

Alabama

TROOPER

NEWS

Vol. 19, No. 1 • SPRING/SUMMER 2012



Colonel Hugh B. McCall
Department of Public Safety Director

ALABAMA TROOPER NEWS



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Colonel Hugh B. McCall
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ON THE COVER

Colonel Hugh B. McCall,
Department of Public Safety
Director. See interview, page 9.

Alabama Trooper News is the official publication of the Alabama State Trooper Chapter of the Alabama Police Benevolent Association, Inc., a non-profit organization made up of state troopers dedicated to the improvement of the law enforcement profession in the state of Alabama.

Alabama **TROOPER** *NEWS*

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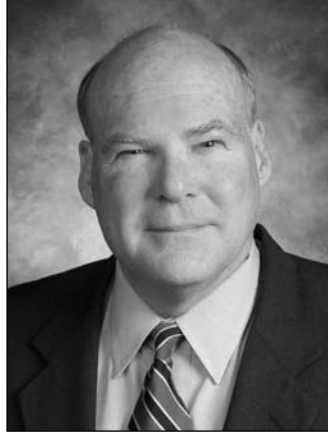
ALABAMA TROOPER NEWS

Editor's Corner

Greetings once again readers of *The Alabama Trooper* magazine! The past six months have been some of the most trying times in state government since the period of the Great Depression. The first members of the Department of Public Safety – the Alabama Highway Patrol – were organized on December 5, 1935, in the depth of the Depression. Seemingly, seventy-six years later, history is repeating itself and we are facing Depression-like cuts in state government.

The second year of Republican Governor Robert Bentley's administration is now well underway. The Bentley administration faces critical shortages in state funding necessary to maintain essential state services, and the likelihood of additional trimming of state personnel and state programs seems apparent. Governor Bentley and his staff are facing very difficult decisions – as this edition was being prepared, Governor Bentley ordered a 10.6% proration in state spending on top of the reduced state appropriations for FY 2011/2012. Most worrisome is the projected \$360 million shortfall in the General Fund for FY 2012/2013.

The state's economy continues to struggle, along with the national economy. Although there are several bright spots in the state's economy, particularly in the automotive manufacturing and new industrial ventures such as shipbuilding and steel manufacturing in the Mobile area, most of the state continues to suffer unemployment and underemployment. Presently, the state's unemployment rate is 7.6%, which is actually .2% better than the national unemployment of 7.8%. However, this high level of unemployment and underemployment reflects directly in tax revenue. Until the national economy recovers, the state's



tax base will not recover, and needed tax revenues will not be deposited into the state treasury. It may be honestly said: "The chickens have come home to roost." For many years – for over two decades – responsible leaders in state government have warned members of the legislature that a General Fund budget built on license plate fees, court costs, ABC store sales, and projected revenue from the Oil and Gas Trust Fund was like building a house on quicksand. Due to the economic state and national economic downturn since 2008, expected revenue projections did not develop – and deep cuts in the essential state services have resulted.

This issue focuses on the current Director of the Department of Public Safety – Colonel Hugh B. McCall – and Colonel McCall's goals and plans for the Department of Public Safety. Colonel McCall is a native of Montgomery and joined the Department in 1980 as a state trooper cadet. Colonel McCall has held every rank in the Department of Public Safety – from cadet to colonel. He served over 15 years in the Highway Patrol Division in west Alabama, initially as a trooper in Hale County and later as corporal in the Demopolis Post. In 1994, he was promoted to sergeant and was transferred to Headquarters staff. Colonel McCall successfully competed in every promotional examination – and usually scored at the top of every examination. Without question, Colonel McCall has acquired the "hands-on" day to day experience needed to successfully serve as Director of Public Safety. Colonel McCall has successfully served in every assignment and in every duty within the Department over the course of thirty-two years.

Until next issue, stay safe and continue to uphold the worthy motto of the Department of Public Safety! □

Then



The original 1935 Alabama Highway Patrol - December 5, 1935.

and Now



A recent 2010 photo showing the 'reconstituted' motorcycle assigned state troopers - photo taken summer of 2010 - 75 years after the date of the original service date.

