



ICOPs

POLICE BULLETIN

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September 2005

Officer Joe Gorski Gets His Job Back

At 4 a.m. April 3, Police Officer Joe Gorski — two years on the job — quickly came to the aid of an Illinois state trooper. The trooper was alone and had stopped several cars travelling on I-88, reportedly with weapons. And what reward did Officer Gorski get for his rapid response to the dispatcher’s call? He got suspended without pay and without a hearing by North Aurora’s police chief, who charged him with several violations of standard operating procedures.

ICOPs Attorney Richard Blass appealed the ordered suspension, and took the case before the village police and fire commission on June 2. “Do you want the officer to get over there to assist another officer as slowly as possible?,” Blass asked.

The three-member commission found that the facts did not support the chief’s charges and ordered Gorski reinstated with back pay. In doing so, the commission issued a unanimous and rare directed verdict, which meant that Gorski did not have to present witnesses.

The verdict was warmly applauded by the room full of Gorski’s family and supporters, including the state trooper he had assisted.

Following the verdict, Blass, a 13-year veteran of the Bellwood police force, said, “I’m going to do everything I can to defend the police officer. Gorski should have been given a medal, not disciplined!”

Subsequent to the commission’s verdict, the police chief appealed the ruling to the circuit court to overturn the decision—in effect challenging the ruling of his own commissioners.

North Aurora police won union recognition seven months ago. According to ICOPs President, Norm Frese, the village is stalling on negotiating a contract, and ICOPs will take all appropriate steps to get management to the bargaining table and to win a first-ever union contract for North Aurora police.

You can read the full story about Officer Joe Gorski on our website at www.icops.org.



North Aurora Police Officer Joe Gorski
“should have been given a medal, not disciplined!”

Know Your Rights

As a Police Officer, your best protection is a union contract. Be sure you are familiar with the provisions of your contract, such as your right to have a union representative present during all administrative proceedings.

In Illinois, the Uniform Peace Officers’ Disciplinary Act protects police officers when no union contract is in effect. Rights contained in this act include:

- ★ Prior to being interrogated, you must first be advised in writing that you have the right to counsel of your choosing who may be present to advise you at any stage of interrogation. You must be provided reasonable time and opportunity to obtain counsel, and you may request counsel at any time before or during interrogations.
- ★ You must be informed in writing of the nature of an investigation before any interrogation takes place, and you must be informed of the names of all complainants prior to any administrative proceeding.

To read the Uniform Peace Officers’ Disciplinary Act, go to “police news and resources” on ICOPs website at www.icops.org.

ICOPs
Illinois Council Of Police

“When you want a police union that stands up for its members, you want ICOPs.”

Police News and Resources

- Police Officers Bill of Rights
- Illinois Compiled Statutes — Local Government
- Uniform Peace Officers’ Disciplinary Act • 50 ILCS 725

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Beck v. Cleveland:

Police Win Overtime/Comp Time Decision

In May, the Sixth Circuit Court affirmed the right of police officers to use compensatory time. Police union representatives, including ICOPs President Norm Frese, hailed the ruling in the Beck v. Cleveland case as a major victory for all law enforcement officers.

The Court ruled against the City of Cleveland, which refused a police officer's comp time request when the request would reduce staffing below minimum levels. The City could have called in an officer on overtime but instead claimed overtime costs would "unduly disrupt" the police department.

"The Police Officers' compensatory leave requests must be granted absent 'clear and affirmative evidence' of an undue disruption of the City's provision of police services for its citizens," the Court said — rejecting the argument that the burden of overtime would "unduly disrupt" the department.

The Court concluded that "... the 'unduly disruptive' limitation was intended to apply to actual governmental operations, not the fiscal impact of compensatory leave." It further concluded

that the fact that overtime may be required of one employee to permit another employee to use comp time is not a sufficient reason for an employer to claim that the comp time request is "unduly disruptive."

There may be financial impacts of comp time that would be "unduly disruptive," the Court said, but "to rely upon the financial impact of paying overtime to substitute officers to justify denial of compensatory leave... the public employer must present clear proof of disruption of services."

The Beck v. Cleveland ruling arose from a Fair Labor Standards Act (FLSA) case filed by the International Union of Police Associations (IUPA).

