

Testimony of Marshall Thielen
President Fairfax Coalition of Police
Vice President, International Union of Police Associations
Before the
Sub Committee on Health, Education, labor and Pensions
The House Committee of Education and Labor
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I am Marshall Thielen, a police officer employed by the Fairfax County Police Department (Virginia). I have been a Police Officer for 17 years and I speak to you today as the President of the Fairfax Coalition of Police, and the Region 10 Vice President for the International Union of Police Associations (IUPA). I bring the perspective of working in one of only two states in the country that outlaws collective bargaining for all public safety personnel.

The "Public Safety Employer-Employee Cooperation Act of 2009" (H.R. 413) provides collective bargaining rights for law enforcement officers, firefighters and emergency medical personnel across this nation. In some states like Virginia and North Carolina collective bargaining is actually outlawed. In others, it is a matter of local referendum. According to the Bureau of Labor Statistics, approximately 300,000 police officers and 130,000 fire fighters live in states where their government denies them the fundamental right to a voice on the job. This bill will provide all law enforcement officers and firefighters with the basic bargaining rights they have been seeking for generations.

The I.U.P.A. is proud to have been a vigorous supporter of this bill since its inception over a decade ago. The I.U.P.A. has also worked with other national police and fire groups in a unified coalition to coordinate support for the Bill.

We have long believed and advocated that the public's safety is better served when those employees who are on the front line providing public safety, have their voices heard in determining procedures and protocols surrounding that service. We also note that the most effective leaders are those who not only listen to the voices of subordinates, but seek out their opinions and experiences in carrying out the mission of their organizations.

We will hear from those who oppose this legislation from the right to work groups, cities and counties, the Sheriffs and the Chiefs of Police. Their mantra will be both "states rights" and that this nation cannot afford to weaken our public safety and homeland security by allowing police unions to dilute the authority of their leadership. However, the vast majority of public safety officers currently have the

rights that are provided by H.R. 413, and it is irresponsible to assert that the safety of citizens protected by these officers is somehow weakened.

While the entire nation honored the sacrifices of public safety officers who served on 9/11, the opponents of H.R. 413 will not say, nor even acknowledge, that *every one* of the 60 police who died in 9/11, and *every one* of the 343 firefighters and paramedics who died in 9/11 were members of unions and had collective bargaining rights. Their union membership did not interfere with their commitment to their responsibilities. Nor did union membership interfere with the city's 37,000 police or 15,000 firefighters and paramedics who either were on alert or responded during the two critical weeks after 9/11. The real issues for the chiefs and employers are money and control.

We believe that both concerns are baseless. There is no binding arbitration provision in the bill; employers are not mandated to agree to any collective bargaining agreement that they cannot afford nor with which they disagree. Chiefs and sheriffs are not required to agree to any settlement that impairs their ability to exercise the control their position requires. The reality then is that this bill mandates that the leaders of the departments converse with the elected representatives of the brave men and women who provide for the public's safety.

Labor-management partnerships benefit communities. Labor-management partnerships, which are built on collective bargaining relationships, make police and fire departments more effective by enabling rank-and-file workers to provide input into the most efficient methods to provide services. Studies show that communities that promote such cooperation not only suffer fewer fatalities of public safety employees, but also enjoy more efficient delivery of emergency services.ⁱ

Labor-management partnerships have also benefited both labor and management in these difficult fiscal times. Public safety unions understand that state and local governments are under great fiscal pressure, and unions can assist the governments manage these pressures by providing the views of the front line officers on the most effective methods to reduce costs and by explaining to the officers the need for the cuts. For example, public safety unions representing both the Vermont State Troopers and the Springfield Ohio police officers recently agreed to pay reductions.ⁱⁱ As the Mayor of Springfield, Tim Davlin, stated, "I'm pleased that our working relationship with the Police Benevolent and Protective Association has resulted in our ability to avoid layoffs of police officers."