Alabama Trooper Candida



Exclusive Interview with Department of Public Safety Director Hugh B. McCall

By Patrick Mahaney,
Editor, *The Alabama Trooper*

On Tuesday, March 27, 2012, Public Safety Director Hugh B. McCall agreed to an extensive, "on-the-record" interview with *The Alabama Trooper* magazine. Colonel McCall was gracious, open, and forthright in discussing the many issues and current problems confronting the Department of Public Safety. As most readers are aware, the Department of Public Safety is currently facing some of the most trying times in its seventy-six year history.

The latest requirement for an additional 10.6% proration, on top of previous years cuts and level-funding, has placed the Department and its' employees under severe stress. However, the Department of Public Safety is not alone in facing the consequences of proration. Other critical criminal justice agencies in state government are facing similar cuts: the Board of Pardons and Paroles now employs 96 fewer probation officers and employees than it did four years ago and the average case load for each state probation officer exceeds 200 probationers; the Department of Forensic Sciences is closing the Tuscaloosa office and has cut over thirty staff and analyst positions in the past four years, including critical positions in the Toxicology Laboratory, resulting in significant delays in drug analysis.

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The Department of Corrections has custody and supervision of over 30,000 state inmates and the state prison system is filled to 190% of capacity. In short, every criminal justice agency in state government has reached "the breaking point" and cannot reasonably be expected to continue in this fashion. It was with the recent grim news of another cut in state funding that Colonel McCall graciously agreed to an on-the-record interview with *The Alabama Trooper*.

Editor: Let's start this interview with discussing your background. You are now the most senior-serving officer in the Department, aren't you?

Colonel: As far as in the rank structure, I am one of the longest serving officers. Bobby Head [Lieutenant] was hired on prior to me [Trooper Class 78-A], but my career started on May 14, 1980 when I started as a state trooper cadet. That was the first cadet class that had African-Americans

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to attend. We went through a year-long program at the academy. Our program consisted of 'on-the-job' training and academic training - there was eight weeks of classroom instruction then a period of actual "hands-on" training for a period of two weeks with one of the units in the Department, and then we would go back to the academy for additional classroom training, followed by an additional period of field training. Then, we eventually got to where we were riding with the troopers on the road. We worked the radio, we worked in payroll, driver license file room, and other assignments - that's basically what the cadet program was; it was a great program because we had the opportunity for extensive training. For example, where the state trooper recruit class had accident investigation for two weeks, we had a month of training in accident investigation because we had more time to train.

I thought the trooper cadet program was very successful. If you look at the members of my class, every member of the class was promoted to supervisory rank, except for the ones who decided to not compete on the promotional

