



CONGRESSIONAL TESTIMONY

STATEMENT FOR THE RECORD

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

PROVIDED TO THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

HEARING ON

"MODERNIZING THE VA POLICE FORCE: ENSURING ACCOUNTABILITY"

JULY 13, 2021

Chairman Pappas, Ranking Member Mann, and Members of the Subcommittee:

The American Federation of Government Employees, AFL-CIO (AFGE) and its National Veterans Affairs Council (NVAC) appreciate the opportunity to submit a statement for the record on today's hearing titled "Modernizing the VA Police Force: Ensuring Accountability." AFGE represents more than 700,000 federal and District of Columbia government employees, 260,000 of whom are proud, dedicated Department of Veterans Affairs (VA) employees. This includes over 3,000 VA Police Officers, 90 percent of whom are veterans themselves, serving in facilities throughout the nation. As the Subcommittee continues to evaluate the best ways to modernize the VA Police Force, AFGE has several recommendations that can help the VA with recruitment and retention, and help it better serve veterans.

VA Law Enforcement Officer Retirement Equity

The single most important and most effective action that Congress can take to help with the recruitment and retention to the VA Police Force is to extend Law Enforcement Officer (LEO) status to VA Police Officers. Under 5 U.S.C 8336(c), any LEO who either serves 25 years or is age 50 or older and serves 20 years may retire without penalty for early retirement. Currently, the definition of LEO relied upon in the code (5 U.S.C. 8401(17)) does not include VA Police Officers, and in turn they do not receive retirement benefits on par with federal law enforcement officers at other federal agencies. AFGE strongly supports H.R. 962, the "Law Enforcement Officer (LEO) Equity Act," introduced by Representatives Bill Pascrell, Jr. (D-NJ), Andrew Garbarino (R-NY), Gerry Connolly (D-VA), and Brian Fitzpatrick (R-PA), which would grant LEO or what are sometimes referred to as 6(c) benefits to VA Police Officers. The bill also recognizes police at other agencies who are not currently recognized as LEOs under the law,

including those at the Department of Defense (DoD), Federal Emergency Management Agency (FEMA), and the Federal Protective Service (FPS). This bi-partisan bill currently has 57 co-sponsors, including Chairman Mark Takano (D-CA), Ranking Member Mike Bost (R-IL), Chairman Chris Pappas (D-NH), Representative Conor Lamb (D-PA), Representative Elaine Luria (D-VA) and five other members of the House Veterans' Affairs Committee.

Providing full LEO status under the law to VA Police Officers would significantly help the VA Police Force with recruitment and retention. Currently, the VA hires many new recruits, sends them to the Law Enforcement Training Center (LETC) for training similar to other federal LEOs, and then sees these officers depart the force for other opportunities within the federal government that have 6(c) benefits, or to other state and local police departments.

If VA Police Officers were granted full LEO status the VA would benefit by spending far less on recruitment and training costs and would be in a better position in terms of retention as well. A key example of this is the suicide prevention training that was passed in the 116th Congress as part of Chairman Takano's VA COMPACT Act and was enacted as part of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020. Because of this law, VA Police Officers who serve at VA Medial Centers, Community Based Outpatient Clinics, or Veteran Benefits Administration (VBA) Regional Offices (RO) are now trained to prevent a veteran in a crisis situation from harming himself or herself or others.

This training is an extremely important and specialized investment that is intended to save lives. The high attrition rates of VA Police Officers who undergo this training puts an added strain on VA resources. Granting full LEO status to VA Police Officers will diminish this turnover, and help the VA maintain a stronger and better trained police department with higher morale. While the "Law Enforcement Officer (LEO) Equity Act," is not in the jurisdiction of the

House Veterans' Affairs Committee, AFGE urges that members of this Subcommittee, and consequently the full committee, to join their colleagues to become co-sponsors of H.R. 962 and urge its passage in the House. Additionally, while not a permanent solution, AFGE urges Secretary of Veterans Affairs Denis McDonough (Secretary) to use his administrative powers to grant 6(c) benefits to the VA Police Officers until these benefits can be codified.

Staffing

Improving staffing is critical to the success of the VA Police Force and its role in protecting veterans and employees. AFGE would like to highlight several aspects of staffing changes that are being considered by Congress or implemented by the Secretary.

AFGE restates its support for portions of H.R. 2429, the "VA Police Improvement and Accountability Act" introduced by Congresswoman Kathleen Rice (D-NY) and Congresswoman Aumua Amata Coleman Radewagen (R-AS), that recently was approved the House of Representatives. AFGE supports the intent of Section 2(d) of the bill which calls for a "Plan on Police Staffing." AFGE strongly supports the filling of vacancies within the Department and making sure that VA Police Officers receive compensation and benefits at a minimum equal to those in the surrounding areas to where they serve.