In hailing the decision, Frese said that, "the decision greatly strengthens an officer's right to comp time and will discourage police departments from attempting to avoid paying overtime by denying comp time. Most of the towns with whom ICOPs bargains already adhere to the decision, but we must work to ensure that all employers do so."

In Our Not So Humble Opinion...

You may recall the fight about overtime that occurred when the U.S. Department of Labor, under then-new Secretary Elaine Chao, proposed changes to the 1938 Fair Labor Standards Act (FLSA). The 2003 proposals were made after employers complained they were being saddled with costly lawsuits filed by workers who were being denied overtime.

Those proposals would have cut about eight million workers, including 200,000 law enforcement officers, from overtime eligibility. After months of labor protests, congressional hearings and so forth, the Labor Department revised its proposals, and by September 2004 new FLSA provisions went into effect.

Meanwhile in early 2004, the Associated Press and other media revealed that the U.S. Labor Department was offering employers tips on how to interpret FLSA regulations so as to avoid paying overtime — essentially showing them how to get employees to work more hours for the same pay.

Although the new general FLSA provisions appear to accept overtime rights that were previously in effect for police officers, the specific regulations weaken the exemptions for ALL employees. Under the new regulations, employers could attempt to deny overtime to sergeants, captains and lieutenants, or if the employee is paid on an hourly basis rather than on salary.

ICOPs will continue to argue for the most generous possible interpretation of FLSA standards, and for the U.S. Labor Department to carry out its mission of protecting employee rights, including the rights to overtime pay and compensatory time. Since 1945, when the Supreme Court ruled that it is illegal to avoid paying overtime, the Department of Labor has carried out that mission. Why change now?

Don't Be Denied Overtime Pay

If you are part of an ICOPs collective bargaining unit, your rights to overtime are specified in your union contract. If you are NOT covered by an ICOPs union contract and have been denied overtime pay, call us at our toll-free telephone number: 1.800.832.7501.



ICOPs Presents Police Vest

ICOPs President Norm Frese and Attorney Richard Blass presented a bullet-proof vest to Bill Park, a Franklin Park police officer, in one of ICOPs monthly computer drawings for new vests.

Watch Out! Some Governors Are Aiming at Police Benefits



On behalf of the officers, staff and attorneys of ICOPs, I welcome our new members from Winthrop Harbor and Fox River Grove. We look forward to representing you.

In this column, I want to share with ICOPs members my concern about actions that several governors are taking to meet ballooning budget deficits. In Washington, DC, and

all over the country, all budget items have come under added scrutiny and attack — including police pensions.

Furthermore, because benefit and salary improvements for public employees are won largely through the hard work of organized labor, unions are under siege and our rights to bargaining collectively are being threatened.

In recent years, when many state officials took office they did so with the intent of cutting back the influence of unions in their state. Indiana's Gov. Daniels, charging that labor agreements hampered his effort to make good on his pledge to reshape state government, erased collective bargaining and all existing public employee agreements. Missouri's Gov. Blunt, claiming that "taxpayers should not be bound by collective bargaining agreements," voided the executive order granting bargaining rights to state employees.

Then there's California... where Gov. Schwarzenegger has been on a mission to put out the lights on Defined Benefit pension plans for public employees. The governor has advocated sweeping changes in the public employee retirement system that would be devastating to public employees, especially to law enforcement officers. He sees it as a movement sweeping across the country for "pension reform." Here's what his "reform" means:

With Defined Benefit plans (DBs), participants and their employers contribute percentages of their pay over their careers. At retirement, participants receive monthly payments dependant upon their age, years of service, and a calculation including their salary in the years preceding their retirement. DB plans contain provisions for monthly payments in the event that a police officer becomes disabled or dies as a result of an on-duty event. In many locales, retiree health care is a defined benefit.

Defined Contribution plans (DCs) also depend on employee and employer contributions. The funds are placed into 401(k) accounts. The benefits upon retirement, death or disability are determined solely by what is in that account at the time the employee leaves. If an employee dies or becomes disabled as a result of their employment, they or their survivors receive whatever is in the 401(k).

It's not hard to imagine a five-year veteran killed in the line of duty leaving less than \$60,000 to care for his spouse and children.

The differences between the two kinds of plans are enormous. With DBs, the employee knows what to expect; with DCs, the employee is left to the mercy of Wall Street. Administrative costs vary too: DBs cost only 18 cents per \$100 to administer, while DCs cost \$1.35 per \$100.