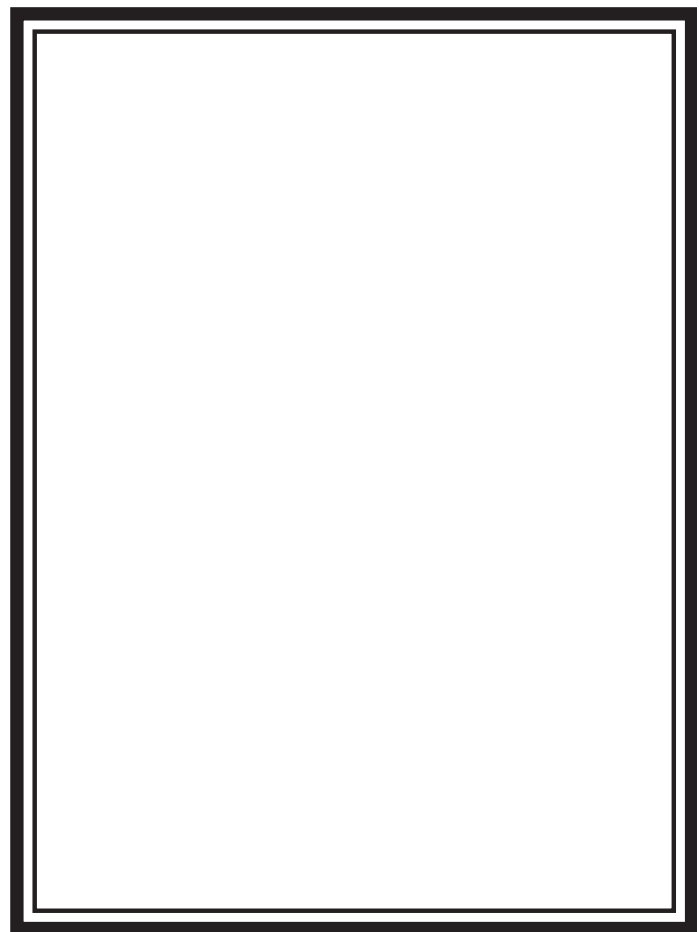
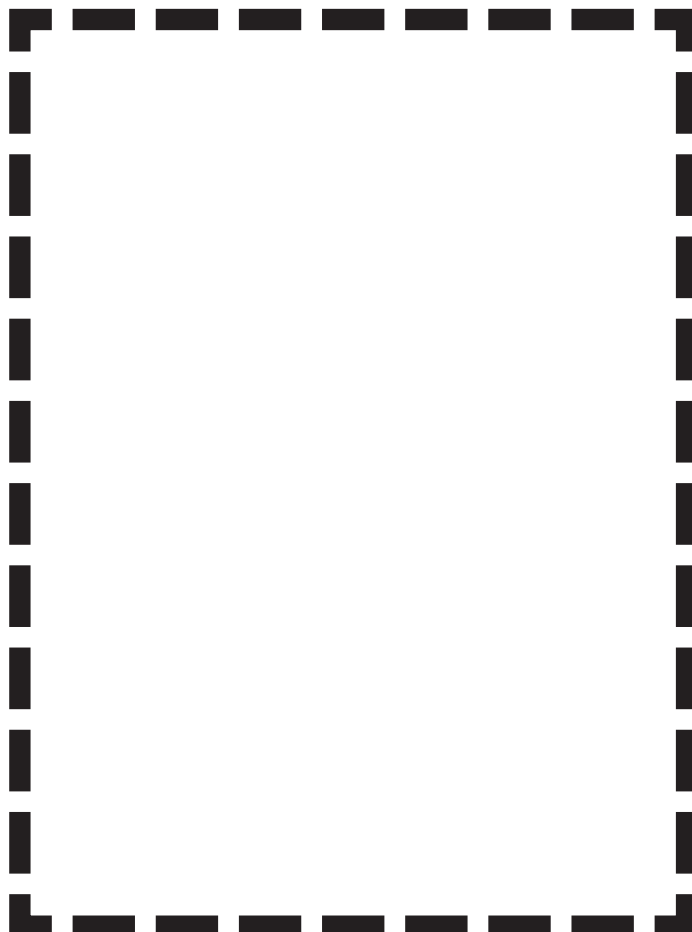
exam. One of my instructors was Harold Thompson [then corporal, later captain] - he was the trooper in charge of Cadet Class 80-A. Overall, it was a very good program.

Editor: The cadets had an entire year of training. The downside to the program was the pay scale was very low, wasn't it?

Colonel: It was \$389.50 bi-weekly. That was the cadet's pay.

Editor: It was cheap to run a cadet program in those days - you couldn't do that today, could you? Nowadays, you would have to compute how much it would cost to run the cadet program for an entire year before an arresting officer could be put in the field.

Colonel: That's right. You could run two classes of recruits and have them on the road before one class of cadets graduated...and that's the reason why we can't run a cadet program at this time. The cadet program would work great if our number of troopers were higher and we could use the cadet program to fill-in vacancies when the cadets turned

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twenty-one [years old], but at this time, if I had the funding, I would really want a recruit class so we could get people immediately on the road after twenty-six weeks of training.

Editor: What is the current manpower situation?

Colonel: The current manpower for the Department – all employees – is 1,261 employees. Of that number, there are 690 arresting officers.

Editor: Do you have a manpower study to determine the required or proposed sworn officer strength – what you ought to have?

Colonel: In 1996, when Major Larry Ray was Chief of the Highway Patrol, a staff study was undertaken to determine the recommended trooper requirement, at least for the needs of the Highway Patrol Division, the largest division in the Department. It worked out that the 'average' county in Alabama ought to have around five troopers assigned to each rural county, with more assigned in the more densely populated areas.

When I was assigned to Hale County, we only had two

troopers assigned. When one was off, the other trooper was on-call 24 hours. Sometimes you would go several days with only one trooper working in that county – and he would catch every traffic accident or call-out for several days.

Editor: By my calculations, taking into account the forty-hour work week and the need for five training days annually, and regular off-days, holidays, court days, and so forth, the average state trooper will work about 210 days per year.

Colonel: That's about right.

