



# The Washington Report

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

*Representing America's Finest*

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**December 13, 2016**

## **NAPO Participates in DOJ Law Enforcement Risk Management Forum**

On December 7<sup>th</sup>, NAPO President Michael McHale and Executive Director Bill Johnson participated in a meeting convened by the Office of Community Oriented Policing Services (COPS), Department of Justice, entitled “21<sup>st</sup> Century Policing as an Effective Risk Management Tool”. NAPO was one of only two rank-and-file organizations present at the meeting, which also included management organizations and civil rights groups. The meeting was run by COPS Office Director Ron Davis, with the apparent goal being to convince participants that if agencies would commit to the 21<sup>st</sup> Century Task Force recommendations, “risk” would go down because police-community relations would be improved and agencies would be under less financial risk of getting sued.

There was not a lot of consensus amongst participants about the connection between 21<sup>st</sup> Century policing and risk management. Organizations such as the NAACP Legal Defense Fund and the ACLU seemed to feel that the Task Force recommendations were only a start, and that litigation would still be necessary for additional reform, including mandatory drug and alcohol testing for all officers involved in a use of force incident, mandatory testing for bias in recruits, coupled with mandatory thought reeducation for those recruits with improper attitudes. NAPO fought back very hard against those proposals and the general anti-police notions held by those organizations.

Specifically, McHale and Johnson argued the following points: (1) the necessity of viewing each officer as an individual man or woman, not some fungible, mechanical device to be adjusted or manipulated; (2) that if you want officers to model justice and compassion to citizens, agencies need to treat officers themselves with that same care and respect; and (3) that the COPS Office has drastically departed from their original function of putting and maintaining officers in the community, according to the needs discerned by and in local communities. The COPS Office now exemplifies a top-down, Washington knows best, one size fits all, coercive approach to how state and local policing should be done, what officers should look like, and what they should think and believe, in every corner of the country.

The Obama Administration is trying to ensure that the work and recommendations of the 21<sup>st</sup> Century Policing Task Force live beyond this Administration and become part of the President’s legacy. No matter what happens with the Task Force and its recommendations, NAPO will work with the Trump Administration and the new Attorney General to ensure that rank-and-file officers are supported and treated with respect and are given the tools, training, and resources they need to keep themselves and the communities they are sworn to protect safe. This includes making certain that no one size fits all training requirements are mandated by the federal government and the COPS Office returns to its roots and becomes a program focused on ensuring there are enough community police officers on the streets of our nation’s communities.

If you have any questions about this meeting, please contact Bill Johnson at [bjohnson@napo.org](mailto:bjohnson@napo.org).

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# **NAPO Victory! Congress Passes NAPO Endorsed Criminal Justice and Mental Health Reforms**

On December 7th, the Senate passed the 21<sup>st</sup> Century Cures Act, sending it to the President's desk to be signed into law. The legislation is a sweeping medical innovation package that includes new research funding, mental health and criminal justice reforms, and grants to fight opioid abuse. The package also includes language to improve the nation's mental health system and \$1 billion over two years to help fight against opioid abuse, including ensuring law enforcement has access to anti-overdose drugs such as naloxone.

The 21<sup>st</sup> Century Cures Act includes two important mental health and criminal justice measures that NAPO endorsed: (1) the Mental Health and Safe Communities Act which strengthens federal programs related to mental health in the criminal justice system by enhancing the ability of families and communities to identify mental illness; and (2) the Comprehensive Justice and Mental Health Act, which would update the Mentally Ill Offender and Treatment Crime Reduction Act (MIOTCRA) and facilitate collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems to ensure those with mental illness receive the treatment and help they need.

Key provisions of the mental health/criminal justice sections of the Cures Act include the reauthorization and extension of MIOTCRA, an essential funding mechanism that supports the use of mental health courts and crisis intervention teams in local law enforcement agencies, and the authorization of resources for expanded law enforcement training activities, providing more officers with a basic understanding of the issues involved when responding situations with individuals with mental health crises.

NAPO worked throughout the year to move these bills in any way possible and their passage as part of the 21<sup>st</sup> Century Cures Act is a major victory for us. We thank Senators John Cornyn (R-TX) and Al Franken (D-MN) and Representatives Doug Collins (R-GA) and Martha McSalley (R-AZ) for their leadership and support of this important issue.

Congressman Collins recognized NAPO as a leader in supporting the Comprehensive Justice and Mental Health Act in an opinion piece he wrote on the legislation for the Atlanta Journal-Constitution on December 5<sup>th</sup>, entitled "Where mental health, justice reform meet". The opinion piece can be found at: <http://www.myajc.com/news/opinion/where-mental-health-justice-reform-meet/UpZd4SS1gEuUTAgya8BbmJ/>

## **NAPO Joins National Blue Alert Advisory Group**

NAPO accepted an invitation to be a member of the National Blue Alert Advisory Group, whose job it is to assist with the initiation, facilitation and promotion of blue alert plans. The National Blue Alert Advisory Group is established pursuant to the Rafael Ramos and Wenjian Liu National Blue Alert Act, which was passed into law in 2015 to create a nationwide alert system to quickly identify and apprehend suspects when a law enforcement officer is killed or seriously injured, missing in connection with official duties, or if there is an imminent/credible threat related to an attack on law enforcement. The Act is named after New York City Police Department detectives and NAPO members Ramos and Liu, who were assassinated while serving their communities.

