



A publication of the Southern States PBA, Inc.

2013 BLUE REVIEW

AN IN-DEPTH LOOK AT THE PBA ISSUE 7

**BEHIND THE BADGE:
CONFRONTING THE REALITY
OF POLICE STRESS**

**IGNORANCE AND APATHY:
"WE THE PEOPLE"**

**DISCOURAGEMENT IS A
STATE OF MIND:
THE INJURY**



**HER FATHER WAS THERE FOR YOU. ARE YOU
GOING TO BE THERE FOR HER?**

Death Benefits to Families

The beneficiary of a Southern States PBA member killed in the line of duty is eligible to receive a one time payment equivalent to the member's annual agency salary up to \$60,000. For non-duty related accidental deaths, there is a one time payment of \$5,000.

Scholarships

The Foundation provides scholarships for children of officers and for students pursuing degrees in Criminal Justice. In addition, the PBF Memorial Scholarship has been established for the children of fallen officers.

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Our ability to respond to officers' needs during times of crisis is vital. During a disaster, whether natural or manmade, the PBF wants to be that helping hand. We responded to the needs of officers and their family members in the aftermath of Hurricane Katrina. We launched campaigns for officers in Alabama and Arkansas when tornados devastated their communities. We asked for support for officers in Georgia and Virginia when flood waters rose. Give to the Foundation, so we can be ready when duty calls.

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2013 BLUE REVIEW

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Reneé Dixon
Chief Operating
Officer, SSPBA

Reneé handles the day-to-day operations of the SSPBA under CEO Jack Roberts and has been with the Southern States Police Benevolent Association for 26 years.

"If you have any questions or concerns, please do not hesitate to contact me at (800) 233-3506, ext. 349."

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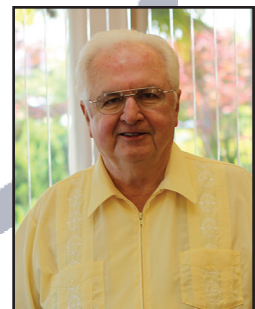
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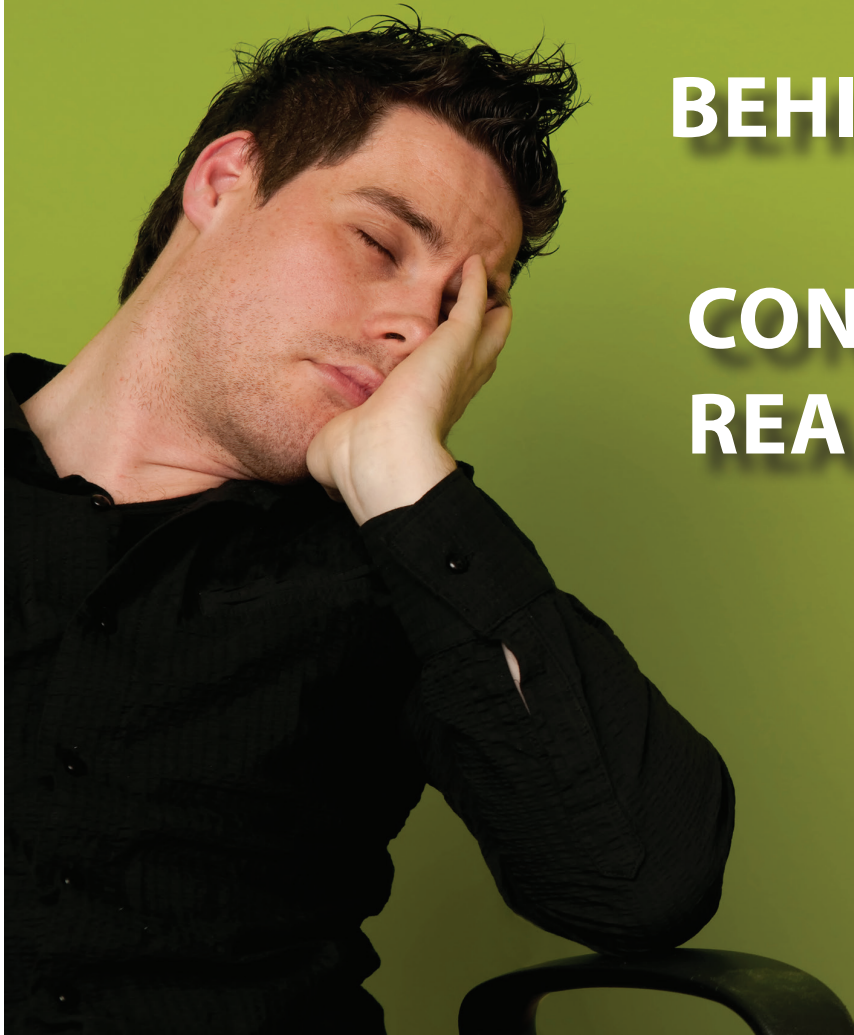


A SHOOTING OR AN ACCIDENT... NO ONE LIKES TO THINK ABOUT IT!

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.
- The 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.

It can happen to any law enforcement officer at any time. There's a shooting or a serious accident and someone is hurt. You're involved. As a PBA member, you're not alone. The PBA is there to protect your rights.



BEHIND THE BADGE: CONFRONTING THE REALITY OF POLICE STRESS

BY JAMES D. SEWELL, PH.D.
ASSISTANT COMMISSIONER (RETIRED), FLORIDA
DEPARTMENT OF LAW ENFORCEMENT

Over the last several years, the Police Benevolent Foundation has sponsored a series of suicide prevention seminars under the title *Behind the Badge*, presented by Tim Rutledge and myself throughout the southeastern United States. During that time, we've probably spoken to a thousand cops, bosses, and family members on issues related to the recognition and prevention of police officer suicide.

Yet, we still haven't reached as many in our law enforcement community as we would have liked. To that end, we're turning to this publication as one more means by which we can talk to cops on the street about police stress and the critical subject of police suicide...the leading killer of police officers in the United States today.

THE REALITY OF POLICE STRESS

Stress is a reality of the police officer's job. We see it come from the community, from outside agencies, from politicians and political bodies, and even from our own administrations. It is inherent in the work we do, dealing with people in their time of crisis and pain, seeing the violence one human can inflict on another, and often taking the hurt felt by the innocents onto ourselves. We feel it during long and frequently rotating shifts, as well as on holidays and special personal occasions.

Some of our colleagues can't handle this stress, and we see it in physical symptoms: high blood pressure, ulcers, constant fatigue, heart disease and frequent illness. Others are mired in depression or cynicism or show signs of post-traumatic stress.

We often see cops with family problems and a history of divorce. Some officers react to the stress by engaging in addictive behaviors—alcohol, drugs, gambling, sex, or the internet. At the extreme end, cops who can't cope with the job's stress die by their own hand—by suicide or more subtly through heart attacks resulting from a poor diet, little exercise, and hard living.

As you look around your department, I'm sure you can see cops who are hurting, cops whose behavior shows they are having trouble dealing with the job. It's time to admit that the helpers sometimes need help. We need help to make us better cops, better spouses, better parents, and, yes, better people.

SO WHY DON'T THE HELPERS SEEK HELP?

As a profession, we have to admit that there is a stigma associated with seeking help when we are under stress directly related to the job. Even when we realize we need help, we are reluctant to seek professional assistance for a variety of reasons:

- We believe reaching out for help will be seen as a weakness. We know that our immortal hero, John Wayne, never had to have help!
- We are unwilling to admit we have emotional, mental, or psychological problems.
- We fear losing the badge and gun, or at the very least, being assigned to the “rubber gun squad.”
- We worry about further alienation from the subculture with which we identify so completely that it is “who we are, not what we do.”
- We are afraid that our career will be ruined.
- We don't trust the confidentiality of the formal support system in our law enforcement agency.
- Our department lacks access to mental health professionals who understand and know how to effectively deal with law enforcement officers.

ARE THERE TIMES WHEN THE STRESS OF THE JOB IS GREATER?

There are times of greater danger for cops in terms of stress, negative behaviors, and the potential for suicide:

- Following the loss of any major relationship (a red flag)
- Upon being terminated (or immediately preceding that time)
- While the officer is under criminal or IA investigation
- Following a recent unwanted geographic or organizational move
- Following the death of a close loved one, cherished friend, or counselor, especially by suicide
- After being injured or during a serious or terminal illness, and especially because of the fear of becoming a burden to others
- Upon a sudden unexpected loss of freedom
- Because of the fear of punishment for some behavior
- With an anticipated loss of financial security, especially during these trying economic times
- Approaching or immediately after retirement

WHAT CAN MY DEPARTMENT DO TO BETTER SUPPORT ITS COPS?

I've spent many of my years of service as a law enforcement administrator. When I discuss with other bosses the critical elements of an effective agency stress management program and programming that will better “protect and serve” their own personnel in dealing with the stress of the job, I identify the following:

- An organizational culture that balances caring and compassion with appropriate leadership and management and encourages cops under stress to seek help without embarrassment or stigmatization
- On-going training in stress management, including inoculation of recruits and literally a “cradle to grave” approach to stress management for cops, where this training becomes tailored to their time on the force, their specific duty assignment, and unique personal stressors, including pending retirement
- Involvement of all managers, supervisors, sworn and civilian personnel, and spouses of departmental personnel in training on the recognition of signs of stress and accessing agency resources
- Organized program of physical fitness for all agency personnel, regardless of assignment
- Support for proper diet/nutrition
- Critical Incident Stress Debriefing Team
- Peer Support Unit, recognizing that cops frequently will talk only to one of their own
- Police Chaplain Program, including recognition of the importance of the use of faith-based resources
- Employee Assistance Program (EAP) that understands the unique nature of police personnel
- Availability of professional psychological services, through mental health professionals with experience in working with law enforcement personnel, as a back-up for these other mental health services

In conclusion, stress is a “clear and present danger” in the working life of a police officer. Effectively dealing with it requires that officers recognize the warning signs which indicate that the danger is there, know where to turn for help, and are not afraid to seek assistance, even of a psychological nature, when it is needed. It requires that our culture change, that it recognize that acknowledging the need for help is a sign of the mental and emotional health, not the weakness, of our personnel. It requires that our agencies recognize that investment in an officer's mental and physical health, through effective training, fitness requirements, and psychological support, is an investment in the future of the agency. And it requires recognition by each of us that, as law enforcement officers, we are indeed our brother's and sister's keeper, especially during those times of immense emotional stress that each of us may sometimes face.

THE POLICE BENEVOLENT FOUNDATION CONDUCTS *BEHIND THE BADGE* SEMINARS ALL OVER THE SOUTHEAST. VISIT WWW.PBFI.ORG TO FIND ONE NEAR YOU.

"HOSTILE WORK ENVIRONMENT": A COMMON PHRASE THAT'S COMMONLY MISUNDERSTOOD.

BY DALE PREISER, SSPBA STAFF ATTORNEY



The SSPBA legal department receives calls weekly from members reporting that they are working in a hostile work environment. Employees who feel that their workplace is hostile should know that they are not alone and that the grass is not always greener elsewhere. However, what many people describe as hostile work environments often are not illegal. There are common misconceptions as to what a hostile work environment actually is. Even assuming that conduct and statements are rude, disrespectful or unprofessional, such conduct and statements do not automatically create an environment "permeated with discriminatory intimidation, ridicule, and insult" as required to establish a prima facie case under Title VII and §1981 for hostile work environment. "Title VII is not a general civility code for the workplace and its protections do not extend to everything that makes an employee unhappy."¹

A hostile work environment is a form of harassment. It exists when the workplace is permeated with discriminatory intimidation, ridicule, and insult so severe or pervasive that it alters the conditions of

the victim's employment and creates an abusive working environment.²

To have an actionable claim, the employee must show the following:

- They belong to a "protected group." Just because co-workers or supervisors do not like you or refer to you negatively is not enough. The unwanted conduct must be based on age, national origin, race, religious beliefs, sexual orientation,³ disability or some protected class as defined by national or state law.
- They have been subject to unwelcome harassment. The courts have held that shunning or ostracism by co-workers and supervisors is not automatically an adverse actionable case.⁴ "[S]imple teasing, offhand comments and isolated incidents, unless extremely serious, will not amount to discriminatory changes in the terms and conditions of employment."⁵ Profanity and vulgarity are not necessarily perceived as "hostile or abusive" in certain workplaces, but rather in certain settings, indelicate forms of expression are accepted or endured as normal human behavior.⁶ However, this does not give an individual carte blanche authority to make repeated deliberate sexually explicit comments specifically targeted at a particular employee. Such harassment may go far beyond ordinary socializing, intersexual flirtation, or indelicate forms of expression. The harassers are often just "bullies." (For an informative

read on bullying behavior, do an internet search for: "Are Workplace Bullies Sabotaging Your Ability to Compete?")