Editor: While at the academy for in-service training, is the fitness program underway?

Colonel: Yes, we have to have a fitness program that's going to continue for the entire time of a trooper's career – from the time they graduate from the academy until they retire.

Editor: It seems that there needs to be two prongs – a weight control component and a physical fitness-ability component. Every federal court case that I have read on physical fitness standards for police indicates that in-ser-

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vice officers need to be at least minimally fit for police service as basic recruits.

Colonel: That's right. We did modify the previous physical fitness standards to age-based criteria.

Editor: Since we are talking about the academy and training, let's go back to manpower – you have 690 sworn officers. Do you anticipate any increase in strength this year; is there any possibility of conducting a recruit class this year?

Colonel: There's no funding to provide additional troopers at this time. Our budget just doesn't allow it. In order to maintain and keep the present strength, I have obtained a 'COPS' grant [from the U.S. Department of Justice] in the amount of \$2.7 million per year. When the first cuts took place at the beginning of the year, I talked to the federal government and we placed 38 troopers from the state funding to this federal grant in effort to retain people. We can keep troopers under a COPS grant for up to three years. Hopefully, the General Fund budget will recover enough to allow full funding.

Editor: Is there any opportunity for additional COPS grant money?

Colonel: I think right now we have to move the current grant troopers off the present COPS grant before we can obtain additional federal funds. So, our challenge is to restore General Fund monies to the Department.

Editor: The Department of Public Safety, just like the other agencies of state government, is presently in proration. That's a 10.6% proration. What are your plans to deal with proration?

Colonel: During this period of proration, we are trying to provide the essential services of the Department of Public Safety – those services that are mandated by law. And I use the term "mandated by law" because there are a lot of things that we would like to do in the organization, but there are essential services that must be accomplished. We are mandated to protect the highways of Alabama, to investigate traffic crashes, to undertake 'Amber Alerts,' to investigate missing and exploited children, to test and issue dri-

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ver licenses; those are the major functions of the Department that we are mandated by law to accomplish. With the budget in the current condition, those are the functions that we will concentrate on.

Editor: That's a good point. When you and I came on the Department, driver licensing was just basically issuing a standard driver license; it was nothing the level of sophistication that it is now.

Colonel: That's correct. In those days [1980], the Driver License Examiner would give the test and then print the driver license, run it through a lamination machine, and issue the driver license.

Editor: CDLs did not exist; suspensions for non-driving activities did not exist; a variety of other issues involving driver licensing did not exist.

Colonel: That's right. In those days, Driver License Division was a relatively small part of the Department's work – now it is a major function for the Department. Driver License is now as major a part of the Department as is the Highway Patrol [Division].

Editor: There are a number of federal mandates that are associated with driver licensing, particularly in the areas of alcohol use and drug possession. Also, child support non-payment will result in loss of driver license; so there are a number of areas that Driver License Division must manage in addition to driver license testing and issuance.

Colonel: Another one is if the child doesn't attend school – there is a mandatory driver license suspension for school non-attendance...another area of driver licensing is the 'STAR' identification system that we are implementing.

Editor: What is 'STAR' ID? What exactly is that program?

Colonel: 'STAR' ID is more familiar to most people as REAL ID; it's the most secure form of identification. I must say that Alabama, even without STAR ID or REAL ID, already had the most secure form of driver license control in the nation, because we were making sure the applicant had a [valid] birth certificate and other forms identity. We were sending our Driver License Examiners to training on

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fraudulent identification and learning the various forms of identity before the STAR ID program was started. So, we already had a very secure form of driver license without STAR ID. This program shows proof of residence - that they live at that address. We even have address verification built into the system to show that the stated residence is an actual residence and not just an empty lot.

Editor: What about foreign nationals - the ones that are here legally on a visa?

Colonel: For the ones that are here legally, we give them valid driver license that clearly states "Foreign National" stamped on the upper part of the driver license and only after we verify their visa, in addition to other requirements. Also, a Foreign National driver license cannot be renewed; the person must make full application for a new driver license at the expiration of the driver license.

Editor: Let's get back to the issue of proration - that seems to be the most important issue right now. As I understand, there will not be any additional hiring until proration is ended by the Governor.

Colonel: That's correct.

Editor: How many more years can the Department go on without hiring new employees? There were 93 retirements - sworn and civilian- last year alone. When was the last recruit class conducted?

