

# FOP



# JOURNAL

THE VOICE OF OUR NATION'S  
LAW ENFORCEMENT OFFICERS®

MARCH 2019

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# FOP JOURNAL

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## Faceoff for Fallen Officers

By Crystal McCoy  
Colorado State Lodge 49

**W**e often forget, or perhaps don't realize, how connected we as a brotherhood truly are. We are not bound by jurisdictions; we are united by the blue blood that forever runs deep through our veins.



The world sees — and we feel — this boundless brotherhood every time there is a line-of-duty death anywhere in our country. We need not know the officer to mourn their loss, for we are family.

The Colorado Avalanche hockey team has found a way to gather us from all corners of the map to honor of our fallen and support of our brotherhood. For the second year in a row, they have supported Brotherhood for the Fallen Aurora in a fundraising event known as Faceoff for Fallen Officers.

On game day, you are greeted with tunes from the Colorado Emerald Society Pipes and Drums band. Under the waving thin blue line flags, we reunite with our brothers and sisters in blue from across the nation. Few places have felt so much like home.

This year, the Colorado Avalanche unexpectedly silenced a crowd of

18,000 when they projected a stunning thin blue line flag on the ice and delivered several tributes honoring our fallen officers. This moment filled our eyes with tears and our hearts with love, and we beamed with pride.

If you have not yet had the chance to attend this event, I would encourage you to consider attending in January 2020. You will find members from the Colorado State FOP Lodge and Aurora FOP Lodge 49 waiting to finally meet you. **fop**



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# FOP Works to Keep Shutdown Negotiations Going



// WRITE TO US! If you have further questions, contact Chuck Canterbury at [fopchuck@outlook.com](mailto:fopchuck@outlook.com).

President Trump just announced that the partial federal government shutdown has come to an end. The administration and Congress reached a temporary deal to fund all federal government operations until February 15. Our members should receive their backpack very soon, and, hopefully, no more paychecks will be missed in the future.

The FOP will remain cooperatively engaged with the administration, including the White House, the Departments of Justice and Homeland Security and Congress, to make certain that the negotiations over the issue of border security are successful and that there are no more interruptions in federal appropriations.

However, I want our members to know that the FOP worked hard to protect the tens of thousands of our members who were impacted by the lack of appropriations to various federal departments and component agencies. We made sure that our Federal Officers Committee was kept informed of all developments so that our affected members had the very latest information on the situation.

In fact, hours before the shutdown, the FOP and the International Association of Chiefs of Police (IACP) issued a joint release urging all parties to avoid the shutdown:

"Protecting the public is the most fundamental responsibility of our government and its elected officials," Canterbury said. "We need our streets, schools and borders to be safe and secure. The men and women in federal law enforcement will be at their posts tomorrow and they will not receive their pay unless an agreement is in place to keep the government open.

"The U.S. Departments of Justice and Homeland Security house some of our

largest federal law enforcement agencies," said Paul Cell, President of the IACP. "Supporting their mission to protect the nation and its citizens should be the U.S. government's top priority."

You can read the full text of the release here: <https://bit.ly/2BBVxxc>.

Since day one, the FOP has remained in regular contact with administration officials at the highest levels about our concerns. We have worked with other unions and labor organizations representing federal officers on appropriate strategies to find a solution to the impasse and mitigate its negative impact on our members. We will continue to do so in the weeks ahead as these negotiations continue. Our goal now is to find ways to ensure such a situation can be avoided in the future.

When the dialogue seemed to have ceased altogether at the end of January, the FOP issued a second statement urging national leaders to negotiate in good faith and find a resolution to the impasse:

"Federal law enforcement officers remain on the job without pay and continue to work with their counterparts at the state and local level, the longer this partial shutdown goes on, the greater the cumulative effect on the public safety mission. Secure borders and a fully funded government are not mutually exclusive.

"Our nation has always grappled with differences of opinion on policies and in politics, but it is at variance with common sense and good governance to allow these disagreements to disrupt the normal operation of the federal government."

You can read the full text of this release here: <https://bit.ly/2GqS9cs>.

It is my hope that by the time you read this our government remains fully funded for the future. **FOP**



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# Fighting for Affordable Health Care for Retired First Responders



// WRITE TO US! If you have further questions, contact Jay McDonald at [jmcdonald@fopohio.org](mailto:jmcdonald@fopohio.org).

Here's an unfortunate truth: Our members risk their lives in the service of their communities for modest pay. Almost all of us in law enforcement took our jobs because we truly wanted to help our communities and our fellow citizens. It is also true that most of us, despite knowing we would not get rich doing this job, believed we would get respectable wages, a stable pension and health care into retirement.

Health care is a vital part of that equation. Most public employees are eligible to retire after 20 to 25 years of service, and most in physically and mentally demanding occupations, such as law enforcement, retire in their mid-50s. This leaves a gap between retirement and eligibility for Medicare. Law enforcement retirees typically get health care through three avenues: (1) They continue their agency plans; (2) They get health care through their pensions (11% of pensions offer health care); or (3) They must find and purchase health care on their own.

Unfortunately, the rising costs associated with employer-sponsored health care are gradually eroding retirement income and the peace of mind that comes with it. For retirement systems designed to provide pensions only, offering a health-care plan has become burdensome and has the potential to either put pension reserves at risk or even eliminate health insurance options during the gap years between retirement and Medicare enrollment.

In 2013, Chicago began phasing out the city health insurance subsidy for retired workers. Prior to that, the city helped cover the cost of supplemental insurance for the bulk of retirees who received Medicare. The city paid 55% of the cost of health insurance for a smaller group that, for one reason or another, wasn't eligible for Medicare.

Without the city subsidy, Medicare recipients ended up paying hundreds of dollars more each year. It was even worse for the non-Medicare retirees — they lost coverage

entirely. A 2013 mayoral commission promised that once the Affordable Care Act set up state insurance exchanges, many, if not most of them, would get better deals there than they had with the city. As the phasout proceeded, retiree costs rose dramatically. Many retirees qualified for limited subsidies, or they earned just a little too much to get any subsidies at all. Today, some Chicago retirees have to budget a third or more of their fixed incomes for non-subsidized health care.

In 2014, Memphis eliminated the city's 70% subsidy to pay for retirees' health insurance. That support had allowed retirees to get reimbursed for some premiums and health-care expenses. In 2016, they established a private exchange and reinstated the subsidy. Even here, costs increased exponentially. The police association opposed this move due to the high costs of the plans in the new private exchange.

This year, in Ohio, the pension system that provided health care to most of the state's law enforcement retirees switched from a self-insured insurance model to one that provides a stipend to be used in conjunction with a private exchange. The marketplace, unfortunately, offered limited options in some counties, resulting in higher costs and limited access to doctors. The transition has been incredibly traumatic for many pre-Medicare retirees who were forced into an unfamiliar process. The company that worked with the pension system also failed to live up to the expected quality of service, making the transition all the more painful for our members.

#### HELPS Act

Many have asked: What has the National FOP done on this issue? The answer is a lot. We need the help of Congress and state legislatures, and we spend a lot of time advocating for changes that will help our pre-Medicare and Medicare-age retirees get quality health care at a cost they can afford.

First, in the Pension Protection Act of 2006, the FOP and others successfully lobbied Congress to approve the Healthcare Enhancement for Local Public Safety (HELPS) Retirees Act. This act allows a yearly distribution of up to \$3,000 pre-tax from a governmental DB, 403(b) or 457(b) plans to retired public safety officers for use toward health-care insurance and/or long-term care premiums. The HELPS Retirees Act took effect on January 1, 2007.

Prior to HELPS, retirees paid for their health or long-term care premiums entirely with after-tax dollars. Since 2007, eligible public safety retirees have been able to use pre-tax dollars from their qualified pension plans to pay for some of their health premiums. For retirees who are in the 25% federal marginal tax rate bracket, this could be a tax savings of up to \$750 per year.

A follow-up to the original bill called the Healthcare Enhancement for Local Public Servants (HELPS II) is currently being talked about, and that proposal would:

1. Expand the coverage of the Act to allow all public-sector retirees to be eligible for the benefit.
2. Increase the \$3,000 benefit and then index that amount for inflation in future years.
3. Transform the income exclusion into a deduction; the deduction could be used even by non-itemizers.
4. Allow surviving spouses to be eligible for the deduction.
5. Make technical changes to the direct payment requirement to accommodate innovative health-care programs.

#### Medicare at 55

One simple way we could immediately usher in an affordable option for retiree health care is through a universal benefit already accessible in every state — Medicare.

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## A Plan Without Action Is a Dream; Action Without a Plan Is a Nightmare



// WRITE TO US! If you have further questions, contact Patrick Yoes at (504) 234-4300, or [pyoes@fop.net](mailto:pyoes@fop.net).

Some lead by chance. Others lead in short bursts of energy toward a singular action that leads to success and then talk about that success for years while opportunity after opportunity passes them by. Sustained success doesn't just happen by chance; it happens by design. Strong leaders take calculated risks toward a greater goal, a sustained movement with a big-picture outcome.

In January, leaders from the Texas State Lodge participated in a strategic planning session with one common goal: to be the **united voice** for all Texas law enforcement professionals. I had the honor of facilitating this session; it was an amazing opportunity to assist in the creation of an efficient and effective model that will provide the best possible services to the men and women in Texas law enforcement for years to come.

Egos were checked at the door as leadership from large and small lodges alike joined leaders from TMPA to discuss hard issues. Collectively, they developed a shared and agreed-upon vision for the future of the Texas FOP.

As a leader, I ask you these questions: Where will your lodge be in two or 10 years and beyond? What steps are you taking to define this goal and to develop the roadmap to get there?

The role of leadership is to understand your members' perceptions of and potential solutions to the issues, assure inclusive and integrated participation across the membership and build consensus on what can and should be done. Also, it is your role as a leader to

determine specific and measurable actions that need to be taken to align the lodge's strategies and resources.

How do you accomplish this? Two words: strategic planning. The problem is that most organizations take shortcuts when formulating and managing plans. By doing this, they significantly diminish the effectiveness of the process.

An effective planning process maintains the alignment of a lodge's direction with its vision, mission and strategy to achieve its goals. With this focus, a lodge's operations will become more efficient, and the decision-making process will become streamlined because leadership and members know exactly what it is they're working toward.