- The harassment must be based on the employee's membership in the protected class.
- The harassment must be sufficiently severe and pervasive to alter the terms and conditions of employment and create a discriminatory abusive working environment. The employee must "subjectively perceive the harassment as severe and pervasive enough to change the terms or condition of employment and the court must find that this perception was objectively reasonable."⁷ In making the objective determination, the following factors should be considered:
 - 1) The frequency of the conduct;
 - 2) The severity of the conduct;
 - 3) Whether the conduct is physically threatening or humiliating, or a mere offensive utterance, and
 - 4) Whether the conduct unreasonably interferes with an employee's job performance.⁸

Other points to be aware of:

- An employer may be liable for both negligent and intentional torts committed by an employee within the scope of his or her employment. The general rule is that harassment by a supervisor or co-worker is not conduct within the scope of employment.
- The employee must report, preferably in writing, each incident to the employer when it occurs.
- The employer will be liable for harassment by a non-supervisor or non-employee over whom it has control only if it knew, or should have known about the harassment and failed to take prompt and appropriate corrective action.
- An employer is liable for harassment by a supervisor that results in a

1 Davis v. Town of Lake Park, Fla., 245 F.3d 1232, 1242 (11th Cir. 2001).

2 Harris v. Forklift Systems, Inc., 510 U.S. 17, at 21 (1993).

3 In Davis v. Fred's Appliance, Inc., 171 Wn. App. 348 (2012), the Washington State Court of Appeals held that, being called "Big Gay Al" was not actionable because "perceived sexual orientation was not a protected class and thus the employee was not a member of a protected class." The employee was heterosexual, not homosexual.

4 Bozeman v. Per-Se Technologies, Inc., 456 F. Supp. 2d 1282, 1345 (N.D. Ga. 2006).

5 Hockman v. Westward Communications, LLC., 407 F.3d 317, 328 (5th Cir. 2004).

6 Gross v. Burggraf Constr. Co., 53 F.3d 1531, 1537 (10th Cir. 1995).

7 Mendoza v. Borden, 195 F.3d 1238 (11th Cir. 1999).

8 Harris v. Forklift Systems, Inc., Id. at 23.

negative employment action such as termination, failure to promote or hire, and loss of wages.

- The employer may avoid liability if it can show it reasonably tried to prevent or correct the behavior, the employee unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer, or there was an independent non-discriminatory reason for negative employment action.

It is typical for the law enforcement environment to change with every new sheriff, council, board, or mayor. You may be the “golden child” one day then “persona non grata” the next. The easiest way to weed you out, without paying unemployment, may be to make you want to quit.

Here are some suggestions for dealing

with the harassment. If the harassment is coming from an individual and not administration, let the aggressor know the behavior is unwelcome. Report the misconduct. Look at the department’s policies regarding reporting harassment and follow that policy to a “T.” Find an ally within the department. Seek medical attention, through employee assistance, or through your own medical provider. Documentation of emotional damage may aid in the award of damages if your case is successful. Filing a charge of discrimination/harassment with the Equal Employment Opportunity Commission (“EEOC”) is a prerequisite to filing a lawsuit. There are strict time limits on filing a claim, and going over this time limit may eliminate your chance to file a civil complaint. It is also recommended to seek legal counsel before filing a charge with the EEOC. The court may limit your

lawsuit to the allegations documented in the EEOC charge. Lastly, look toward your department’s policies on “Professional/Respectful Conduct.” Filing an internal grievance may be a possible way to resolve the issue.

As a final point, remember that there is no guarantee that everyone you work with is going to be pleasant. Law enforcement is a tough business, often permeated by coarse language and a command structure that can be difficult to deal with. Before assuming that you have a legal case, try to take an objective look at your circumstances. Talk with a trusted co-worker to try to determine if what you’re experiencing is unusual. Remember that, while the actions of someone at work may seem hostile to you, that doesn’t necessarily mean you have a legal case.

THE PBF ANNOUNCES THE 2012 RECIPIENT OF THE POLICE BENEVOLENT FOUNDATION SCHOLARSHIP FOR THE VAPBA

The Virginia Police Benevolent Association proudly presents Amanda Hood with the Police Benevolent Foundation Scholarship for the VAPBA Division. Amanda graduated from Chantilly High School in May of this year and plans to attend the University of Oklahoma. Amanda plans to pursue a major in architecture. Amanda’s father, Michael Hood, is a PBA member with the Fairfax County Chapter and is also a Fairfax County police officer.

“I’m so excited to start my college career and become an Oklahoma University Sooner,” said Amanda.

The Virginia Police Benevolent Association and the Fairfax County Chapter congratulate Amanda on her achievements.



(L-R) Fairfax member and Amanda’s father Michael Hood, board member Tom Tilden, Amanda Hood and board member Tom Thompson

VISIT WWW.PBFI.ORG FOR SCHOLARSHIP OPPORTUNITIES



**IGNORANCE
AND**

APATHY

“WE THE PEOPLE”

BY JEFF FLUCK, DIRECTOR OF GOVERNMENTAL AFFAIRS

Political scientists identify that the problem with politics in the United States is rooted in the public's ignorance and apathy toward government. When asked about government related issues of importance in their lives, a good portion of the populous responds with, "I don't know and I don't care."

Unfortunately, the integrity of a republic is dependent on the citizens "keeping watch" on their elected representatives. Ignorance and apathy will lead down a road from which tyranny will prevail. How much more true today is the warning given 54 years ago by then leader of the Soviet Union Nikita Khrushchev, speaking at the UN: "Your children's children will live under communism. You Americans are so gullible. No, you won't accept communism outright; but we'll keep feeding you small doses of socialism until you will finally wake up and find that you already have communism. We won't have to fight you; we'll so weaken your economy, until you fall like overripe fruit into our hands."

Are you, as a police officer, knowledgeable of the actions being taken by your elected representatives? Or, are you like too many Americans, content in your ignorance so long as you "get yours?" Past your paycheck, do you know what your elected "employers" are doing that affects your working conditions? How about your health benefits, your retirement? How are their actions affecting your home life? What are you doing about it? Or don't you care?

If you are employed at the local level, then there are elected officials at the state level who are also making decisions that impact your work and home life as well. This body passes laws, which you enforce. In many states, they set the details of retirement benefits. In all states they collect taxes and spend your money as "they" see fit. Do you make yourself aware of their actions? Are you involved in making sure they are aware of your needs and interests? Or don't you care?

"To compel a man to subsidize with his taxes the propagation of ideas which he disbelieves and abhors is sinful and tyrannical!"
- Thomas Jefferson

Then there is the United States Congress. Does it really matter what they do? Does it really affect where I work and live? Can I really make a difference in what they do? Have you found yourself asking these questions when referring to Washington?

Whether it is the state capital or the nation's capital, you can make a difference. The secret in being involved in your own destiny was best described by the 55th Speaker of the US House of Representatives, Tip O'Neill, when he proclaimed "*all politics is local*." No matter their office held, all elected officials in a republic come from, are elected by, and are answerable to, the people "back home!" For your liberties to continue, it is imperative that you become knowledgeable of and actively involved with **your** elected officials, local, state and national! Francis Bacon's quote from the turn of the 17th century rings true and more important than ever today: "*Knowledge is power*." Many people allow the media to provide them with all their political information. Unfortunately, politicians have effectively used the media to anesthetize the public to the dangers they pose. Described best by political commentator Michael Savage, as "*a patient being prepped for surgery, people are numb to the changes and won't have a clue what took place until they wake up in recovery and realize that free America has been removed and replaced with a regime that may parallel those of Stalin, Lenin, Mussolini, Hitler, Chavez and Castro*."

The power in this country was placed in "we the people." The only way that it can be relinquished is if we choose to give it away, voluntarily or involuntarily, through ignorance or apathy. When the people have the truth, they have the power, and that brings fear to many politicians. Thomas Jefferson affirmed this by stating, "*When the people fear government, there is tyranny; when the government fears the people, there is liberty*."

Of course, power is of no value unless it is turned into action. All the power derived from knowledge is wasted unless it is put into action. For your work life and home life to be what you wish for it to be, and remain that way, you must get involved. You cannot expect someone else to "take care of it" for you. The effort requires all to play a part. We cannot afford to be apathetic.

Are you ready to take a stand for your country, your profession, your fellow officers, your family and yourself? Become active in your local PBA. Become informed. Then become involved in making a difference! We all must take a stand. Alexander Hamilton described best the results of apathy: "*Those who stand for nothing, will fall for anything*." How about you?

This article expresses the opinion of the author and is not necessarily the position of the Southern States Police Benevolent Association.



SOVEREIGN CITIZENS BEWARE

BY TOMMY SIMPSON, DIRECTOR OF
ORGANIZATIONAL SERVICES-WEST REGION SSPBA

During 2012, several members in unrelated incidents within the Mississippi Division contacted the PBA about having encounters with persons known as “sovereign citizens.” In short, a sovereign citizen does not believe that the government has any authority over them. Some respond with violence to any government representative attempting to exercise authority over them. Others respond with fraud and trickery intended to cause the utmost problems possible for the representative.

We are aware of increased law enforcement contact with people of this mindset in Mississippi, and realize the need for a specific statute to address the fraudulent financial actions typically utilized by such persons. Recent legislative actions taken in Georgia, Alabama, and Tennessee were reviewed, and during the 2013 legislative session the PBA requested legislation be introduced making the filing of these fraudulent claims a crime. This legislation

passed the legislature and was signed by the governor. The new law became effective July 1, 2013. A copy of the legislation as signed into law by the governor is included at the end of this article.

The legislation was specifically designed to curtail the filing of false financial instruments against law enforcement officers and other public officials, in an effort to prevent them from carrying out their official duties or in retribution thereof. The filing of such false documents has become more and more frequent by persons identifying themselves as “sovereign citizens.” Generally, these persons will file such an action after having an undesirable encounter with a law enforcement officer, where they are stopped, cited or arrested. Numerous false filings have occurred in other states including Florida, Georgia, Tennessee, and Alabama. These false financial filings are essentially the recording of an fictitious unpaid debt, creating a lien or encumbrance against

a law enforcement officer’s property. Once filed, it can create problems with your credit rating, the sale or financing of personal property, and other financial and legal issues, until it is resolved through legal process. Neither the state of Mississippi nor the other states had laws in place to deal specifically with this issue until recently. Generally, issues related to the personal debts of a member are not covered under PBA legal coverage. In cases like this, however, where there is a direct correlation between the false filing of debt against a member’s property and his or her official duties, it would likely be a covered issue and should be reported to the PBA immediately.

SENATE BILL 2385 (As Sent to Governor)

AN ACT TO CREATE THE OFFENSE
OF OFFERING A FALSE INSTRUMENT
AGAINST A PUBLIC SERVANT;

TO PROVIDE PENALTIES FOR VIOLATIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1.

(1) A person commits the crime of offering a false instrument for recording against a law enforcement officer, public official or public employee if the person offers, for recording, a lien or encumbrance that relates to or affects the real or personal property, or an interest therein, or a contractual relationship of a law enforcement officer, public official or public employee, knowing that the lien or encumbrance contains a materially false statement or materially false information, with the intent to defraud, intimidate, or harass the law enforcement officer, public official or public employee, or to impede the law enforcement officer, public official or public employee in the performance of his or her duties.

(2) Any person who violates this section, upon conviction, shall be punished as follows:

- a. For a first offense, by imprisonment for not more than six (6) months or a fine not to exceed One Thousand Dollars (\$1,000.00), or both.
- b. For a subsequent offense, by imprisonment for not more than five (5) years or a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

SECTION 2.

This act shall take effect and be in force from and after July 1, 2013.

**TEXT
“NOTICES”
TO 27138**

**TO RECEIVE TEXT
MESSAGES FROM THE
POLICE BENEVOLENT
FOUNDATION**

*STANDARD TEXT MESSAGING RATES APPLY

ATTORNEY SPOTLIGHT



FRANCIS SPRINGER

Attorney Francis Springer has a long history with the SSPBA. Springer became an SSPBA member in the 1990s while a deputy sheriff with the Lauderdale County Sheriff's Department in Meridian, Miss. Later, Springer entered law school. Upon graduation he began the Springer Law Office, PLLC, in Madison, Miss.

Springer has represented numerous SSPBA members throughout Mississippi, including probable cause hearings, employment grievances, and officer involved shootings. "Officers have enough to deal with on the streets. They don't need to worry about the legal challenges against them as officers," says Springer. "I'm glad to be able to help take that worry away."

Springer is a member of the Mississippi Bar Association. He is admitted to practice in all state and federal courts in Mississippi, as well as the United States Fifth Circuit Court of Appeals. Springer primarily practices criminal, employment, and family law.

WWW.SPRINGERLAWOFFICE.ORG

(READ AN ARTICLE BY ATTORNEY FRANCIS SPRINGER ON PAGE 37)



THE LEGISLATIVE PROCESS: WHAT HAPPENED

BY DAVID P. WILLIAMS, PBA OF GA NORTH GEORGIA CHAPTER PAC COORDINATOR



The issues facing the law enforcement community are immense. The vast majority of us are dedicated to public service. We take this job knowing that we simply will not get rich and the demands are high. You are working in a community that has a high incidence of divorce and suicide. I, personally, know of two long time dedicated officers who took their own lives. Many that are reading this article may have been through a divorce. We are faced with a skeptical public and a scrutinizing press. Some of you may be employed in agencies whose management practices are not much better than the Neanderthal Era. I am sure that you realize that we are being asked to do more with less as most local governments are. In the southeastern region of the country, forget about any recourse in the court system. Now that I've convinced many of you to go ahead and retire because it's not worth it anymore, let's talk about the future.

What does our future hold? Do we just sit back on our backsides and let happen whatever happens? Based on the law enforcement community's track record, I certainly hope not. If we accept the status quo, then it probably is time to retire. Let's move forward. Former

House Speaker Tip O'Neill was quoted as saying "All politics is local." Political historian Charles O. Jones once stated that "Politics, like public policy, determines who gets what, who pays what." This is accepted doctrine in the political science community. I have, personally, talked with other officers about politics, and you sense how it leaves a "bad taste" in their mouth. Read the 1st Amendment and let's exercise our options. We are a special interest and as such let's protect those interests. You only do this through the political process. I have been provided with a list of House and Senate Bills that are currently setting in various committees in the United States Congress. I have seen a list of the supporters from both parties and those that oppose. It will be a challenging battle ahead of us. I am sure each state has their own stagnant legislation that would benefit our community. Police have a long tradition of being reactive in lieu of being proactive. How do we change?