Colonel: The last class was a small class of 13 new troopers that graduated in December 2010.

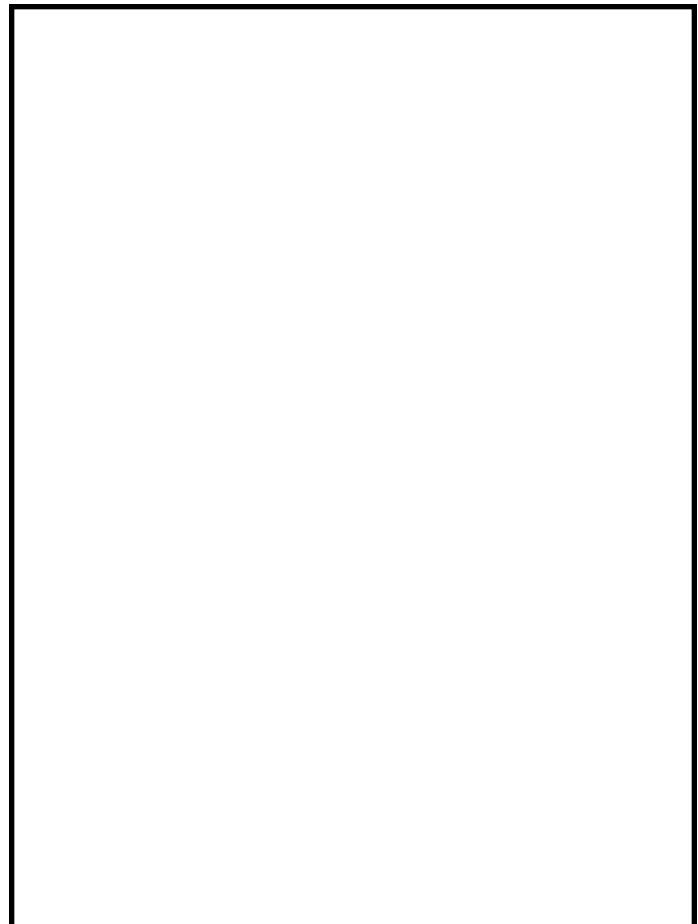
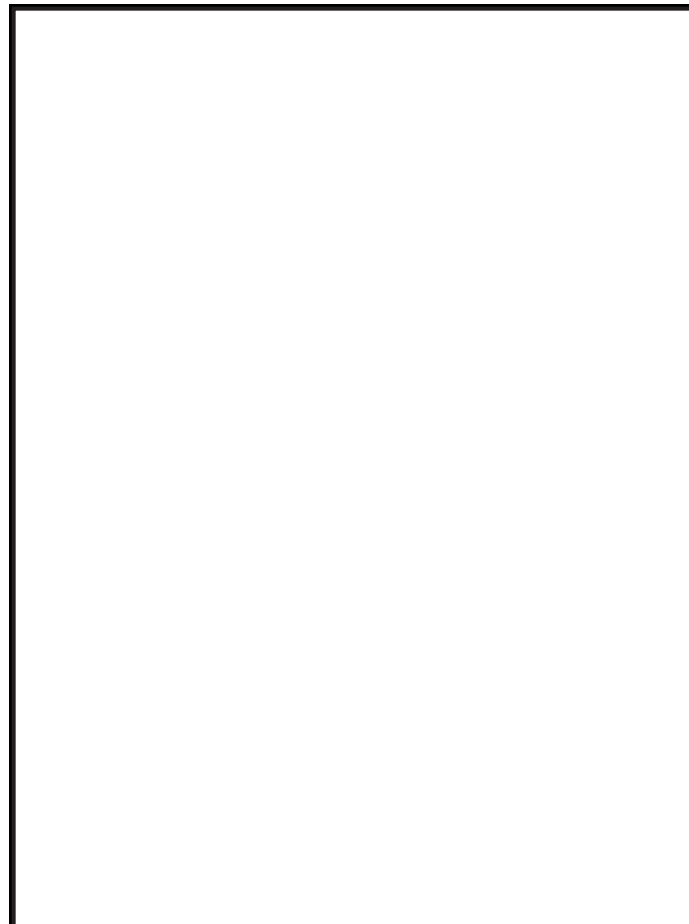
Editor: That's really a very small class for 2010, and there was no hiring at all in 2011?

