

2002



A PUBLICATION OF THE SOUTHERN STATES PBA INC.



BLUE REVIEW

An in-depth look at the PBA Issue 4

OFFICER NEEDS ASSISTANCE



WHO ARE YOU GOING TO CALL WHEN YOUR JOB IS ON THE LINE?

The Southern States PBA has been protecting law enforcement officers for the past 25 years. Why would you trust anyone else in your time of need?

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A more in depth look at the PBA

Issue 4

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For more information about the PBA or to speak with a representative about our services, please call 1-800-233-3506.



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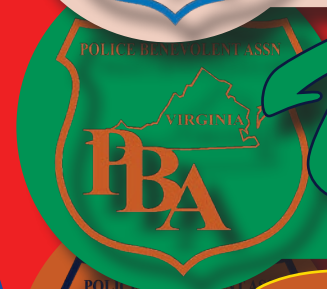
PBA *of Georgia*



Arkansas **PBA**



North Carolina **PBA**



Virginia **PBA**



Tennessee **PBA**



South Carolina **PBA**

Why Government Affairs?



The PBA process begins with the involvement of a politically active PBA membership, chapter and division. Active members decide they want to have an impact on their working conditions. A chapter or division "Political Action Committee" is formed and legislative concerns are discussed. The key issues are decided upon and a "legislative agenda" is prepared for Board approval.

The next step is to develop a positive relationship between your PBA and the elected officials which will determine if your desires are addressed, then hopefully enacted into law. How? Help get them elected! The PBA Screening/Endorsement process is a proven system for educating and electing officials receptive to our ideals. This process takes membership participation, time and effort from beginning to election day.

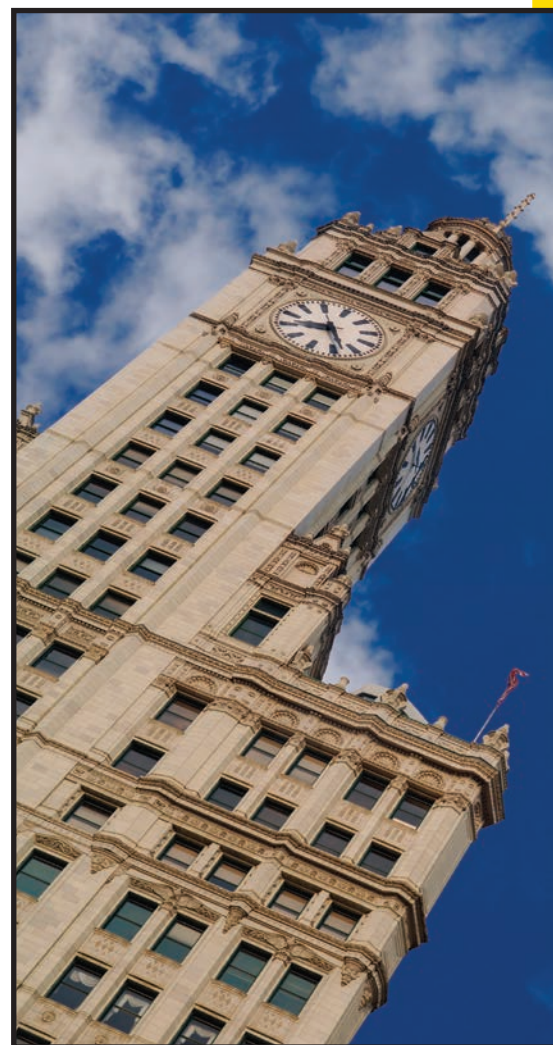
After election day, the "politicking" begins. Follow-up meetings with elected officials to again state your issues and to request their sponsorship/introduction of the bills. Once introduced, it is up to PBA members to get busy in a coordinated effort to contact their elected representatives to support and vote for the PBA position. This effort must be coordinated, consistent, and constant throughout the legislative process.

There may be committee hearings to receive input from supporters and opponents. Members from PBA need to be at these meetings to support the position.

Most bills are killed at this step. If successful, and the full body gets to vote on the bill, those membership calls to their elected officials are important once again. If passed on the local government level, that's it. You have a new law/ordinance. For the state and federal, it just moves it to the other side of the governing body (House / Senate) and the process starts all over again. If you are successful there, you have a new law, unless vetoed. But if there were any changes made, it's back to the other side and you start over again, possibly with a "conference" committee from both sides.

Passage of a new law is a simple matter of numbers, do you have enough votes to pass the bill? Have you screened, endorsed, and elected enough office holders to pass the bill? Have your members contacted enough of their representatives to get enough support for the bill, or more importantly, to overcome the deluge of contacts they will receive from your opposition?

If you are committed to making a real change, your membership must put forth the effort. That effort must endure, as most changes do not occur after the first effort. So your screening/endorsements must continue each election cycle. And your Political Action Committee must continue to be viable. And over time, the efforts will pay off.



PBA does not get laws passed, PBA members do!

Results That Matter! The PBA Process Works

Imagine being penalized for being shot in the line of duty! This was the case in state of Mississippi until the PBA political process got on the case. While recovering from the near-fatal injuries, the member realized payments were not being deposited into his retirement account. When the local chapter looked into the matter they found the law allowed the employer to stop contributions until the officer returned to full duty. Also uncovered was that the member's "service credit" was also not being accumulated during this period of recovery, meaning he would have to work longer to reach retirement with a reduced amount, all because he took a bullet!

Utilizing the PBA political process and with PBA screened and endorsed elected officials, this disastrous legal loophole was plugged. Officers now are afforded not only the appreciation of the public for their unselfish acts, but the financial support as well.



Got Questions? We've Got Answers

Why does the PBA get involved in politics?

Law enforcement officers, no matter their employing agency, are affected by politics on a daily basis. As public employees, elected officials determine every aspect of your job. They determine pay, benefits and working conditions. In some agencies, they even dictate items such as schedules and assignments.

As law enforcement professionals you can either blindly take what is given or become an active participant in your own destiny. Politics will always be a part of your job. With PBA you have a choice, you can become involved in the process or become a victim of the process. The choice is yours.

How does a candidate get the PBA endorsement?

The PBA endorsement is the result of a long-standing, well-tested and respected two-step process. The screening/endorsement process begins with the invitation of all legitimate candidates to an interview (screening) with a committee of PBA members. The candidates are questioned, one at a time, on issues of importance from the membership. The committee makes recommendations for endorsement to the appropriate Board of Directors (local, state or national).

The Board considers the committee's recommendation and any additional information relevant to the candidate's ability to advocate for the members then votes on the endorsements. PBA policy forbids endorsements of candidates that do not participate in the screening process.

Doesn't the PBA just endorse Democrats or Republicans?

No, The PBA is a non-partisan organization. Candidates are endorsed based on their positions on issues of importance to the PBA membership (pay, benefits & working conditions). The candidate's party, race, gender, or positions on non-PBA issues are not a consideration in the process.

Doesn't the PBA just endorse incumbents?

While incumbents are historically harder to defeat, this is a consideration in races where both candidates are proponents of PBA issues. Advocacy on behalf of the PBA membership is the most important quality.

What happens after a candidate receives the PBA endorsement?

The endorsing PBA membership gets to work with the candidate to get them elected to office so that they might begin to improve the officers' work life.

Can I get involved in the endorsement process?

Yes, if you are a PBA member. Contact your chapter leadership, state division, or the Southern States PBA office for further information. Your participation and input is encouraged!

Where can I get more information?

Check out the Governmental Affairs link on the SSPBA home page or your Division site. Or, call the SSPBA office.

How Does PBA get laws passed?

The process is the same no matter the level of government, Federal, State or Local.



Who You Gonna Call? - When A Normal Day Goes Bad

By Elizabeth Marum
SSPBA Staff Attorney

When Officer Jamie Oxendine of the Maxton (NC) Police Department started work September 18, 2008, he did not expect he would end the day shooting a 15-year old. But when he responded to a call reporting that a weapon had been drawn at an apartment complex--and when that weapon was pointed directly at him--he had no option but to shoot. Officer Oxendine knew this was the time to call PBA.

Within minutes, PBA attorney John Roebuck was headed to the aid of the officer, arriving before the North Carolina SBI arrived. The PBA referral attorney was able to immediately advise the member and was present for the SBI interview. Despite the fact the investigation is on-going, the member is back to full-time duty and will continue to be in regular contact with the attorney until the matter is resolved.

"It made me very comfortable to know that I had an attorney that would be responding with me," said Officer Maxton. "It was a very short time between me calling PBA and the attorney arriving. It was good knowing that the service was available."

According to Mr. Roebuck, "The main thing is that there is someone on scene that the officer can talk with who is clearly on their side. If an attorney gets there before SBI they can inform the officer of what to expect. The officer will know to expect a lot of questions that don't deal with what happened that day. The sooner they know that the better they can prepare to remember what happened 48 hours before."



The Importance of having an attorney from the start

"Almost without exception, police officers involved in a shooting [or other duty-related fatality] cannot give factual, accurate details about what really happened within hours after the incident."

--Attorney Russell Wood, AR

PBA attorney Russell Wood has responded to the scene of officer shootings. He says it is important for officers to have an attorney available to assist them with every event from the start of the incident. Wood asserts that it is important to have an attorney representative available to review and analyze the legal repercussions of any statements made after a shooting to avoid any potential adverse consequences. In one situation, Mr. Wood was able to successfully object to state investigators' requests for a recorded interview just hours after a fatal shooting involving two officers. He insists that it is important to "give police officers an opportunity to decompress after the stressful event." In his years of responding to similar calls, Wood has found that these kinds of events happen so quickly

that it is necessary for the officers to take a day or two to calm down, so they can accurately remember the facts.

He adds that statements made directly after a shooting, or other extremely stressful event, often are not an accurate, factual representation of the incident. "Officers need an attorney on the scene to prevent them from making factually erroneous or legally erroneous statements to departments or state investigators," Woods said. He added that erroneous statements or reports made by officers immediately after the event can come back years later in a civil suit and "completely destroy their credibility in front of a jury."

PBA Attorney Jason Metz in Mississippi agrees. "They should be advised that even if their actions were proper, they must keep their comments to themselves," Metz said. "There is a likelihood that a civil suit based on excessive force may be lodged against them. Their comments may be brought into the civil suit." Among other things, Metz's opinion is that, on responding to a shooting scene, an attorney should advise officers as though they were being accused of committing a crime until the attorney is convinced otherwise and should advise officers of the "qualified immunity" defense, therefore protecting officers from potentially damaging actions.

"They gave us advice on not only the criminal matter but also the possibility of civil litigation in the future and how to handle that," said Michael Ivy of Mississippi. "That prepared us for it from the perspective of the worst case scenario."

Officer Ivy was involved in a shooting with several other PBA members in January 2008. He was shocked by the "tremendous trauma" he experienced in having been involved in a shooting. Jason Metz and his partner responded to the scene, arriving just 20 minutes after Officer Ivy's call to PBA and before SBI arrived to question the officers.

"They represented us individually in questioning, prepared written statements with us, read and reviewed our statements and then were present and

92,685

92,685 people filed a complaint against police officers in the US for excessive use of force between the years of 2003 and 2005



3,855

3,855 officers in the US
were unwillingly dismissed
in a 12-month period
ending June 30, 2008.

involved throughout the investigation,” continued Officer Ivy. “They were top notch attorneys.”

PBA’s role in representing a member involved in a shooting

If you are a PBA member involved in a shooting, PBA wants to be there from the beginning to help you through the stressful event. Upon being involved in a shooting, you should call PBA immediately. We have on-call representatives available at any time, day or night, to respond to your call.

Here’s what happens when you call PBA to notify them you have been involved in a shooting or death in custody:

- The on-call PBA representative immediately ascertains that you are okay and uninjured.
- You will be asked for your location, whether that be the scene of the incident, the hospital, in route to the hospital or at the department.
- The PBA representative will immediately begin contacting PBA referral attorneys in your area until one is found who is able to respond. They will be notified of your location and contact information.
- The PBA attorney will make contact with you. Once the attorney arrives, you will be advised of your rights and the attorney will determine whether it is appropriate for you to make a statement at that time or if the interview/statement can be made at a later time.
- The attorney will be involved in the case at all stages of investigation until any administrative or criminal investigation is complete.
- Should a civil suit arise from the incident and you are still eligible for PBA coverage, the PBA will become involved in the matter again and will assign an attorney to make sure your interests are protected.

What You Need to Know When You Need Legal Assistance

YOUR MEMBERSHIP MUST BE ACTIVE

In order to receive PBA coverage, an officer must be an active PBA member, must have been so at the time of the incident, and must have maintained uninterrupted membership. This underscores the importance of keeping your dues payments up to date.

In addition, officers must remember that it is necessary to be employed in public law enforcement to be covered. If an officer resigns his employment, he is ineligible for PBA.

YOU SHOULD BE FAMILIAR WITH YOUR CHAPTER’S LEADERSHIP

PBA assistance with disciplinary and grievance procedures begins at the chapter level. An officer wishing to appeal a disciplinary action or to file a grievance

should contact his chapter leadership for assistance. The chapter board of directors will assess the situation and will make a recommendation to the legal department regarding providing legal assistance. The matter is then submitted to the SSPBA legal department for final review and determination of coverage.

LET US KNOW IF YOU ARE NAMED IN A LAWSUIT

Contact the PBA legal department immediately if you are named in a lawsuit, and provide our office with a copy of the complaint once you are served. If the incident arises from your performance of a law enforcement action, PBA will assign an attorney to protect your interests.

For a complete explanation of legal benefits and limitations, contact the SSPBA legal department.



Attorney Spotlight Michelle Rippon



Michelle Rippon joined the Van Winkle law firm in Asheville, NC in 1986. She has practiced in the areas of personal injury litigation and employment law, including federal discrimination cases, as well as estate litigation and appellate practice. Michelle also

serves as a certified mediator for alternative dispute resolution. Michelle began her legal career as a clerk with the North Carolina Court of Appeals and then as Director of Research for the North Carolina Supreme Court. She subsequently served as Executive Director of the Governor’s Crime Commission.

Michelle is an active member of the North Carolina Bar Association, having served on the Board of Governors and currently serving on the Dispute Resolution Section Council. She obtained her juris doctor degree from North Carolina Central University in 1981.

As a PBA panel attorney, Michelle has represented members in cases dating back to 2000. Her primary focus is employment law, but she has also responded to the scene of critical incidents on behalf of PBA members.

“I have great admiration and respect for our law enforcement officers and feel that they deserve the support of the legal community,” said Michelle.

Cartee Earns Top Award: Chief of Detectives Receives PBA Member of Year honor

By Lionel Green

(Originally printed in the Sand Mountain Report on Saturday, October 25, 2008)

An Albertville officer was honored as the Alabama Police Benevolent Association 2008 Member of the Year.

J.T. "Butch" Cartee received the award during a board meeting in Orange Beach on October 18th. Cartee is chief of detectives for the Albertville Police Department.

The award recognizes Cartee's dedication to the Alabama Division and Northeast Alabama Chapter of the police service organization, as well as his commitment to the group's membership, his community and profession.

Alabama PBA is a division of Southern States PBA, an association that provides legal and legislative representation and family death benefits for members.

Cartee is a 21-year veteran of the department and has been a PBA member since 1990. He's serving his third term as vice president of the Alabama Division and is also president of the Northeast Alabama Chapter, which covers three counties.

Alabama Division President Donald Scott, a Mobile police officer, praised Cartee, saying the Albertville detective provided "outstanding leadership in the last year involving political affairs and community involvement." Scott also complimented Cartee's ability "in taking care of the business of the membership and ensuring members are being served."

"I've known Butch probably 10 years now," Scott said. "He's a very respected gentleman. It's been my pleasure to have him as a comrade and as a friend. He gives balance to the board with his counsel."

Cartee said he is "flattered" and

hopes the recognition will shine more light on the local PBA chapter here.

"When your peers honor you that means a lot," said Cartee. "That's touching. Who know you best but the

man ... the officer in the street," Cartee said.

"It's an advocate for law enforcement. I've always liked to stand up for the underdog. That's why I stay in law enforcement. We all want to be an advocate for people."

Cartee said PBA is a service organization, which stresses "service." He said about 75 percent of Albertville Police Department employees are members. The Northeast Alabama Chapter averages about 150 members and includes personnel from Marshall, DeKalb and Jackson counties, he said.

Cartee said PBA "takes care" of its members by providing attorneys when personnel are involved in accidents, shootings or disciplinary hearings.

PBA also screens and endorses political candidates. Cartee said 21 of the 22 people running in Albertville's mayor and city council races this year participated in PBA screenings.

"We don't do negative ads," Cartee said. "We don't make negative phone calls. We just endorse."

The local chapter meets every second Tuesday of every month. Dues are \$23.50 per month.

"It's a wonderful organization," Cartee said. "I can't see why an officer is not a member."

Cartee also mentioned the Police Benevolent Foundation, a nonprofit organization established by Southern States PBA in 2005.

Donations are 100 percent tax-deductible with proceeds helping fund legal costs, scholarships and disaster relief for officers and their families.



Albertville chief of detectives J.T. 'Butch' Cartee, left, accepts the Alabama Police Benevolent Association 2008 Member of the Year plaque from Alabama Division President Donald Scott on October 18 in Orange Beach.

person that works with you."

Fellow Albertville detective and PBA member Mike Rice said Cartee is "very conscientious and thorough. He covers a wide area. He gets calls all the time. He's there for you. He even provides a place for the meetings."

Cartee joined PBA at the urging of his friend, the late Andy Whitten, an Albertville detective killed in 1995. "After I became a police officer, I felt like I needed to get more involved in the direction law enforcement is going," Cartee said. "Andy Whitten, my best friend, came back and told us about this organization."

Cartee was one of the more outspoken officers during the big pay raise controversy last fall that ended with most public safety personnel receiving a 10 percent wage increase.

"This is an organization about the little

Collective Bargaining, Why Should I Care?

By Jeff Fluck

SSPBA Director of Governmental Affairs

What is the big deal about collective bargaining and why should I be concerned? For the past several years the United States Congress has been considering bills that would mandate states to enact collective bargaining laws for local and state “public safety” (police, fire, EMS) employees. With the Republicans (who generally object to this type of “labor” legislation) in a position of power during these years, the legislation made little progress. However, in 2007 the US House of Representatives passed the legislation (HR 980) only to have it die in the Senate. This was the closest it has come to passage. Many believe that with the Democrats in control of both the 111th Congress and the White House, that this is the time for such a bill to become law. The 111th US House version is HR 413. As with previous bills, this version prohibits strikes or work stoppages by covered employees.

First let’s be clear on what collective bargaining is NOT! Despite what opposing politicians might say, it does NOT end the “Right to Work” laws that are in place in many states (mostly in the south). Right-to-work prohibits MANDATORY union participation; it does NOT prohibit employees from collectively bargaining. A few states however, DO have laws that prohibit their public employees from collectively bargaining. Some still have laws on the books that prohibit public employees from even belonging to a union, a questionable First Amendment violation.

Collective bargaining is the process whereby workers organize together to meet, converse, and compromise upon the work environment with their employers. In various national labor and employment law contexts,



collective bargaining takes on a more specific legal meaning. In a broad sense, however, it is “the coming together of workers to negotiate their employment.”

A collective agreement is a labor contract between an employer and one or more unions. Collective bargaining consists of the process of negotiation between representatives of a union (employee organization) and employers represented by management, in respect of the terms and conditions of employment of employees, such as wages, hours of work, working conditions and grievance-procedures, and about the rights and responsibilities of trade unions. The parties often refer to the result of the negotiation

as a Collective Bargaining Agreement (CBA) or as a Collective Employment Agreement (CEA).

In the United States, the National Labor Relations Act (1935) covers most collective agreements in the private sector. This act makes it illegal for employers to discriminate, spy on, harass, or terminate the employment of workers because of their union membership or retaliate against them for engaging in organizing campaigns or other “concerted activities” to form “company unions”, or to refuse to engage in collective bargaining with the union that represents their employees. The previous and current bills before the Congress would move to bring public safety under similar protection.

At a workplace where workers have voted for union representation, a committee of employees and union representatives negotiate a contract with the management regarding wages, hours, benefits, and other terms and conditions of employment, such as protection from termination of employment without just cause. Once the contract is agreed to by the workers’ committee and management, it is then put to a vote of all workers at the workplace. If approved, the contract is usually in force for a fixed term of years, and when that term is up, it is then renegotiated between employees and management. Sometimes there are disputes over the union contract; this particularly occurs in cases of workers fired without just cause in a union workplace. These then go to arbitration, which is similar to

(continued on next page...)



Do you know what legislation affects you and your job?

The PBA does...

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an informal court hearing; a neutral arbitrator then rules whether the termination or other contract breach is extant, and if it is, orders that it be corrected.

Collective bargaining with public safety employees is nothing new. Many states have engaged in it for years with no adverse affect on the public safety, despite what those in opposition say.

In the majority of U.S. states, workers who have elected a union may be required to contribute towards the cost of representation (such as at disciplinary hearings) if their fellow employees have negotiated a union security clause in their contract with management. Dues usually vary, but are generally 1-2% of pay; however, this is usually offset by the fact that workers who are represented by unions make, on average, 30% more than their non-union counterparts. Some states, especially in the south-central and south-eastern region of the U.S., have outlawed union security clauses (through right-to-work legislation); this is very controversial, as it allows individuals who benefit from the protection of union contracts to avoid paying their portion of the costs of contract negotiation. Though this sort of ban on union security clauses is often advocated by certain business interests attempting to weaken the power of unions, it can easily backfire, as the



mandatory open shop, as such arrangements are called, may result in higher rates of unionization as workers no longer may be required to pay dues to be unionized, removing one obstacle to union success in elections, and also the factor that unions in states with the open shop are required to build strong rank and file democracy among their memberships in order to sustain a high number of dues-paying members, rather than relying on the contract to bring dues in, ensuring a more active and responsive union, rather than a complacent one.

So now that you know, do you

care? Or, are you comfortable working "at will"? Are you comfortable with your employer's allocation of their collected tax money (pay vs. parks)? How about your healthcare, retirement, work schedule? Would you like to have a say in your own working conditions? While an active PBA political involvement might bring many of these conditions to reality, the results can take years and rely on a continued committed cooperative effort between members and elected officials.

So what to do? If your current conditions are working for you, the answer is "nothing." Go back to work and don't worry about it. Just know that "at will" means just that, your continued employment condition is at someone else's will, subject to change at any time with

little or no recourse. If this situation does not work for you, then get involved. Engage with your local PBA political activities. Stay abreast of your local, state, and federal politicians. Become involved. The Southern States PBA will continue to support legislation that improves the work-life of its members and the law enforcement community, but change will only come if we all work together.

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PBA Impacts Department Policy

It was a six-year battle but through the efforts of PBA referral attorney, Judy McCarthy, the Knoxville Police Department changed their policy on secondary employment for police officers. The case initially arose from a police chief's decision to deny secondary employment to three PBA members based on the type of employment it was. The officers appealed the decision and pursued it to the courts. They sought monetary reimbursement but were also determined to have the policy changed to a less arbitrary

procedure that was not wholly dependent on one person: the chief of police. After a settlement with the City that recovered more than \$40,000.00 for two of the officers, the City and Ms. McCarthy negotiated a revised policy which went into effect in 2008. There are now more defined guidelines on the kind of secondary employment allowed and KPD officers now have a right to appeal the denial of secondary employment and any such review is not arbitrarily and singularly decided upon by one person.

356

In 2008, 356 members requested legal assistance regarding a disciplinary action, termination they wished to appeal or a grievance they planned against their agency.



Attorney Spotlight Sean R. Guy



Sean R. Guy has been an attorney successfully representing members of the Southern States Police Benevolent Association for the last four years throughout the State of Mississippi. Mr. Guy is an attorney in the law firm of McCraney Montagnet and Quin, PLLC, which is located in Ridgeland, Mississippi, right outside of Jackson. Mr. Guy's primary representation of P.B.A. members has been for adverse employment actions such as demotions, terminations, and license certification issues with the State Board. Mr. Guy has also been representing P.B.A. officers that have been sued in a civil case for damages and P.B.A. officers that have had to face federal or state criminal charges. Recently, some of the cases Mr. Guy has represented PBA members have included a felony federal civil rights violation criminal charge, an application to suspend certification by the State Board, and numerous employment demotion and suspension actions taken against officers.

Guy says, "My impression of the PBA is that it is an organization committed not only to the services they provide its members but also to the overall advancement, goodwill and support of all law enforcement officers regardless of PBA membership. As an attorney representing PBA members, I am grateful to have a client that cares for their membership in the way that the PBA cares about their officers"

Mr. Guy earned his J.D. de-

gree from Mississippi College School of Law in 2001. Mr. Guy also received a B.S.B.A. in Business Administration with an emphasis in Communications from Mississippi College in 1992 and a Masters in Business Administration from Mississippi College in 1995. During law school, Mr. Guy was a member of the Moot Court Board and served as an active member in student politics. Mr. Guy is currently a member of the Mississippi Bar, the American Bar Association, the Fifth Circuit, and the Charles Clark Inns of the Court.

Before going to law school in 1998, Mr. Guy worked as a marketing director for a behavioral health hospital that treated individuals for alcohol and/or chemical addiction and has extensive experience in assisting people with finding the help they need. Currently, Mr. Guy serves on the Mississippi Bar's Lawyer and Judges Assistance Committee, which helps lawyers and judges find the help that they need with alcohol and/or chemical addiction and is on the Board of Directors for Harbor Houses of Jackson, which is a non-profit organization that offers alcohol and chemical addiction treatment for those individuals with little or no money or insurance.

