changes are wrong and that if anything, the efforts that have already been undertaken by the Secretary of Labor to weaken the salary test by revoking the docking rule prospectively through regulations should be repudiated and reversed by Congress.



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NAPO WASHINGTON REPORT

September 10, 1992

NAPO CONVENTION DELEGATES SET LEGISLATIVE GOALS AND MAKE ELECTION YEAR ENDORSEMENTS

Delegates to the 14th Annual Convention of the National Association of Police Organizations deliberated and reached consensus over a substantial number of policy and legislative issues and made endorsements of congressional candidates in the November elections. In addition, after the delegates were unable to achieve the required two-thirds vote on a presidential endorsement, the NAPO Executive Board exercised its constitutional authority and voted to endorse the Clinton-Gore ticket.

Among other actions taken by the delegates were the following:

- Urged the Bush Administration and Democratic leaders to reach agreement on pending crime legislation before the 102nd Congress adjourns in early October.
- Opposed proposed amendments to the Fair Labor Standards Act which would deprive thousands of superior officers of overtime compensation.
- Favored immediate enactment of the Brady Bill (waiting period for the purchase of a handgun) either as part of a crime bill or as a free standing measure.
- Supported pending tax legislation that would strengthen and improve public employee pension and fringe benefit programs.
- Questioned the propriety and motivation of the Federal civil rights indictment of the four Los Angeles officers involved in the Rodney King incident in light of their acquittal of State criminal charges.

Speakers who addressed the delegates included Deputy Attorney General George Terwilliger and Georgia Governor Zel Miller. Miller spoke on behalf of the Clinton-Gore campaign.

The NAPO Convention was held from August 13 to 16 in Wesley Chapel, Florida, which is outside of Tampa.

NAPO President Robert Scully presented the NAPO endorsement personally to Arkansas Governor Bill Clinton at a ceremony in Oakland, Michigan on August 20.

The resolutions adopted by the Convention are attached.

**NAPO PRESIDENT SCULLY ASKS FOR CONTRIBUTIONS
TO AID FLORIDA LAW ENFORCEMENT OFFICERS
VICTIMIZED BY HURRICANE ANDREW**

NAPO President Robert Scully has called upon all law enforcement officers and their organizations to contribute to a fund to aid approximately two thousand law enforcement officers who have either been left homeless or whose homes have suffered extensive damage as a result of Hurricane Andrew. These officers, despite their personal losses, continue to work extensive hours assisting other victims of the devastating hurricane and performing other law enforcement functions.

Contributions can be made to the **DADE COUNTY PBA LOVE FUND** and sent to 10680 NW 25th Street, Miami, Florida 33172. **THE DADE COUNTY PBA LOVE FUND** is a tax exempt charitable organization so that all donations are tax deductible.

A number of police associations belonging to NAPO have already made contributions to the Fund.

Questions concerning the Fund may be addressed to Tony Loizzo at the Dade County PBA at (305) 593-0044.

Jules Bernstein
Linda Lipsett
Legislative Counsel

**1992 ANNUAL CONVENTION
NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS
TAMPA, FLORIDA
AUGUST 13-19, 1992**

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ANTI-CAR THEFT ACT OF 1992

WHEREAS, legislation has been introduced by Congressman Chuch Schumer (D-NY) and Jim Sensenbrenner (D-Wis), who respectfully are the Chair and senior minority member of the House Crime Subcommittee, which would improve anti-car jacking law enforcement; and

WHEREAS, Title I of the bill would stiffen the federal penalties for auto theft and would create a new crime for armed carjacking, and would also provide Federal assistance to State and local anti-car theft committees; and

WHEREAS, Title II would assist State departments of motor vehicles ("DMV") in preventing motor vehicle title fraud by establishing a clearinghouse which would enable DMVs to detect fraudulent proof-of-ownership documents before issuing new titles based on such documents; and

WHEREAS, Title III would seek to stamp out "chop shops" and the illicit trade in stolen replacement parts by extending the current parts marking program to all automobiles, including passenger vans and light trucks, and

WHEREAS, Title IV of the bill would strengthen law enforcement against the export of stolen motor vehicles;

NOW THEREFORE NAPO hereby goes on record in support of the enactment of H.R. 4542.

ASSAULT WEAPONS

WHEREAS assault weapons, increasingly have become the weapons of choice for drug gangs, hate groups and other lawless elements in our society; and

WHEREAS the Bush Administration has banned permanently the importation into, and sale in, the United States of certain foreign-made assault weapons; and

WHEREAS legislation has been introduced in both the House and Senate to ban the sale of imported and domestically-produced assault weapons for other than police or military use; and

WHEREAS the Senate has passed a ban on assault weapons sponsored by Senator DeConcini of Arizona; and

WHEREAS, such assault weapons have continued to be a source of the killing and maiming of citizens of all ages including many police officers;

WHEREAS, a statutory ban on assault weapons will not interfere with the legitimate rights of hunters and other gun lobbyists;

NOW THEREFORE BE IT RESOLVED that the National Association of Police Organizations (NAPO) once again goes on record as supporting a strong and comprehensive legislative ban on the sale of imported and domestically-produced assault weapons; and urges that the Congress and the Administration promptly enact and sign such legislation into law.

BE IT FURTHER RESOLVED that NAPO commends such leaders in Congress as Senators DeConcini and Metzenbaum, and Congressmen Hughes, Stark and Gibbons for their courage and leadership in sponsoring legislation banning assault weapons.

CRIME BILL

WHEREAS, an omnibus crime bill was reported out of Conference on November 24, 1991, which was passed by the House of Representatives on November 27, 1991; and

WHEREAS, all of the major national law enforcement organizations have endorsed the Conference Crime Bill as a reasonable compromise of conflicting congressional views; and

WHEREAS, the Conference Crime Bill contains many provisions which would significantly improve law enforcement and the conditions that face law enforcement officers; and

WHEREAS, the Conference Crime Bill includes provisions that provide tougher penalties for violent crimes, money for prison construction, anti-gang programs, a 5-day waiting period for handgun purchases (Brady Bill), victims compensation, anti-terrorism programs, new death penalty provisions, money for new Federal criminal investigators, \$1 billion for state/local law enforcement programs, establishment of a National Commission to Support Law Enforcement, police officer scholarship funds and a program to combat police officer stress; and

WHEREAS, the Conference Crime Bill is being blocked in the Senate by a filibuster so that the possibility of achieving any Crime Bill in this Congress becomes more remote each day; and

WHEREAS, efforts to reach a compromise over disputed issues have been undertaken between the Administration and Senate Democratic leaders;

NOW THEREFORE BE IT RESOLVED that NAPO goes on record as urging Congress and the Administration to put aside partisan and political differences over enactment of a Crime Bill in this session of Congress and promptly achieve a compromise and enact the badly needed provisions of a Crime Bill so that the public may be better protected against crime and be better served by law enforcement.

EMPLOYER-PAID EDUCATION BENEFITS

WHEREAS proposals have been advanced in Congress which would eliminate the tax-exempt status of employer-paid education benefits for employees; and

WHEREAS Congress is again considering whether to retain this benefit; and

WHEREAS such benefit is of great value to police officers, and also enhances our national policy in favor of improving employee skills and knowledge;

NOW THEREFORE BE IT RESOLVED that the National Association of Police Organizations (NAPO) urges Congress to retain and make permanent the tax-exempt status of employer-paid education benefits.

FAIR LABOR STANDARDS ACT

WHEREAS, Congress in 1974 made the Fair Labor Standards Act of 1938 applicable to State and local employees, thus eliminating a major inequity in American labor laws; and

WHEREAS, Public employees succeeded in 1976 in having the 1974 FLSA Amendments struck down by the United States Supreme Court in the National League of Cities case; and

WHEREAS, in 1985 the United States Supreme Court in the Garcia case reversed National League of Cities, thereby restoring the FLSA in the non-Federal public sector; and

WHEREAS, in 1986, Congress enacted legislation amending the Fair Labor Standards Act to permit longer work cycles than 40 hours for police officers to begin earning FLSA overtime, and to permit public employers to substitute "comp time" for overtime pay for police officers in certain circumstances; and

WHEREAS, notwithstanding the foregoing special treatment for public employers, a number of Governors have been pressuring the Secretary of Labor to grant States and localities additional concessions under the Fair Labor Standards Act; and

WHEREAS, the Secretary of Labor has issued proposed regulations which would grant such concessions to public employers;

AND WHEREAS, Senator Seymour of California has introduced S. 1670, and Senator Kassebaum of Kansas has introduced S. 3059, and Congressman Lowery of California has introduced H.R. 5112, all of which would eliminate FLSA coverage for tens of thousands of public employees

as well as wipe out all back pay liability;

NOW THEREFORE BE IT RESOLVED, that NAPO urges Secretary of Labor Martin to refuse to grant any regulatory changes under the Fair Labor Standards Act to public employers since such concessions would seriously disadvantage police officers and other public employees; and

BE IT FURTHER RESOLVED, that the Senate and House Labor Committees should refuse to consider the enactment of statutory changes that would deprive public employees of their FLSA coverage.

FAMILY AND MEDICAL LEAVE ACT

WHEREAS, Congress is presently considering humanitarian legislation (S. 5), which would permit public and private sector employees up to 12 weeks of unpaid leave in connection with the birth or adoption of a child, or in connection with the serious illness of the worker or an immediate family member; and

WHEREAS, such legislation would be beneficial to law enforcement officers; and

WHEREAS, such legislation has been agreed upon in Conference and is expected to be presented to the President for signature this year;

NOW THEREFORE NAPO hereby goes on record in support of the Family and Medical Leave Act and urges President Bush to sign such legislation if presented to him by Congress.

INTERSTATE CARRYING OF WEAPONS BY LAW ENFORCEMENT OFFICERS

WHEREAS, a need exists to establish greater national uniformity concerning the entitlement of active and retired law enforcement officers to carry weapons across state lines; and

WHEREAS, legislation has been introduced in Congress which would deprive states of Federal grants under Title I of the Omnibus Crime Control Act of 1968 unless they permit active and retired law enforcement officers from any jurisdiction within the United States to carry concealed firearms within their borders; and

WHEREAS, NAPO does not believe that States should be coerced to enact legislation based upon a possible loss of Federal grants to law enforcement; and

WHEREAS, NAPO believes that training and other standards would have to be established in connection with any national legislation

dealing with the interstate transportation of weapons by law enforcement officers.

NOW THEREFORE NAPO resolves that its Executive Board should proceed to develop appropriate legislation to deal with this issue.

LAW ENFORCEMENT LABOR-MANAGEMENT RELATIONS ACT

WHEREAS collective bargaining has been demonstrated by experience to be the most effective and democratic means by which labor and management in both the private and public sectors in the United States have achieved cooperation, advancement and improved employment conditions as well as improved productivity; and

WHEREAS the denial of the right to collective bargaining has caused poor morale, work stoppages, unfair and inadequate working conditions and low productivity; and

WHEREAS for these reasons Congress has granted collective bargaining rights to such public employees as letter carriers, postal clerks, public transit employees and other public employees; and

WHEREAS under existing State and federal laws too few police officers in the United States enjoy the rights and benefits of collective bargaining; and

WHEREAS because of the strenuous, stressful and ultra-hazardous nature of their employment police officers are particularly needful of the benefits of collective bargaining; and

WHEREAS on January 29, 1991, Congressman William Clay of Missouri introduced H.R. 678 - the Law Enforcement Labor-Management Relations Act; and

WHEREAS such legislation would provide collective bargaining to Federal, state and local law enforcement officers; and

WHEREAS such legislation would provide for final and binding arbitration in exchange for a no-strike requirement;

NOW THEREFORE BE IT RESOLVED that NAPO (1) commends Congressman Clay for having introduced H.R. 678; (2) goes on record favoring its prompt enactment; (3) urges every member of Congress to co-sponsor this piece of legislation and vote for its enactment; (4) asks that similar legislation be introduced and enacted in the Senate; and (5) urges support for such legislation from President Bush.