As in the case of the Texas FOP, the lodge's strategic plan not only defines a path to its sustained success, but also guides the State Lodge forward and creates a model for others to follow. Well done, Texas! Thanks for giving life to a greater vision of quality service.

If your lodge is interested in exploring the value of strategic planning, I will share a framework and agenda that will help focus your lodge efforts toward a unified future. Arm yourself with the tools needed to take calculated steps toward achieving a greater goal, sustaining movement and reaching a big-picture outcome. **FOP**



## HELPING HEROES

The FOP Foundation supports our members in distress.

You can also help the brave men and women who risk their lives every day.

Visit [www.FOP.net](http://www.FOP.net) for more information and to donate online.

The Disaster Relief Fund is part of the National FOP Foundation, a 501(c)(3), not for profit corporation.

## How to Financially Survive a Self-Defense Incident



// WRITE TO US! If you have further questions, contact Tom Prenoza at [tomfop@aol.com](mailto:tomfop@aol.com).

I have been concerned for some time that while we offer active-duty police officers protection and security through our FOP Legal Plan, we only offer limited protection for officers and retirees carrying under H.R. 218, with maximum coverage currently at \$25,000. I have this H.R. 218 coverage through the Legal Plan, but based on my experience investigating officer-involved shootings, I know firsthand the expense involved in defending yourself. So, I began looking into plans that provided additional coverage so

under H.R. 218 in a situation that would not be covered by the FOP Legal Plan. **The USCCA plan will not cover police officers on duty or acting under their police authority.**

The USCCA provides self-defense training, education and powerful legal protection, and they want to make sure every FOP member has access to this lifesaving resource. Your USCCA membership will give you the legal and financial support you need to prepare for, face and survive a self-defense incident with:

- **Up to \$2,250,000 in up-front self-defense SHIELD protection.** Pay your bail, secure a pro-Second Amendment attorney and get your legal bases covered if you're ever forced to act in self-defense.
- **All legal weapons covered.** Guns, knives and hand-to-hand combat, they cover it all.
- **24/7/365 Critical Response Team**

**YOUR USCCA MEMBERSHIP WILL GIVE YOU THE LEGAL AND FINANCIAL SUPPORT YOU NEED TO PREPARE FOR, FACE AND SURVIVE A SELF-DEFENSE INCIDENT.**

that an incident would not bankrupt me or my fellow retirees and off-duty officers.

I approached the FOP Legal Plan about providing better coverage for these officers and retirees, but they decided they did not want to go any further into that type of coverage. I began to search for a plan the FOP could support that would offer additional coverage for these retirees and officers. With the assistance of the Program Development Committee, our Grand Lodge Legal Counsel and President Canterbury, we decided on the U.S. Concealed Carry Association (USCCA). In early January, President Canterbury signed a contract with USCCA that offers a 15% discount to FOP members. Under this contract, USCCA will also return another 15% back to the FOP for each member who signs up. This plan is for retirees and off-duty officers who carry

access. They will be your second phone call after 9-1-1 to walk you through the aftermath of a self-defense incident.

- **Training and education.** Access to 1,400-plus certified trainers nationwide, hundreds of exclusive training videos, articles and your included subscription to the award-winning *Concealed Carry Magazine*.

As a law enforcement professional, you know that simply having a firearm in your home makes you vulnerable to legal and financial ruin in the aftermath of a self-defense incident. You can get peace of mind when you activate your USCCA membership at any level with savings of 15% for FOP members. Please take the time to explore this exclusive opportunity and get the additional protection you need in the event of the unthinkable.

For more information, go to [www.uscca.com/fop](http://www.uscca.com/fop)

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## VEBA Trusts Can Help Offset Retiree Health-Care Costs



// WRITE TO US! If you have further questions, contact Les Neri at [lneri@pfop.com](mailto:lneri@pfop.com).

Dear Brothers and Sisters, As we know, many public employers are now unwilling to provide post-retirement medical benefits. For those members who find themselves in this situation, a VEBA trust may provide an alternative that, at a minimum, covers some of the costs of retiree health insurance.

A Voluntary Employees' Beneficiary Association (VEBA) is a form of trust fund permitted under the United States federal tax law, whose sole purpose is to provide employee benefits. VEBA plans can provide health reimbursements for retirees, their spouses and dependents. They also permit retirees to pay eligible health expenses from individual accounts. VEBA plan accounts can be funded by employee and/or employer-individual or combined contributions.

Among the other types of benefits that a VEBA may provide are accident insurance benefits, childcare costs,

employee continuing education, the cost of legal services, life insurance benefits and active employee health insurance.

Employees save money with VEBA plans because they pay zero taxes on contributions from their earnings, employer contributions to the plan and withdrawals for authorized expenses. Contributions go into an employee's account tax-free, and they are also invested and withdrawn tax-free.

VEBA's must also meet the following additional requirements:

1. It must be a voluntary association of employees.
2. Substantially all of its operations must be dedicated to providing permissible benefits.
3. Its earnings may not benefit any private individual, organization or shareholder other than through the payment of benefits.
4. It must be controlled by its members, in whole or part by their trustees, or

by an independent trustee.

5. It must be nondiscriminatory in the payment of its benefits (unless it was established pursuant to a collective bargaining agreement). Employer contributions to a VEBA are tax-deductible.

Generally, beneficiaries of a VEBA must have an employment-related common bond (such as a common employer), be covered by a collective bargaining agreement or belong to a labor union. Local lodges that meet these requirements, such as Downers Grove FOP Lodge #73 in Illinois, have the option of sponsoring a VEBA trust for their membership as a way to offset retiree health-care costs.

If you think a VEBA may make sense for your lodge or department, please consult with your lodge attorney and accountant for information and advice as to the value and operation of such trusts for your specific situation. **FOP**

## I Have a Challenge for You



// WRITE TO US! If you have further questions, contact Keith Turney at [ktturney@fop.org](mailto:ktturney@fop.org).

I have a challenge for you: take advantage of some free training, compliments of the Department of Justice's Office of Community Oriented Policing Services (COPS). When you are sitting around your roll call griping about a hindrance your department is facing, accept this challenge. When you are complaining to a friend via text about how your agency is going to overcome an insurmountable obstacle it's facing, accept this challenge. When you are sitting at the bargaining table trying to figure out how you're going to fund your next pay raise, accept this challenge. When you are defending your agency in front of an angry governmental body, accept this challenge. When you know your agency needs help, accept this challenge.

The Collaborative Reform Initiative Technical Assistance Center (CRI-TAC) was designed to help agencies meet their obstacles head-on with tailored, scalable solutions to the real-life challenges facing law enforcement today. The initiative has assembled some of the best law enforcement subject matter experts in the country who can collaboratively address what your agency needs. This service is designed by the field, for the field. From simple resource referrals to full-blown on-site consultations and training initiatives, CRI-TAC may have the solutions your agency needs to overcome its obstacles.

Currently, there are 28 topic areas that CRI-TAC addresses. I won't bore you with the list, which can be found at [www.CollaborativeReform.org](http://www.CollaborativeReform.org), but believe me when I say, if you have a problem, CRI-TAC may very well have your solution, and it's free!

In March 2018, the FOP partnered with the International Association of Chiefs of Police, Major Cities Chiefs Association,



FBI National Academy, International Association of Campus Law Enforcement Administrators, International Association of Directors of Law Enforcement Training and Standards, National Association of Women in Law Enforcement, National Organization of Black Law Enforcement Executives and the National Tactical Officers Association on a monumental task never before seen in the field of law enforcement: the creation of a collaborative initiative to address the complex problems facing the profession today. The synergy that this group is capable of providing is outstanding, and because the FOP is a primary partner in this initiative, your voice will be heard. Funding for this initiative is provided through the COPS Office.

The application process is simple, and it starts with an email requesting assistance. A program representative will then set up a conference call where agency leaders spell out their dilemmas to the representatives from CRI-TAC's partner groups. As the FOP's project manager for this initiative, I sit in on most of these calls, and I can assure you they are simple and to the point, with no unnecessary baloney, if you know what I mean.

There are no geographical or agency size requirements to participate in the program. We have assisted agencies of all sizes, from departments with over 300 members to ones with fewer than one or two officers. Alaska? No problem! Been there, done

that! Not a member agency? Not an issue. This program is open to all state, local, tribal and campus law enforcement communities throughout the United States, regardless of affiliation. Our objective is to help you and your agency. So far, we have reached nearly 175 agencies with assistance — all free of charge!

Some of the most in-demand and requested training are in the following areas: officer wellness, active shooter, de-escalation, crisis intervention, mass casualty response, community engagement, school safety, crime analysis and public safety coordination and partnerships. Often an agency will contact us saying that they feel adequately prepared to address a high-risk, low-frequency occurrence, but need our assistance in building a coordinated response with other stakeholders. Or an agency will contact us after a recent critical incident triggered an awareness that they needed to be better prepared. No matter what the circumstances, the CRI-TAC team can put together a solution to your problem, free of charge.

As rank-and-file FOP members, we often experience pushback when we offer suggestions to management about obstacles we feel our agencies need to address. It's part of the sometimes adversarial relationship that is built up within a department. The CRI-TAC solution takes a lot of the animosity out of this relationship because it brings in partners from all areas of the law enforcement spectrum; it's sort of a super group of problem solvers capable of seeing problems and solutions from many different angles.

I wish any member could simply make a request for assistance; however, because

COMING SOON

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Vehicle Modifications and Accessories

## "I'll Call You!"

// **WRITE TO US!** If you have further questions, contact Rob Pride at [lodges2pride@gmail.com](mailto:lodges2pride@gmail.com).



Greetings, Brothers and Sisters! I write to you on the heels of attending the "A Night in Blue" memorial banquet in Kansas City. The West Central Missouri FOP Regional Lodge #50 hosts this annual event to remember all fallen officers, especially officers who have died the previous year, and their families. The families of the fallen officers attended the banquet, and it was a humbling honor to sit amongst them and let them know their loved ones will never be forgotten. Job well done to Brothers Rick Inglima and Paul Brooks and all of Lodge #50!