AFGE also endorses Section 2(e) of the bill, which requires the VA to submit a report to Congress on the "Staffing needs of the Department police force." This report will help identify staffing needs of the VA Police Force and ways to recruit and retain officers. AFGE is particularly supportive of the inclusion of Section 2(e)(B) which calls on the VA to examine "how the compensation for Department police officers affects such turnover" as well as Section 2(e)(C) which requires the VA to make "a comparison of such compensation with the

compensation provided to specialty police units, such as police units at medical facilities and other police units in the same locality pay area.” When developing its report, AFGE requests the VA to work with AFGE as the representative of the VA workforce to ensure comprehensive worker input and feedback is included in this report.

As for the VA’s administrative actions, AFGE is supportive of certain parts of the VA’s Modernization Plan summarized in the “FY 2020-FY 2021 VA Human Capital Operating Plan (HCOP).”¹ Specifically, under “Strategy 5” AFGE supports the focus on the “efforts related to enhanced recruitment, hiring and development of VA’s police force.”² This includes the VA’s plan to “create and communicate new staffing standards for police performance” and that “[a]dditional training and resources will complement the effort. The new standards will provide key inputs into the creation of career roadmaps for the police cadre.”³ AFGE also believes that the VA’s “standardized position descriptions will support efficient and effective recruitment and hiring efforts while a workforce assessment will be completed to evaluate and improve pay, entitlements, and retirement benefits for police officers.”⁴ AFGE urges the VA to implement the training and staffing portions of this plan as quickly as possible and ensure that vacancies are filled so the VA Police Force has the staff that it needs to serve.

On the ground, AFGE has seen some of this plan in action, particularly with the creation of the new GS-7 Senior Police Officer position, which is a clear promotional opportunity from the standard GS-6 VA Police Officer. However, not all changes to position descriptions have been positive. AFGE is concerned that the VA Detective position, which has been converted to a Criminal Investigator position, is no longer in AFGE’s bargaining unit in certain locations.

¹ FY 2020-FY 2021 VA Human Capital Operating Plan (HCOP) (June 2020)

² *Id.* at 20.

³ *Id.* at 22.

⁴ *Id.*

AFGE believes this is an unnecessary removal of union rights from VA Police Officer units, and that these positions should be universally returned to the bargaining unit immediately.

Additionally, AFGE would like to note that these new Criminal Investigator positions were given 6(c) benefits administratively. While AFGE supports granting 6(c) benefits to all federal LEOs, it is surprising that this group of officers would be extended the benefit while officers working on the front lines protecting veterans and staff at VA facilities are not. Additionally, AFGE is concerned about the wide discretion local facility management has in determining what position descriptions and organizational charts to use for staffing the facilities' police departments. While AFGE supports permitting facilities to hire additional staff if they demonstrate the need, AFGE has heard reports that leadership in certain facilities are intentionally characterizing their facilities in ways that justify having a smaller police force than what is required, and urges the Secretary and this Subcommittee to ensure that staffing models are accurate and enforced consistently across the VA.

AFGE is also concerned about the VA's inconsistent use of VA Police to protect the 56 domestic VBA Regional Offices (RO). If an RO is on the campus of a VA Medical Center, VA Police protect it. However, if a facility is a standalone facility, it is under the VA's jurisdiction. Unfortunately, the VA often utilizes private contractors to protect these buildings. As it is not at all hard to imagine an incident where a veteran in distress blames the VA for a claims decision and then acts to harm himself or herself or others at an RO, it is imperative that VA Police Officers who are trained to address these tragic situations also protect the veterans, staff, and Veteran Service Organization workers at these facilities.

Lastly, AFGE would like to thank President Biden and Secretary McDonough for including as part of their budget plan a proposal to "Modify [the] Special Rate Limitation" to

help with the recruitment and retention of VA Police Officers. The President’s budget calls for the need to “Modify 38 U.S.C. § 7455 to eliminate the maximum allowable special rate limitation (percentage supplement) for all eligible title 38 professionals, hybrids, healthcare occupations, and VA Police Officers.”⁵ This will improve pay for certain VA Police Officers, a proposal AFGE supports.

AFGE looks forward to working with the Subcommittee and the VA to improve the recruitment and retention of the VA Police Force and ensure that it is fully staffed. Thank you.

⁵ “FY 2022 Budget Submission: Supplemental Information and Appendices Volume 1 of 4 (May 2021) at 42.