Now go back to California... where the governor pushed an initiative that would no longer allow Defined Benefit plans for California public employees, claiming it would save money. Financial experts have disagreed, citing the ONLY savings would come from the elimination of public safety death and disability benefits. Despite an opinion by his own state attorney general to the contrary, the governor even denied that his plan would remove these benefits.

What was the response to the governor's plan? Police, teacher, transit, health care and other public employee unions rallied. The International Union of Police Associations (IUPA) called the plan "unconscionable." In Los Angeles, IUPA's affiliate, the Police Protective League, rolled up its sleeves, issued press releases several times a week, and alerted the public. The League sponsored radio spots featuring police survivors who told their stories of loss and hope. Billboards illuminated the plan's details. Gov. Schwarzenegger, meanwhile, wisely refused to debate his police labor opponents.

L.A.'s police union president, Robert Baker, one of the staunchest critics, said "the plan viciously attacks civil servants, with law enforcement taking the significant financial blow." When the governor said that police officers should pay for their own private insurance to compensate for budget cuts, Baker called the governor "callous." He went on to say the governor "is not satisfied with taking away the financial security promised for putting our lives on the line; he now wants us to foot the bill. Death and disability benefits are a moral obligation of society in return for asking us to take risks to our lives and health, in California and every state."

After months of acrimony... Gov. Schwarzenegger backed down in April and admitted publicly that his plan was "flawed." He said that he would abandon pursuit of the plan "until at least June 2006." No one knows if the governor saw the light or just felt the heat, but backing off for a year provides little comfort to public employees.

This situation should sound the alarm across the country. It also illustrates the value of unions sticking together. Rather than look for exemptions for public safety workers, the experienced police union leaders in California saw the advantage of fighting back together with all other public employee groups. Together, they have prevailed — for now. They will not back down or be comforted by the "cease fire."

And he'll be back all right... probably in 2006 with another "reform" plan containing different words, perhaps with a provision intended to ease the fear and obscure his own disrespect for the men and women who protect his state and for their survivors.

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Zylon Vest Fails Safety Test

Police vests containing the fiber Zylon failed to stop a bullet in nearly six of every ten tests, according to a study released August 24 by the U.S. Department of Justice. The study resulted in immediate changes in federal safety guidelines.

The Justice Department imposed new safety standards for vests containing Zylon and said it would no longer allow federal reimbursement for departments that bought them. The department also said it would commit \$33.6 million to help police departments replace the vests.

The department's National Institute of Justice (NIJ) began studying new and used Zylon-containing vests in late 2003, and found that the material deteriorated quickly, particularly when exposed to light and moisture. The findings released August 24 were the first definitive tally of the failure rate.

NIJ has now completed ballistic and mechanical properties testing of 103 used Zylon-containing body armors, provided by law enforcement agencies across the U.S. The tests used 9-millimeter, .357 Magnum and other ammunition on the vests. In 60 cases, or 58 percent, at least one bullet from a six-shot series penetrated the vest. Even in those cases where the bullet did not pierce the armor, 91 percent of the vests sustained damage considered excessive enough to cause blunt-trauma injuries to the officers wearing them.

Although the results do not conclusively prove that all Zylon-containing body armor models have performance problems, they clearly show that used Zylon-containing body armor may not provide the intended level of ballistic resistance. In addition, the results imply that a visual inspection of body armor and its ballistic panels does not indicate whether a particular piece of body armor containing Zylon has maintained its ballistic performance.

In November 2003, the Attorney General announced the Justice Department's Body Armor Safety Initiative, in response to concerns from the law enforcement community regarding the effectiveness of body armor. As part of the initiative, NIJ not only tested body armor, it also reviewed the existing process by which bullet-resistant vests are certified. The August 24 report is NIJ's third status report on body armor. For more information on the Body Armor Safety Initiative and the three status reports on body armor, go to <https://vests.ojp.gov>.

Body armor using the Zylon fiber became popular a decade ago. In the last two years, many departments have stopped using the vests because of growing safety concerns and a flurry of lawsuits against manufacturers. Still tens of thousands of officers continue to rely on vests containing Zylon. The Justice Department's report emphasizes that until vests are replaced, even armor with Zylon is "better than no armor."