Sadly, tragedy struck our Kansas City brothers and sisters the night before this event, when one of their own succumbed to his demons and attempted suicide. At the time of this writing, the brother is in critical condition and the outlook is not good. Over the past few weeks here in my home state of Colorado, we have lost three officers to suicide. At this memorial event and others, it is often spoken about how we are losing two to three times more brothers and sisters to suicide than to line-of-duty deaths. Your National FOP, through its Officer Wellness Committee, is constantly working to improve our efforts in officer suicide awareness and prevention. Great strides have been made over the past two years on the national front to bring law enforcement-related PTSD and suicide out of the darkness and into the light of discussion. Many states have or are planning to move forward with legislation to support first responders suffering from PTSD. These laws will make it easier for officers to come forward for help without worry of the possible repercussions from their agencies.

But are we individually doing everything we can for our brothers and sisters who we know might be struggling? I had to ask this question of myself after hearing powerful words and testimony from Kansas City, MO, Lodge #99 President

Brad Lemon, who, at the banquet, spoke about the tragedy the night before and his own awakening as a result. He spoke about how far we have come, but how much further we have to go. We have all said at one time or another, "My phone is always on" or "My door is always open," to our fellow officers who may be contemplating suicide while struggling with the weight of our profession. But how often do we call them? Why do we wait for them to reach out to us? Are we afraid to bother them while they are suffering? Do we not want to irritate them? I'm sure these are all true to some degree because of our makeup and mentalities as police officers.

But we all know someone, whether it be a fellow officer from our own agency, someone we know through our profession or a recently retired officer, who is struggling. We know amongst our friends and colleagues there are those who have seen more than their fair share of horror; those who have been in one or more officer-involved shootings; those who say "I'm good" when they know they are not; and those who inside themselves are desperate for someone they trust to reach out, yet are not sure who they can trust. We see the signs. They act differently at work. Those who were once productive and positive performers become subdued and lax. Or maybe we hear they aren't doing well at home and relationships are deteriorating. Too often, we watch careers spiral down the drain and attribute it to laziness or poor life choices, when in reality, it was a brother or sister bucking under the weight on their shoulders and not knowing how, or being too proud, to ask for help even after we have reached out to them and offered an ear.

We should be reaching out to them! Let's not just give out our phone numbers and tell them to call us if they need anything or that our doors are always open. Let's go get them and bring them through

our doors! It's good that we hit the "answer" button for brothers and sisters who get the courage to call and ask for help, and we should. But let's also start using the dial pads and "call" buttons on our phones to reach our hurting brothers and sisters who may never have the courage to ask for help before it is too late.

No one knows us like us; we know how we are when it comes to dealing with trauma or near-death situations. And most of us have dealt with these events internally and never reached out to anyone about them, even though we knew we probably should. Your brother or sister is most likely the same way because they are you, a law enforcement officer doing and seeing the unspeakable every day to keep their communities safe. So let's not wait for them to ask for our help — let's take the help to them!

I'm challenging each of my 345,000 FOP brothers and sisters to join me in a personal promise of "I'll call you!" If you know someone who might be struggling or might have gone through tough times, tell them "I'll call you," and do it. I will do this for you, brothers and sisters, and I ask you to do the same for me. Let's all check in on each other more often. And not just in the short term after we know something traumatic has happened, but in the weeks, months and years down the road as well. Let's start the dialogue with those who are suffering before their demons take over the conversation and drown us out.

I vow to do this for you, and I ask that you do the same for me. Together, let's give our best effort to impact police suicide and help our brothers and sisters. I know and believe that through individual and collective efforts, we can do this. And as I've always said, I know of no worthier cause than that of helping a brother or sister officer.

"I'll call you!" **FOP**

## VICE PRESIDENT'S MESSAGE

*Continued from page 7*

If made available to retired first responders, Medicare would provide a soft landing for these heroes.

Sen. Sherrod Brown (D-Ohio) and others are working with the public safety community to develop legislation in this area. In draft form, the legislation would allow retired first responders who have reached age 55 to buy into Medicare under the same terms as individuals who have reached the current eligibility age of 65. All facets of Medicare — Part A (hospital insurance), Part B (medical insurance), Part C (Medicare Advantage) and Part D (prescription drug coverage) — would be available to the eligible first responders.

Providing this early avenue into Medicare will help ensure that our first responders have the dignified retirement they've earned.

In my opinion, the FOP must pursue all options for making sure that those who came before us have affordable health care into the future. That includes Medicare at 55 for first responders. It could also include allowing health savings accounts to be used for paying premiums after retirement.

Furthermore, it could also mean allowing retirees and employees near retirement to roll over assets from a governmental plan, such as a 401(a), 403(b), 457(b) or deferred retirement option plan, into a qualified medical trust or voluntary employees' beneficiary association (VEBA) for the sole purpose of purchasing health care in retirement. Distributions from the qualified medical trust or VEBA would be tax-free, or it could mean all of the above.

At the end of the day, we're open to ideas, and we're committed to working with state and local lodges as they face this new frontier of drastic changes to long-established health-care options for retirees. **FOP**

## SERGEANT AT ARMS' MESSAGE

*Continued from page 11*

of the depth of what CRI-TAC can offer, a high-ranking member of an organization must initiate an application. Often it will be a chief or deputy chief; sometimes it's the head of a training division acting on behalf of the administration; or maybe it's a sergeant tasked with the assignment.

Several times, we have communicated with an FOP leader along with a ranking member of an organization. What I am getting at is that you can have a great impact on your profession by making sure that your command staff is aware of this consortium, which has a great deal of legitimacy based on the partners that are involved.

If you visit the National FOP website at [www.fop.net](http://www.fop.net), you will see the CRI-TAC banner running across the top and bottom of our home page. Clicking on the CRI-TAC banner will redirect you to the program web page, where you can apply for assistance. If you would like more information about the CRI-TAC program, or if you need some assistance in getting your organization to visualize the value of this program, I am happy to assist. If you would like a presentation on CRI-TAC, I can help with that, too.

So there is your challenge. You can either lament the problems we are facing in today's complex world or you can be proactive and get your agency to apply for some CRI-TAC support. The effort is cost-free, and so is the solution. **FOP**

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# RESTORING PUBLIC TRUST

**IT'S TIME TO WIN BACK  
THE HEARTS AND MINDS OF THE  
PUBLIC – HERE'S HOW WE DO IT!**

BY DR. JEFF BERNSTEIN

**I** think most of you will agree that we are losing the public relations battle. You see it every day on every news channel; there are so many negative stories about the police. I'm tired of all the negative press. I'm sick and tired of all the hate directed toward the police. Something is seriously wrong in our society when the police are viewed as the bad guys, and the criminals as the poor victims. This thinking needs to change, and we really need to do something about it. I believe that we need a really good public/community relations campaign! An effective campaign will help improve our public image, especially if labor and management work closely together on it.

As a group, I believe we actually have the power to help stop all this hate. In order to start changing the hearts and minds of the public, a concerted national effort needs to be made by everyone in law enforcement. Years ago, I was in a meeting at the Miami Police Department headquarters with Chief John Timoney. He said, "The media loves a good story about a firefighter and a negative story about a cop doing something bad." Wow, he was so right! Think about the stuff you see on the news every day. A group of firefighters rescuing baby ducks stuck in a storm drain or a firefighter putting an oxygen mask on a cat after a fire. I'm really tired of watching that stuff on TV, by the way. While watching one of these rescues on TV with my wife recently, she turned to me and said, "Isn't that wonderful?" I said, "Yes, dear," and I immediately had to leave the room to go throw up in the bathroom. I think we can all agree: firefighters get great media coverage, and cops don't. My former chief, Lou Guasto, was fond of saying, "While what the fire departments do is so important, our free society could not exist without the daily efforts of our police officers." So true. I'm hoping that we can make it our turn now to get some positive press. If we all work together on a public relations campaign, we can win back the hearts and minds of the public! We had it once, so I am quite sure we can have it again.

Here are five things that every officer and supervisor can do:

**1** **We have to make sure that our officers stop doing stupid s--- that ends up on TV.** We have all seen a police pursuit on TV. A helicopter flies overhead, the pursuit ends in a crash, the bad guys bail out and then are caught, there's no resistance, until, wait for it, wait for it, thump, an officer uses a bit more force than necessary. Stop the officers you work with from doing this. Save them from being arrested. Save their jobs and pensions. Stop the act, and these images won't have a chance to appear on TV. It really hurts us when they do. We are the good guys, and we need to be seen that way.

**2** **Don't get baited by people who dislike the police.** Understand what these people are trying to do. The people who record officers on video are trying to get them to say or do something inappropriate. They are often hoping for a negative reaction from you. Remain calm and deal with the situation professionally. Think: If you respond in a professional manner, will that make for good video? Consider these two options.

Option A: "Sir, you are interfering with a lawful investigation. Please step back now and stop obstructing. If you continue, I am going to place you under arrest for obstructing. Please move over to the corner location now."

Now, contrast that with Option B: "Hey, asshole, I'm not going to tell you again. This is police business, get out of my face, and get the f--- out of here now, or I will knock the dog s--- out of you!"

I believe Option A is the better choice. And for those of you who are not sure which option to choose, just pick Option A, please.

**"Get the good news out as often as possible and do what you can to improve the image and reputation of your department."**

**Stop Doing Stupid  
S&@#**

**Don't Get Baited by  
Law Enforcement  
Critics**



“Follow the Golden Rule: treat people the way you would want to be treated.”

Give Good Customer Service

Use Social Media Effectively

Share Positive Footage With PIOs

**3 Give good customer service.** Most people who call the police are honest, hardworking citizens who deserve good customer service. Most have a legitimate problem or question and need your help. When they receive good treatment from the police, they tell people. When they receive bad treatment from the police, they tell 10 times as many people. That's just how it is. Think about how you would want an officer to treat your family. If it were your mom who just got knocked down by a purse snatcher, how would you want the responding officer to treat her? You certainly would want someone who is caring, concerned, compassionate and comforting. For the most part, it's just following the Golden Rule: treat people the way you would want to be treated. Always remember, giving good customer service makes for good video.

