



The Washington Report

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

September 29, 2014

NAPO WASHINGTON REPORT

Attorney General Eric Holder Resigns

On September 25, 2014, Attorney General Eric H. Holder Jr. announced his resignation at a White House press briefing. Holder will step down after a replacement has been confirmed by the Senate.

Before the White House briefing, NAPO's Executive Director, Bill Johnson, participated in a teleconference with Attorney General Holder, who confirmed his resignation.

NAPO is grateful to have had the opportunity to work with Attorney General Holder. We will keep our members updated as nominees to fill this vacancy are announced.

NAPO Attends White House Briefing

NAPO's Executive Director, Bill Johnson, attended a White House briefing on mental health and suicide prevention on September 22, 2014. The briefing focused on the federal government's role in mental health and suicide prevention. The following Administration officials participated in the discussion:

- Koby Langley, Association Director, White House Office of Public Engagement (Moderator);
- Cecilia Munoz, Assistant Director to the President and Director, White House Domestic Policy Council;
- Paulette Aniskoff, Deputy Assistant to the President and Director, White House Office of Public Engagement;
- Dr. Francis Collins, National Institutes of Health (NIH);
- Pamela Hyde, Administrator, Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Department of Health and Human Services (HHS);
- Meena Seshamani, Policy Analysis Director, Office of Health Reform, HHS;
- Dr. Karen Guice, Principal Deputy Assistant Secretary of Defense for Health Affairs, U.S. Department of Defense;
- Dr. Caitlin Thompson, Deputy Director, Suicide Prevention Program, U.S. Department of Veterans Affairs (VA); and,
- Deborah Spence, Supervisory Analyst in the Research and Development Division, Community Oriented Policing Services Office, U.S. Department of Justice (DOJ).

NAPO appreciated the opportunity to participate in this briefing, and we look forward to continuing to pursue legislation to ensure individuals with mental health conditions receive the treatment they need. If you have any questions about this briefing, please contact Bill Johnson at: bjohnson@napo.org.

NAPO's Legislative Positions Update

NAPO's updated "Legislative Positions" document can be viewed at the following site: http://www.napo.org/files/8814/1200/2401/Legislative_Positions_Update_-_September_29_2014_FINAL.pdf. The table denotes all status updates in yellow. Also, the updated "Sponsor/Cosponsor" list for the major pieces of legislation NAPO is currently working on in the House and the Senate is available at the following site: <http://www.napo.org/washington-report/sponsor-cosponsor-spreadsheet/>.

If you have any questions about any of the bills NAPO is working, please contact Melissa Nee at: mnee@napo.org.

NAPO Meetings on Capitol Hill

On September 24, 2014, NAPO met with senior staffers for the following members of Congress: **Congressman Chris Gibson (R-NY)** and **Congressman Tom Reed (R-NY)**. NAPO used the meetings to outline our top legislative priorities, which include the following initiatives:

Bulletproof Vest Partnership (BVP) Grant Act: The BVP Grant Program provides Federal funds to state and local law enforcement departments to assist state and local law enforcement efforts to purchase bullet resistant vests. NAPO continues to expend all available efforts to garner additional cosponsors for the House and Senate versions of this bill.

Community Oriented Policing Services (COPS) Improvement and Reauthorization Act: This bill would reauthorize the COPS Program for five years and raise the current hiring cap from \$75,000 to \$125,000. The COPS Office has been extremely successful in implementing and carrying out its designated objectives. Since its creation, the COPS Office has assisted over 13,000 of the nation's 18,000 jurisdictions with over \$14 billion in funding to hire more than 125,000 additional officers. Reauthorizing this program will allow for the continuation of a highly successful program that keeps our communities safe.

Justice and Mental Health Collaboration Act (JMHCA): The Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA) created the Justice and Mental Health Collaboration Program (JMHCP) to help states and counties design and implement collaborative efforts between criminal justice and mental health systems. The JMHCA reauthorizes the successful MIOTCRA and extends the JMHCP for five years. The JMHCP can help law enforcement agencies across the United States in their responsibilities in assisting citizens with mental health issues.