Let me focus on the comments from former House Speaker Tip O'Neill. If we work for an elected sheriff, politics is involved. If we work for an appointed police chief, he serves at the pleasure of the local governing authority, so politics is involved even indirectly. There is simply no way around the influence of politics. In our chapter, we recently went through a process of interviewing candidates for sheriff. I would encourage you to go further with this to include the elected members of the local governing authority and your local state House delegation.

Then there is your federal representative to consider. Then there is your state governor. Every one of these elected officials, who seek reelection, has what the political science literature refers to as "reelection motives." Let's use these reelection motives to help support the law enforcement community's agenda. Word of caution here, I must say. Even if you interview every elected official, don't let it stop there. You may spend a little time preparing and doing the interview,

but once the interview is over and you give your endorsement, we can't just sit back. The endorsement is good, but work for your candidate. Also, stay in touch with your candidate over the full term of his office so they will not "forget about you." Keep your efforts in the minds of the newly elected official. If you let him forget about you, then you have wasted your time. If we are professionally aggressive protecting our interest, hold those elected officials accountable at the ballot box. I am sure you have had your feet to the fire, so let our elected officials experience the same.

Now, let me comment on Mr. Jones's quote. Each of our respective chapters are doing great in terms of helping those officers that have experienced some tragic event, and this is very noble and should continue. But, let's identify an agenda that will help every officer as we help determine who gets what and who pays what. I have already mentioned the stagnant legislation at the federal level, and I am sure at the state level as well. Use these reelection motives so that positive movement will take place. Perhaps other regions of the country have had better success, and their efforts may be a good case study. You may have counterparts that belong to other similar organizations as the PBA that would make great allies. Identify those allies and develop common, mutual interests. Work to have your interest on the agenda of your elected leaders.

This brings me to case law in the southeastern region of the country. You could probably say this is my own personal agenda that I would like to see changed. I have been told by some key decision makers the law enforcement community is simply SOL when it comes to recourse in the courts. I am not a lawyer, but I refuse to accept this as an unchangeable fact of our professional life. I, personally, am part of those protected groups with the Age Discrimination in Employment Act. Many of you may have Title VII protections. For those in our community that don't have these protections, what



about them? Our justice system is quite adversarial. I think we have an obligation to help steer our members through this intimidating phase. Many of our own agencies have a standard operating procedural manual that is quite lengthy and very vague that can be interpreted to suit the needs of senior agency managers.

This can be a maze as well that needs to be navigated through.

I mentioned earlier about being reactive instead of proactive. How can we become more proactive? The answer, through the legislative process mentioned above and by seeking exceptions to the practice of

“stare decisis” or letting the decision stand.

Our future holds one thing for sure. We will be needed by society. But, let’s simply avoid being reactive and become a lot more proactive.

TENNESSEE COURT OF APPEALS RULES THAT CITY DOES HAVE TO FOLLOW ITS OWN CITY CODE

SIGNIFICANT VICTORY FOR TENNESSEE LAW ENFORCEMENT OFFICERS

BY JONI FLETCHER, SSPBA DIRECTOR OF LEGAL SERVICES



More than two years after his termination from the Clarksville (Tenn.) Police Department, PBA member Jimmy Dill finally received official confirmation that the city of Clarksville had violated his due process rights. In November 2012 the Court of Appeals of Tennessee issued its decision in Dill’s case, holding that the failure of the city to follow its disciplinary procedure deprived Dill of his due process rights. The court went on to vacate Dill’s termination.

In August 2010, Officer Dill—a 23-year officer with the city of Clarksville—was notified that he was facing discipline in regard to a pursuit of a speeding vehicle in which he was involved. He was charged with multiple departmental violations and was terminated by his chief.

Pursuant to his rights under city code, Dill appealed his termination. However, rather than having the opportunity to appeal to a panel through the human resources department as provided by code and by the termination notice he had received, Dill was only provided a review of his termination by the mayor. The mayor stated he had reviewed the chief’s decision, and he affirmed the termination.

The PBA assigned attorney Pete Napolitano—a former police officer himself—to represent Dill in his appeal. Once the city issued its final determination, Napolitano filed Dill’s appeal into chancery court. The case was transferred to circuit court. When the circuit court judge issued his decision in early 2012, he acknowledged that the city had not provided Dill with the due process it should have, but he did not order Dill reinstated; instead, he sent the matter back to the city for their review. The PBA then authorized a further appeal to the court of appeals.

The court of appeals held that the city erred when it did not provide Dill with the minimum due process it had set forth in its city code. The court stated:

[City Code] sets out the disciplinary process the City must follow when imposing discipline on employees other than department heads or city officials; prior to discipline being imposed, the head of the department taking the action must “first forward the results of his or her investigation and decision, with all supporting documentation or materials, to the human resources department head. The human

resources department head will verify that the employee was afforded due process, and that the discipline is appropriate and generally consistent.”

The record shows that Chief Ansley did not forward the materials accumulated in the investigation of Mr. Dill to the human resources department prior to making the decision to terminate him, as required by Code... The failure to follow the disciplinary procedure violated Mr. Dill’s right to due process of law, as due process is defined in the Code, and the trial court’s subsequent return of the matter to the City of Clarksville was inadequate to cure the deprivation. Mr. Dill is entitled to relief.

In short, the court of appeals held that because the city had codified specific due process procedures for employees, the city was bound to follow those specific procedures. With its decision, the court of appeals effectively made it as though Dill’s termination had never happened, entitling him to reinstatement and back pay.

The PBA considers this a significant victory, not only for Jimmy Dill, but also for officers throughout the state of Tennessee. Too often, cities and counties feel freedom to disregard their obligations to their employees concerning disciplinary appeals. The Tennessee Court of Appeals has now made it clear that public employers can no longer ignore their responsibilities in providing due process.

THE SERIAL RACER: RACE FOR THE FALLEN EXPANSION

RUNNING AWAY FROM PTSD

GET ACTIVE AND GET INVOLVED

It's the consistent and uniform sound of high performance rubber and leather castings striking asphalt again and again. It's the feeling your body gets as drops of sweat fall from your face. It's the rush you get as you count mile markers mounting behind you. To a runner, there is nothing sweeter than the sight of a finish line after an exhilarating race, and it's the driving force behind the success of the Police Benevolent Foundation's Race for the Fallen (R4TF) Half Marathon and 5K.

2011 marked the inaugural year of what has now become one of the Foundation's signature fundraising events. Each year hundreds of individuals join their friends, loved ones and co-workers as they hit the trail as participants in this endurance run. Some hope to improve their time; some are fulfilling a lifelong goal; others are simply hoping to finish.

The R4TF event began with the hope of building a unique and enjoyable fundraising event, and that hope has birthed an annual race event with a dedicated following. Not only is it an excellent way to honor our local heroes who have given their lives in service to their community, but it also promotes healthy living and fitness in the Foundation's mission to reduce the effects of job-related stress in the profession of law enforcement. The R4TF event also seeks to promote unity and service within local communities by focusing on healthier, more active lifestyles for officers and the community as a whole.

Many people are aware of the dangers in the law enforcement profession as it relates to accidental deaths and attacks by violent offenders; however, few are aware of the lingering effects this danger has on the mental health of officers. PTSD (Post Traumatic Stress Disorder) is the result of exposure to such stressful situations. It can occur through repeated or long-term environmental stress, or it can also be the result of a specific incident. In either case, untreated and undiagnosed PTSD can and has led to increased rates of suicide among police officers.

Experts agree that, in addition to counseling, regular physical fitness activities like running and weight training can help decrease the harmful effects of stress – thus decreasing the incidences of suicide. R4TF is a launching pad to promote physical fitness within the community – and within the profession of law enforcement.

EXPANSION

The success of the annual Atlanta race has created an opportunity for expansion into other SSPBA service areas and state divisions. The Foundation, along with leaders in the PBA are currently in the process of organizing several additional R4TF events throughout the South. Our goal is to make the R4TF series the signature fundraising event of the Police Benevolent Foundation. We are working steadily to form partnerships and build relationships with running clubs, race timing companies and businesses in key expansion areas. We encourage all members and supporters to get involved either as a participant or as an organizing volunteer.

R4TF

Race for the Fallen

2013

LOCATION

CARTERSVILLE, GA
FLORENCE, AL

DATE

09.21.13
11.23.13

2014

LOCATION

ASHEVILLE, NC
WAVELAND, MS
COLUMBIA, SC
LEBANON, TN
ATLANTA, GA
RICHMOND, VA
FLORENCE, AL

DATE

03.01.14
03.29.14
05.10.14
06.07.14
09.20.14
10.18.14
11.22.14

*Proceeds from the R4TF Half Marathon and 5K support the families of fallen officers and the Foundation's *Behind the Badge* PTSD program.

REGISTER NOW: WWW.RACEFORTHEFALLEN.COM

SATURDAY, SEPTEMBER 21, 2013

R4TF **2013** **CARTERSVILLE, GA**

5K & HALF MARATHON

RED TOP MOUNTAIN STATE PARK
IRON HILL TRAIL
CARTERSVILLE, GA 30121

BENEFITING THE POLICE BENEVOLENT FOUNDATION

REGISTER NOW:

www.raceforthefallen.com



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AT LAW



PBA GOES TO COURT TO ENSURE THAT VIRGINIA DEPUTIES ARE PAID PROPERLY

BY CHARLIE CORDELL, SSPBA STAFF ATTORNEY

The Fair Labor Standards Act (FLSA) allows for law enforcement officers and firefighters to be paid on something other than a traditional 7 day, 40 hour work period. In fact, employers can choose anything between a 7 to 28 day work period with maximum working hours (overtime thresholds) between 43 and 171 hours.¹ While most non-exempt employees are entitled to overtime after working 40 hours in a work period, a law enforcement officer working the same 7 day work period is not eligible for overtime until he/she has worked at least 43 hours. These three hours between 40 and 43 are known as gap time; compensation for these hours is not governed by federal law.

In order to lessen the inequalities in the federal statute, the Virginia General Assembly amended the Gap Pay Act² to include law enforcement in 2005.³ The act requires all employers with at least 100 law enforcement employees to pay those employees time and a half overtime for any gap time hour.⁴

In 2010, PBA was made aware the Loudoun County Sheriff's Office had not been paying its officers gap pay, even though the law had been in effect for five years. Two years later, in 2012, members notified us the Frederick County Sheriff's Office had not been paying gap pay and was also in violation of the law. We assigned both requests to Leesburg attorney Caleb Kershner⁵ and his firm to pursue all claims on behalf of our members. When it was clear there would be no meaningful settlement offers, the legal department authorized the filing of two separate lawsuits against both Loudoun and Frederick counties.⁶ Attorney Tim Bosson then served as lead counsel on both cases.

The case against Loudoun County was tried in Loudoun County Circuit Court in January 2013. In addition to gap pay claims, the sheriff's office was accused of requiring officers to debit leave and flex their schedules to avoid the payment of overtime in violation of the law. After a two day trial, the judge found the county had unlawfully withheld gap pay from its officers, but found no wrongdoing by the

county on the leave debiting and schedule flexing issues. The judge awarded plaintiffs \$107,451.00 along with prejudgment interest and attorney's fees. Because PBA felt the judge's decision was only partially correct, our attorneys filed a motion requesting the judge reconsider his decision in June 2013. This motion was denied in August 2013.⁷

The case against Frederick County was brought in federal district court alleging violations of the FLSA and Virginia Gap Pay Act. After submitting the dispute to mediation, both parties agreed to settle the dispute for \$205,460.78.⁸ The settlement was approved by the judge on July 19, 2013, and the case was dismissed.

SSPBA understands that our members do not become police officers to get rich. However, members should be able to expect they will get paid everything they are owed by their employer. Sadly, employers' actions often do not meet those expectations, as these cases illustrate. When those actions impact PBA members, PBA will do its best to ensure that our members are paid properly under the law.

¹ 29 USCS § 207(k)

² Va. Code Ann. § 9.1-700 et. seq.

³ The 2001 statute only applied to firefighters. (See former Va. Code Ann. 2.1-116.9.7 et. seq.)

⁴ The law does not apply to the Commonwealth. (See Va. Code Ann. § 9.1-706).

⁵ Mr. Kershner's firm, Simms Showers, was engaged to represent the Loudoun County deputies in 2011.

⁶ Loudoun County in 2011 and Frederick County in 2012.

⁷ We will be appealing the decision.

⁸ This amount includes attorney's fees of \$60,000.

ALABAMA PRIVACY BILL

BY CHARLIE CORDELL, SSPBA STAFF ATTORNEY

In June 2012, a member contacted the legal department regarding the personal identifying information of police officers being published unredacted to the Alabama State Ethics Commission website. He asked us to determine if he had any recourse to remove his information from the website. Because this issue concerned our members' privacy and security, we immediately went into research mode and were disturbed by what we found.

Code of Ala. § 36-25-14 requires all public employees making \$50,000 per year and over to file a statement of economic interests. The statement is required to include the very personal information of the employee, including their name, residential address, spouse's and dependent children's names and addresses, and the names of their living adult children, parents, siblings and spouse's parents. Remarkably, the law made no provision for the redaction of information, except in the case of undercover law enforcement who file an affidavit affirming that publication would potentially endanger their families. Once filed with the Ethics Commission, the statements are published to the website in their entirety.