Guy says, "As for taking PBA cases, I have a great amount of respect to all of those individuals that commit their lives to public service and my representation of those individuals is a part of my effort to support those that support us all."

When not representing P.B.A. members or being involved in community service, Mr. Guy primarily practices in the area of civil litigation and employment law. Mr. Guy has successfully represented individuals or families in wrongful death claims, personal injury claims, wrongful termination, wage and hour claims, employment discrimination, and claims related to life insurance, health insurance and fire insurance. Mr. Guy also has successfully represented corporate and insurance defendants in claims brought by plaintiffs in bad faith and personal injury cases.

the blue review

Georgia's State Budget Crisis

A Deeper Look At What is Ahead

By Joe Stiles

PBAGA Executive Director

We have all heard that the state faces a potential budget shortfall of nearly \$2 billion. What is the impact of the current state financial picture on the past, current, and future state law enforcement pay raises?

Unfortunately, there is no clear answer as to what is on the chopping block. Virtually every state agency and funding source is subject to some type of cuts, as has been published in the news. Behind the scenes, the rumors are flying among elected officials as to state employee pay: from simply freezing FY-2009 pay raises to every state employee being cut back to FY 2007 pay levels. But at this point, it is just rumors and speculation.

It appears that those law enforcement pay raises received last year (FY 2008) are relatively secure, but not guaranteed. Law enforcement pay raises due to go into effect this January (FY 2009) and raises promised for FY 2010 are being suggested for postponement until some unspecified future period of state financial prosperity. However, Republican leaders, especially those in the House, are trying to discourage the Governor from doing this. It has taken five years to get to the final phase (FY 2010) of the current three year law enforcement pay plan, and they want to finish what they started.

Don't take any chances. You can not afford to sit back and see what is going to happen with your pay. The state's ultimate financial solution to this problem will be based on a mutual political decision by the leadership under the Gold Dome. Your elected officials generally look for solutions with the least adverse impact on their political future. So talk to your state senator and representative personally and have your family, friends, and co-workers contact theirs also. Ask your elected officials to honor their commitment to the three-year law enforcement pay plan. There are solutions other than your long-deserved pay raise!

Visit the PBAGA website for future updates at www.pbaga.org

PBA Interview and Endorsement Process is Second to None *Process Builds Relationships That Continue to Affect Change for Membership*

By Randy Byrd
NCPBA Legislative Chairperson

The Police Benevolent Association (PBA) candidate interview and endorsement process continues to lead from the forefront as a critical benefit to members. This process is built by the efforts of members who participate, and seeks to create an environment that will positively change the working conditions for law enforcement throughout the Southern States region. In 2008, candidates seeking office in numerous races were invited to meet with the membership and answer questions of vital importance to law enforcement and members represented by the PBA. Based on the candidates' responses in a graded format, endorsements were given to selected candidates.

The North Carolina division, as an example, used the PBA process in 2008 to interview and endorse candidates for US Senate, US Congress, NC Court of Appeals, NC Supreme Court, governor, lieutenant governor, attorney general, treasurer, secretary of state, auditor, insur-



NC House Member Rep. Grier Martin addressing PBA members

ance commissioner, labor commissioner and NC House and Senate races. These interviews covered nine days, with over 100 candidates and 30 members from various chapters participating.

PBA screenings allow members to come into close contact with first-time candidates as well as those who have held elected office at various levels for many years. This contact is invaluable to members who have never participated in

the process as they gain a broader understanding of their role in creating change for their profession. Jamie Rigsbee, a member of the Raleigh chapter who was participating for the first time, is just one example. Rigsbee was impressed with the fact that the candidate screeners were officers and the endorsements were made based on the candidates' graded answers to the questions. Rigsbee came away with a deeper appreciation of why the PBA sets the standard for political involvement by law enforcement associations. According to Rigsbee, "I came away knowing fully why

the PBA is the voice of law enforcement." Rigsbee also plans to broaden his horizons further by working with the legislature to actively pursue passage of critical legislation. "This entire experience has made me realize that our members have an incredible opportunity to make a difference for our membership and the entire law enforcement profession," he added.

The PBA candidate interview and endorsement process creates tremen-



NC Rep. Paul "Skip" Stam

"Your interview/endorsement process is as thorough as any that I have seen. In a tight election your endorsement means a whole lot more because of that thoughtful process."



NC Rep. Tricia Cotham

"It was obvious that the committee was concerned about their membership and the needs of the membership. I was excited and honored to receive the endorsement."



NC Treasurer Janet Cowell

"The PBA works to provide a voice for these officers through their endorsement and relationship building process to effect positive change for their work life conditions."



NC Governor, Beverly Perdue

“Receiving the PBA’s endorsement was an honor. Your endorsement meant that you trusted me to do everything I can to secure the safety of our communities and our officers.”

dous respect for the association and what the PBA represents. Rep. Paul “Skip” Stam has previously served as a primary sponsor of due process legislation at the request of PBA. According to Stam, “Your interview/endorsement process is as thorough as any that I have seen. In a tight election your endorsement means a whole lot more because of that thoughtful process.” Rep. Tricia Cotham, who went through the interview and endorsement process for the first time, also realized the value of the process and the commitment level of the committee. Cotham said, “I was impressed with the interview committee and the thoughtful questions asked of me. It was obvious that the committee was concerned about their membership and the needs of the membership. I was excited and honored to receive the endorsement.”

The PBA process also allows members and candidates to cultivate meaningful relationships that transcend the candidate interview and endorsement process. In many cases, candidates have met with the PBA and received an endorsement when seek-

ing other offices. Newly-elected state treasurer Janet Cowell is one example. Cowell has been a friend of the PBA since her days as a Raleigh City Council member. Cowell moved on to the State Senate where she continued to be an advocate for the PBA. In 2008, she chose to run for state treasurer and met with the committee to discuss a wide variety of issues. The state treasurer oversees the retirement system in North Carolina, and this position is vitally important to law enforcement. Cowell understands intimately the sacrifices that law enforcement makes and the PBA’s work. “I was honored to receive the endorsement from the Police Benevolent Association,” she said. “Law enforcement is the backbone of our community. Their tireless service, often without recognition, ensures strong, safe communities where we can grow and nurture our families. The PBA works to provide a voice for these officers through their endorsement and relationship building process to effect positive change for their work life conditions.” Cowell added.

The PBA was also part of history in North Carolina as Beverly Perdue was elected as the first female governor. She has been a huge supporter of law enforcement since serving in the state legislature. She continued her political career serving as lieutenant governor before running for governor and receiving the PBA endorsement. According to Perdue, “Receiving the PBA’s endorsement was an honor. North Carolinians trust you every day to keep us safe. Your endorsement meant that you trusted me to do everything I can



NC Rep. Angela Bryant

“I’ve been impressed with the PBA commitment to standing up for its members and for advocating so effectively and professionally in the legislative process.”

to secure the safety of our communities and our officers. You picked a governor who will not forget the work you do and the sacrifices you make.”

The candidate interview and endorsement process lays the foundation to pursue meaningful legislation to improve officers’ lives. Legislators also develop tremendous respect for the PBA and their advocacy on behalf of the members. Rep. Angela Bryant served as a co-sponsor of 25-year retirement for law enforcement officers and due process legislation during the last legislative session. Her vote

in a judiciary committee meeting was instrumental in moving due process legislation for municipal officers out of committee. Rep. Bryant was intensely lobbied by groups that opposed this legislation, but stood steadfast with the PBA. Bryant said, “I’ve been impressed with the PBA commitment to standing up for its members and for advocating so effectively and professionally in the legislative process. I also see how strongly the PBA supports their members at a time



NC House Member Rep. Marian McLawhorn addressing PBA members

(continued on next page...)

of need, which is deserved because the officers provide that same type of service every day for our citizens,” she added.

Every member reading this article has the opportunity to learn more about this dynamic process and become involved. Those members who have been involved understand the significance of PBA screenings and how the process leads to a greater understanding of critical issues by those seeking elective office. They also realize how the development of positive relationships with elected officials can lead to legislative changes for PBA members and the law enforcement profession. The bottom line is this for officers: elected officials make decisions every day that have the potential to influence officers’ lives. You as a member of the PBA can either choose to sit on the sidelines and allow those decisions to be made without your participation, or be part of the solution by becoming involved. Change for better working conditions requires leadership and the



NC Attorney General Roy Cooper addressing PBA members

same commitment to public service that officers give in their communities every day. According to Sam Houston, a 19th century American statesman, politician, and soldier, “A leader is someone who helps improve the lives of other people or

improve the system they live under.”

For more information about the PBA political process or to participate, please contact your chapter or division president or respective legislative chairperson.

Dear Mr. Roberts:

I wanted to thank you for your organization's continued support of our law enforcement officers and their families. Approximately ten years ago I was dating a law enforcement officer and first learned of the Southern States Police Benevolent Association and the benefits you offer. It just so happened that my brother, David, had recently gotten out of the military and joined a local police department. David was also a new father with his second son and I watched him and his wife struggle with bills on a law enforcement salary. One day, while talking on the phone with David, I had an opportunity to ask if he was a PBA member. He said he had heard of the organization and its reputation for protecting cops, but had not joined due to the extra money needed. When I thought of my nephews possibly being without life insurance benefits if anything happened to my brother at work, I could not go another day without doing something. I knew David's birthday was approaching so I called PBA and purchased membership for him for one year. I mainly purchased the membership out of concern for the family's financial situation if my brother was killed while at work. However, I realized the membership also offered so much more than an insurance policy. I realized that PBA also offers legal protection and lobbying for law enforcement officers.

When I gave the gift to my brother, I told him it came with one stipulation; and that was that he was to never drop his membership and leave my nephews unprotected. To this day he is still a member and says he feels more secure with it. I know I feel that he is better protected with membership in the SSPBA.

Thank you again for what your organization continues to do.

Sincerely,

Donna



.....IN THE HEADLINES

CORRECTIONS VAN INVOLVED IN SERIOUS ACCIDENT

A Department of Corrections transport van was involved in a one-car accident on Fair Road yesterday afternoon. Early eyewitness reports indicate the transport van hit a utility pole and flipped over at least twice seriously injuring the correctional officer driving as well as killing two inmates being transported. Several other inmates as well as another correctional officer were transported to local hospitals. The officer riding in the passenger seat told law enforcement authorities investigating the accident that he thought a dropped cigarette could have started the chain of events leading up to the accident. There were a total of five individuals transported to the hospital and two transported to the morgue. Neither the correctional officers nor the inmates were identified at this time. More details as they become available.



Unfortunately for John Gamble, the details of the accident did not get any better. He put the newspaper down after reading the short story that was in the local section. His head pounded relentlessly; partially from the concussion he received and partially from the stress of the unknown, or maybe the stress of the known. John had been around long enough to know that the details were not pretty and would not get any better. He tried to turn over and bury his head in the pillow but the pain from his broken pelvis prevented that. His partner said that he dropped a cigarette while driving but he could not remember as he drifted off again.

Six months later John was in a cast above his waist to his ankle with numerous pins sitting on his living room couch watching Jerry Springer. The doctor said he had at least another year in the cast.

Unpaid bills were beginning to collect on the dining room table since he had run out of sick leave and was on workers compensation, which was only two-thirds of his normal salary. Beth, his wife, could only work part-time in order to stay home and take care of him. The traffic crash report determined he was at-fault and may be charged with vehicular homicide for the deaths of the two inmates. All of this over a dropped cigarette. A cigarette that his administration said was unauthorized in a governmental vehicle. John took out another cigarette, lit it and took a sip of Jack while swirling the cubes in his glass.

It was information overload; John read the paper to see what the county prosecutor had to say about presenting evidence to the grand jury to determine what charges John was to face. Yesterday, he had to sign for a letter from his Department; a letter notify-

ing him that his administrative appeals were over and it was determined that he would be terminated for violating the departmental policy for smoking in a government owned vehicle. "Hell, everybody smoked in the transport van while on road trips and the bosses knew it. Just something to hang me on," he thought.

John and Beth were unable to afford an attorney for the administrative hearing and did not think he really needed one. After all, his supervisors all called him and said 'hang in there- we're here for you.' He guessed he definitely needed to hire one now since he had already been fired, and was going before a grand jury and perhaps criminal trial. John took the coat hanger he had straightened out and ran it down the cast to scratch that place he could not reach otherwise. After satisfying that itch, he reached for the fifth to satisfy

another one. He then made a note to remind himself to ask Beth when she got back to go by the liquor store and to get his gun cleaning kit out of the closet. He hated depending on someone else. He murmured to himself, "and this is what I get for answering the phone and going in and pulling a 12-hour double shift because someone is sick."

Editors' Note:

While this is a fictional example, the chances of it happening are all to real. The Southern States PBA membership provides any employee, civilian or sworn, who works for a governmental law enforcement agency a attorney in administrative, civil or criminal cases. You owe yourself and your family the legal protection that only SSPBA can provide. Call SSPBA at 800-233-3506 and sign up today.

Do You Think You Are Getting Fair Pay?

Neither do we.... Salary surveys work!

Put your PBA benefits to work for you

Have your chapter request a salary survey from the PBA.

Earnings Statement

Period Ending:
Pay Date:

By Terry Nowell

SSPBA Director of Training and Research

As he was walking on the sidewalk, he was thinking to himself "Growing up in a conservative small southern town does not necessarily prepare you for this." But there he was, along with the majority of his fellow officers, dispatchers, family and friends carrying signs, picketing city hall and calling for better pay. The picket line only lasted for an hour, but it did not need to go any longer since the media had been given prior notice of what was about to occur. Officials in city hall had also been given notice when a "parade permit" was requested and received. After all, we did not want anyone to be able to accuse us of doing anything improper or illegal. Even with the "heads-up" neither the mayor nor the city manager chose to address the officers' concerns privately or publicly. This historic event definitely had its intended affect; it was the lead story on television for the noon and evening local news for days. Not only did the event make the front page of the local paper but also was picked up by the AP service and made news state wide.

On the following Saturday morning, four off-duty officers stood outside the grocery store with petitions in their hands and posters on the fold-out table. The hand-made posters listed ten city police departments and their annual pay for their law enforcement officers. The petitions had a paragraph at the top stating that the below signed citizens supported a pay increase for their sworn officers. It also had twenty-five lines where citizens could sign their names. As citizens walked by, officers would ask if

they would care to sign their petitions, and as they came to the tables they were shown the difference in pay for the ten different cities. After they signed the petition, they were given a pamphlet with the phone numbers of the city commissioners and were asked to call in their support.



SSPBA President Jack Roberts marches on City Hall in Tallahassee, FL in 1976.

This scene was repeated daily for four weeks at different retail stores in shopping centers around town. Officers volunteered to man the tables on their days off or prior to their shift. In four weeks, 10,000 signatures of supportive citizens were gathered, and many phone calls had been placed to commissioners' homes and city hall. The local newspaper and television stations were sending out

reporters to cover the event and the town was buzzing with interest.

A letter writing campaign was initiated to keep the issue of pay disparity in the news. Officers, wives, friends and families wrote "letters to the editor" to the local paper. Many citizens responded with support. Each one that wrote in had a different perspective on how low pay affects the individual officers, the family, the department, the city and the citizens. One of the more conservative editors for the paper was incensed that the local police had marched on city hall and attempted to portray us as bullies that did not care about public safety and only cared about our own selfish desires. The same editor even suggested that we would probably go on strike next. Officers were providing their own press releases and providing the facts. The city officials as well as the newspaper editor found it difficult to argue with the fact that their law enforcement officers were the 7th lowest paid out of ten comparable cities in the state.

Next, select officers attended every city budget hearing to oversee the process and to provide input when possible as well as to keep fellow officers updated with the budget process. Officers were notified when the budget was to be voted on and were requested to attend with family members and friends who were supportive. The city commission chambers were filled with law enforcement and their families when the budget was to be voted on. The city commissioners were presented with four Xerox boxes containing the 10,000



signatures of citizens who supported their cause. All of it was being documented by television, radio and newspaper reporters. The commissioners talked at length about the vote on law enforcement pay raises, some supportive, some against, and some postulating about not liking the public pressure. There were also long speeches about supporting all employees and it not being fair and just to provide larger pay increases to one group of employees over another. There were some other city employees that spoke against giving law enforcement officers a higher pay raise than other employees. However, at the end of a long evening, the city commission voted to provide city police officers with a twenty-four percent increase in pay and general employees a five percent pay increase.

This account is of an actual event that could have turned out very different had not four PBA chapter officers gathered around a table in a hotel meeting room one night and decided they were tired of being treated like second-class citizens and were going to do something about it.

TOUGH TIMES

By Terry Nowell

SSPBA Director of Training and Research

Just when you think the economy cannot get much worse, you see where one private company is laying off more workers or another company is closing its doors permanently. However, the bleak economy is not just affecting private business but it is also adversely affecting governments.

It is not uncommon in tough economic times to see cities, counties and state government freeze salaries and positions and in worst case scenarios to layoff civilian employees. Now, we are seeing layoffs of firefighters and the closing of fire stations. Is law enforcement next? School teachers in one Georgia County are being asked to give back the pay increase they have already received. Several cities in California are declaring bankruptcy because they cannot meet their financial obligations- and they are winning in court. These moves were unheard of until now.

Obviously, when the economy takes such a dramatic plunge, so do the tax revenues used to fund government. So why would one consider a salary and benefits study when it is apparent the government, like the rest of us, is low on money? One important reason is to know what you have compared to other agencies if the trimming begins. If your salary and other benefits are already below the norm of what other agencies offer, your elected officials need to have that information. That information might come in handy if they are making decisions on what department budgets or employee salaries/benefits should be trimmed first. Some examples of benefits that may be viewed to be cut or eliminated are take-home car programs, family health insurance coverage, and pension contributions, to name a few. Do not sit back and think it can't happen to you; these are tough times and unprecedented moves are being made to cut costs at every level. Call the SSPBA Training and Research Division at 800-233-3506.

Proof That It Works - From Someone Who Knows

By Brian Harbaugh

President, Andrew Jackson Chapter, TNPBA



As President of Tennessee's Andrew Jackson Chapter, I wish to take this opportunity to thank the PBA administrators for their support and resources provided to its members. In the recent, past our chapter has utilized assistance from both the state headquarters in Knoxville and the home office in Georgia for a variety of issues. Assistance and guidance were given to us from both offices to make our first political screening a suc-

cess. We have received positive feedback from both candidates we supported and those we did not support in regards to the level of professionalism and structure involved in our screening process.

Another service utilized by our chapter was a pay study comparison developed by the home office. Like many chapters, the Andrew Jackson chapter represents several agencies, with pay rates of those agencies varying greatly. The Wilson County Sheriffs Office is one such agency that suffers not only from poor pay, but also an expensive and poor benefit plan. It was clear to the leaders of our chapter that a pay study could be a useful tool in explaining the financial needs of our officers to the politicians of Wilson County. Our chapter received not only a pay study but over a period of two years received continuous advice and support from both Director of Training and Research, Terry Nowell and Director of Governmental Affairs, Jeff Fluck in dealing with our political environment. In the end, the certified officers of the Wilson

County Sheriffs Department received a fourteen percent raise. The department has a long way to go in regard to pay, benefits, and, most importantly, encouraging its politicians to support their officers. Knowing that seventy percent of all officers in our county are PBA members makes the challenge much more perceivable.

Overall, it was very encouraging to our members to see the support of the PBA be an influential part in accomplishing better pay. Throughout the process, it became evident that the once non-existent PBA was actually beginning to influence people and leaders of our community to support its officers in actions rather than deliver the traditional empty promises. There is no coincidence in the fact that the first time the PBA became involved in the fight for a pay raise the Wilson County Sheriffs Department received its largest raise ever. It is an example of how goals can be achieved through the persistence and professionalism of the PBA staff and its members.

What can the



PBA

do for YOU?

Visit
www.sspba.org
or more info



disciplinary representation...

With approval of your local board, PBA provides staff/attorney representation in cases where you have been unfairly disciplined as a result of duty-related actions.

at the scene...

PBA provides an attorney to contact you at the scene of all on-duty shootings or serious injuries arising from your law enforcement duties, going to the scene if necessary.

civil suits and criminal action...

PBA provides an attorney to protect your individual interests if you are named as a defendant in any civil or criminal action arising out of your duties as a law enforcement officer. NO CAP or LIMIT.

accidental death benefit...

We believe that our accidental death benefit is the most generous of any such plan in our service area. Your beneficiary will receive: (1) your base salary for one year if you are killed in the performance of your law enforcement duties (maximum payment: \$60,000), or (2) \$5,000 if not an occupational death, or to retired and reserve members, in accordance with the terms and limitations of our insurance policy which underwrites the benefit.

computer services...

PBA maintains comparative data on salaries, fringe benefits and other terms and conditions of employment.

Aflac...

PBA has teamed up with Aflac to give members a discount on added Aflac benefits.

Liberty Mutual Insurance...

Select PBA members may receive discounted rates on home and auto insurance from Liberty Mutual Insurance. As a member of the Southern States Police Benevolent Association, you can save on auto insurance with Liberty Mutual.

Apple computers...

PBA members are eligible to receive discounts and special offers from Apple computers and products.

credit union membership...

PBA offers membership in a credit union which provides a full range of financial services, including a specially designed, low interest rate VISA.

legislative representation...

PBA maintains a professional staff of lobbyists to aid in obtaining legislation beneficial to the law enforcement profession.



The Alexandria Chapter of the Virginia PBA: A Rising Chapter Is Taking Shape!

By Sean McGowan
VAPBA Executive Director



VAPBA Executive Director, Sean McGowan

The city of Alexandria, Virginia has a population of approximately one hundred thirty thousand people squeezed into fifteen square miles. This population is policed by three hundred and twenty of the nations finest police officers.

I have had the honor of serving as a labor leader for these officers for many years, first as a trustee of the local union chapter, then as president of the local and, finally, as president of the Alexandria Chapter of the Police Benevolent Association. What follows is a brief overview of our chapter's activities and some of the progress we have made.

While president of the local union chapter, one of my members was involved in a fatal shooting that became very complicated. Under the system we had in place, legal coverage was questionable and the money in the local's accounts was not enough to defend our member if necessary. Our subsequent search led us to the SSPBA and its legal defense plan. The legal defense is often what officers focus on when considering joining the PBA, with the political activity being a secondary bonus.

As soon as our PBA chapter was formed, we took advantage of the screening process for a special city council elec-

tion, and from that point forward, we were on the political map. The next election we planned a screening for state delegate and state senator. Before the deadline date for candidate filing, I was receiving calls from campaigns for an appointment to participate in our screening process.

We are now preparing for a full city council election in May 2009. As of the writing of this article in December 08 the Alexandria PBA has met with three candidates seeking our endorsement.

Our political involvement has had a huge impact on the city administration. The city manager has recognized how involved the chapter is and how important the PBA members' input is. In

August of 2006 the police chief in Alexandria retired, and at the invitation of the city manager, I was asked to sit on an interview panel for the city's new chief of police. The city manager agreed with my assessment of the candidates and appointed the candidate that was endorsed by the PBA. This led to a very productive relationship with the police chief and his administration that continues today with the new chapter president, Mike Kochis.

In June of 2008 the members of the Alexandria Chapter felt that the city's director of personnel was ineffective in his job. This was interfering with the pay and benefit discussions taking place between labor groups and the city staff. By direction of the board, I sent a letter to the city manager outlining our dissatisfaction with the director's job performance. In that letter I advised the city manager that representatives from the Alexandria Chapter would no longer attend any meeting where the current personnel director was involved. A meeting with the city manager and PBA representatives followed and took place on a Thursday. Documents were exchanged and evidence supporting our position was passed on. On the following Tuesday, the personnel director submitted his paperwork for retirement.

These are some of the big, newsworthy events that took place because of our political involvement. There are small victories taking place every day that few people ever hear about. These victories are the small steps that impact real change for the members of the chapter and are the blocks we build on for a better future. None of this change is possible without political involvement at every level. Chapter leaders must be engaged with the politics of their jurisdiction, every election counts. Remember the school board candidate today is tomorrow's state senator. No chance to be politically involved should be allowed to slip by.

The move to the PBA in Alexandria has been extremely beneficial to the officers in Alexandria, and we enjoy a 98% membership among the rank of sergeant and below. The members are protected legally and take an active part in screening processes and campaign activities. Our leaders are well supported by the SSPBA and receive a level of guidance and assistance we have never witnessed here before. The move to the PBA has provided our membership with benefits that have exceeded our expectations.

**Do You Have
Questions About
Your Membership?**



**We Have
Answers!**

**CALL US
1-800-233-3506**



PBA: A Critical Need In A Time of Emergency

By Valerie M. Gordon
SSPBA Legal Assistant



It's 1:30 am and most people have already retired for the night and are fast asleep. But, for law enforcement officers who are working the night shift, it is no different than 1:30 in the afternoon. The duty to protect doesn't stop just because the streets are empty and the city is quiet. There is someone out there who is attempting to or is committing a crime.

