



The Washington Report

The Newsletter of the National Association of Police Organizations
Representing America's Finest

March 21, 2016

NAPO Endorsed Bill Introduced to Repeal President's Executive Order Limiting Military Surplus Equipment

In a victory for NAPO and the law enforcement community, legislation was introduced on March 17th by Senator Patrick Toomey (R-PA) that would repeal the President's Executive Order limiting the use of military surplus equipment by state and local law enforcement. The Lifesaving Gear for Police Act (S. 2694), will overturn the Executive Order, prohibit the President from implementing new restrictions, and require the Administration to return equipment that it has recalled—at no expense to local police.

Programs like the Department of Defense's (DOD) 1033 program and grant programs at the Departments of Justice and Homeland Security have been vital resources in allowing state and local law enforcement to acquire items used in search and rescue operations, disaster response, and active shooter situations that they otherwise would not be able to afford. 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 limitations on military surplus equipment for state and local law enforcement are a result of Executive Order 13688 and the Law Enforcement Equipment Working Group that it created. On October 1, 2015, the recommendations of the Working Group went into effect and the Department of Defense is currently in the process of recalling lifesaving military surplus equipment from state and local law enforcement agencies. Not only are law enforcement across the country now scrambling to fill in the equipment gaps left behind, but they must also develop new training policies and expand their inventory reporting to include equipment previously outside of the Federal purview to ensure that they do not “misapply” the use of such equipment.

Given the unfortunately high number of mass shootings that have occurred in 2015 alone and the fact that state and local law enforcement are the first line of defense, it is improper that the Administration has questioned the appropriateness of state and local agencies acquiring such equipment for the protection of their communities. NAPO worked closely with Senator Toomey on the development of this legislation and we thank him for his leadership on this important issue.

NAPO is working to educate members of Congress on the importance of the 1033 program and similar programs and urging their support for the Lifesaving Gear for Police Act. We will work with Congress to ensure that state and local law enforcement have the resources they need to safely and effectively protect our communities.

If you have any questions about this legislation or the impact of the Executive Order or the Lifesaving Gear for Police Act, please contact Andy Edmiston at aedmiston@napo.org.

NAPO Participates in the National Officer Safety and Wellness Group Meeting

On March 14th, NAPO participated in a meeting of the National Officer Safety and Wellness (OSW) Group, which is comprised of state and local law enforcement organizations, research organizations, the Federal Bureau of Investigation (FBI) for its Law Enforcement Officers Killed and Assaulted (LEOKA) program, and the COPS Office, Bureau of Justice Assistance and National Institute of Justice within the Department of Justice. The aim of the Group is to better understand and respond to the range of issues associated with improving officer safety and wellness.

Much of the meeting was focused on the new report from the COPS Office, [*Understanding Firearms Assaults against Law Enforcement Officers*](#), which was produced by the OSW Group. The report addresses two primary safety concerns in law enforcement – injuries and deaths among officers and premeditated and unprovoked ambushes of officers. It examines the various risks thought to influence the use of deadly force against police officers in the United States.

The report looked at LEOKA data on reported assaults with a firearm against an officer between 2007 and 2011. 1,926 law enforcement agencies reported at least one assault during the five-year period. From among these agencies, there were 1,014 firearms assaults on officers with injuries, 10,149 firearms assaults against officers without injuries, and 148 deaths attributable to firearms assaults against officers.

In reviewing the report, the OSW Group noted that the report is limited in its understanding of the true impact of assaults against law enforcement because there is a lack of data on the assaults that resulted in injury or the attempted assaults where shots were fired, but missed the target. It is important to look at the overall picture of ambushes on officer to fully comprehend where, how and why officers are being targeted.

The OSW Group also discussed whether officer safety and wellness would be improved by departments instituting two person patrol units. NAPO has advocated for such a policy over the past year and has called on the COPS Office to prioritize for funding recipients who will institute a policy of two person units for all patrol shifts and patrol assignments. NAPO believes that federal funds earmarked for state and local police cannot be put to any better use than this immediate and practical way of ensuring greater officer safety and survivability in the face of an escalating war on police.

While putting two officers in each patrol car, on each beat, etc., will not prevent all attacks, as the assassination of Officers Ramos and Liu in New York City makes clear, it will deter many and thwart others that might still be attempted. COPS Office Director Ron Davis, who participated in the OSW Group meeting, stated that he supports doing further research as to the need for two person patrols, but said he could not put it as a requirement for agencies to receive COPS grants.

The OSW Group decided to move forward with supporting further research into the need for two person patrols. It would look at the costs and benefits, the impact on officer safety and psychological wellbeing, and where and in what circumstances two person patrols should be used.

NAPO will continue to participate in the National Officer Safety and Wellness Group and we look forward to seeing the results on the research on two person patrols. Rank and file officers must get the support and resources they need to protect themselves and the communities they serve.

You can view the report, *Understanding Firearms Assaults against Law Enforcement Officers*, here: <http://ric-zai-inc.com/ric.php?page=detail&id=COPS-W0797>

If you have any questions about the National Officer Safety and Wellness Group, please contact Andy Edmiston at aedmiston@napo.org.