LAW ENFORCEMENT OFFICERS BILL OF RIGHTS

WHEREAS police officers throughout the United States do not uniformly enjoy fundamental rights of citizenship and of public employment, such as the right to fully engage in political activity while off duty; the right to remain silent in connection with an internal investigation; the right to be advised of the nature of an internal investigation involving the officer; and the right to full and fair representation; and

WHEREAS S. 1043 was introduced by Senator Biden of Delaware entitled the Law Enforcement Officers Bill of Rights, which provides many of the foregoing rights and others to law enforcement officers; and

WHEREAS such legislation was incorporated into the Senate Crime Bill, S. 1241, and enacted by the Senate; and

WHEREAS H.R. 2946, the Police Officers' Bill of Rights was not endorsed by the House Judiciary Committee and was not included by the Conferees in the pending Crime Bill;

NOW THEREFORE BE IT RESOLVED that the National Association of Police Organizations (NAPO) strongly endorses the Law Enforcement Bill of Rights and urges its support and adoption by the House of Representatives, and support for this badly-needed legislation by the Bush Administration.

LOS ANGELES PROSECUTIONS

WHEREAS, NAPO has always supported the highest standards of professionalism in policing including treating all citizens equally, fairly and consistently with law; and has opposed the excessive use of force and any form of brutality by police; and

WHEREAS, in the recently concluded Simi Valley criminal trial of the four Los Angeles officers, none of the officers was convicted; and

WHEREAS, as police officers we are obliged to accept and abide by jury verdicts even though we may disagree with their results; and

WHEREAS, the Simi Valley verdicts became an excuse for massive and unprecedented civil disorders, murders, arson, rioting and looting in Los Angeles; and

WHEREAS, the Federal Government recently saw fit to indict the four Los Angeles officers under Federal Criminal Civil Rights statutes; and

WHEREAS, such indictments will subject these officers to lengthy public trials in which the jury will be faced with the impossible dilemma of finding the defendants guilty, or else, in the event of another acquittal, becoming responsible for further threatened violence or rioting; and

WHEREAS, civil rights prosecutions such as are being conducted in Lost Angeles should only be employed in circumstances in which related state prosecutions were a sham, which was not the case in the Simi Valley trial; and

WHEREAS, the Federal prosecution of these cases will only serve to further prejudice the public against police officers and law enforcement and create a national atmosphere of mistrust, hostility and vigilantism;

NOW THEREFORE BE IT RESOLVED that NAPO urges the Attorney General of the United States of the trial judge to terminate the prosecution of this case on the ground that its prosecution would be contrary to fundamental principles of justice since under the circumstances it would be impossible for the defendants to receive a fair trial and since they have already been acquitted of identical charges by a jury of their peers in a fair trial.

MANDATORY MEDICARE

WHEREAS in 1986, in the Consolidated Omnibus Budget Reconciliation Act of 1986 ("COBRA"), Congress adopted a compromise whereby all newly-hired public employees would be required to participate in the Medicare system but public employees hired prior to April 1, 1986, who were not then under Medicare, were exempted therefrom; and

WHEREAS a proposal has been included in the Bush Administration's fiscal year 1993 budget to impose Medicare coverage and taxes upon public employees who are exempt therefrom; and

WHEREAS such coverage would impose upon millions of public workers a new tax of approximately \$365 each annually; and would jeopardize existing State and local health benefit programs;

NOW THEREFORE BE IT RESOLVED that the National Association of Police Organizations (NAPO) reaffirms its continuing opposition to mandatory Medicare coverage and urges Congress and the Administration to live up to the compromise agreement reached in 1986 whereby Medicare coverage is limited to newly hired public employees.

JOSEPH OCCHIPINTI CASE

WHEREAS, Joseph Occhipinti, a highly decorated 24 year federal law enforcement special agent employed by the Immigration and Naturalization Service was indicted, convicted and incarcerated by the Federal Court in New York City for non-violent criminal civil rights violations, and is presently serving a 37 month sentence; and

WHEREAS, a number of responsible public officials including Staten Island Borough President Guy V. Molinari have concluded that Joseph Occhipinti is innocent of all of the charges brought against him; and

WHEREAS, numerous law enforcement officers both from within and outside of NAPO have rallied to Joseph Occhipinti's cause and have vouched for his innocence;

AND THEREFORE BE IT RESOLVED that NAPO urges President bush and Attorney General Barr to reopen the Occhipinti case and conduct an intensive and thoroughgoing review thereof and hear from knowledgeable persons concerning Joseph Occhipinti's case as to why such a review is required.

OCCUPATIONAL SAFETY AND HEALTH

WHEREAS, Congress enacted the Occupational Safety and Health Act of 1970 to protect private sector employees, and

WHEREAS, public employees are subject to the same occupational safety and health hazards as are private sector employees; and

WHEREAS, the safety and health hazards of police work are greater than most, if not any other, occupation; and

WHEREAS, public employers typically have been less than zealous in protecting the safety and health of police officers; and

WHEREAS, Senators Edward Kennedy and Howard Metzenbaum, and Representative William Ford have introduced, respectively, S. 1622 and H.R. 3160, entitled the OSHA Reform Act of 1991, which would extend OSHA coverage to Federal, State and local government employees; and

WHEREAS, such coverage is needed in order to remedy the seriously deteriorating safety and health conditions that exist throughout the entire public sector which continuously threaten the physical well-being of public employees;

NOW THEREFORE BE IT RESOLVED, that NAPO goes on record in support of S. 1622 and H.R. 3160, the OSHA Reform Act, and commends

Senators Kennedy and Metzenbaum and Representative Ford for having introduced and pursued this badly needed legislation.

BE IT FURTHER RESOLVED, that NAPO urges President Bush to support and sign such legislation if its passed by Congress.

POLICE BODY ARMOR

WHEREAS body armor has served as an important protection for police officers against assailants; and

WHEREAS a dispute has developed between the United States Department of Justice's Technology Assessment Program Information Center (TAPIC) (which establishes recommended performance standards for police equipment) and manufacturers of police body armor over appropriate performance standards; and

WHEREAS at the urging of NAPO and other police groups, legislation was introduced on May 16, 1990, in both the Senate and House that would establish mandatory Federal regulatory standards for bullet proof vests; and

WHEREAS the Senate bill (S. 2639), was introduced by Senator DeConcini (D-Ariz), and was co-sponsored by Senators Kennedy (D-Mass), Harkin (D-Iowa), Metzenbaum (D-Ohio) and Kohl (D-Wisc), and the House bill (H.R. 4830), was introduced by Congressman Edward F. Feighan (D-Ohio), and co-sponsored by Congressman Joe Moakley (D-Mass), and were both known as the Police Protection Act of 1990; and

WHEREAS the bills would establish Federal standards for body armor to the general public, police departments and other law enforcement agencies; and

WHEREAS, at the request of members of Congress, the Office of Technology Assessment (OTA) conducted a study of the body armor controversy and issued a report on August 12, 1992, discussing various policy and legislative alternatives concerning the body armor controversy;

NOW THEREFORE BE IT RESOLVED that NAPO, other police organizations, industry, interested members of Congress, the Justice Department, the Labor Department and the Federal Trade Commission establish a committee to study the OTA report and make recommendations to Congress for dealings with body armor issues.

POLICE COMMISSION

WHEREAS Congress has not considered or studied the condition of State and local law enforcement in over 25 years; and

WHEREAS the incidence of crime, drug abuse and violence in American society have increased dramatically in the last decade as well as in the last 25 years; and

WHEREAS the problems for law enforcement which the worsening crime situation creates make law enforcement an increasingly complex, hazardous and stressful occupation; and

WHEREAS Congresswoman Louise Slaughter of New York and Senators Dennis DeConcini of Arizona and Carl Levin of Michigan and others have introduced legislation (H.R. 5288 and S. 2782), which would establish a National Commission of Support for Law Enforcement which would conduct an eighteen (18) month study of the condition of law enforcement in America and then report to the American people;

NOW THEREFORE BE IT RESOLVED that NAPO expresses its support for H.R. 5288 and S. S2782 and urge their prompt passage in this Session of Congress,

AND BE IT FURTHER RESOLVED that NAPO expresses its appreciation to Congresswoman Slaughter, Senators Deconcini and Levin and the other sponsors for having introduced this valuable legislation.

POLICE CORPS

WHEREAS legislation has been introduced in Congress which has been included in the Senate passed Crime Bill which would provide high school graduates with \$40,000 in college scholarships if they complete four years as a police officer after college graduation; and

WHEREAS NAPO believes that this program, known as the Police Corps, fails to address the need for additional well-educated career police officers but instead seeks to make policing a short-term casual occupation; and

WHEREAS both police labor and management organizations and representatives have expressed their opposition to the police corps concept; and

WHEREAS Senator Bob Graham of Florida has introduced S. 658, "The Law Enforcement Scholarship Act of 1990," which would provide educational assistance to police officers seeking associate, bachelors or graduate degrees; and

WHEREAS S. 658 has been incorporated into the Conferees' Crime Bill;

NOW THEREFORE BE IT RESOLVED that the National Association of Police Organizations opposes the funding of the Police Corps Act provisions of the Conferees' Crime Bill but supports the funding of the Police Education provisions of the Crime Bill introduced by Senator Bob Graham of Florida.

PREPAID LEGAL SERVICES

WHEREAS prepaid legal services has proven itself to be an effective means of assuring to working people adequate and effective legal representation through collectively-bargained employer contributions; and

WHEREAS the availability of such legal services has had a positive impact upon employee productivity; and

WHEREAS since the early 1970's prepaid legal service contributions and benefits have been exempt from Federal income taxation; and

WHEREAS under the pending tax bills the tax exempt status of prepaid legal services will be continued until December 31, 1993;

NOW THEREFORE BE IT RESOLVED that the National Association of Police Organizations (NAPo) goes on record in support of making permanent the tax exempt status of prepaid legal services.

PUBLIC EMPLOYEE PENSIONS

WHEREAS, the reduction in Federal programs and a reduction in Federal assistance to the States, as well as the current economic recession, have placed a tremendous strain upon State and local financial and budgetary resources; and

WHEREAS, State and local governments, in attempting to deal with their financial shortfalls focused on public employee pension funds as a source of State and local revenue or savings; and

WHEREAS, efforts have been made (1) to divert public employee pension resources to other State and local purposes, (2) to "adjust" actuarial assumptions to reduce current and future employer pension liabilities, and (3) to otherwise manipulate public employee pension plans to the detriment of retirees and future beneficiaries;

NOW THEREFORE BE IT RESOLVED,

1. that NAPO go on record as opposing all efforts to divert and manipulate police and other public employee pension plans to the disadvantage of beneficiaries;

2. that NAPO commends Congressman Edward R. Roybal of California, and Congressman Pete Stark of California, for commencing an investigation concerning the possible misuse of public employee pension plans; and

3. that NAPO urge Congress promptly to enact a Public Employee Retirement Income Security Act (PERISA), which would protect and insure public employee pensions in a manner similar to the protections that are enjoyed by private sector employees under the Employee Retirement Income Security Act, (ERISA).

RADAR

WHEREAS, increased concern has been expressed across the country regarding a high incidence of cancer related to the use of hand held radar units by police officers; and

WHEREAS, the State of Connecticut recently enacted legislation which bans hand held radar units and requires that antennas of two piece radar units must be mounted outside of police vehicles; and

WHEREAS, Connecticut Senator Lieberman has conducted hearings on the radar issue; and

WHEREAS, NAPO believes that the continued use of such radar equipment threatens the health and well-being of thousands of police officers; and

WHEREAS, additional health concerns have been expressed regarding the use of portable x-ray units by law enforcement officers;

NOW THEREFORE BE IT RESOLVED that NAPO urges Federal agencies such as the National Institute on Occupational Safety and Health (NIOSH) and that the National Institute of Justice to undertake appropriate studies on the relationship between traffic radar units and cancer, and the use of such units be suspended pending the results of such studies; and that Congress take appropriate action to facilitate such studies and ban; and further that similar studies should be conducted by these agencies concerning possible health hazards related to portable x-ray units.