A call goes out to an officer working patrol duty for the night and he responds to the call of two men attempting to rob a convenience store clerk. A second officer responds to the call and both officers arrive at the scene within seconds of each other. While the officers approach the convenience store, the two men inside take flight. The officers pursue the men by foot. One officer catches up with one of the suspects fast and is able to capture him and effect an arrest. The second man continues to run, and as the officer yells for him to stop, he notices that the man is reaching in the back of his pants as if he is trying to draw a weapon. The officer places his hand on his duty weapon and is gaining advantage of the suspect. Just as he is nearing the suspect, the suspect draws a hand gun and points it toward the officer. The officer yells for him to drop the weapon. Instead, the suspect points as if he is about to pull the trigger; the officer fires his weapon, hitting the suspect. The suspect falls down from the gun shot wound and dies at the scene. By now it's 2:12 a.m.

Fortunately, the officer is a member of the PBA. After notifying his superiors of the status of the incident, he calls PBA. The PBA on-call staff member for the evening speaks to the officer and advises him that a PBA attorney will be contacted. The PBA attorney is contacted by the on-call staff member and provided with information on the officer, including his location. The PBA attorney is on the scene by 2:45 a.m. to provide legal assistance to the officer.

A case such as this one will certainly involve an internal investigation and a criminal investigation as well. A lawsuit is likely to follow. By being a member of PBA, this officer will have representation as he gives statements and the matter is investigated. The case could proceed to a grand jury and, conceivably to trial; PBA representation continues, so long as the matter remains within coverage requirements. In addition to any criminal proceedings, the PBA member will have access to representation in administrative proceedings and civil litigation arising from this incident. This is the type of service that PBA legal services prides itself upon. It is the goal of PBA legal services to provide prompt and quality legal assistance to law enforcement officer members of the PBA when emergency situations arise. Situations such as shootings and serious accidents are not only physically and emotionally critical for law enforcement officers, but legally critical as well. Following these emergency situations, officers are asked to give statements and to answer many questions about the incident. There are times that they should and should not speak and need to be aware of their rights as police officers. PBA legal services strives to have attorneys present at these critical moments regardless of the time, day or night. As a PBA member, if you find yourself involved in a critical situation like the one above, remember that PBA legal services is here for you. Make sure you contact PBA as soon as time permits. Doing so can save you and your family a great deal of anxiety and uncertainty, and it can help preserve your career and your freedom.

Frequently Asked Questions for the Legal Department

What are the requirements for eligibility?

The member must be in good standing (with dues up to date) at the time of the incident and at the time he or she requests legal service – with no breaks in membership – and must maintain membership throughout the course of representation.

Are all types of incidents covered?

The incident must arise from the officer's performance of a law enforcement function to be covered.

Is chapter approval required for representation?

Only in grievance and disciplinary cases. Legal defense incidents such as shootings, serious accidents, or death in custody situations do not require chapter approval for representation.

If I quit law enforcement while being represented, does coverage continue?

No. Leaving law enforcement disqualifies you for SSPBA membership and makes you ineligible for continued coverage.

Am I covered in off-duty jobs?

SSPBA does provide legal service for law enforcement functions carried out in an off-duty job approved by your department.

Setting the Table for Chapter Involvement

Pictures by Dean Smith



(L-R) Adam Dismukes, Glenn Mitchell, George Almond, Jim Young, Chris Hoina, and Greg Savage

The PBA has long held the reputation of providing the best member benefits of any law enforcement association in the business. Along with these benefits, members can further facilitate the core values of the association by forming their own chapter. In many instances, chapters also choose to get involved with the community through various outreach initiatives and partnerships that demonstrate the dedication and commitment that officers have for public service.

Such is the case with the Cary Chapter of the NCPBA. The Cary chapter board, in their first year chose to sponsor an Officer of the Year award in honor of retired Detective George Almond. Almond, who is a PBA member, was shot in the line of duty in October of 2001. He survived the shooting and returned to duty as a detective in juvenile investigations before retiring in August of 2004. The award recognizes outstanding achievement in the areas of leadership, community service, mentoring, excellence in performance, and valor. Detective Jim Grier was the 1st award recipient

in 2006.

On March 15, 2008, Detective Jim Young was named the recipient of the 2007 George Almond Officer of the Year award in festivities at the Embassy Suites in Cary. Young was selected from a group of five finalists by the Cary chapter board. The other finalists were Chris Hoina, Greg Savage, Adam Dismukes, and Glenn Mitchell.

Young was recognized for three nominations that were brought forward by separate nominators. In the first nomination, Detective Ryan Suddueth nominated Young for his leadership in a complex investigation. Detective Young was the lead detective in an armed robbery investigation. During the investigation of the armed robbery and the subsequent arrest of a suspect, a gun was recovered that had been stolen during a home invasion. Also taken in this home invasion was an assault rifle and ammunition. If left on the street, this weapon posed a serious threat to the community and officers. According to Detective Suddueth, the information that was revealed during the investigation

created a whirlwind of activity along with increasing stress and urgency to recover the assault rifle. Detective Young provided guidance and leadership to all of those around him through his calm demeanor in an extremely stressful situation. Through tireless interviews the night of the armed robbery, Detective Young gained valuable intelligence and linked additional suspects through the coordination of efforts with other detectives and also patrol officers. These diligent efforts led to a possible location where the assault rifle was being stored, along with developing information on another unsolved robbery. A subsequent search led to recovered narcotics, the assault rifle, and ammunition. In summing up the nomination, Detective Suddueth highlighted how Detective Young worked tirelessly for several days straight to bring the investigation to a safe conclusion and how he inspired others in the process in his desire for justice. According to Detective Suddueth, "I commend Detective Young for his dedication, I respect him for his passion, and I followed him because of his leadership."

Detective Young also received



Jim Young and District Court Judge Craig Croom

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One North Carolina PBA Chapter Shows Initiative

a nomination from fellow officer and firearms instructor, Officer Mike Kirn. In nominating Detective Young, Officer Kirn praised his efforts as the lead driving instructor for the agency. In that capacity, Young took the driving program to a new level and has created a program that is a resounding success. Officer Kirn offered his viewpoints through the lens of a fellow instructor and explained how Detective Young is able to capture his students' attention and to involve everyone in the training. In speaking with other officers, Officer Kirn gathered overwhelming praise for the quality of training and more importantly, Jim's ability to teach, organize, manage, and coordinate what is arguably some of the highest risk training a law enforcement officer can experience. Officer Kirn also noted that Detective Young instilled in him a level of confidence in his driving skills that he did not believe was possible. In closing his nomination, Officer Kirn said, "Our officers have become genuinely excited about driver training and have reaped the benefits of some of the best training offered anywhere in the country. That is due to Jim Young and his extraordinary abilities as an officer, an instructor and most importantly, a leader."

In a final nomination, Sgt. Randy Byrd recognized Detective Young. In April of 2007, Detective Young investigated the untimely death of a teenager who lost consciousness while staying in a hotel room. The young lady and her mother were in Cary with an AAU Basketball team from Washington state that was playing in a basketball tournament. The young lady was transported to the hospital where efforts to revive her were not successful. A few weeks later the mother took the time to write a thank

you note detailing her appreciation of Detective Young. In the note addressed to Young, she wrote the following: "I wanted to tell you that there are a lot of things I want to forget about that night, but I will always remember some things about you: your calm voice, your Mickey Mouse tie, and that you gave me a piece of gum. Your kindness has stayed with me



George Almond addressing those in attendance

all this time. We are home now and it's so very hard. But I wanted you to know that you made things a little easier in those few minutes we talked. I don't know if you have kids to hug (if you don't please hug your best friend), but continue to live as my mom taught me and how I have taught my kids. Above all else, be kind. It meant a lot." According to Sgt. Byrd, "Detective Young distinguished himself through his kindness and empathy for a fellow human being who was truly suffering with a loss. Detective Young through his actions demonstrated the highest ideals of our profession and why we are who we are. This truly exemplifies the legacy of George Almond and what this award is about."

Jim Young was born and raised in Salisbury, N.C. He became an Eagle

Scout in 1985 and graduated from North Rowan High School in 1989. Young graduated from the University of North Carolina in 1993 with a degree in the Administration of Criminal Justice. While attending UNC, he did an internship with the Chapel Hill Police Department and worked with youth in the the Chapel Hill and Carrboro Parks and Recreation Departments' basketball and baseball programs. Young started with the Cary Police Department as a patrol officer in 1994, then worked for the Greensboro Police Department from 1997 to 2001. While with the Greensboro Police Department, he was named as an Officer of the Month in 1998. He returned to the Cary Police Department in 2001 and worked as a patrol and field training officer. He currently is assigned as a detective to the Investigations and Family Services team where he works major crimes. Young is also a certified specialized driving instructor and trains Cary officers in driving maneuvers.

He was a 2006 George Almond Officer of the Year finalist. Young's maternal grandfather, J.K. Kerr, retired as a law enforcement officer in 1979, from the ABC Commission of Rowan County. He is married to Tracie Young, and they have a son named Jace.

The awards program was attended by more than 200 people and had huge support from the community. Cary Crimestoppers partnered with the Cary chapter for this year's event and held a silent auction before the evening's festivities started. A dinner complete with a jazz ensemble started what truly turned into a very special evening. The Cary Police Department Honor Guard presented the colors and Katherine Fritsch returned again this year to sing the national an-

(continued on next page...)

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them. Fritsch has become a friend of the Cary chapter since singing for the first banquet, and attended with her entire family this year. Fritsch also sings the national anthem at the Carolina Hurricanes hockey games. Steve Fonke then presented the invocation and Cary Chapter President Randy Byrd welcomed those in attendance. He also recognized the hosts and sponsors of the event along with special guests in attendance who included members of the Citizens Assisting Police Team, the Cary Crimestoppers Board, Rep. Ty Harrell, Rep. Nelson Dollar, Rep. Paul "Skip" Stam, Rep. Jennifer Weiss, Court of Appeals Judge Linda Stephens, District Court Judge Kristin Ruth, District Court Judge Vince Rozier, District Court Judge Cheri Beasley, Wake County Clerk of Superior Court Lorrin Freeman, Cary Town Council Member Gale Adcock, Cary Town Council Member Erv Portman, former Cary Town Council Member Nels Roseland, Cary Police Chief Pat Bazemore, Deputy Police Chief Barry Nickalson, Major Tony Godwin, Major Dave Wulff, retired Cary Police Chief Windy Hunter, and NCPBA Executive Director John Midgett.

Byrd also read some thoughts from Mayor Harold Weinbrecht, who was unable to attend the event. According to Weinbrecht, "I was serving as an at-large Cary Town Council member the night that Officer George Almond was nearly killed while working to keep our community safe. Then, as now, I am humbled and amazed by the risks that George and so many of you take each day for the rest of us. You, along with your families, make incredible personal sacrifices because of the noble field you've chosen for your profession. To you, George, please accept my personal thanks for all you did for Cary and for the continued inspiration you provide to so many who struggle to



Gerald Owens and George Almond

overcome the most severe challenges. You truly are one of our town's living heroes. To the families of the men and women who choose a public safety career, please know that those of us on the Town Council watch and worry right along with you as your loved ones do whatever it takes to keep Cary the safest place in the State to live, work, and raise our families. And finally to the women and men of Cary's Finest, as Mayor you have my pledge to continue working hard to ensure you have the support and resources you need to do the job you've been called to do and the job that more than 128,000 people count on you for every day. Each of you here tonight makes me incredibly proud to be your Mayor and to be a citizen of Cary."

Gerald Owens was then introduced as the Master of Ceremonies by Byrd. Owens is the anchor for the 10 o'clock news on Fox 50 and the anchor of the 11 o'clock news on WRAL-TV 5. He is also the host of NC Wanted on Fox 50, a show dedicated to solving unsolved cases and capturing wanted fugitives.

According to Byrd, "Gerald's work with this show is a tremendous benefit to law enforcement and helps make the streets safe."

Before introducing District Court Judge Craig Croom as the featured speaker, Owens mentioned how honored he was to be in attendance and among law enforcement officers. Owens said, "I have the utmost respect for what you do every day and for the careers you have chosen to keep our communities safe."

Croom is a former law enforcement officer who started his career as a police cadet with the Cary Police Department while a senior at UNC. He later worked as a deputy for the Wake County Sheriff's Office before leaving that agency to attend law school at North Carolina Central University where he graduated cum laude in 1994. Croom then clerked at the Court of Appeals before going to work for the Wake County District Attorney's Office as an assistant district attorney. Governor James B. Hunt, Jr. appointed him to be a Wake County district court judge in 1999 and he has since been elected twice. He currently presides over juvenile court and is committed to helping young people through his judicial role and in the community.

Croom gave a warm speech mixed with anecdotes and humor that highlighted the spirit of George Almond's service and the nominees' commitment to public service. In describing Almond's character, he spoke of meeting with Almond prior to the event and how he discovered one trait above all others that defines Almond, and that quality is perseverance. According to Croom, the definition of perseverance "is to persist in spite of difficulties, and he has persisted in spite of difficulties." Croom added, "I am amazed by his spirit. I am amazed at how positive he is. I am amazed by the fact that he holds no ill will towards

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anyone. I am amazed by his forgiving heart." Croom continued with his speech by quoting an excerpt from the book of Matthew. Croom used this excerpt to acknowledge Almond's commitment and sacrifice while recognizing that police officers are unsung heroes who rarely receive thanks despite making sacrifices every day in their jobs. According to Croom, "Blessed are the peacemakers." In continuing his speech, he took time to personally recognize the five finalists individually and comment on how each of them has achieved greatness. Croom, in quoting Shakespeare, stated "Be not afraid of greatness; some are born great; some achieve greatness; some have greatness thrust upon them." He also added his own remarks that personalized the quote for the audience, "And no matter what the outcome here tonight for the five finalists, you have all achieved greatness."

Gerald Owens then returned to the podium to introduce George Almond as the guest speaker. Almond gave a heartfelt speech that recognized that the

events involving his shooting were one of the most difficult times in his life. According to Almond, the words of Helen Keller have provided a path for him. Keller said, "When one door is closed, another opens." Almond contrasted this quote with his own personal experiences. Almond said, "When the door of my career in law enforcement closed, my fellow officers were there to open a new door for me. When the members of the Cary Chapter of the PBA told me they wanted to start recognizing outstanding officers by naming an award for me because of my commitment and sacrifice, I was humbled. This award means a great deal to me." Almond went on to highlight the achievements of the finalists and how they are more than just officers clocking in to do a job. According to Almond, "There is more to putting on the badge and just coming to work." "Whose life will you affect today?" was a question that Almond said he always thought about when reporting for duty. Whether dealing with a small child, teenager, or an elderly person, a police officer may be the only person that they see who cares. In a poignant ending, Almond summarized the importance of a police officer's greater work. "People will sometimes forget what you say or what you did, but they will not forget how you made them feel." Almond finished his speech by taking time to recognize the officers and spouses in attendance.

Gerald Owens continued with the program by recognizing the achievement of the five finalists as Almond presented each of them an awards plaque. Almond also gave his personal thoughts about each of the finalists, before being joined on stage by the 2006



Katherine Fritsch singing the National Anthem

award winner, Jim Grier, who presented the final award to Jim Young. In a short acceptance speech, Young offered his appreciation for receiving the award.

As a special part of the program, Nels Roseland, who had finished two terms with the Cary Town Council, was presented a plaque on behalf of the membership by Randy Byrd and George Almond. In presenting the plaque, Byrd read the inscription which sums up the chapter's appreciation: "This plaque is presented in appreciation of your dedicated and loyal support of the Cary Police Department and the Cary chapter of the North Carolina Police Benevolent Association. Your tireless efforts have improved the quality of life for both active and retired officers. On behalf of the Cary Chapter of the North Carolina PBA, we offer our best wishes for your success in future endeavors, and we thank you for a job well done."

After a round of door prize presentations and a word about the Police Benevolent Foundation, Brisco Gasperson gave the benediction to close a truly memorable evening.



Randy Byrd presenting a door prize as Katherine Fritsch and George Almond look on.

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P Police Benevolent Foundation



The Police Benevolent Foundation, Inc is a tax-deductible 501(c)(3) organization established by the Southern States Police Benevolent Association, Inc. (SSPBA) in 2005.

Established in 1987, SSPBA has been serving its membership for 20 years. SSPBA is not a union. It is an independent association with no national or international affiliations.

The Foundation has a Board of Directors elected by the membership of the SSPBA. Foundation expenses are currently absorbed by Southern States PBA, making the Foundation one of very few such entities that gives 100% of the funds received to its intended purpose.

Supporting Law Enforcement

help us make sure our law enforcement officers and families have the support they deserve. become a supporter of the police benevolent foundation. go to our website to find out how you can be a part of the FOUNDATION!

WWW.PBFI.ORG



You Could Win A Piece of History!

The PBF Auctions off WWII and Korean War Gun Collectables!

The Police Benevolent Foundation, Inc. has made three magnificent presentation pieces of World War II and Korean War memorabilia available to gun collectors and foreign war historians alike. Over an 18 month period, three lucky winners will have an opportunity to secure one of three combat pieces to add to their collection: the M1 Garand, the M1 Carbine and the 1911-A1 Cal.45 ACP (National Match Model). This is your opportunity to win one of these unique and sought after pieces of history to add to your very own collection. There are still 2 raffles left, so do not waste time in grabbing your ticket today.

Each of these pieces will be raffled separately over six (6) month interval periods. The first raffle took place on February 20, 2009. The lucky winner of the M1 Garand was Kirby McDonald from Hampton, GA. The next two (2) drawings will be held on August 20th, 2009, and February 20th, 2010. Raffle tickets for each item are only \$10 each, and there is no limit to the number of raffle tickets that may be purchased per individual. Tickets for the final two drawings are available online at www.pbfi.org.



M1 Carbine

1911-A1 Cal. 45
National Match
Model

M1 Garand

**AUCTION
ENDED**



**Congratulations to
our first winner!**



Kirby McDonald of Hampton, GA was the winner of our first auction and is now the proud owner of a unique piece of WWII history. Kirby won the M1 Garand in February of 2009.

"Thank you so much! I am excited to add this gun to my collection."

Campaign Time Periods

Item	Campaign Period	Drawing	Price
M1 Carbine	Aug 15, 2008 - Aug 16, 2009	Aug 20, 2009	\$10.00
1911 A1 .45	Aug 15, 2008 - Feb 17, 2010	Feb. 20, 2010	\$10.00

There is no limit to the number of tickets you can purchase, and all proceeds from this fund-raising campaign will benefit the Police Benevolent Foundation in its efforts to support law enforcement officers.

****Be sure to enter as many times as you like to improve your chances of securing one of these pieces of American history.**

In order to participate and be eligible to receive these firearms, you must be eligible to possess the firearm under law. Upon being named a winner, you will receive additional information by mail regarding the necessary paperwork you must submit. The information you supply after receiving notification of being a winner will be submitted to the FBI National Instant Criminal Check System (NICS) to verify you are not prohibited by federal, state or local law from acquiring or possessing a firearm.

Go to www.pbfi.org to get your tickets today!

Less is More: Record Lows in Law Enforcement Deaths

By Marlon Trone
PBF Executive Director

The past several years have been marred by record law enforcement deaths, but good news is on the horizon. 2008 saw a sharp decline in overall law enforcement deaths in the country. In fact, it is the lowest in two decades at approximately 140 - give or take a few categorical factors which we will discuss later.

When looking at the possible reasons for this decline, many circumstances may be attributed to the result. First, law enforcement agencies have begun to emphasize officer safety and awareness. They have placed a high priority on officers being aware of their circumstances and surroundings. Many states have started to see the importance of protective laws such as the 'Move-Over' law promoted in most states. Secondly, officer training has increased as well. Thirdly, agencies have pushed the use of protective body armour. Some have even made bullet proof vests mandatory as part of an officer's standard uniform. These factors have no doubt made for a safer environment for officers who protect our streets.

When looking inside the overall



numbers, 2008 saw 86 accidental deaths and 54 intentional. In contrast to 2007, the numbers reported 181 deaths with 108 being accidental and 73 intentional. To find a comparable year to 2008, you would have to go as far back as 1956. The biggest reduction and perhaps the most notable can be found in firearms related deaths. This category saw a 40% reduction. In 2007, there were 68 firearms related law enforcement officer deaths compared to only 41 in 2008.

Two areas of sharp increase in 2008 are female officers killed in the line of duty and officers struck during traffic

stops. According to CNN.com, one out of every 10 officers killed in 2008 was a female. This is a disturbing new trend. While the facts show that there was on decrease in overall traffic related deaths, reports show that the number of officers struck by cars and killed rose.

As we look at the numbers and the various reports submitted for 2008, there are a few noted discrepancies among the individual reports. The most notable of these differences is the determination of 'line of duty' fatalities. The FBI report, which is published in the spring of each year, includes only officers who died while "working in an official capacity." Some other reports include officers who may have suffered heart attacks during foot pursuits.

Regardless of the criteria, one common fact is that law enforcement deaths decreased in 2008. Senseless crimes committed by desperate and erratic criminals and even those deaths resulting from careless citizens have mostly seen a decrease. This means that for at least one year, more officers have been allowed to return home to the families that love them. For that, we can all be thankful.

Partnership Leads to Police Benevolent Foundation Contribution

By Randy Byrd
Cary Chapter President, NCPBA

The development of partnerships through local chapter involvement with other groups and organizations in the community is vitally important to the success of the Police Benevolent Foundation. These partnerships can also serve as a foundation to address common goals that benefit law enforcement tremendously. On March 15, 2008, the Cary chapter of the NCPBA partnered with Cary Crime Stoppers to conduct a silent auction at the 2nd Annual George Almond Officer of the Year awards banquet. Cary Crime Stoppers is a volunteer organization comprising local citizens dedicated to the reduction and quick resolution of crime. The Cary Crime Stoppers organization gathers funds to reward individuals who provide information anonymously to the Cary Police Department so that crimes can be solved. The awards banquet was attended by over 200 people and had huge support from the community. The silent auction was a huge success and will be continued as part of the annual event. To show their appreciation and continued support of this partnership, Cary Crime Stoppers chose to make a contribution to the Police Benevolent Foundation in the amount of \$500.



Cary Crime Stoppers presents PBF check to Cary Chapter

Conversations About Cops: Combatting the Perception of Officers

By Marlon Trone - PBF Executive Director

In my daily life, I have found it useful to understand the mentality of the law enforcement officers I serve and support. It is equally important to understand the reasons why people support law enforcement officers as well as the reasons they may choose not to support them. The misconceptions and misperceptions that are equated with the profession are often the highest hurdles to clear.

Recently I had a discussion with a group of people who didn't hold law enforcement officers in the highest of regard. Now, to many of us, this is certainly not NEW information and the reasons and rationale behind their mentality were common. They cited the number of law enforcement officer 'incidents of abuse' reported on the news. They cited inadequacies and injustices within the criminal justice system. They cited profiling and perceived harassment. Some even had an overall mistrust of law enforcement. All these issues are typical points of contention for many anti-law enforcement officer types. I would expect that many of them would hold similar views about

the establishment of government and the system of laws as well.

What I found to be most surprising and most unsettling was the level of disdain that a couple, in particular, expressed - so much that I found myself intrigued and engaged in a spirited debate. After citing incidents of police brutality and making points about people being killed by law enforcement officers, I asked one individual to share with the group the average number of unarmed people killed by law enforcement officers each year. He had no idea. Then I asked if he knew the average number of proven police brutality cases each year. Again, he had no idea. It begs the question whether his opinion on law enforcement was based on factual information or his perception of the limited information he has received.

What was the outcome? Well, I don't know how much headway I made with converting him to a law enforcement supporter; however, I am certain that his contention is no longer the result of the absence of facts. And the facts are that

the number of unarmed people who die by the hands of law enforcement officers is small compared to the number of officers who die at the hands of criminals. Estimates range from a dozen to as many as 30 or so unarmed citizens who are killed by law enforcement officers. If we can agree that anytime a person is killed - for any reason - that it is a bad thing, then we can agree that 30 unarmed citizens is tragic. When we compare that number to an average of 145 officers killed by criminals each year, those numbers are even more tragic.

I asked this group, who do you call when your home is vandalized or robbed? Who do you call if you are attacked or assaulted? Who do you call when a child is missing or abducted or when a mother is in danger? They all replied in a chorus "the cops."

The next time you encounter someone who has a negative view about law enforcement officers, don't be discouraged or disappointed. Have a conversation with them and challenge their perception with reality.

Do's & Don'ts: How the Foundation works

By Marlon Trone - PBF Executive Director

The Foundation was established in 2005 for the purpose of supporting the membership of the Southern States PBA. As a 501(c)(3) organization, the Foundation serves as the sole fundraising arm for the PBA. The primary purpose of the Foundation is to serve the membership of the Southern States PBA as directed by the Foundation's Board of Trustees. This service includes providing aid to the families of law enforcement who have fallen in the line of duty; providing scholarships to both the children of members seeking college degrees and non-members' children who are seeking degrees in criminology.

The Foundation also provides funding and support for law enforcement officers during times of disaster, whether natural or man-made. As in the case of Hurricane Katrina, the Foundation was able to support those law enforcement officers who remained in the trenches and struggled to preserve order and protect the lives of other victims of the tragic storm.



Protection of the rights and civil liberties of law enforcement officers is another key area of focus. The Foundation believes that all citizens are entitled to equal and fair treatment in life and in the work place.

The Foundation does not provide salary assistance or supplemental income to law enforcement officers who may have hit a rough financial stretch through no fault of their own. Even when economic challenges result from the injury or illness of the officer or a family member,

the Foundation is required by the IRS to operate within the established organizational purposes. It also does not fund other organizations' initiatives or social efforts - this includes youth sports and activities, law enforcement memorials from other agencies or organizations, and fundraisers that benefit other organizations.