NAPO Participates in ABA Body Camera Task Force

NAPO's Executive Director Bill Johnson participated in the second meeting of the American Bar Association (ABA) police body-worn camera task force, which took place on March 17th in St. Petersburg, Florida. Johnson attended on behalf of NAPO to represent rank and file interests. The meeting was chaired by Chief Anthony Holloway of the St. Petersburg Police Department. Those in attendance included ABA staff, two prosecutors, the ACLU, criminal defense attorneys, law school professors, civilian oversight representatives, a sheriff and other chiefs and management staff. No other rank and file representatives attended.

The meeting decided to use a draft policy put together by the University of Chicago Law School as the basis for discussion. The task force worked its way through the draft and noted areas where there was agreement and areas where the group could not reach a consensus.

There were four primary areas where Johnson believed rank and file's interests needed to be emphasized:

1. Development and adoption of policies: the initial draft did not include rank and file or their associations/unions as partners in the process of developing and adopting camera use policies. Johnson addressed this issue and agreement was reached that rank and file and associations/unions needed to be included and the final ABA draft should include this.
2. Notice requirements: The draft that the task force looked at required officers to give notice that persons are being video recorded. Johnson argued that allowances must be made for situations where the officer does not have time to do so, and where officers cannot safely do so, and where it is already obvious that the person is being video recorded. There was general agreement on these points.
3. Ability to view/use of recordings: The task force was able to agree that supervisors and managers should not be able to use the video data captured for purposes of "trolling" for policy violations. If a complaint is made about a specific event, then supervisors should be able to pull that video to inspect it, but not for "routine" checking up on officers. A much greater amount of disagreement came when the task force discussed whether officers should be able to view their own videos. Some felt that they never should be able to prior to writing a written report. Others (including NAPO and the elected sheriff on the panel) felt that officers should be able to view their own videos prior to writing a report. Opponents stated that they thought officers would change their stories to match what was recorded during critical incidents. Those in favor pointed out that if the goal is to have the most accurate reporting, then we should allow access to the video. It is similar to dash cameras where an officer reviews it prior to writing up a DUI arrest report, for example. The University of Chicago draft policy noted these differing opinions, but in a footnote came down on the side of allowing officers to view the videos first. Johnson does not believe the ABA task force will have consensus on this point, and the final draft may just note the differing opinions and reasons.
4. Some task force members stated that officers should have to "self report" any failure to follow a bodycam policy, such as noting why they had not video recorded an incident that the policy says should have been recorded. Johnson argued that this would be opening up a whole new can of worms on Garrity issues, and that it would be better to simply note when the camera was turned on or off, and not classify it as a "failure to follow policy." Most of those in the room agreed, especially those from law enforcement agencies.

ABA staff will be circulating a new draft policy based on what the task force accomplished at this meeting. Johnson will continue to represent the priorities and needs of the rank-and-file community on this task force. If you have any questions regarding the ABA task force, please contact Bill Johnson at bjohnson@napo.org.

NAPO Meetings on the Hill: House Judiciary Committee Members Regarding Email Privacy Act

The House Judiciary Committee is scheduled to markup H.R. 699, the Email Privacy Act, a bill that NAPO opposes, on April 13th. NAPO, together with other law enforcement organizations, is meeting with members of the House Judiciary Committee to express our opposition to the legislation and discuss our concerns with the bill in its current form.

While NAPO does not object to the requirement for law enforcement to obtain a warrant for the contents of stored communications, H.R. 699 would do much more than that. NAPO believes that several other provisions of the bill would place 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.

The bill as drafted would create significantly more protection for stored emails than the protection afforded to the contents of someone's house. Digital evidence is a part of nearly every crime scene today, and in our meetings we are strongly urging Committee members to understand the other provisions of the bill which extend its reach far beyond a simple "warrant for content" requirement.

There are two issues of particular concern. The first is the unprecedented requirement for law enforcement to serve a warrant for electronic evidence directly on a customer or subscriber who is under investigation - and even describe details of the investigation - creating significant risk of evidence destruction, flight, and threats to the safety of investigating officers. The second issue is that the bill 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).

H.R. 699 is not just a "warrant for content" bill. It goes far beyond that in ways that would make it harder for law enforcement to investigate crimes. NAPO will continue to work with Committee members to ensure that the Committee narrows the scope of the bill and finds a balance between protecting electronic privacy with the needs of law enforcement.

If you have any questions about H.R. 699, please contact Andy Edmiston at aedmiston@napo.org.

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 114th 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, by May 2nd.

The registration fee of \$150.00 per person includes the Legislative Update Breakfast, Handouts, and the Congressional Awards Lunch. Please contact Elizabeth Loranger, NAPO's Director of Events, at (800) 322-6278 or 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 or complete the [registration form](#) and return to NAPO at eloranger@napo.org or Fax to (703) 684-0515 by MAY 2nd.

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