NAPO has expressed our displeasure to the Department of Justice (DOJ) for the long delay in implementing the National Blue Alert Act and we hope that our participation on the Advisory Group will help keep the work to complete a national blue alert system on track. It has taken the DOJ a year since the passage of the Act to assign the establishment of the blue alert system to the Office of Community Oriented Policing Services (COPS). The COPS Office has much work to do to make up for lost time in creating a national system. At this time, it is

researching and compiling the current blue alert system policies that have been set up in twenty-seven states and it will release a report shortly on the state of blue alert systems across the country. Additionally, it is reaching out to states and agencies that currently have blue alerts to offer assistance if an alert is issued. This is far from where we need to be in the establishment of a national system, particularly in this time when we are seeing an alarming increase in the numbers of ambush attacks on law enforcement officers.

The ultimate goal is to create a National Blue Alert System that will be an integrated system of Blue Alert plans throughout the nation into one national system. The lives of law enforcement officers across the country depend on a fully functioning system being up and running as soon as possible. NAPO will continue working with the DOJ as part of the Advisory Group and with our state and local government partners to have Blue Alert systems established in all 50 states so that the National Blue Alert System will truly be a national system.

## Congress Clears NDAA Conference Report

In a victory for NAPO and our efforts to overturn President Obama's executive order restricting state and local law enforcement's access to lifesaving, surplus military equipment, Congress passed the National Defense Authorization Act (NDAA), without a provision that would have codified the executive order. NAPO exerted every effort over the past several months during conference negotiations to ensure the provision did not make it into the final conference report and its exclusion speaks volumes about the support within Congress for law enforcement having access to this equipment.

While we did not get the executive order reversed in the NDAA, the final bill that passed Congress ameliorates some of its harmful consequences and lays the groundwork for the Trump Administration to repeal the executive order in its entirety. NAPO looks forward to working with the Trump Administration to ensure quick repeal of the executive order in 2017.

## NAPO Priorities: 2016 Year-End Review

In addition to NAPO's end of year victories outlined above, NAPO had a very successful year in moving our legislative and legal priorities. These wins are highlighted below in our year-end review.

### NAPO Priority Legislation Signed into Law

- **Bulletproof Vest Partnership Grant Program Reauthorization Act.** It extends the authorization of the Bulletproof Vest Partnership (BVP) Grant Program through fiscal year 2020, and ensures that America's law enforcement officers are provided with the life-saving protection they need.
- **Recovering Missing Children Act.** It amends current law to add the case of a missing child to the list of exceptions that allow the IRS to release tax return information to law enforcement, giving investigators a vital tool to aid in the swift recovery of missing children.
- **Fallen Heroes Flag Act of 2015.** It allows members of Congress to honor a deceased public safety officer who died in the line of duty by providing the family, at their request, a Capitol-flown flag. The flag would be accompanied by a certificate expressing a message of sympathy, signed by the Speaker of the House or Senate Majority Leader and the Representative or Senator providing the flag.
- **Justice for All Reauthorization Act.** It continues and improves upon the important provisions of the original Justice for All Act (JFAA), which increased resources devoted to DNA and other forensic

technology, established safeguards to prevent wrongful convictions, and enhanced protections for crime victims. The bill strengthens services for crime victims and provides support to state and local governments to use DNA evidence to convict guilty offenders and exonerate the innocent.

### NAPO Priority Legislation Passed by Congress

- **Public Safety Officers' Benefits (PSOB) Improvement Act.** This bill passed the Senate by unanimous consent on November 29<sup>th</sup>. It would return the PSOB Program to a presumptive benefit and restore the "substantial weight" standard that requires PSOB to give substantial weight to the findings of federal, state, and local agencies as to the cause of the public safety officer's death or disability. It would ensure that children of fallen or disabled public safety officers would still be eligible for education benefits if an adjudication delay causes them to age out of benefit eligibility before their claim is approved. It would increase transparency through weekly and biannual public reports on the status of claims.
- **Children of Fallen Heroes Scholarship Act.** This bill passed the Senate by unanimous consent on May 10<sup>th</sup>. It 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. Additionally, 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.
- **Rapid DNA Act.** This bill passed the Senate by unanimous consent on June 16<sup>th</sup>. It would give law enforcement agencies greater ability to use technology to process DNA evidence in the field. Rapid DNA technologies allow an officer to know within hours whether an individual is wanted for an outstanding crime or has a connection to evidence from a crime scene. This bill would ensure that law enforcement agencies that use rapid DNA technology can access the FBI's Combined DNA Index System (CODIS) in the field, rather than having to go through an accredited crime lab.

NAPO is looking to build off of the incredible momentum we gained in 2016 and move quickly on our priority legislation and issues in the 115<sup>th</sup> Congress, which begins January 3, 2017.

