



# The Washington Report

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

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March 8, 2019

## **NAPO Participates in White House Immigration Roundtable**

On February 21, NAPO met with White House policy staff, including the President's Senior Advisor Jared Kushner, for an intimate roundtable discussion on law enforcement's priorities for broad immigration reform. Beyond building the wall, the Administration is looking to understand the immigration and border security issues the law enforcement community believes must be addressed in any national immigration reform policy.

NAPO strongly supports the President's efforts to secure our nation's border and we believe that through additional law enforcement support along the border and increased penalties for criminal aliens, federal, state and local law enforcement can obtain the vital tools necessary to help keep our communities safe. During the discussion, NAPO focused on stopping cross-border gang and drug crime, the importance of ensuring states and localities cooperate with Immigration and Customs Enforcement (ICE) – including immigration detainees – and support for the Department of Homeland Security's 287(g) program. We also believe that a national immigration strategy must not only stop crime from coming into the United States, but it must also stop criminals from fleeing the country, and urged the Administration support the extradition of cop-killers from countries like Mexico and Cuba.

Among other issues discussed was the need for open communication among federal, state and local officials and law enforcement along the border, including database sharing so that state and local law enforcement has access to who is in the country illegally. The point of database sharing is not to have state and local law enforcement enforce federal immigration laws, but rather to ensure officers have access to the most information on possible suspects for the safety of officers and the communities they serve.

NAPO appreciates the opportunity to be part of the conversation around this important issue and we look forward to continuing our work on it with the Administration. We also formally submitted our [immigration and border security priorities](#) to White House staff for further consideration.

## **Efforts to Permanently Reauthorize 9/11 Victims Compensation Fund Officially Underway**

On February 25, NAPO attended a press conference to announce the reintroduction of the Never Forget the Heroes: Permanent Authorization of the September 11<sup>th</sup> Victims Compensation Fund Act (S. 546 / H.R. 1327). The bill's sponsors, Senators Kirsten Gillibrand (D-NY) and Cory Gardner (R-CO) and Representatives Carolyn Maloney (D-NY) and Peter King (R-NY), kicked off the press conference, followed by New York City Fire and Police union leaders, including Pat Lynch, President of the Patrolmen's Benevolent Association of the City of New York – a NAPO member – and Jon Stewart, formerly of *The Daily Show with Jon Stewart* and a stalwart

supporter of 9/11 first responders. Victims and first responders suffering from 9/11 health-related illnesses also told their stories at the press conference.

This year will mark the 18<sup>th</sup> anniversary of the deadliest terrorist attack on our nation's soil. As we remember those who died on September 11, 2001, we also must recognize those we continue to lose as the lasting effects of that day make themselves known. We have lost more federal, state and local law enforcement officers from 9/11-related illnesses over the past 18 years than we lost on September 11, 2001. 9/11 responders and survivors are still battling serious health crises resulting from exposure to the toxins at Ground Zero.

NAPO fought hard for the passage of the James Zadroga 9/11 Health and Compensation Act in 2010 and its reauthorization in 2015 to ensure our nation took care of the victims and first responders who are coping with 9/11-related chronic health conditions. James Zadroga, a New York City Police Department Detective and member of NAPO, died of respiratory disease caused by his exposure to toxic chemicals during rescue and recovery efforts at Ground Zero.

In 2015, Congress, recognizing the importance of these programs, reauthorized the World Trade Center Health Program until 2090 and reauthorized and fully-funded the 9/11 Victims Compensation Fund (VCF) at \$7.3 billion for 5 years. Unfortunately, this has proven to not be enough. In September 2018, the Special Master of the VCF, Rupa Bhattacharyya, announced that given the significant increase in claims just from the last year alone, the Fund may not be able to fully compensate all claims.

The VCF saw a 36 percent increase in claims between September 2017 to September 2018, and a 94 percent increase in eligible “deceased claims” – claims by families of 9/11 survivors who have succumbed to their 9/11-related illnesses. Further, as of June 2018, 88,484 first responders and survivors have registered with the World Trade Center Health Program, of which approximately 10,000 have a 9/11-related cancer. In 2018 alone, the Health Program saw more than a 260% increase in participants.

