

UPCOMING TRAININGS & CONFERENCES

- **NDAA** is making its National Courses available virtually in light of health and safety concerns over COVID-19. Check out a full list of NDAA's virtual learning sessions at <http://ndaa.org/wp-content/uploads/NDAA-Offerings-Covid19.pdf>.
- **NEW!** NDAA's Human Trafficking and the Impact on Commercial Driver's Licenses On Demand Training <https://ndaa.org/training/human-trafficking-and-the-impact-on-commercial-drivers-licenses/>
- NDAA's Prosecuting DUI Cases Online Course On Demand Training <https://ndaa.org/training/prosecuting-dui-cases/>
- NDAA's Advanced DNA—Beyond the Basics Learning Series / August 31, 2020 @ 11:30 am–3:30 pm EDT and September 1, 2020 @ 11:30 am–4:00 pm EDT
- NDAA's Substance Use Issues in Juvenile Court: An Overview for Prosecutors / September 16, 2020 @ 3:00 pm–4:30 pm EDT
- NDAA's 6 Things Every Prosecutor Needs to Know About Cell Phone Records in Court / September 23, 2020 @ 2:00 pm–3:00 pm EDT
- NDAA's Prosecutor 101—Basics for New Prosecutors and Refreshers for Experienced Attorneys / September 28, 2020 @ 3:00 pm – 4:30 pm EDT (Ethics for Prosecutors) / September 29, 2020 @ 3:00 pm – 4:00 pm EDT (Voor Dire) / September 30, 2020 @ 3:00 pm – 4:00 pm EDT (Witness Control Techniques)
- NDAA's Challenges with Immigration Issues for Victims of Domestic Violence / October 6, 2020 @ 2:00 pm EDT
- NDAA's Community Prosecution in a Pandemic—Ideas and Strategies to Engage your Constituents and Ensure Justice / October 13, 2020 @ 11:30 am – 12:30 pm EDT

RESOURCES

- Impaired Driving Resources—<https://ndaa.org/programs/ntlc/>
- CDL-Related Resources—<https://ndaa.org/programs/ntlc/commercial-drivers-license/>



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Driving Change

How the Movement for Criminal Justice Reform Impacts the Rules of the Road

By Frank Russo, NDAA Director of Government and Legislative Affairs

Communities across the country have joined together following George Floyd's tragic death to push for greater transparency and equality in the American criminal justice system. The voices of those marching on main street have reverberated all the way to our nation's capital, as policymakers in Washington, D.C.

debate the best approach to answer their constituents' calls for change. Increased transparency and data collection, improved training standards, reforming qualified immunity, and new community-based policing programs are on the laundry list of reforms being considered by elected officials. However, these changes are not unique to the policing community as our entire criminal justice apparatus is placed under a microscope. In the coming months, Congress will be considering important legislative proposals that impact the transportation world as issues such driver's license suspensions and traffic safety play a role in the broader push for criminal justice reform.

This begs the question: what exactly is Congress's plan for reform and how will it impact the work of prosecutors across the country? Currently, two competing legislative pro-

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posals have outlined a path forward for reform of our country's criminal justice system. U.S. Representative Karen Bass's (D-CA) *George Floyd Justice in Policing Act* was the first proposal to move through Congress, as the bill was passed in the U.S. House of Representatives on June 25th, 2020. Within the hundred-plus page proposal, multiple provisions have the potential to impact the traffic safety space. Specifically, the *George Floyd Justice in Policing Act* conditions federal grants available for law enforcement through the Department of Justice on States and localities adopting new policies including banning chokeholds, limiting the use of no-knock warrants, requiring increased body-camera usage, and mandating expedited reviews of this new body-camera footage. Should a State or locality fail to adopt these measures, local law enforcement agencies and prosecutors' offices face the potential of losing federal grant dollars. Further, the provisions in the legislation focused on increased transparency will likely saddle prosecutors with increased footage, such as from traffic-related stops and arrests, to review along with shorter timelines to provide the public with this footage. These new burdens on prosecutors are not unique to Representative Bass's proposal, as U.S. Senator Tim Scott (R-SC) has introduced his own reform package in the Upper Chamber of Congress.

