



NATIONAL FRATERNAL ORDER OF POLICE®

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CHUCK CANTERBURY
NATIONAL PRESIDENT

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7 July 2016

The Honorable John S. McCain III
Chairman
Committee on Armed Services
United States Senate
Washington, D.C. 20510

The Honorable William M. “Mac” Thornberry
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John F. Reed
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 Chairmen McCain and Thornberry, Senator Reed 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 efforts to include in S. 2943, the “National Defense Authorization Act for Fiscal Year 2017,” a provision that would restore the integrity of critically important equipment programs for State and local law enforcement by prohibiting any Federal funds from being used to maintain the recently imposed limitations on the types of equipment that can be made available to law enforcement.

The FOP has long supported surplus equipment programs, pooled resource programs and cooperative procurement programs administered by the Federal government, whether they be the 1033 program, administered by the Defense Logistics Agencies (DLA) and the Law Enforcement Support Office (LESO) at the U.S. Department of Defense (DoD) or one administered by the Departments of Justice or Homeland Security.

Last year, the President signed Executive Order 13688 to establish a Law Enforcement Equipment Working Group (LEEWG) and tasked it with improving all existing Federal programs which provide local, State, tribal and Federal law enforcement agencies (LEA) with equipment. The FOP believes that the recommendations have not and do not improve on these programs. Quite the opposite, they have harmed these programs and imposed undue and burdensome restrictions on State and local law enforcement who have demonstrated a need for the equipment provided by these programs. For example, the LEEWG placed the .50 caliber round on a “prohibited list” and these rounds can no longer be procured by LEAs from any Federal equipment program. This is despite their use in stopping an attack on the Dallas Police Headquarters last summer by a gunman in an armored vehicle. The vehicle was disabled by officers firing .50 caliber rounds into the engine block and its use undoubtedly saved lives. However, the round remains on the prohibited list.

— BUILDING ON A PROUD TRADITION —

More recently, in response to the terrorist attack in Orlando, law enforcement officers set off a controlled explosion to distract the shooter and used an armored vehicle to breach the walls of the nightclub. One of the responding officers was struck in the head, but his life was saved by his anti-ballistic helmet. While none of the equipment used in response to this incident was procured from a Federal program, it is this type of equipment that was once readily available through Federal equipment programs. However, Executive Order 13688 has placed these explosives, breaching tools and even anti-ballistic helmets on a “controlled” equipment list making this equipment much more difficult to obtain through Federal programs. This equipment saved lives—that the officer wearing the helmet as well as those hostages that were rescued.

The FOP finds no compelling reason why certain pieces of equipment should be prohibited or restricted, but we do find offensive the reason the LEEWG offered in their recommendations:

However, given the potential for misapplication of controlled equipment listed above, LEAs must provide expanded justification for its acquisition, including a description of how the equipment would be deployed, the agency’s policies and protocols on deployment, and verification of training provided to LEAs on the appropriate use of such controlled equipment.

Simply put, equipment like an anti-ballistic helmets should not be “controlled” for fear that a chief, sheriff or other operational command officer may “misapply” its use. The Orlando officer who is alive today because of this gear would agree. The Justice Department has not produced any data nor conducted any studies to support its theory that State and local law enforcement agencies are misusing equipment obtained through Federal grant programs. The heroic response of law enforcement to the terrorist attack on the Pulse nightclub demonstrated the utility and necessity of the equipment our officers need. It is imperative that the NDAA incorporate a provision to prohibit Federal funds from being used to carry out the recommendations of Executive Order 13688.

We further request that the conferees strike Section 1053 of S. 2943, “Modification of Authority to Transfer Department of Defense Property for Law Enforcement Activities,” which seeks to codify many of the recommendations made by the LEEWG pursuant to Executive Order 13688. This provision has no place in the final legislation as it poses a serious public safety risk to the public and to our members.

The FOP knows that programs like the 1033 program are very valuable to State and local law enforcement and we saw that equipment in action in Orlando. On behalf of the more than 330,000 members of the Fraternal Order of Police, we implore you and the conference committee to take on the issues we have raised here. If I can provide any additional information on this issue, please feel free to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,


Chuck Canterbury
National President