It is our goal to preserve the integrity of our fundraising process by maintaining the fact that all of the money raised by the Foundation goes towards its intended purpose. We are grateful for every dollar that we have been able to raise and are fortunate that our reputation for fiscal prudence is intact, especially during this time of economic strife.

In certain instances, the Foundation has been able to assist officers and their families by organizing chapter support with help from the affected member's home chapter. This is an effective way for fellow officers to participate in providing aid for one of their own.

WE LOSE TOO MANY PARTNERS...

suicide is a real concern cops face every day

More than twice as many peace officers die because of suicide than are killed in the line of duty. The Police Benevolent Foundation is dedicated to helping officers understand the risks they face and helping them deal with this very real threat.

the victim

A peace officer is more likely to be a victim of suicide than homicide. Being a cop is a stressful job and the PBF wants to help officers deal with this stress.



...BY THEIR OWN HAND

**IT'S A
GROWING
EPIDEMIC**

know the signs

We protect our own. Make sure you know what signs to look for in case there is a real threat to your partner's or your own well being. Over the next couple of pages you will learn what you can do to help fight this epidemic.

Suicide and Law Enforcement Thoughts of a Survivor

Donna G. Schulz

Wife of FBI Special Agent Bruce Schulz

It is such an honor to be asked to write an article for PBA's Blue Review magazine. As a former PBA member, it's good to see your commitment to learn more about keeping our finest, each of you and your colleagues, out of harm's way. Within law enforcement there are serious problems, critical issues that must be dealt with. There were nine suicides within the FBI family the year my husband died. Statistics show that every 24 hours an officer will die from suicide.....It could be someone you work with today, who's gone tomorrow. More officers die from suicide than from "line-of-duty" deaths – at least three times more according to Tears of a Cop (TOAC) – a sad, terrible waste of America's Finest.

As I started writing down my thoughts, I found it still to be almost overwhelming, even after so many years have passed and after telling Bruce's story to so many cops. In Florida, we have offered 2-day seminars, IN HARM'S WAY: Tactics for Psychological Survival in Law Enforcement, numerous times. We have also assisted Kansas and Arizona and are working to take this training national with BJA funding, yet it never seems to get any easier. Bruce's death cannot be in vain; some good must come out of it. There is much that I would like to share with you in hopes that perhaps we can begin to understand the whys and do something about this awesome tragedy. I'd like to tell you one agent's story....

Bruce was proud to be an FBI Special Agent. It was his highest achievement, his life's goal. He was a superb agent, father, son, and husband. He served his country unstintingly and gave of himself to his family and to the Bureau. I don't begin to know the answers of why he killed himself. I don't even fully understand the problems; but what I do know is that I lost my best friend, the love of my life, and it didn't have to happen.



FBI Special Agent Bruce Schulz

Since my husband's death on March 8, 1995, I've tried to piece together what made it happen and why. He was the strongest man I've ever known, the rock of our family; our boys idolized him; and now he's gone. He received

More officers die from suicide than from "line-of-duty" deaths

outstanding evaluations and letters of commendation from numerous national security agencies; he was a foreign counter-intelligence agent. FBI Director Freeh even presented him with a meritorious award posthumously and wrote a tribute about his contributions; he spoke about

Bruce's commitment to country at his memorial service. He called him a true American hero. Yet Bruce did not feel fit to live. This proud, brave man died in his boxer shorts, unable even to get dressed. Something is seriously wrong to reduce a man to this.

Bruce had always been a fighter, a survivor, a high achiever, a team player, a straight arrow. He joined the Marines as a teenager, turning 21 in Okinawa after 2 tours in Viet Nam. He came home with no fanfare and much degradation from Americans, went to college to earn a B.S. degree in criminology, and became a Tallahassee Police Officer, where we met. He served for eight years in Uniform Patrol, on the SWAT Team, and in the Vice/Narcotics Unit. He excelled as a police officer and investigator, handling major cases and serving on the Big Bend Narcotics Task Force, working significant drug trafficking and money laundering cases in both state and federal court. He wanted to work more in-depth cases and better serve his

country so he applied for and was sworn into the FBI in 1984.

He was #1 in physical fitness in his New Agent Class, even though he was the "old man" of the class. He tried out for the elite FBI HRT (Hostage Rescue Team) in 1988 and cracked three ribs the first day, but he never gave up. He continued the entire two weeks through a grueling pace of physically, mentally, and emotionally stressful activities designed to test how well a man can hold up under pressure, telling no one of his injury. He knew he couldn't make the team because his injury slowed him down, but he never quit. That's the way he was.... a self-made man who soldiered on.

I tell you all this so that you will understand why I cannot understand how this could happen. I've included photos of Bruce. I want you to look closely at his proud, smiling face; how physically fit he was; he appears on top of the world. He could be any one of you, or the of-

ficers/agents with whom you work.

I watched my husband deteriorate the last three to four weeks of his life, and I couldn't stop it. He shot and killed himself the morning of March 8, 1995, in the FBI undercover facility where we had lived in isolation and anonymity for the last year of his life. He was 45 years old. I wanted so desperately to have someone come over and try to talk with him, to help us, but no one could visit the house or know where we lived or what we did; not even other agents or family. There was nowhere to turn. I felt helpless and hopeless. Pacing...wringing hands....I can't do it...I begged him - let's just walk out the door and leave...Take nothing with us, just get in the car and go. We lived in a fishbowl, you see; it was the only way; but, he would not even consider it. Being an FBI Agent was who he was, how he defined himself.

After many years of thought and contemplation, there are some issues that I have identified that I think could impact the rate of suicides among law enforcement officers and agents. I would like to share my thoughts with you in hopes that we can call a halt to these losses of more than just a few good men. Let's start at the beginning.....

RECRUITMENT, RED FLAGS

Law enforcement agencies actively recruit people like Bruce -- Type A personalities -- yet don't know how to deal with them once they are hired. "Perfectionist, driven to excellence, committed, giving 110%" -- these were the words in Bruce's personnel file. A recruiter's dream, yet these qualities should be red flags. There is an inherent danger in pushing these "driven" officers/agents too far as they will feel like

failures if they cannot accomplish all that is expected of them.

Why is it that some agencies don't do psychological background work (testing, interviews, screening) before hiring? The agency could then be better prepared to supervise their officers/agents effectively. Those very qualities that make them excel at their jobs are also the



qualities that put them at high risk if not effectively supervised. There should be classes, both during recruit and in-service training, to teach officers about stress -- how to recognize their stress thresholds and what to do to alleviate that stress and their reaction to it. These classes should address the stigma attached to reaching out for help when stress becomes overwhelming. It must be reinforced by the agency's leadership.

SUPERVISORS

Front line supervisors should

have "Interpersonal Skills" as the primary critical element in their job description. The agents/officers know how to do the field work; the supervisors need to know how to work with them, their squad-their people. Selecting front-line supervisors with supervisory/people skills is critical. They should receive mandatory, specialized training in this

before they are given a squad to supervise. They should ensure that every member of their squad feels they will be given assistance and support when they bring a problem forward. Supervisors should expressly be charged with the responsibility of recognizing the danger signs for potential problems and taking action to ensure their agents get help. But, too often supervisors and fellow officers look the other way because they're too busy, or don't want to interfere, or they're not sure what to say or do. So they do nothing. Supervisors need to learn how to reach out to their officers/agents; how to ask the difficult questions; how to be there for them.

There are 8 indicators of major depression; one need only manifest 4 in order to be considered in a major depressive episode. My husband exhibited every indicator -- all eight! He lost weight, his eyes were sunken in, he was a twitching, nervous wreck. I watched him deteriorate and couldn't help enough to stop it. Yet, according to the Shooting Report, his supervisor and fellow agents, as well as the firearms instructor, saw these warning signs and did nothing.

We should all know these indicators!! Take action! Do something!! Don't be afraid to ask...you cannot give someone the idea of committing suicide. You may think, what if I'm wrong? But, cops have good instincts when it comes

"Statistics show that every 24 hours an officer will die from suicide..... It could be someone you work with today, who's gone tomorrow."



to reading people – trust your gut! Suicidal thoughts are often impulsive to stop the intolerable pain, a way out, not that they want to die. If we can get them past that moment and get them help, they can recover and go on with life. Your best option is to think in terms of necessary and sufficient force. Intervene as much as is necessary to keep the person alive and get him or her assistance. Trust your instincts....Reach out as soon as possible.....don't leave them alone.....ask for permission to secure their weapons....get them help....and get debriefed yourself when the situation is resolved, for your own peace of mind.

Bruce's best friend, DEA Agent Tom Slovenkay, spent time with Bruce the night before he died. Tom didn't press him too much because he thought he'd have more time to keep talking with him. He didn't. Bruce died the next morning. That was devastating for Slo. DEA's EAP program immediately kicked in to give Tom support after losing his best friend. They checked in with Tom periodically over the next year to assure he was doing OK. That's what EAP is for!!

You will never regret stepping in. You may save a life. Remember, a peace officer is more likely to be a victim of suicide than homicide. It has a devas-

tating effect on the family, friends, and fellow officers.

Should a suicide happen within your department, your chief, sheriff, SAC should be asking for – no, requiring – counseling for the supervisor and for his/her squad. In fact, a Post Critical Incident Seminar should be held not only for the fallen officer's/agent's squad, but most assuredly for the agency at large.

STIGMA

There should NOT be a stigma attached to saying "I need help." You're in denial if you say there is no stigma. Agents and officers are afraid they'll lose face, lose their badges and guns, or that they will be targeted as unfit or "troubled." They're ashamed. The stigma is there. As cops, we don't talk about personal problems or touchy/feely issues. A huge stigma exists! Of course, being in FCI, Bruce could talk to no one....

Regular, mandatory interviews with counselors would do a lot to erase that stigma. It would be SOP to reach out and share their thoughts, their concerns, their worries, not just when they have issues. We're used to solving problems for the community; dealing with troubled people...not being a troubled person who needs help.

Ongoing training and discussion at law enforcement academies and New Agents Classes, as well as annual in-service sessions and short roll-call sessions should be mandatory to keep an open

dialogue concerning the need to reach out for assistance. It must be viewed not as a weakness, but as no different than reaching out to a doctor for a physical illness. Mental illness...physical illness – what's the difference? We wouldn't hesitate to have a broken arm set or take antibiotics for the flu. Annual counseling sessions should be SOP. Thus, there would not be a stigma attached as there is no flexibility to refuse.

The U.S. Air Force has dramatically reduced their high rate of suicide by implementing a suicide prevention program. Awareness training is required for all personnel and email messages are sent out from the Air Force Chief-of-Staff, telling them that getting professional help isn't just OK.....it's a sign of personal strength.

We provide resource materials meant to be downloaded free and localized by LE agencies on the Florida Regional Community Policing Institute's webpage, www.cop.spcollege.edu/cop/. Put your logo and local phone numbers on them, reproduce them and disseminate them agency wide. Use these tools that have been evaluated and proven to be effective!! We must erase this stigma. Open and frank discussion is the only way.

WORKLOAD, OVERLOAD

There should be regular, in-depth desk reviews to assure that there is coordination. Off-duty work should be examined, as well. Supervisors need to confer. Not only when officers face shooting situations, severe murder or accident scenes, dangerous/high risk moments, but also just the every day stress of law enforcement work. Often officers cry out for help with the actions they exhibit. These signals must not be ignored or downplayed. It is everyone's responsibility to take action! Don't walk away.

OPERATION SAFE GUARD

Undercover investigators are often the most vulnerable. The nature of undercover work requires a certain level of isolation and anonymity. Operation Safe Guard (OSG) is an FBI training/assessment program to prepare agents for undercover assignments and to assess whether these agents have the personal qualities to handle these types of assignments. Before my husband's

I WAS AFRAID TO ASK ABOUT SUICIDAL THOUGHTS

You cannot give someone the idea of committing suicide. Do not be afraid to talk about it.

death, OSG was not available for Foreign Counter Intelligence agents, but just those infiltrating drug cartels and organized crime families. During this program, not only are the agents being assessed, but they learn about the assignment and whether they feel suited to take on this type of work. OSG also assigns someone to meet with the undercover agent regularly. That agent becomes a liaison and lifeline for the UC agent to the Bureau and to his/her family. This person is thus able to observe any problems that may develop and have the ability to take action to prevent what happened to my husband.

And what about preparation for the families? Living in these undercover situations radically changes the family's lifestyle and impacts the entire extended family. Yet the spouse and family usually receive only the barest of orientations, if any. There is no briefing on the lifestyle changes or how it will impact the lives of all family members. And then, where does the family turn when they have a desperate need for help? There's no outreach, no preparation. All the spouse knows to do is maintain silence and anonymity; talk to no one; reach out to no one. Until...it's too late.

WORKING CONDITIONS

The work environment is key to a positive and productive work force. We lived in a fishbowl, yet were totally isolated, answering to two different supervisors that didn't know what the other was doing. The Bureau has an SOP for everything – how to handle the agency's "valuable resources" – cars, weapons and ammo, beepers, cell phones, etc. – to ensure that they are not abused; but, what about the most vital and precious resource of all – the officers and agents themselves? It often seems that they are the most expendable and least worthy of needed attention. Most officers perceive the enemy to be within...not the streets.

Every time I hear Jay Leno, I think of his Frito Lays commercial from a few years ago: "Go ahead. Eat 'em. We'll make more." We chew up our officers and spit them out – then, just hire more.

EAP, PEER SUPPORT, AND CHAPLAINCY PROGRAMS

Chaplain Programs can be a viable part of EAP. Most people respond well to faith-based counseling and this resource is invaluable. Chaplains, however,

WHY DO COPS ATTEMPT SUICIDE?

Though the reason may vary, frequently, people attempt suicide because they want others to know they are in psychological pain; they want the pain to end. In addition, depression, anxiety, alcohol, drugs, a relationship loss and will attempt suicide. Suicide is a permanent solution to a temporary problem.

need training to understand the psychological needs of law enforcement. They should ride along with officers and get to know them. Then the officers will feel more comfortable to open up and talk.

An Employee Assistance Program – EAP – is an excellent start in offering peer services for the officers/agents and support staff; however, there is an inherent ethical danger if your EAP consists only of peer counselors. What about confidentiality issues for "sworn" peer counselors? It can't really be. And "confidentiality" certainly isn't the same as "privileged" information that a licensed professional would have. The agents and officers know this. They must not fear repercussions or retribution, or they will not risk asking for help. Therefore, the EAP staff should have full-time trained clinicians – psychological counselors, outside contractors – as well. Anonymity and complete confidentiality are key. Plus, these clinicians should get to know the cops; ride along; come to roll

call; just get to know the cop mentality. You know, I read a treatise by Dr. Wayne Hill (it's on the RCPI webpage) discussing how cops choose to be victimized every day by the work we do. We choose to put ourselves in harm's way and to face the trauma of police work every day.

He says... *"One way to define a victim is one who experiences violence or the effect of violence and if that is an acceptable definition, police officers certainly qualify and re-qualify, sometimes day after day. It is important to give them that consideration and realize that they are willfully exposing themselves to violence on behalf of society for all of the obvious reasons. If we as a society ever forget that the people who police our communities are also citizens of the community, then we condemn them to a life of isolation, shrouded in bitterness and the pain of dehumanization....Policing is an occupation in which, with the passage of time, incident by incident, most officers become conditioned to be less and less familiar with their personal feelings. It is an occupation which promotes a process of emotional isolation or callousness, until officers finally lose touch with the effective or emotional side of their selves."*

I met with Louis Freeh after Bruce died to discuss these issues. He agreed with much of what I had to say, but then he said that he could not al-



low counseling for his agents by outside psychiatrists or psychologists because he must “know everything” – know what is going on at all times. He could not allow his Special Agents to talk to external people...Thus, he would know nothing. They will bottle it up inside and merely keep going until they can’t go any further. Then they will give up and die. There was no one for us. Throughout Bruce’s last three weeks I tried to get him to seek some kind of help and failed. I watched him deteriorate and felt totally helpless and terrified.

Did you know that 1/3 of active-duty and retired officers suffer from Post-traumatic Stress Disorder and don’t even know it? Obviously, they therefore don’t get help. If there’s no EAP, Peer Support, or counseling, where do they turn? “Go ahead, eat ‘em. We’ll make more.....”

MARKETING

Marketing of these programs – to both the officers and their families – is key. I didn’t have a clue where to turn for help; and, I’m fairly knowledgeable, having been a cop and a fed. But, since my husband was undercover foreign counterintelligence, none of these services were available for us. We lived in isolation.

You have a chance... Keep the issue on the forefront for officers and their families – letters, articles in your department newsletter, frequent training. Remember, spouses often feel alone and helpless. And, they live with that feeling every day after the suicide of their loved one; it’s devastating. I feel so responsible; yet, to this day I do not know how I could have prevented Bruce’s death. I was right there with him and couldn’t stop it. I needed help!! There was none.

FUNERALS/MEMORIAL SERVICES

I am fortunate to be able to tell you that my husband received full honors from the Bureau and from the Tallahassee Police Department, who still considers us two of their own. Memorial services were held both in Washington, DC, and

in Tallahassee. Director Freeh spoke at the FBI memorial service and praised Bruce’s dedication and commitment to his country. I was given a memorial box that honors him. The Bureau sent the Director of National Security to speak at Bruce’s service in Tallahassee where the TPD Honor Guard stood at attention while Chief Walter McNeil and fellow officers praised my husband’s career and life in Florida. The Marines played taps and presented an American flag to me. Do you honor all fallen officers in your department? They should be honored for how they lived, not how they died.

SURVIVORS

Do you keep in touch with survivors? Is this enough? Where is the support? When an officer dies, he kills a part of you, the survivor..... As a survivor you just want to “cease to be.” It is critical to reach out to the family members when a suicide occurs. Treat them with dignity and show them you care. It’s



tough.....It forces agents and officers to think of their own vulnerability. It could be their spouse, their loved one.....

Support groups such as COPS (Concerns Of Police Survivors) offer nothing for survivors of law enforcement suicide. Our loved ones are not recognized at the National Law Enforcement Memorial in Washington, DC. Much attention and services are given to the families of officers killed in-the-line-of-duty. Suicide survivors, however, are on their own – grieving while feeling isolated

WHAT IF I'M WRONG

Cops have good instincts when it comes to reading people. If you are getting a feeling that somebody may hurt him/her self - trust your gut!

and abandoned from their police family. My husband was killed in-the-line-of-duty; everything about his death was job related. But, he is not recognized. His name is not on the wall.

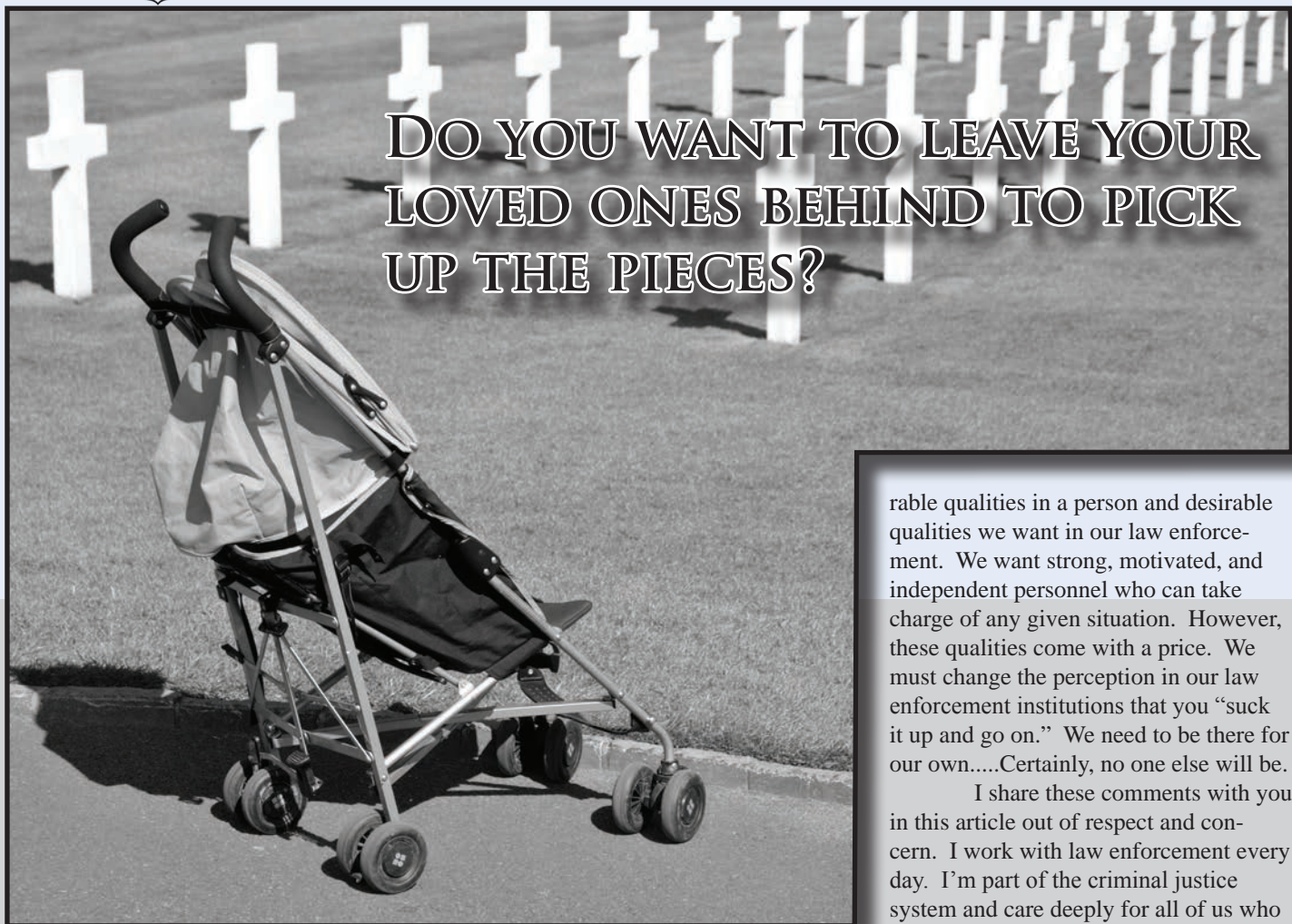
Did you know that suicide survivors are not eligible for Public Safety Officers’ Benefits (PSOB)? There is no support – neither financial nor emotional. The guilt is incredible; the sense of loss is overwhelming – emptiness and a sense of responsibility that somehow I should

have done something to prevent this from happening. If no one reaches out to the survivors, how are we to know where to turn? We are victims ourselves. We are made to feel ashamed. There is no help; there is nowhere to turn.

I applied for Workman’s Comp as I felt the Bureau must be held accountable for Bruce’s death. It took 3 years, yet the DOL said it was their most compelling case for a suicide being job-related. They felt that they had no choice but

to honor my application.

There is a non-profit effort, entitled SOLES (Survivors of Law Enforcement Suicide), directed by Teresa Tate, that is a resource to you. SOLES receives no financial support, though it should be given, so that this program can have a greater ability to reach out to victims and turn them into survivors. Every year SOLES displays handmade quilts on the steps of the capitol in DC; each square is made by a survivor; squares that represent more than 200 officers lost to suicide – 36



DO YOU WANT TO LEAVE YOUR LOVED ONES BEHIND TO PICK UP THE PIECES?

local, state, and federal agencies. My husband's square is there. We're both survivors.

RESEARCH

Research needs to be done to document law enforcement suicide and to study this heinous problem that robs us of our Finest. Research within law enforcement agencies, looking at policies and procedures, with the officers and agents themselves, and with the survivors. Dr. John Violanti, Police Suicide: Epidemic in Blue, a veteran, retired police officer, now academic researcher in Buffalo, NY, is one of the few.

CLOSURE

Bruce was just a regular guy. He was like many of you – a practical joker, loved to laugh, and enjoyed life to its fullest. He was the official roaster for his squad's farewell dinners for transfers and retirements, an avid fisherman and hunter. Every summer we met life-long friends in the Florida Keys for lobstering. (I scattered his ashes in the Gulf

over a lobster hole – this is where he was the happiest.) He was a natural athlete – baseball, softball, flag football, tennis, skiing, running – he excelled at it all. He won gold medals in the Police Olympics for the Pentathlon and Relay Race. He played baseball with a broken foot in DC because he couldn't let his team down. He loved FSU football and Charlie Ward, '95 Heisman trophy winner. At his memorial service, even my Gator son said "Go Noles!" in his honor. Bruce was talented at working with his hands. He could work magic on a piece of wood with a saw and sander. He could do anything from making or refinishing furniture to building a house. He was always helping our friends and fellow officers with their projects.

He was like many of you – driven personality, unable to show his emotions, he had to appear unshakable, strong, and independent. He was my rock. With cops, there's always a wall, even with family members, even when we were both cops. In other words, he had to be no less than perfect. These are admi-

nable qualities in a person and desirable qualities we want in our law enforcement. We want strong, motivated, and independent personnel who can take charge of any given situation. However, these qualities come with a price. We must change the perception in our law enforcement institutions that you "suck it up and go on." We need to be there for our own.....Certainly, no one else will be.

