



The Washington Report

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

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Impact of Supreme Court Justice Scalia's Death On Current Court Cases

The death of Supreme Court Justice Antonin Scalia on February 13th could have significant implications on several of the cases currently pending before the Supreme Court. The Supreme Court is now evenly split between Republican and Democratic appointees, making a 4-4 tie vote on several cases quite possible, changing what was the expected outcome.

In the event of a 4-4 tie, the Justices could decide to let the lower court opinion stand and thus there is no precedent set by the Supreme Court. If faced with a tie, the Justices also have the option of sending the case down for re-argument for the term that starts in October with the hope that there will be a full Court to decide the case.

Of the cases the Supreme Court is currently considering, there are six major cases that could be impacted by Justice Scalia's open seat. Based on the make-up of the Court and/or on what occurred during oral argument, it was assumed that these very close cases would be decided by a 5-4 margin. Without the fifth conservative judge, these cases could result in a tie and the lower court's ruling would be upheld, which in some cases is the opposite of how we believed the Court was going to rule.

The six cases deal with: the right of the California Teachers Association to collect fair share fees, affirmative action at the University of Texas, challenges to voting rights, the Affordable Care Act's contraceptive mandate, President Obama's immigration Executive Order, and the Texas abortion law. Of greatest importance to NAPO's members is the California Teachers Association case, *Friedrichs v. California Teachers Association*. Oral arguments for this case were heard by the Supreme Court on January 11th. This case threatens "fair share" fee payments to unions and collective bargaining agents by non-union member beneficiaries in the workplace.

Specifically, the Supreme Court will be deciding (1) whether *Abood v. Detroit Board of Education* (1977), which allows for public-sector unions to collect fair share fees from non-union members, should be overruled and public-sector "agency shops" invalidated under the First Amendment; and (2) whether it violates the First Amendment to require that public employees opt-out of subsidizing ideological speech by public-sector unions, rather than requiring that employees opt-in to subsidizing such speech.

A majority of the Supreme Court justices appeared ready to bar public sector unions from collecting "fair share" fees from non-union members. The conservative justices, led by Justice Scalia, strongly disagreed that public sector unions would suffer harm if they were not able to collect "fair share" fees. Such a ruling would overthrow the 1977 *Abood* ruling and four decades of precedent in public-sector labor law.

Without Justice Scalia's vote, many are assuming there will be a 4-4 tie and the Supreme Court will uphold the lower court's ruling. In this case, the federal appeals court ruled in favor of the California Teachers Union and upheld the right of public-sector unions to collect fair share fees from non-union members. This would be a great victory for NAPO and our members.

NAPO joined with several other large public safety labor organizations in filing an amicus brief to the Supreme Court in the *Friedrichs* case. NAPO's amicus brief can be read [here](#). We will keep our members up to date on this important case. We are also paying close attention to the President's nomination process for Justice Scalia's successor. It is setting up to be a big political fight in Congress and it may impact the work Congress is able to accomplish in this short, election year session.

If you have any questions or need more information on the details and impact of *Friedrichs v. California Teachers Association* or NAPO's amicus brief, contact Bill Johnson at bjohnson@napo.org.

Source:

<http://www.nytimes.com/2016/02/15/us/politics/antonin-scalias-absence-likely-to-alter-courts-major-decisions-this-term.html?module=Promotron®ion=Body&action=click&pgtype=article>

NAPO on the Hill: Meeting with House Majority Leader's Office

On February 19th, NAPO, together with other law enforcement organizations, met with House Majority Leader Kevin McCarthy's (R-CA) staff to discuss our priority legislation for this session of Congress. Specifically, we discussed the Bulletproof Vest Partnership (BVP) Grant Reauthorization Act, the Thin Blue Line Act, the Children of Fallen Heroes Scholarship Act and draft legislation that would make reforms to the PSOB program and restore the Department of Defense (DOD) 1033 program. We told Majority Leader McCarthy's staff that these are the bills we want to see passed into law before the end of the 114th Congress.

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 proven most recently by the February 20th attack on New York City police officers Andrew Yurkiw and William Reddin by a career criminal who seemed determined to violently attack police. Violent crimes such as that 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 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.

The DOD 1033 program, which allowed state and local law enforcement to acquire military surplus equipment used in search and rescue operations, disaster response, and active shooter situations that they otherwise would not be able to afford, was severely limited by an Executive Order in October 2015. NAPO is fighting to get state and local law enforcement agencies access to this equipment restored and is supporting draft legislation that would repeal the President's Executive Order. For more information on the effect of the Executive Order and NAPO's position, please read our [letter to Congressional leadership](#).

Majority Leader McCarthy's staff seemed supportive of our efforts to move this package of priority bills. We have a lot of work to do to ensure these bills move through Committee, but we are confident we will have the Majority Leader's support when they reach the House floor 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.

NAPO Attends 1033 Program Stakeholder Meeting

On February 18th, NAPO participated in a meeting of the Federal Interagency Law Enforcement Equipment Working Group to discuss the implementation of the recommendations of Executive Order 13688, which greatly limited state and local law enforcement's access to military surplus equipment. The purpose of meeting was simply to give updates on the status of the Executive Order and to answer any stakeholder questions.

As of October 1, 2015, the Department of Defense (DOD) began the process of recalling thousands of pieces of military surplus equipment that are now prohibited under the Executive Order from state and local law enforcement agencies. The prohibited equipment list identifies categories of equipment that state and local law enforcement agencies are not able to acquire via transfer from federal agencies or purchase using federal funds. Included on this list are: tracked armored vehicles, bayonets, grenade launchers, and large caliber weapons and ammunition. State and local agencies have until April 1, 2016 to return all prohibited equipment received under the 1033 program to the DOD.

State and local law enforcement also has the ability to purchase military equipment under grants through the Departments of Justice and Homeland Security, such as the Byrne Justice Assistance Grant (Byrne JAG) and Urban Area Security Initiative (UASI). The Administration can only recall the equipment received through the DOD 1033 program; however it is still unclear what the Administration expects state and local agencies to do with the "prohibited" equipment they previously purchased through the grant programs.

Under the Executive Order, law enforcement across the country not only have to scramble to fill in the equipment gaps left behind due to the recall, 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.

There were many questions raised during the meeting regarding the retroactivity of the inventory reporting requirements and the use of previously purchased "prohibited" equipment, to which the Administration did not have any answers. Administration officials just repeated that they will be reviewing all of the requirements of the Executive Order again in the summer and will determine if any provisions need to be changed.

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 federal government is questioning the appropriateness of state and local agencies acquiring such equipment for the protection of their communities. NAPO opposes this recall of lifesaving military surplus equipment from state and local law enforcement agencies and will continue to work with the Administration and Congress to ensure state and local law enforcement has access to the resources and equipment necessary to protect our communities.

If you have any questions please contact Andy Edmiston at aedmiston@napo.org.

May 12, 2016
2016 Lobby Day
Legislative Update &
NAPO's Annual Congressional Awards 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 Congressional 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 – 10:30pm
Capitol Hill Visits	Capitol Hill	10:30am-12:00pm
NAPO Congressional Awards Luncheon	Cannon House Office Building Room 334	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.

The registration fee of \$125.00 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.