In related news, several media outlets reported on July 1 that the Justice Department was suing Second Chance and Toyobo Co., Ltd. (Toyobo manufactures Zylon), contending they conspired to hide evidence that the body armor could be defective.



A week later, the District Court of Mayes County, Oklahoma issued a preliminary settlement in a class action case against Toyobo over defective body armor. The settlement is valued in excess of \$29 million on behalf of a potential class of more than 150,000 law enforcement officers. For more information, visit www.zylonvestclassaction.com.

ICOPs will keep you informed in writing or on the ICOPs website at www.icops.org as additional information on body armor becomes available.

Facing Police Cruiser Lawsuits — Ford Plays Hardball

Last year, Ford Motor Co. began refusing to sell Crown Victoria cruisers to local government units that joined the class-action lawsuits against the company. The suits alleged the cars weren't safe and that Ford had concealed the dangers. Ford also made "confidential" settlements with the families of several officers killed in fiery crashes.

As a result of Ford's actions, some towns and cities began to opt out of the lawsuits, and the spotlight on Ford safety has grown dimmer. The lawsuits were filed after the deaths and injuries of 14 or more police officers whose vehicles were struck from behind, causing the fuel tanks to puncture and the vehicles to explode.

In more "good news" for Ford, in June a jury found the company not liable for the death of a Missouri highway patrol trooper whose car exploded when it was struck from behind. The jury did

award \$8.5 million in damages to the trooper's family from the driver whose pickup truck slammed into the patrol car and from the driver's employer.

Nonetheless, Ford is hardly off the hook with its police cruisers. Many cities and states are continuing class action suits against Ford related to Crown Victoria safety, and they want Ford's record of safety to be unveiled to the public.

In April, a jury in Madison County, IL, awarded a \$44 million settlement from Ford to the family of a man who died in a fiery rear-end car crash in a Lincoln Town Car, which is nearly identical to the Crown Victoria. According to the jury foreman, Ford should have issued blanket safety advisories to the public, as well as to police agencies, on these models.

The juries are still out on the Crown Victoria. For now, we'll keep our eyes and ears open, and wait for the verdicts on Ford to come in. If you want to know more, read our story in the January 2005 Police Bulletin at www.icops.org. We'll keep you posted on the latest news.

Maywood Police Officer Barnett Serves the U.S.A.

A Maywood police officer for 21 years, Namon Barnett was 53 years old in February 2004 when his U.S. Army Reserve unit was deployed to the Iraq war. Barnett, a chemical staff sergeant, is in the 379th Chemical Company. He shipped out after six months of training, and was stationed in Kuwait, about 15 miles from the Iraqi border, where he served for a year.

Barnett had been in the Army Reserves for 23 years. He previously served as a military police sergeant, and had been deployed to Honduras and the Philippines. He has a background in law enforcement, with a master's degree from Chicago State University. Before joining the Maywood police force, he was a sergeant at the Cook County Department of Corrections.

In Kuwait, Barnett was in charge of people who conduct nuclear, biological and chemical (NBC) training. He says, "We went to Kuwait to train everybody about chemical weapons. We did decontamination training of U.S., Kuwaiti and other units. We also did perimeter security work, and looked for chemical weapons and weapons of mass destruction. We didn't find any. Iraq didn't have the



technology, at least not in the quantity, extent or capability so they could manufacture WMD." Now they talk about "nation building," he adds.

Barnett's service in Kuwait was the longest he'd been deployed, and the first time his company was deployed to the region. In Kuwait, he was able to talk to his family about once a week at a phone center, but says there were long lines. Sometimes they worked 24 hours a day, then had a day or two off.

"When you're in a combat zone, you carry weapons all the time. You're isolated. It's 120 degrees at times. There are sandstorms. We slept in tents, about 50 some people per tent, with bunk beds. Sometimes there was air conditioning. There wasn't much freedom. No alcohol was allowed (out of respect to our host country)."

With time off, "we went to a recreation center, or watched tv or movies. There wasn't much more," Barnett says. He was in a multi-national task force, "where we had the chance to meet people from other countries and eat together. People from different countries were very friendly, and there were no problems among us. But when you went outside the camp, you knew that the Kuwaiti people didn't want us there, so there was a distance with the Kuwaitis."