The situation is dire and on February 15, the Special Master declared in the [VCF's 7<sup>th</sup> Annual Status Report](#) that there is only \$2.375 billion left of the \$7.375 billion Congress appropriated in 2015 to compensate all pending and anticipated claims through December 18, 2020. She further notes that there has been a dramatic increase in claims over the past four months—including 4,800 compensation claims filed in January 2019 alone.

The Special Master has determined that there is insufficient funding remaining in the VCF to fully pay all current and projected claims and is therefore adjusting VCF policies and procedures to reduce payout amounts to ensure that all remaining and future VCF claims receive at least some level of award. The awards reductions will apply to all pending claims, regardless of when they were filed.

Under these revised policies, and effective for any award the VCF determines on or after February 25, 2019, the calculated economic and noneconomic loss amounts will be reduced by 50 percent if the claim was received prior to February 1, 2019. For claims submitted after February 1, 2019, the calculated economic and noneconomic loss amounts will be reduced by 70 percent. Appeal determinations made on or after February 25, 2019, for appeals filed on awards issued prior to February 25, 2019, will not be subject to percentage reductions, regardless of when the hearing is held. If changes are made to an award following an appeal on these claims, they will be made using the original, unreduced values and calculations.

While this announcement by the Special Master is alarming, the Never Forget the Heroes: Permanent Authorization of the September 11<sup>th</sup> Victims Compensation Fund Act was drafted to address this possibility. There is language in the bill to require the Special Master to pay out the difference between the amount that the claimant would have received if sufficient funding was available at the time the award was calculated and the amount they ultimately received as a result of the reductions. That being said, the VCF award is often a lifeline for survivors and families struggling with loss and we cannot let this bill linger longer just because the families will be made whole eventually. It is imperative that the VCF is permanently reauthorized as soon as possible.

Chairman of the House Judiciary, Jarrod Nadler (D-NY), is an original cosponsor of the bill, and he has vowed to have hearings and take up the bill in Committee as soon as April.

This legislation honors those who made the ultimate sacrifice to protect our nation. It is our obligation and duty to remember these heroes and ensure that survivors who risked their lives to protect us continue to receive the compensation that they deserve.

## **Protect and Serve Act Reintroduced**

NAPO priority legislation, the Protect and Serve Act, was reintroduced by Representatives John Rutherford (R-FL) and Val Demings (D-FL) on February 22. NAPO once again pledged our strong support for this legislation, which would provide for new criminal provisions for deliberate, targeted attacks on officers. This bill is critical, as there is a serious and growing trend of armed attacks on law enforcement officers.

According to a [January 2019 report from the Office of Community Oriented Policing Services \(COPS\)](#), 2018 saw a 24 percent increase in the number of officers shot and killed compared to 2017. 28 officers were shot in ambushes or premeditated, calculated assaults.

NAPO has long been fighting to establish 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. NAPO strongly believes that increased penalties make important differences in the attitudes of criminals toward public safety officers, and ensure protection for the community.

The Protect and Serve Act passed the House last Congress and we look forward to working with Representatives Rutherford and Demings to pass it again this Congress.

## **NAPO Prioritizes Equal Access to Overtime for Law Enforcement**

When Congress first intended to apply the Fair Labor Standards Act (FLSA) to state and local governments in 1974, it enacted a partial overtime exemption for public safety employees as 29 U.S.C. § 207(k). As written, the Section 7(k) exemption set an overtime threshold of 216 hours in a 28-day period. However, Section 7(k) also authorized the Secretary of Labor to conduct a study of the average number of hours worked by fire protection and law enforcement personnel, and to establish by rule different overtime thresholds depending on the result of that study.

Before the Secretary's study was complete, the U.S. Supreme Court had held in *National League of Cities v. Usery* that the FLSA could not constitutionally be applied to state and local governments. In response, the Secretary's study reviewed the work hours of only Federal employees. When a court found the failure to include state and local firefighter and law enforcement hours in the study was erroneous, the Secretary redid the study.