**RESOLUTION IN SUPPORT OF THE RIVERSIDE COUNTY,
CALIFORNIA FAIR PAY FOR LAW ENFORCEMENT ORDINANCE**

WHEREAS, the Riverside County, California Sheriffs' Association after a long, arduous and expensive legal struggle has succeeded in having placed on the ballot in the November, 1992 electio, the Riverside County Fair Pay For Law Enforcement Ordinance; and

WHEREAS, under this ordinance compensation and benefits of Riverside County Sheriffs' would be placed under a fair system that would determine the base salaries and benefits of the Sheriffs under a comparability formula to other similarly situated law enforcement agencies; and

WHEREAS, the population of Riverside County has almost doubled during the past decade and crime in the County has increased dramatically; and

WHEREAS, the pay and benefits of sheriffs have lagged woefully behind where they deserve to be so that the County has been losing qualified sheriffs to other jurisdictions;

NOW THEREFORE BE IT RESOLVED; that the National Association of Police organizations goes on record in support of the Riverside County Fair Pay For Law Enforcement Ordinance and urges the citizens of Riverside County to enact the ordinance in the November election.

SECTION 415 OF THE INTERNAL REVENUE CODE

WHEREAS under Section 415 of the Internal Revenue Code the tax exempt status of State and local employee pension plans may be lost if a single participant exceeds the statutory benefit limits; and

WHEREAS H.R. 1348, the Public Pension Equity Restoration Act of 1991, has been introduced by Congressman Robert Matsui of California and other representatives to remedy this unfair situation;

NOW THEREFORE the National Association of Police Organizations (NAPO) goes on record as strongly favoring H.R. 1348, and urging all members of Congress to co-sponsor and support it.

STATE TAXATION OF NON-RESIDENTS' PENSIONS

WHEREAS it has come to the attention of the National Association of Police Organizations (NAPO) that certain States which impose tax upon the pension payments of retirees, have been taxing the

pension payments of non-residents thus subjecting such non-residents to taxation without representation ("source tax"); and

WHEREAS legislation has been introduced by Senators Reid and Bryan (S. 267) and Representative Vucanovich of Nevada (H.R. 431), to remedy this unfairness;

WHEREAS such legislation has been incorporated into the Senate Finance Committee tax bill;

NOW THEREFORE BE IT RESOLVED that NAPO urges Congress to enact the Senate Finance Committee tax bill so as to ban the source tax.

STOP ARMING FELONS ACT

WHEREAS, legislation has been introduced in Congress entitled the Stop Arming Felons Act of 1992 (S. 2304) which would end the process whereby the Bureau of Alcohol, Tobacco and Firearms must investigate to determine whether certain convicted felons should have their gun ownership rights restored; and

WHEREAS, on behalf of NAPO, Richard Wells, Co-Chairman of NAPO's Legislative Committee testified in favor of this legislation before the Senate Subcommittee on the Constitution on May 5, 1992; and

WHEREAS, NAPO believes that the funds being spent to conduct these investigations could be put to better governmental law enforcement use; and

WHEREAS, NAPO believes that a felony conviction should be the basis for a permanent deprivation of gun-ownership rights;

NOW THEREFORE NAPO goes on record in support of the enactment of S. 2304.

SUPPORT FOR SAN DIEGO LAW ENFORCEMENT

WHEREAS, public protection and service to citizens is the primary function of law enforcement; and

WHEREAS, adequate manpower is critical to the performance of that function; and

WHEREAS, the manpower to population ratio for the unincorporated area of San Diego County is one of the lowest in the United States; and

WHEREAS, the citizens of San Diego County have expressed their support for increased manpower by signing petitions to qualify a minimum staffing initiative for the November election; and

WHEREAS, the issue of minimum staffing is a safety issue with application to every law enforcement organization in the country;

THEREFORE BE IT RESOLVED that the National Association of Police Organizations, at its 14th Annual Convention, strongly supports and urges passage of the staffing initiative setting out a minimum level of protection for the people of San Diego County.

THE POLICE ACCOUNTABILITY ACT OF 1991 (H.R. 2972)

WHEREAS, legislation was introduced in the House of Representatives on July 23, 1991, entitled "The Police Accountability Act of 1991" (H.R. 2972), which "is intended to strengthen the Federal response to police misconduct," and

WHEREAS, such legislation proposes the following:

1. To authorize the Attorney General of the United States and/or injured private individuals to seek injunction and declaratory relief against police departments and/or police officers who are engaging in a pattern or practice of conduct that would constitute the use of excessive force, or other police practices deemed by the Federal courts to deprive individuals of their constitutional rights;

2. Make it a Federal felony for a law enforcement officer to subject anyone "to force exceeding that which is reasonably necessary to carry out a law enforcement duty," for which, depending upon the outcome of the use of such force, penalties up to life imprisonment may be imposed; and

3. Require the Attorney General of the United States to collect and publish annually data concerning "complaints to criminal justice authorities about the use of excessive force by law enforcement officers;"

AND WHEREAS, existing Federal, State and local law is fully adequate to deal with the problem of the use of excessive force by police; and

WHEREAS, the proposed criminal provisions of H.R. 2972 impose criminal penalties upon police officers based upon a theory of strict liability, and without any willfulness requirement, so that such provisions probably are unconstitutional; and

WHEREAS, statistics concerning unsworn bare allegations of police misconduct are totally useless in determining the extent of such misconduct in light of the tendency of many arrestees to make such claims falsely in an effort to avoid prosecution and detention;

NOW THEREFORE BE IT RESOLVED, that the National Association of Police Organizations (NAPO), goes on record in opposition to H.R. 2972, for the reasons set forth above;

At the same time however NAPO wishes it to be clearly understood by all concerned that it is firmly and vigorously opposed to the use of excessive force by police officers; that it supports efforts to improve community-police relations designed to reduce antagonisms and hostilities; and that in addition, it believes that in some cases the use of excessive force is the result of the extreme job stress and pressure that police officers experience, and that the right to collective bargaining and improvements in employment conditions of police officers are essential elements in dealing with the problems of the use of excessive force, and that studies should be undertaken to determine the relationship between the use of excessive force, police stress and adverse working conditions.

THE WAR ON DRUGS

WHEREAS the drug problem in the United States has reached enormous proportions particularly because it is linked to large scale international drug traffic and operations; and

WHEREAS NAPO has expressed its concern over the drug problem for sometime having testified before the United States Senate Caucus on International Narcotics Control, and prepared a report entitled, "The War on Drugs: What is Needed," which has been widely distributed; and

WHEREAS legislation was passed in the 100th Congress to deal comprehensively with the drug problem in America but such legislation had not been adequately funded; and

WHEREAS at the 1989 NAPO Convention a meeting of street narcotics officers from across the country revealed serious deficiencies and inadequacies in the nation's court and prison systems in dealing with drug offenders, such as inexperienced and overloaded prosecutors and overcrowded courts and prisons;

NOW THEREFORE BE IT RESOLVED that NAPO urges Congress to promptly enact, and the Bush Administration support, strong and effective legislation to cope with the expanding menace of drugs, including increased federal funding, and that the role of local law enforcement in the war against drugs be supported and enhanced by the provision of adequate Federal funding.

WAITING PERIOD FOR THE PURCHASE OF A HANDGUN

WHEREAS in States such as Maryland, California, New York and New Jersey, which have enacted legislation establishing a waiting period for law enforcement to perform a background check on prospective handgun purchasers, such background checks have proved to be an effective method of apprehending felons seeking to purchase handguns and curbing improper access to such weapons; and

WHEREAS traffic in handguns from States without such legislation to States having such legislation has been substantial, accounting for a vast percentage of confiscated handguns; and

WHEREAS legislation has been introduced in the House and in the Senate which provide for a national minimum five working-day waiting period in which local law enforcement may conduct a background check on purchases of handguns from dealers; and

WHEREAS this legislation, known as the Brady Bill, named after Presidential Press Secretary Jim Brady, has been included in the Conferees' pending Crime Bill;

NOW THEREFORE BE IT RESOLVED that the National Association of Police Organizations (NAPO) reaffirms its support for the Brady Bill providing for a national minimum five working-day waiting period for handgun purchases and urges every member of Congress to vote in favor of such legislation whether presented as separate legislation or as part of the Conferees' Crime Bill.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

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TESTIMONY OF
ROBERT SCULLY
PRESIDENT
NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS
BEFORE
THE HOUSE SUBCOMMITTEE ON CRIME AND CRIMINAL JUSTICE
ON THE
RIGHTS OF POLICE OFFICERS DURING INTERNAL INVESTIGATIONS

MARCH 19, 1992
WASHINGTON, D.C.

Mr. Chairman, Members of the Subcommittee:

My name is Robert Scully. I am the President of the National Association of Police Organization which represents over 135,000 rank-and-file police officers across the nation. I also serve as Vice President of the Detroit Police Officers Association. I have been a member of the City of Detroit police force since 1967.

I am here today at the invitation of the Subcommittee to address a matter of deep concern to all of the more than 500,000 rank-and-file law enforcement officers in the United States, namely achieving and maintaining for all police officers the fundamental American right of due process, including a fair hearing, in connection with disciplinary matters relating to their employment. For some years achieving this goal has been the focus of Federal legislative efforts to enact what has been identified as the Police Officers Bill of Rights.

However, before discussing such legislation let me begin by thanking the Subcommittee and its Chairman for providing me with this opportunity to appear before you. Police officers are sworn to serve the public and accordingly they tend generally to neglect their own interests as being secondary. Accordingly, it is good for them to know that there are members of Congress who are concerned about their welfare and who are prepared to take appropriate action along these lines.

For example, in the Crime Bill that passed the House of Representatives on November 27, 1991, there are provisions introduced by Congresswoman Louise Slaughter of New York which would establish a National Commission to Support Law Enforcement; (2) there are provisions introduced by Congressman Ed Feighan of Ohio which would assist the States in funding college and graduate educational opportunities for law enforcement officers; and (3) there are provisions introduced by Congresswoman Pat Schroeder of Colorado which would establish a national program dealing with stress related problems affecting law enforcement officers and their families. Further the Crime Bill contains the Brady Bill which would establish a national five working day waiting period for the purchase of handguns which Chairman Schumer so skillfully succeeded in steering through the House with substantial assistance from Congressman Jim Sensenbrenner of Wisconsin. These are provisions that show that you care about cops and for that we are all grateful.

On the other hand, we do not appreciate the fact that these and other badly needed anti-crime provisions are presently stalled in the Senate and may not become law this session. Nor are we pleased by the fact that the Police Officers Bill of Rights which passed the Senate on July 15, 1991, was not included in the pending Crime Bill by the Conferees. Indeed, but for that fact we would not be here today.

The foregoing circumstance does provide me with an opportunity, however, to explain to you why a Police Officers Bill of Rights is badly needed.

Over the last two decades more than 75 bills have been introduced in Congress which would provide to State and local law enforcement officers specific procedural rights in connection with internal police department disciplinary proceedings. These bills, generally referred to as "The Police Officers Bill of Rights," reflect the fact that while under State law and/or collective bargaining agreements many of the approximately 500,000 law enforcement officers in the United States enjoy procedural protections against arbitrary, vindictive, and discriminatory discipline imposed by police management, vast numbers of law enforcement officers have no such protections. This is because in many States no statutory "bill of rights" exists and collective bargaining over discipline is not available to law enforcement officers. In this connection I have attached to my statement a listing of some, if not all, of the State laws which presently provide such a bill of rights or collective bargaining, or both, to law enforcement officers.

The congressional proponents of a police officers bill of rights over the last two decades have been many. For example, twenty years ago, then New York City Congressman Ed Koch, who later served as that city's mayor, declared most eloquently in support of his proposed police officers bill of rights bill, as follows:

This bill does not provide any special privileges for police officers; it simply affirms the rights they are due as citizens of this country. It is unfortunate that in a nation like ours such a bill is needed; but history has shown all too often that policemen's rights are abridged by local department regulations and procedures. In some communities, . . . when accused of malfeasance, [police officers] are not given the same rights and protections accorded ordinary citizens. Furthermore, an imbalance has evolved because, while we have taken steps to insure the rights of defendants and complainants, we have failed to protect the rights of policemen.