To be in the reserves, you have to be dedicated, according to Barnett. "You can retire after 20 years; they called it 'stop loss.' Contracts are automatically extended indefinitely. I didn't have 20 years at 'stop loss' in 2003. In the reserves, you have to have 20 years in and be 60 years of age to retire."

"Now one year overseas is required, and they're trying to mandate two years. And many police officers are being recruited to serve."

When Barnett returned to Maywood, he was "touched" by the support he received in the community, but wasn't ready to go right back to the streets. "You need a period to adjust," he says, after a year and a half away. "I left my family and friends, and you need adjustment time when you return."

"You only get paid a percentage of your salary while you're away, so the pay was less than I would have been getting at home. You'll keep your job and your seniority, but things otherwise move along without you while you're gone, promotions are made and a lot of things happen."

"For many returning veterans, jobs are hard to come by. Many come back, are unemployed, and can't find jobs."

Barnett says his wife, Leticia, "is very supportive of me and my career." While he was in Kuwait, she started a website to support families of veterans at www.wesaluteyou.net. "There should be a lot more support for the families of those serving in Iraq," Barnett emphasizes.

The need for veterans health care services is urgent.



Veterans health care is generally excellent, but many veterans who need care cannot get it. VA facilities are short staffed and cutbacks have been taking place for years.

The issue became a battle in Washington this year, because Congress repeatedly ignored warnings that returning veterans were being shortchanged. In June, Republican leaders scrambled to repair a budget shortfall in veterans health care. Original estimates were under 24,000 veterans needing care this year; the estimate is now at 103,000. Increased funding for veterans health care passed unanimously. As one veteran told us, "Veterans need to unite and demand the benefits that we deserve, and make sure that our legislators know that we vote."

In Illinois, the state's Department of Veterans Affairs (IDVA) assists veterans and their dependents and survivors to obtain the benefits they are entitled to under federal and state laws. The Illinois Veterans Foundation, created by IDVA, assists the state in reaching out to the nearly one million veterans who live in Illinois. For more information on IDVA and veterans' rights, go to www.ag.state.il.us/agency/dva.

Harvey Officer Sonny Harris Joins ICOPs Executive Board



With five years on the Harvey police force, including a year in the special operations unit, Henry 'Sonny' Harris is a great addition to the ICOPs Executive Board. Harris, who is also president of the ICOPs Harvey Chapter, is experienced, energetic and willing to fight for ICOPs members.

Harris grew up in Chicago, and attended Mendel Catholic High School and Southern Illinois University. After that, he started his own cellular phone business, which he ran for ten years.

Why did he become a police officer? Harris says it's something he always wanted to do. "Some people say it's a dangerous job, but I don't look at it that way. It's been exciting, and I've met a lot a people, helped a lot of people, and plan on continuing as long as I can. There's no other job like it."

Harris says he uses business skills with everything he does, and adds that both his business and police experience will be reflected in what he brings to the ICOPs executive board. "ICOPs stuck with Harvey police officers and got us through some rough times. ICOPs is a good union. If you're going to fight, we're going to fight right there with you."

Harris calls Harvey a good community, "where the people who live there want to see it grow. They have pride in their community and want to stay. It takes a lot to make this happen. That's where the police come in. They play a positive role."

Harris likes to help out in the community, especially helping young people to keep off the streets, get jobs, and set their lives on a good road. He lives in Chicago's Englewood community where he also helps young people.

Harvey negotiations are moving ahead. Harris says, "We agreed during bargaining three years ago for our first contract to not force the pay equity issue and to cooperate with the city, on condition that we'd get parity in the next contract. Now we're looking forward to the city keeping its word."

Harvey negotiations began in June. According to Harris, "Harvey could do better in enforcing the terms of the current contract. Not everything's perfect, and we're still working to get full respect. We're experiencing a few contract violations (and any violation is bad), but ICOPs steps right up to deal with them right away so little problems don't become big ones."

Harvey police also hope to soon acquire more manpower. All police officers are now on 12 hour shifts. Fortunately, veteran officers have stayed on.

Congratulations Are Overdue

ICOPs congratulates Maywood Police Officer Brian Black and North Aurora Police Officer Joe De Leo on their not-so-recent promotions to Sergeant.