### NAPO Non-Legislative Victories

- **IRS Normal Retirement Age Regulations.** The IRS issued regulations in 2007 that would make public pension plans define normal retirement age for public safety officers in regards to in-service distributions (and *only* in-service distributions) as age 50 and not based on years of service. These regulations related to those who want to retire, start drawing a pension, and keep working for the employer who manages the pension plan.

Since 2007, NAPO has expended every possible effort with Congress, the IRS and the Treasury Department to ensure that public safety pension plans would not be adversely affected by the IRS regulations on normal retirement age. Our work led to an 8 year delay of the rules and culminated in the new proposed rule published by the IRS in January on normal retirement age that directly respond to our concerns that the 2007 regulations would harm public safety officers' retirements.

The new rule, scheduled to go into effect December 2016, adds more safe harbors to the normal retirement age requirement, including three safe harbors specifically for qualified public safety employees that essentially exempt public safety employees from the regulations. This is a huge victory for NAPO and a testament to all of our efforts to protect our members' retirement security.

- **Arizona Supreme Court case, Cheatham v. DeCiccio.** The case involved a challenge from conservative taxpayer groups to the practice of release time use by Phoenix Law Enforcement Association (PLEA) officers as part of administering their memorandum of understanding (MOU) with the City of Phoenix. NAPO filed legal briefs as an amicus curiae, or "friend of the court", in this case supporting PLEA and the use of release time. The challengers asserted that the provision and use of release time violated the Arizona state constitution's prohibition against gifts of public property or resources. The challengers were arguing that the City allowing the use of release time by PLEA officers and representatives was a prohibited "gift".

In an extremely strong opinion, the Arizona Supreme Court disagreed, and upheld the provision and use of release time by PLEA officers. The court recognized the value to the public at large, and to the City of Phoenix itself, in having a smoothly running and well administered police department. The court affirmed that good labor relations are a valuable benefit to all citizens and to society as a whole, and that the value of good relations within the police labor sphere are significant and entitled to the protection of the law.

This was a huge win not only for PLEA and NAPO, but for officers across the country. Just about every state constitution has a so-called "gift clause" provision, and the legal challenge that had been filed in Arizona was being copied in other states. This strong decision by the Arizona Supreme Court will help police associations and unions across the country defend the legitimacy of release time, wherever it exists.

In the coming weeks, keep a lookout for NAPO's Scorecard for the 114<sup>th</sup> Congress and our final legislative positions document and accompanying sponsor/cosponsor spreadsheet for a complete roundup and analysis of the work we have done this Congress.

## **NAPO's 29TH ANNUAL PENSION & BENEFITS SEMINAR**

Please join NAPO at our 29th Annual Police, Fire, EMS and Municipal Employee Pension & Benefits Seminar February 26 - 28, 2017 at Hyatt Regency Grand Cypress in Orlando, Florida.

Thanks to the assistance of our impressive advisory board, we are receiving overwhelming responses to our seminar. Our goal is to educate pension and union representatives, along with their providers, on the latest issues surrounding the pensions and benefits industry.

This year's key issues include: Economic and Political Updates, Asset Allocations, Alternative Investments, Department of Labor's New Fiduciary Rules, Rising Health Care Costs, The Imposition of the "Cadillac Tax" on Public Safety Plans, just to name a few.

Take an active role in improving the future of your fund by [registering](#) for this informative seminar. If you have any questions, please contact Elizabeth Loranger, NAPO's Director of Events, at (800) 322-6276 or email [eloranger@napo.org](mailto:eloranger@napo.org).

***Register by January 10, 2017 for early bird rates!***



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## Your Nominations Make the Difference for TOP COPS®

This year marks the 24<sup>th</sup> year NAPO has produced the TOP COPS Awards®. The awards dinner will take place on Friday, May 12, 2017, again coinciding with Police Week. The TOP COPS Awards Dinner will be at the Omni Shoreham Hotel located in Washington, D.C. Over the next few months we will be asking for your assistance in three major areas in which you, our members, can help to ensure the success of TOP COPS®: nominations, sponsorships, and show attendance. Today, we want to ask for your assistance with the first and most fundamental component, nominations.

TOP COPS® is unique in that it is a peer nominated award. However, one of the greatest struggles we have faced in the past is getting the nomination form out to officers nationwide. We are asking you to assist us in making this happen. **It is our goal this year to see all 50 states represented with a nominee.** While we appreciate and welcome nominations from the executive level, we would really like to see the nomination form circulated among *your* members.

The nomination form is attached and can be downloaded from the NAPO website, <http://www.napo.org/files/5814/5583/4244/NominationForm2017.pdf>. Please feel free to duplicate and post it anywhere you feel it is appropriate. We would especially like to see forms posted in association offices and departments with the hope that your members will feel inclined to nominate the great cases/officers they have come into contact with over the past year. We would also like to ask you to consider including the nomination form in your association publication, on your website, or as a hand out at your next meeting.

If you have other thoughts or ideas as to how to get the word out about this most worthwhile event, please contact Elizabeth Loranger at [eloranger@napo.org](mailto:eloranger@napo.org). With your help and partnership, we know that TOP COPS® will be a tremendous success!

***TOP COPS® nominations are due by January 13, 2017***

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.