And over the last two decades many other lawmakers too numerous to mention from both sides of the aisle have supported a Police Officers Bill of Rights.

Congressional concern for the procedural rights of law enforcement officers reached its high point during the First Session of the current Congress when on July 11, 1991, the Senate, by a vote of 55 to 43, adopted S. 1241, the Police Officers Bill of Rights Act of 1991 ("POBR"), which had been introduced by Senator Joseph Biden of Delaware, Chairman of the Senate Judiciary Committee. The bill was made part of the Omnibus Crime Bill which passed the Senate on July 15, 1991.

Under Senator Biden's POBR, police officers subjected to investigation or interrogation in connection with disciplinary matters (other than of a criminal nature) would be entitled to the following basic rights:

- 1) Questioning must be conducted at reasonable times and for a reasonable amount of time;

2) Questioning must be held at the office of those conducting the investigation or where the officer normally reports for duty unless the officer agrees otherwise;

3) The officer must be advised in advance of the identity of the interrogator and the nature of the investigation;

4) Police officers must not be threatened, harassed or rewarded (except an offer of immunity from prosecution) to induce the answering of a question;

5) Questioning must be recorded and a copy of a transcript must be made available to the officer under investigation;

6) The officer shall be entitled to have counsel or any other single individual of his choice present at the interrogation;

7) An officer shall be entitled to be advised of the results of the investigation; and

8) An officer under investigation shall be entitled to a hearing and to hearing transcripts and documents.

The bill also protects an officer from having any adverse material placed in his file without an opportunity to review and comment in writing.

These and several other procedural rights would be required to be provided to all law enforcement officers under Senator Biden's bill.

As you know the Bill of Rights did not fare as well in the House principally because of massive opposition, regrettably at public expense, by police management, and State, county and city

government lobbyists who oppose such a law. I note that their representatives are here again today in opposition to such legislation. I know, however, that there are many in their ranks who came up the service ladder from patrol officer or deputy sheriff to chief or sheriff who agree with us on the need for this legislation. They have told us so privately.

Indeed, as the representative of more than 135,000 rank-and-file police officers whose police associations and unions belong to the National Association of Police Organizations which actively supported the bill, I must publicly state that I believe police management's opposition to POBR to be shortsighted, unenlightened and unfair.

There is no question that police officers are engaged in a highly dangerous and stressful occupation, and as you know, cops are on the job 24 hours a day. Further, police officers are held at all times to a standard of conduct which is much higher than that required in other occupations. Also, police officers are extremely vulnerable to false accusations and other abusive conduct in the course of performing their difficult and dangerous jobs. Further, it is well known in police circles that an officer who has been terminated for alleged misconduct by a law enforcement agency will usually find it virtually impossible to be reemployed in law enforcement.

These considerations, and the absence of basic procedural rights in connection with disciplinary proceedings in too many jurisdictions, make the prompt enactment of a police officers bill

of rights at a national level imperative. That it has been vigorously opposed by police management groups only serves to signify to me their failure to act in accordance with the enlightened image that they would like to project to the public, and more importantly, their failure to support the men and women in blue who are so loyal to them on the job.

In fact, the experience of the hundreds of member organizations in NAPO, representing more than 135,000 law enforcement officers nationwide, is that the existence of a state law enforcement officers bill of rights, or a collective bargaining agreement, has not prevented a responsible police department from imposing discipline upon an abusive, corrupt or irresponsible police officer. On the other hand, the existence of a bill of rights provision under law, or similar provisions in police officer collective bargaining agreements, has served to protect police officers from unfair and discriminatory treatment that they otherwise would have had to endure without recourse.

I firmly believe that if police officers are expected to protect American society from the growing scourge of crime and criminals, it follows that they must be provided with rights and benefits that are commensurate with the physical and emotional risks and hazards that their jobs entail.

Accordingly, the National Association of Police Organizations plans to continue its efforts on behalf of the Police Officers Bill of Rights and urges this subcommittee to move forward promptly on this badly needed piece of legislation.

Toward this end I have attached to my testimony an article from the Spring, 1987 issue of the University of Baltimore Law Review written by Professor Byron L. Warnken of that law school. I consider Professor Warnken's article to be a persuasive brief in favor of the kind of legislation that we seek. Indeed, the article has an appendix which contains a "Model Law Enforcement Officers' Bill of Rights." Professor Warnken is undoubtedly the nation's leading academic authority on the Police Officers Bill of Rights, and I was fortunate in being able to persuade him to join us today. He has indicated that he would be pleased to provide the Subcommittee members and staff with such assistance as they might deem appropriate in fashioning such legislation.

I thank the Subcommittee for having scheduled this hearing and for your kind attention.

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STATUTORY REFERENCES

Bill of Rights/Collective Bargaining

Arkansas Stat. Ann. § 14-52-301 (1991)

Title 14, Chap. 52

"Bill of Rights for Law Enforcement Officers"

California Deering's Codes, Government § 3300 et seq. (1992)

"Law Enforcement Officers' Bill of Rights Act"

Connecticut Gen. Statutes Ann. chap. 3, Title 7 § 474, 7-474 (1991)

"Collective Bargaining Agreements - Policement & Firemen"

Delaware Code § 9200

Title 11 (1991), Chap. 92

"Law-Enforcement Officers' Bill of Rights"

District of Columbia Code § 4-110 (1991) Part V, Title 4

"Police & Fire Departments" chap. 1 "Metropolitan Police"

Florida Statute (1990), § 112.532, Title X, part VI, chap 112

"Law Enforcement & Correctional Officers Rights"

Hawaii Code Ann., Chap. 89, Title 7, § 89C-1 (1991)

Division 5, § 89-6

"Collective Bargaining in Public Employment"

Idaho Code § 19-5100 (1991), Title 19 chap. 51

"Peace Officer Standards"

Illinois Rev. Stat. ch. 24, § 10-1-18.1 (1991)

"Police Removals or Suspensions"

Indiana Code Ann. § 36-8-3.5-17 (Burns) (1991) Title 36

"Police & Fire Depts. -- Disciplinary Actions"

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Louisiana Statutes -- LA.R.S. § 33:2560 (1991), Chap. 5

"Fire & Police Civil Service Laws"

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"Disciplinary Rights" (Law Enforcement)

Montana Code Annotated, Title 39, part 4, chap. 31, § 39-31-401
"Collective Bargaining for Public Employees"

Title 7, chap. 32, part 41
"Metropolitan Police Law"

Minnesota Statute (1991), § 179A.03, Chap. 179A
"Public Employment Labor Relations - Collective Bargaining"

Nevada R.S. Ann. § 289.070, Title 23 (1989)
"Public Officers & Employees"

New Jersey Stat. § 40A:14-155 (1991), Title 40A
"Fire & Police Municipalities"

New York CLS CPLR § 75 (1991), Article 78
Civil Service Law § 75, Title B
"Proceedings Officers"

Ohio Ann. Code § 4117.01 (Baldwin)
Title XLI (1991)
"Public Employee's Collective Bargaining"

11 Oklahoma Statute § 51-102 (1990), Title 11, Chap. 1
"Collective Bargaining", Article LI "Fire & Police Arbitration"

Oregon Revised Statutes § 243.650 (1989),
Title 22, § 243 650-782
"Public Employee Rights & Benefits, Collective Bargaining"
§ 236.430

Pennsylvania Statutes, chap. 7, 43 P.S. § 217.1 (1991), Title 43
"Collective Bargaining by Policement or Firemen" § 217.1-10

Puerto Rico - 25 L.P.R.A. § 1013-1014 (1988) Title 25,
part 8 chap. 95
"Police of Puerto Rico"

Rhode Island Gen. Laws § 42-28. 6-1 (1991)
Title 42, Chap. 28.6-1-15
"Law Enforcement Officers' Bill of Rights"

South Dakota Codified Laws § 3-7-17 (1991), Title 03
"Law Enforcement Civil Service"

Tennessee Code Ann. § 38-8-307 (1991), Title 38 part 3
"Investigations of Police Officers"

Texas Gov't Code § 143.057 (1991), Title 5 chap. 143
"Disciplinary Actions -- Municipal Officers"

Vermont Statutes Ann. 3 V.S.A. § 1004 (1991), Title 3,
part 1, chap. 27

"State Employees Labor Relations Act -- State Police"

Virgin Islands Code; 23 V.I.C. § 6 (1991), Title 23, Chap. 1

"Police Force - Internal Security and Public Order"

Virginia Code Ann. § 2.1-116.1-.5 (1991)

"Policeman's Bill of Rights"

"Law Enforcement Officers' Procedural Guarantees"

Revised Code of Washington -- RCW 36.65.050 (1991), Title 36,
Chap. 36.65

"Fire Protection or Law Enforcement Units - Collective Bargaining"

Wisconsin Stat. § 154.01 (1989-1990)

Chap. 164

"Law Enforcement Officers' Bill of Rights"



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National Association of Police Organizations, Inc.

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ROBERT SCULLY

Robert Scully, Vice President of the Detroit Police Officers Association (DPOA), is President of the National Association of Police Organizations (NAPO).

Scully, 46, was one of the founders of the 135,000 member group which represents member organizations on national political and legislative issues and which serves as an informational clearing house. NAPO also conducts educational seminars on topics such as Collective Bargaining, Fair Labor Standards Act, drug testing, pension and benefits and occupational health and safety issues.

When NAPO was formed in 1979, Scully was elected its first secretary. He was named Vice President in 1981 and was appointed President in May 1982 to fill a vacancy. He was elected President in 1983 and re-elected in 1985, 1987, 1989, and 1991.

A Detroit Police Officer since October 1967, Scully served five years in a patrol car and four years as a court security officer.

He became a full-time officer in the Detroit Police Officers Association in 1976, when he won election as Sergeant-at-Arms.

Two years later, he was elected the Union's Vice President, winning re-election in 1980, 1982, 1984, 1986, 1988 and 1990. Michigan's largest police union, the DPOA represents the 4,000 sworn, non-supervisory personnel of the Detroit Police Department. Since 1973 Scully has been a member of the team that negotiates the DPOA - City of Detroit collective bargaining agreements.

A native Detroiter, Scully graduated from Redford St. Mary High School and attended the University of Michigan.

He and his wife, Patricia, are parents of two boys.



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Legislative Counsel
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LINDA LIPSETT

NAPO WASHINGTON REPORT

February 8, 1994

ATTORNEY GENERAL RENO MEETS WITH NAPO BOARD

On January 23, two days prior to Congress' return, the NAPO Executive Board met with Attorney General Janet Reno to discuss federal anti-crime legislation pending before Congress. General Reno solicited NAPO input on various facets of the crime bill and offered her own thoughts on this important legislation. Also, joining the roundtable discussion on crime were two police survivors: Alice Tackett, wife of slain Bellair (FL) Police Officer Jeffrey Tackett; and Joie White, wife of slain Metropolitan (DC) Police Officer Jason White. Both survivors are joining with NAPO in our campaign to pass a strong anti-crime bill that will help law enforcement win the war on crime.

After the meeting, NAPO members joined with Attorney General Reno in a press conference to call upon Congress to pass a crime bill promptly. The press event, which was very well attended, generated national media coverage. General Reno urged Congress, "...to do the right thing for the American people and for law enforcement...", and take swift action on a crime bill.

President Clinton's recent State of the Union address reflects the urgent priority he has placed on the passage of anti-crime legislation. The police officer recognized by the President at the State of the Union was none other than New York City Detective Kevin Jett, a member of NAPO President Tom Scotto's Detectives Endowment Association!