Colonel: That's correct - unless the legislature appropriates additional funds, there will not be another trooper class in the foreseeable future. And you mentioned earlier about the cars - our patrol fleet is in dire shape and needs replacement. Over half of the patrol units have over 150,000 miles on the vehicles and we have some units still in service with over 200,000 miles on the odometer.

Editor: That's grim news. Is there any possibility of lay-offs because of proration?

Colonel: There's always the *possibility* of lay-offs, but

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the staff – the lieutenant colonel and the majors – are looking at every way to prevent lay-offs in all ranks and in all categories of employees.

Editor: I know all the employees appreciate that.

Colonel: Now, in regards to promotions, I can state there will be some promotions made in critical positions. I have to look at the budget and determine if the proposed promotion is to a critical position within the organization. I know in the past that just because we had a position vacant – such as a captain's position – it may not warrant a promotion to fill a position if the duties and responsibilities cannot be justified.

For example, in the major's positions – we are authorized six major positions, but due to attrition, we currently have four majors on the staff. I have had to consolidate two [major's] positions together because we don't have the funding to justify a promotion.

Editor: Can you explain that?

Colonel: What I did – we have an Executive Protection Division. That division chief position is currently vacant.

Since we don't have the funding to justify a promotion, I have not promoted a new major to that position; rather, I took the major currently assigned to the Administrative Division and merged the responsibilities for supervision of the Executive Security Division with the existing major's responsibilities. Same thing for Driver License – the current major responsible for Driver License Division is also responsible for supervision of the Service Division. Since we must maintain the current division structure, I'm not doing away with the position for major – I'm just currently operating with four majors where the State Personnel authorization is for six majors.

Editor: Do you have a dollar figure what that saved?

Colonel: It saved approximately \$10,000 in personnel costs per major position [the difference in annual salary between captain and major at top of the pay scale], so we saved approximately \$20,000 over an eighteen month period. And the reason we did this is because of money – I don't want to make a promotion and then have to lay-off an ASA

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I that's performing an important duty. Everyone who is working at DPS is here because we need them. If we didn't need them, we wouldn't have the position filled. We always say "We're family" and a family should look after family - so that's what we're going to do.

Editor: What about pay raises?

Colonel: There will be no pay raises in the immediate future. The Governor has signed an order halting pay raises. That's been going on since the last administration [Gov. Riley administration].

Editor: Surely that has been a negative morale factor?

Colonel: It has. Anytime you can't offer a pay raise on a regular basis, there is a morale factor on the employees. Money alone doesn't motivate the employees, but it's a good incentive to keep the employees working and performing at the high level of standards that we expect.

Editor: I hate to re-ask this question, but is there any possibility of increase in state funding?

Colonel: We have proposed several steps that the Finance Director is currently evaluating. [*Editor's Note: The week*

after Gov. Robert Bentley declared the 10.6% proration in state spending, state Finance Director Marquita Davis instructed all agency and department heads to submit suggestions for an increase in fees for state services, as well as innovative ideas that will improve state government services.]

Editor: Are there other cost savings that can be achieved?

Colonel: I was able to undertake a 38% reduction in [patrol car] mileage to help save money. It trickled down to trooper cars are restricted to 75 miles per shift. However, the units assigned to Driver License Division are in a different situation. When we send out a driver license trooper or driver license examiner to open a station, it's a fixed distance and that mileage cannot be reduced.

But overall - that's headquarters staff and other personnel - I want to see an overall reduction in vehicle mileage. That means riding two people together when necessary and making other cut-backs. And here is one more thing - if the Highway Patrol units will run stationary radar for 15 minutes every two hours, that would save approximately 60

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miles per shift. It only takes 4/10 of a gallon to idle [the engine in a stationary position] per hour, as compared to when the patrol unit is in motion. So there is a significant savings in gasoline costs when the patrol unit is stationary.

Editor: I remember when the Department had the 'gas crunch' back in 1979, and we were restricted to only 50 miles per shift. In the summertime, we held driver license checks that would run for hours! Standing on a hot asphalt road in July - we'd hold a driver license check for two hours, then move to another location and run stationary radar.

Colonel: But we thoroughly understand that the troopers have got to go work wrecks and other calls for service.

