



# The Washington Report

**The Newsletter of the National Association of Police Organizations**

*Representing America's Finest*

---

**April 18, 2016**

## **NAPO Attends PSOB Stakeholder Meeting**

On April 11<sup>th</sup>, NAPO participate in the Public Safety Officers' Benefits (PSOB) Office stakeholder meeting with other representatives of national organizations representing police, fire and emergency medical service personnel as well as representatives of Concerns for Police Survivors (COPS) and the National Fallen Firefighters Foundation (NFFF). The meeting focused on the PSOB Office's announcement that it is now moving to determine 9/11 exposure claims, its "mandatory wear" policy for armored vests and seatbelts, and its new policy for abandoned claims.

### 9/11 Exposure Cases

As stated in the April 11<sup>th</sup> *Washington Report*, the PSOB Office released a Notice to Claimants on April 6<sup>th</sup> stating that "effective immediately" the Office will be implementing a protocol for determining PSOB claims submitted for law enforcement officers, firefighters, and other first responders whose deaths and disabilities have been linked to exposure from their response efforts to the September 11, 2001 terrorist attacks. The notice itself has not been mailed out to claimants yet, but it is posted on the PSOB website ([www.psob.gov](http://www.psob.gov)). Claimants should be receiving it within the next few weeks.

The PSOB will work collaboratively with the World Trade Center Health Program (WTCHP) and the Victims Compensation Fund (VCF), enacted by the James Zadroga 9/11 Health and Compensation Act of 2010, to determine PSOB 9/11 exposure claims based on the WTCHP medical certifications and VCF determinations. By relying on the determinations of the WTCHP and the VCF, the PSOB Office states that it will be able to process and approve a significant number of 9/11 related claims. For claims that do not have WTCHP or VCF certifications, the PSOB Office is developing a process to allow them to be determined using the methodology established by the WTCHP. This methodology will have to be put into regulations before they can process these cases, but it hopes to have the regulations in place by 2017.

Due to its prior inability to process 9/11 health-related death and disability cases, here is a backlog of **175** claims at the PSOB Office. While NAPO finds this backlog unacceptable, we appreciate that PSOB Office finally listened to NAPO and other stakeholders and worked with the WTCHP and VCF to develop a protocol to finally determine these cases. Recognizing the WTCHP and VCF certifications and using the respected methodology developed by the WTCHP will ensure that those first responders who are disabled or have died in the line of duty due to their rescue and recovery efforts at Ground Zero are able to get PSOB benefits. NAPO will continue to put pressure on the PSOB Office to submit regulations for the process to determine those 9/11 related cases that do not already have a WTCHP or VCF certification so that families who have already been waiting years for determinations do not have to wait for much longer.

The Notice to Claimants on the protocol for determining PSOB claims involving 9/11 exposure can be viewed [here](#).

### “Mandatory Wear” Policies

PSOB Office leadership also unveiled its policy on state and local departments’ “mandatory wear” policies. It views this policy as a way to support efforts by agencies to increase officer safety and wellness by requiring public safety officers to use seat belts and body armor. NAPO biggest concern is that the PSOB Office would use the existence of a “mandatory wear” policy to deny PSOB benefits. At the meeting, Office leadership stated that was not the case and the policy was put in place so that will be made clear that cases are not being denied just on the basis of the public safety officer’s failure to wear a seat belt or wear body armor.

According to the policy, an officer’s failure to use a seat belt or body armor will not, *by itself*, be the reason the claim was denied. The existence of a “mandatory wear” policy also will not serve as a basis to deny PSOB benefits. However, if the failure was a violation of law and the “substantial factor in causing” the officer’s fatal or catastrophic injury, the PSOB claim will be denied. NAPO has serious concerns over how the PSOB Office defines “substantial factor”. When this was raised in the meeting, they stated that they will base their decision as to whether the failure was a “substantial factor” based on the investigating agency’s report. If the investigating agency does not list the officer’s failure to wear a seat belt or body armor as the main cause of death, the PSOB Office will honor that.