According to Congressional leadership, there will likely be votes in the U.S. House of Representatives on anti-crime legislation as early as this March! This timing is much quicker than expected and NAPO remains optimistic about passage of meaningful legislation. The House of Representatives may still attempt to mark-up additional anti-crime measures to be included in conference committee. The conference committee will then issue one final crime bill conference report of all House and Senate anti-crime measures which will have to pass both Houses of Congress before going to the President's desk.

NAPO strongly supports enactment of a measure that more closely reflects the Senate-passed crime bill which contains funds that would: put 100,000 more police officers on the nation's streets; create more prisons and boot camps for non-violent offenders; combat youth violence; and ban assault weapons. We are committed to early passage of these and the other anti-crime measures in the Senate crime bill.

NAPO is sending a letter to the entire Congress urging quick action on anti-crime legislation and encourages all member organizations to send a letter to their congressional delegation in support of this important public safety legislation as soon as possible. (See attached letter).

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

As many of you know, the exemption for public safety employees under the Age Discrimination in Employment Act expired on December 31, 1993. Although the U.S. House of Representatives passed a bill to maintain the ADEA exemption, the Senate adjourned without taking action.

Senator Howard Metzenbaum (D-OH) plans to hold hearings on ADEA in his Labor Subcommittee within the next couple of months.

NAPO continues to work in a coalition of labor and management groups to pass the ADEA exemption. The coalition has been meeting with Senators on Capitol Hill and is working to generate grassroots supports for the measure. To that end, NAPO encourages all member organizations to send a letter to your two Senators urging their swift passage of this legislation. (See attached position paper).

POLICE OFFICER BILL OF RIGHTS (POBR)

NAPO Executive Director Bob Scully and Legislative Counsel Jules Bernstein met with senior White House staff last Fall to request that the Clinton Administration support POBR in the next session of the 103rd Congress. Upon the meeting's conclusion, the White House directed both the Department of Justice and the Department of Labor to study the issue and recommend a course of action. NAPO is waiting for final word from the Administration and is proceeding to line up a sponsor in the House of Representatives. Senator Joseph Biden (D-DE) has promised NAPO to move the bill in the Senate.

NAPO is working in a coalition with other law enforcement labor organizations and will notify you as soon as we know more about a timetable for this important legislation.

TAX SIMPLIFICATION ACT

Representative Dan Rostenkowski (D-IL) included both Sections 415 and 457 in his tax legislation that was passed last year in his House Ways and Means Committee. The bill awaits final House consideration.

NAPO has a new position paper on H.R. 3419 for your use and encourages member

organizations to write to their delegation.

BRADY BILL IMPLEMENTATION

The Brady law becomes effective on February 28, 1994. If you have any questions related to the implementation of the Brady law, contact your local ATF office or write:

Mr. Terry Cates
Chief, Firearms and Explosives Division
Bureau of Alcohol, Tobacco and Firearms
650 Massachusetts Avenue, N.W.
Washington, DC 20226

REDUCING GUN VIOLENCE

Although the violent crime rate has actually dropped a bit in the past few years and national homicide rates have remained stable, murders by handguns have increased 52% since 1987. Clearly, handgun violence in America has reached epidemic proportions, especially with respect to young people. The firearm murder rate for persons under 19 has risen a whopping 94%! There is no one answer to reducing gun violence in this country, but education is definitely part of the equation.

Recently, NAPO met with CBS representatives to review a 45-minute program, "Kids Killing Kids," that will be broadcast nationwide on the evening of April 26. In the program, "four teenagers get a chance to undo the havoc wreaked by their use of firearms." CBS has asked all major television networks and cable stations to show the program at the same time and have organized a diverse anti-violence coalition composed of law enforcement, teachers and civic leaders to use the broadcast as an opportunity to reduce gun violence.

Local television affiliates will have 15 minutes of programming available for community use following the broadcast. Each community can use the time differently, but several minutes of this time could be conceivably reserved for police representatives to:

- present handgun safety tips or provide information on how to learn more about safe gun ownership.
- display gun-tip hotlines and encourage children and youth to call the police about weapons.
- encourage citizens to participate in a local gun amnesty program, gun buy-back or other community-sponsored program aimed at getting guns off the streets.

The program will not be copyrighted, enabling officers to tape the show and play it at schools to educate children about guns and safety. According to recent National Institute of Justice study, the most frequent reason youth cited for obtaining guns was to protect

themselves -- not to impress their peers or commit crime.

NAPO is also participating in a broad-based coalition of medical professionals, educators and law enforcement leaders organized by the American Bar Association (ABA) to sponsor a national conference on ways to effectively reduce gun violence. The conference is still in the planning stages and the date is to be announced for late spring/early summer.

If you you would like more information about either the CBS program or the National Conference on Gun Violence, please contact Beth McGee at the NAPO office.

NAPO LEGISLATIVE CONFERENCE

The annual NAPO Legislative Conference will be held in Washington, DC from May 21 - 24, 1994. NAPO is hoping for a strong showing this year and all member organizations are encouraged to join us in Washington for what promises to be a very informative conference. If you have an issue that you would like to see addressed at the Legislative Conference, please contact the NAPO office at (202) 842-4420 by May 13.

Robert T. Scully
Executive Director



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*Past President PORAC
Berkeley, CA*

February 7, 1994

Executive Director

ROBERT T. SCULLY

Legislative Counsel

JULES BERNSTEIN

LINDA LIPSETT

The Honorable Carl Levin
United States Senate
459 Russell Senate Office Building
Washington, DC 20510

Dear Senator Levin:

As the American people enter 1994, the scourge of crime and violence that has been afflicting our country continues to grow in severity. Gun violence, drug-related crime, domestic violence and child abuse, rape, robbery, gang-related crime and other forms of criminal behavior have been eating away at the moral and spiritual fabric of our society and wasting vast human and economic resources.

We, of the National Association of Police Organizations (NAPO), representing more than 150,000 law enforcement officers and over 2,500 police unions and organizations throughout the United States, have been working diligently round-the-clock to protect the American public from the rising tide of crime.

But, we cannot win this war on crime without a comprehensive crime bill that would address directly the overall problems of crime prevention and control. The law enforcement officers of this country need a crime bill and the Senate-passed measure includes many provisions that NAPO believes are vital to support the war against crime.

1. Funding for 100,000 additional police officers -- We know from experience that an increased police presence on the streets can deter crime significantly. There is broad consensus among the law enforcement community that a return to the days of having a "cop on the beat" is essential in our efforts towards taking back the streets. The addition of 100,000 more police officers was a campaign pledge of President Clinton and we intend to help him achieve his goal through legislation.

2. Funding for more prisons and boot camps -- The current state and local prison systems are overflowing and in serious need of repair. Nothing frustrates law enforcement officers and the public more than seeing dangerous criminals turned loose because of prison overcrowding. Arrests mean nothing unless we can back them up with the threat of doing jail time. But, criminals cannot be kept behind bars if there is no prison space. Criminals must know that if they commit a crime, they will serve the full sentence, one which they have earned.

Boot camps are a pragmatic approach to dealing with juvenile, non-violent offenders for whom training and guidance can serve to turn their lives around. Youths can receive education, discipline and drug treatment through these innovative programs. If law enforcement can deter young people from careers in crime, then American society will be the winner.

3. Combating youth violence -- Children, our most precious resource, have become both the victims and the perpetrators of the violence sweeping this country. One in twenty-five high school students carry a gun to school and over 30% of students responding to a survey said they have been physically threatened. We need to insure that our schools are crime and gun-free, and we must establish education and training programs for prevention of drug and alcohol abuse.

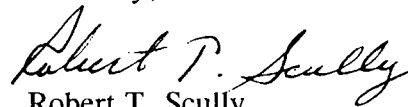
4. Assault weapons prohibition -- The easy availability of military-style assault weapons wreaks havoc daily on the streets of America. These dangerous weapons, with their rapid rate of fire, ease of handling in close quarters and military features, are simply not sporting weapons. As long as assault weapons are sold legally, the public and law enforcement will continue to be at great risk.

NAPO is committed to early passage of these and the many other anti-crime measures contained in the Senate crime bill, and we have mounted a national campaign to ensure their prompt enactment. We are working for an early Conference between the Senate and House of Representatives, and for the adoption by both Houses of a measure that more closely reflects the Senate-passed measure.

Early enactment of a crime bill, however, will not be enough. Passage of such a bill must be followed by other measures designed to address the mounting problems of crime and violence in our society. We must address issues such as limiting death row appeals and reexamining our laws relating to the sale, transfer, ownership and use of firearms. It is only when all these issues are dealt with, that we will be able to provide the American people with the "domestic tranquility" that our constitution was intended to guarantee.

I hope that I can count on your support to pass strong anti-crime legislation promptly in this second session of the 103rd Congress. I would be pleased to meet with you to discuss these or any other issues.

Sincerely,

A handwritten signature in dark ink, reading "Robert T. Scully". The signature is fluid and cursive, with the first name "Robert" and last name "Scully" clearly legible.

Robert T. Scully
Executive Director



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AGE DISCRIMINATION in EMPLOYMENT ACT (ADEA)

January 1, 1994

Executive Director
ROBERT T. SCULLY

Legislative Counsel
JULES BERNSTEIN
LINDA LIPSETT

President

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*President, Detective
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*Past President PORAC
Berkeley, CA*

History

Since its enactment in 1967, there has been confusion surrounding the applicability of the Age Discrimination in Employment Act (ADEA) to police and fire departments.

The result was a flood of litigation about the validity of age as a qualification for service as a police officer or firefighter.

In 1986, Congress sought to resolve this confusion by passing an exemption to the ADEA which allowed police and fire departments to continue use of mandatory retirement and maximum entry ages as long as those requirements were in place in 1983. The 1986 law also approved a seven year exemption, sanctioning mandatory retirement for about 1.2 million public safety officers.

The EEOC was directed to investigate the issue further with a study and commissioned the Center for Applied Behavioral Sciences at Pennsylvania State University to undertake the task of determining if public safety would be compromised by barring mandatory retirement based upon chronological age for public safety officers.

The Penn State study reviewed 2,000 studies on aging and personnel records of more than 460 police and fire agencies. In 1992, the study concluded that although age is a determinant of an individual's ability to perform the functions of a public safety officer, there is no exact age at which a person can be said to be unqualified. As a result, the study proposed outlawing retirement ages and advocated fitness tests to insure a qualified work force. But, the study was unable to identify fitness tests or uniform standards which could measure a public safety officer's ability to perform their tasks.

Current Status

On June 29, 1993, Representative Austin Murphy (D-PA) introduced legislation, strongly supported by NAPO, to make permanent the current exemption.

Representative Murphy's bill, H.R. 2554, was replaced by H.R. 2722, sponsored by himself and Representative Major Owens (D-NY). H.R. 2722 passed overwhelmingly by a voice vote in the U.S. House of Representatives on November 8, 1993.

Unfortunately, the Senate adjourned before a vote could occur.

On December 31, 1993, the seven-year exemption expired, thus leaving age-based employment wide open to challenges.

NAPO Position

NAPO is currently working in a large coalition with other public sector labor and management organizations to pass the ADEA exemption in the Senate as soon as possible. It is likely that hearings will be held in the Senate Subcommittee on Labor before Senate floor consideration. NAPO also supports an amendment to make the exemption retroactive to January 1, 1994.

NAPO's support for the ADEA exemption stems from the following two concerns:

- 1) The safety of law enforcement officers and the public we are sworn to protect will be jeopardized if the recommendations of the Penn State report are adopted. In an emergency situation, would you rather have a forty year-old or a seventy year-old police officer respond? Although there are numerous positions that senior citizens can hold well past the age of sixty-five, police and firefighting work are not among them.
- 2) Law enforcement is by its very nature a young person's job. Our retirement systems are funded based on years of service ranging from 20 - 30 years. Allowing the temporary exemption from the ADEA to expire will jeopardize the integrity of many retirements systems through increased claims for duty disability retirements. This would also give state legislators, county commissioners and city managers the incentive to increase the years of service and age requirements on the pension systems as we currently know them.

