



NATIONAL FRATERNAL ORDER OF POLICE®

328 MASSACHUSETTS AVE., N.E.
WASHINGTON, DC 20002
PHONE 202-547-8189 • FAX 202-547-8190

CHUCK CANTERBURY
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

21 October 2010

The Honorable Robert M. Gates
Secretary
U.S. Department of Defense
1400 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Gates,

I am writing on behalf of the members of the Fraternal Order of Police to seek your assistance in properly implementing the very recently enacted S. 1132/PL 111-272, the "Law Enforcement Officers' Safety Act Improvements Act." I understand that there are officials within the U.S. Department of Defense (DoD) who may not fully appreciate the intent of the statute as it applies to civilian law enforcement officers employed by the Department.

When we began work on this legislation, one of the many issues we sought to address was the assertion that Federal law enforcement officers employed by the DoD do not have statutory arrest powers. We disagree with this assertion, but are working on completely separate legislation to address that issue. However, as a result of the Department's position on that point, civilian law enforcement officers were not considered to meet the definitions of "qualified active and retired law enforcement officer" in 18 USC 926B and 926C. It was always the intent of Congress that these officers, those designated as GS-0083s, be covered, just as their counterparts in every other executive Department were covered.

To address this, the author of the legislation, Senator Patrick J. Leahy (D-VT), the Chairman of the Committee on the Judiciary, and the FOP crafted language in S. 1132, now Public Law 111-272, which specifically states that "a law enforcement or police officer of the executive branch of the Federal Government" meets the definition of "qualified active law enforcement officer" in 18 USC 926B and "qualified retired law enforcement officer" in 18 USC 926C. The full text of the law as recently amended now reads:

*(f) For the purposes of this section, a law enforcement officer of the Amtrak Police Department, a law enforcement officer of the Federal Reserve, or a law enforcement or police officer of the executive branch of the Federal Government **qualifies** as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for any violation of law and has statutory powers of arrest.*

—BUILDING ON A PROUD TRADITION—

This language was specifically crafted to ensure that law enforcement officers employed by the Amtrak and Federal Reserve Police Departments who did not previously meet the definitions in LEOSA because they were not, strictly speaking, “employees of a governmental agency,” would now be covered by making them, by definition, “qualified active law enforcement officers.” The same approach was made with law enforcement officers employed by the executive branch of the Federal government—which includes those employed by DoD. The dispute over whether or not these officers have statutory arrest authority is rendered moot by 18 USC 926B(f)—these officers are *defined as* “qualified active law enforcement officers.”

This language does not, nor was it intended to grant or imply that civilian law enforcement officers employed by the DoD have statutory arrest powers. That is a separate issue that must be addressed by different legislation. This language merely states that *for the purposes* of the Law Enforcement Officer Safety Act (LEOSA) that the officers designated in paragraph (f) *qualify* as “employee[s] of a governmental agency who [are] authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of and person for, any violation of law, and [have] statutory powers of arrest.”

Identical changes were made to 926C(f), which deals with retired officers.

Further, the report issued by the Judiciary Committee (111-232) could not be clearer with respect to Congressional intent. Section III of the report reads:

Section 2(a)(2) makes explicit that active law enforcement officers employed by the Amtrak Police Department, the Federal Reserve, or who serve as law enforcement officers of the executive branch of the Federal Government' are eligible for the law's benefits.

Finally, the President acknowledged this in his statement which accompanied the announcement that he had signed the bill into law:

[S. 1132] ...specifies that current and former law enforcement and police officers of the executive branch of the Federal Government and current and former law enforcement officers of the Amtrak Police Department and the Federal Reserve may generally be exempted from State laws prohibiting the carrying of concealed weapons.

Secretary Gates, our members that work for the U.S. Department of Defense are justifiably angry by the DoD’s apparent opinion that they are not “real” police officers. The Department’s policy that these officers do not have the same authority as every other GS-0083 employed by the Federal government is not good for their morale, which as you know, is very important to men and women who are asked to put themselves in harm’s way on a daily basis. Insult was added to this injury by the Department’s interpretation that the amendment passed by Congress to specifically include these officers as “qualified” for the purposes of LEOSA did not do so. Clearly, it does.

We would very much like to resolve this issue, and I would like the opportunity to discuss generally the concerns of the thousands of law enforcement officers that are employed by the Department.

On behalf of the more than 328,000 members of the Fraternal Order of Police, I earnestly seek your assistance with this issue and I look forward to hearing from you about scheduling a time to meet. If you need any additional information about this issue, please do not hesitate to contact me or Executive Director Jim Pasco.

Sincerely,

A handwritten signature in black ink that reads "Chuck Canterbury". The signature is written in a cursive, flowing style with a large, prominent "y" at the end.

Chuck Canterbury
National President

cc: The Honorable Patrick J. Leahy, Chairman, Committee on the Judiciary, United States Senate
The Honorable Jefferson B. Sessions III, Ranking Member, Committee on the Judiciary, United States Senate
The Honorable Steny H. Hoyer, Majority Leader, U.S. House of Representatives
The Honorable J. Randy Forbes, Member, U.S. House of Representatives