Labor-management partnerships contribute to homeland security. Labor-management partnerships play an essential role in efforts to detect, prevent, and respond to terrorist attacks, and to respond to natural disasters, hazardous materials, and other mass casualty incidents. Public safety unions are often the

first to advocate for improving public safety, such as by seeking greater training or the devotion of resources to bullet proof vests.

Public safety employees deserve the same rights as other employees. The vast majority of American workers already have the right to speak out and be heard at work. This right is available to virtually all private sector employees, and to the vast majority of public safety employees. All firefighters, law enforcement officers, and emergency medical personnel deserve the same right to discuss workplace issues with their employer that other employees have.

Most states already meet the standards of H.R. 413. Most states would be completely unaffected by H.R. 413 because they already provide rights equal to or greater than those provided by H.R. 413. Further, H.R. 413 would leave the implementation and enforcement of these rights to state and local governments. Only where state or local governments do not provide the minimum rights set forth by H.R. 413 would the FLRA have any authority, and even in those situations the FLRA's authority would be limited to ensuring that the minimum rights are extended.

H.R. 413 would give states broad flexibility. The bill would leave almost all the most significant labor issues for states to resolve. H.R. 413 would not undermine existing state bargaining laws, and would provide states with wide latitude to craft bargaining laws that reflect local customs and circumstances. It would be relatively easy for states not currently in compliance to come into compliance, and the implementation and enforcement of state laws would be left to the states.

H.R. 413 would not mandate binding arbitration. The requirements of H.R. 413 could be met instead by fact-finding or mediation.

H.R. 413 would not impose any additional costs on communities. The bill would essentially establish a process without mandating an outcome. H.R. 413 would not require that any agreements be reached and would allow local legislative bodies to reject any collectively bargained agreement. Nothing in the bill would require any community to spend a single penny it did not believe to be in the public interest. Government agencies would retain discretion to simply say "no" to any union proposals.

H.R. 413 would potentially decrease the number of lawsuits faced by localities arising from employing public safety officers. When employees and management come to agreement on areas of dispute, the likelihood of lawsuits is decreased.

H.R. 413 would outlaw strikes. The bill would outlaw strikes and work slowdowns by public safety officers as a matter of federal law. The reality is that public safety officers who currently have bargaining rights do not strike, and the overwhelming majority of state laws already prohibit such strikes. Opponents of

H.R. 413 point to a series of strikes that occurred 40 years ago, but virtually all of these strikes concerned the right to bargain, and H.R. 413 would make strikes over this issue less likely.

H.R. 413 would not hinder emergency response. The bill would not infringe on the ability of government agencies to manage public safety operations however they see fit. Every one of the 343 firefighters who perished at Ground Zero on September 11, 2001 was a card-carrying union member who enjoyed collective bargaining rights, and most were not even supposed to be on duty that day. The suggestion that these life-saving efforts may have been hindered by the collective bargaining rights of first responders is offensive.

H.R. 413 would not affect right-to-work laws or require that anyone join a union. The bill would have no effect on state right-to-work laws that prohibit contracts that require non-union members to pay agency fees to defray the costs of union representation. In fact, the majority of right-to-work states currently allow collective bargaining for public safety officers. And compulsory unionism is illegal in every state as a matter of constitutional law.

The Public Safety Employer-Employee Cooperation Act is bipartisan. In the 110th Congress, the House passed the bill by a margin of 314 to 97, including 98 Republicans. In the Senate the bill had 37 co-sponsors, including 9 Republicans. The Senate voted to break a filibuster against the bill by a margin of 69-29, including 17 Republicans.

¹For example, the Secretary of Labor's Task Force on Excellence in State and Local Government, a national bipartisan study group to improve delivery of state and local government services, found in 1996 that "collective bargaining relationships, applied in cooperative, service-oriented ways, provide the most consistently valuable structure for beginning and sustaining workplace partnerships with effective service results." <http://www.dol.gov/oasam/programs/history/reich/reports/worktogether/toc.htm>.

²See *Vermont Troopers Union Negotiates Pay Cut*, Burlington Free Press, March 5, 2010; *Springfield Police Union Accepts Concessions, Averts Layoffs*, State Journal-Register, February 24, 2010.