



NATIONAL FRATERNAL ORDER OF POLICE®

328 MASSACHUSETTS AVE., N.E.
WASHINGTON, DC 20002
PHONE 202-547-8189 • FAX 615-202-547-8190

CHUCK CANTERBURY
NATIONAL PRESIDENT

10 October 2013

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

The Honorable Carl M. Levin
Chairman
Committee on Armed Services
United States Senate
Washington, D.C. 20510

The Honorable Howard P. "Buck" McKeon
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable James M. Inhofe
Ranking Member
Committee on Armed Services
United States Senate
Washington, D.C. 20510

The Honorable D. Adam Smith
Ranking Member
Committee on Armed Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairmen, Senator Inhofe and Representative Smith,

I am writing on behalf of the members of the Fraternal Order of Police to advise you of our strong support for Title 10, Section 1031 of H.R. 1960/S. 1034, the "National Defense Authorization Act for Fiscal Year 2012," as introduced.

The language in this provision, which would clarify the authorities of civilian law enforcement officers employed by the U.S. Department of Defense (DoD), is a top legislative priority for the Fraternal Order of Police and a change sought by the DoD. The FOP is disappointed that the language was not included in the bill which passed the House or the new Senate draft, S. 1197. This same provision has passed the Senate on several occasions and we urge you to seek its inclusion when the Senate takes up the legislation later this year.

The proposed language would grant the U.S. Secretary of Defense the same general powers and authorities that were provided to the U.S. Secretary of Homeland Security in 2002. If adopted, the Secretary of Defense will be able to establish regulations that are enforceable by criminal penalties for unlawful actions taken on property under the jurisdiction, custody, or control of the DoD. Because this has become such a genuine security and public safety issue, some DoD law enforcement agencies, like the Defense Intelligence Agency Police, sought deputization from the U.S. Marshals Service to empower them to exercise law enforcement powers.

The lack of this authority is keenly felt by civilian law enforcement officers employed by the DoD. It is negatively impacting officer morale and, more importantly, public safety. For instance, many of the civilian law enforcement officers have to deal with a growing population of non-DoD-affiliated civilians living in privatized housing on DoD installations. Without the statutory arrest authority or the ability to create regulations with criminal penalties, law enforcement officers responding to a call for service cannot make an arrest. They can call local law enforcement, which may or may not respond, because many DoD installations are located in remote areas. In such cases, their authority extends only to evicting the individual from the installation—leaving the criminal act unaddressed and the public at continued risk.

The arbitrary nature of the authorities that can be exercised by these officers varies not just amongst the branches of the Armed Services but from installation to installation. Officers at one installation may be performing the full range of law enforcement duties while others may be disarmed and assigned to traffic duties or a security booth.

There is no argument that many law enforcement officers employed by DoD are doing law enforcement work. They can and do take suspected offenders into custody, book them, investigate the suspected offenses, and participate in the prosecutions of offenders. For example, it was Federal law enforcement officers with the Department of the Army Civilian Police (DACP) that ultimately stopped U.S. Army Major Nidal M. Hasan, who killed 13 people at Fort Hood in a November 2009 shooting spree. The responding DACP officers returned fire and brought the massacre to an end. The officer who handcuffed Major Hasan does not, according to the DoD, have the authority to make an arrest.

Similarly, civilian law enforcement officers with the Naval District of Washington (NDW) Police were armed and able to respond to the shootings at the Navy Yard in Washington, D.C. Yet, if the same shooter engaged civilian or military targets outside the "blue line" of the installation, the standing orders for these fully trained and sworn officers are very clear: do not act, call and report the incident to the Washington, D.C. Metropolitan Police Department.

This is absurd. Civilian law enforcement officers employed by the DoD are fully trained and sworn and they should have the authorities that go with that training and not be forced to call officers from another agency. Nor should they have to shop around to non-DoD entities to secure the authority they need to make these installations safe for civilian and military populations.

To address this issue, the FOP has been working with Congress to develop legislation to amend Federal law to grant all Federal law enforcement officers of the GS-0083 Series (or any such successor to that series) with clear, unambiguous and statutory authority to make arrests in the course of performing their law enforcement duties. Law enforcement officers should have law enforcement powers and authorities commensurate with their office and training. We believe that Section 1031, as it appeared in the introduced versions of H.R. 1960 and S. 1034, achieves this objective by giving the U.S. Secretary of Defense the authority to designate civilian law enforcement officers as having the full range of law enforcement powers. The provision will improve officer morale, officer safety, and the security of the installations these brave men and women are sworn to protect.

On behalf of the more than 330,000 members of the Fraternal Order of Police, I urge that Section 1031 be restored when the bill is considered on the Senate floor. Thank you for your consideration of our views on this important issue. If I can be of any further assistance in moving this legislation forward, please feel free to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,


Chuck Canterbury
National President

cc: The Honorable Patrick J. Leahy, Chairman, Committee on the Judiciary, United States Senate
The Honorable Charles E. Grassley, Ranking Member, Committee on the Judiciary, United States Senate
The Honorable Robert W. Goodlatte, Chairman, Committee on the Judiciary, U.S. House of Representatives
The Honorable John Conyers, Jr., Ranking Member, Committee on the Judiciary, U.S. House of Representatives
The Honorable John F. Awtrey, Jr., Director, Law Enforcement Policy and Support, U.S. Department of Defense