Editor: Speaking of calls for service - the patrol car situation sounds very serious. Is there any plan to undertake systematic replacement of the high mileage patrol cars? Obviously, you're going to have to replace cars at some point in time.

Colonel: I've had meetings with the state Finance Director. We are seeking funding now in effort to purchase new cars.

Editor: How many have been requested?

Colonel: We are requesting 300 new units. We have not received the new specifications from Ford [the Ford Taurus platform police interceptor], but what we are going to look for is the best vehicle on the market for the money. I don't have a 'pick' right now - we are evaluating all the models right now.

Editor: So you're looking at the best vehicle for the money?

Colonel: That's right - we have not made a selection.

Editor: Well, let me conclude - first, thanks very much for your time and interest in *The Alabama Trooper*. In my estimation, the Department is in the most critical condition for funding that it has ever been, at least in my time. As Director, how do you plan to work through this critical situation?

Colonel: The financial condition of state government is the worst it has ever been in my [thirty-two year] career; however, I do not want to focus on that - I want to still

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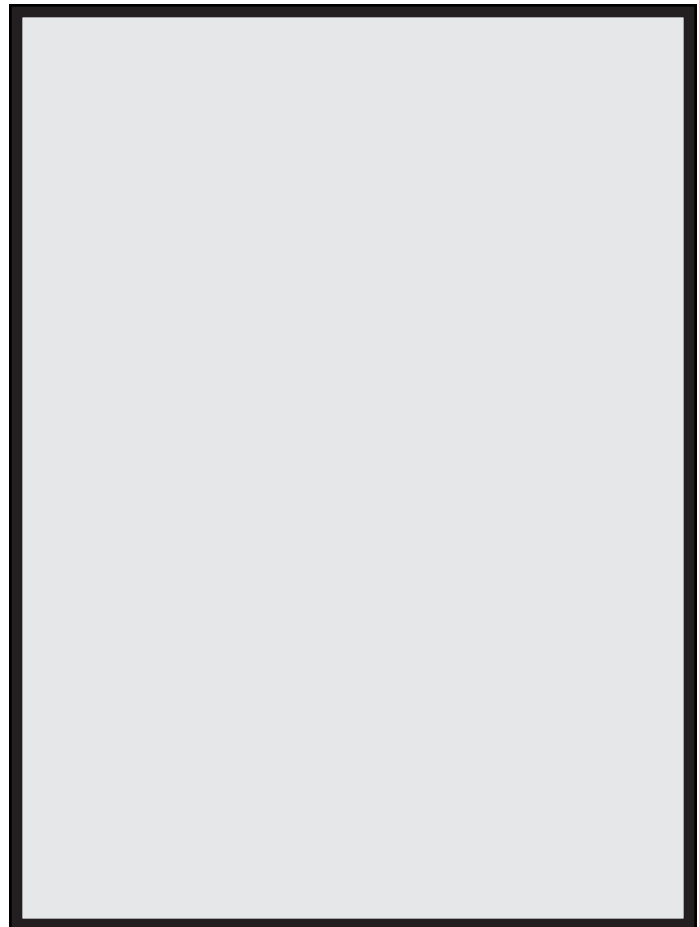
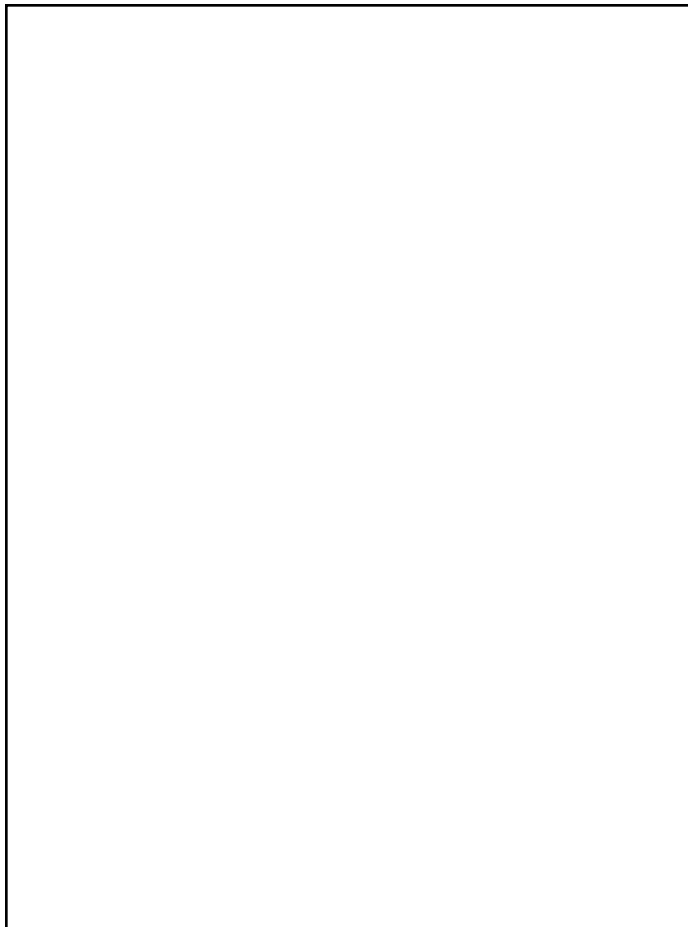
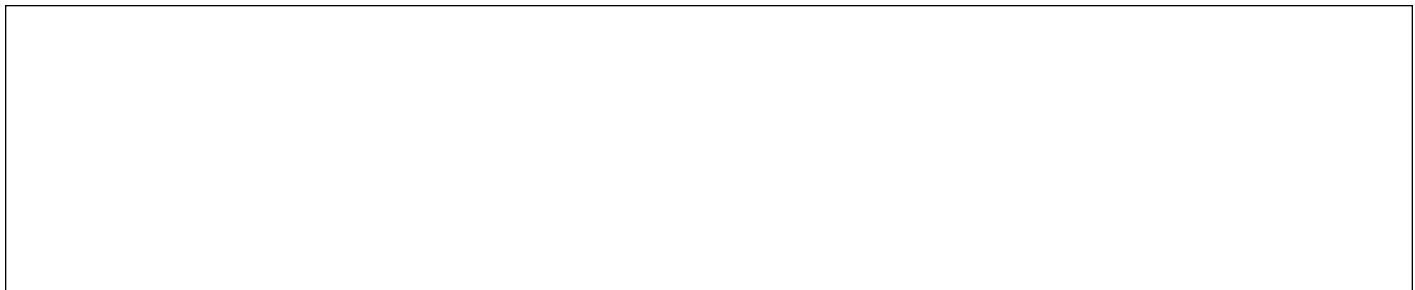
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focus on the mission of the Department to serve the people of the state of Alabama; to provide the safest highways and to provide those critical services of state government that are mandated by law. I don't want to concentrate on the shortage of funding; that situation is well-known. What we have to do is to overcome these challenges. I want to encourage all the troopers and support staff to perform their duties and responsibilities like they have in the past year.

