



FRATERNAL ORDER OF POLICE

Testimony of
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on S. 1016, the “Public Safety Employer-Employee Cooperation Act”
before the Senate Committee on Health, Education, Labor and Pensions

Good morning, Mr. Chairman and distinguished members of the Senate Committee on Health, Education, Labor and Pensions. My name is Gilbert G. Gallegos, National President of the Grand Lodge, Fraternal Order of Police. The FOP is the nation's largest law enforcement labor organization, representing more than 290,000 rank-and-file law enforcement officers in every region of the country.

The legislation which is the subject of the hearing today, S. 1016, the "Public Safety Employer-Employee Cooperation Act," is the top legislative priority of the Fraternal Order of Police. Senator DeWine, who is known as a strong leader and supporter of law enforcement, recognizes that "pro-police" legislation is not always about criminal justice. The Senate has considered numerous bills in this session, but none have been more important to better policing and improved officer safety than this legislation.

The Republican Contract with America has, as its first principle, "requir[ing] all laws that apply to the rest of the country also apply equally to the Congress."¹ To achieve that goal, the 104th Congress adopted the Congressional Accountability Act, which granted Congressional employees the right to organize. This Act, which many of you here supported, recognized the right of the U.S. Capitol Police, which the FOP is proud to represent, to bargain collectively.

For the first time, Capitol police officers had a voice in matters related to their livelihood. Within one year, a contract was negotiated in a timely fashion without any disruption of law enforcement activities. As a result of the contract, the U.S. Capitol Police is a more effective and more professional police agency.

Regrettably, not all law enforcement officers have the bargaining rights that the U.S. Capitol Police so recently secured. With the adoption of the "Congressional Accountability Act," Public safety employees are virtually the only workers in America who are denied this basic right. The "Public Safety Employer-Employee Cooperation Act," is a much more modest proposal than the "Congressional Accountability Act," but it is no less important and no less deserving of passage.

The bill would recognize the right of public safety employees—law enforcement officers and fire fighters—to bargain collectively, without undermining existing State collective bargaining laws. As law enforcement officers, we take our oath and commitment to protect and serve very seriously. Public safety occupations are unique, and their labor relations need to reflect that by using other mechanisms to resolve impasses. In fact, this bill prohibits work stoppages, slowdowns or strikes because of the need to provide continued services to the public.

The "Public Safety Employer-Employee Cooperation Act" takes into account this unique situation by creating a special collective bargaining mechanism outside the scope of Federal labor law. Instead of relying on strikes, lockouts and the intervention of the National Labor Relations Board to resolve labor-management disputes, the legislation enumerates the minimal rights that comprise the right to bargain collectively: the right to

¹ Newt Gingrich et al., *Contract with America* (New York: Random House, 1994), 8.

form and join and union, the right to sign legally enforceable contracts and other basic provisions of collective bargaining laws. In this way, the Federal government does not impose a Federal law on the States. Instead, we aim to have 50 State laws that are administered by State agencies and enforced by State courts. Ideally, S. 1016 will require no more Federal involvement in State labor relations than currently exists.

The legislation employs the expertise of the Federal Labor Relations Authority (FLRA), which will review State collective bargaining laws and determine if they substantially comply with the minimal rights outlined in this bill. Any State whose laws meet the minimal standards of S. 1016 are automatically exempt from any Federal oversight whatsoever—there will be no change in their current practices and procedures. For example, Senator DeWine's home State of Ohio has a much stronger collective bargaining law and would not be affected by the law. Your home State of Vermont, Mr. Chairman, has collective bargaining with fact-finding and non-binding arbitration, very similar to S. 1016.

States which do not meet the minimal standards of this legislation would have a year to enact their own legislation recognizing the rights outlined in S. 1016. In the absence of State action, the FLRA will issue regulations that will function as labor law in these States, and the agency would serve as the labor board for public safety employers and employees. The FLRA immediately loses jurisdiction when the State adopts a bargaining law. The FOP is confident that the majority of States will chose to enact their own bargaining laws once Congress adopts S. 1016.

I think it is important to underscore the unique nature of public safety work. Ours is not the traditional labor-management relationship. In our line of work, the aim of both the rank-and-file officer and the chief law enforcement officer is to decrease crime and make communities safer. This is our bottom line—not profits versus wages, but the safety of the public and of the officer. Studies have consistently shown that cooperation between public safety employers and employees enhances overall public safety, as well as the safety of officers. We know cooperation between police and the community reduces crime—why should cooperation between police management and the rank-and-file be any different?

Imagine for a moment how difficult it would be for Congress to conduct business if there was no way for the leadership and the party members to caucus and plan the party's agenda. Or if there was no dialogue between the majority and the minority members. If this were the case, bipartisan agreement would be even less possible—there would be no way for Congress to work in a bipartisan manner and the nation would suffer as a result.

This is not dissimilar to the relationship between management and the rank-and-file. While we may not always agree, the goals are the same to have safer communities. Collective bargaining is a critical tool to resolve differences, not create them. The success of the law enforcement mission depends on an open dialogue that is absent in far too many of our departments today.

This legislation affords the opportunity for public safety employees to form and join a union, giving the rank-and-file officer a voice in the workplace. It will provide management with needed feedback. We know that crime-fighting is successful and effective if conducted by a team working together with an open dialogue and a process which addresses disputes and differences of opinion.

Let me draw another example from the experience of the newly organized U.S. Capitol Police. The contract established the Joint Labor-Management Relations Committee to review police practices and procedures, another to review equipment issues and officers' safety. An examination of the issues reviewed by the joint committee demonstrates that the overwhelming majority of them relate directly to job performance. Since the bargaining agreement has been in place, the U.S. Capitol Police have increased the acquisition and distribution of soft body armor and upgraded their sidearms to .40 caliber. The views of the rank-and-file officers, brought to the Joint Committee by the FOP union, have resulted in more efficient manning of fixed posts throughout the U.S. Capitol complex, making it a safer place to work and visit.

