



TO: Federal Law Enforcement Officers Employed by the U.S. Department of Defense
FROM: Lou Cannon, Chairman, Federal Officers' Committee
DATE: 4 March 2011
RE: H.R. 324 and Efforts on Implementing the LEOSA Improvements Act for DoD Officers

During the *Day on the Hill* event I had an opportunity to speak with National President Chuck Canterbury, Executive Director Jim Pasco, and staff in the National Legislative Office to get an update on the efforts to properly implement the Law Enforcement Officers' Safety Act (LEOSA) Improvements Act (S. 1132/PL 111-272) for civilian law enforcement officers employed by the U.S. Department of Defense (DoD) as well as their efforts in support of H.R. 324. The purpose of this memorandum is to pass this information along to our members employed by DoD.

Proper Implementation of S. 1132 (now PL 111-272)

In October of last year, National President Canterbury sent a letter to Robert M. Gates, Secretary of Defense, stating that the recently enacted law, the LEOSA Improvements Act, does impact civilian law enforcement officers employed by the Department. He also requested a meeting to address this and other issues related to statutory arrest authority, and the role of law enforcement within DoD.

National President Canterbury has not received a response from Secretary Gates. The National Legislative Office did receive a letter from Sharon H. Cooper, the Director of Human Resources Activity, within DoD, but it was unresponsive on every point. It is likely that National President Canterbury will write Secretary Gates again in an effort to get a response.

At the request of the National Legislative Office, Judiciary Committee staff working for Senator Patrick J. Leahy (D-VT), Chairman of the committee, initiated contact with the DoD to resolve the issue. His staff ultimately began a dialogue with John F. Awtrey, Director of the Office of Law Enforcement Policy and Support at DoD. The Judiciary staff explained how the law was crafted to ensure *specifically* that civilian law enforcement officers employed by the DoD were included in the definition of "qualified active and retired law enforcement officer." Director Awtrey reiterated the position of the Department that, without statutory arrest authority, its officers did not meet the definition. Despite disagreement on this point from a purely legal perspective, Director Awtrey acknowledged that if the words "or apprehension" were to be inserted after the word "arrest" throughout 18 USC 926B and 926C that the Department's civilian law enforcement officers would certainly meet the LEOSA definitions.

While Chairman Leahy's staff agrees with the FOP that the current law certainly does include civilian law enforcement officers employed by the Department of Defense, they are willing to recommend that "or apprehension" be added to the statute with an amendment. Chairman Leahy's staff and that of the National Legislative Office have already reached out to staff in the offices of Senators Carl M. Levin (D-MI), Chairman of the Committee on Armed Services, and Senator James H. Webb, Jr. (D-VA), a member of the Armed Services Committee and a former Secretary of the Navy. Senator Jefferson B. Sessions III (R-AL) is a senior member of both the Committee on the Judiciary and the Committee on Armed Services, and he has been briefed on this issue as well.

In the meantime, the Judiciary staff and DoD officials will continue their dialogue on this point and the National FOP will also continue its efforts to establish one.

It has been brought to the attention of the Federal Officers' Committee, the Federal Officers' Coalition, and the National Legislative Office that other organizations are also writing letters to the U.S. Attorney General and various officials within components of the DoD. None of these organizations were at all involved in the enactment of the original LEOSA, nor the most recent passage of S. 1132. They are unlikely to be of any real help in settling this issue simply because they haven't the experience with the law or the active support of Capitol Hill. It is the hope of the National Legislative Office that they don't make things worse.

Lobbying Efforts on H.R. 324

Prior to the start of the 112th Congress, the National Legislative Office initiated contact with the office of Representative J. Randy Forbes (R-VA). Representative Forbes is an FOP ally and was the sponsor of H.R. 3572, the companion bill to S. 1132. One of the chief differences between the two bills was that H.R. 3752 included "or apprehension" after arrest, so Rep. Forbes was very familiar with this issue. Further, he is a member of the new majority in the House and sits on *both* the Committee on the Judiciary and the Committee on Armed Services.

Staff in the National Legislative Office were also in touch with staff in the office of Representative Robert E. Filner (D-CA), a long-time advocate for Federal law enforcement, who introduced this bill in the previous Congress. In those conversations, they had asked Rep. Filner to hold off introducing the bill until we secured the support of Rep. Forbes and suggested, given the new majority and his favorable committee assignments, that Rep. Forbes take the lead on the bill with Rep. Filner taking the role of lead Democratic cosponsor.

It is assumed that there was some miscommunication between Rep. Filner and his staff, as he did introduce the bill without coordinating the introduction with the FOP. The National Legislative Office released a letter of support for the bill and a press release regarding its introduction, but these occurred as a result of their monitoring the floor, not communication with the office of Rep. Filner.

The National Legislative Office staff met again with Rep. Forbes, who is considering whether to

be the lead Republican sponsor on the existing bill (H.R. 324) or introduce a new, but identical, version of the bill. This latter strategy is likely to give it a greater chance of passage because the bill is sponsored by a member of the majority.

In the Senate, the National Legislative Office staff is engaged with Senator Webb, a former U.S. Secretary of the Navy in the Reagan Administration. It is the feeling of the National Legislative Office that having a former Navy Secretary as the lead sponsor of this bill will bring it real credibility. Senator Webb is also a member of the majority in the Senate and sits on the Committee for Armed Services. As reported above, Senator Sessions has been sympathetic to the FOP on this issue and he is being considered as the potential lead Republican on the bill.

I want to assure all of our DoD members that the National FOP is actively engaged on this issue. I have seen some comments (on non-FOP sites and emails) criticizing the fact that H.R. 324 is not a top legislative priority of the National FOP. It is not, but our members need to understand that the designation “top legislative priority” is given *exclusively* to pieces of legislation which have been the subject of an adopted resolution at a National Biennial Conference. There has been one exception to this—the designation of the “Law Enforcement Officers’ Equity Act,” which was designated as such by the National Board of Trustees last spring. This decision may have to be ratified at the upcoming National Biennial Conference this August.

Nonetheless, please be assured that this is a priority of the National Legislative Office, which is expending considerable time and effort on this bill. With our help, I am confident that we will ultimately succeed.

Please feel free to contact me directly or the National Legislative Office if you have questions about either of these issues. Please have care not to pass on through social networks or email unfounded rumors or statements which disparage the pace of current efforts. It took twelve years to pass the original LEOSA and five to pass the recent package of amendments. Government moves slowly and its pace does not reflect the level of commitment or activity the FOP is expending in support of its members.