I share these comments with you in this article out of respect and concern. I work with law enforcement every day. I'm part of the criminal justice system and care deeply for all of us who dedicate our lives to its mission. These are critical issues that have been identified that can impact the rate of suicides among law enforcement officers and agents. If we are willing to recognize the issues, deal with the stigma, offer the programs and training that are vital, perhaps we can call a halt to these losses of more than just a few good men. These deaths are happening with far too great a frequency.

An act such as the death of my husband should not have to happen. It is a terrible waste and an awesome loss not only to me and my sons, but to law enforcement and the communities we serve as well. Bruce was a good agent, a good husband, father, and son; and, most of all, he was a good man. We must do everything possible to ensure that these losses do not continue to happen!!

Donna G. Schulz, Law Enforcement Coordination Manager, U.S. Attorney's Office – Middle District of Florida, 400 North Tampa Street, Suite 3200, Tampa, Florida 33602; Phone: 813-274-6092; Fax: 813-274-6300; Email: donna.schulz@usdoj.gov.

Behind the Badge: The Secret of Suicide

By Marlon Trone
PBF Executive Director



Many supporters, friends and members of the law enforcement profession are aware of the dangers that law enforcement officers face each day. Whether it be from the heinous acts committed by criminals or accidental deaths resulting from other actions, the life of a law enforcement officer is filled with stress and danger. Often times when we talk about the deaths of law enforcement officers, the stories are told from the position of 'line of duty' deaths, but there is a hidden secret that lives behind the badge. This secret is often a topic not easily pronounced in the profession and is largely unreported in the mainstream media.

During 2008, there were more than 100 reported cases of law enforcement officer suicides. According to many experts, suicide among law enforcement officers is a category that is often grossly under reported. Dr. Elizabeth Dansie, a psychologist who works with Los Angeles agencies in the aftermath of suicides, states that many suicides are reported as simply accidental deaths and the 'shame factor' is largely responsible for the hesitancy in seeking help. In 2007, the National Police Suicide Foundation documented an average of 450 suicides during the previous three years. The reasons for the under reporting are various and mostly understandable. A suicide can breed contention, embarrassment and diminish the morale of a department leaving many people questioning what went wrong. Because the profession itself is one of pride and honor, it can be difficult for officers to admit areas of weakness; therefore, even if an officer is having emotional or mental struggles, getting counseling can be difficult. Only about 2% of the 18,000 law enforcement agencies around the country actually have suicide prevention programs designed to address this issue.

Research shows that an officer is more likely to kill himself/herself than to die at the hands of someone else. Police epidemiology studies have shown that police suicide is more than three times that of the general public and the suicide rate has risen over the past ten years. In an article published in USA Today, it was noted that larger police municipalities like Los Angeles, Chicago and New York have begun to take notice of suicide rates and began to include comprehensive prevention programs as part of their agencies. The California Highway Patrol cited eight suicides in eight months during one stretch which prompted a drastic change and need to address the growing concerns of officers. The agencies previously mentioned all feature videos, brochures and posters, peer-support training, coaching on warning signs, and even psychological outreach.

In 2001, the Los Angeles County Sheriff's Department began its program, and since 2002, there have been only two reported suicides out of more than 9000 officers. According to Audrey Honig, chief psychologist for the Los Angeles County Sheriff's Department, "Research has always shown that availability of firearms, comfort with firearms, increases suicide rates." Even in the upper levels of the profession as far reaching as the FBI and other government agencies, suicide is still a major factor. Although the FBI does have a stress program, it does not have any mandatory suicide prevention training programs on the subject. Since 1993, more than 20 FBI agents have committed suicide.

The Indicators

The Central Florida Police Stress Unit has identified several contributing factors and characteristics associated with law enforcement suicides.

- Age, race and sex – Male officers 50 years and older are at highest risk, while females of any age are at lowest risk. Caucasian males have the highest suicide rate of all demographic groups.
- Psychiatric symptoms – Persons with clinical depression are at the highest risk for suicide. Depression is likely the most common warning sign of suicide, followed by those exhibiting symptoms of schizophrenia such as

STRESS RELIEVERS

LEO Suicides are grossly under reported. Please remember Suicide is a permanent solution to a temporary problem.

disorganization, confusion, chaos and hallucinations.

- Stress – Recent stress including daily hassles, life events and traumatic events. Examples are a recent job loss, divorce/relationship issues, or illness. The experience of a traumatic incident may also precipitate suicide such as 9/11, the Oklahoma federal building bombing or natural disasters.
- Prior suicidal thoughts/ attempts – A person’s potential for suicide is higher if they have had previous suicide attempts, have been considering suicide as an option, if they have specific plans and means readily available and if a truly lethal means is contemplated (e.g., a police officer who always has a gun readily available). Each attempt increases the likelihood of success.
- Available resources – A person who is isolated or has no means of social support has a greater risk for suicide, as is someone whose friends and family are openly hostile and rejecting. - John Violanti, Ph.D.

USA Today reports that the International Association of Chiefs of Police has been lobbying to make suicide prevention tools available for all the nation’s 18,000 law enforcement agencies. In their proposal, the IACP stated that the current police culture tended to be entirely in avoidance of issues surrounding suicide. The proposal went on to say that officers are left with no place to turn.

With an on-the-job stress level that is enormously high, comfort and accessibility to firearm, minimal prevention and outreach programs, and in many jobs such as undercover work, the demands of secrecy can be so rigorous that it affects both the officer and their family members. Even though in the ‘line of duty’ deaths are segmented by incidents which occur while serving in an official capacity of law enforcement, there is a strong argument that can be made that suicides and job related stress have a direct correlation. For that reason, law enforcement suicides should be given a high priority, and law enforcement agencies should be encouraged to make prevention and outreach programs available to their sworn officers.

AID LIFE

This acronym may help you remember what to do when assisting a fellow officer who is suicidal

A =

Ask. Do not be afraid to ask, “Are you thinking about hurting yourself?” or “Are you thinking about suicide?”

I =

Intervene immediately. Take action. Listen and let the person know he or she is not alone.

D =

Don’t keep it a secret.

L =

Locate help. Seek out a professional, peer support person, chaplain, friend, family member or supervisor.

I =

Involve command. Supervisors can secure immediate and long-term assistance.

F =

Find someone to stay with the person now. Don’t leave the person alone.

E =

Expedite. Get help now. An at-risk person needs immediate attention from professionals.

** courtesy of the Florida Governor’s Office of Drug Control*

A Widow's Plea - In Memory of Howard

By Joyce Plouff

Wife of Sergeant Howard J. Plouff II – EOW 2-23-07; 10:42 pm

The holidays have come and gone. For those who wear blue these are typically working days. Families try to squeeze in time before or after a shift and make the most of their time together. TIME. Isn't that what we always do? Shift work, weekends, weddings, birthdays, anniversaries all become a blur. When Howard's best man was making his way down the aisle a year after us, Howard put in for the time off. After all, it was his turn to be best man and support his best friend in this life changing event. Jake had followed us to NC and became a firefighter in Raleigh. Howard was denied the vacation day and called in sick. His sergeant called him and made him come back to Winston-Salem and Howard missed his best friend getting married. His sergeant explained this was only the beginning of missing out on important events, life and time.

So true. Howard learned his lesson well and rarely called in sick in 17 ½ years. He had his wisdom teeth removed and went in to work. His sergeant had to force him to go home when I was in labor with our first child. He did take some time off for both our daughters' births but it was pre-planned vacation time or 'comp time.' He seemed to have a lot of that since he always went in early and left late.

Overall the choices were made to take care of his family. We worked as a team and blended our schedules to be there for our girls and take care of each other. We squeezed TIME in every way we could. This also meant making time for Howard's PD family. Get togethers and squad parties were Howard's way of staying close to his colleagues. He was always the first to help someone move or have a party at the house.

Through it all, Howard 'saved' his sick time to put towards retiring early. I would lament how I would need to work until I was 90 as a schoolteacher, to which he would reply "No, when I retire you retire so we can spend TIME together." Howard had earned roughly 1,289 hours of sick time when he was

shot and killed responding to an officer's plea for assistance. He died at 10:42 – End of Watch/Work. No TIME left for us together either as a PD family, family of four, or two old, retired folks.

When Howard was in the hospital, my only thoughts were to have him recover. My astute, youngest child wondered amidst her pain how we would pay the bills and have food to eat. I was naïve enough to think that we would be taken care of through Howard's pensions, etc. Although I slowly learned this wasn't

be taken care of by his PD family.

The TIME Howard 'saved' we can never truly recover. In fact, the city has said he (or his beneficiaries) won't be receiving monies for this earned time. The state and the City of Winston-Salem simply returned the monies Howard contributed to the retirement/pension fund which I had to roll over into an IRA. This means no "Widow's Package," no pension, no monthly payments.

To pay it forward (our police officers' hard work and generosity), so to speak, I am becoming an advocate for law enforcement and their families. I wrote in anguish to our local representatives and senators about the secondary insult of not receiving Howard's pension. I have met with legislators and we are currently trying to effect change in the state statute to provide a "Widow/Widower's Package" that would provide a pension to the beneficiaries of officers' feloniously killed in the line of duty. It is my hope we can push through a similar plan for the local pension plan



the case. It's not like a police officer and schoolteacher had money in the bank. In the days and weeks that followed, I realized we didn't have money to pay the bills. That is until PBA/PBF stepped up (rather quickly, too) with a check for \$5,000.00. This was essential and deeply appreciated. If nothing else, I could assure my daughters that we would eat and stay in our home filled with memories. TIME painfully slipped by and I juggled and struggled with tons of paperwork (estate, insurance, etc.) amidst my enormous grief. It was apparent I couldn't function as a schoolteacher but that \$5,000.00 check faithfully came every month for a full year. We were also very fortunate that the community donated money to a fund set up for our family through PBA. Howard's colleagues rallied together and the Winston-Salem PBA Chapter President even spent a frigid night on the roof of a gym to raise money for our family! Needless to say, this response was overwhelming. Howard's family would

as well.

Howard died February 23, 2007, at 10:42 pm. End of shift, end of work. Without Howard, I am lost and TIME stands still. No more shift work but no more squeezes of TIME. No more time as a family, no more squad parties, no more future time as a retired couple. Emotionally we all will never be the same. As I gather strength, I am finding new avenues to honor Howard and demand that his murder be a wake up call for us all to step forward and advocate for our law enforcement officers. PBA/PBF offers a perfect opportunity for us all to do just that. Whether this is through donating our TIME, energies or money, I know we must all cherish our memories and work hard to stay safe and never let them win. Howard, as a guardian angel, is making sure you never walk alone. Howard will always be my biggest hero, and I will always be his biggest fan. But you all are my heroes. Bless you all and stay safe.

The Pain Behind the Badge

By Marlon Trone
PBF Executive Director

It was a simple, yet powerful question. It spoke volumes about the ideals and expectations of the law enforcement profession. The raised hands of dozens of law enforcement officers presented a brilliant illustration that not even Picasso himself could've drawn more clearly.

"How many of you here found that the job is a lot different than you thought it would be?"

Asked by Clarke Paris, a 21-year veteran law enforcement officer in Las Vegas, Nevada, this question left not one hand relaxed. Clarke went on to explain that although cops love the job they do, most get a quick dose of reality when it comes to their preconceived notions about the profession.

"The job of law enforcement is never what you think it will be."

Clarke Paris is the creator of "The Pain Behind the Badge," a documentary about law enforcement stress and a powerful resource for combating Post Traumatic Stress Disorder and job related stress in the profession. Paris, himself, talks about dealing with stress and even points out specific events that occurred in the daily performance of his job that caused him to struggle. This powerful documentary centers around three officers who were once on the verge of suicide and who discuss their thoughts and events that led them toward that path.

All three of these officers are decorated, well respected, high achievers within their respective departments, yet each was having trouble dealing with the stress of the job. The most common theme among the three officers was the shame and hesitancy about admitting the issue existed. Clarke calls this Perception Protection – when an officer hides behind the tough exterior stereotype and command authority that the public believes is commonplace. Not that cops aren't tough people, but the preservation of that stereotype makes it more difficult for an officer to admit that he or she may need help.

During his four-hour seminar, Clarke makes statement after statement about the need for not only law enforcement officers to take heed to the warning signs of stress, but also family members



Clarke and Tracie Paris

and law enforcement agencies to take steps toward recognizing the precursors and preventing depression, seclusion and substance abuse – all early warning signs of suicide. Unlike most professions, even those that tend to be more stressful than others, cops cannot take the uniform off. Even when they are home with family, they are parents and spouses with a uniform underneath. When they visit the doctor, there is a uniform under the gown. When they are having dinner in a restaurant, they face the door so they can survey the surroundings. Let's face it – a cop is always in game mode.

One of the most significant points made by Clarke Paris was about the process of becoming an officer. He contrasts the ideals and characteristics by which an officer is selected to the on-the-job expectations. Officers are interviewed and tested forwards and backwards in areas on social backgrounds, medical backgrounds, educational and even mental backgrounds. Clarke states that departments like individuals who have compassion for the general welfare of people. This is a stark difference from the on-the-job officer who is expected to be a first responder for vicious crimes, often against helpless individuals, women

and children. This is a stark difference from the officer who is expected to brush off shootings and attacks against fellow officers.

"How can you be a person who cares about people and not be affected by violence committed against those very people?"

Clarke believes that it is of the utmost importance to have a strong system of support around law enforcement officers. This starts and ends with open communication within the family – a safe haven. That's why Clarke and his wife Tracie openly share their process for coping with the stress that entered their relationship. They talk about Clarke's hesitancy to inform Tracie, his fear of her reaction, his difficulty asking for help.

"I think this job may be getting to me." – an understandable reaction to a stressful job, but these words are not always easy for an officer to utter.

But Clarke was able to say them to Tracie. In the closing statements of his seminar, Clarke used an example from a real-life personal adventure. While on a tandem skydiving excursion, Clarke admits he was nervous and had second thoughts when it came time to actually leap from the plane with his instructor. When asked if he was OK and ready to jump, he said YES although he was really thinking – maybe not. They leapt from the plane and as they were falling toward earth he says that there was never a time that he thought – ***"OK! I've got it! You can cut me loose now!"*** He says it was because he was in uncharted territory – out of his control. He wonders why people, law enforcement officers, can't take that same approach in dealing with stress. Why would they rather fall, out of control rather than ask for help or admit ***"OK! I don't have it, so don't cut me loose!"***

You can find more information about Clarke Paris' outstanding documentary on his website: www.thepainbehindthebadge.com.

You can also find out more information about stress and coping on the Foundation's website: www.pbfi.org.

Oconee County Deputy David Gilstrap Will Be Missed

By Chief Deputy Gene Langston

Deputy David Gilstrap was a man with a mission, and that mission was to make Oconee County, GA a safer place. He was a traffic deputy, and a good one. He was known and is still known for enforcing the speed laws in Oconee County, Georgia.

David wrote more tickets than anyone else, probably more than any two other deputies. He worked traffic diligently and unapologetically. He wrote lots of tickets because he caught lots of speeders, and not just those just creeping over the allotted speed limit. He regularly wrote tickets at 90 MPH plus, and frequently these were tickets in a reduced of speed zone.

David's fame spread, and travelers along Highway 316 knew him by name. In one of those odd quirks sometimes shared with commuters and cops, getting a ticket from David Gilstrap was almost a badge of passing. Of all the tickets he wrote, he almost never received complaints, because when you got a ticket from David, you knew you were speeding and you knew you deserved it. David Gilstrap didn't write chicken tickets and never provoked resentment. He was professional and courteous.

David developed a mastery at writing tickets and like all those who excel in their craft, he got his own fan club, of which he wasn't aware. It was disclosed later that locals would gather at a breakfast spot near where David frequently worked to watch him write tickets. David didn't know this, and probably wouldn't have cared one way or the other if he had known. He had work to do.

On Thursday, October 9, 2008, Deputy David Gilstrap was struck by a car and killed while directing traffic at a school crossing. He died doing what he'd always done, looking out for the safety of others. During his funeral procession, long lines of mourners lined the highways and intersections where David had worked. There were school children, parents, adults, and no doubt, some who had received tickets from a good man doing a good job. David is missed by the Oconee County Sheriff's Office, and by all he served.



*Deputy David Whitfield Gilstrap
EOW - 10/09/2008*

Officer Down

On Thursday morning, the word spread across town;

In a chilling voice, an officer was down.

Who could it be, was a mystery to all;

As dozens of deputies responded to the call.

As they arrived on the scene, they quickly found;

Their friend and co-worker, was the officer down.

In a twist of fate, in a small Oconee town;

Lay David Gilstrap, there on the ground.

A veteran on the force, and respected by all;

He stood proud and straight, and oh so tall.

He'd not recover from his injuries that day;

For it wasn't in God's Will, for him to stay.

It wasn't just an officer, that we saw go down;

But a husband, a dad, and a citizen of our town.

If there's a lesson to learn, from what has taken place;

Just look at the sadness on his widow's face.

Slow down I beg you, and look out when you drive;

So the men that protect you, can get home alive.

We'll never get over, the words that shook our town;

"Attention all units – we have an officer down."

*Pastor Carlton Shelton
Elder Road Baptist Church
10-12-08*

Fiscal Prudence: PBF Stands Strong in Accountability

By Marlon Trone
PBF Executive Director

In an article published in the Atlanta Journal Constitution in 2008, there was salary comparison of some of the nation's top police foundations. The article focused primarily on spending and what it considered excessive salaries, and in its investigation, the AJC highlighted the Atlanta Police Foundation, which spent almost half of its \$801,000 2007 revenue on salaries for its six (6) employees. David Wilkinson, the foundation's president and CEO, swallows an impressive \$211,000 of the nearly half-million-dollar payroll.

In Atlanta, many of the local law enforcement officers expressed shock and surprise about what they viewed as an excessive salary and a disproportioned budget. The Board of Directors of the Atlanta Police Foundation approved the salary of their CEO with the stated intention of setting a high standard and building a distinguished foundation.

The AJC reports that Wilkinson's salary is more than twice that of other administrative heads of police foundations comparable in size and services.

By comparison, Pamela Delaney who serves as President of the New York Police Foundation, makes only slightly more than Wilkinson. Delaney's salary is reported at \$216,000 and her foundation is reportedly one of the best of its kind in the nation. It should also be noted that there is a significant difference in the cost of living between Atlanta and New York City. The New York Foundation also brought in \$6.7 million in revenue in 2007 compared to the \$800,000 reported by the Atlanta Police Foundation.



Wilkinson's salary is 26% of the Atlanta Police Foundations revenue.

The Police Benevolent Foundation, which shares many similarities with the Atlanta Police Foundation, provides assistance and services for law enforcement officers accross the south. The Police Benevolent Foundation is proud to boast a 100% appropriations rate of donations received. There are NO ADMINISTRATIVE COSTS and NO PAYROLL EXPENSES deducted from its revenue. Our administrative costs and executive director salary are paid by the Southern States PBA. It is a police organization that operates with the best interests of its law enforcement members in mind while striving to preserve fiscal accountability

to its donors.

The Police Benevolent Foundation operates to support the efforts of the Southern States PBA by funding scholarships for youth, providing aid to the families of fallen law enforcement officers, distributing disaster relief for law enforcement and much more. In 2009, the Foundation has plans to launch two new projects – Behind the Badge: Suicide Prevention & Outreach and a support network for the families of fallen officers. These are areas of extreme need and we feel that the Foundation can have a strong impact in both areas of need; particularly in the area of suicide prevention, which is largely unaddressed by law enforcement agencies and professionals.

According to the Atlanta Journal Constitution, a board member from the National Committee for Responsive Philanthropy stated that the amount of Wilkinson's salary in relation to the organization's revenue is of concern. The National

Committee for Responsive Philanthropy monitors the activities of non-profit organizations nationwide.

The Police Benevolent Foundation, Inc. demonstrates a responsibility to the law enforcement officers it serves and accountability to the thousands of donors who support our cause. You will not find excessive salaries, lavish expenses or padded budgets clouding our organization's mission to serve those who protect our communities. When you give to an organization with a purpose, those donations should be used for that purpose.

Give to the Police Benevolent Foundation and you can be sure that it will be used for its intended purpose.

Organization	President/CEO Salary	Total Revenue	% of Revenue Toward Salary
Atlanta Police Foundation	\$211,000	\$800,770	26%
New York Police Foundation	\$216,000	\$6.7 million	3%
Los Angeles Police Foundation	\$135,000	\$2.47 million	5%
San Diego Police Foundation	\$85,000	\$1.6 Million	5%
Seattle Police Foundation	\$90,000	\$870,000	10%
Police Benevolent Foundation	\$0	\$477,000	0%

* figures based on 2007 revenue



Involved Chapters Create Change Things Happen with Active PBA Chapters

By Tom Slyman

North Mecklenburg Chapter President, NCPBA



left to right: NM PBA Member Jim Abraham, NM PBA President Tom Slyman, Huntersville Commissioner Charles Jeter, and NM PBA Member John Hicks.

In the fall of 2007, the North Mecklenburg Chapter screened candidates for the area municipal elections. This was our first screening and the NCPBA and the SSPBA assisted us with the process. The North Mecklenburg Chapter screened municipal candidates from surrounding areas and made our endorsements. One of the leading issues discussed in the screening interviews was a need to support a due process system that would provide a form of accountability and transparency. Fortunately, three of the candidates that we endorsed were elected and sympathetic to this issue. The following is an explanation of what we did next and how our chapter was able to get directly involved with the issue at hand.

After the elections, we maintained contact with the municipal candidates we endorsed. The chapter created a draft of a desired change to the Town of Huntersville personnel policy and presented it to the town's administration by starting with the town's police chief. The suggestion of revising the town's policy was not considered a priority by the administration and really did not receive much attention. The chapter presented the idea, but it seemed to lack a back-and-forth discussion from the administration on what could be changed for them to support the idea. However,

we did continuously keep the administration informed of our desire to see this policy examined further and held follow up meetings with elected officials. A summary of these meetings was provided as a courtesy to the administration to keep them informed of the process as it moved along. The chapter's leadership diligently worked to keep everyone informed with meetings, letters, emails, and phone calls on our time off so there were no surprises.

As the process moved along, the chapter did extensive research on the issue and decided to suggest a third party review with advisory capacity for police discipline cases resulting in termination. An advisory capacity was determined to be the most likely goal that would be accepted by the administration and still provide a benefit to members. The chapter leadership felt it would be more palatable to the administration because they would still have full decision making power regarding terminations, but an advisory capacity would also provide a form of oversight that the chapter members felt would be helpful and would endure as administrations change over the years. Essentially, the process the chapter suggested would provide more information to the town manager before making a final decision regarding termination of a sworn employee. Presenting this suggestion created many challenges because the administration had already demonstrated little interest in the idea and the chapter did

not want to appear insulting toward the administration by suggesting an oversight policy. The chapter leadership recognizes there is a lot to like about the department's current police chief, Chief Potter, because he has advanced the department since he was appointed. The chapter coordinated a public presentation of the issue at a town meeting which opened the door to more public discussion. The chapter also gained the support of several citizens because they too saw the value in the suggestion as tax payers and residents and they spoke openly about these concerns. Many citizens in attendance at this meeting were surprised that such a system did not already exist and the support increased when more citizens heard other citizens talk about it. Several timely high profile incidents around the state regarding police executives also helped demonstrate how members felt a form of oversight was needed.

In the late fall of 2008, we were surprised when town officials consulted a labor attorney in a closed session and did not include the chapter leadership in the process. The chapter leadership was concerned because these issues seemed to have developed when support for the idea was growing, and consulting a labor attorney could have been addressed much earlier in the process. While the chapter leadership was presenting the suggestion to the administration and elected officials, it appeared the administration



left to right: NM PBA President Tom Slyman, Huntersville Commissioner Ken Lucas, NM PBA Senior Vice President Tom Lesser, and NM PBA Member Aaron Fulton.



Grand Juries and the Law Enforcement Officer

By Grady Dukes
SSPBA Staff Attorney

was presenting why the idea should not be considered rather than how it could be implemented. There were other obstacles presented before this, such as claiming employees did not understand the existing policy when elected officials seemed interested in the idea, but they had been overcome. Fortunately, our continued contact with elected officials provided some insight into concerns the labor attorney raised. Through these fostered relationships with elected officials, the chapter did have an opportunity to provide a document and presentation that essentially encouraged closer examination of the vague concerns presented by a labor attorney. The chapter provided proof that this was not a form of collective bargaining by showing that other jurisdictions in NC have systems for discipline without collective bargaining, among other things.

The chapter has stayed focused on the issue and maintained the high road by keeping everyone informed and answering questions openly with facts. The crux of the issue is that police officers are professionally certified and because these certifications are so fragile there should be a professional system for oversight of discipline when their certifications could be jeopardized. Additionally, because police officers are employees of a municipality paid for with tax payer dollars, there should be a form of oversight to ensure this investment in personnel is protected when it can because a turnover in personnel can hamper efficient service delivery to citizens.

Further public discussion on the issue in December of 2008 led elected officials to instruct the chapter leadership and the town's administration to work together to create a proposal that could be presented in 2009. This is a giant progressive step because this request by elected officials to ask the town administration to officially meet with the chapter leadership on this issue to create a new policy is recognition of the NMPBA Chapter and the concerns of its members.

The chapter has seen very positive responses from the administration in recent years regarding other suggestions presented to improve working conditions, and we are hopeful that working together we can create a policy for discipline with some form of oversight that we can all be proud of in 2009.