Social Security Fairness Act: This bill would strike the Windfall Elimination Provision (WEP) and Government Pension Offset (GPO) formulas currently used to calculate Social Security benefits. Both formulas were enacted in the 1980s because Congress was concerned Social Security paid unintended benefits to workers who had spent most of their careers in "non-covered" jobs. However, the formulas go too far and penalize workers with split careers who contributed a great deal to Social Security, but retire under their "non-covered" pensions. By significantly scaling back and reducing Social Security benefits for law enforcement officers and their survivors, as GPO and WEP do, officers and their families are provided much less protection against financial difficulties.

NAPO appreciated the opportunity to meet with both of the staffers, and looks forward to continuing to work with them in the future. If you have any questions about any of the issues summarized above, please contact Melissa Nee at: mnee@napo.org.

NAPO Meets with Senator Cornyn's Staff

On September 24, 2014, NAPO met with a senior staffer for **Senator John Cornyn (R-TX)**. NAPO used the meeting to discuss the following topics:

- **Proposed Amendment to the Driver's Privacy Protection Act:** The DPPA requires state motor vehicle departments to receive permission from individuals before their personal motor vehicle record may be sold or released. The DPPA amendment authorizes a private right of action for knowing violations, and a court may award damages in the amount of \$2,500 for each time a record was accessed, as well as attorney fees and other litigation costs. Law enforcement officers are subject to these stringent punishments, even if they did not review files with criminal intent.
 - NAPO briefed Senator Cornyn's staff on this issue several times over the summer. NAPO used last week's meeting to follow-up on our proposed language modifications to the DPPA amendment, which include adding a clause that explains that penalties will be applied only if persons access information with the specific intent to secure an economic benefit. Also, NAPO proposes removing the \$2,500 penalty for a violation of this act, as well as adding a statement that explains there must be repeated disregard of this law for action to be taken. If the language is not modified, law enforcement officers will be subject to large fines, and even the loss of their licenses for *de minimus* actions.
 - Senator Cornyn's staff was very receptive to our proposal. We plan to use the coming weeks to provide additional information to the Senator's staff, and will keep our members updated on the status of this initiative.
- **Justice for Victims of Trafficking Act:** NAPO expressed appreciation for the Senator's work on the Justice for Victims of Trafficking Act, which was passed by the Senate Judiciary Committee on September 18, 2014 as an amendment. This legislation, sponsored by Senator Cornyn, will boost support for and protection of victims of human trafficking by increasing law enforcement resources, enhancing victims' services, and increasing penalties in an effort to combat child sex trafficking, child pornography, sexual exploitation, and human trafficking. NAPO has worked closely with Senator Cornyn's staff to advance this bill, and plans to use the remaining days of this Congress to continue to pursue the passage of this bill.
- **Line of Duty Act:** NAPO expressed our continued support for Senator Cornyn's Line of Duty Act. This legislation would allow local governments to use existing funds to provide security details for prosecutors and judges who are in danger of retaliation or intimidation, as well as extend the rights of these officials at the state and local level to carry weapons for self-defense purposes. NAPO plans to continue to work with Senator Cornyn to pass this important bill.

If you have any questions about our proposed modifications to the most recent DPPA amendment or our efforts to pass the Justice for Victims of Trafficking Act and the Line of Duty Act, please contact Melissa Nee at: mnee@napo.org.

Washington Post Article – FBI Response to Apple Encryption

NAPO continues to monitor developments on smartphone encryption that will inhibit law enforcement's ability to gain access to information stored on such devices. The following Washington Post article outlines the FBI's concerns over the new policies:

FBI Blasts Apple, Google for Locking Police Out of Phones
By Craig Timberg and Greg Miller

FBI Director James B. Comey sharply criticized Apple and Google on Thursday for developing forms of smartphone encryption so secure that law enforcement officials cannot easily gain access to information stored on the devices — even when they have valid search warrants.

His comments were the most forceful yet from a top government official but echo a chorus of denunciation from law enforcement officials nationwide. Police have said that the ability to search photos, messages and Web histories on smartphones is essential to solving a range of serious crimes, including murder, child pornography and attempted terrorist attacks.