We next turned to other sections of the Alabama Code to determine if they provided any protections. They did not. The Public Records Act (Code of Ala. § 36-12-40) made no provision for the redaction



Representative David Standridge watches as Governor Robert Bentley signs the Alabama Privacy Bill

of personal identifying information. The only protection against the release of personal information of public employees was found in Code of Ala. § 41-13-7 and was specifically limited to state employees who are subject to the state Merit System.

Once we determined that most of our members had no legal remedy to keep their information private, we sent this issue to J.D. Hobbie, ALPBA Executive Director, for inclusion on the legislative agenda. The ALPBA division board voted to have a bill drafted for consideration by the legislature. Hobbie recruited the

assistance of Montgomery attorney Patrick Mahaney in drafting proposed legislation amending Code of Ala. § 41-13-7 to include protections for all law enforcement officers within the state. The proposed legislation was similar to a Georgia law that the PBA was instrumental in getting passed several years ago.

In February 2013, SB 268 was introduced in the Senate with eight (8) cosponsors. In committee, the bill was amended to include all active and retired judicial personnel. It was also amended to prohibit the public disclosure of personal information by the State Ethics Commission. SB 268 passed the Senate in April 2013 and was sent to the House of Representatives where it quickly passed and was signed by the governor on May 1, 2013. The law was effective August 1, 2013.

While you most likely joined the PBA for the critical incident coverage, this case shows your PBA membership is worth more. Had the PBA not intervened and advocated on our Alabama members' behalf, access to their personal information would still be freely accessible to the public and to those who might seek to do them harm. No one person standing alone would have been successful in getting lawmakers to act on this issue. The collective efforts of the PBA resulted in a victory for law enforcement officers in the state of Alabama.

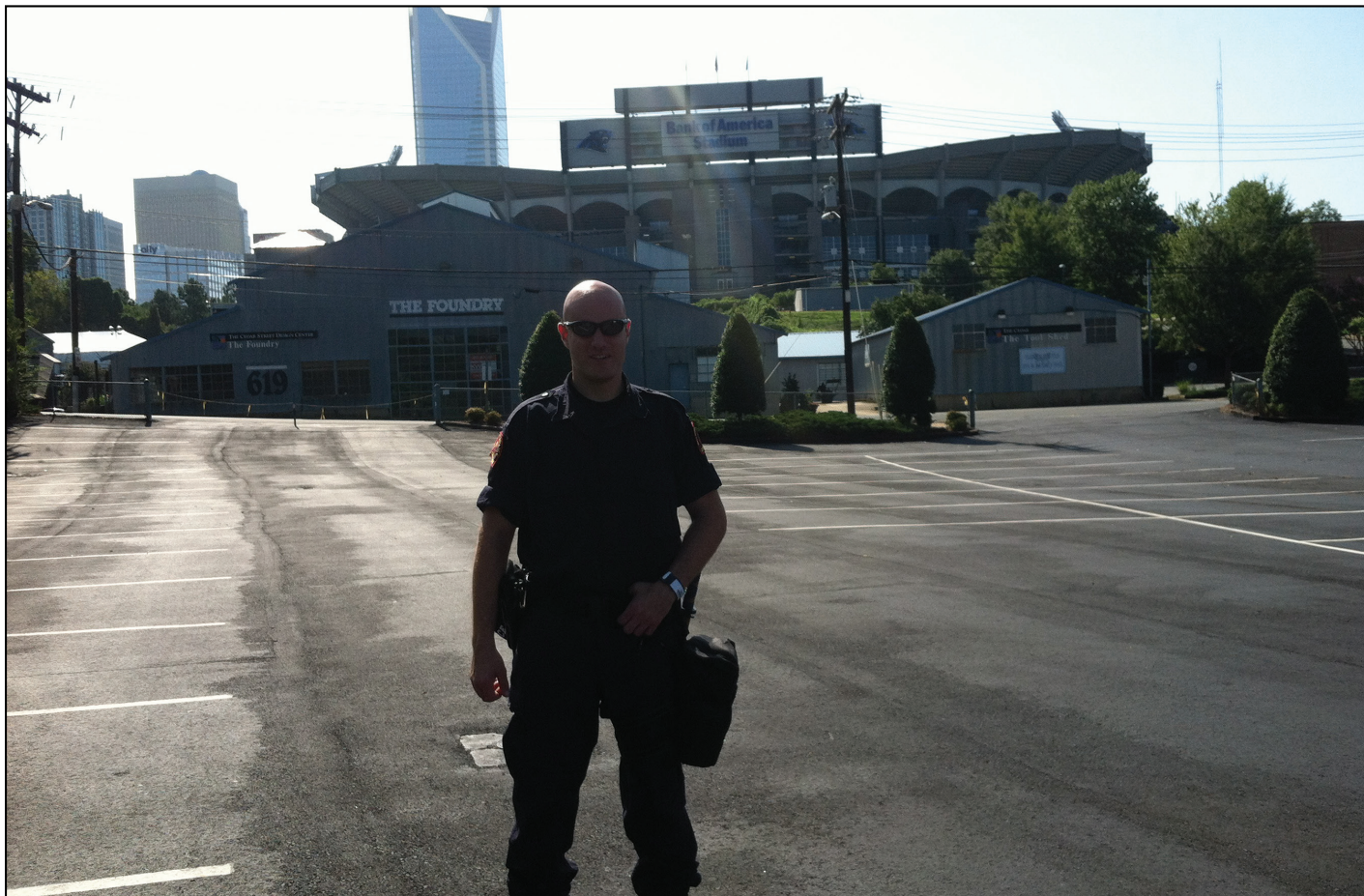
**FIND THE SOUTHERN
STATES POLICE BENEVOLENT
ASSOCIATION ON SOCIAL MEDIA**





THE OFFICER THAT WAS MY MOTHER'S HERO

BY HARVEY (CHIP) K. SLADE, NCPBA RALEIGH CHAPTER



H.K. Slade in front of the Bank of America Stadium in Charlotte, North Carolina

Why am I a cop? That question has a lot of answers. I do like to drive fast, and it is fun to shoot. I enjoy being in a fight if it's for the right reasons. I am good at problem solving, and I get a lot of satisfaction when I clamp handcuffs on a guy who's been preying on those who can't protect themselves. I could answer that question for hours. But if you were to ask me why I am a good cop, there is only one answer: I expect to find my mother at every call. I know officers who go to each call and make every traffic stop with the mindset that there is a depraved killer waiting for them. I've seen this approach taught in schools and academies, and I've had other officers argue this with me until white froth forms at the corners of their mouth. But for me, I always imagine my mother.

I feel some explanation is in order here. My mother was a bitter daughter of Irish immigrants living in the back woods

of Arkansas. She grew up in the Great Depression in a time and place where women were not allowed the dreams and opportunities the poorest American now takes for granted. She buried two husbands, ran a small business, and raised five children including two hellions, one borderline alcoholic, two democrats, and me, who I was told tested her patience more than all the rest put together. With a bat in hand, she once confronted a group of hippies who were waiting to spit on returning Vietnam War veterans. I am a 6'4", 210lb, Judo black belt, and on a good day she could take you, me, and the last guy to hand you your butt in a street fight. So when I say I approach every call as though my mother is there waiting, it in no means implies that I am doing so in anything but condition red.

As tough as my mother was, I remember the night she got into a car accident. Just a fender bender, really. Any city cop

takes three calls just like it in a given shift. A rainstorm popped up on a warm night. Mom dialed up the defroster and it fogged up her glasses. Then "crunch" went the rear bumper of the car in front of us as her 1964 Lincoln Continental pushed into it at ten miles per hour. I remember her hand slapping across my chest, the old 1970s equivalent of an airbag. I can still vividly see the red of the stoplight through the blurry prism of the rain-soaked windshield. I recall the loud slam as the driver of the other car threw his heavy door closed. I remember very clearly the unsettling feeling of seeing my mother afraid. Her hand shook as she fumbled for the hazard light button. She actually stuttered when the other driver asked her what her problem was. At the time, I couldn't understand what was happening with her. I realize now that she had never been in an accident before. She was a little lost (we just moved) and she knew she made a mistake, but she didn't



know what to do next. There were no cell phones in those days for her to call for help. It was just her and her very young child, in the rain, lost, with an angry stranger standing over her. My mother, from whom hickory could take lessons in toughness, was scared.

And then a cop showed up. He told her it was going to be all right. He took a minute to listen to her explain about the defroster. He helped her find the insurance card and registration my dad had tucked in the glove compartment. He didn't lecture her or make comments under his breath about what else he could be doing. He walked the exchange forms between each car, checked out the damage to make sure it was safe for her to drive, and despite the rain, managed to stay professional and maybe

even friendly. Could he have dealt with a cracked-out psycho killer? I don't know. But I do know that police officer was exactly the hero my mother needed that night. How much difference does it make? More than you can imagine.

In my house, you didn't speak badly about cops. If you got a ticket driving home from football practice, you were not allowed to blame the officer for catching you. If a policeman brought you home for doing something wrong, he was never questioned or educated on who paid his salary, he was thanked and assured he would not have to return for the same problem.

My mother passed away three weeks before I graduated from the academy. She never got to see me as a police officer.

However, she is the person I expect to find on every call. Each car I pull over, I deal with in a tactically sound manner, but also politely and professionally, even in the rain. When I get a 911 hang up call, I think about how embarrassed Mom would be that a police officer drove all the way out because she'd misdialled. Even though it takes time away from catching bad guys, I take a moment to say the things that would have put her at ease. When a traffic accident call goes out 15 minutes before the end of my shift, I think about my mother, scared and alone on the side of the road, waiting for a policeman to come and tell her it's going to be all right. And even though I could let the next shift handle that report 30 minutes later, I call dispatch and take it because I want to be that cop that was my mother's hero 30 years ago.

ARPBA EXECUTIVE DIRECTOR MOURNS THE LOSS OF ARKANSAS OFFICERS

BY SAM KELLER, ARPBA EXECUTIVE DIRECTOR

I want to start by offering my most sincere condolences to every family who has lost someone in the line of duty. The law enforcement community in Arkansas has had a terrible year so far. This is not meant for just the LEOs of our little state, but for all officers who work within the boundaries of the SSPBA. As of June 30, 2013, there have been six line of duty deaths in Arkansas alone. It is with a heavy heart that I write these officer names:

On February 1, 2013, Officer William McGary of the Conway Police Department was struck by a vehicle while directing traffic.

On March 2, 2013, Corporal Terry Johnson of the Sebastian County Sheriff's Office died in a vehicle accident.

On March 26, 2013, Director Larry Johnson of the 5th Judicial District Drug Task Force died as result of a heart attack in a foot pursuit.

On April 8, 2013, Deputy Hans Fifer of the Faulkner County Sheriff's Office collapsed and died during training.

On May 31, 2013, Sheriff Cody Carpenter of the Scott County Sheriff's Office drowned.

On May 31, 2013, Wildlife Officer Joel Campora of the Arkansas Game and Fish Commission drowned.

Arkansas is currently number three in the nation for loss of officers this year. Four of these six officers were members of the SSPBA. Why were the other two not? I cannot answer that question, but I can speculate. It could be that they had never been told what the SSPBA is or what it does. It seems that for some reason members forget to share the advantages and benefits that the PBA has to offer with our fellow LEOs. Maybe we don't know what the PBA offers, and therefore we don't share. Maybe it's because we feel that the monthly membership cost is unaffordable. Think about your family, what will happen if you pay the ultimate price like these officers did? The profession we have chosen is a brotherhood and sisterhood; we look out for each other every day. So why do we not share the PBA with our brothers and sisters, so we can help take care of them and their families in the event that something terrible should happen? I hope each of you will think about your fellow officers and spread the word about the PBA.



DISCOURAGEMENT IS A STATE OF MIND: THE INJURY

BY ROBERT WADE, TNPBA SOUTHEAST TENNESSEE CHAPTER

S ometime around two or two-thirty in the morning of July 19, 2010, I was driving on Ringgold Road near S. Germantown Road in southeast Tennessee. I heard the radio traffic as another officer attempted to make a traffic stop on literally the opposite end of town. Not that we immediately noticed or remembered the BOLO from earlier in the evening, but the vehicle he was attempting to stop for a light law violation matched the description of a vehicle that had earlier been noted as suspicious in the area of some recent late night burglaries.

The officer attempting to pull the vehicle over soon advised on the radio that the vehicle was refusing to stop. We very rarely have to specify to each other how seriously an evading subject is trying to get away or how interested we are in trying to catch the subject. You can usually hear the excitement in a fellow officer's voice when what he expects to be a mundane traffic stop turns into a chase. If the voice doesn't give it away, then the sudden appearance of the siren in the background of the radio transmission usually clues you in on what's going on before the initiating officer has finished advising the specifics.

With all of this in mind, let it suffice to say that the officer attempting a traffic stop on the other end of town quickly updated his situation to advise that the violating vehicle was refusing to stop. This information was soon coupled with the update that the fleeing vehicle was getting on the interstate and then heading towards my end of town. There was then a flurry of radio traffic, as is common in similar situations, as other officers began to advise their relative locations and what they were specifically positioning themselves to do in the way of assisting with the pursuit. One officer fell in behind the initiating officer. Another officer stated she was moving to a particular interstate entrance ramp that was near my location so that she could deploy spike strips.