Similar to the efforts undertaken in the House, the Senate proposal focuses heavily on increasing public transparency into the criminal justice system and ensuring that federal

grants are conditioned on policy changes at the State and local level. The *JUSTICE Act*, brought forward by Senator Scott this past June, would enact new transparency requirements similar to those imposed in the *George Floyd Justice in Policing Act*. These include mandating State and local law enforcement agencies provide additional information to the Department of Justice on incident of officer's use of force and expanding the use of body cameras by law

Federal policy change, however, is not limited to broader law enforcement reform that will trickle down to the traffic safety community. Congress is also considering specific legislative proposals that directly affect how prosecutors and police handle driver's license suspensions, fines, and administrative fees.

enforcement throughout the country. However, Senator Scott's proposal departs from the House's legislation in how it applies these new mandates to existing federal grants for State and local law enforcement. Rather than penalize nearly all funding from State and local law enforcement agencies that fail to comply with these new mandates, the *JUSTICE Act* creates a new formula that re-distributes the federal grants from non-compliant States and localities to those who are in compliance. What exactly would this mean for your jurisdiction? Should your State and local law enforcement agencies fail to meet these new requirements in Senator Scott's legislation, a portion of federal grants will be deducted and moved to compliant jurisdictions throughout the country. This incentive structure would present a new tool for federal lawmakers to push local governments to enact policy reforms that Congress deems desirable.

Federal policy change, however, is not limited to broader law enforcement reform that will trickle down to the traffic safety community. Congress is also considering specific legislative proposals that directly affect how prosecutors and police handle driver's license suspensions, fines, and administrative fees. Senators Chris Coons (D-DE) and Roger Wicker (R-MS) recently introduced the bipartisan *Driving for Opportunity Act*, that sticks with the theme of using federal grant programs to incentivize State and local change. However, instead of penalizing jurisdictions, this proposed bill would establish a new funding stream to reward

States and localities that do not suspend, revoke, or refuse to renew a driver's license of a person or refuse to renew a registration of a motor vehicle for failure to pay a civil or criminal fine or fee. Within the bill, States and localities that adopt this policy would be eligible for \$20 million in new federal grants to recover the costs incurred by the State or jurisdiction that is now reinstating the driver's licenses. Important to the scheme devised in the legislation, local governments and law enforcement agencies would remain eligible should they still suspend drivers licenses for safety reasons, such as an individual posing a risk to themselves or others on the road as a result of their criminal history. Finally, the bill would repeal a section of the United States Code that threatens States with loss of a portion of highway funding if they do not suspend driver's licenses of individuals convicted of drug offenses. The *Driving for Opportunity Act* is one of the few reform proposals that remains bipartisan and has garnered support from a majority of the law enforcement community, including the National District Attorneys Association (NDAA). Proposals that allow law enforcement to make decisions based on public safety, while simultaneously providing new federal funding to support reasonable reforms, offer a realistic approach to improving the criminal justice system with law enforcement buy-in.

So, where does federal policy reform stand as Congress begins to wind down its 116th Session? As is often the case on Capitol Hill, partisanship and election-year politics threaten to derail legislative proposals, even those that are bipartisan. Both political parties remain in a stalemate on policing reform while trying to compromise on how best to structure the federal grant penalties and address divisive issues such as qualified immunity. Despite the partisan divide, NDAA remains committed to working with lawmakers to ensure legislation is moved forward that provides for the effective and fair administration of justice. However, it is equally as important to ensure that the prosecutor and traffic safety community remain an integral part of any conversation on criminal justice reform to ensure federal lawmakers do not impair our members' ability to protect the communities they serve on a daily basis.

To learn more about NDAA's work on policy and legislative issues, you are encouraged to contact Frank Russo, Director of Government and Legislative Affairs. He can be reached at frusso@ndaajustice.org or at 703-519-1655.