“There will come a day when it will matter a great deal to the lives of people . . . that we will be able to gain access” to such devices, Comey told reporters in a briefing. “I want to have that conversation [with companies responsible] before that day comes.”

Comey added that FBI officials already have made initial contact with the two companies, which announced their new smartphone encryption initiatives last week. He said he could not understand why companies would “market something expressly to allow people to place themselves beyond the law.”

Comey’s remarks followed news last week that Apple’s latest mobile operating system, iOS 8, is so thoroughly encrypted that the company is unable to unlock iPhones or iPads for police. Google, meanwhile, is moving to an automatic form of encryption for its newest version of Android operating system that the company also will not be able to unlock, though it will take longer for that new feature to reach most consumers.

Both companies declined to comment on Comey’s remarks. Apple has said that its new encryption is not intended to specifically hinder law enforcement but to improve device security against any potential intruder.

For detectives working a tough case, few types of evidence are more revealing than a smartphone. Call logs, instant messages and location records can link a suspect to a crime precisely when and where it occurred. And a surprising number of criminals, police say, like to take selfies posing with accomplices — and often the loot they stole together.

But the era of easy law enforcement access to smartphones may be drawing to a close as courts and tech companies erect new barriers to police searches of popular electronic devices. The result, say law enforcement officials, legal experts and forensic analysts, is that more and more seized smartphones will end up as little more than shiny paperweights, with potentially incriminating secrets locked inside forever.

The irony, some say, is that while the legal and technical changes are fueled by anger over reports of mass surveillance by the National Security Agency, the consequences are being felt most heavily by police detectives, often armed with warrants certifying that a judge has found probable cause that a search of a smartphone will reveal evidence of a crime.

“The outrage is directed at warrantless mass surveillance, and this is a very different context. It’s searching a device with a warrant,” said Orin Kerr, a former Justice Department computer crimes lawyer who is now a professor at George Washington University.

Not all of the high-tech tools favored by police are in peril. They can still seek records of calls or texts from cellular carriers, eavesdrop on conversations and, based on the cell towers used, determine the general locations of suspects. Police can seek data backed up on remote cloud services, which increasingly keep copies of the data collected by smartphones. And the most sophisticated law enforcement agencies can deliver malicious software to phones capable of making them spy on users.

Yet the devices themselves are gradually moving beyond the reach of police in a range of circumstances, prompting ire from investigators. Frustration is running particularly high at Apple, which made the first announcement about new encryption and is moving much more swiftly than Google to get it into the hands of consumers.

“Apple will become the phone of choice for the pedophile,” said John J. Escalante, chief of detectives for Chicago’s police department. “The average pedophile at this point is probably thinking, I’ve got to get an Apple phone.”

The rising use of encryption is already taking a toll on the ability of law enforcement officials to collect evidence from smartphones. Apple in particular has been introducing tough new security measures for more than two years that have made it difficult for police armed with cracking software to break in. The new encryption is significantly tougher, experts say.

“There are some things you can do. There are some things the NSA can do. For the average mortal, I’d say they’re probably out of luck,” said Jonathan Zdziarski, a forensics researcher based in New Hampshire.

Los Angeles police Detective Brian Collins, who does forensics analysis for anti-gang and narcotics investigations, says he works on about 30 smartphones a month. And while he still can successfully crack into most of them, the percentage has been gradually shrinking — a trend he fears will only accelerate.

“I’ve been an investigator for almost 27 years,” Collins said, “It’s concerning that we’re beginning to go backwards with this technology.”

The new encryption initiatives by Apple and Google come after June’s Supreme Court ruling requiring police, in most circumstances, to get a search warrant before gathering data from a cell phone. The magistrate courts that typically issue search warrants, meanwhile, are more carefully scrutinizing requests amid the heightened privacy concerns that followed the NSA disclosures that began last year.

Civil liberties activists call this shift a necessary correction to the deterioration of personal privacy in the digital era — and especially since Apple’s introduction of the iPhone in 2007 inaugurated an era in which smartphones became remarkably intimate companions of people everywhere.