Corporal Robert Wade, East Ridge Police Department

I figured that if the spike strip deployment succeeded in stopping the vehicle at that location, we would potentially need extra boots on the ground, so I hurried over to where she was. She successfully spike stripped the suspect vehicle just before I got there. My dash-cam video shows her throwing the spike strips back into her trunk. Knowing that the tires were deflating and a stop was eminent, I continued with the pursuing vehicles. Everything was taking place on the interstate at this point, and we were leaving our jurisdiction and entering a neighboring one.

I fell in as the third car in the chase. Several patrol cars from the agency, whose jurisdiction we'd now entered, also joined the pursuit. The suspect vehicle was still accelerating, but I knew the chase would be coming to a close because of the deployment of the spike strips. We soon slowed and exited the interstate to a city street near a hotel. The vehicle slowed to a predictable stop. We were all anticipating a possible foot chase.

Before the vehicle came to a complete

stop the passenger door swung open, and a man jumped out, well leapt out is probably a more accurate description. He hit the ground running and so did the rest of us. I distinctly remember cutting the steering wheel to the right before jumping out so that I didn't have to run around the front of the car as much. The fleeing suspect ran straight out of the side of the car and was moving fast towards the rear of a motel. I knew I wasn't the only officer chasing him. I could hear others behind me, but I was the closest one to the suspect.

He was running scared and fast, and I wanted to make up for the last one or two foot chases I'd been involved in. The last couple of people I had chased on foot had gotten

away. Being the overly analytical me that I am, I'd thought about those previous chases over and over, trying to figure out if I had made preventable mistakes that had led to bad guys getting away. Other than not being in good enough cardiovascular shape to sprint while wearing full duty gear and body armor without falling short of breath, I'd decided that my flaw had been failing to anticipate the foot chase. If I could keep from letting the suspect get a few seconds head start, I thought I could greatly improve my chances of catching them.

On this occasion I had gotten it right. I'd anticipated on the foot pursuit before it started. I'd even positioned my car so that it wasn't an obstacle. When the suspect bolted, I hit the ground running myself. I focused on the suspect and pumped my arms. I sprinted as hard as I could. By doing so I was gambling that if the suspect wanted to fight, I'd have enough strength, breath, and energy left over once I'd caught him to win the fight and handcuff him. It was all working too. As we began to reach the rear parking lot of the hotel I could tell that I was gaining



on him quickly. All I had to do was keep focused on his back and keep reeling him in. Out of habit, I guess, I yelled for him to get on the ground.

I fell and skidded to a stop so quickly that I didn't even realize it at first. By the time I'd realized that I'd taken a bad step, I was already on the ground, in a prone position. As a fellow officer ran by me he yelled to me and asked if I was okay. Without really looking I could sense that he was starting to turn around to come check on me. I did not want the suspect to get away because I'd tripped. I yelled back that I was okay, and when I said it I believed it to be the truth.

As he continued after the suspect I began to notice that my knees hurt. They hurt about like you would expect after falling on them. They were scraped up. My uniform pants were torn on both knees. All of this I noticed as I rolled over and sat up. Then I looked down and noticed that both knees looked like they were misshapen under the uniform. Each knee joint seemed longer than it should be. I began to notice a strange feeling in both knees. I look back now and think of it as a feeling of disconnection, but at the time I didn't know what to make of it. It just felt strange.

I used my hands to drag myself backwards and pulled myself up onto a curb. I made an effort to not move my legs. I didn't want to bend or straighten the knee joints at all. Another officer knelt down to help me. She slowly pushed my pant legs up over the knee joint so I could look at them. They were scraped up pretty badly, but that wasn't what we noticed. My fellow officer looked away from just a split second and then looked back at me. She'd gathered steady composure, but I'd already seen her eyes widen and her mouth open when she first saw them.

My knees were in actuality just as deformed as they had appeared through the ripped uniform pants. Both were swollen, much wider than they should have been. Both of my knee caps were about two inches higher on the knee than they should have been. It looked like each leg had two knee joints stacked on top of each other.

The pain was there, but it wasn't

excruciating. I really couldn't say the same for the visual image. All I could think was that my knees were broken, both of them. For some reason I associated this with never being able to walk again. I don't really know why. As other officers gathered around, I tried to watch as each one saw my knees for the first time. The reactions were always the same. Their eyes would widen and then cut away quickly. They'd then turn their head one direction or the other and start some small talk with whoever happened to be standing next to them. I didn't anticipate going into shock, but when it happened I think it helped that I recognized it for what it was.

Suddenly breathing very heavily yet somehow staying very short of breath while breaking out in a sudden and profuse sweat can be alarming if you don't know that it's just plain old shock. I remember a co-worker helping me get my duty gear and body armor off so that I could at least pretend that it was easier to breath. I laid down on my back when I thought I was going to pass out. It seemed less embarrassing to pass out while completely reclined than while sitting up. I don't really know why.

Eventually my breathing calmed back down, and I sat back up without having passed out. The paramedics soon arrived. They rolled up a stretcher, and one of them asked me if I could stand up and lay back down on the stretcher. Every cop there tilted their head to the side and stared at him like he was an idiot. I told him I didn't think I could stand up. He asked me to try and stand up, anyway. A co-worker of mine told him in no uncertain terms that wasn't going to happen. Then the paramedic asked me to try to straighten out one of my legs.

It seemed like a reasonable enough request, and both my knees had stayed in about a forty-five degree bend since I'd fallen. So, I gave it a go. Nothing happened. I flexed the quadriceps in my right thigh, gently at first but then with increasing enthusiasm. My leg offered absolutely zero response. When I told the paramedic that I couldn't straighten it, he asked if that was because it hurt too badly and suggested I try again and see. I told him the pain I felt was a constant pain

and didn't lessen or intensify as I moved my leg or flexed any particular muscle in my leg. But in the spirit of cooperation, I told him I would try again.

I flexed my hip joint to lift my boot up just slightly off of the ground to eliminate any friction between the boot and the asphalt, and I flexed every muscle in my right leg even remotely associated with straightening out my knee. It still didn't straighten. In fact, without the boot touching the ground to hold it in place, it started *bending*.

"No, no, no, It's going the wrong way," I said.

The paramedic told me to stop, and I did. I saw the wheels turning in his head, but I couldn't decide if that was a good thing or a bad thing. Then he asked me what was wrong with my other knee. When I told him I thought it was the same problem in both knees, I'm pretty sure he cussed. I don't remember, specifically, though.

Having perhaps slept through emergency medicine day at paramedic school, he then insisted that everyone should help me stand so that I could get on the gurney. So, instead of lowering the gurney and allowing me to climb and crawl in from the ground—which would have been easier for me, not to mention everyone else—everyone grabbed one or both of my arms and up I went. Something about seeing me physically unable to put even the slightest weight on either of my legs without the knee buckling must have affected how seriously the paramedic took the situation.

As soon as I was on the gurney, my knees assumed relaxed looking forty-five degree angles again. No sooner had I been placed into the gurney than did the paramedics begin using splints and straps to lash my knees into a completely immobile state. Seriously, it felt like every part of my legs from the hips to the ankles were lashed to something to hold them down. I gave a phone number to a co-worker so she could call my then fiancé (now, my wife) as I was loaded up in the ambulance, and off we went. I must have asked the paramedic in the back with me eight or nine times during the trip to the hospital if he thought my knees were broken. He never



would say one way or the other.

In situations like this you learn to appreciate your fellow officers and the things they do instinctively to take care of you. One co-worker called my fiancé and met her at the front door. Knowing that my fiancé had just stopped smoking cigarettes a couple months before, she handed my fiancé two Camel Lights while telling her that I had fallen and been hurt but was really, pretty much okay. My supervisor had enough forethought to key up with radio traffic that made sure no one gave me any morphine or other pain killers until after I had urinated in a cup. This, of course, was done to protect me from the possibility of an insurance company down the road challenging any potential workers compensation claim based on a drug screen. I don't know which co-worker drove my patrol car back to my house, but whoever it was didn't even mess with my driver seat settings. One thing that most people know but only law enforcement officers truly realize through experience: cops always have each other's backs.

When the emergency room doctor told me that I had managed to rupture the patella tendons in both of my knees, I focused in on the word tendon. I didn't really understand what he was telling me about the severity of my injury, and I distinctly recall half-wondering, half-hoping that since it involved injured tendons I would just be told to go home and ice it all down for a few weeks. When they said the word "surgery" and mentioned that it would have to be done that day in order to repair everything, it was the acknowledgement of what I knew but didn't want to admit to myself. Still, I was more prepared to hear it than my fiancé was. Her high level of worry and concern couldn't have been more easily magnified.

I was admitted to the hospital with surgery scheduled for mid-morning. I remember not really feeling all that nervous



"My living room was rearranged to accommodate the hospital bed I had to live out of for five months. On occasion, though, someone would help me out of the bed and onto the couch for some variety. My dog usually guarded me while I napped."

until they came to wheel my bed out of my assigned room and into the pre-operation area. Once in this area I was left all by myself for a little while, but it wasn't for very long. My chief soon made his way in to see me. That was an unexpected surprise.

"I had to badge my way back here," he said. "They almost didn't let me through."

"You mean they didn't know who *you* were, Chief?" I said. I was trying to be funny.

"They do now," he said with a laugh.

Then he asked me if he could pray with me before I went in to surgery. I accepted the offer, and he prayed with me right there in the pre-operation area for my healing. I'll never forget the kindness and genuine concern showed me by my top police administrator. I don't think the surgeon appreciated the chief's presence as much as I did.

"Discouragement is a state of mind, and we are able to control our attitudes."

He made his way over to my bed to go over the specifics of how he was going to cut my legs open and then fix them. In retrospect, he was probably also trying to figure out who the chief was and why he was in the prep area for the surgery

patients. After the surgeon introduced himself, Chief returned the favor, and he then laughingly told the doctor that he was going to have to do a really good job because I was needed back on the road the next day. The doctor didn't laugh. He didn't even crack a smile. He just looked at the chief and told him that wasn't going to happen. The doctor then went over the surgery procedures with me and made his exit, giving the chief a few stern looks along the way. The chief and I shared a laugh about how the surgeon didn't seem to appreciate his sense of humor.

The chief soon made his own exit, and not long after that, I was being wheeled into the operation room, pumped full of anesthesia, and succumbing to the chemically induced darkness.

When I woke up, my knees hurt worse than they had the entire time. But, there was a sense of having been "fixed." Eventually, I was able to look at the incisions. Each one ran vertically across the front of each knee. One was six inches long, and the other was seven. They were pulled together and stapled shut, and they zig-zagged. It wasn't that the surgeon didn't cut in a straight line when he made the incision. It was that by the time he got everything back where it was supposed to be on the inside of the knee joints, it distorted the incision into a much less straight line. It was time for the healing to begin, as they say.

I was in the hospital for three days. I was visited often by friends, family and fellow cops. I wore casts on both legs that ran literally from my ankles to about my hip joint for three weeks. After that, I was switched to leg braces that were locked out straight. The living room at my house was rearranged to make room for the hospital bed to which I would be confined for the next half-year or so. I spent eight weeks with my legs locked out straight, not even allowed to bend my knees when sitting or lying in the hospital



bed. I began physical therapy sessions in the fall of 2010 that lasted for at least a year and a half. I had been scheduled to be married in August, but since I was just barely out of the leg casts by the time the original wedding date came around, the date was rescheduled for early November. By then, I was allowed to walk without a walker, but I still had to walk with a cane and wear leg braces under my tuxedo.

In December of 2010, I was medically cleared for light duty and I made a surprise appearance at a SWAT training exercise. I wasn't able to move around very well, but I was able to drive myself, get in and out of the car, and walk without braces or a cane. I think most of the guys I worked with had assumed that I would not likely be able to walk again, much less come back to full duty work. I had to actually show up in person before they believed that I was able to even report for light duty.

I had been so anxious to get back to work that even light duty had been exciting at first. If I had only known how excruciatingly long I would be relegated to administrative tasks, I might not have been quite as excited. I was two months shy of the two year mark when my light



SWAT training after returning to full duty status.

duty restrictions finally ended in October of 2012. I made a stack of copies of the medical release and proceeded to hand them out at headquarters as if I was a local musician promoting his next concert. I had been deemed to have regained 95% usage and strength in both legs. Discouragement is a state of mind and

we are able to control our attitudes. I can remember reading comeback stories of officers shot in the line of duty and making dramatic returns to full duty in a matter of weeks while I was working on my second year of light-duty from a bi-lateral knee injury. Guys have literally been shot in the face and not missed as much time off the road as I did before being cleared for full-duty. It's always easy to feel discouraged and find a reason to doubt. However, if cops were the type of people to always do what was easiest, we wouldn't be cops. Police work is hard, but it is not harder than those of us who do it. In truth police officers are rarely pretty, often rough around the edges, and sometimes decidedly abrasive. We very often have trouble always getting along with each other. Collectively, though, we are unyielding and unstoppable. When one of us falls, the others are there to help, support, and encourage.

That is why it's great to be a cop, even on the days when the job itself is unrewarding at best. Everybody falls, but not everyone gets back up the way we do. That is why I'm proud to see the world from this side of the thin blue line.



4 weeks after surgery, at the doctor's office to trade in leg casts for braces



This is the picture I posted to Facebook when I was finally medically cleared to return to full duty. It was 29 months after the injury.