My name is Grady Dukes and I am a senior staff attorney here at the Southern States PBA. I joined the PBA as a member in 1984, and served as a chapter, division, and association officer. I began working full-time with the Southern States PBA as an attorney in 1994 in hopes to stay close to my love for the profession. Since making the change from a law enforcement officer to staff attorney, I have heard and seen it all. One thing that I have come to grips with over the years is the simple fact that most officers do not truly appreciate the magnitude of a grand jury proceeding.

As law enforcement officers, we are generally familiar with the concept of local grand juries. Our contact is usually limited to testifying as a witness before such a body at the behest of the local prosecutor. What most of us are not fa-

miliar with is the use of a grand jury with a law enforcement officer as the target of the criminal investigation. What happens when the law enforcement officer is the target of the criminal case?

First, get legal counsel. Those investigating the alleged incident may be fellow law enforcement officers, but their job is to investigate and present the results of the case to the appropriate prosecutor. Probably the hardest thing for the law enforcement officer to understand and accept when they are a subject of a criminal investigation is that they are a **SUSPECT!!** A good hint that you are a criminal suspect is if you are given the Miranda warning. It never ceases to amaze me how many law enforcement officers, after being told they are the subject of a criminal investigation, are told not to worry. Or, they are asked "Why do you need a lawyer if you did not do anything wrong?" Then they make statements without the benefit of legal counsel.

As with any grand jury issue, the local prosecutor almost always has total discretion as to what cases are presented to the grand jury and what evidence is heard. In many states, there are often a group of cases upon which the prosecutor can file an indictment or accusation without the necessity of a grand jury. Many times the prosecutor is concerned about

(continued on next page...)



the public perception of the handling of a case involving a law enforcement officer, and he/she may shy away from using his/her discretion as he/she would for a civilian case and not pursue charges. This, of course, is unfair to the law enforcement officer in that it puts the law enforcement officer in jeopardy that would not have been faced by a civilian.

We, as law enforcement officers, generally have little say as to the actual presentation made by the prosecutor to the grand jury. The prosecutor can be as general or as specific as they want; they can present all the evidence or be as selective as they want.

We in Georgia have a procedure in place that is the exception to the rule in the United States—the right for the law enforcement officer to appear and observe the entire grand jury proceeding.

Beginning back in 1833, the Georgia General Assembly acknowledged—as described by the Georgia Court of Appeals in 1992—that public officials, who are peculiarly subject to complaint as to performance of their duties, may appear before the grand jury in the interest of preventing indictment on frivolous accusations. It initially gave the justice of the peace the right to appear before the grand jury and make a statement regarding the allegations against him. This statute, O.C.G.A. 45-11-4, has been expanded over the years to protect other public officials. In 1975, the Georgia General Assembly enacted O.C.G.A. 17-7-52, which explicitly expanded this protection to peace officers. Other amendments

have occurred as well.

In its present state, the interplay of O.C.G.A. 45-11-4 and 17-7-52 generally results in the following when a Georgia peace officer is charged with a crime which is alleged to have occurred while in the performance of his/her duties: (1) no such prosecution, whether for felony or misdemeanor, shall proceed to trial without a grand jury indictment; (2) at least fifteen days before the grand jury meets, the target officer shall be presented with a copy of the proposed indictment, presentment or accusation specifically setting out the merits of the complaint; (3) if he/she so wishes to exercise it, the accused officer shall have the right to appear before the grand jury with counsel, be present during the presentation of all evidence, and at the conclusion of the presentation of the prosecution's evidence, make a sworn statement and not be subject to cross examination.

When properly utilized, this procedure is of value to both the state and the accused officer. I have been present in several such grand jury meetings, and each was held somewhat differently. These work the best when all the admissible evidence possible is presented fairly, not where the prosecutor is what I call “seeking an indictment” and presents only that evidence seen as beneficial to the prosecution. The best presented cases may take the longest. I had one grand jury case presentation that lasted over 13 hours. The prosecutor set it up as a true mini-trial. The grand jury was instructed on the laws involved in the case, includ-

ing those statutes that provide additional authority and protection to law enforcement officers, and numerous witnesses were called. The shooting occurred at 2:00 A.M. when officers were in bushes watching drug activity. A suspect walking down the street spotted one of the officers and verbalized the discovery. Another officer—a military veteran—who was about 30 feet away also heard this sound, saw the second suspect pull something from his waist, heard the slide of a semi-automatic pistol and saw a metal glint: he discharged his weapon to protect the first officer, striking the suspect. Because of an issue that developed through the media, the prosecutor decided to present the case. During the presentation of the case to the grand jury, evidence developed, which was unknown to the prosecution at the time, that supported our officers and resulted in a “no bill” of indictment. One interesting occurrence in the grand jury was when one of the jurors asked the prosecutor to let those of the grand jury, who were not firearms users, hear what the officer said he heard, that being the slide of a gun being operated. One of the two suspects who the prosecutor had called as a witness testified there was no gun, what the officers heard and was him taking off his sun glasses and clicking them shut. The prosecutor allowed this sound test to occur, and the jurors themselves heard the difference between a pair of sunglasses and the slide of a pistol. By properly utilizing the grand jury, the prosecutor had discovered the truth, saved the time and expense of a trial, and prevented the officers from having to go through the emotional trauma and damage to their careers of being indicted when there was no crime.

On the flip side, such a procedure also gives the accused officer a look at the evidence, and if appropriate, would allow him to make an informed decision as to how to proceed after the grand jury reaches its decision.

From my perspective as a former police officer who was victim of a shooting by a suspect as well as having shot the suspect, as a former investigator and now attorney, the proper use of a grand jury as set forth in Georgia law—especially when implemented in a fair and impartial manner—is of great benefit to all involved and serves the high purpose to seek the truth.

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There's No Place Like Home

By Terry Nowell

SSPBA Director of Training and Research

The last federal juror repeated what the other eleven had said, "Not Guilty." Danny Quick was wiping tears of joy from his face, shaking his lawyer's hand while turning and looking for his wife, Cheryl. After Cheryl made her way to his table, he embraced her with thoughts of his life returning to normal. It had been a year and a half since the shooting, a long time to be suspended without pay; a long time to be without his off-duty jobs that helped make ends meet, and a long time working in a sales job at a sporting goods store that he took only to help provide for his family.

He thought the nightmare was over after the state grand jury returned a "No Bill" on him and fellow officer Bill Wright. He could not believe the state prosecutor had even presented the case; after all, the sheriff had told him it was a "good shoot." He found out quickly that although having the sheriff believe that you had probable cause was reassuring, it meant nothing to the state prosecutor. You may not have an internal investigation to worry about but you could still go before a grand jury and face prosecution. The family of the man he shot was already on the news talking about suing the officers and their department if, in the family's words, the court "did not do the right thing."

Now after a state grand jury returned a "No Bill" and a federal jury found him not guilty of violating civil rights, he and his family may be looking at a civil trial. Of course he was still dealing with the stress of killing another human being even though he knew it was justified legally and morally. He was still having nightmares but the psychiatrist said that would probably continue for years.

Just as his pity party was getting into full swing in his head, he looked over at Bill Wright and realized as bad as his situation was, his problems did not compare with the problems Bill and his family were having. When this nightmare began over a year ago, Bill had to take out a second mortgage on his home to pay the \$10,000 retainer fee for his attorney. Bill recently told him his attorney fees were over \$50,000 so far and still climbing with the federal trial. Bill also was suspended without pay and had to take another job. Bill's wife is a stay-at-home mom with small children and cannot afford to put them in daycare and get a job. Some people in the community had tried to help raise money but it was not enough to keep Bill's home from being foreclosed on. Bill had dropped his PBA membership months prior to the shooting and was now trying to deal with a financial disaster along with the guilt of not being able to provide for his family.

Just then Cheryl looked up and said, "Let's go home." Yeah, he thought, "Thank God we have a home to go to."

Editors' Note:

While this is a fictional example, the chances of it happening are all to real. The Southern States PBA membership provides any employee, civilian or sworn, who works for a governmental law enforcement agency a free attorney in administrative, civil or criminal cases.

When we take your case, there are no limits or caps. Call SSPBA at 800-233-3506.



.....IN THE HEADLINES

COUNTY EMPLOYEE FIRED

A County 911 operator was fired for mistakenly sending emergency personnel to the incorrect address in southwest Calhoun County, GA. According to reports, 911 operator Janet Greene sent law enforcement and medical personnel to an Oak Street address in southwest Calhoun County instead of the correct address on Oake Avenue in North Calhoun County. The mistake is believed to have contributed to the death of a shooting victim due to the length of time it took officers and ambulances to arrive at the correct address. Although the investigation is not complete, operator Greene was fired for mishandling the call. When questioned about the incident, 911 Operations Center, Eli Jones said "Ms Green is an at-will employee and was fired for the apparent mishandling of the call; we will not tolerate this kind of employee conduct." According to her personnel file, Janet Greene is a single mother of three children and twelve-year employee of the 911 operations center. She has had two minor disciplinary infractions in the past. She could not be reached for comment.

Editors' Note:

While this is a fictional example, the chances of it happening are all to real. The Southern States PBA membership provides any employee, civilian or sworn, who works for a governmental law enforcement agency a free attorney in administrative, civil or criminal cases. With proper legal representation, Ms Green may be able to be reinstated with back-pay and avoid criminal and civil action. Call SSPBA at 800-233-3506.

The Value of an "Expert Witness" in Police Litigation

By Mel Tucker

Criminal Justice & Security Consultant

"If scientific, technical, or otherwise specialized knowledge will assist the trier of fact to determine a fact at issue, a witness qualified as an expert by knowledge, skill, or experience, training, or education, may testify thereto in the form of opinion or otherwise, if: (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case."

Rule 702-Federal Rules of Evidence

The Impact of the Monell Decision on Police Litigation

In 1978, the U.S. Supreme Court decided the case of *Monell v. Department of Social Services of the City of New York*, 436 U.S. 658. The Court ruled in *Monell* that municipalities qualified as "persons" under Title 42, USC, Section 1983 and could be sued if the municipality unconstitutionally adopted a policy, regulation or ordinance.

Because attorneys obtaining a judgment in their favor under Section 1983 receive attorney's fees, regardless of the size of the judgment,¹ lawsuits against the police began to increase dramatically. In fact, the number of lawsuits filed against the police increased from 2,500 annually in 1978 to 12,500 annually in 1988 and to 30,000 annually in 1998. This occurred during a period in time in which only the military was ranked higher than the police in popularity as a profession.² Even more troubling, it occurred during a time period in which only 1% of police contacts with citizens resulted in any use of force and the number of citizens shot by the police had dropped by 33%.³

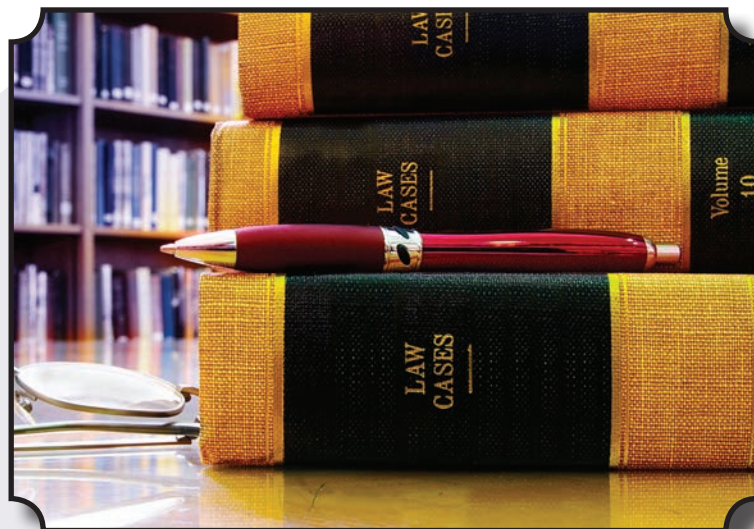
Alleged Acts of Misconduct

Almost certainly today, when allegations of misconduct are made against a law enforcement officer, the citizen alleging that they have been denied a constitutionally protected right takes the officer and his employing agency to court in a civil proceeding to seek monetary compensation. Soon after the civil complaint is filed, the lawyers for both sides normally retain a police litigation consultant (expert witness) to assist their side in the civil proceeding.

People who serve as "expert witnesses" in police related litigation are generally former cops with a combination of experience, education, training and knowledge of police protocols that allows them to survive a challenge to their credentials, or a challenge to the reliability of their methodology, by the opposing legal counsel in the civil matter.

To the officers that feel that an ex-cop expert should never take a case against the police, I recommend they read Lt. Col. Dave Grossman's metaphor entitled *Of Sheep, Wolves and Sheepdogs* which was published in the November/December 2005 issue of *The Police Marksman* magazine. Grossman equated the role of law enforcement officers to that of the sheepdog, protecting the herd (society) from the wolves (criminals).

Grossman made it clear in that metaphor that "the sheepdog must not, can not and should not ever harm the sheep. Any sheepdog that intentionally harms the lowliest little lamb should be punished and removed. The world cannot work any other way, at least not in a representative democracy or a republic such as ours."



Acts of misconduct occasionally do occur in the law enforcement profession, just as they occur in other professions, and most law enforcement officers understand that when an act of misconduct occurs, we should do exactly what Lt. Col. Grossman said we should do – punish those who discredit the profession by their misconduct. To do otherwise would make us apologists for our profession, would destroy our credibility with the "sheep" we are sworn to protect, and would be an endorse-

Why do Lawyers use Expert Witnesses?

Lawyers use experts because they win cases for them.⁴ Simply put, an expert properly utilized, can explain the theory of a case in an impressive manner by integrating the law, science and law enforcement protocols in their testimony. The expert can testify about the results of empirical research (science), how officers are trained on legal standards (law), and what law enforcement general practices (protocols) are, which can be very persuasive

The Expert in Police Use of Force Cases

When an allegation is made that an officer's use of deadly force was unjustified and unreasonable because the suspect was shot in the back, the expert can testify about the findings of Bill Lewinski, a professor in the Law Enforcement Program at Minnesota State University, who has been conducting extensive research on the "reactionary gap" concept. Lewinski has found, from timing body movements and using a shot timer, that it takes a typical officer (with his finger on the trigger and expecting a threat from the suspect) about 25/100ths of a second to assess a threat and fire. He also found that a suspect facing an

officer with gun in hand can fire and turn 360 degrees to flee in .98 seconds while it takes an officer with his firearm holstered 1.70 seconds to recognize the threat, draw his firearm, acquire his target and shoot. The expert now has a scientific way to explain how an officer, being threatened with deadly force, reacted properly, but shot the suspect in the back.⁵

All law enforcement officers know that the concept of taking action once a threat has been recognized, but before the threat has been carried out, is known as "pre-emptive" action. Officers also know that pre-emptive action is only authorized under the law if their threat assessment is reasonably made.

Assume that an expert has the following set of facts to explain to a jury: (1) an officer stops a suspect in a car that had been reported to have been used in a bank robbery two hours earlier; (2) bank employees reported that they noticed during the robbery the suspect was armed with a .45 caliber semi-automatic handgun; (3) the suspect, after being stopped, refused to follow the officers commands to show his hands; (4) the suspect made a movement which caused the officer to believe that he was going to draw a gun (furtive movement) and the officer shot and killed the suspect before he could draw his weapon.

Under this set of facts, the expert would testify that officers are told in training programs that it is reasonable for an officer to interpret the failure of the driver to follow his commands as threatening behavior and, coupled with any furtive movements by the suspect, would justify pre-emptive action. Officers are also told in training programs that they would be

authorized, under the above fact scenario, to use deadly force because the perception of a danger of serious bodily harm or death was reasonable under the set of facts and circumstances presented. Again, this is another example where it is likely that the court would allow the testimony as to the justification for the shooting based upon the expert's qualifications to testify on what officers are told in training programs about taking pre-emptive action.⁶

Utilized properly, the expert can be of tremendous value to a police officer's effort to defend himself in a civil suit.

The expert can integrate science, law and law enforcement protocol in his testimony to explain to a jury why an officer's actions were justified and reasonable.

The expert can help the jury in understanding why an officer acted the way he did and the possible consequences to the officer had he not responded the way he did.

1 *The Civil Rights Attorney's Fees Awards Act*, 42 U.S.C.A. § 1988(b)

2 *The Economist Magazine*, 2006

3 Darrell Ross, *Research*, East Carolina University

4 Eric A. Vos, *The Champion Magazine*, June 2007

5 Bill Lewinski, *Force Science Center*, Minnesota State University, WWW.ForceScience.Org

6 Melvin L. Tucker and Chris Wisecarver, *Legal Authority for Pre-Emptive Action*, *National Tactical Officer's Association Magazine*, Spring 2008

An Expert's Take on the Importance of the PBA

By Mel Tucker

Criminal Justice & Security Consultant



When I was asked to write an article for the *Blue Review* about expert witness testimony and what the law enforcement officer gets for his/her money when employing an expert, it was easy. All I had to do was describe what I do, since I am an "expert witness." But, as I sat down to write the article titled *The Value of an "Expert Witness" in Police Litigation* I felt it was also important to express my feelings about the benefits provided by

the Southern States PBA and how being a member of this great organization not only provides you the services that I offer as an expert witness when needed, but also provides its members with peace of mind that no other organization can offer.

In today's tough economic times, we should all ask what we are getting for our money.

Are you getting real value for your money with your SSPBA membership? The answer to the question is simply.... **Yes, you are!**

With more than 30,000 lawsuits being filed each year against law enforcement officers, your chances of being sued are now 1 in 20. Most officers, when sued, want a lawyer that is representing *their* interest and not the interest of their employer. The cost to retain an experienced attorney and to hire an expert witness to defend a case can easily exceed \$50,000. The SSPBA will provide an attorney for you and, if needed, an expert witness like me to protect your interest if a criminal or civil action is brought against you arising out of your duties as a law enforcement officer. In many cases, expert witness testimony is necessary to present the most effective defense. PBA legal benefits include the cost of expert testimony when your attorney and the PBA legal team decide that an expert is necessary. Having served successfully as an expert witness in numerous PBA cases, I think your \$23.50 a month membership fee in the SSPBA is money well spent and a drop in the bucket when you need that lawyer and expert to defend you!

Do not overlook the other benefits that you also receive as a member of the SSPBA. Membership brings with it attorney representation when you are being subjected to unfair discipline, assistance from professional pension consultants as you try to improve your benefits, professional lobbyists to help get legislation favorable to law enforcement officers enacted, a salary replacement benefit for your family if you are killed in the line of duty and an attorney if you are forced to shoot someone. You can count on that by being a member of the SSPBA. If you are not a member already, you should be!

Due process - Law Enforcement Officer Bill of Rights

By Jeff Fluck

SSPBA Director of Governmental Affairs

Due process (more fully, due process of law) is the principle that the government must respect all of the legal rights that are owed to a person according to the law of the land, instead of respecting merely some or most of those legal rights.

For more than two decades, the United States Congress has been considering bills that would provide a due process law for local and state law enforcement officers. The Southern States PBA has worked diligently with past Congresses to try to pass this important legislation. With the Republicans (who generally object to this type of “labor” legislation) in a position of power during many of those years, the legislation made little progress. In the 110th Congress (2007-2008) the legislation was introduced in both the House (HR 688) and in the Senate (S 449). While many believe that with the Democrats in control of both the 111th Congress and the White House, like collective bargaining, this is the time for such a bill to become law. However, opposition in the past has come not so much from a single party, but from select geographical areas of the country. These bills are typically opposed by southern delegations that bow to pressures from their local governments, police chiefs and sheriffs who fear loss of their absolute power.

In the laws of the United States, the due process principle gives individuals a varying ability to enforce their rights against alleged violations by governments, but normally not against other private citizens. Due process has also been frequently interpreted as placing limitations on laws and legal proceedings, in order for judges instead of legislators to define and guarantee fundamental fairness, justice, and liberty. This interpretation has often proven controversial, and is analogous to the concepts of natural justice and procedural justice used in various other jurisdictions.

The Fifth Amendment guarantee of due process is applicable only to actions of the federal government. The Fourteenth Amendment contains virtually the same phrase, but expressly applies to

the states. Therefore, those two clauses only apply against state actors and not against private citizens.

Procedural due process is essentially based on the concept of “fundamental fairness.” As construed by the courts, it includes an individual’s right to be adequately notified of charges or proceedings, and the opportunity to be heard



at these proceedings. Procedural due process has also been an important factor in the development of the law of personal jurisdiction.

In the United States, criminal prosecutions and civil cases are governed by explicit guarantees of procedural rights under the Bill of Rights, most of which have been incorporated under the Fourteenth Amendment to the states. Due process has also been construed to generally protect the individual so that statutes, regulations, and enforcement actions must ensure that no one is deprived of “life, liberty, or property” without a fair opportunity to affect the judgment or result. This protection extends to all government proceedings that can result in an individual’s deprivation, whether civil or criminal in nature, from parole violation hearings

to administrative hearings regarding government benefits and entitlements to full-blown criminal trials. In criminal cases, many of these due process protections overlap with procedural protections provided by the Eighth Amendment to the United States Constitution, which guarantees reliable procedures that protect innocent people from being punished, which would be tantamount to cruel and unusual punishment.

As commonly defined, substantive due process has two meanings, thereby giving the term an inherent ambiguity. The first is of an analytical nature, identifying case decisions concerning liberty-based due process challenges which sought particular outcomes instead of merely contesting procedures and their effects. In such cases, the court recognizes a constitutionally based “liberty” which then renders laws seeking to limit said “liberty” unenforceable. Originally, there was no real taxonomic distinction between due process “liberty” as interpreted by the court through police power analysis in cases such as *Lochner* and when compared to textually based Bill of Rights “liberty” incorporated upon the states.

The second meaning of the term describes a normative perspective which considers judicial review of vague constitutional provisions—e.g., the due process clauses of the Fifth and Fourteenth Amendments—as an encroachingly inappropriate exercise of unaccountable judicial authority. Those holding that perspective believe such interpretations ought to be left to the more politically accountable branches of government. It was only after the taxonomy of due process cases was reorganized in 1950s casebooks that “substantive due process” began to take on the more pejorative meaning related to this second definition, which ultimately laid the foundation for the “rise and fall of substantive due process” narrative.

Slightly different, a bill of rights is a list or summary of rights that are considered important and essential by a group of people. The purpose of these bills is to protect those against infringe-

ment by the government. The term “bill of rights” originates from Britain, where it referred to a bill that was passed by Parliament in 1689. An entrenched bill of rights exists as a separate instrument that falls outside of the normal jurisdiction of a country’s legislative body. In many governments, an official legal bill of rights recognized in principle holds more authority than the legislative bodies alone. A bill of rights, on the other hand, may be weakened by subsequent acts passed by government, and they do not need an approval by vote to alter it. An unentrenched bill of rights exists as a separate act that is presented by a legislative body. As such it can be changed or repealed by the body that created it. It is not as permanent as a constitutional bill of rights. A constitutional bill cannot be changed except with the approval of that country’s voting public.

In other jurisdictions, the definition of rights may be statutory. In other words, it may be repealed just like any other law and does not necessarily have greater weight than other laws. Not every jurisdiction enforces the protection of the rights articulated in its bill of rights.

So what does all this have to do with the law enforcement profession? Nothing if you are covered by a contract or collective bargaining agreement. However, if you are working under “at will” conditions due process in administrative employment actions is not guaranteed you. “Due process” or a law enforcement “bill of rights” is invaluable to a fair and professional working environment. Such law could provide for a process, hearing, or trial prior to an officer being disciplined or fired. It could require that your employer show “cause,” or prove that your conduct or actions taken violated standards requiring job action. It could provide the officer an opportunity to be informed and answer allegations, present witnesses and have an impartial body review and render the decision. If you are a law enforcement officer in the southern United States, this might sound foreign and even impossible. If you work anywhere else, it might sound impossible that this does not already exist. Be assured, in many states, it does not!

In too many jurisdictions, political pressures drive employee discipline actions, not the facts. Scapegoats are selected to relieve public pressures on

elected officials. Citizens facing criminal charges, in hopes of forcing a change in their circumstances, often levy false allegations against officers. With these very real situations, an at will employee has no defense or protection. The officer is left totally to the whim of the one in charge. How would a due process law change this? It could require the accuser to be confronted, facts and witnesses to be presented, and the officer to be heard before action taken.

So why would law enforcement management be opposed to such reasonable fairness? The root of opposition is not the professed loss of power, but instead is the loss of “absolute” power. Opponents want the ability to discipline and or terminate at will. It is much easier to just fire and not have to go through all the trouble of conducting an investigation, gathering facts and building a case. It is said that power corrupts, and absolute power corrupts absolutely. This is no truer than in southern sheriff departments where constitutional sheriffs believe their power to be absolute. The news reports of them being indicted and jailed for corruptive conduct have become regular occurrences.

Behind the scenes of law enforcement abuses during the civil rights era were commanders giving the orders to officers. These officers followed the orders or faced termination. The protocol that allowed it to happen then has changed little, allowing it to still occur today in some areas. All this goes to weaken public safety. It is wrong when arrests come at the direction of law enforcement administrators, lacking adequate evidence, just to relieve pressure from the politicians. This has the potential to result in the innocent being charged and possibly imprisoned. As more cases of wrongful conviction arise, costing governments millions in lawsuits, one can’t help but wonder how many were the result of this type of abuse.