From ICOPs President

Continues from page 3

The unions will be back too... to shine a light on any attempt to cut their members' pensions and benefits. They will continue to inform the voters and do the job their members pay them to do. Police everywhere should thank them. Remember, **if they can do it to one, they do it to anyone.**

Since the governor backed off but not down, he has proposed a "paycheck protection" act, a device to make it much more difficult for unions to participate in elections. The governor raised millions of dollars to put the initiative on the ballot in November, when California will hold a "special election" to decide the issue. The troubled state will pay out \$70 million for the election.

In Alaska, a pension plan similar to Schwarzenegger's plan will go into effect July 2006. The governors of California, Alaska, Missouri and Indiana are Republicans, but the trend to go after public employee pensions is not limited to Republicans. Michigan's Gov. Granholm, a Democrat, also has vowed to re-invent his state's pension system.

None of what I've talked about here takes into account some disastrous federal policies. In Washington, DC, as well as in the state capitals, elected public officials can do better than go after police and other public employee pensions.

At a time when the fine men and women who keep our cities and states safe are being given more and more responsibilities for security, cutting their pensions sends a very clear and negative message to all those who serve and to those who contemplate future public service. We will fight back.

Norm Frese
ICOPs President

Maywood Police Negotiate for a New Contract

Negotiations for a new contract in Maywood began April 21, and they've gone pretty well, according to ICOPs Chapter President, Wayne Welch. Contract language changes have been agreed to, but the negotiating teams are still working on salaries.

This is the first contract renewal, and Maywood has a new village administration with whom to negotiate. The previous contract, which expired March 31, was generally effective, Welch says.

Prior to this summer, the village's police manpower was way down, making everything difficult for all police officers. But the village has hired about a dozen new cops, and it looks like things will be much better in the future.

Officers of the Maywood ICOPs chapter, along with Welch, are Chapter Vice-President, Brandon Harvey, and Chapter Secretary, Bobby Smith.

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Keeping Cops Healthy

Being a cop is unlike any other profession. If you work behind a cash register, you may deal with out of control customers, but odds are you won't have to arrest them and take them into custody.

All occupations are fraught with their own peculiar headaches, but law enforcement has more than its fair share. In addition to conflicts and confrontations, cops operate in a world where everything is seen under the media's magnifying glass. If you screw up someone's Latte, hey, no big deal. If you use a restraint technique and the suspect dies, well, you get the idea.

That's why many progressive departments have looked for ways to help cops relieve job stress. In North Carolina, one agency allows officers to spend one hour working out during their shift. What could possibly be gained from paying cops to work out?

Exercise reduces stress. Reduced stress leads to better physical and mental health. Healthier cops mean fewer cops calling in sick or taking out disability claims. So, in addition to improving officer well-being and performance, programs that help cops stay fit can save a municipality some money. *In other words, everybody wins.*

Credit: American Police Beat

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Homeland Security Employees Need Security too

Fortunately, on August 12, a federal court struck down personnel rules adopted by the U.S. Department of Homeland Security, saying they violate the established rights and protections given to employees by Congress. The department's employees are our homeland security. Don't they need security too?



**One of our finest served in Iraq.
Read about Maywood Police
Officer Namon Barnett on page 5.**



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ICOPs and You

ICOPs will continue to grow if you as a union member know your rights and stay informed about issues that affect your livelihood. That's where the ICOPs local and chapter officers, staff and attorneys, as well as the website, newsletters and mailings, come in. So don't "hear it through the grapevine." Go straight to the source.

- ★ Keep in touch with your chapter officers or call the ICOPs office when you have questions or a point of view you want us to hear.
- ★ Read the Police Bulletin and send us your "news" for the newsletter.
- ★ Every now and then, check out the latest news on the ICOPs website at www.icops.org.
- ★ Finally, keep us informed if you move or change jobs.

You can reach ICOPs by telephone, mail, e-mail or in person.

Go Ahead, Make My Day!

ICOPs is a union run by, with and for working law enforcement officers, and ICOPs Staff Representative Randy Mueller says, "We make decisions WITH you, NOT for you." You can help ICOPs do so by being an active participant in your ICOPs chapter.

You can also help your union by recruiting a new member. The more members ICOPs has, the more effective it can be for all members. Unions are built one member at a time. Refer a new member to Randy, and *make this law enforcement officer's day*.