ATLANTIC CHAPTER BOARD MEMBERS ATTEND

**BY DAVID MATTHEW HANEY,
REGIONAL DIRECTOR / PAC
CHAIRMAN ATLANTIC CHAPTER,
PBAGA**

On May 20, 2013, the Police Benevolent Association of Georgia (PBA of GA) Atlantic Chapter Sr. Vice President Nick Ellis and I joined PBAGA Executive Director Joe Stiles in attendance at the 2013 Georgia Public Safety Memorial Ceremony. Held at the

Georgia Public Safety Training Center in Forsyth, Georgia, the ceremony honors Georgia law enforcement officers killed in the line of duty. Nick and I made the 220 mile trip from Southeast Georgia to Forsyth. I am embarrassed to admit, in my nine years as a law enforcement officer, I had not attended a ceremony like this. My primary purpose for attending this year was as a representative of my PBAGA chapter and as a show of support to the families and fellow brothers/sisters of the officers that were tragically killed.

The heartfelt stories told and the wide impact of each story on the friends, fellow officers, and families served as a sad reminder of the world we live in and the challenges we face. As police officers we may become complacent at times; however, ceremonies such as this serve as a stark reminder of why we should always remain vigilant.

As I somberly walked along the memorial wall, I was proud to see PBAGA engraved as one of the founding



2013 GA PUBLIC SAFETY MEMORIAL CEREMONY

organizations in 1997. In addition, we are also represented on the Georgia Public Safety Memorial Committee, assisting in the development of the selection criteria and standards for honorees.

Unfortunately, there are many to choose from around the country, whether it is a local or state ceremony or National Police Week in Washington, DC.

As I watched the grief stricken families accepting the plaque on behalf of their

"As I reflect back on my own humbling experience while attending the ceremony, I want to encourage every officer to attend a memorial ceremony such as this next year."

loved one, I couldn't help but imagine my family on that stage and pictured the grief they would experience if my name was called. I can only imagine the feelings the family members must have felt when they looked out into the audience and saw total strangers that have never met them.

Although I wish it was not necessary, unfortunately, there will undoubtedly be a 2014 Georgia Public Safety Memorial Ceremony. When that time comes, I hope to see you there.

LET ME TELL YOU ABOUT MY FRIEND, CHIEF RANDY BOYKIN, ENTERPRISE MISSISSIPPI POLICE DEPARTMENT

BY ANDY "SKI" MATUSZEWSKI, EAST CENTRAL MS CHAPTER PRESIDENT



Fundraiser for Chief Randy Boykin at Lowe's in Meridian, MS (L-R) Enterprise Officers Don Moore and Jason Melton, center behind table is Jerry Jordan, past chapter president; center in front of table, unknown contributor; right behind table is current chapter president Andy Matuszewski; far right is member of local news media after completing a live transmission.

As many of you know from the many texts, emails and social media posts produced by the PBF, our chapter lost one of our own on March 19th of this year. Chief Randy Boykin lost his life doing what he always did on a weekday morning during the school year, directing traffic at the main access road to the only high school in his primary jurisdiction. I say primary because Chief Boykin also served the broader community of Clarke County as a deputy along with his duties as chief of the typical Mississippi small town, population 526.

Chief Boykin was that kind of selfless servant. He was always willing to lend

a hand to not only do more than was needed, but often more than was asked of him. A mountain of a man, Chief Boykin cast a large shadow upon this earth not only by his physical presence but by the impact he had on the lives around him. A smile was never far from his face and he did his best to make sure he left you with one as well. Foremost in my thoughts as I draft this are his widow, Sandra and their two daughters, Amy and Jennifer.

I had a revelation while going through this tragedy with the Boykin family: It's strange how those who serve our community will often know so much about one another's lives without having really

spent any appreciable time with our respective families. Now I won't go so far as to say that Chief Boykin and I were close. Quite to the contrary, we were acquaintances who had on occasion over the last 13 or so years of his career found ourselves on the side of some dark country road together or just meeting in passing at a store or restaurant in town when our schedules aligned, which was rare enough. But, you see, my wife was raised in the small town that Chief Boykin was responsible for, so I rarely missed the latest news or events courtesy of her and her network of friends and family. Add to that the many emergency service friends as well as members of our chapter that I



would on occasion call on and you find a network of people who had been closer than the size of our two counties would indicate at first glance. Or, so I thought until that day.

That's when I learned what small town Mississippi, along with this great organization, was all about. I have been involved with this chapter in some form or fashion since its inception in 1997. However, until you find yourself as the one whose phone rings when tragedy strikes, you haven't really experienced the overwhelming support of the community that you and your brothers and sisters in blue serve. Rarely outside of a war zone have I ever seen the marshaling of forces being brought to bear on a common cause as I did in this case. Every gas station, grocery store and mom & pop roadside vegetable stand had banners and flags flying to support Chief Boykin and his family. Fundraisers popped up so fast that it was hard to keep up with who was doing what to try to keep duplication of efforts to a minimum.

After contacting the family for their blessing, the chapter leadership consulted via telephone, and the wheels started to turn. The PBF set up a bank account as a central deposit point for any and all who wished to contribute. Donations came in from far and wide via text and email as well as in person and via mail. I can't begin to express how important the support of our SSPBA office staff and in particular that of Western Region Director of Organizational Services, Tommy Simpson, was in pulling all of this off.

We made contact with our local Lowe's Home Improvement Store management who were happy to help and allowed us to set up in front of their business to solicit donations for this family. Lowe's has been a great partner to the emergency services in our area in that we had been partners in an annual safety day for children for quite some time. The media chipped in as well. I know, on crime scenes we often cringe to see them coming, but I'll promise you that a little understanding of their job when we are on the job goes a long way when one of our own needs some support. We set this up for Saturday the 30th of March, just 11 days after the Chief passed away. I can't tell you how many people told us that they would not have known about our benefit at Lowe's had it not been for the television and radio broadcasts as well as their remote broadcast from our location. This was in spite of the fact that the death of Chief Boykin had been lead story in our area immediately after the accident.

The day started fairly slow as we got a canopy set up with a banner that a local sign shop had made with Chief Boykin's picture on it. The Mayor of Enterprise was most gracious in allowing his only other two officers to come up to our location, which, incidentally, is in the next county, along with their patrol units for some quick and easy recognition. Did I mention that they had worked all night and were due back to work that evening? Things quickly picked up with the foot traffic on a busy clear Saturday morning. I was absolutely speechless when the first person walked up and dropped a

crisp \$100 bill in the bucket. The gentleman even tried to keep us from noticing. I couldn't fathom that in this economy people could dig that deep and show their support for this family and by association this brotherhood in blue. I thought that this gentleman's display of generosity would be the only one of its kind. However, I was wrong. This type of thing continued late into the afternoon. During the next several hours Chief Boykin's brother officers shook a lot of hands and gave many hugs. Support from afar showed up in the person of Tommy Simpson who once again displayed the selfless sense of dedication that has been his trademark since we first met over 16 years ago. We raised several thousand dollars that day. It's important to recognize the level of awareness that was raised in our community, not only about this tragedy, but the dangers that face each and every one of us on a day to day basis.

In closing, I will pass along this piece of advice. If you are that person in your chapter or division that is responsible for being the point man when a tragedy strikes, take the time to prepare a plan ahead of time. We plan for every contingency as we go about our day to day lives on the job. The same principles apply to your service to the families of our fallen brethren.

Stay safe, take care of each other, and may you all make it home to those who both need and love you at the end of the shift.

I WISH YOU KNEW

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NCPBA INVITED TO INVESTITURE OF CHERI BEASLEY AS ASSOCIATE JUSTICE OF THE NORTH CAROLINA SUPREME COURT

BY RANDY BYRD, NCPBA DIVISION PRESIDENT



(L-R) NCPBA Division President Randy Byrd, PBA Attorney Mike McGuinness, Associate Supreme Court Justice Cheri Beasley, and Executive Director John Midgette

On Thursday January 3, 2013, the North Carolina Police Benevolent Association was part of a select group of distinguished guests that were invited to attend the investiture of Cheri Beasley as associate justice of the North Carolina Supreme Court. The ceremony was held in the supreme court and was attended by district and superior court judges, former and current members of the supreme court, members of the NC Court of Appeals, Council of State members, members of the General Assembly, and friends and family of Judge Beasley.

Judge Beasley has been a friend of the PBA for many years and was endorsed in her first run for statewide office in 2008 when she was elected to the NC Court of Appeals. Judge Beasley graduated from Douglass College of Rutgers University with a double major in Economics and Political Science in 1988. In December 1991, she received her J.D. from the

University of Tennessee College of Law in Knoxville after completing a summer of law studies at Oxford University in England. From 1994 to 1999, Judge Beasley served as an assistant public defender in the Twelfth Judicial District. In 1999, she was appointed as judge of the District Court, Twelfth District, by Governor James B. Hunt, Jr. and then was elected to the North Carolina Court of Appeals. She is the only African-American woman elected to any statewide office in North Carolina without having first been appointed to the office. Judge Beasley was appointed by Governor Perdue to serve as an associate justice of the Supreme Court of North Carolina.

We are extremely proud of Judge Beasley and her accomplishments through the years. She has the keen intellect and temperament that are perfectly suited for her service on the supreme court. We are looking forward to her time on the court.

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IMPACT OF PBA ACTIONS YEARS AGO STILL BEING FELT IN GEORGIA

BY CHARLIE CORDELL, SSPBA STAFF ATTORNEY



Sometimes the PBA's involvement in an issue will result in the setting of legal precedent, as was the case in Georgia in the 1990s, when PBA supported litigation against a sheriff over the validity of civil service protection.

When he took office on January 1, 1993, the newly elected sheriff of Wayne County Georgia, David Herrin, terminated the employment of 17 deputy sheriffs and appointed new deputies to their positions. This is a common practice among elected sheriffs. What made this situation unique is that a few days prior, on December 28, 1992, outgoing Sheriff James Warren renewed a request he had previously made to include the positions of chief deputy, secretary, chief detective, detective, deputy sheriff, sergeant, and detention officer in the county personnel system. Sheriff Herrin truly believed he was not

bound by the former sheriff's decision. The county disagreed and continued to pay the displaced employees, while refusing to pay the newly hired deputies. The displaced deputies requested PBA assistance, and attorney Jim Chamberlin was assigned to represent them.

As a result of the disagreement, the county, with the support of PBA, filed suit against the sheriff and the new deputies alleging the sheriff had improperly terminated the former employees and had hired the new deputies in contravention of the county personnel system. The sheriff and new deputies filed a counterclaim against the county alleging the board of commissioners had unlawfully interfered with the operation of the sheriff's department by refusing to fund the positions. The trial court held that although the personnel system was properly adopted pursuant to Georgia law,¹ Sheriff Herrin acted within his authority when he refused to reappoint the 17 deputies.² Because neither side was satisfied with the decision, both sides appealed. Attorney Chamberlin filed a friend of the court brief advocating on behalf of PBA members.³

The Georgia Court of Appeals held in favor of the county and PBA members and found that once the positions were brought into the civil service system, the sheriff's authority to appoint deputies

was limited to vacancies created by removal of employees pursuant to the civil service rules, through resignation, and/or retirement.⁴ The court also held the trial court committed reversible error by not ordering Sheriff Herrin to reinstate the officers and when it ordered the county to provide the replacement deputies all pay and benefits.

As a result of the court's decision, most of the dismissed deputies were rehired, and the replacement deputies were dismissed. According to Joe Naia, one of the terminated deputies and now PBA of Georgia president, "PBA was instrumental in getting me and the other terminated deputies reinstated." Sometime later, Sheriff Herrin became a member of the PBA. He even came to appreciate the civil service system. Joe Naia stated that Sheriff Herrin came to believe having the civil service system made his job easier, as it permitted him to avoid political patronage issues that are rampant in other sheriff's departments that do not have civil service.

To this date, the principles set forth in this case still apply. Once a sheriff in Georgia requests his/her employees be brought into a county's civil service system, the sheriff's successors are bound by that decision and cannot subsequently remove employees from the system. This is just another example where PBA helped to ensure our members were treated properly within the system under which they were employed.

¹ O.C.G.A. § 36-1-21

² O.C.G.A. § 15-16-23 authorizes the sheriff to appoint deputies at his/her discretion.

³ Attorney Chamberlain also filed a federal lawsuit against Sheriff Herrin alleging constitutional violations and retaliation, which resulted in a settlement in 1996.

⁴ See *Wayne County v. Herrin*, 437 S.E.2d 793, 799 (Ga. Ct. App. 1993).

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THE BEST LESSON I HAVE LEARNED IN 20+ YEARS OF POLICING

BY BRIAN A. ECKELSON, TNPBA UPPER CUMBERLAND CHAPTER

As with many things in life, our perceptions of duty and responsibility change over time. Thinking back, I can remember when, at only 18 years old, I was stationed in Heidelberg Germany, as a U.S. Army Military Police officer. I was just a Private E-2 and was new to everything life had to offer. Having been raised in a small middle Tennessee town, I hadn't seen the world or experienced much of what life had in store for me... yet.

Heidelberg, Germany was known as "The land of the Generals." It was the United States Army Europe headquarters and I was responsible for keeping its streets safe. At least the streets of Patrick Henry Village housing area, the home of many O-6 Full-Bird Colonials and above, known as patrol 47-A.

I started my patrol that day as we did every day. I inspected my assigned patrol car: a mid-80's Volkswagen Golf, 1.4 Liter, 4 cylinder, 4-speed, diesel, maroon in color. Doesn't that just scream POLICE?

I performed a radio check with our dispatch, call sign "Daybreak" and began my patrol. As I exited the parking lot of the Provost Marshall's office (the M.P. station), I approached a three-way intersection. Directly in front of me, without due regard to the safety of others or the respect that I deserved as a law enforcement officer, a car travelled through the intersection without coming to a complete stop at a stop sign! I found myself in the prime position to correct the actions of this dangerous driver.