All member NAPO organizations are urged to contact both their Senators in strong support of this important public safety legislation. The Capitol Switchboard is (202) 224-3121. Please report back any information concerning your Senators' positions to the NAPO office in Washington at (202) 842-4420 so we can refine our strategies.



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IRC SECTION 415

Executive Director
ROBERT T. SCULLY

January 1, 1994

Legislative Counsel
JULES BERNSTEIN
LINDA LIPSETT

BACKGROUND:

Section 415 of the Internal Revenue Code (IRC) limits the annual pension contribution or benefit level a public or private employer may fund. It was added to the IRC in 1974 (effective in 1976), with passage of ERISA. Pension plans must comply with these limits in order to receive or maintain their tax-qualified status. Under the 1986 Tax Act the maximum annual benefit payable from a governmental defined benefit plan is the lesser of (1) 100 percent of the participant's average compensation for the highest three years or (2) \$90,000 (indexed to \$115,641 in 1993). These ceilings are actuarially reduced for retirement that takes place before age 62. Police and fire fighters with 15 years or more of service are not subject to actuarial reductions for early retirement.

State and local government retirement systems have been frustrated in their attempts to comply with Section 415 by definitional differences and plan design aspects distinctive to public plans.

CURRENT STATUS:

On May 6, 1993, Congressman Robert T. Matsui (D-CA) introduced the Public Pension Equity Restoration Act of 1993, H.R. 2023. This legislation was co-sponsored last year by a bipartisan group of almost half the Members of this House, including 27 Members of the Ways and Means Committee. The legislation enjoys broad support of Members from across the country.

The legislation is non-controversial. The provisions were adopted by the House twice in the 102nd Congress and were included in the final version of both tax measures (HR. 4210 and HR. 11) that Congress sent to the President. The provisions also have been included in the "Tax Simplification And Technical Corrections Act of 1993", (H.R. 3419) which was introduced by Ways And Means Chairman Rostenkowski on November 1, 1993. H.R. 3419 was approved by the Ways And Means Committee and currently awaits both House floor and Senate floor action.

In the past, Congress has tried to tinker with the application of the section 415 limits to governmental plans, most recently in the 1988 Tax Act which provided some protection in the form of a limited grandfather election for governmental plans. However, the underlying structural problems in the application of section 415 to governmental plans have persisted, crying out for a long-term solution to

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Berkeley, CA

resolve these underlying problems once and for all.

That permanent solution has now been developed and is reflected in The Public Pension Equity Restoration Act of 1993. This legislation will permit the necessary flexibility for continued future compliance by governmental plans without the potential for abuse. The legislation has four principal provisions.

First, the bill would achieve a greater degree of consistency between the statutory definition of compensation used to determine the section 415 limits and the compensation definition used by governmental plans to determine retirement benefits by including in the section 415 definition items of deferred compensation of governmental workers, such as section 403(b) and section 457 amounts.

Second, under current law pension benefits under a defined benefit plan cannot exceed 100 percent of the employee's average annual compensation over his or her highest 3 years. As applied to governmental plans, this limitation can reduce even relatively small pensions payable to employees with long periods of service. The bill would eliminate this problem by removing the limitation for governmental plans.

Third, governmental plans are somewhat unique in providing substantial disability and death benefits as part of the qualified retirement plan, rather than by separate employer-provided insurance arrangements as in the private sector. These private sector benefits are not subject to the section 415 limits. The legislation would eliminate this disparity by expressly removing the governmental plans' survivor and disability benefits from the section 415 limits.

Finally, the bill provides governmental plans with an "overflow" mechanism to pay benefits above the section 415 limits for the relatively small number of employees whose benefits happen to exceed the limits simply by operation of the regular benefit formula applicable to all employees under the governmental plan because, for example, of particularly long service. This overflow mechanism will enable governmental plans to pay the benefits guaranteed under the plan -- and in many cases strictly protected by state constitutions -- without running afoul of section 415. Participants in such an overflow arrangement would be subject to tax in the same manner as participants in the excess benefit arrangements that are widely used in the private sector.

NAPO POSITION:

The Public Pension Equity Restoration Act of 1993 represents a carefully-crafted, non-controversial, revenue-neutral, widely-supported solution to the unique and pressing problems faced by the pension plans of state and local governments across the country. The provisions of H.R. 2023 have been incorporated into H.R. 3419.

NAPO strongly urges each member of the House and the Senate to sign onto HR. 3419 and pass this much needed legislation that is so vital to public sector pension systems.



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IRS SECTION 457 (DEFERRED COMPENSATION)

Executive Director
ROBERT T. SCULLY

January 1, 1994
Legislative Counsel
JULES BERNSTEIN
LINDA LIPSETT

President
THOMAS J. SCOTTO
President, Detective
Endowment Association
of New York City
New York, NY

BACKGROUND:

Executive Vice President
TONY LOIZZO
Senior Vice President
Dade County PBA
Miami, FL

In the 102nd Congress, former Congressman Jim Moody (D-WI), introduced legislation that would have increased the amount of money a participant in a 457 Deferred Compensation program could contribute on an annual basis.

Recording Secretary
O. J. HOLT
President, Central
Coast Chapter, PORAC
San Jose, CA

CURRENT STATUS:

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County PBA
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Past President PORAC
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In this 103rd Congress, Congressman Dan Rostenkowski (D-IL), Chairman of the House Committee on Ways and Means, introduced HR. 3419, the Tax Simplification and Technical Correction Act of 1993. Congressman Rostenkowski incorporated in HR. 3419 language that would amend IRS Section 457 which governs deferred compensation programs for state and local government employees. The language called for indexing of the current \$7500.00 limits to be increased in accordance with the changes in the consumer price index in order to adjust the limitations for inflation. The provisions would also allow a participant to make a one time change in the distribution date following separation of service after the original distribution date has been selected. This would be permitted as long as the new date for distributions occurs at a later time than the original plan to initiate the closing or distribution of small diminimus accounts as long as those accounts have amounts less than \$3500 and have been inactive for a period of two years prior to the closing. Congressman Rostenkowski's proposals follow closely the provisions originally introduced by Congressman Jim Moody in the 102nd Congress. One change in HR. 3419 that differs from the Moody Proposal is the elimination of the Catch Up rule which would have allowed Section 457 plan limits to catch up with the limits of Section 401 K plans (currently \$8994. for 1993).

Congressman Moody's bill was incorporated as part of the tax bill in the 102nd Congress that passed both the House and the Senate and was eventually vetoed by President Bush.

NAPO POSITION:

NAPO actively endorsed Congressman Moody's bill in the 102nd Congress and is on record supporting the provisions of HR. 3419 that call for improvements in IRS Section 457 in this session. Help put public sector workers on a level playing field with private sector workers.

MEMORANDUM

TO: JANET RENO
FROM: GAIL HOFFMAN
DATE: MARCH 1, 1993
RE: BRIEFING FOR MONDAY MEETINGS WITH CRIMINAL JUSTICE GROUPS

Attached are three memoranda, which I hope will provide you with sufficient information prior to your meetings today with victims groups; Sarah Brady; the National District Attorneys Association (NDAA), and National Association of Attorneys General (NAAG). In addition, I will talk with Trudy Novicki to ensure that we are up on the Florida record.

I look forward to discussing with you in greater detail some of the issues I expect will surface during these meetings. In the meantime, please contact me if you have any questions or concerns. My direct line is 2313, or you may reach me through the receptionist in the Counsel's office at 7900.

cc: Maria Echaveste
Trudy Novicki



File
NAPO

You're invited to our

1994 ANNUAL NAPO LEGISLATIVE CONFERENCE

Sponsored by the National Association of Police Organizations

Washington, DC

May 21 - 24

Hyatt Regency on Capitol Hill
400 New Jersey Ave., N.W. Washington, DC

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- | | |
|------------------|---|
| Saturday, May 21 | ■ NAPO Elected Officers & Finance Committee Meetings begins at 1:00 |
| Sunday, May 22 | ■ NAPO Executive Board Meeting 10:00 A.M. - 5:00 P.M. |
| Monday, May 23 | ■ Conference Day - Legislative Briefing, information on law enforcement issues being considered on Capitol Hill in the 103rd Congress. Continental breakfast, lunch, dinner and materials provided. |
| Tuesday, May 24 | ■ Lobby Day, your chance to make a personal visit to your Representatives and Senators to let them know your views on law enforcement issues. |
-

NAPO sponsors this conference to help improve communication and understanding between Congress and rank-and-file police officers. This conference will help educate members of the law enforcement community on how law enforcement issues are being considered and decided by Congress and the Executive Branch. Police officers from across the nation can discuss the most significant national law enforcement issues with leading members of Congress and the Administration. From such dialogue there can emerge a better understanding of the issues, as well as, a renewed resolve on the part of all concerned to achieve meaningful solutions to some of our country's most pressing problems.

Be a part of this conference - Make plans to be in Washington, D.C. in May. To register for this year's conference, please complete the form below. If you have any questions please call (202)842-4420

- | | |
|-----------|--|
| TOPICS | ■ Law Enforcement Officers Bill Of Rights |
| TO BE | ■ Crime Legislation |
| | ■ Health Care |
| | ■ ADEA |
| DISCUSSED | ■ Pension & Deferred Compensation Issues |
| | ■ Impact of Omnibus Budget Reconciliation Act of 1993 on membership dues |

When our friends, the firefighters, hold their annual legislative conference in Washington, D.C., they have some 600 delegates in attendance from all over the country. Help NAPO put law enforcement on the same attendance level !

Yes!! _____ I PLAN TO ATTEND THE LEGISLATIVE CONFERENCE.
Enclosed is my \$150.00 registration fee.

Yes, _____ I have made my appointment(s) to see my Representative and Senators on May 24th.
(Please attach name and appointment times)

ORGANIZATION _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE # _____ FAX# _____

Name(s) and title(s) of those attending conference

NAME _____ TITLE _____

NAME _____ TITLE _____

NAME _____ TITLE _____

The conference hotel is the Hyatt Regency on Capitol Hill, (202)737-1234. If you reserve your room by April 20, 1994, you will receive a special room rate of \$125.00.

Return this form to:

NAPO Legislative Conference
750 First Street, N.E., Suite 935
Washington, D.C. 20002-4241.

*To attend the meeting of the Elected Officers, Executive Board or Finance Committee, you must be a member of the Board or Committee, respectively.

Clinton Wants to Broaden Federal Fight Against Crime, but Strategy Has Critics

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — Egged on by President Clinton, Congress is poised to make still more violent crimes federal offenses, despite the fact that similar moves in the recent past have already overwhelmed federal courts and prisons without making the streets any safer.

Mr. Clinton has already assured Delaware Democratic Sen. Joseph Biden, the Judiciary Committee chairman, that Janet Reno's first political assignment as attorney general will be to help lobby for a Biden-sponsored crime package that would, among other things, extend the federal death penalty to cover 50 felonies. Moreover, the package is expected to attract amendments that would broaden still further the federal government's jurisdiction, including one that would create federal punishments for nearly all offenses committed with guns.

For politicians of all stripes, the expansion of federal jurisdiction is shaping up to be a no-lose opportunity to show the home folks that they are tough on street crime. At the same time, though, the move is drawing opposition from many federal judges and prosecutors, who would have to make the system work.

Even Rehnquist Is Opposed

Chief Justice William Rehnquist, no bleeding heart, forcefully opposes federalization of criminal matters traditionally handled by state and local authorities. He says that making the vast array of firearm offenses a federal responsibility, a proposal pushed by Republican Sen. Al D'Amato of New York, would cost a lot of money and skew relations between federal and state governments "with little probability of impact on the crime problem."

Even Sen. Biden, the Democratic architect of expanded federal criminal authority, worries that Congress may be going too far. He admits to new anxiety over such past efforts as a law enacted in 1988 that set a mandatory prison term of five years for selling as little as five grams of cocaine. "I was sure where I stood [on such laws] four years ago," Mr. Biden says. "I'm not so sure where I stand now." But his concerns won't stop him from pushing more crime legislation this year.

