



The Washington Report

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Representing America's Finest

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Big Win for NAPO and PLEA in Arizona Supreme Court Case

The Arizona Supreme Court case, *Cheatham v. DeCiccio*, 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 is 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.

The final opinion of the Arizona Supreme Court can be found [here](#).

NAPO is pleased to welcome the attorneys who handled this case for PLEA, Mike Napier and Cassidy Bacon, as part of our panel of distinguished experts at next month's NAPO Legal Seminar in Las Vegas. Please register if you haven't already, our seminar is now even more timely than ever! Here is a link to register: <http://www.napo.org/events/upcoming-events/napos-legal-seminar/>

If you have any questions, please contact Bill Johnson at bjohnson@napo.org.

NAPO on the Hill: Meetings with Senate Armed Services Committee on 1033 Program

On September 13th, NAPO continued its meetings with members of the Senate Armed Services Committee with a meeting with Senator Bill Nelson's (D-FL) staff to discuss our asks pertaining to the Department of

Defense 1033 Program in the Fiscal 2017 National Defense Authorization Act (NDAA). The House and Senate have each passed their own versions of the Act and are currently negotiating a final compromise bill.

NAPO, together with other national law enforcement organizations, is urging negotiators to lay the ground work for rescinding the Executive Order. During consideration of the bill in the Senate, Senator James Inhofe offered an amendment, which NAPO endorsed, that would have rescinded Executive Order 13688 and return control of the 1033 Program to the Secretary of Defense and Congress. Despite Senator Inhofe's extraordinary efforts, which we greatly appreciate, this amendment was rejected by a tie vote. Because this amendment failed, we are unable to revoke the Executive Order in the NDAA, but we can make certain there is support for reestablishing law enforcement's access to surplus military equipment.

Senator Nelson's staff listened intently to our argument and was open and understanding of our concerns. With the terrorist attack at the Pulse Nightclub in Orlando, the Senator's staff was acutely aware of why law enforcement needs this equipment, but they could not commit that the Senator would support our request without speaking with him first. NAPO is meeting with both Republicans and Democrats on the House and Senate Committees to ensure we have enough votes to create the support we need to make certain that the officers we represent regain access to the lifesaving gear they need to defend themselves and the civilians they are sworn to protect.

Leaders of the House and Senate Armed Services Committees were hoping to have a final compromise by next week ahead of Congress adjourning before the elections, but several large issues have pushed back that timeline. It now seems like there will not be a final NDAA until after the November elections.

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

NAPO on the Hill: Meeting with Senator Cornyn's Staff on the Comprehensive Justice and Mental Health Act

On September 14th, NAPO met with Senator John Cornyn's (R-TX) staff to discuss the Senator's efforts to pass a comprehensive mental health bill before Congress adjourns for recess in the next week or two. Senator Cornyn is working with Senator Lamar Alexander (R-TN) to move a bill that includes Senator Al Franken's (D-MN) Comprehensive Justice and Mental Health Act (S. 993) and Senator Cornyn's Mental Health and Safe Communities Act (S. 2002). Both bills are legislative priorities for NAPO.

The Senate passed the Comprehensive Justice and Mental Health Act (CJMHA) back in December 2015, but the House has not moved on the bill. By including it in a larger mental health package that includes provisions supported by the majority of the House, there is a greater chance of it passing into law.

The CJMHA and the Mental Health and Safe Communities Act complement each other in their efforts to make our communities safer by improving access to mental health services for people in the criminal justice system who need treatment and expanding training for law enforcement. Both of these bills would help reduce the rates of repeat offenders and increase safety for law enforcement officers. NAPO worked hard to pass the CJMHA in the Senate and we are dedicated to seeing both of these bills pass Congress this year.

With decreasing mental health supports and services, an increasing number of people with mental illnesses are coming into contact with the criminal justice system, which puts incredible strain on the system as well as public safety, state and local budgets, and people's lives. Throughout the criminal justice system, people with mental illnesses are overrepresented—in contact with law enforcement, in the courts, in jails and prisons, and in parole and probation caseloads across the country. According to a U.S. Department of Justice report,

approximately 45 percent of people in federal prisons, 56 percent of people in state prisons, and 64 percent of people in jails displayed symptoms of a mental health condition.

The comprehensive mental health package proposed by Senators Cornyn and Alexander would improve outcomes for the criminal justice system, the mental health system, and for those with mental health conditions by doing the following, among other things:

- Extending the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA), and continuing support for mental health courts and expanding specialized law enforcement crisis intervention teams;
- Authorizing investments in veterans treatment courts, which serve arrested veterans who suffer from PTSD, substance addiction, and other mental health conditions;
- Authorizing pretrial screening, assessment, and supervision programs to improve outcomes for people with mental illnesses by ensuring they are accurately diagnosed and receive appropriate need-based treatment that focuses on increasing public safety;
- Supporting state and local efforts to identify people with mental health conditions at each point in the criminal justice system in order to appropriately direct them to mental health services;
- Increasing focus on corrections-based programs, such as transitional services that reduce recidivism rates and screening practices that identify inmates with mental health conditions;
- Supporting the development of curricula for police academies and orientations; and
- Developing programs to train federal law enforcement officers in how to respond appropriately to incidents involving a person with a mental health condition.

Senator Cornyn's staff stated he is committed to trying to move this bill through the Senate and Congress before the end of the year. Staff was hopeful of a vote on the bill in the Senate as early as this week.

With the Republicans at risk of losing their majority in the Senate this election, leadership is looking to adjourn for the pre-election recess early. The Senate was scheduled to stay in session through the first week of October, but it may leave as soon as this week to allow members as much time on the campaign trail as possible. The truncated calendar has thrown a lot of anticipated legislative work up in the air until after the elections.

NAPO has indicated to Senator Cornyn's staff that we stand ready to help in any way possible to move this mental health package prior to recess. We will keep our members updated on the status of this important legislation.

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

NAPO on the Hill: House Encryption Working Group Meeting

The Bipartisan House Encryption Working Group, made up of members of the House Energy and Commerce and Judiciary Committees, held a roundtable discussion with NAPO and other law enforcement organizations on September 15th. The encryption working group was established earlier this year to examine the complicated legal and policy issues surrounding encryption. The group is working to identify potential solutions that preserve the benefits of strong encryption – including the protection of Americans' privacy and information security – while also ensuring law enforcement has the tools needed to keep communities safe and prevent crime. The roundtable was an opportunity for law enforcement to make its case to the working group that in order to protect our communities, we must be able to obtain electronic evidence and information in an accessible and timely manner.

Digital evidence is a part of nearly every crime scene today and law enforcement is increasingly facing real and growing challenges in obtaining electronic evidence when we obtain the required court order. The current lack

of standards governing service providers' responsiveness to warrants and other legal process issued by law enforcement is routinely resulting in delays in the investigative process. This significantly hampers law enforcement's ability to keep our communities safe, prosecute criminals and protect victims.

NAPO believes that no one is above the law and recipients of court orders must comply with the rule of law. Congress must ensure that when law enforcement is investigating such heinous crimes as kidnapping, homicide, child pornography or human trafficking, service providers decrypt the requested information or at least provide technical assistance to obtain that information for the investigation. Service providers should not be able to evade the law and law enforcement needs to be given the evidence necessary to bring justice for our communities.

Members of the Working Group and their staff listened intently to law enforcement' concerns and Congressman Bill Johnson (R-OH) stated that he was our ally in ensuring our needs are met in whatever possible policy solutions are developed to address the issue of encryption. NAPO will continue to work with the Working Group as they continue their efforts to find a balanced compromise between the needs of law enforcement and privacy advocates.

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.