**4 Use departmental social media effectively.** Most of you who are actively employed are from Generation X and Y (millennials) and already know how to use social media. Just to be clear, I'm not talking about swiping on Tinder or liking pictures on Instagram. We need to keep the public informed about emergency situations, such as missing kids and bad guys on the loose. Facebook, Twitter, Instagram, whatever! We need to use it, and use it effectively. Get the good news out as often as possible. Do what you can to improve the image and reputation of your department. Feed the public information officer good stuff.

**5 Get those really good body camera videos to your public information officer.** This is so important, and it really is the key to swinging the pendulum back toward respect for the police. Recently, Florida Sheriff's Deputy Jeremie Nix did a great job saving the life of an infant. He was driving home and was flagged down in his patrol car by Nechole Cromwell, who told him that her 4-month-old son, Kingston, was completely unresponsive. After trying to revive the baby and not seeing any results, Deputy Nix decided to drive the baby directly to the hospital. He saved baby Kingston, and 100 million people saw him do it! He was hailed a hero and hugged by mom Nechole. Deputy Nix said, "God put me in the right place at the right time." Wow, it doesn't get any better than that!

These are just five things that all officers can do to help end this hate toward law enforcement. We certainly can do more. For example, if you see a firefighter put an oxygen mask on a cat and the TV cameras are there, just walk over and insert yourself into the frame. Then, immediately start CPR on the cat, and make sure your departmental patch is clearly visible to the camera! A similar technique will also work with the baby ducks stuck in the storm drain. While the firefighters are rescuing the baby ducks, you should personally bring the mother duck over so that she can reunite with her baby ducklings. Again, just make sure your police departmental patch is clearly visible to the cameras. The baby ducks will instinctively follow you and the mother duck, which is what we want. Also, don't be afraid to just push the firefighters out of the way. We need to let the public see us continually doing good things, in person and on video! It works for the firefighters. Heck, even letter carriers had a kick-ass public relations video after 9/11. Yes, letter carriers. The U.S. Postal Service made one of the best public relations videos that I have ever seen. That video should have been about cops and firefighters, not the people who deliver my mail. (Watch it on Youtube here: [www.bit.ly/2BIAUFk](http://www.bit.ly/2BIAUFk).) We desperately need to improve our public image. If we try hard enough, we absolutely and positively can change the hearts and minds of the public. It's up to you to help make that happen!

Note: In the interest of full disclosure, no firefighters' or postal workers' egos were harmed during the writing of this article.

*Dr. Jeff Bernstein is a police psychologist who holds a doctorate in clinical psychology. He worked for the Miami Beach Police Department for 15 years as an officer, detective and supervisor. He is a Medal of Valor recipient and a member of both the FOP and the PBA's Retired Police Officers Council. Additionally, he is a co-author of the best-selling book, Supervision of Police Personnel. Dr. Bernstein serves as a promotional exam resource expert for FOP lodges and PBA locals throughout the country. FOP*

## INSERT

### FRATERNAL ORDER OF POLICE LEGAL PLAN, INC.

#### Summary of Material Modifications to the 2017-2018 Plan Year

During the 2017-2018 Plan year, the following changes were adopted:

##### Applications for Group Coverage by Subgroups

- Effective October 12, 2017, groups may apply for coverage by subgroups having different coverages provided that all the Participants in such a group or subgroup have the same coverage at inception.

##### Salary Reimbursement Option Amended

- Effective April 12, 2018, the Trustees amended the Salary Reimbursement Option (SRO). This option may be elected in lieu of Legal Defense Costs. Previously participants whose claims involve suspension or other discipline resulting in salary loss could have elected to receive reimbursement of up to three days' actual salary loss or \$500, whichever is less. The amended SRO removes the cap and will reimburse participants up to three days' actual salary loss.

#### Summary Annual Report

This is a summary of the annual report for the FRATERNAL ORDER OF POLICE LEGAL PLAN, INC (Employer Identification No. 31-1439914, Plan No. 501), for the period May 1, 2017, to April 30, 2018. The annual report has been filed with the Employee Benefits Security Administration, as required under the Employee Retirement Income Security Act of 1974 (ERISA).

#### Basic Financial Statement

The value of plan assets, after subtracting liabilities of the plan, was \$5,876,814 as of April 30, 2018, compared to \$4,513,548 as of May 1, 2017.

During the plan year, the plan experienced an increase in its net assets of \$1,363,266. This increase includes unrealized appreciation of the value of plan assets; that is, the difference between the value of the plan's assets at the end of the year and the value of the assets at the beginning of the year, or the cost of assets acquired during the year. During the plan year, the plan had total income of \$11,162,386. This income included participant contributions of \$10,315,120 and a total investment income of \$847,266 (consisting of interest and dividends — \$627,064, realized gains on sales of investments — \$317,121 and net depreciation of investments — \$96,919).

Plan expenses were \$9,799,120. These expenses included \$2,019,564 in administrative expenses, \$6,779,556 in benefits paid on participants' behalf, and a \$1,000,000 increase in benefit obligations.

#### Your Rights to Additional Information

You have the right to receive a copy of the full annual report, or any part thereof, on request. The items listed below are included in that report:

- (1) An independent auditors' report; and (2) Assets held for investment

To obtain a copy of the full or partial annual report, write or call the office of:  
FRATERNAL ORDER OF POLICE LEGAL PLAN, INC. OR PLAN ADMINISTRATOR  
STEVE JAMES, PRESIDENT, BOARD OF TRUSTEES  
701 MARRIOTT DRIVE, NASHVILLE, TN 37214  
31-1439914 (EIN) (615) 399-0900

You also have the right to receive from the plan administrator, on request and at no charge, a statement of the assets and liabilities of the plan and accompanying notes, or a statement of income and expenses of the plan and accompanying notes, or both. If you request a copy of the full annual report from the plan administrator, this statement and accompanying notes will be included as part of that report. These portions of the report are furnished without charge.

You also have the legally protected right to examine the annual report at the Plan's Main Office:

FRATERNAL ORDER OF POLICE LEGAL PLAN, INC., 701 MARRIOTT DR., NASHVILLE, TN 37214

and at the U.S. Department of Labor in Washington, D.C., or to obtain a copy from the U.S. Department of Labor upon payment of copying costs. Requests to the Department should be addressed to: U.S. Department of Labor, Employee Benefits Security Administration, Public Disclosure Room, 200 Constitution Avenue, NW, Suite N-1513, Washington, D.C., 20210.

Apparel and accessories get a seasonal update with new designs, functional details and lightweight materials.

# STRATEGIC STYLE



## FIRST TACTICAL DEFENDER SERIES UNIFORM

### Durable Defense

Police work is tough work, and it can be tough on your clothing. That's why the designers at First Tactical prioritized durability for its Defender Series Uniform. For example, knees are reinforced with a double-layer kneepad pocket to extend the life of the pant. The same strategy has been applied to the shirt's elbow area.

Wearers will appreciate multiple layers of ventilation on top of the cotton/Cordura Nylon blend fabric for breathability. A total of 28 pant pockets offer more than enough storage opportunities while the Defender Shirt also features specialized pockets, including oversized ones on sleeves.

**MSRP PANT \$149.99  
SHIRT \$89.99**

With the harsh cold of winter behind us, it's time to enjoy the warmer, longer days of spring. That means trading in your heavier duty apparel for lightweight options that are breathable yet durable enough to withstand the season's temperamental weather. This selection of products will provide you with the comfort and unbeatable protection you need to make the seamless transition into spring.



WIN IT!

## SAFARILAND STX DUTY RIG Safety Belt

With the amount of gear police officers have to don for duty, storage compartments that allow for easy, quick access are paramount. Safariland has produced the STX Duty Rig belt to enable individuals to pack on as many items as comfortable and effective. Officers can personalize their duty rigs by adding a variety of accessories, such as baton holder, double magazine pouch, flashlight holder and even a surgical glove holder. A SafariLaminate finish gives a professional presentation with a semi-gloss leather-like grain texture, but more importantly, offers durability and hassle-free maintenance.

**MSRP BELT \$33-\$118.50  
ACCESSORIES \$4-\$128.50**



## 5.11 TACTICAL FLEX-TAC POLY/WOOL UNIFORMS Material Witness

For occasions demanding a Class A uniform, you still can make comfort a priority. The Flex-Tac Poly/Wool Uniforms from 5.11 Tactical, in partnership with the Woolmark Company, work to keep officers warm and dry in rainy weather. Wool is renowned as a fabric that provides natural thermoregulation, but it also wicks moisture away, prevents abrasion and maintains its shape and color over time. Both shirts and pants feature a Teflon finish to fight against stains. Also, pants have permanent creases, two hip pockets and doubled-welted rear pockets. Uniforms include both men's and women's cuts, and come in black, midnight, silver tan and sheriff green.

**MSRP \$99.99-\$109.99**

## GEAR UP FOR SPRING SWEEPSTAKES

Enter for a chance to WIN! See page 3

## TRU-SPEC OPS TAC T-SHIRT Temp Control

The best way to tackle the unpredictable transitional weather is by layering; you can remove layers when the day warms up and put layers back on when it feels cold or starts to rain. Start with a temperature-regulating shirt like the OPS Tac T-Shirt from Tru-Spec that can be worn as an under layer or on its own. Added to the company's popular 24-7 Series, the Tac T-Shirt is made from drirelease fabric, which has proven to wick away moisture and dry quickly.

The polyester-cotton blend also helps regulate body temperatures, up to seven degrees cooler on hot days. Tactically speaking, creators added a welted loop-pocket panel with hook-and-loop closure on the left sleeve. A three-loop panel on the right sleeve holds small items, such as pens. Sizes range from S to 4XL.

**MSRP \$35.95**



WIN IT!



## WARSON BRANDS REEBOK SUBLITE CUSHION TACTICAL RB8606 Foot Patrol

The latest Sublite Cushion Tactical boot from Warson Brands, the official Reebok licensee for duty and uniform footwear, features much-welcomed updates. The RB8606's 6-inch design includes a composite safety toe added at the behest of law enforcement professionals. Another new feature is a side zipper for easy on and off. Back by popular demand is the Sublite foam midsole technology featuring deep-flex grooves that absorb shock while allowing for natural movement. Designers also brought back the MemoryTech massage removable cushion footbed that conforms to individual contours and provides slip resistance.