In 1985, the Supreme Court reversed *National League of Cities* in the case *Garcia v. San Antonio Metropolitan Transit Authority*, making the FLSA applicable to state and local governments. After this decision, the Secretary issued the overtime standards based on the updated study (29 C.F.R. § 553.230). Those standards set the maximum hours for law enforcement personnel at 171 hours in a 28-day work period, with lower maximum standards if work periods of less than 28 days are chosen; the firefighter maximum threshold is 212.

The Section 7(k) exemption thus means that public safety employees must work longer hours to be eligible for overtime under the FLSA than virtually all other overtime-eligible employees, and do not begin to receive overtime under the FLSA until they work the equivalent of a 43-hour week.

Much has changed in the 35 years since the Secretary's work hours study was concluded. Today, the average work hours for law enforcement personnel are much less than 171 hours in a 28-day period. In most of the country, law enforcement officers work the equivalent of 40-hour weeks. In some parts of the country, the prevailing hours are even less than 40 hours a week owing to the particular shift schedules used by employers.

The FLSA overtime thresholds for public safety officers are simply outdated and no longer accurate, and they have not been for many years. NAPO believes the Section 7(k) standards must be changed so that public safety officers are given the same access to overtime as every other overtime-eligible employee in our nation. This will result in a substantial change for the better in the work lives of officers across the country.

## **NAPO on the Hill: 116<sup>th</sup> Congress Priorities**

NAPO met with the staff of Representative John Rutherford (R-FL), co-chair of the House Law Enforcement Caucus and member of the House Judiciary Committee, to discuss our priority legislation for this Congress. We count on the support of the House Law Enforcement Caucus when moving our priorities, particularly those we are aiming to move around National Police Week (week of May 13).

We discussed the need for legislation to enhance officer safety by increasing penalties for the murder, attempted murder, or assault of federal, state, and local law enforcement officers, reauthorization of the Bulletproof Vest Partnership Grant Program, the Never Forget the Heroes: Permanent Reauthorization of the September 11<sup>th</sup> Victims Compensation Fund Act, legislation to fix the Public Safety Officers' Benefits (PSOB) Program as it relates to 9/11-related health conditions, and the LEOSA Reform Act:

**Increased penalties for the murder, attempted murder, or assault of a federal, state or local law enforcement officer** because of their status as a public safety officer will deter such crimes and bring greater protections to officers and the communities they serve. NAPO is backing two bills that would provide increased penalties for such violent crimes against officers – the **Thin Blue Line Act** and the **Protect and Serve Act**, both which passed the House last Congress. Representative Rutherford is the sponsor of the Protect and Serve Act.

**The Bulletproof Vest Partnership (BVP) Grant Program** is a grant program through the Department of Justice that helps fund state and local law enforcement efforts to purchase bullet resistant vests for their officers. This grant is a critical resource for state and local jurisdictions that saves lives. To date, more than 3,000 law enforcement officers have survived shootings thanks to their bullet resistant vests. Those officers are only a fraction of the over 900,000 law enforcement officers who put their lives at risk every day to protect our nation's communities. Congress must reauthorize the BVP Grant Program before its authorization runs out in 2020. Reauthorizing and fully funding the BVP Grant Program will ensure that all of America's law enforcement officers are provided with the life-saving protection they need.

**The Never Forget the Heroes: Permanent Reauthorization of the September 11<sup>th</sup> Victims Compensation Fund Act** would permanently reauthorize the 9/11 Victims Compensation Fund (VCF). The VCF's authorization is set to expire in December 2020, but according to the Special Master, the Fund is no longer able to fully compensate the remaining claims due to the significant increase in claims it has seen over the past year alone. Reauthorizing and refunding the VCF now is more important than ever as 9/11 victims and first responders are succumbing to their 9/11-related illnesses and it is our obligation and duty to remember these heroes and ensure that survivors who risked their lives to protect us continue to receive the compensation that they deserve.