NAPO will continue to work with the PSOB Office to ensure that the existence of “mandatory wear” policies does not affect the ability of officers or their surviving loved ones to get PSOB benefits. There are various valid reasons why an officer would not have his or her seatbelt or vest on at the time of an incident, which should not be considered “intentional misconduct” and thus disqualify them from being approved for benefits.

### Abandonment Policy

The PSOB Office has established a policy for unfinished claims that have been sitting with the PSOB Office for one year with no action. When the PSOB Office requests the necessary evidence to finish processing a claim and does not hear from the claimants regarding that evidence within one year of the request, that claim will be considered abandoned.

At the one year mark, the PSOB Office will send a notice out to the claimant letting them know their case is being considered abandoned and giving them 33 days in which to respond. This notice will also include a list of the requested documents needed to complete the determination process. If the claimant does not respond within that 33 day period, the claim will be considered abandoned. However, the claimant does have 180 days after the claim is considered abandoned to reopen it by filing the required evidence. If, after all of this time, there is still no response from the claimant, the case will be considered permanently abandoned and it will not be allowed to be reopened or resubmitted.

NAPO has concerns with the finiteness of this abandonment policy. There are cases where claims have stalled in the PSOB process because the officer’s agency is unwilling to assist survivors and will not hand over the necessary evidence. With this policy, those survivors would be denied benefits due to an agency’s unwillingness to cooperate and not due to the merits of their case. NAPO believes there should be exceptions to the abandonment policy where it can be waived to due circumstances out of the claimant’s control.

NAPO will continue to work with the PSOB Office to ensure that surviving public safety officers and their loved ones get the benefits they are entitled to and deserve in a timely and transparent manner. Although the PSOB Office has finally moved forward with the 9/11 exposure cases, there is still a backlog of hundreds of cases that the Office must determine. We need to ensure that the new policies put in place by the Office help and do not hinder its ability to approve cases.

If you have any questions or concerns about the new policies within PSOB, please contact Andy Edmiston at [aedmiston@napo.org](mailto:aedmiston@napo.org).

## NAPO in the News

On April 4<sup>th</sup>, NAPO's Executive Director Bill Johnson was quoted in a *Des Moines Register* article entitled "Cops know risks, struggle with consequences." The article reported on the death of two Des Moines officers who were killed when a vehicle traveling the wrong way slammed head-on into their Ford Explorer. The tragic death of these two officers brought the total number of officers killed in the line of duty this year to 30. The *Des Moines Register* spoke with Johnson about how death affects officers:

"'Officers understand (death) is possible,' said William Johnson, executive director of the National Association of Police Organizations, a Washington-based law enforcement advocacy group. 'They pray it doesn't happen to them.

'We understand the risk, and we think our job is still worth it.'"

The full article is available at the following site: <http://www.desmoinesregister.com/story/news/local/des-moines/2016/04/03/des-moines-fallen-officers-vehicle-accidents-grief/82487756/>

NAPO will continue to ensure our members' voices are heard loud and clear on the Hill, with the Administration, and in the media. If you have any questions about the publication cited above, please contact Bill Johnson at: [bjohnson@napo.org](mailto:bjohnson@napo.org).

## House Judiciary Committee Largely Ignores Law Enforcement Concerns, Passes ECPA

On April 13<sup>th</sup>, the House Judiciary Committee marked up H.R. 699, the Email Privacy Act, which substantially changes the Electronic Communications Privacy Act (ECPA) and places an undue burden on law enforcement's ability to gather evidence that can help solve crimes. Furthermore, the bill does not address the real and growing challenges faced by investigators and prosecutors in obtaining electronic evidence when they attain the required legal process.

After several weeks of meetings with staff and Committee members regarding our numerous concerns with the bill, the Committee responded to only one of our major concerns: the unprecedented requirement for law enforcement to serve a warrant for electronic evidence directly on a customer or subscriber who is under investigation and describe details of the investigation to the consumer or subscriber. The Committee amended the bill to strike this requirement.