The public is best served by a law enforcement profession protected from such abuses of power. The lack of such protection is what reinforces the so-called “blue wall of silence,” when

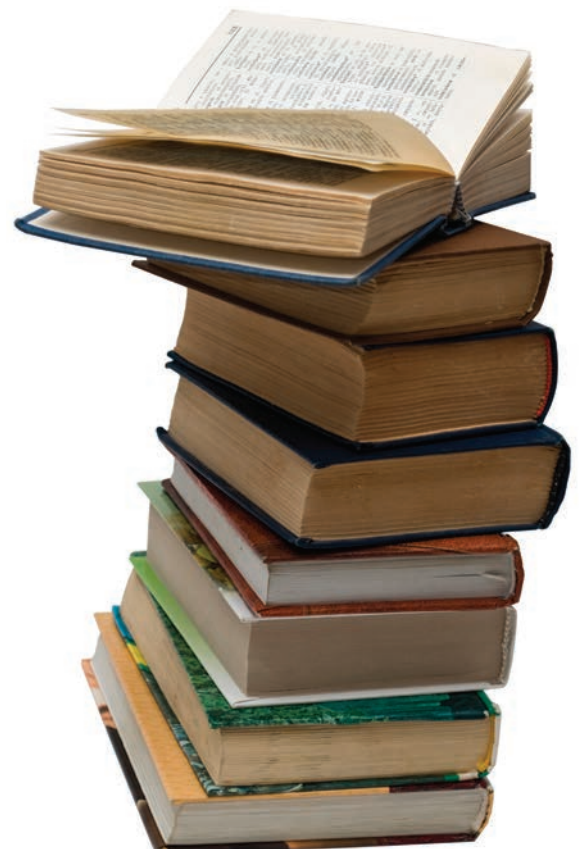
officers are intimidated by the threat of discipline or job loss. To prevent political corruption of the law enforcement profession there must be some type of whistle-blower protection. This is what a law enforcement due process law would hope to provide.

So what should be done? Like the collective bargaining issue, if your current conditions are working for you, the answer is “nothing.” Go back to work and don’t worry about it. Just know that “at will” means just that, your continued employment condition is at someone else’s will, subject to change at any time with little or no recourse.

If this situation does not work for you, then get involved. Engage with your local PBA’s political activities. Stay abreast of your local, state, and federal politicians’ actions. Become involved. The Southern States PBA will continue to support legislation that improves the work-life of its members and the law enforcement profession. But change will only come if we all work together.

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A Perspective - The "At Will Employment" Movement in Government Jobs

By Tommy Simpson

Director of Organizational Service, West Region, SSPBA

In the state of Mississippi there is an ongoing effort by some legislators to return state employees to "AT WILL" employment status, for a period of 12 months under the pretense of reorganization. The good news is there is presently a majority of legislators in opposition to such legislation. What we must understand is that this majority can change if we sit idly by and allow it to happen. Whether you are an employee of the state or not, if you reside and pay taxes in Mississippi you have a right and a duty to speak out in support or opposition to legislation. As citizens of this state you need to make it known to your respective senators and representatives that you are opposed to this legislation. I can assure you that those who support it are doing just that. This legislation could prove to be very adverse to many state employees just as it did in 2005, when such legislation was actually passed removing Mississippi Department of Corrections (MDOC) employees from under the State Personnel Board.

Legislation to enact "at will" employment status has again been introduced in the 2009 legislative session. One such bill is Senate Bill 2388, authored by Senator Terry Brown of Columbus, Ms. This bill broadens the scope of the previously passed "AT WILL" legislation that effected MDOC, in that it will adversely affect all employees of numerous state agencies rather than just one. PBA strongly opposes this legislation and will work with and on behalf of its members to stop its passage.

Essentially, the same legislation (SB-2680) was introduced in the 2008 session by Senator Brown. In February of 2008, the Clarion Ledger Newspaper in Jackson, MS reported that Governor Haley Barbour was in support of Senate Bill 2680. Senator Terry Brown of Columbus Ms, who introduced the legislation, was quoted in the same Clarion Ledger article as saying "This may result in some state employees losing their jobs, but if it does, they're jobs that didn't need to be there in the first place." If this were true

and this actually was the purpose for the legislation, it would still not be needed. Under the current regulations of the State Personnel Board there are provisions for a reduction in employees and elimination of positions. Under these provisions the state already has the ability to eliminate any job positions that are not needed or cannot be funded.



Legislation of this nature has been introduced in Mississippi by various legislators during the last several years, with the exception of the 2007 session. If you recall, 2007 was an election year. Isn't it ironic how suddenly priorities change for some legislators in an election year? When it's not an election year, legislation such as this is introduced and promoted as needed legislation and the right thing to do. But in an election year, you hear nothing about it and none of the legislators previously supporting the legislation introduce it. In the 2008 session, the year after re-election, this legislation was once again a "needed" action and "the right thing to do," so it was again

introduced as it has been again in 2009. The only common sense conclusion one can make of this practice is that either the proposed legislation is neither needed nor the right thing to do..... or the personal needs of these legislators to be re-elected now has priority over doing what they previously claimed was needed and the right thing to do.

It does not matter whether you are employed with the state, a county, or a municipality, you should be in opposition to this legislation. The possibility of this type of legislation adversely affecting you in the future is very real. Keep in mind, at first in 2005, it was only employees of the Department of Corrections. Now the legislation currently proposed affects nearly all, if not all, employees of the executive branch of state government. Also keep in mind that this is the same state legislature that has the power to repeal the civil service laws which currently afford many city and county employees with due process under civil service commissions. If this legislature should see fit to remove their own employees from under the State Personnel Board regulations by passing SB2388, do you not think they can repeal the civil service laws making civil service city or county employees "at will" employees once again? It can happen in a heartbeat, if the political winds blow in that direction. Regardless of whether you are a state, county or city employee.... you do have a dog in this hunt.... and you do have the ability to stop this legislation if you act and act collectively by contacting your state senator and representative and opposing Senate Bill 2388.

It is from you, the people, that our elected officials receive their power, and they retain that power only as long as you, the people, allow. There is no political power stronger than the will of the people. Each of you are the people to which I refer. You must make your will known to our elected officials. You are the citizens, you are the voters, you are the people, and as such you have the power but.... you must use that power to realize the benefit of it.



At this moment Senate Bill 2388 has passed out of the Fees, Salaries and Administration Committee of the Senate with a recommendation for passage. The bill now goes to a full vote of the Senate which passed this same legislation in the 2008 session. If Senate Bill 2388 does pass the legislature and is signed into law by the governor, a state department head will be able to take administrative action against any of their employees without cause. Essentially, employees could be disciplined or fired for literally no reason or for most any reason because there will no longer be a requirement for the administration to show cause. The employee will have no right to appeal the action taken against them to the State Personnel Board and to defend themselves and their family's livelihood. There is simply too much politics and abuse of power in government employment to allow this to happen. The practice of "AT WILL" employment may work well in a perfect world, but the political environment within which government employees work is anything but perfect.

There has been significant effort by state government in Mississippi to make positive change regarding ethics and accountability of elected state officials and employees as demonstrated by recently passed ethics legislation. But one must wonder where this accountability and ethics have gone when legislation like SB-2388 is introduced and supported. There is no accountability in this "AT WILL EMPLOYMENT" legislation. It requires no accountability of those in power regarding administrative actions against employees. In fact, SB-2388 actually eliminates the only accountability and ethics safeguards currently in place. Where are the ethics of these legislators when they promote and vote for legislation which takes away the due process rights of thousands of employees. Whether it's legal is not the question! There are many things which are legal but not ethical, moral or fair, and this is one of them. There is simply NO place in government for absolute power. Absolute power in government is nothing less than a breeding ground for corruption and is quite possibly the first step toward it.

The State of Mississippi enacted a personnel system to protect state em-

ployees from political and personal retaliation and assure that they are disciplined only for CAUSE. Under this process an agency administration only has to follow the prescribed personnel procedures enacted by their own agency and the state and establish cause. In essence, justify the action taken against an employee. If the employee appeals the action to the State Personnel Board, an impartial hearing officer presides over the hearing and rules



based on the merit and legality of the action taken. If cause is shown which justifies the administration's action against the employee, the action will be upheld. Any agency head who cannot properly discipline or terminate employees under these regulations needs to be closely scrutinized because their competence as an administrator should certainly be in question.

The PBA in no way condones misconduct by any government employee, including those that are our members. We realize there is and always will be a degree of employee misconduct as long as employees are human beings. In turn, we also realize the same analogy applies to elected officials, department heads and other administrators, as they are human beings as well and also subject to misconduct. It is because these certainties do exist that it is imperative for allegations of misconduct against an employee to be dealt with in a fair and impartial manner requiring accountability and oversight such as that provided by the State Personnel Board. To do anything less is not only an injustice to the accused employee but to the entire agency as well as the citizens

served. Doing anything less will reduce the morale of existing employees thus reducing their productivity and efficiency. It will adversely affect the ability of the agency to maintain good employees and likewise affect its ability to attract new, well qualified applicants. All of these factors will soon affect the public's perspective, confidence and trust of the agency as a whole.

There may be substance to "AT WILL EMPLOYMENT" in the private sector where an individual owns his business and his personal assets are at risk in the day-to-day operation of the business. In this employment environment, a business owner is motivated by totally different factors regarding personnel matters than that of a government agency head who has no ownership or personal financial interest to consider but is a political appointee. Government employment is a very political environment, constantly motivated by and under the influence of politics. Without reasonable due process safeguards to protect government employees from abuse of authority and being disciplined without cause, you leave them defenseless. To believe such abuse of authority does not exist is simply not realistic; an abundance of evidence surrounds us in the news every day clearly depicting such abusive conduct by department heads and elected government officials alike. Over the years, the state of Mississippi has come from state employees being totally "at will" to the creation of the State Personnel Board with regulations providing state employees with due process rights. It is doubtful that the State Personnel Board would ever have been created in the first place had there not been an apparent need for it based on a historical trend of such abuse in the past.

In 2005, legislation like that now advocated by Senator Brown did pass the legislature and was signed by Governor Barbour. This legislation only applied to employees of the Mississippi Department of Corrections. This legislation was also passed under the guise of reorganization to save the state money. Some 600 plus state employees with MDOC were terminated, yet many that were terminated were later hired back ... I wonder

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if they were hired back at their same rate of pay. You know you either deserve to be fired or you don't. Within a year MDOC was millions of dollars over budget. So was savings the purpose for all this and if sowhere are the savings? There are many questions that need to be asked regarding the so-called reorganization of MDOC.

- Why was there a need to remove all personnel of the department from under the personnel board to eliminate positions not needed?
- How many employees were fired?
- How many of these positions were eliminated after the employee was terminated?
- How many new positions have been created during and since the reorganization?
- What was the actual reason for each termination?
- How many of those fired were rehired?
- If these employees needed to be fired or the positions were not needed, why were many of them rehired?

- How many of those rehired were rehired at a lower rate of pay than they were making at the time of their termination?
- How much lower rate of pay?
- How many hours of sick leave was forfeited by those fired/rehired employees?
- How were all fired employees who had accrued overtime (agency time) for hours worked (between 160 and 171) compensated for that time worked?
- How much "Agency Time" (overtime worked between 160 and 171 hours) was forfeited by the fired employees?
- What specific amounts and expense categories was the claimed savings derived?
- Why have MDOC employees at some prison facilities been required to work double shifts for months?
- How are the employees who have worked double shifts being compensated for overtime since the reorganization?
- During the 12 month reorganization of MDOC, how many employees were promoted or appointed to a position of higher pay without competition with other employees as required under normal

promotional procedures?

- Why less than two years after this reorganization was the Department of Correction millions of dollars over budget?
- Specifically, what budget categories were over budget in fiscal year 2007 and by what amount?

In considering Senate Bill 2388, or other such legislation to take away the due process rights of employees, one would hope that legislators closely reviewed the facts of the MDOC reorganization for themselves. It might also be wise to obtain the names of employees that department heads claim cannot be disciplined or terminated because of the state personnel system. Check to see if these employees have appealed a disciplinary case to the State Personnel Board. If so, have an impartial review conducted of these cases to determine if the State Personnel Board ruled properly in accordance with state law and regulations. If this were done, legislators would have a much more accurate perception of what the problem really is.

PBA Case Results In Favorable Holding for Law Enforcement Officers

Case concerns the right of an employee to attempt to clear his name after his department has made allegations against him which turned out to be false

By Joni J. Fletcher

Director of Legal Services, SSPBA

PBA member Chris Sciolino was fired by the City of Newport News in 2003 after the police department conducted an investigation regarding tampering with the odometer of a patrol car. The chief of police terminated Sciolino's employment by way of a letter in which he accused Sciolino of deliberately destroying city property by advancing the odometer. Officer Sciolino was a probationary employee at the time because he had not completed the department's initial 18-month probationary period. As a result, he had no departmental appeal rights and was provided no hearing to contest the allegations or clear his name.

Officer Sciolino later obtained documents from the investigation which showed that evidence against him had been forged. He contacted PBA for assistance as he sought to have his name cleared.

PBA attorneys Reid Ervin and Thomas Dyar of Norfolk, Va. filed suit in



federal court in 2004 over the denial of due process for Officer Sciolino. Our position was that, because Officer Sciolino had been fired and statements were made about him that were harmful to his reputation and would prevent him from obtaining future employment, he was entitled to a name clearing hearing, even though he had been in a probationary status.

The federal district court held that the City could be liable for violating

Officer Sciolino's rights even though the information in his file had not actually been made public. The court qualified that, however, by saying the city was liable as long as it was likely that the accusations would be made public. The court determined that Officer Sciolino only alleged that the accusations might be made public, not that it was likely. The court dismissed the lawsuit, and the PBA attorneys made a motion to reopen the case and to amend our complaint.

In 2005 the court denied our motion to amend the complaint, thereby dismissing the suit. PBA agreed to take the case to the Court of Appeals. In 2007 the 4th Circuit Court of Appeals reversed the lower court's denial of our motion to amend the complaint (Sciolino v. Newport News, 480 F.3d 642). The court held that, "For a public employee to successfully claim a violation of a liberty interest, he must demonstrate that the charges made against him, 1) placed a stigma on

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his reputation; 2) were made public by the employer; 3) were made in conjunction with his termination or demotion; and 4) were false.” (Sciolino at 646) The Court of Appeals stated, “...when dismissed from public employment even a probationary or at will employee is entitled to take with him his good name” and concluded that because Officer Sciolino’s reputation was at stake, he did have a protected liberty interest in this situation. This case has already been cited at least 16 times in other litigation.

Groups representing management have also taken note of the case. The International Public Management Association for Human Resources joined with other associations, including the National League of Cities and the International Municipal Lawyers Association in asking the Supreme Court to overturn the Fourth Circuit decision. In addition, Police Chief Magazine has published an article concerning the case.

After the decision by the Court of Appeals, the City of Newport News petitioned the U.S. Supreme Court to hear the case; the petition was denied and the case returned to district court to proceed.

In 2008 the district court held that the charges by the City of Newport News against Officer Sciolino were never made public, are not likely to be made public, and that the stigmatizing information in his personnel file will not ever be made public in the future. The court also determined that Sciolino was given due process in that he received notice of the charges against him and an opportunity to be heard regarding those charges.

“I’m grateful for the support I received from PBA,” said Sciolino. “Even though the final outcome was not in our favor, we made a little history that will help other officers down the road.” Officer Sciolino said that the firm of Reid Ervin and Associates was very helpful and did a fantastic job. “It was a lengthy process,” he added, “and I’m glad it’s done.”

While the ultimate outcome of the case was not in Sciolino’s favor, his case resulted in a 4th Circuit decision that is valuable for law enforcement officers in general: If something negative is placed in an officer’s file that is likely to be disseminated, the Fourth Circuit says that officer is entitled to a name-clearing hearing.



Attorney Spotlight Brock Parks



Brock Parks is an attorney in Nashville, Tennessee who focuses on the representation of law enforcement officers in cases involving disciplinary matters, internal affairs investigations, excessive force claims, and civil law suits against officers.

Brock graduated from the University of Tennessee at Knoxville in 1993 and began as a police officer with the Metro Nashville Police Department in 1994. As a police officer, Brock was assigned to various divisions including patrol and the MDHA Task Force. Brock was also assigned as the law instructor for the Metro Nashville Police Academy while he attended law school at the Nashville School of Law.

Upon graduation from law school, Brock began his career as an attorney with a law firm in Nashville representing police and sheriff’s departments throughout Tennessee. In 2004, Brock shifted his practice from the representation of law enforcement agencies to law enforcement officers. Recently, Brock joined the law firm of Hall, Booth, Smith, and Slover, P.C. where he continues to aggressively defend law enforcement officers throughout the South.

Brock has handled hundreds

of cases on behalf of law enforcement officers at the local level before commissions and boards, in state court, the court of appeals, and federal court. Brock has been successful in overturning terminations, suspensions, demotions, and in defending civil lawsuits against officers, as well as successfully arguing cases for pension benefits. He has represented officers through PBA since 2006.

“In handling cases for the PBA, I have enjoyed the full support of the organization,” Brock said. “Whether it is representation in disciplinary matters, filing suit on behalf of an officer, or ensuring a member is adequately represented in a civil lawsuit, the PBA has always supported me to do whatever is necessary to fight for the best interest of the officer. It has been clear to me that the PBA is always willing to put the officer’s interest first when it comes to providing legal representation.”

Brock routinely speaks to law enforcement groups on the issues of disciplinary actions and civil liability because, as a former police officer, he understands the implications of these issues on the careers and lives of those in the law enforcement community.

Having handled cases in numerous jurisdictions, Brock understands that representing law enforcement officers is a very unique area of legal practice. Through years of handling police cases, Brock has learned that law enforcement cases cannot be handled like any other legal matter because they involve so many issues in addition to law. Many times cases involving police officers draw the attention of the media and require a public fight on behalf of the officer involved.

Whether the fight is with smaller departments or large cities, in the courtroom or in the court of public opinion, Brock will continue defending those who defend our communities.

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The Arkansas PBA Gets "Fired Up" About Legislative Involvement

By Kimmons Gray
SSPBA Staff Representative

The other day I was driving along a beautiful two lane highway winding majestically through the Ozark Mountains. It was late in the evening so I decided to stop and get gas before I continued on my journey. While I was there the opportunity arose for me to speak briefly with a deputy who was waiting on his bride to complete her work day inside. I asked him if he had heard about the PBA; he said he had not. As I talked with him, his interest was piqued about the opportunities the PBA has for him and his family. I asked him if he was satisfied in his career choice thus far and he was quick to answer, "Oh, yes sir, I love my job, best job I've ever had." This young man had sworn an oath to uphold and enforce the law regardless of pay (his current annual salary is approximately \$19,000.00). I then asked him, if he could, how he would improve his job. He looked puzzled and answered he had never thought about it. After pondering a minute, he said he would like more money and cheaper medical insurance for his family. He currently doesn't have his family covered due to the high cost. He chuckled as he spoke about improving his benefits as if he had never considered risking his job to ask for this. It was time for me to go so I handed him some PBA literature and asked him to do something for himself. Please call two people, your state senator and your house member and ask them to support HB1266. I explained briefly this bill and gave him their names and numbers. As I left him that night, I believe he, like so many others, began to see and understand the importance of members getting involved in political action for the betterment of our future.

When it comes to political action, the North East Arkansas Chapter has definitely led the way for Arkansas thus far. Their consistent dedication to getting involved in every local election in the city



Members of the Northwest ARPBA Chapter Conducts a Candidate Screening

of Jonesboro has paid off. Not only are these PBA members recognized across the state by the other PBA chapters but they are also highly respected by their own elected officials. Seven out of the eight current city council members in office, their mayor, the Arkansas attorney general from Jonesboro and all of their current state legislators were endorsed by these officers. Last year at their local PBA chapter screening, they asked their city board for twenty-five additional patrol cars so they could start their take home policy. By the end of the day, they not only had the twenty-five they asked for but ten additional cars were given. This is a good example of what can happen when you get involved locally! Law enforcement officers in Arkansas were tired of hearing what people were going to do for them. This year the Arkansas PBA stood up and got it done!

Across the state the members of the Arkansas PBA got fired up! For the first time they got together and screened state legislative candidates. They made a difference that was felt from Pea Ridge to Lake Village, from Mammoth Springs to Magnolia and all areas in between. Screening committees rose to the occasion out of various cities across the state: Little Rock, Jonesboro, Texarkana, Springdale, Pine Bluff, Searcy, Hot Springs, and Clarksville. Invitations were sent to state legislators whether they were running for office or not. The Arkansas division board wanted them to know who we were and what we were doing

here. We are now the largest law enforcement organization in the entire state! We have built strong alliances with other organizations such as the AMPA, The Sheriffs Association, The Chiefs Association and the Troopers Association. The Arkansas members picked their candidates and started working hard to get them elected. They asked for help getting their two bills

passed through the state legislature in the 2009 session. The Arkansas division board met in Hot Springs to decide a legislative agenda for their first year out. It was agreed that there would be two issues taken to the capitol: issue one had to do with the state in-the-line-of-duty death benefit. They want it increased to a hundred thousand dollars regardless how the officer is killed or whether they had a vest on or not. They desire the funds get issued to the beneficiary by 120 days from the filing of the proper paperwork as opposed to three annual payments like it is now. Issue two deals with the proposal of a statewide disability bill that will allow all law enforcement officers in the state to receive a hundred percent of their salary while recovering from a duty-related injury. This will also prevent the officers from having to use their sick days or vacation days for an injury that was caused in the course of their duty. Once this bill was written it was agreed upon by our endorsed legislatures and division board that the bills should be combined as one. They are currently working to get it through the various committees.

Even though 2008 was very exciting politically, 2009 can be even better. As a team, Arkansas PBA learned things to do and things not to do. As with every great accomplishment this is truly a work in progress. Thank you Arkansas PBA members for all of your hard work, and as always, I look forward to being your staff representative and facilitating all of your needs.



PBA Fights to Obtain Retirement Benefits That Members Are Due

By Joni J. Fletcher

Director of Legal Services, SSPBA

In early 2004, representatives of the Southeast Tennessee Chapter of Tennessee PBA contacted the PBA legal department with their concerns over actions taken by the Chattanooga Police Department Pension Board. Of utmost concern was what appeared to be arbitrary actions by the pension board in regard to the buy-back of time worked for the City prior to being employed with the police department. Some employees in such situations were allowed to buy back their time, while others were not. After local political efforts were not successful in resolving the situation, PBA authorized moving forward with legal action on behalf of the PBA members impacted by the pension board's actions.

Long-time PBA attorneys Lee Davis and Bryan Hoss researched the issue and attempted to resolve the matter without going to court. When that was not successful, PBA authorized the involvement of attorney Whitney Durand, who specializes in pension matters. The claim was filed by the three attorneys into chancery court in 2006.

Paul Lee, Jr. was one of the chapter members to initially contact the

PBA legal department about this issue. "We could not have begun to take this on without PBA," Lee said. "The City had taxpayer money behind them and the Pension Board had pension money behind them. People knew we had been done wrong, they just wouldn't do anything about it."

The matter proceeded through an extensive discovery phase and summary judgment arguments were heard in late 2008. The case is now with the chancellor and his decision on summary judgment is expected soon.

"We have excellent attorneys on the case who have done far more than I would have ever anticipated," Paul Lee added. "They know everything about our situation and about this case. We know that a great deal of effort has been put into this."

PBA prevailed in another retirement benefit case in 2007. In 2003, the Atlanta P.D. Chapter of PBA of Georgia approached the PBA legal department with concerns about the City's mismanagement of the pension fund. The City had determined that the pension board could not act independently in hiring a third-party manager for the fund. An

auditor determined that at least 1300 checks had been sent to deceased retirees, resulting in millions of dollars lost. In addition, the City was spending three times the cost to administer the funds as what a private administrator would cost.

PBA had great concern for the ongoing waste of retirees' and future retirees' money. Again, PBA attempted to resolve the matter through political efforts, to no avail. PBA hired attorneys Norman Slawsky and Mary Carole Cooney who were experienced in pension law. By late 2003, PBA, with financial support from the retired employees' association, filed suit against the City of Atlanta in superior court. In November 2004 Judge Doris Downs granted summary judgment in favor of PBA and its members. The City of Atlanta filed an appeal and in 2005 the Georgia Court of Appeals upheld the trial court's decision. The City proceeded to petition the Georgia Supreme Court to hear the case; in 2006, the Supreme Court denied the City's petition.

Though pension matters are complex and the litigation involved is lengthy, PBA has proven its commitment to protecting the retirement benefits that our members depend on.

Meet Elizabeth Marum SSPBA's Newest Staff Attorney!

Elizabeth Marum is the most recent addition to SSPBA Legal Services. She joined PBA as a legal assistant in October 2008 and attained title as a staff attorney after passing the Georgia Bar Exam. An Atlanta resident for over four years, she first attended the University of Florida, from which she received a Bachelor of Science in Journalism (cum laude), and completed her education with a law degree from Georgia State University in December 2007. As staff attorney, Ms. Marum works with SSPBA members throughout our covered states as well as in the State of Georgia.



"It's great to know that just being able to listen to a member's legal issue and give advice over the phone can do a lot to ease their minds. When matters are more serious, it is rewarding to know that my official legal opinion as a P.B.A. staff attorney has helped resolve a member's problem."

THE COST OF A CASE

The cost of a legal case brought against a law enforcement officer for simply performing his or her duties can easily exceed their yearly income. Can you afford that?