**MSRP \$160**

## DICKIES RIPSTOP CARGO PANTS Pick Your Pocket

Ripstop Cargo Pants by Dickies offer a relaxed fit, but are totally equipped to tackle any tactical situation. Stash extra ammunition in the magazine pocket hidden within the large side cargo pockets. L-shaped front pockets hold small items officers need at the ready, including a spot to discreetly clip on a knife. There's also a front leg pocket for phones. Constructed from a flexible performance-stretch material, these pants accommodate freedom of movement. Available in black, midnight blue and khaki.

**MSRP 42.99-\$46.99 FOP**



WIN IT!

# INSIDE THE CRIMINAL MIND



## FORENSIC PSYCHOLOGY DEGREES BRIDGE THE GAP BETWEEN MENTAL ILLNESS AND THE CRIMINAL JUSTICE SYSTEM.

According to the National Institute of Mental Health, nearly one in five U.S. adults lives with a mental illness. Based on the statistic, it's no wonder that law enforcement professionals frequently encounter individuals struggling with a wide range of mental, behavioral or emotional disorders. Over the years, officers have increasingly become first responders for mental health crises — as many as 10% of police calls involve mental illness.

For example, in 2017, the Sacramento Police Department fielded more than 3,340 incidents related to mental health, according to statistics it provided to the *Sacramento*

*Bee*. Officials from Johnson County, Kansas, told the *Shawnee Mission Post* they received a 448% increase in calls from law enforcement agencies for mental health assistance between 2016 and 2017. And Iowa State Police Department Chief Michael Newton confirmed to the *Ames Tribune* that the agency experienced an 18–20% increase in mental health–related calls between 2016 and 2017.

Many of these cases require law enforcement professionals to be as well-versed in psychology as they are in laws and statutes. The key is recognizing who deserves a mental health intervention versus who should be charged with

an offense. It's this unique intersection that's the focus of forensic psychology. Traditionally, the specialty has been viewed from a clinical perspective, where practitioners evaluate individuals for competency hearings or child custody cases. However, law enforcement professionals also benefit from an in-depth knowledge of mental health disorders as well as other potential psychological impacts, such as the effects of interrogation and interview techniques. Many in law enforcement are turning to programs in forensic psychology to gain the valuable skills they need to meet the unique and ever-evolving demands of the job.

### Eastern Kentucky University

[www.eku.edu](http://www.eku.edu)

**DEGREE:** Bachelor of Science in Psychology, Forensic Psychology Concentration

**COURSE SAMPLING:** Literacy in Psychology; Psychology of Personality; Adolescent and Adult Development

**KEY COMPONENTS:** In addition to studying various fields within psychology, students choosing the forensic psychology concentration have the opportunity to participate in high-level discussions of course material with graduate students through a hybrid curriculum structure.

**FACULTY INSIGHT:** "For every topic I teach, I have done as a case as a private practitioner. I



Officer Daniel Potts, EKU B.S. Forensic Psychology graduate

often give students my case materials to review outside of class, and in class we talk about them. That makes for interesting conversations."

—Dustin B. Wiggant, Ph.D., professor and Clinical Training program director

**FOP MEMBER TAKEAWAY:** "I knew I wanted to be a police officer, and I saw a growing trend with officers dealing with individuals with mental illness.

I thought double-majoring in criminal justice and psychology would be very beneficial. I liked that the classes and assignments were able to integrate not only criminal justice to psychology, but psychology to criminal justice." —Kentucky Lodge #75 member Officer Daniel Potts, Independence Police Department, 2013 graduate

### George Washington University

[www.gwu.edu](http://www.gwu.edu)

**DEGREE:** Master of Arts in Forensic Psychology

**COURSE SAMPLING:** Psychology and the Legal System; Theories of Criminal Behavior; Investigative Psychology

**KEY COMPONENTS:** Based in Washington, D.C., GWU faculty have developed an expansive network of contacts within numerous government agencies, including the U.S. Secret Service and the Bureau of Alcohol, Tobacco, Firearms and Explosives. Students can tap into these resources for the mandatory externship.

**FACULTY INSIGHT:** "People working patrols who encounter mentally ill individuals don't always understand what they're looking at. Police



NFOPU CONSORTIUM SCHOOL



Officer Justin Saffar, GWU M.A. Forensic Psychology graduate

**FOP MEMBER TAKEAWAY:** "There are a lot of courses taught by experts in their fields. The interview and interrogation class was taught by an FBI agent of 30 years. They had a behavior profiling course taught by a U.S. Marshal who leads the psychology [department] for the entire service. It was nice to talk to them cop-to-cop." —Maryland Lodge #35 member PO III Justin Saffar, Montgomery County Police Department, 2017 graduate

### University of North Dakota

[www.und.edu](http://www.und.edu)

**DEGREE:** Master of Arts in Forensic Psychology

**COURSE SAMPLING:** Behavior Pathology; Human Factors in Cyber Security; Foundations of Behavioral Data Analytics

**KEY COMPONENTS:** The online program was ranked No. 1 among online master's degree programs in forensic psychology by *CollegeChoice.net* last year. UND students have access to the same resources, lectures and curriculum as on-campus students. The degree culminates with a capstone project that includes a one-week on-campus experience, complete with face-to-face meetings with instructors and classmates.

**FACULTY INSIGHT:** "We have working professionals in the program, and it's a unique learning experience for me to hear from them. At last year's capstone, I learned about their jobs and now I can use that in more practical aspects for classes." —André Kehn, Ph.D., associate professor

**FOP MEMBER TAKEAWAY:** "The main thing that appealed to me was the background of the instructors. I took the time to look at

who come back to school further their advantages, not because they're getting a master's degree, but because they're getting skills they didn't have." —Richard A. Cooter, J.D., Psy.D., Forensic Psychology director



their CVs and the classes they were teaching." —Arizona Lodge #11 member Detective Matt Jones, Tempe Police Department Homicide Unit, 2018 graduate

### Arizona State University

[www.asu.edu](http://www.asu.edu)

**DEGREE:** Master of Science in Forensic Psychology

**COURSE SAMPLING:** Advanced Correctional Psychology; Quantitative Analysis; Seminar in Courts and Sentencing

**KEY COMPONENTS:** The online advanced degree program has gained national recognition since its debut in 2017. Coursework explores various topics of mental health and human behavior and how they pertain to the criminal justice system, including courts and corrections.

**FACULTY INSIGHT:** "We wanted the curriculum to give insight into all angles of the field. We have courses that have come from the law enforcement or criminology perspective, but with the psychological theory behind what goes on. It's important to understand the needs of people with mental health [concerns] and how judges and juries weigh mental health concerns." —Nick Schweitzer, Ph.D., associate professor and ASU Program on Law and Behavioral Science director and founding member



Detective Matt Jones, UND M.A. Forensic Psychology graduate

### University of California, Irvine

[www.uci.edu](http://www.uci.edu)

**DEGREE:** Master of Legal and Forensic Psychology

**COURSE SAMPLING:** Forensic Assessment; Legal Reasoning; Violence and Psychopathology; Clinical Interviewing and Treatment

**KEY COMPONENTS:** A collaboration between the Department of Psychological Science and the Department of Criminology, Law and Society, this graduate-level program examines the issues that cross from psychology to the legal realm and back, with a heavy emphasis on research and evidence-based practices.

**FACULTY INSIGHT:** "I believe police officers are under enormous pressure of dealing with the public and community safety. They need more resources and support systems, and to have a better understanding of mental health to do the job. The goal is to bring the science to practice and have science drive solutions." —Elizabeth Cauffman, Ph.D., professor and Center for Psychology and Law director **FOP**

For more forensic psychology programs and FOP member insights, visit [fopconnect.com/education-connect](http://fopconnect.com/education-connect)

 **FOPConnect.com**



In recent years, departments and agencies nationwide have been increasingly leveraging hardware and software to better protect and serve their communities, and it's easy to see why. Advances in mobile and stationary policing technologies have yielded sophisticated yet user-friendly tools that have helped officers do their jobs more effectively and efficiently. With bodycams that upload footage wirelessly, dictation programs that cut down report writing and apps that create incident maps on mobile devices, there are numerous devices and software to add to your department's arsenal.

# NEXT-LEVEL

Fight crime more efficiently with these high-tech tools and software.

# GEAR



## ■ NUANCE DRAGON LAW ENFORCEMENT

### ▶ Voice Commands

Filling out paperwork can be tedious and time consuming. Although dictation programs have been around for a while, many have proved less than ideal for law enforcement use, often falling short of expectations. Recognizing this, engineers at Nuance designed the Dragon Law Enforcement speech recognition software to specifically meet officers' needs. Tests indicate a 99% accuracy in real-time recognition with the handheld microphone. The Nuance Deep Learning feature compensates for accents and situational noise to increase accuracy. Also, users completed reports at least three times faster than typing. A built-in database of commonly used terms and phrases for police documentation also saves time as do programmable buttons.