I immediately initiated a traffic stop and, upon contact with the violator,

found that I had stopped a 3-Star General. I presented a hand salute and informed the general that he was stopped for failure to come to a complete stop at a stop sign and issued a military traffic citation, a DD form 1408, for the infraction. I presented the general with another hand salute and sent him on his way, presumably a safer and better-informed driver. I felt confident that I had made the right decision and had conducted myself in a proper military manner. The next day, I was called into the Provost Marshall's (Military Police Chief) office. The Provost Marshall asked me about the incident and I explained to him that I observed the general, who just happened to be the post commander of Patrick Henry Village, run a stop sign and that I issued the citation for the infraction. He explained to me that the DD form 1408 is a citation that refers the recipient to their commander for corrective action and final disposition and that there is no fine or court proceeding associated with it. He congratulated me on a job well done and dismissed me.

As I left the parking lot, to begin my patrol the next day, I found that the general had indeed taken corrective action. The stop sign at the intersection had been taken down and replaced with a yield sign. The yield sign remained there until at least January 1992, when I left. I assume it still stands today, as a reminder that even though my duty was to provide a military police presence in Germany, my responsibility was to promote the safety of the American citizens, family members and armed forces personnel living and working in Heidelberg. As far as I know, there wasn't a single incident resulting in the placement of that yield sign in lieu of the stop sign. The biggest impact was on my ego.

If I could meet that general today, I would like to thank him for the perspective he gave me when I first began my law enforcement career, some 20+ years ago. I will carry that lesson with me forever. "Temper your law enforcement style to coincide with the best interest of the public, not your ego!"



NCPBA PRESIDENT COMPLETES FIRST YEAR AS A MEMBER OF THE BOARD OF TRUSTEES FOR THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

North Carolina Division President Randy Byrd recently finished his first year as an appointed member of the Board of Trustees for the Local Governmental Employees' Retirement System. Byrd was appointed in 2012 by Governor Perdue to serve a four year term.

The Retirement Systems Division of the State Treasurer administers the retirement and benefit plans that cover the vast majority of public employees in the state. The division administers both the public pension plans and the NC Supplemental Retirement Plans. The North Carolina public pension plans provide benefits for more than 850,000 North Carolinians, including police officers. The North Carolina Retirement Systems is the 32nd largest pension fund in the world and the 11th largest pension fund in the United States with over 81 billion dollars in assets.

The four largest systems and the Supplemental Retirement Income Plans are overseen by boards that maintain the administration and responsibility for the proper operation of each system or plan.

The Teachers' and State Employees' Retirement System (TSERS) provides benefits to all full-time teachers and state employees in all public school systems, universities, departments, institutions, and agencies of the state. The TSERS Board of Directors is composed of 14 members, including seven actively working employees or retirees, as well as seven public and appointed members who also serve on the Local Governmental Employees' Retirement System Board.

The Local Governmental Employees' Retirement System (LGERS) is maintained for the employees of cities, towns, counties, boards, commissions, and other entities of local government in North Carolina. Because participation by local governments is voluntary, the operation of LGERS is dependent upon the acceptance and continuing financial support



NCPBA Division President Randy Byrd sits on the Board of Trustees for the Local Governmental Employees' Retirement System in North Carolina

of the governing bodies and employees of local governments.

The LGERS Board of Directors is composed of 14 members, including the same seven ex-officio or public Teachers' and State Employees' Retirement System Board members, plus seven members representing local governments.

John Midgett, who serves as the executive director of the North Carolina PBA, had the following comments about Byrd's appointment and service on the board. According to Midgett, "Randy's appointment to the board came at a critical time in our division's history. Our public employee pension system is being scrutinized more than ever before and Randy's service is of paramount importance to the members the PBA serves." He added, "His presence on this board allows our members to have direct input about their retirement and serves as a balance to the constant legislative scrutiny that our system is currently under."

Byrd is a sergeant with the Cary Police

Department and a 21-year law enforcement veteran. He currently is assigned to field operations and is a District supervisor. During his tenure with the police department he has been recognized as the American Legion Officer of the Year and as a nominee for Employee of the Year for the Town of Cary. Byrd is a graduate of Campbell University and the Administrative Officers Management Program through NC State University.

Byrd has been a member of the Police Benevolent Association since starting his career and currently serves in two leadership positions. In late 2005, he was instrumental in starting the Cary Chapter of the NCPBA. Byrd currently serves as the Chapter President. He previously served as the state Division Legislative Chair and in 2009 was elected to his first three year term as the President of the NCPBA. Randy was re-elected to a second term as Division President in 2012.

In 2010, Byrd was selected by State Treasurer Janet Cowell to serve on the Future of the Retirement Study Commission. This 13 member commission met monthly for a year at the direction of the joint boards of the North Carolina Retirement Systems to provide recommendations for the retirement benefits that should be provided to future hires of state and local government in North Carolina.

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VIRGINIA NATURAL RESOURCES POLICE OFFICER CHAPTER OF THE PBA HOSTS FIRST OFFICER APPRECIATION DOVE HUNT AND BARBEQUE

Virginia conservation police officers and dignitaries met on October 20th 2012 at Mr. Rick Sharp's farm in King George Virginia for first officer appreciation dove hunt and barbeque. Hosts Craig Suro and Chris Rivers spent the afternoon with PBA members enjoying the beautiful fall weather and smoked pork barbeque. Also in attendance were Department of Game and Inland Fisheries Director Bob Duncan, Department of Game and Inland Fisheries Board Member Brent Clarke and Director of Virginia Department of Conservation and Recreation David Johnson. Although the birds did not cooperate, a good time was had by all. A box of clay birds and a skeet thrower provided target practice and an opportunity for some gun time.

The Virginia Natural Resources Police Officer Chapter looks forward to making this a yearly event that will promote fellowship and communication among the chapter, with agency leaders, and our elected officials.



Department of Game and Inland Fisheries Director Bob Duncan and Department of Game and Inland Fisheries Board Member Brent Clarke



Virginia Natural Resources Police Officer Chapter of the PBA and guests pictured at the first officer appreciation dove hunt and barbeque



YOU HAVE THE RIGHT TO REMAIN...EMPLOYED?

EXCEPTIONS TO AT WILL EMPLOYMENT IN MISSISSIPPI

BY FRANCIS S. SPRINGER, PBA ATTORNEY, MADISON, MS

As an officer of the law, you hear a lot about rights. You know the right to remain silent, right to an attorney, etc. Almost everyone you come in contact with is concerned about their rights. Some think they have rights that they don't. Others don't know the rights they do have. That being said, what about your rights? You have to honor everyone else's rights; who's guarding yours? What about your job? Do you have a right to keep your job? Sometimes you do, sometimes you don't.

When it comes to employee rights, Mississippi follows what is called the "At-Will Doctrine." That means without a contract, you work at the will of your department. You have no guarantee of keeping your job. You have no specified period of employment, such as six months, ten years, twenty years, etc. You have no right to an independent review before being fired. What happens when you hear that you aren't needed anymore? Is that the end? Do you turn in your badge and gun and walk away? Well, maybe, but not so fast. Like I said, Mississippi follows the "At-Will Doctrine," but there are exceptions. Let's look at those most likely to affect you, the law enforcement officer.

CIVIL SERVICE

Civil Service employees have an entire system of review that helps protect their jobs. The courts recognize that Civil Service employees have a property right to their jobs. If you are fired you can have a hearing before the Civil Service Commission. You have the right to have a lawyer represent you and attend this hearing with you. Having a lawyer represent you greatly reduces the chance that you will lose your job. Your lawyer will make sure you are not being fired without reason. Unfortunately, Civil Service jobs are rare in Mississippi. So if you are not Civil Service, then what?

EMPLOYEE HANDBOOK EXCEPTION

Many departments have policy and procedure manuals. Others are in the process of putting them together. Most of us are familiar with policy manuals. You may have signed for yours when you got hired,

or later when it was put in place. Essentially, these policy manuals are employee handbooks. In Mississippi, an employer that provides a handbook (policy manual) must abide by it *if* the manual outlines the way it will handle terminations. The Mississippi Supreme Court has ruled that if a department has a policy manual, it must be followed before firing an employee. For example, John is fired for a single act of "insubordination." If the policy manual says the first act of insubordination will be handled by a write-up, then John must be written up for this, not fired.

ILLEGAL ACT EXCEPTION

Sometimes an employee is threatened with being fired if he or she doesn't follow an order. That can be a valid reason for termination, but what if this order is to do something illegal? When you refuse because you won't break the law, you can't be unjustly fired. The Mississippi Supreme Court has ruled that an employee fired for refusing to participate in an illegal act can sue the employer for damages. Also, you can't be legally fired for reporting illegal activity in the workplace. The reason for this is obvious. The state doesn't advocate covering up crimes.

JURY DUTY

At one time officers of the law didn't have to worry about being called for Jury Duty. That isn't the case any longer. (I was summoned twice when I was a deputy sheriff and once so far as a lawyer.) Employers in Mississippi cannot legally terminate an employee for attending jury duty. In fact, any employer trying to persuade an employee to get out of jury duty can be held in contempt of court.

MILITARY LEAVE

Many officers also serve in the military. Any employer that fires an employee for taking active or reserve military leave can be charged with a misdemeanor. The department doesn't have to pay a salary to an officer on military leave, but it has to hold the officer's position, pay, rank, seniority, annual leave, and efficiency rating. In other words, time stands still.

WHAT YOU CAN DO TO HELP YOURSELF

If you think you are being wrongly disciplined or fired, you need to contact the SSPBA immediately. You need a lawyer to jump in and ensure that your rights are protected. Additionally, get involved with the SSPBA's efforts to change the laws to ensure you get due process before losing your job. The legislature works when it hears what its law enforcement officers want. Write letters. Make phone calls. It is your job. You have gone through a lot of training to get there. You need job security! Be safe!



ATTORNEY SPOTLIGHT



MICHELLE SPARROW

Attorney Michelle Sparrow has been representing PBA members in North Carolina for over ten years. Her experience as a former Wake County prosecutor has been an asset as she has represented many members in criminal investigations and shooting incidents. As she has expanded her office from Raleigh to Wilmington, Ms. Sparrow has continued to show an interest and a willingness to assist law enforcement officers in need of legal representation, and she has taken on employment and civil matters for PBA members as well.

One interesting PBA case that Sparrow handled arose last year in the town of Navassa. Officer Kevin Smith was a K9 handler for the town when a dog was donated to Officer Smith for use as a K9 officer in the town. When Officer Smith left the department, he took the dog with him. The town of Navassa then sued Officer Smith for possession of the dog, even though there was no K9 officer remaining with the town. It appeared as though the town intended to put the dog down once they obtained possession of it. Sparrow represented Officer Smith in an emotional trial which included testimony from Officer Smith and his wife who testified that the dog was like a family member. The judge ruled in favor of Officer Smith. In addition, the town refused to give Officer Smith vacation pay which he had earned during his employment. Again, Sparrow prevailed on Officer Smith's behalf.

In describing the Navassa situation, Sparrow stated, "The mayor and his followers believed they could use their powers as town leaders to further personal vendettas and agendas by refusing to give Officer Smith the vacation pay he was legally entitled to and by trying to falsely claim that Officer Smith's canine belonged to them. They believed they would be able to utilize the town attorney in the local court and easily prevail and that Officer Smith would not have legal representation. They were mistaken."

Sparrow is from Chapel Hill, NC and attended UNC-Wilmington and Mississippi College Law School. In addition to working as a prosecutor, she was formerly a litigator for a personal injury firm prior to opening her own practice in 2003.

"I have a great respect for law enforcement officers and the sacrifices and service to our communities that they and their families make to keep all of us safe," Sparrow said. In fact, Sparrow advised that she once had aspirations of a career as a police officer or social worker before deciding to go to law school. "Counseling and protecting the rights of those that serve through the PBA is a very rewarding part of being an attorney," she added.

WWW.MICHELLESPARROWLAW.COM



3 REASONS WHY YOU SHOULD JOIN THE SSPBA



1. THE LEGAL REPRESENTATION WE OFFER OUR MEMBERS IS THE BEST IN THE BUSINESS!

The 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. The PBA provides an attorney to protect your individual interests if you are named as defendant in any civil or criminal action arising out of your duties as a law enforcement officer. **NO CAP or LIMIT.** Other organizations say they can match our legal benefits, but in the end, the PBA stands alone on this one.

2. THE PBA TAKES A STAND ON LEGISLATIVE MATTERS THAT AFFECT OUR MEMBERS!

The PBA maintains a professional staff of lobbyists to aid in obtaining legislation beneficial to the law enforcement profession. If there is critical legislation out there that will affect your job as a law enforcement professional, the PBA is ready to take action and let your voice be heard.

3. THE PBA PROVIDES YOUR LOVED ONES WITH THE SECURITY OF ONE OF THE BEST DEATH BENEFITS PLANS IN THE INDUSTRY IN THE EVENT YOU ARE LOST IN THE LINE OF DUTY.

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.

*A full description of these benefits and all others that come with a PBA membership can be found by visiting www.sspba.org.