**Legislation to fix the PSOB Program to ensure that the families of officers who have died or become catastrophically injured due to their 9/11-related health conditions receive the benefits they rightly deserve.** The PSOB regulations that were finalized last year highlighted a couple of significant issues related to 9/11-related claims. The first is that for these claims, the injury date – which determines the amount of death or disability benefits the family receives – is September 11, 2001. The benefit amount on September 11, 2001 was

\$250,000, which is \$109,316 less than the benefit amount given today. Further, given that the injury date also defines who is considered a child of a public safety officer, any children born after September 11, 2001 will not be eligible to receive PSOB death, disability or education benefits. The statute must be fixed to ensure that the families and survivors of officers who have died or become totally disabled from a 9/11-related health condition receive the full benefits they deserve. NAPO worked closely with Senator Kirsten Gillibrand (D-NY) on legislation to fix these issues, which she will be introducing in the coming weeks.

**The LEOSA Reform Act** would ensure the Law Enforcement Officers Safety Act (LEOSA) is more fairly and broadly implemented. The bill would expand the areas qualified current or retired officers are allowed to carry a firearm, including on a Gun Free School Zone; on state, local and private property otherwise open to the public; and in certain federal facilities. It will allow qualified officers and retired officers to carry an ammunition magazine of any capacity that is not prohibited by federal law. Importantly, it will reform qualifications standards to alleviate undue burdens for those carrying under LEOSA. Representative Rutherford is an original cosponsor of the LEOSA Reform Act.

His staff expressed support for our priorities and we look forward to working with them to move these bills forward. NAPO will continue meeting with members of the House and Senate to gain support for our priority legislation. 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 Latest Legislative Positions & Sponsor/Cosponsor Updates**

NAPO's updated "Sponsor/Cosponsor" spreadsheet is available at the following link: <http://www.napo.org/washington-report/sponsor-cosponsor-spreadsheet/>. The spreadsheet accompanies the latest "Legislative Positions" document, which is available at the following link: <http://www.napo.org/washington-report/legislative-priorities/>

The "Sponsor/Cosponsor" spreadsheet is a useful tool to check if your members of Congress have supported pieces of legislation that will impact our members. NAPO will update this spreadsheet regularly, and continue to ensure our voice is heard on Capitol Hill.

If you have any questions about any of the legislation that NAPO is currently working, please contact Andy Edmiston at: [aedmiston@napo.org](mailto:aedmiston@napo.org).

## **NAPO's 2019 Lobby Day Legislative Breakfast & Legislative Awards Luncheon**

Please join NAPO on May 14, 2019 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 116<sup>th</sup> Congress, and to receive handouts to use during your Hill visits.

While on Capitol Hill be sure to stop by NAPO's Legislative Awards Luncheon, where several Representatives and Senators will be recognized for their continued support of Law Enforcement.

## **SCHEDULE OF EVENTS**

<b>Registration</b>	<b>Omni Shoreham Hotel</b>	<b>8:45 a.m. - 9:00 a.m.</b>
<b>Legislative Breakfast</b>	<b>Omni Shoreham Hotel</b>	<b>9:00 a.m. - 10:00 a.m.</b>
<b>Capitol Hill Visits</b>	<b>Capitol Hill</b>	<b>10:30 a.m. - 12:00 p.m.</b>
<b>NAPO Legislative Awards Luncheon</b>	<b>Room G11 Senate Dirksen Office Building</b>	<b>12:00 p.m. - 1:30 p.m.</b>
<b>Capitol Hill Visits</b>	<b>Capitol Hill</b>	<b>2:00 p.m. - 5:00 p.m.</b>

*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 3.*

You can register [online](#) or using the attached registration form.

**Advanced Registration is Required to attend NAPO's Legislative Awards Luncheon.** Please contact Elizabeth Loranger, NAPO's Director of Events, for additional information on the Legislative Breakfast or Legislative Luncheon at (800) 322-6276 or [eloranger@napo.org](mailto:eloranger@napo.org).

**If you have any questions about the legislation discussed in this issue of the Washington Report, contact Andy Edmiston at [aedmiston@napo.org](mailto:aedmiston@napo.org) or (703) 549-0775.**

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