The public safety service is delivered by rank-and-file officers; therefore, it is their observations and experience which will best refine the delivery of the service. To exclude them from having any input relating to their job—particularly when their lives are on the line—is not only unfair to the officers, but also to the public they are sworn to protect.

S. 1016, by guaranteeing the right to bargain collectively, will enable other law enforcement agencies to improve their own public safety performance and professionalism—just as the U.S. Capitol Police have done.

Law enforcement personnel, like many Americans, are concerned about the Federal government usurping powers of the State and local governments. The “pattern and practice” actions by the Department of Justice are vivid reminders that the government which governs best is closest to the people.

That said, we do believe that this bill is consistent with the principles of Federalism. Unlike past initiatives involving public sector collective bargaining, the “Public Safety Employer-Employee Cooperation Act” does not seek to impose a Federal law on States or involve the Federal bureaucracy in State affairs. It merely establishes a framework for collective bargaining. The bill is a modest, but crucial, effort.

In fact, this legislation ultimately requires only one thing: a recognition that public safety officers have a right to sit down and talk about their livelihoods with their employer. If adopted, S. 1016 would require that States guarantee the right of police officers and other public safety employees to form and join a union; bargain collectively over hours, wages and conditions of employment; sign a legally binding contract and utilize fact-finding in the event of an impasse.

This legislation does not require binding arbitration. We view this as a significant concession on the part of the rank-and-file. I can assure you, the FOP strongly supports

binding arbitration at the State and local level. Without binding arbitration, the employer holds all the cards and cannot be forced to agree to any demand—no matter how reasonable. If good faith negotiations result in an impasse, the bargaining unit may request to utilize the services of an arbitrator, but the employer may reject this offer and implement whatever contract it chooses. Without binding arbitration, contracts will only include those items which management has expressly agreed to.

I do not expect that impasses will be common, but rare. It has been my experience that labor and management can resolve their issues if they have a means to discuss them. At the end of the day, the goals of the employer and the employee are the same: improving the safety of the public and of the officer. For that reason, we strongly believe strongly that the States will comply with the minimal standards in this bill, negating any need for an enforcement mechanism.

The goal of this legislation is to have fifty (50) State laws administered by State agencies and enforced by State courts. Ideally, it will require no more Federal involvement than currently exists.

S. 1016 does not saddle States or local jurisdictions with unfunded mandates. Since the mechanisms for collective bargaining are already in place in many States, the expense of complying with the new law would be minimal. Only two States, North Carolina and Virginia, have statutes prohibiting public sector collective bargaining, will be significantly impacted by the legislation.

And I think it is worth noting here that Congressman Tom Davis of Virginia, the Chairman of the National Republican Congressional Committee, who served as the chief executive officer for Fairfax County, Virginia, is a strong supporter of the House companion bill, H.R. 1093. He believes collective bargaining for public safety officers would improve the ability of local governments to protect the public. Former Governor of Virginia and now Senator Charles Robb also supports S. 1016 very strongly. The sponsor of the bill, Senator DeWine, is a former Lieutenant Governor, as was Senator John Kerry, who is a cosponsor. Senator Gregg, an original cosponsor, is a former Governor.

I believe that if you have strong support for this bill, and a belief that it will improve officer and public safety, from Members of Congress who previously held office at the State and local level—particularly when they come from a State where collective bargaining by public safety officers was prohibited like Senator Robb and Congressman Davis—then you indeed have a solid piece of legislation.

Mr. Chairman, I would like to thank the legislation's original cosponsors, Senators Gregg, Murray and Wellstone. Of course, we would not have made the progress on this legislation that we have without the tireless work and leadership of the bill's sponsor, Senator DeWine. He has come through time and time again as a friend of law enforcement in general and the FOP in particular. We are proud to have had the opportunity to support his bill here this morning. I cannot begin to express the sincere gratitude of the men and women in law enforcement for his efforts on our behalf.

The final product which is the subject of the hearing today has the support of nineteen (19) members of the United States Senate—Republicans and Democrats alike. We owe them our thanks as well.

Just over two months ago, on Monday, 15 May 2000, I stood on the West Front of the Capitol with the President and numerous Members of Congress to commemorate Peace Officers' Memorial Day. This ceremony honored the memories of the one hundred and thirty-nine (139) law enforcement officers killed in the line of duty in 1999. The surviving family members of those brave officers who attended this solemn event know better than anyone here what "ultimate sacrifice" means. They lost a loved one who died in the line of duty.

At the memorial ceremony and other activities held during "Police Week," elected officials, community and national leaders recognized in their speeches the sacrifice of the officers who gave their lives and those whose lives remain on the line each and every day. I have heard many speeches about the importance of law enforcement—now law enforcement is asking for action. I believe that we honor our fallen heroes and those who stand ready to give their lives in the line of duty through respect. I believe that the members of this Committee do respect these heroes in uniform, and I believe that the underlying motivation of S. 1016 is about respecting law enforcement officers—their views about the workplace, about their own safety and about their commitment to public safety. This bill can and will create the mutual respect so necessary to the law enforcement and public safety mission. I urge this Committee and the Senate to pass this bill. In so doing, you will be honoring the law enforcement officers who honor us through their service.

In conclusion, Mr. Chairman, I want to thank you for holding this hearing and express the sincere appreciation of the more than 290,000 officers represented by the FOP. Thank you. I would now be happy to answer any questions you may have.