**MSRP STARTS AT \$600**



## ■ TOTAL RECALL CORP. CRIMEEYE RD-2 ▶ Eye on Crime

When you need an extra set of eyes discreetly watching the action, set up CrimeEye RD-2, a portable surveillance system by Total Recall Corp. Installation is easy, quick and essentially tool-free. The steady camera mount compensates for challenging environmental factors and the Axis low-light Mega Pixel HD camera produces superior images regardless of ambient light conditions. A UPS power supply with battery backup provides 1-2 hours runtime depending on location specifics. When the surveillance mission is completed, switch the system to transport mode and pack it up in its patented enclosure for secured storage. **MSRP \$16,448**



## ■ AXON BODY 3 ▶ Video on Demand

Axon introduces the Axon Body 3, its first connected body camera device. In addition to memorializing a scene, this model reacts to action. For example, when detecting gunshots, it automatically alerts command staff and sends a live stream from the field for remote assessment and command oversight. Also, there's no need to wait for the wearer to dock the camera before pulling up images. Previewing and uploading can be done wirelessly through connection with FirstNet, Built with AT&T, and Verizon. In addition to creating clear images in low light, the device also records crisp audio. Later this year, Axon will release new features, including transcription and license scanning directly into Axon Records, the company's records management system. U.S. shipments are expected to begin this summer. **MSRP STARTS AT \$699**

## ■ VIGILANT SOLUTIONS VIDEOBADGE

### VB-400 ▶ Compact Cam

Weighing in at a mere 160 grams and measuring 68mm x 89mm x 25mm, the VideoBadge VB-400 by Vigilant Solutions is small but mighty, with as much power and utility as its larger counterparts. A ruggedized exterior is ready to operate in any condition. The pre-record feature offers the opportunity to configure a pre-record period. A 140-degree diagonal field of view allows for an expanded perspective in full HD. On average, the device can capture up to 14 hours of recording, and the battery recharges in less than 8 hours. Images are transmitted via dual-band Wi-Fi, but only authorized individuals can access after downloading to a secure site. **MSRP UNAVAILABLE**



## ■ LASER TECHNOLOGY INC.

### QUICKMAP 3D ▶ Precise Mapping

The QuickMap 3D incident mapping program from Laser Technology Inc. allows users to generate digital diagrams with pinpoint accuracy straight from an Android or Apple device. The program combines the best of the original QM3D with improved functionality, such as transferring field data via Wi-Fi and automatically pairing with the laser's Bluetooth after initial hookup. Users can choose



from three standard mapping strategies: baseline offset, range triangulation and radial with angles. Plus, straight lines can be converted into curves with the new advanced spline. The application also accommodates outlines of irregular shapes as well as matching photos to data sets. Yet another update is the customization option through individual or group point notation.

**MSRP \$595 FOR SOFTWARE LICENSE FOR**

# Partial Government Shutdown Ends; FOP Introduces Top Priorities

At this writing, President Trump has just announced that an agreement has been reached that will fund all operations of the federal government for three weeks — until February 15 — to give the administration and Congress additional time to negotiate on border security needs. The FOP will continue to remain engaged on this issue to ensure that the federal government remains open and that our members have the resources to carry out their law enforcement mission.

For more information on the FOP's engagement during the partial shutdown, see National President Canterbury's article in this issue.

Staff in the National Legislative Office in Washington, D.C., are working with our allies in Capitol Hill to get the FOP legislative priorities reintroduced in this Congress and are, of course, preparing for the annual Day on the Hill event.

## Social Security Fairness Act Introduced in the House and Senate

One of the top legislative priorities of the FOP was reintroduced in the House in the very first week of the 116th Congress. Representative Rodney L. Davis (R-Ill.) introduced H.R. 141 and the legislation, which would repeal the Windfall Elimination Provision (WEP) and Government Pension Offset (GPO) in current Social Security law. At this time, the bill already has 102 co-sponsors.

In the Senate, the companion bill, S. 521, was introduced by Senators Sherrod D. Brown (D-Ohio) and Susan M. Collins (R-Maine).

When the WEP was enacted in 1983, its stated purpose was to remove a "windfall" for persons who spent some time in jobs not covered by Social Security and who also worked other jobs where they paid Social Security taxes long enough to qualify for retirement benefits. This provision has created a very real inequity for many public employees, particularly law enforcement officers, who retire earlier than other government employees and

### Just the Facts:

22 The FOP is pleased to report that some of its top legislative priorities — the Social Security Fairness Act, the Public Safety Employee-Employer Cooperation Act and the Law Enforcement Officers' Equity Act — have been introduced in the House and Senate. Members are encouraged to ask their representatives to co-sponsor these bills. In other good news, 24 FOP-backed bills were signed into law in the 115th Congress.

often begin second careers that require them to pay into the Social Security system. Law enforcement officers who had second careers face as much as a 60% cut to their Social Security benefits. This is a reduction of a benefit to which they are entitled because they paid into the system — not an adjustment for a "windfall."

Similarly, the GPO offsets the Social Security benefit to which a surviving spouse is entitled by two-thirds of the monthly amount of any government pension that they might receive. For example, the widow of a retired law enforcement officer who collected a government pension of \$1,200 would be ineligible to collect the Social Security survivor's benefit of \$600. Two-thirds of \$1,200 is \$800, which is greater than the spouse's benefit of \$600 and thus making her unable to collect it. If the spouse's benefit were \$900, she would collect only \$100, because \$800 would be "offset" by the government pension. Again, the FOP believes this is a matter of fairness and that the offset scheme currently in place penalizes those employees least able to afford it. Law enforcement officers are especially affected because, like many public employees, a significant number of officers are not part of the Social Security system.

Ultimately, the Social Security Fairness Act is about fairness to public employees who served their communities — local governments that chose decades ago to construct a retirement system separate from the Social Security system. However, when these public

employees earn a Social Security benefit through other work, they should receive that benefit in full without being penalized because of their public service.

## Public Safety Employee-Employer Cooperation Act Introduced in the House

Representatives Daniel T. Kildee (D-Mich.) and Brian K. Fitzpatrick (R-Pa.) introduced H.R. 1154, the Public Safety Employee-Employer Cooperation Act.

The bill will recognize the right of public safety employees to form and join unions and to bargain collectively with their employers. It is similar to legislation passed by the House of Representatives in July 2007 and a bill that nearly passed the Senate in 2010.

## Law Enforcement Officers' Equity Act Introduced in the House and Senate

Representatives Peter T. King (R-N.Y.) and William J. Pascrell, Jr. (D-N.J.) have introduced H.R. 1195 in the House, and Senators Cory A. Booker (D-N.J.) and Robert J. Portman (R-Ohio) have introduced S. 473 in the Senate.

This legislation would provide all federal law enforcement officers with 6(c) retirement benefits and the ability to retire after 20 years of service at the age of 50 or after 25 years of service at any age. This same benefit is currently received by most federal law enforcement officers. This bill would also provide for savings in training costs, improve

recruitment and retention of qualified officers and enhance public safety.

## National President Canterbury Testifies Before the Senate in Support of Barr Nomination

Senator Lindsey O. Graham (R-S.C.), the new chairman of the Senate Committee on the Judiciary, invited National President Canterbury to testify and convey the position of the FOP on the nomination of William P. Barr to serve as the next Attorney General of the United States. National President Canterbury told the Committee:

"Mr. Barr is an outstanding choice for Attorney General whom we believe will work to improve the safety of the public and the rank-and-file law enforcement officers who are on the beat. We are confident in his leadership, his commitment to the rule of law and, of course, his experience as Attorney General.

"During his tenure as Attorney General, Mr. Barr transformed the Justice Department by refocusing its resources to help state and local law enforcement combat violent crime — particularly gang crime. This administration has prioritized public safety, and we believe that Mr. Barr is the perfect person to execute this mission."

You can watch the testimony of National President Canterbury and the rest of the panel here: [www.bit.ly/2FChSNQ](http://www.bit.ly/2FChSNQ).

The nomination has cleared the Senate, and Barr has been sworn in as the nation's current Attorney General of the United States.

## Update: The Protect and Serve Act

Staff in the National Legislative Office met with staff in the offices of Representatives John H. Rutherford (R-Fla.) and Val V. Demings (D-Fla.) to discuss reintroducing the Protect and Serve Act to the 116th Congress. It is their intention to have the bill introduced before the FOP's annual Day on the Hill, and they will be making no changes to the bill, which passed the House last year on a 382-35 vote.

In the meantime, our Washington staff is coordinating closely with these offices to sign on as original co-sponsors and build support for action in the Senate Committee on the Judiciary later this year.

## Update: The LEOSA Improvements Act (H.R. 1156)

As we reported in previous issues of the *Journal*, Representative Donald J. Bacon (R-Neb.) introduced H.R. 6105, the LEOSA Improvements Act, in an effort to address

several issues with the Law Enforcement Officers Safety Act (LEOSA). The bill as introduced in the last Congress fell short in terms of fully addressing some of the remaining issues with the LEOSA. However, Representative Bacon's staff proved to be ready partners, and we now have a draft bill that the FOP is proud to support.

Representative Bacon has reintroduced the LEOSA Reform Act as H.R. 1156. This improved legislation would extend the LEOSA exemption to apply to the Gun Free School Zones Act, national parks and certain federal buildings like post offices or Social Security Administration buildings. The bill would also extend the exemption to magazines so that officers are not exposed to legal jeopardy in states that have limitations on the number of rounds or capacity of a magazine.

The FOP is reaching out to our friends in the House to build support for the bill as well as working to develop a companion bill in the Senate.

## FOP's Support Key to Passage of the First Step Act

The FOP played a critical role in developing the final language in what would become the First Step Act. After nearly two months of intense negotiations and many starts and stops, Congress considered and passed the First Step Act.

The legislation establishes a comprehensive and objective risk and needs assessment tool to provide an individual profile of all federal inmates. Those offenders deemed to be at low risk to reoffend would be given incentives and access to evidence-based recidivism reduction programs to better prepare them to return to their neighborhoods and become productive members of their community. More importantly, offenders who are deemed at-risk to reoffend will not have such access.

The FOP played a key role in making sure that dangerous offenders are ineligible to participate in the First Step program, defining more than 50 federal offenses that would make prisoners ineligible to participate in the program.

The legislation also contains provisions that would implement certain sentencing reforms. The FOP worked with policymakers in both the administration and Congress to make sure that these changes are prospective and would not, except in the case of the existing Fair Sentencing Act, be applied retroactively. The bill also contains an important provision that will improve the safety of federal correctional officers.

Jared Kushner, senior advisor to the president, sent National President Canterbury a note of thanks following the passage of the bill in Congress, which read, in part:

"The success of this effort would not have been possible without the support of you and the entirety of the Fraternal Order of Police organization. This Administration has been fortunate to have the support of the FOP since the days of the campaign and you all have been champions and partners in our work to make America safe again. Under your leadership, the FOP actively engaged with us to revise and improve the 'First Step Act.' Without your advocacy on issues like firearm crimes, immigration and trafficking in fentanyl, the final text of the legislation might not have mentioned these crucial issues to public safety."

National President Canterbury was invited to the signing ceremony at the White House, and President Trump invited him to make brief remarks, which you can watch here: [www.cs.pn/2RwXSOH](http://www.cs.pn/2RwXSOH).