MEMBERSHIP GROWS WHEN LEADERS WORK TOGETHER

BY BRIAN HARBAUGH, TNPBA SECRETARY

There are many different environments that can cause PBA membership to grow. Sometimes these are negative environments, such as hostile working conditions or the presence of anti-law enforcement legislation. However, there are also positive environments that can grow membership, and that is what I have witnessed over the past year in Tennessee. Exceptional cooperation between the SSPBA leadership, the TNPBA, the Tennessee PBA recruiters, the Andrew Jackson Chapter, and the new Wilson County Sheriff has led to a 79% percent increase in membership from June 2012 to June 2013.

The development of this teamwork is rooted in the leadership of the SSPBA. Their allocation of recruitment funds reflects the belief that the strength of the SSPBA is in its members. Without this initial support, the rest of team would be challenged in their work and would find it harder to accomplish their goals.

However, money needs to be accompanied by skilled administration. This is where TNPBA President Beth Dyke has been essential. Her communication, guidance, and organization has equipped

and mobilized Tennessee PBA recruiters to effectively reach officers throughout the state.

My local Andrew Jackson Chapter has been fortunate to have the support of one of these recruiters, Mark Runnion. Mark's hard work has been a key factor in the tremendous growth we have experienced. His courteous manner has opened doors with local administrations that did not exist previously. This has created many opportunities for our chapter leaders.

The leaders who serve on the board for the Andrew Jackson Chapter have picked up this baton and run far to reach new members. James Lanier, chapter president, has been vigorous and persuasive in contacting officers and inviting them to join. He and his leadership team, vice-president Chris Luna and secretary Heather Hearn, have worked tirelessly to make good use of the resources that the TNPBA has provided.

They are now able to reach officers in places that were not available in the past. Thanks to the cooperation of the new Wilson County Sheriff, Robert Bryan, the Andrew Jackson Chapter is speaking

to officers at roll call, training, and other activities within the department. Sheriff Bryan has welcomed PBA representatives throughout the building, giving opportunities to both patrol and jail employees. This is a partnership that was never achieved with the previous administration, and it has certainly led to the addition of new members.

I've already asserted that the members form the strength of the PBA. The members of the Andrew Jackson Chapter have represented their organization well throughout the community. They have collaborated on events with the local FOP and have given their time and their leadership to organizations such as CASA and the local Child Advocacy Center. Their community involvement and positive word-of-mouth support has also contributed to our chapter's growth.

Because everyone involved has done their part to work hard and to cooperate with others, the Andrew Jackson Chapter has increased from 115 members to 206 members in just one year. I am proud to be a part of this chapter and a member of the state executive board.

WHY PBA DUES ARE A PRIORITY IN MY BUDGET

BY KELLY HARBAUGH, WIFE OF BRIAN HARBAUGH, TNPBA SECRETARY

I have been a law enforcement wife for sixteen years. I have also been the person in our marriage who has handled most of the budget and bill-paying over those years. Does this sound like the beginning of a tragic story?

Actually, during some of the last sixteen years, I was blessed with a very good sales career that allowed us to live comfortably. However, there were also years that were not so comfortable. I spent time as a stay-at-home mom with two small children on a patrolman's salary. We couldn't buy a pack of gum without working it into the monthly budget, and my grocery lists included plans for stretching leftovers into three meals.

There have been other lean financial times. Sometimes my work was "commission-only" and I would go weeks without a paycheck. I have also had to deal with two separate periods of unemployment, one that lasted over a year. During these leaner times, I have often had to trim the budget. "Trim" is a very diplomatic word; it was usually more like hacking it to pieces.

Let's be realistic. Law enforcement families usually do not have big entertainment and vacation budgets that we can reduce.



Kelly Harbaugh and her husband Brian Harbaugh

Cutting back often means hard choices between necessary things. It can be very tempting to start with something like membership dues.

I have been through this process enough times to declare myself an expert at it, and I will tell you this without hesitation: I have never canceled PBA in order to reduce the budget. The security that the PBA membership gives my family is worth infinitely more than the dues that we pay. I consider removing that security equal to canceling our homeowners insurance – the risk of financial ruin that it would open is not worth the cut.

It is naïve to work in law enforcement and think that you'll never have a need for an attorney. I think most experienced

officers would agree that it is inevitable that you will at minimum need legal advice. When I consider this factor, the PBA insures the highest-risk that we have as a family. It is for this reason that I give PBA dues high priority in our budget. That would be enough to justify the cost for me, but we also get financial protection if my husband died in the line of duty. We don't like to talk about those things, but it is another area where my family's risks are higher than most of our friends' and neighbors.' Any

law enforcement wife who has waited up for her husband when he is on a late assignment knows what it is like to pray that your husband comes to the door and not one of his co-workers. It has always been a comfort to know that I would not have immediate financial worries to deal with if the worst did happen.

If you are working through a similar budget struggle, I can appreciate the hard decisions that you have to make. However, I urge you to do everything that you can to keep PBA dues off of the chopping block. During a stressful financial situation, it is important to preserve security, protection, and peace of mind. This is what the PBA has provided for my family.

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NORTH CAROLINA PBA LEGISLATIVE REPORT

The following NCPBA Legislative report is provided from the 2012 Legislative Report as the NC General Assembly was still in session when the last issue of Blue Review went to print. Updates of the 2013 Legislative Session are available online.

2011–2012 LEGISLATIVE SESSION

The 2011–2012 session began at 12 noon on Wednesday, January 26, 2011, and adjourned at 12:15 p.m. on Saturday, June 18, 2011. The short session reconvened on Wednesday, May 16, 2012, at 12 noon and adjourned on Tuesday, July 3, 2012.

The 2011–2012 session produced a record number of gubernatorial vetoes, 19, with 11 being overridden by the Republican-led House and Senate.

Of the PBA's five legislative agenda items, three were carried over from the previous agenda and one became law. Not bad for a legislative year that saw the recession worsen leaving many bills, especially those with fiscal impact still on the table.

HB538, REMOVE RESTRICTIONS ON LEO DISABILITY BENEFITS

Sponsors—Representative Randleman, Dollar, Cotham, Faircloth

HB538 is a carryover from our efforts on this matter in the 2009–2010 session that closes a critical loophole in the law for officers and deputies who are severely injured in the line of duty in their first year of employment. As you will recall, this bill, previously HB697 sponsored by Representative Margaret Dickson, was stopped in its tracks by Representative Russell Tucker, a former town manager. Despite overwhelming bipartisan support, thirty-one (31) bill co-sponsors, and unanimous passage in the House the Homeland Security Committee, Representative Tucker was inclined to block the bill from ever being heard in the House Pensions and Retirement committee which he chaired. Not making the crossover deadline, the bill died.

Following a massive publicity campaign by the PBA exposing Representative Tucker's killing of the bill, Tucker did not seek re-election, and the PBA began its efforts to reintroduce the bill in the 2011 session. This time, HB538, with continued bipartisan support, passed and became law, but again, not without controversy. This time, the threat against securing a law to protect first year law enforcement officers permanently injured in the line of duty came, not from a legislator or the League of Municipalities, but from the chief lobbyist and executive vice president of the North Carolina Sheriff's Association, Eddie Caldwell. The reason for this obstruction was even worse. Following the unanimous passage of HB538 in the House, Mr. Caldwell sought to amend HB538 with a provision that would place Mr. Caldwell as a member of the North Carolina state retirement system. Despite only 15 years of service as a state employee over 20 years ago, Mr. Caldwell sought full unreduced benefits in the state retirement benefits.

Speculation that Caldwell's \$240,000 plus annual salary from the Sheriff's Association could yield him more than a \$135,000

a year state pension drew anger from more than just the PBA. Experts from the offices of the North Carolina Attorney General and State Treasurer warned that Caldwell's inclusion into the state retirement system could be unlawful and could risk the loss of millions of dollars and benefits to current and retired state and local government employees.

This surprising development required unexpected PBA advocacy at the expense of other PBA legislation. However, because of these efforts and the help of PBA's friends in the legislature, the "Caldwell" amendment was removed from HB538, which passed and was ratified into law as originally written. Additionally, a second effort to place Caldwell in the retirement on a stand alone bill by the Senate, was killed when at PBA's request, the bill was placed in the House Rules Committee where it died without being heard.

HB538 PASSED/RATIFIED (CH. SL. 2011-371)

HB602, LAW ENFORCEMENT FAIRNESS ACT

Sponsors—Justice, Dollar, Stevens, Glazier

HB602, the latest version of the PBA's due process bill for local law enforcement officers, had a different wild ride in the legislature but the same unfortunate results. After weeks of wrangling to get the bill to be heard, and despite 29 co-sponsors with tremendous bipartisan support and majority support in the House Judiciary B committee chaired by PBA endorsed House majority leader Skip Stam, HB602 still did not get to a vote. Calendared before the House Judiciary B committee on the last committee meeting before the crossover deadline, PBA was told moments before the bill was to be heard that it had been pulled "by forces from above." PBA later learned that one of our own primary bill sponsors, Representative Sarah Stevens, went to the House Speaker to get help in having the bill pulled. PBA believes that this occurred due to pressure applied to Stevens from the North Carolina Sheriff's Association.

HB602 HOUSE JUDICIARY B COMMITTEE NOT HEARD.

25 YEAR RETIREMENT

Note—due to current conditions in the economy, no bill on 25 year retirement was introduced at the PBA's request.

The PBA's legislative agenda on including Probation and Parole members into the LEO Retirement System will be introduced in the 2013 legislative session.

The 2012 short session provided a new challenge as the PBA sought to derail a local bill to establish a citizen's review board for Fayetteville police officers.

Beginning in January 2012, Fayetteville Mayor Tony Chavonne

and certain city council members sought to obstruct Fayetteville police officers from their lawful duties by passing an unlawful moratorium on consent searches.

After multiple attempts to persuade city officials from taking such action and several requests to meet with city officials were ignored, the PBA sought legal action against the city to block the unlawful moratorium.

It was with this background that the PBA sought to block the city of Fayetteville's efforts to seek legislation to create a citizens review board.

SB939, FAYETTEVILLE REVIEW BOARD

Sponsors—Wesley Meredith and Senator Eric Mansfield

Promoted as a bill to promote citizen/police relations, SB939 was intended by many to do just the opposite. The bill as written would have violated state personnel laws protecting police officers' personnel files and would have subjected officers to yet another layer of review that was not only unnecessary but could compromise officer safety and process. In addition, the motives and previously unlawful actions of the Fayetteville city officials requesting the legislation clearly added to PBA's opposition to the bill.

Upon understanding the PBA's opposition to the bill, SB939 co-sponsor Senator Mansfield advised PBA he would not support the bill. Following additional concerns from the Cumberland County Legislative Delegation supporting PBA's position, Delegation Chairman Representative Rick Glazier offered several meetings, including a conference with PBA and Fayetteville city officials to try and resolve differences.

This led to a final meeting with the PBA and the Cumberland County Legislative Delegation on June 27, 2012. A series of amendments to SB939 were proposed that would protect officer privacy and ensure fair treatment, accountability and transparency in the Citizens Review Board procedure. It was also proposed by Representative Rick Glazier that city of Fayetteville officials would meet with the PBA and mutually agree to specific procedures for the board before the process became law. The city agreed to all the amendments except the one requiring the city to meet with the PBA. Faced with the prospect of simply meeting with the PBA, the mayor requested that the bill be withdrawn by the delegation.

SB939 RE-REFERRAL COMMITTEE ON GOVERNMENT WHERE THE BILL DIED

OTHER BILLS OF INTEREST SUPPORTED BY PBA

HB271, PROBATION PAROLE/OFFICERS/NO CONCEALED CARRY REQUIRED

Sponsor—Guice

HB271 adds off-duty probation/parole officers to the list of persons who may carry a concealed firearm without being required to obtain a concealed carry permit.

HB271 PASSED/RATIFIED (CH. SL. 2011-243)

HB472, RUN AND YOU'RE DONE

Sponsor—Faircloth

HB472, first sought by the PBA in 1996, strengthens the felony speeding to elude statute by providing for the seizure, forfeiture, and sale of motor vehicles used by defendants in felony cases involving speeding to elude arrest. Seized vehicles will be delivered to the county sheriff where vehicles may be returned pursuant to limited mitigating reasons.

HB427 PASSED/RATIFIED (CH. SL. 2011-271)

SB762, ASSAULT ON LAW ENFORCEMENT AND EM WORKER/FELONY

Sponsor—Block

SB762, which also includes Probation, Parole and Detention officers, makes it a class I felony if a person inflicts physical injury on the officer while said officer is discharging or attempting to discharge his or her duties. "Physical injury" as defined by this legislation includes cuts, scrapes, bruises or physical injury that does not constitute "serious injury."

If serious injury occurs the punishment is raised from a Class I felony to a Class H felony but, it is worth noting that nothing in SB762 repeals GS14-32.4 which still makes it a class F felony to assault a person inflicting "serious bodily injury." Members should keep this in mind when deciding which charge to use when considering an assault on an officer scenario.

SB762 PASSED/RATIFIED (CH. SL. 2011-356)

HB642, JUSTICE REINVESTMENT ACT

Sponsor—Guice, Faircloth, Bordsen and Parmon

As amended, HB642 makes changes to conditions of probation and grants increased authority to probation officers in imposed sanctions on violators. The bill also sets a goal of a probation officer having no more than 60 probationers assessed as high or moderate risk of re-arrest.

Many other provisions are provided, and members should check with these agencies for further details.

HB642 PASSED/RATIFIED (CH. SL. 2011-192)

The PBA wishes to thank all our friends in the North Carolina General Assembly and those members who assisted in our lobbying efforts.

A special thanks to the local leadership of the Sandhills Chapter who was instrumental in lobbying efforts to protect members and their families from misguided legislation to create an extremely flawed citizens review board.

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