The trend toward federalizing street crime is most obvious in the spate of new laws passed during the federal war on drugs of the late 1980s. But the trend has continued even as attention to the drug war has declined. Congress last year approved new federal penalties for carjacking and for vandalizing animal facilities such as biomedical labs; in her confirmation hearing this week, Ms. Reno promised support for a bill sponsored by Sen. Biden that would create new federal punishments for rape.

Supporters of federalization assert that besieged communities need help from Washington. "By and large, [drug trafficking] is a national problem; it crosses state lines," argues Republican Sen. Orrin Hatch of Utah. But skeptics such as U.S. District Judge Norma Shapiro of Philadelphia assert that by noisily announcing purported federal solutions to the crime problem, Congress distracts attention from the needs of states, which still deal with 95% of all criminal cases. The federal courts, relatively few in number, "cannot ever supplant the state courts," she says.

The impact of the drug war tends to buttress the skeptics' argument. Federal drug prosecutions have tripled over the past decade, to more than 13,000 a year, many of them involving multiple defendants. These cases have led to the quadrupling of the federal prison population since 1980, to 80,000, which is more than 40% over official capacity. The federal Bureau of Prisons expects that population

A Rising Role

Federal criminal enforcement activities have risen sharply in the past decade:

	1992	1982	PCT. CHG.
Criminal prosecutions	48,000	33,000	+45%
Prison population	80,000	31,000	+158%
Total law enforcement spending	\$15 bil.	\$5 bil.	+200%

Sources: Administrative Office of the U.S. Courts, Bureau of Prisons

to reach 133,000 by the year 2000.

While surveys show middle-class cocaine use has fallen from its peak in the mid-1980s, abuse by the urban poor continues to rise. Illegal narcotics are as widely available as they were in the early 1980s, according to Peter Reuter, a Rand Corp. drug policy expert. He points out that, when adjusted for inflation, the street price of cocaine is lower than ever, a strong indication that supply is plentiful. Meanwhile, violent crime continues to rise, according to the Federal Bureau of Investigation, with an ominous increase in murders committed by teenagers.

Congressmen and U.S. attorneys like to talk about going after "drug kingpins," but the more typical targets of federal enforcement have been small-time dealers. Nearly half of inmates in federal cells are either street-level dealers or other "minor participants," according to Mr. Reuter.

In a perverse twist, mandatory minimum sentences combined with the overall federal sentencing guidelines frequently result in nonviolent first-time offenders receiving tougher punishment than repeat offenders. That's because high-level bad guys have more information to offer prosecutors, and turning state's evidence is one of the few ways to escape rigid sentencing rules.

"You have an arbitrary and unreasonable situation quite often," says Judge Shapiro. "The ringleader cooperates [with prosecutors] and ends up with three years, while the small fry picked up later has nothing of value to tell and gets 10 years."

Unfair Application

The U.S. Sentencing Commission, created by Congress to iron out disparities in punishment, has complained that mandatory-minimum laws conflict with its mission by encouraging this type of unfairness. In a 1991 report, the commission also said that there are racial inequities: Federal prosecutors have tended to seek mandatory minimum sentences proportionally more often for Black and Hispanic defendants than for whites.

But there's no sign that any of these problems will slow the march toward federalizing more crime. Indeed, Sen. Biden has felt compelled to temper President Clinton's enthusiasm for earlier introduction of the crime package, which will also include gun-control provisions and federal aid for local police. An earlier version of the bill died in October, despite majority support in both houses, when Senate Republicans insisted on making its death-penalty appeal provision more stringent.

Determined to prove that he is as tough on crime as his Republican predecessors, Mr. Clinton has telephoned Sen. Biden six times to push for action on the package. The senator says that when he suggested that the president might have reservations about some aspects of the complicated omnibus bill, Mr. Clinton responded, "I'm for it, Joe, exactly as you wrote it."

FRIDAY, MARCH 12, 1993

THE WALL STREET JOURNAL

MEMORANDUM

TO: RAHM EMANUEL
FROM: GAIL HOFFMAN *YGH*
DATE: MARCH 4, 1993
RE: LAW ENFORCEMENT

cc: Steve Hilton

During the campaign, I served as Co-chair of the Crime and Drug Policy Task Force, and am presently on Janet Reno's Confirmation Team. In both capacities, I have been the Administration's point person with law enforcement groups.

Law enforcement is an important constituency for Democrats. In the past, Republicans claimed this constituency as their own, but largely due to rifts over gun issues, Democrats on Capitol Hill have made great progress in winning over police groups. And due to President Clinton's strong support for the Brady Bill and other tough crime measures, the police groups are favorably inclined toward this Administration. Virtually all of these groups are actively supporting Janet Reno's confirmation.

Our strongest law enforcement supporter is Bob Scully, Executive Director of NAPO (National Association of Police Organizations). NAPO was the largest of the three police groups to support us during the campaign. Bob Scully put his own position on the line by singlehandedly delivering NAPO's support to Bill Clinton. And when the Fraternal Order of Police (FOP) endorsed George Bush in Cincinnati, Bob abruptly left a conference he was chairing in Las Vegas to travel on a "red-eye" to Cincinnati to be the rapid response. Bob was also the law enforcement speaker at the campaign's big "crime hit" in Detroit.

It is important to recognize that the FOP was greatly rewarded for its support of George Bush in the 1988 campaign. Dewey Stokes, FOP's President, was regularly invited to the White House for lunches and dinners by top White House staff, and by the President himself. Bob Scully saw the way George Bush's White House treated Dewey Stokes and the FOP, and is expecting the same kind of treatment from the Clinton Administration.

Crime is a critical issue, and was mentioned prominently by President Clinton in his address to Congress. Republicans have introduced their own crime bill in Congress, and have vowed to make crime a major issue against Democrats. We will need support from police groups in countering Republicans on crime issues. It is imperative that immediate efforts be made to demonstrate our strong support for police.

I'd like to discuss with you how the Administration can best cultivate this important constituency. You may contact me in the White House Counsel's office at 7900 or 2313.

March 1, 1993

MEMORANUM FOR MARK GEARAN

FROM: Alexis Herman

RE: National Association of Police Organizations

You asked me to advise you on the above subject organization.

The Administration should be aware of them and the Office of Public Liaison should relate to them as we do with other organizations and groups. As we deal with issues on crime and justice, they may be very helpful. OPL would do outreach as the need arises.

Enclosure: File returned

AMH:RGM

bee to Amy

ROUTING SLIP

FEB 15 1993

FROM: Mark Gearan
Deputy Chief of Staff

DATE: 13 Feb. 93

TO:

Rahm Emanuel _____
Marcia Hale _____
Alexis Herman ✓ _____
Nancy Hernreich _____
Anthony Lake _____
Bruce Lindsey _____
Regina Montoya _____
Bernie Nussbaum _____
Howard Paster _____

John Podesta _____
Carol Rasco _____
Bob Rubin _____
Eli Segal _____
George Stephanopoulos _____
Christine Varney _____
David Watkins _____
Maggie Williams _____
OTHER _____

FOR YOUR:

Action _____

Information _____

See me

✓ Please advise me on your thoughts.

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Executive Director
ROBERT T. SCULLY

Legislative Counsel
JULES BERNSTEIN
LINDA LIPSETT

February 8, 1993

Mark Gearan
Deputy Chief of Staff
The White House
Washington, D.C. 20500

Dear Mr. Gearan:

I am writing to you in my capacity as Executive Director of the National Association of Police Organizations ("NAPO") which represents approximately 135,000 rank-and-file police officers throughout the United States. As I am certain you will recall NAPO was the largest police organization in the United States to endorse the Clinton-Gore ticket in the 1992 election. Indeed, in my previous capacity as NAPO President I appeared and met with then Governor Clinton at Pontiac, Michigan on August 20, 1992, and Romulas, Michigan on October 17, 1992.

The purpose of this letter is to ~~express NAPO's deep concern~~ over the fact that the White House has not yet established a permanent channel of communication between the Executive Branch and NAPO and other members of the law enforcement community and to urge that such a communications link be established promptly.

Indeed, NAPO representatives were assured during meetings with the transition staff that a critical need existed for such a liaison and that it would be established by the Administration.

As you may be aware NAPO and other law enforcement groups were invited by the Administration to meet with Attorney General-designate Zoe Baird prior to her confirmation hearing, and NAPO and other law enforcement groups endorsed her nomination and were prepared to testify in favor of her confirmation.

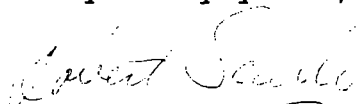
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If this is the case, I cannot emphasize to you too strongly how detrimental the absence of such liaison will be to the cause of effective crime prevention and control and law enforcement policy in general and to the relationship with NAPO in particular. In addition, the absence of such liaison would signal to law enforcement a serious sea-change in attitude from that which existed during the preceding twelve years.

I recognize that you are engaged in dealing with a number of pressing immediate issues. However, I believe that establishing a meaningful channel of communication with law enforcement to be a matter of serious immediate concern and I would therefore request an opportunity for me and NAPO's legislative counsel, Jules Bernstein, to discuss this matter with you in person. In addition, I am enclosing a letter that I have directed to President Clinton inviting him to meet with NAPO's Executive Board during its March meeting in Washington, D.C. If there is anything you are able to do to facilitate such a meeting I would be most appreciative.

Very truly yours,


Robert Scully
Executive Director

Enclosure

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The Honorable William J. Clinton
The White House
Washington, D.C. 20050

Recording Secretary
O. J. HOLT
*President, Central
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San Jose, CA*

Dear President Clinton:

Treasurer
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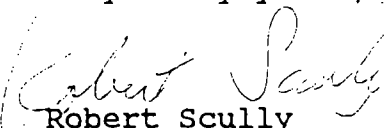
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Sergeant-at-Arms
MARTIN McKEAN
*Executive Secretary,
Ohio PBA
Berea, OH*

As you will recall you and I met twice during the campaign while I served as NAPO's President, once at Pontiac, Michigan on August 20, 1992 and Romulas, Michigan on October 17, 1992, and at that time you indicated your firm commitment to the cause of improved law enforcement and crime prevention and control in America. The NAPO Board, which represents over 135,000 rank-and-file law enforcement officers in America is deeply interested in meeting with you to express our support and provide you with our views on the pressing law enforcement issues of the day.

I do hope your schedule will permit us such an opportunity.

Very truly yours,


Robert Scully
Executive Director

cc: John Podesta

THE WHITE HOUSE
WASHINGTON

March 1, 1993

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FEB 15 1993

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OTHER _____

FOR YOUR:

Action _____

Information _____

See me

✓ Please advise me on your thoughts.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	Robert Scully to Mark Gearan re connection between NAPO and White House (partial) (1 page)	02/08/1993	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Deanne Benos (Subject File)
OA/Box Number: 21328

FOLDER TITLE:

Law Enforcement Information Binder #2, Steven Hilton [Binder] [3]

2012-0726-S
kc900

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
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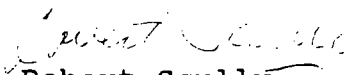
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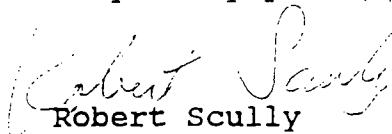
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cc: John Podesta

SCHEDULING REQUESTS FOR JANET RENO AND/OR PRESIDENT CLINTON

March 14-16, 1993

Request from National Association of Police Organizations (NAPO), for President Clinton to speak to NAPO Executive Board, in Washington, D.C.

March 29, 1993

Request from the National Association of Attorneys General (NAAG) for meeting with President Clinton in the morning, and then with Janet Reno in the afternoon at DOJ.

March

Request sent to President Clinton from Steve Harris, President of International Association of Chiefs of Police (IACP), for meeting in March to discuss establishing a National Commission on Crime and Violence.

April 7 or 8, 1993

Request from Police Foundation for Janet Reno to speak at National Conference on Police and Civil Disorder, in Washington, D.C. Judge William Webster is kicking-off event.