## Recapping the 115th Congress

Despite the gridlock and dysfunction on Capitol Hill, the National Legislative Office is proud to report that 24 FOP-supported bills were passed by Congress and signed into law by the president:

- **H.R. 510/S. 139/PL. 115-50**, the Rapid DNA Act, implements the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent and prevent DNA analysis backlogs.
- **H.R. 613/S. 1084/PL. 115-391**, the Lieutenant Osvaldo Albarati Correctional Officer Self-Protection Act, directs the Bureau of Prisons to make secure firearms storage areas accessible to employees at all of its facilities.
- **H.R. 695/S. 705/PL. 115-141**, the Child Protection Improvements Act, allows organizations that serve children and the elderly to use the FBI database to conduct background checks on potential employees.
- **H.R. 909/S. 322/PL. 115-334**, the Pet and Women Safety (PAWS) Act, expands existing federal protections to the pets of domestic abuse victims and establishes a grant program to assist victims and their pets when they leave their abusers.

Continued on page 26 >

- **H.R. 949/S. 597/PL 115-141**, the Children of Fallen Heroes Scholarship Act, eliminates the Expected Family Contribution provision in the Pell Grant program for the children of public safety officers killed in the line of duty.
- **H.R. 1057/S. 372/PL 115-271**, the Synthetics Trafficking and Overdose Prevention (STOP) Act, closes the loophole and allows U.S. Customs and Border Protection to effectively enforce customs laws that will stop the flow of deadly synthetic drugs into our communities from China.
- **H.R. 1428/S. 583/PL 115-37**, the American Law Enforcement Heroes Act, prioritizes the hiring of veterans and reservists through the hiring program administered by the Office of Community Oriented Policing Services (COPS).
- **H.R. 1616/S. 904/PL 115-76**, the Strengthening State and Local Cyber Crime Fighting Act, authorizes the National Computer Forensics Institute to provide assistance and training to local and state law enforcement agencies investigating and prosecuting cybercrimes.
- **H.R. 1846/S. 782/PL 115-82**, the Providing Resources, Officers, and Technology to Eradicate Cyber Threats to (PROTECT) Our Children Act, reauthorizes the Internet Crimes Against Children (ICAC) Task Forces.
- **H.R. 1865/S. 1693/PL 115-164**, the Allow States and Victims to Fight Online Sex Trafficking Act, updates and clarifies Section 230 of the Communications Decency Act to ensure that charges can be brought against interactive computer service providers who engage in criminal behavior or with reckless disregard to criminal activity.
- **H.R. 1892/S. 1108/PL 115-123**, the Honoring Hometown Heroes Act, amends existing U.S. Flag Code to allow governors to fly the American flag at half-staff in the event a law enforcement or other public safety officer falls in the line of duty.
- **H.R. 2142/S. 708/PL 115-112**, the International Narcotics Trafficking Emergency Response by Detecting Incoming Contraband with Technology (INTERDICT) Act, ensures that U.S.

Customs and Border Protection (CBP) will have additional portable chemical screening devices at ports of entry, mail and express consignment facilities and more resources at the CBP labs.

- **H.R. 2228/S. 867/PL 115-113**, the Law Enforcement Mental Health and Wellness Act, directs the U.S. Attorney General to work with the U.S. Departments of Defense and Veterans Affairs to identify and collect information on existing mental health services provided to our nation's veterans and federal employees and seek to create model policies and best practices for local and state agencies to design their own mental health and wellness programs.
- **H.R. 3249/S. 2703/PL 115-185**, the Project Safe Neighborhoods Grant Program Authorization Act, reauthorizes and funds the Project Safe Neighborhoods program.
- **H.R. 4477/S. 2135/PL 115-141**, the Fix NICS Act, requires all federal agencies and states to produce NICS implementation plans focused on uploading accurate, required information to the background check system.
- **H.R. 4854/S. 2345/PL 115-257**, the Justice Served Act, increases the capacity of prosecutors to address the backlog of violent crime cases involving suspects identified through DNA evidence.
- **H.R. 5750/S. 3714/PL 115-401**, the Ashanti Alert Act, directs the U.S. Department of Justice and the AMBER Alert program to establish an Ashanti Alert system for missing adults in certain circumstances.
- **H.R. 5788/S. 3057/PL 115-271**, the Securing the International Mail Against Opioids Act, closes the loophole and allows U.S. Customs and Border Protection to effectively enforce customs laws that will stop the flow of deadly synthetic drugs into our communities from China.
- **H.R. 5933/S. 2789/PL 115-271**, the Substance Abuse Prevention Act, reauthorizes the Office of National Drug Control Policy and the programs it administers.
- **H.R. 6047/S. 207/PL 115-271**, the Synthetic Abuse and Labeling of Toxic Substances (SALTS) Act, amends the Controlled Substances Act to set forth factors that may be considered

as evidence to determine whether a controlled substance analogue is intended for human consumption.

- **S. 419/PL 115-36**, the Public Safety Officers' Benefits (PSOB) Improvements Act, makes key changes to the Public Safety Officers' Benefits program to improve transparency and accountability as well as reduce the existing backlog of claims.
- **S. 756 as amended/PL 115-391**, the First Step Act, makes significant reforms to the federal criminal justice system.
- **S. 2495/PL 115-141**, the Students, Teachers, and Officers Preventing (STOP) School Violence Act, reauthorizes and expands the existing Secure Our Schools program administered by the Office of Community Oriented Policing Services (COPS).
- **H.R. 5955/S. 2961/PL 115-424**, the Victims of Childhood Abuse Act Reauthorization Act, reauthorizes and expands programs funded through the Victims of Childhood Abuse Act.

#### Support the PAC!

A key component of our National Legislative Program is the National Fraternal Order of Police Political Action Committee (NFOP PAC). The NFOP PAC allows the FOP to more effectively represent our members and our agenda on Capitol Hill. The FOP is the No. 1 voice for law enforcement, so it is crucial we keep our PAC strong.

To do this, we are urging every FOP member in your lodge to make a donation and to consider becoming a monthly contributor. These contributions will help grow our PAC and amplify our voice in the legislative process. We also encourage lodges to consider participating in a payroll deduction program. Participating in this way can significantly grow our PAC.

To donate or learn more about participating in the NFOP PAC, contact Scott Marks at [scott.marks@fop.net](mailto:scott.marks@fop.net) or call the National Legislative Office in Washington, D.C.

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// FOR MORE INFORMATION, please contact the National Legislative Office at (202) 547-8189.



## Unpacking the Janus Decision

Since the Supreme Court ruling in *Janus v. AFSCME*, we here at the Labor Services Division have received numerous questions and concerns from different groups across the country pertaining to *Janus*' implications. Because of this, we feel it would be helpful to reiterate the information we have gathered since the ruling. The Supreme Court ruled in *Janus* that fair share fees are unconstitutional under the First Amendment of the U.S. Constitution. However, in the heart of the decision there is some interesting language concerning the duty of fair representation, but more about that later. Here are some general observations about the decision:

- This decision affects only the issue of fair share and the collection of dues under the fair share doctrine.
- If you have a fair share clause in your collective bargaining agreement (CBA), this decision invalidates that clause.
- Since most CBAs have a severability clause ensuring the continuation of the CBA in the event some part is ruled invalid or unenforceable, the invalidation of a fair share clause should have no effect on your CBA.
- If you do not have a severability clause in your CBA, you may have to go back to the bargaining table to discuss this issue.
- Your employers are required to stop taking fair share fees from nonmembers as of June 27, 2018. Any fees collected by or sent to the lodge after that date are required to be returned to the nonmember.
- If the form you use for payroll deduction contains language referencing fair share fees, they should be replaced with new forms indicating the payroll deduction for union dues is voluntary.
- The *Janus* decision did not stop a public employer from participating in payroll deductions for union dues from members.

In the *Janus* decision, there is a section discussing the duty of fair representation. The Supreme Court during this discussion opened the door to the prospect of charging nonmembers a fee for services or denying service altogether, as long as it is reasonable. However, it qualified that statement by saying union decisions cannot be arbitrary or in bad faith. In the coming months, the Labor Services Division will be examining ways to handle the question of duty of fair representation. We believe a threshold might be the

### THE SUPREME COURT RULED IN JANUS V. AFSCME THAT NONUNION WORKERS CANNOT BE FORCED TO PAY FEES TO PUBLIC SECTOR UNIONS, OVERTURNING A 40-YEAR-OLD PRECEDENT.

representation of a nonmember during the initial processing of a grievance, because once the grievance involves attorneys and experts, the issue of payment or nonperformance comes into play.

#### Frequently Asked Questions

1. **What does the *Janus* decision do?** It affects the ability of a lodge to collect monies from nonmembers as a condition of employment.
2. **Does the *Janus* decision affect the ability to have dues deductions from members?** No. Where state and local laws allow, the deduction of dues from members' paychecks is left unchanged. In other words, if your local jurisdiction is now deducting dues from your paycheck, that will not change.

3. **Will the *Janus* decision cancel out the right of members to have their dues deducted from their paycheck?** No, although it may require you to fill out a new dues deduction form if your old one mentioned fair share from nonmembers.
4. **Can nonmembers still pay a fair share fee and have it deducted from their paycheck?** Yes, but the authorization form will have to clearly state that the nonmember is doing so voluntarily and is not required to do so based upon the *Janus* decision.
5. **Will our union have to renegotiate any of the clauses in our collective bargaining agreement?** Yes, if your CBA has clauses that refer to fair share payments by nonmembers.
6. **Does my lodge have to represent nonmembers under the duty of fair representation?** Yes, to a certain extent. We are still evaluating the language in the *Janus* decision to see how it might affect the duty of fair representation. At the very least, you will be required to represent nonmembers during the initial processing of a grievance. However, at such time when attorneys or expert witnesses may be needed, it may be possible to charge the nonmember for those services. Please keep in mind that each state may have different rules as far as the duty of fair representation and you should consult your own state law.
7. **Does my lodge have the responsibility to bargain collectively for nonmembers?** Yes, all bargaining unit members — even non-dues-paying bargaining unit members — must be represented fairly in contract negotiations. **FOP**

## The FOP's Fab Four

At the fall board meeting last year, I organized a small group picture. While I personally considered it important to have this photo taken, I was surprised at the attention and enthusiasm this endeavor received from our members. The picture was taken at 9 a.m. on Saturday, October 27, 2018, in a meeting room at the Marriott Hotel in Independence, Ohio. The group is standing in front of an Ohio FOP banner to the right of the stage (facing the stage).