Among the other serious concerns NAPO has with the bill is that it does not contain sufficient exceptions to the warrant requirement for urgent situations like an imminent threat of physical harm, likely destruction of evidence, consent by a victim or a witness, or public safety emergencies that are not necessarily part of a criminal investigation (missing child, missing elderly adult). Despite the hard work of Committee staff, who worked with us in good faith to resolve our issues, the Committee did not address this or our other concerns during the markup. Prior to the markup, NAPO joined other national law enforcement organizations on a [letter](#) explaining our continued opposition to the bill.

The bill is expected to move to the House floor for a vote quickly given its overwhelming support in Committee and the substantial bi-partisan support it enjoys. NAPO hopes that there is at least a serious debate on the House floor over our concerns and what the provisions of this bill mean to the ability of law enforcement to keep our communities safe. We will be working with members of Congress to voice our concerns on the House floor

when the bill is taken up. Next, NAPO will focus our attention on the Senate, which has yet to take up any ECPA-related legislation, to get ahead of the situation and ensure they are educated on our concerns.

If you have any questions about H.R. 699 or NAPO's efforts, please contact Andy Edmiston at [aedmiston@napo.org](mailto:aedmiston@napo.org).

## **NAPO on the Hill: Meeting with Senate Majority Whip's Office**

NAPO, together with other law enforcement organizations, met with the Judiciary staff of Senate Majority Whip John Cornyn (R-TX) to discuss our priority legislation that we hope to move in the Senate by National Police Week. Specifically, we discussed the Bulletproof Vest Partnership (BVP) Grant Reauthorization Act, the Thin Blue Line Act, the Children of Fallen Heroes Scholarship Act, the Fallen Heroes Flag Act, the Lifesaving Gear for Police Act, and draft legislation that would make reforms to the PSOB program. This meeting is a continuation of our work to ensure that we have Congressional leadership support on these issues, which is essential to moving these important bills to the floor for a vote.

The BVP Grant Program is a critical resource for state and local jurisdictions. This program has issued more than one million lifesaving vests to 13,000 state and local law enforcement agencies throughout the country since it was established in 1999. However, while many officers are protected by bullet-resistant armor, an alarming number of officers, many in small departments across the United States, are not afforded this same protection due to local budget constraints. NAPO strongly believes the advancement of this legislation is essential to assist state and local law enforcement efforts to purchase bullet resistant vests for their officers.

The Thin Blue Line Act is critical as violence against police continues at an alarming rate this year. Violent crimes targeting officers will be deterred by establishing stricter penalties for those who harm or target for harm law enforcement officers. Any persons contemplating harming an officer must know that they will face serious punishments. Increased penalties make important differences in the attitudes of criminals toward public safety officers, and ensure protection for the community.

The Children of Fallen Heroes Scholarship Act would eliminate the expected family contribution (EFC) used to determine financial need in the case of a Pell Grant-eligible student whose parent or guardian died in the line of duty. In addition to receiving an automatic zero EFC, children of public safety officers who died in the line of duty would qualify for the maximum Pell Grant award (\$5,815 for FY16-17) if he or she was less than 24 years old or enrolled at an institution of higher education at the time of the parent or guardian's death. A Federal Pell Grant, unlike a loan, does not have to be repaid. Pell Grants usually are awarded only to undergraduate students who have not earned a bachelor's or a professional degree.

The Fallen Heroes Flag Act would allow members of Congress to honor a deceased public safety officer who died in the line of duty by providing to the family, at their request, a Capitol-flown flag. The flag would be accompanied by a certificate expressing a message of sympathy signed by either the Speaker of the House or Senate Majority Leader and the Senator or Representative providing the flag. This bill will allow members of Congress to honor these brave individuals for their heroism and extend a gesture of sympathy and gratitude to the immediate family.

The Lifesaving Gear for Police Act, will overturn the Executive Order that severely limited state and local law enforcement's access to surplus military equipment and imposed new training and reporting requirements on agencies. It will also prohibit the President from implementing new restrictions, and require the Administration to return equipment that it has recalled—at no expense to local police. NAPO firmly believes that this equipment has not led to the "militarization" of police, but rather has proven to be essential in protecting communities against

violent criminals with increasing access to sophisticated weaponry, IEDs, body armor and sometimes even armored vehicles.