“Law enforcement has an enormous range of technical and old-fashioned methods to go after the perpetrators of real crime, and no amount of security effort at Silicon Valley tech companies is going to change that fact,” said Peter Eckersley, director of technology projects at the Electronic Frontier Foundation, a civil liberties group based in San Francisco. “The reality is that if the FBI really wants to investigate someone, they have a spectacular arsenal of weapons.”

Sometimes, police say, that’s not enough. Escalante, the Chicago chief of detectives, pointed to a case in which several men forced their way into the home of a retired officer in March and shot him in the face as his wife lay helplessly nearby. When the victim, Elmer Brown, 73, died two weeks later, city detectives working the case already were running low on useful leads.

But police got a break during a routine traffic stop in June, confiscating a Colt revolver that once belonged to Brown, police say. That led investigators to a Facebook post, made two days after the homicide, in which another man posed in a cell phone selfie with the same gun.

When police found the smartphone used for that picture, the case broke open, investigators say. Though the Android device was locked with a swipe code, a police forensics lab was able to defeat it to collect evidence; the underlying data was not encrypted. Three males, one of whom was a juvenile, eventually were arrested.

“You present them with a picture of themselves, taken with the gun, and it’s hard to deny it,” said Sgt. Richard Wiser, head of the Chicago violent crimes unit that investigated the case. “It played a huge role in this whole thing. As it was, it took six months to get them. Who knows how long it would have taken without this.”

NAPO is closely monitoring this issue, and will continue to keep our members updated on new developments.

Source:

Timberg, Craig, and Greg Miller²⁵. "FBI Blasts Apple, Google for Locking Police out of Phones." *Washington Post*. The Washington Post, 25 Sept. 21. Web. 29 Sept. 2014.

<http://www.washingtonpost.com/business/technology/fbi-blasts-apple-google-for-locking-police-out-of-phones/2014/09/25/68c4e08e-4344-11e4-9a15-137aa0153527_story.html?wpisrc=nl-eve&wpmm=1>.

NAPO Roundtable Discussion

Please join NAPO **October 24 - 25**, at the Red Rock Casino, Resort & Spa in Las Vegas to participate in a NAPO leadership Roundtable Discussion. Topics include the Affordable Care Act; Current Labor Issues Nationally; Our Opponents’ Legislative and P.R. Strategy; National Image and Awareness of NAPO; and Recruiting and Growth for our Association. Be a part of setting the direction for our organization’s future.

Please complete the registration form attached to this report and return the document to NAPO attention: Elizabeth Loranger by **October 6**. Fax to (703) 684-0515 or email to eloranger@napo.org.

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.



National Association of Police Organizations 2014 NAPO Roundtable

Red Rock Casino, Resort & Spa
Las Vegas, Nevada
October 24 - 25, 2014

Please join NAPO October 24 - 25 at the Red Rock Casino, Resort & Spa in Las Vegas to participate in a NAPO leadership Roundtable Discussion. Topics include the Affordable Care Act, Current Labor Issues Nationally, Our Opponents' Legislative and P.R. Strategy, National Image and Awareness of NAPO and Recruiting and Growth for our Association. Be a part of setting the direction for our organization's future.

attention: Elizabeth Loranger by October 6th. Fax to (703) 684-0515 or email to eloranger@napo.org. NAPO has reserved a block of rooms at The Red Rock Resort. Room rates are \$160 per night plus a \$15 resort fee, which includes shuttle transportation to and from the airport. To make reservations please call (866) 767-8880 and tell them you are with NAPO. In order to receive the reduced rate reservations must be made by September 29th. The hotel is expected to sell out so please make your hotel reservations today!

Please complete the registration form and return to NAPO

Seminar Registration

Seminar Schedule

Friday, October 24	Registration	1:30 p.m. — 2:00 p.m.
	Seminar	2:00 p.m. — 5:00 p.m.
Saturday, October 25	Seminar	9:00 a.m. — 4:00 p.m.
	Lunch	12:00 p.m. — 1:00 p.m.

The Registration Fee of \$75.00 per person includes seminar materials, coffee breaks, and lunch.

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