As asked, our four past National presidents, John Dineen, Dick Boyd, Dewey Stokes and Gil Gallegos, made their way to the staging area. As they were preparing for me to take their picture, a number of members joined me and took pictures themselves. I consider these men to be the "FOP's Fab Four," even though none of them are from London. I know the importance of this shot, and I hope that, as an organization, we realize how fortunate we are to have had leaders with an abundance of experience, knowledge and dedication. It became immediately evident that the History Committee needed to share this picture with all of our members. The Committee agreed (except for Dewey, we didn't tell him).

John Dineen, of Chicago Lodge 7, has the longest tenure of our four past presidents. He joined the FOP on January 7, 1963, two years before I was born. He served as our 12th National president for two years, from 1979–1981.

Gil Gallegos, of Albuquerque Lodge #1, became an FOP member the day he graduated from the Albuquerque Police Department Academy on December 18, 1964. He served as our 16th National president for six years, from 1995–2001. The New Mexico FOP was proud to work on his campaign.

Next up was Brother Dick Boyd, who became a member of Oklahoma City Lodge 123 on January 8, 1968. He was our president from 1983–1987. The sacrifices he made to serve as our 14th president are well known and truly appreciated.



Dewey Stokes is the baby of the group. He joined the FOP in February 1968 (the exact date is unknown). He joined approximately one month after Brother Boyd. Dewey served as the 15th National president for eight years, from 1987–1995.

**I HOPE WE REALIZE HOW FORTUNATE WE ARE TO HAVE HAD LEADERS WITH AN ABUNDANCE OF EXPERIENCE, KNOWLEDGE AND DEDICATION.**

Brothers Boyd, Stokes and Gallegos served in succession (1983–2001), and in that order. Along with Brother Dineen, they served a combined 20 years as president of the largest police organization in the world. We were, and are, lucky to have them. The '60s were pretty good to the FOP.

Oh, and another thing, they are all Catholic and have been known to attend mass while at National Conferences or board meetings. I have joined them on many occasions. In 2015, a sister member in Pittsburgh gave myself along with Brothers Stokes and Boyd a ride back to our hotels after we attended mass during a Conference. Me and Boyd rode in the bed of her truck, and we looked like the FOP version of "The Beverly Hillbillies." We have a great picture of that.

These four heroes have been members of the Fraternal Order of Police for a combined 213 years. Let us never forget their contributions to their local, state and national lodges.

P.S. I took another picture of the four that included President Chuck Canterbury. I'm guessing that picture will someday become part of an article such as this one.

James Flores (New Mexico) is the chairman of the National FOP History Committee. The members of the committee are Dewey Stokes (Ohio), Adolph South (Alabama) and Michael Young (Maryland). **FOP**

## Qualified Immunity Doctrine Under Assault

The stated purpose of the qualified immunity doctrine is to balance the public interest in holding government officials accountable with the need to protect those officials from harassment or liability when they have performed their duties reasonably. For law enforcement, qualified immunity operates "to protect officers from the sometimes 'hazy' border between excessive and acceptable force" (*Saucier v. Katz*, 533 U.S. 194, 206 [2001]). But critics of the doctrine say that it provides legal cover to law enforcement personnel who act unreasonably while leaving the "victims" without recompense. Behind a groundswell of news stories depicting "questionable" police shootings, critics have launched a multi-pronged attack to significantly narrow or dismantle the qualified immunity doctrine. The result: a potentially hazier border between proper and improper, leaving law enforcement officers in a Catch-22.

The qualified immunity doctrine protects government officials "from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known" (*Pearson v. Callahan*, 555 U.S. 223, 231, 129 S. Ct. 808, 815 [2009]). Qualified immunity is not merely a defense, but instead provides complete immunity from suit, which means that it must be resolved as early as possible during litigation (*Id.*, citing *Hunter v. Bryant*, 502 U.S. 224, 227, 112 S. Ct. 534, 116 L. Ed. 2d 589 [1991]).

Plaintiffs seeking to impose liability against law enforcement typically bring a § 1983 action for excessive force or unreasonable search and seizure in violation of clearly established constitutional rights (typically under the Fourth Amendment). Law enforcement personnel often raise the qualified immunity defense, which operates under the well-established precedent set forth in *Graham v. Connor*, 490 U.S. 386, 388–89 (1989). For example, to prevail over an officer's qualified immunity defense to

### Just the Facts:

22 The qualified immunity doctrine is an important legal defense for officers involved in lawsuits alleging excessive or unreasonable uses of force. But law enforcement critics across the country are proposing laws and legislation that would significantly narrow or dismantle the doctrine.

an excessive force action, the plaintiff must show: (1) significant injury; (2) that resulted from the use of clearly excessive force that violates the individual's Fourth Amendment rights; and (3) that it is clearly established that the force used was objectively unreasonable taking into account what a reasonable officer would do in the specific circumstances confronting the officer at the scene.

Critics have been attacking qualified immunity on multiple fronts. On one front, petitioners have asked the U.S. Supreme Court to revisit the qualified immunity doctrine entirely (see Petition for Writ of Certiorari, *Abnighy Supreme Born Allah v. Lynn Milling, et al.*, Case No. 17-8654). The petition gained notoriety after *The New York Times* reported that the case galvanized support from a diverse, bipartisan group of criminal justice advocates, including civil libertarians and conservative forces such as the Koch brothers. Notably, petitioners later voluntarily withdrew this request, and the Supreme Court has recently reaffirmed its commitment to current qualified immunity precedent (see *Kiela v. Hughes*, 584 U.S. \_\_\_ [2018], which reversed a Court of Appeals decision declining to apply qualified immunity by summary reversal — a rare maneuver done without oral argument or full briefing, which suggests the case was clear and that qualified immunity must apply). But three current Justices — Ginsberg, Sotomayor and Thomas — have now openly expressed reservations about the current trajectory of the qualified immunity doctrine.

On another front, some state legislatures have taken matters into their own hands, introducing legislation narrowing the

protection qualified immunity has historically afforded. For example, Washington, California and Delaware either have passed legislation narrowing the qualified immunity doctrine or are in the process of attempting to do so.

In California, critics have proposed legislation seeking to amend the reasonable officer legal framework by injecting a "necessity" standard that requires de-escalation techniques while confining use of deadly force only to situations where "it is completely necessary" (see AB 931, available here: [www.bit.ly/2QsnjWx](http://www.bit.ly/2QsnjWx)). This revised necessity requirement would be a departure from historical American police practice, which typically defers to officers' judgment in volatile situations.

Such practices may not have the desired effect on law enforcement, instead leaving officers between a rock (potential civil liability for improper use of force) and a hard place (job discipline or serious injury resulting from failure to timely act); see, e.g., [www.bit.ly/2RonnGj](http://www.bit.ly/2RonnGj), which discusses how a police officer was fired for failing to shoot a suspect who was potentially dangerous to others.

Police response to volatile situations is undoubtedly complex. Life-and-death decisions must be made in a split second. Qualified immunity is meant to eliminate from a police officer's calculus whether any action at the scene will result in civil damages. Legislative changes and other attacks against qualified immunity — crafted in hindsight by individuals who are not on the front lines with officers — must be careful not to undermine the sensible protections qualified immunity affords. **FOP**



### EXCELLENCE IN LEARNING

The National Fraternal Order of Police University (NFOPU) has successfully paved the way for hundreds of FOP members to pursue higher or continued education.



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## A Proclamation to Honor the Fallen

In October 1962, President John F. Kennedy signed a joint Congressional resolution proclaiming May 15 of each year as Peace Officers Memorial Day. An excerpt from that document reads:

Whereas the police officers of America have worked devotedly and selflessly on behalf of the people of this Nation, regardless of the peril or hazard to themselves; and

Whereas these officers have safeguarded the lives and property of their fellow Americans; and ...

Whereas these men and women by their patriotic service and their dedicated efforts have earned the gratitude of the Republic;

Now, therefore, be it resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, that the President is authorized and requested to issue proclamations designating May 15 of each year as Peace Officers Memorial Day **in honor of the Federal, State, and municipal officers who have been killed or disabled in the line of duty.**" (Emphasis my own.)

The proclamation not only designates the date and foundation of the decree, but also recognizes the service of the men and women who stand guard, night and day, to protect and enforce the laws of our country. Since the resolution was passed, each year communities nationwide hold ceremonies to observe Peace Officers Memorial Day.

On May 15 of this year, families, friends and co-workers will once again gather on the West Front Lawn of the United States Capitol in Washington, D.C., to honor

their loved ones during the 38th Annual National Peace Officers' Memorial Service. Commanders, politicians and concerned citizens will attend the ceremony to carry out President Kennedy's proclamation and to pay homage to the officers who selflessly gave their lives serving and protecting the citizens of this country.

The service begins as family members enter the lawn area and are escorted to wire chairs, a designated place of honor. During the service, attendees reflect on their deepest respect for the fallen officers and their families as they listen to performers and speakers offer moving tributes and watch as families place flowers in the memorial wreath when the names of their loved ones are read aloud.

**PRESIDENT KENNEDY'S RESOLUTION RECOGNIZES THE SERVICE OF THE MEN AND WOMEN WHO STAND GUARD TO PROTECT AND ENFORCE THE LAWS OF OUR COUNTRY.**

After the final song is performed, and one looks upon a sea of blue ribbons being waived in honor and remembrance of our heroes, the service concludes.

The Fraternal Order of Police and the Fraternal Order of Police Auxiliary aspire to the day when there are no new names to be read aloud or inscribed on memorials and no new families to grieve a line of duty death. Until that day, we will vigilantly carry out President Kennedy's proclamation to honor our fallen heroes and continue to demonstrate our commitment to **Never Let Them Walk Alone.**

**WRITE TO US!** Contact the National Auxiliary at [lhennie@aol.com](mailto:lhennie@aol.com) to learn more about opportunities to support law enforcement families.

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A19  
The logo features a stylized yellow 'A' with a white '19' to its right. The background of the entire page is a photograph of a man wearing a VR headset and headphones, with a blue color overlay.

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