The PSOB Office must be reformed in order to deal with the unacceptable delays in claims determinations. NAPO, together with the other PSOB stakeholders, is proposing legislation that would ensure that the PSOB Office is processing and deciding claims in a fair and timely manner and that the process is transparent and straightforward for those who have lost their loved ones or have become seriously disabled in the line of duty. NAPO will keep our members up to date on the status of our legislative proposal to reform the PSOB program.

Senator Cornyn's staff continues to be supportive of our efforts to move this package of priority bills, with varying levels of concern over how big of a lift it will be to move a few of these bills to the Senate floor for a vote by Police Week. We have a lot of work to do to ensure these bills move through Committee, but we are confident we will have the support necessary when they are put up for a vote.

If you have any questions about NAPO's meetings on the Hill or the issues addressed, please contact Andy Edmiston at [aedmiston@napo.org](mailto:aedmiston@napo.org).

## **NAPO's 23<sup>rd</sup> Annual TOP COPS Awards<sup>®</sup>**

**NAPO's 23<sup>rd</sup> Annual TOP COPS Awards<sup>®</sup>, a salute to America's Finest for their contributions to the American people, will be held on Saturday, May 14<sup>th</sup>, at the JW Marriot Hotel at 6:30pm.**

**TOP COPS<sup>®</sup> is a highly popular event and is expected to sell out quickly, so please be sure to purchase your tickets today. Tickets must be purchased in advance. Click [here](#) to purchase your tickets.**

**May 12, 2016**

## **2016 Lobby Day: Legislative Update & NAPO's Annual Legislative Recognition Luncheon**

Please join NAPO on May 12th for our Legislative Day on Capitol Hill. Use this opportunity to lobby Congressional Representatives and Senators on behalf of your members concerning the issues which affect law enforcement. Prior to lobbying Capitol Hill, plan to attend NAPO's Legislative Breakfast for an update on NAPO's legislative priorities, results to date from the 114<sup>th</sup> Congress, and to receive handouts to use during Hill visits. While on Capitol Hill, be sure to stop by NAPO's Legislative Luncheon in the Cannon Caucus Room, where several Congressmen and Senators will be recognized for their continued support of Law Enforcement.

### **Schedule of Events**

NAPO Legislative Update Breakfast	JW Marriott Hotel	9:00am – 10:30am
Capitol Hill Visits	Capitol Hill	10:30am – 12:00pm
NAPO Legislative Recognition Luncheon	Dirksen Senate Office Building Room G11	12:00pm – 1:30pm
Capitol Hill Visits	Capitol Hill	1:30pm – 5:00pm

*For assistance setting up your Capitol Hill appointments, contact Andy Edmiston, NAPO's Director of Governmental Affairs, at (800) 322-6276 or [aedmiston@napo.org](mailto:aedmiston@napo.org), by May 2<sup>nd</sup>.*

The registration fee of \$150.00 per person includes the Legislative Update Breakfast, Handouts, and the Legislative Recognition Lunch. Please contact Elizabeth Loranger, NAPO's Director of Events, at (800) 322-6278 or [eloranger@napo.org](mailto:eloranger@napo.org) if you have any questions regarding the seminar or hotel arrangements.

NAPO has reserved a block of rooms at JW Marriott Hotel. Room rates are \$239 per night. To make your reservation, please call (800) 228-9290 and tell them you are with NAPO. **In order to receive the reduced rate, reservations must be made by April 20.** The hotel is expected to sell out, so please make your hotel reservations early.

**Register online at [www.napo.org](http://www.napo.org) or complete the [registration form](#) and return to NAPO at [eloranger@napo.org](mailto:eloranger@napo.org) or Fax to (703) 684-0515 by MAY 2<sup>nd</sup>.**

**Please monitor NAPO's website, [www.napo.org](http://www.napo.org), and Facebook page: National Association of Police Organizations, and follow us on Twitter at NAPOpolice for breaking news and updates.**