April 23, 1993

Request from National Organization for Victim Assistance (NOVA) for Janet Reno to speak at National Forum on Victims Rights, 2237 Rayburn House Office Building.

*Violate
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in
two*

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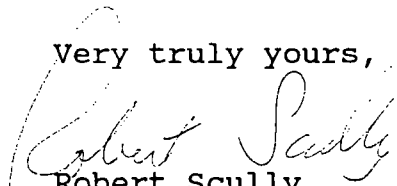
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Executive Director

cc: John Podesta

Legislative
Dinner &
Lunch 3/15

35 Bd members
50 total
6 people for
Columbo
Deputy Sheriffs
of Mich.

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March 1, 1993

Executive Director
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Endowment Association
of New York City
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President, Hillsborough
County PBA
Tampa, FL

Sergeant-at-Arms
MARTIN McKEAN
Executive Secretary,
Ohio PBA
Berea, OH

Senator Joseph R. Biden, Jr.
Chairman
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6275

Dear Senator Biden:

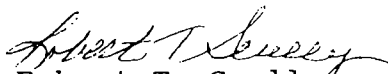
I am writing in my capacity as Executive Director of the National Association of Police Organizations ("NAPO") which represents approximately 135,000 law enforcement officers throughout the United States to advise that NAPO wholeheartedly and unreservedly endorses and supports the nomination of Janet Reno to be the Attorney General of the United States. Aside from the well known qualifications of Ms. Reno to occupy the position of Attorney General, I am pleased to state that notwithstanding her busy schedule Ms. Reno found time to meet with a delegation of representatives of major law enforcement organizations last Friday and spent a substantial amount of time discussing with them the many problems that the nation faces with regard to crime and law enforcement. All of the representatives present at the meeting with whom I spoke came away from the meeting with a sense that Ms. Reno shared our deep concerns about these issues and will be committed to vigorously and zealously addressing them in her capacity as Attorney General in the months and years ahead. In addition, they were extraordinarily impressed with Ms. Reno's wide-ranging and detailed knowledge of law enforcement and criminal justice issues.

Accordingly, NAPO looks forward to Ms. Reno's prompt confirmation by the Senate so that we can begin working with her toward the achievement of our common goal of providing improved and more effective law enforcement as well as reducing the scourge of crime that so seriously and detrimentally affects the quality of life in America.

I would appreciate your circulating copies of this letter to other members of the Judiciary Committee.

Should you have any questions, please feel free to contact me at (202)842-4420.

Sincerely,


Robert T. Scully
Executive Director

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC

N A P O

AGENDA FOR '93

**4th ANNUAL LEGISLATIVE CONFERENCE
&
EXECUTIVE BOARD MEETING**

JUNE 22-24, 1993

**HYATT REGENCY ON CAPITOL HILL
400 NEW JERSEY AVENUE, NW
WASHINGTON, DC 20002
(202)393-1234**

15th ANNUAL CONVENTION

AUGUST 20-25, 1993

**HYATT REGENCY SAN DIEGO
ON SAN DIEGO BAY
820 WEST F STREET
SAN DIEGO, CA 92101
(800)233-1234**

**5th ANNUAL LAW ENFORCEMENT
PENSION & BENEFITS SEMINAR**

NOVEMBER 3-7, 1993

**SHERATON EL CONQUISTADOR RESORT
10000 NORTH ORACLE ROAD
TUCSON, AZ 85737
((800)325-7832**



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Ohio PBA
Berea, OH*

Executive Director
ROBERT T. SCULLY

Legislative Counsel
JULES BERNSTEIN
LINDA LIPSETT

NAPO WASHINGTON REPORT

February 22, 1993

In November 1992, the American public sent a clear message that the legislative "gridlock" in Washington, DC would no longer be tolerated. They elected a new President and the largest number of new Members to Congress since 1948. NAPO's attention, along with that of the American public, will now be focused on whether the new Democratic Administration can work with a Democratic Congress to turn campaign promises into effective programs. There are 126 new Members Of Congress! That's right, nearly one fourth of the members of Congress are brand new and will play a key part in the success or failure of avoiding "gridlock" in the 103rd Congress.

FAMILY AND MEDICAL LEAVE LEGISLATION SIGNED INTO LAW

President Clinton on February 5th signed into law the Family and Medical Leave Legislation that will require employers, including state, local and federal governments to provide their workers with unpaid leave for illness and family matters. The law takes effect six months from the date of signing.

The law requires employers with 50 or more workers to provide up to 12 weeks of unpaid, job-protected leave a year to take care of a new born or newly adopted child, to take care of a sick child, spouse or parent: or when the employee can not work because of a serious health condition.

Employers will be required to provide health insurance coverage to employees during the leave periods, and the workers will be entitled to reinstatement to the same or equivalent positions when they return to work.

This legislation had the support of almost all employee organizations including NAPO, and was similar to the legislation that was passed in the 102nd Congress and vetoed by President Bush.

TAX SIMPLIFICATION ACT OF 1993

Congressman Dan Rostenkowski (D-IL), Chairman of the House Committee on Ways and Means, introduced H.R. 13, the Tax Simplification Act of 1993. NAPO is pleased to report that two proposals we supported in last year's tax bill, which was vetoed by President Bush, are included in the Pension Simplification title of H.R. 13. These proposals provide relief for qualified retirement plans by amending Section 415, and providing flexibility and administrative relief to state and local government deferred compensation plans by amending Section 457. The language on Section 415, follows closely the provisions which were included in the legislation originally introduced by Congressman Robert Matsui (D-CA) in the 102nd Congress which was ultimately co-sponsored by over 200 members of the House of Representatives. The provisions affecting Section 457 will eliminate most of the problems that the qualified plans in the public sector community have been experiencing under the limitation on benefits rules. It eliminates the 100 per cent compensation limit rule for public plans and provides that public plans may establish an excess plan to handle those benefits to which some public employees may be entitled because of long term employment or uniformed benefit formulas contained in their plan. The provisions also eliminate disability and joint survivor annuities from the Section 415 rules and re-defined uniform compensation to allow inclusion of amounts deferred under Section 457 rules to be counted as compensation.

The provisions to amend Section 457 which governed deferred compensation programs for state and local government employees would index the current \$7500 limit allowing those limits to be increased in accordance with the changes in the consumer price index in order to adjust limitations for inflation. The provisions would also allow a participant to make a one time change in the distribution date following separation of service after the original distribution date has been selected. This would be permitted as long as the new date for distribution occurs at a later time than original distribution date. The provisions would also allow a participant or plan to initiate the closing or distribution of small diminimus accounts as long as those accounts have amounts less than \$3500 and have been inactive for a period of two years prior to the closing. These proposals follow closely the provisions originally introduced by Congressman Jim Moody in the 102nd Congress. One change in H.R. 13 that differs from the Moody Proposal is the elimination of the **catch up rule** which would have allowed Section 457 plan limits to catch up with the limits of Section 401 K plans (currently \$8,994 for 1993).

SOURCE TAXES

Another one of NAPO's legislative priorities in the 102nd

Congress was the passage of legislation to eliminate "Source Taxes" on pensions of retirees. Thus far in the 103rd Congress three bills have been introduced to accomplish this, Congresswoman Unsoeld (D-WA) introduced H.R. 546, Congresswoman Vucanovich (R-NV) introduced H.R. 702 and Senator Reid (D-NV) introduced S. 235.

What is it? A source tax arises when a state tries to tax the pension income of those who once worked in that state but then chose to retire elsewhere. In other words, the state is attempting to "source" that income back to the state.

Who imposes it? According to the Congressional Research Service, at least five (5) states aggressively look to impose these taxes. As many as thirteen (13) states require companies to report annual payments to pension plans. And without federal legislation, any state may look to assess these taxes.

Who's affected? Demographers estimate that 12,360 people over age 60 moved from California to Washington in 1985-1990 alone. At the southern end of Unsoeld's 3rd District, which borders Oregon, 40,000 Clark County residents travel across the Columbia River to work each day and could be affected if nothing is done. Unsoeld also emphasized that this tax could be imposed on anyone -- during the years in which they are trying to live on fixed incomes.

What's so unfair about source taxes? The retirees who are asked to pay these taxes are no longer living in the state that attempts to impose income tax upon them. Thus they are asked to pay taxes to a state that provides them with no government services, and they have absolutely no recourse at the ballot box to determine how their tax money is used. Also, these people are being double taxed because they pay taxes to the state in which they currently reside. And in Washington and other non-income-tax states, there is no way for them to credit source taxes paid on a tax return.

Are there any laws on the books to stop this? Washington State passed a law in 1991 to prohibit source taxes, but that still does not stop other states from attempting to impose them. Only federal legislation would emphatically do so. Legal experts have determined that Congress has the authority to limit these source taxes -- and past efforts by Unsoeld and others have narrowly failed.

What does the Source Tax Bill do? Stipulates that "No State may impose an income tax ... on the qualified pension income of any individual who is not a resident or domiciliary of such State."

OTHER LEGISLATION

There are also numerous other pieces of legislation that have been introduced that have a direct impact on law enforcement that

NAPO will be taking action on. These include:

- 1) H.R. 127, a bill to amend the Internal Revenue Code of 1986 to restore and make permanent the exclusion for employer-educational assistance.
- 2) H.R. 199, a bill to establish a Commission On Retirement Income Policy
- 3) H.R. 302, a bill to provide that the flag of the United States should be displayed at half-staff on all government buildings on Peace Officers Memorial Day, and for other purposes.
- 4) H.R. 326, a bill to amend the Internal Revenue Code of 1986 to make exclusion for amounts received under group legal services plans permanent.
- 5) H.R. 358, a bill to create a national commission to support law enforcement.
- 6) H.R. 225, a bill to clarify certain tax law provisions concerning police officers and firefighters in Connecticut.

There are also numerous pieces of legislation that have been or will be introduced dealing directly with crime and law and order which will go into one bill which will make up the Omnibus Crime Control Act of 1993.

NAPO MEMBERSHIP RESPONSE TO CALL FOR HELP

In a recent conversation with Tony Loizzo, Senior Vice President of the Dade County PBA and NAPO Area Vice President, he informed me that their plea for help for the law enforcement officers victims of Hurricane Andrew was answered with an out pouring of love and support from NAPO member organizations throughout the country.

The Dade County PBA received over a quarter of a million dollars to support and assist officers and support personnel who lost their homes as a result of Hurricane Andrew, over \$150,000.00 of this money came from NAPO member organizations.

Vice President Loizzo was quoted as saying, "The out pouring of love and support from our fellow law enforcement brothers and sisters and their friends throughout the United States was overwhelming." The money they received is being used to assist officers who lost their homes in the storm in a variety of ways such as providing building materials and housing. The funds are also being used in many other ways to support those who have endured losses, such as providing counselling for small children and adults who are suffering from post traumatic stress due to the storm's fury.

UPCOMING NAPO EVENTS

1) NAPO Executive Board Meeting, Washington, DC, March 13-16, 1993.

The NAPO Executive Board members and Finance Committee members will meet in Washington, DC to discuss the operational policies of NAPO and to review and meet with members of Congress to discuss NAPO's legislative priorities.

2) 15th Annual NAPO Convention, San Diego, CA, August 20-25, 1993.

The 15th Annual NAPO Convention is slated to take place August 20-25, 1993 at the new Hyatt Regency San Diego, on San Diego Bay. Reservations can be made by calling (800)233-1234. I urge you to make your reservations with the hotel as soon as possible. The convention committee in San Diego has been working very hard to put together an outstanding event for all attendees!

3) 5th Annual NAPO Law Enforcement Pension & Benefits Seminar, Tuscon, AZ, November 3 - 6, 1993.

The 5th Annual NAPO Law Enforcement Pension and Benefits Seminar is scheduled for November 3-6, 1993 at the Sheraton El Conquistador Golf and Tennis Resort & Country Club in Tucson, Arizona. For reservations, please call (800)325-7832. I urge you to make your reservations early.

Bob Scully
Executive Director