The Disciplinary Procedure

By Donald English
SSPBA General Counsel

One of the services the PBA provides to our members is assistance and representation, when allowed, in the disciplinary process. When the local chapter approves referral and our legal team reviews the case, we will defend a member who has been falsely accused of wrongdoing or who has been treated unfairly in the process. Of course, there are still departments where there is no right to a hearing, or the “due process hearing” you are afforded is a meeting (without counsel) with the department head, who just fired you, along with his command staff, often the department’s attorney, and anyone else he may wish to have present.

HOW MUCH PROCESS ARE YOU DUE?

Most law enforcement agencies provide, by policy or ordinance, that an officer cannot be dismissed or suspended except for cause. This cause typically will be an alleged rule violation. When you find terminology like “for cause” or “good cause,” this generally means that you have a property interest in your employment, which cannot be taken from you unless the department follows the requirements of due process of law. At a minimum, this means you are entitled to “some type” of hearing. And, in our part of the country, this means that if you are given any procedure that even resembles a hearing, the courts rarely overturn the agency’s ruling.

Unlike civil and criminal trials which are governed by uniform statewide rules, and are held before judges who have at least taken an oath to be fair and impartial, administrative hearing procedures differ greatly from town to town or county to county, and come in all different shapes and sizes.

VARIATIONS

On one end of the spectrum, you may be entitled to a full evidentiary hear-



ing before a civil service or merit board comprised of citizens who really are fair minded. This board will permit you to question witnesses, to subpoena your own witnesses, and will require the department to both prove what they have accused you of, and that it followed its own rules in the process. Some time ago we were privileged to represent a lieutenant of a larger department who became the victim of a false complaint, was fired, then appealed to that city’s Civil Service Board. After a lengthy hearing, the Board reinstated our member, specifically condemning a slip-shod investigation by Internal Affairs, and ordered him reinstated.

The Chief was so upset she persuaded the city attorney to appeal the decision of their own Civil Service Board. Thankfully, the court upheld the Board and our member was reinstated with about two years of back pay. The legal fees would have been staggering had he had to bear them on his own.

But on the other end of possibilities, your “hearing” may be a two minute meeting alone with the personnel director who, of course, has already thoroughly discussed the matter with the chief outside your presence. But, because she feels so badly about how you have been treated, out of the goodness of her heart, she may now allow you to resign instead of being fired, but will of course hear from no other witnesses.

Most agencies fall somewhere in between. And, even when a procedure

appears fair in writing, it can be a travesty in practice. In one of Georgia’s larger counties an officer has a right to a hearing before a supposedly independent hearing officer, but can subpoena no witnesses. So, if a witness with facts to exonerate you does not wish to appear and testify, tough.

Even some agencies that provide by rule for a hearing, are

in reality, at-will. About ten years ago, a city near Atlanta hired a city manager who gives new meaning to the term “rubber stamp.” When an employee appeals any disciplinary action, he always affirms it, even when presented with solid proof of innocence. During his reign we have found no case this man has ever reversed. Of course, this city is also on its third chief in about five years. (May be something in the water.)

WHERE ARE YOU AT-WILL?

We advise officers to become thoroughly familiar with their city or county personnel manual in addition to departmental Standard Operating Procedures. If you find language such as “... your employment is at-will” or “nothing in these rules shall be construed as giving any right to continued employment, or create a contractual relationship...” etc., then you can be fired for any reason or no reason. This is called at-will employment. Of course, if the department fires you in violation of state or federal law, you will have an opportunity to seek civil damages, but that could be years down the road. Many officers are surprised to learn that this is even possible in the 21st century. They reason that they must have probable cause to arrest even the guiltiest criminal, so how can their department fire them for no reason?

I am proud that the PBA has fought tirelessly for decades to have legislatures enact minimum disciplinary

standards for all law enforcement agencies, and with some success. But some chiefs and sheriffs who have the ear of their elected representatives oppose such legislation and argue that it would just make it harder for them to get rid of bad cops, misfits and trouble makers. But we know from having represented many dedicated officers over the years, that you are only one false complaint away from the end of your career.

I recently spoke to a veteran officer of over thirty years who worked for a small, at-will department. His chief accused him of violating the department's pursuit policy a few days earlier. When the officer proved that he had not, the chief then said, "Well, you haven't completed the training hours you were supposed to." When the officer showed the chief that he actually had completed his hours, then the chief finally said, "Well, since we are at-will, I don't have to give you a reason." Another officer I represented in a West Georgia town was accused of a very minor rule infraction,

never before enforced, and was fired. We found out later the real reason: the chief's nephew needed a job and there were no openings in the department unless he fired someone. Thankfully, this officer found a professional department with better pay.

CALL FOR BACK-UP

If you and your chapter agree that you are a victim of an unfair disciplinary action, we are here to help if we can. We are well aware of the stress that can arise when you are falsely accused of wrongdoing. Depending on the procedural rights your agency has in place, our association will work with you toward defending your good name. Additional concerns you may face arising from disciplinary investigations include:

- Can I be forced to give a statement?*
- Should I resign?*
- Will this be sent to my state's certification agency?*
- Will I be charged criminally?*
- Does Garrity apply?*

For a more detailed discussion of your Garrity rights click on "Garrity Information" at sspba.org/legal/legal.htm, and also an excellent law review article by J. Michael McGuinness, one of our panel attorneys in North Carolina at "Touro Law Review", Vol. 24, p. 697 (2008).

We occasionally hear officers say something along the lines of, "Why should I be concerned? My department backs me up, I get along with everyone, I treat people fairly and stay out of trouble. I work for a good department and we watch out for one another."

Well, you are blessed indeed and I hope it stays that way. But remember that you work for a governmental body; governments are run by politicians. Just as you train and prepare for the unexpected in order to stay alive on the street, be aware that your chief can retire, your sheriff could lose an election, and you may have to arrest the mayor's brother-in-law. Know your rights ahead of time, keep notes and document events.

Mississippi PBA Member Honored For Outstanding Service

By Tommy Simpson

Director of Organizational Services, West Region



L-R MSPBA Division President Chris Skinner, Thomas Mastin and North Mississippi Chapter President Mark Little.

On October 30, 2008, Thomas Mastin, former secretary for the North Mississippi Chapter, was honored for his outstanding and unselfish service given to his chapter throughout the duration of his membership. North Mississippi Chapter President Mark Little and Mississippi PBA Division President Chris

Skinner presented Mastin with a plaque in appreciation of his outstanding service. Thomas joined Mississippi PBA March 31, 1997, and remained a member for 11 years, serving as chapter secretary during most of this time. Thomas did not leave law enforcement or PBA by choice. He left due to a medical condition which made it very difficult for him to perform his duties. It is not often you find someone as dedicated, loyal and dependable as Thomas Mastin. As secretary he served his chapter

well, always in attendance at meetings, keeping detailed minutes of meeting issues, participating in political screenings and other chapter activities. He, and the spirit he brought to the chapter board meetings, will be missed. The new secretary of this chapter will have some very big shoes to fill, that's for sure.

NCPBA State LEO Members Now Have Payroll Deduction!

David R. Quigley Jr.

NC Hwy Patrol Chapter President

After months of effort the state law enforcement members of the NCPBA now have the benefit of automatic payroll deductions for their membership dues payments. We anticipate that this benefit will provide additional security for you and your family. With the hectic schedules and commitments we all have, you will no longer have to think about getting the payment mailed in or have to risk a lapse in coverage by a payment not getting posted in time.

Once you complete the authorization form, send it to the SSPBA main office at 2155 Hwy 42 South, McDonough GA 30252, and the automatic deduction will be initiated. PBA will notify your agency's payroll department and you will see the deduction on your pay stub. To get the payroll deduction authorization form, you can contact the SSPBA main office in Georgia at 800-233-3506 or you can print one online at www.sspba.org under 'member forms.'

A Lesser-Known Benefit:

Legal Opinions

By Elizabeth Marum
SSPBA Staff Attorney

In November 2008, a Mississippi PBA member was about to be a father for the first time. He was thrilled and even happier that he had accumulated a significant amount of vacation, sick and comp time to ease the transition into fatherhood. He planned to use some of his vacation and sick time to be with his child after the birth and wanted to cash out his comp time to help defray the costs of a new family member. Then, just two weeks before the birth, his supervisors told him he was no longer permitted to use his pre-approved leave.

The member decided to enforce his rights under the Family Medical Leave Act. He met with more resistance when his supervisors contended they could legally require that he use his comp time to make the leave a paid leave thus attempting to deny him the much-needed cash. They also told him he would not accumulate seniority and would not receive a department wide, non-merit based bonus if he proceeded to take leave. Effectively, his supervisors were telling him he would be ineligible for any upcoming promotions. Fed up, the member called PBA Legal Services for advice.

Within a week of the member's call, a staff attorney researched the FMLA, the Mississippi Civil Service Rules, and issued a written legal opinion assessing the member's Federal and State rights. Under law, the department could require the member substitute FMLA leave with vacation and sick time, but it could not force him to use his comp time in the same manner. In addition, by Mississippi's Civil Service Rules, as long as an employee is on paid leave, they continue to accrue seniority and are entitled to any non-merit based bonuses or pay raises. The legal opinion letter and attachments of statutory text were provided to the member so he could make a case.

PBA Legal Services encourages you to call us with any questions you have about your rights as a law enforcement officer. If we are not able to answer immediately, we will research your issue and get back to you. We are more than happy to "put it in writing" to help you manage your legal problem.

PBA Puts Its Money Where Its Mouth Is

By Joni J. Fletcher
Director of Legal Services, SSPBA

When you've seen PBA recruiting literature proclaim in bold letters "NO CAP" and "NO LIMIT" on legal coverage, you may have wondered, "What's the catch?" The answer is...there is no catch. When a PBA case is opened and assigned to an attorney, there is no dollar amount authorized for the completion of the case; so long as your case remains coverable, PBA is in it for the duration.

A shooting incident led to a federal indictment against a Mississippi PBA member. PBA had an attorney representing that member from the night of the shooting through the federal trial and not guilty verdict. PBA's cost: \$36,000

A lawsuit named a North Carolina PBA member as a defendant, and her department refused to provide representation. A PBA attorney represented the member up until the case settled. PBA's cost: \$12,590.

After an incident involving a Tennessee PBA member's shooting of a dog was televised nationally, the member's employer improperly released that member's personal information, which was later posted in the internet. PBA filed suit, and the case went all the way to the U.S. Supreme Court. PBA's cost: \$73,755

After a shooting incident, a Mississippi PBA member was issued a 30-day suspension. PBA assigned an



attorney who appealed the suspension before the civil service board and into circuit court. PBA's cost: \$15,244.

The PBA legal department maintains contact with the attorneys representing PBA members in order to stay abreast of developments in the cases. There is an ongoing review process by PBA as cases, particularly disciplinary and grievance matters, proceed through the various levels of adjudication. While not every case will end up with the Supreme Court, PBA does not pre-determine a cost limit on representation.

The average cost of a disciplinary appeal handled by a PBA referral attorney over the past three years, including attorney fees and expenses, is \$940.14. For death in custody cases, the average is \$531.75. But bear in mind that PBA attorneys handle PBA cases at a fraction of their standard hourly rate. When these averages are calculated in accordance with a standard hourly rate, the average total for a disciplinary appeal is \$2,238.10, while the average for a death in custody case is \$1,266.07. And what about those difficult cases, such as those listed above, which involve large amounts of attorney time?

The Mississippi criminal case would cost about \$85,714. The North Carolina lawsuit defense would cost about \$29,976. The Tennessee grievance and plaintiff's action would cost about \$175,607. The Mississippi disciplinary appeal would cost about \$36,295.

It's clear that the \$23.50 monthly dues payment is a small price to pay for valuable legal protection.

**NO CAP
NO LIMIT**

The PBA provides an attorney to protect your individual interest if you are named as a defendant in any civil or criminal action arising out of your duties as a law enforcement officer. No cap or limit. Will any other organization do that?



A Shooting or an Accident... No One Likes to Think About It!

It can happen to any law enforcement officer at any time...

There's a shooting or a serious accident...someone is hurt...

You're involved. As a PBA member, you're not alone. PBA is there to protect your rights.



If it happens to you:

- Don't Panic! Calm down and compose yourself.
- Don't rush into making a statement.
- If you are asked to make a statement, call the PBA Hotline: 1-800-233-3506.
- PBA will provide you with an attorney prior to making a statement - either on the scene or wherever needed.
- Wait until you talk to a PBA attorney before making any statements, oral or written.
- Be prepared!
- Know your rights BEFORE a disciplinary action arises.
- Be familiar with your departmental policies so that you know how to proceed if adverse action is taken against you.

Know if the disciplinary action is grievable

Know how many levels of appeal are available

Know your department's procedure for grievances

Know the time and date deadlines for grievances

The PBA is serious about protecting you!

Another Satisfied Member

I would like to thank all of you with the Southern States PBA! I have been pleased with the amount of attention that is provided for an incident, and the response time that is provided by the Legal Services Department. I have been involved in a lot of cases where other sources of legal services have been used, and the PBA has impressed not only me, the member, but other officers that have been in the same position, but are being assisted through other channels. This has led to about a dozen or so officers from my department dropping their other legal services and using the Southern States PBA.

Richard Beaston - North Little Rock PD

SSPBA Staff Voice Mail (VM)
Numbers 1-800-233-3506

Jack L. Roberts, President (VM 762)
Renee Dixon, Chief Operating Officer (VM 349)
Joni Fletcher, Director of Legal Svc. (VM 353)
Don English, General Counsel (VM 364)
Grady Dukes, Senior Staff Attorney (VM 385)
Elizabeth Marum, Staff Attorney (VM 361)
Jodi Peyton, Paralegal (VM 739)
Valerie Gordon, Legal Assist. (VM 685)
Wayne Tubb, Finance Director (VM 882)
Carl Gantt, Assist. Finance Director (VM 525)
Renee Morris, Accounting Clerk (VM 665)
Sheena Walker, Accounting Clerk (VM 246)
Sabrina Dunn, Assist. Finance Director / Membership Supervisor (VM 388)
Tina Rogers, Assist. Membership Supervisor (AL, LA, MS, NC, SC) (VM 108)
Jennifer McCullough, Membership Sec. (AR, GA, KY, TN, VA, WVA) (VM 310)
Janice Gibson, Payroll Ded. Sec. (VM 536)
Wendy Smith, Receptionist
Gayla Johnson, Admin. Supervisor (VM 554)
Deann Smith, Assist. Admin. Supervisor (VM 725)
Holly Doychak, Admin. Assist. (VM 143)
Marlon Trone, PBF Executive Director (VM 735)
Terry Nowell, Director of Training (VM 669)
Tim Reichert, Director of Communications (VM 734)
Tom Conroy, Communications Assist. (VM 344)
Joan Fabian, Mail Room Supervisor (VM 733)
Stephanie Bowman, Mail Room Assist. (VM 252)
Larry Fallin, Technical Support Specialist (VM 325)
Fred Barwise, Technical Support Assist. (VM 222)
Oren Lee, Computer Programmer (VM 389)
Charlie Maddox, Legislative Liaison
Jeff Fluck, Director of Governmental Affairs (VM 358)
Tommy Simpson, Director Of Org. Svc. West (VM 747)
Kimmons Gray, Staff Rep. (VM 309)
J.T. Marlin, Staff Rep. (VM 368)
Leonard Prien, Staff Rep. (VM 773)
J.D. Hobbie, ALPBA Executive Director (VM 462)
Joe Stiles, PBAGA Executive Director (VM 784)
John Midgett, NCPBA Executive Director (VM 643)
Gary Smith, TNPBA Executive Director (VM 764)
Kristie Ray, TNPBA Office Manager (800)805-2677
Sean McGowan, VAPBA Executive Director (VM 352)



Regional Counterdrug Training Academy

The Southeast's Premier Counterdrug Training Provider

By Tommy Simpson

Director of Organizational Service, West Region, SSPBA

How often does a law enforcement agency have to sacrifice officer training due to budget constraints? There are many agencies that face this dilemma but not many of them have a solution to this problem. At least not until now...

The Regional Counterdrug Training Academy, located on the Naval Air Station, Meridian, MS, began operations in 1992 with a mission to provide the "cutting edge" of drug enforcement training. The students receive counterdrug instruction, lodging and meals at no cost to their agencies. "The agency incurs nothing other than the cost of getting the officer here," stated Bill Berry, RCTA's Director of Training.

The RCTA is a unique partnership between the Mississippi National Guard and law enforcement agencies. At the request of senior law enforcement officials, Congress established the RCTA to leverage the training and support capabilities of the National Guard to meet the training challenges of local and state-level law enforcement. Subject matter experts teach the courses using a "cops training cops" mentality.



The RCTA curriculum covers all the bases in the field of counterdrug training.

- Advanced Narcotics Investigations
- Advanced Technical Services/Video Surveillance Operations
- Analytical Investigative Methods/ Financial Manipulations, Investigations
- Analytical Investigative Techniques
- Basic Gang School
- Basic Narcotics Investigations
- Basic Technical Services/Video Surveillance Operations
- Clandestine Lab Investigations
- Clandestine Laboratory/Weapons of Mass Destruction & Site Safety Certification
- Covert Vehicle Installations
- Digital Evidence Recovery
- Drug Unit Supervisors Course
- Hidden Assets In Commercial Motor Vehicles
- First In Response, Securing Terrorist Situations
- Informant Management
- Intelligence Fundamentals for Law Enforcement
- Interview & Interrogation
- Introduction To Cyber Crime and Computer Forensics K-9; Drug Detector Dog Recertification and Enhancement School
- Meth Lab Recognition & Safety For First Responders
- Money Laundering
- Officer Safety High Risk Event Planning System – Level 1

- Officer Safety, High Risk Operational Skills – Level 2
- Officer Safety, High Risk Operational Skills – Level 3
- Officer Safety, High Risk Operational Skills – Level 4
- Operational Skills For Law Enforcement
- OSHA Recertification (Level A,B,C,D) & Site Safety Supervisor Certification
- Patrol Officers Response To Street Drugs
- Pharmaceutical Diversions & Compliance Investigations
- Physical Surveillance School
- Search Warrants & Affidavits
- Street Gang Investigations
- Survival Spanish For Uniformed Interdiction
- T-CAP/Criminal Patrol
- Undercover Operative Course
- Video Equipment Training For Surveillance

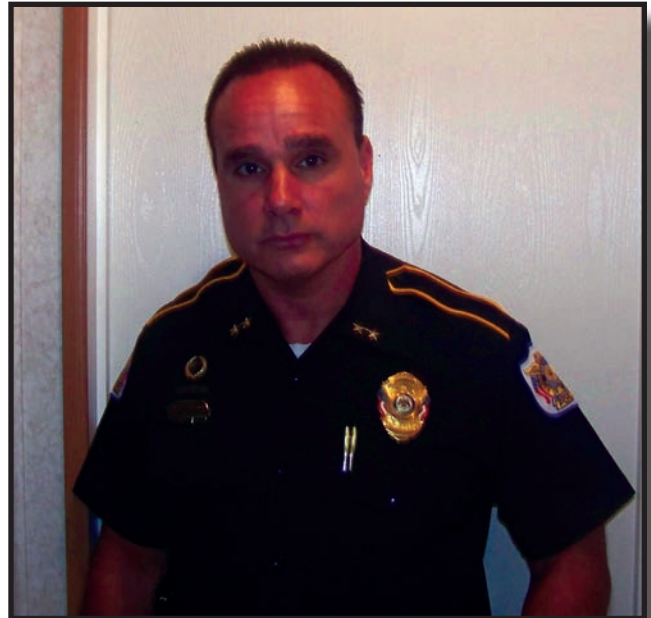
Since opening its doors, the RCTA has provided no-cost training to more than 50,000 officers. “Even though we have trained over 50,000 students here, we have reached out and touched more than that because of what they go back and share,” stated Berry. “A student called and told me that a procedure he learned in our Undercover Operatives class impressed his boss and was being implemented state-wide in his agency. Even though only one officer attended the course, the training is affecting all of the officers in that agency.” The RCTA trains law enforcement primarily from within the five-state region of Alabama, Georgia, Louisiana, Mississippi and Tennessee; however, they have trained officers from every state.

Though some courses taught at the RCTA are traditional lecture style, many of the courses are “hands-on” officer safety, practical exercise, scenario driven courses. The RCTA has an Urban Training Complex (UTC) for both law enforcement and military use. The UTC is an eleven building complex located on the Academy grounds. This location offers a secure training environment where the counterdrug professional need not worry of their training philosophies or tactics being observed or recorded by passers-by. A majority of the instructors use the UTC to enhance a student’s performance and understanding of the classroom training through effective and immediate “hands-on” application.



*Capt Michael Hall
of the Boonville, Miss. PD*

“Top notch training, it simply doesn’t get any better than what they provide.”



*Assistant Chief Michael Prendergast of
the Waveland, Miss. PD*

“It’s awesome training! Every officer with our department is being sent to the various courses available at RCTA.”

Land Mines To Avoid When Dealing With Reporters

*From Master Media Relations, The Complete Guide to Getting Better Press Coverage
by Donna Giancontieri*

Dealing with reporters is often a job requirement for law enforcement officials. Reporters help you get important information out to the public, promote projects, and set the record straight when information gets blurry or rumors run rampant.

But there are often plenty of land mines when dealing with the media. Understanding how you might unintentionally trigger them is one of the keys to gaining accurate and fair press coverage.

Off the Record

If you gather a group of reporters and ask them their interpretation of “off the record,” you are likely to get several different responses. Each reporter might handle OTR information in his or her own way. Some reporters and editors define “off the record” in its strictest terms: anything you say to a reporter in that context will not be used or repeated in any way. But others interpret it as meaning they can report the information, as long as they don’t reveal you as its source.

If you go off the record, always discuss with the reporter how they interpret OTR and what they will specifically do to protect your identity. If you are not comfortable with the response, stay on the record.

Reporters Are Never Off Duty

If you bump into a reporter at the gas station, a restaurant on a Saturday night, or in line at the supermarket, consider yourself on the record. They are always looking for a story.

You can find yourself quoted in the newspaper after a simple remark made when you assumed the reporter was “off duty.” Good reporters are never off duty. (This is an important fact to be discussed with any staff member who has internal knowledge and potential interactions with reporters. Many a front-page story has developed from a comment made by an assistant who was unwittingly acting as a news source.)

Unless you have an established relationship with a specific reporter and you are clear that the discussion is not for publication, be wary of what you say in casual or social circumstances.

When an Unexpected Story Catches You Off Guard

You are in the midst of an interview about a relatively benign topic—the reporter is asking a few general questions, and you are in your comfort zone, well informed, providing comprehensive answers. No stress.

Then, BAM! The reporter throws in a curve, an unexpected question on an unwelcome topic. When you agreed to the interview, they gave you no indication this issue would come up.

Try not to act overly surprised; don’t blurt out “How did you find that out!” Keep your composure. Reporters who ambush you with a topic are often intentionally trying to get a reactionary response to liven up a story.

But they are also just doing their jobs. If they heard something newsworthy, they will want to report it. And asking you about might be the first step.

Remind them that they did not offer that topic for

discussion when the interview was arranged, and set up another interview—even if it is fifteen minutes later. It will give you the opportunity to collect your thoughts and prepare a response.

Remember: *The minute you lose your temper, or respond with emotion, you lose control of your positioning within the story.*

Unnamed Sources and Attribution

If a reporter suggests “not for attribution,” this means that he or she will include the information that the source tells them but will not assign the source’s name to it in the article.

There are a few things to consider if you are presented with this situation. How many people know this information? Will you be pegged as the source? Will there be fallout if you identified as the source? Examine your motives under this scenario: Why put it out there at all if you are hesitant to have your name attached?

If a reporter wants to use you as an “unnamed source,” ask specifically how he or she will identify you. To establish credibility, he or she might attribute the quote or information to “a person associated with the matter,” or “a high-ranking police official.”

“What If” and “Rumors Are Swirling” Questions

Never respond to a “What if ...” question. Never answer if asked to speculate on an outcome or comment on rumors.

There can be fallout from answering a hypothetical question. If you are wrong, you can be accused of being misleading. If it turns out you are correct, someone might suspect you had inside information that nobody else had.

Simply reply: “I guess we will all see what happens when it happens, and we’ll talk about the next step at that time.”

Friendships with Reporters...A Slippery Slope

Reporters covering a regular beat will try to make connections and develop relationships with regular sources. They may call every few days, meet you for lunch or drinks, spend an hour discussing sports and gossiping.

But remember, they have many sources like you, and the parameters in their world are usually pretty clear. But from the perspective of the news source, the lines can become blurred. Always keep the relationship professional. They will.

Once you begin viewing a reporter as a friend, confidante or public relations outlet, you are setting yourself up for mistakes, disappointment and poor coverage.

It’s easy to develop a false sense of security, especially if you’ve grown fond of a reporter. But the bottom line is that they are watchdogs, and if they do their job right, when the news about you is unflattering they will print it.

Establish a friendly rapport with reporters, a casual, professional relationship similar to what you have with your boss or clients. But always remember the distinction between your goals and that of the reporters.

**For more tips on dealing with reporters, go to
mastermediarelations.com.**



Working has its perks.

Apple and SSPBA have included you in a special program. You qualify for preferred pricing on the latest Apple products and accessories.

Visit www.apple.com/eppstore/sspba
or call 1-800-MY-APPLE.