We know things are tight. But we have always been an agency that can move forward.

We're going to use our funding wisely. We're going to use our Departmental time wisely as well. There are programs that we would like to implement, but with funding issues right now, we are going to have to stick with the mandates that are placed on the Department by law. □



Alabama's New Domestic Violence Law – Getting Tougher on Domestic Violence Offenders

By: Editor, *The Alabama Trooper*

On September 1, 2011, the new **Alabama Domestic Violence Act** came into effect. As many long-time law enforcement officers are aware, the crime of 'Domestic Violence' is a relatively new addition the Alabama Criminal Code. The crimes that incorporate the term "domestic violence" were first codified by the Alabama legislature in 2000. Previously, in 1995, the legislature amended Code Section 15-10-3 (8) to authorize a law enforcement officer to make a warrantless arrest when an offense involves domestic violence as defined by that section of the Code, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor.

Title 15 of the Code also requires: *"When a law enforcement officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complaint, and the disposition of the case."* In other words, an Incident/Offense Report (or comparable report) is required in response to every domestic violence complaint.

Under the revised Code section 13A-6-130 **domestic violence in the first degree** is a first degree assault under 3A-6-20 or aggravated stalking under 13A-6-91 and the victim is:

- a. a current or former spouse;
- b. parent;
- c. child;
- d. any person with whom the defendant has a child in common;
- e. a present or former household member;
- f. a person who has had a dating or engagement relationship with the defendant.

Domestic violence in the first degree is a Class A felony. A convicted offender on first offense conviction may be authorized probation; however, second subsequent offense

under this section requires the defendant to serve a minimum term of incarceration of one calendar year with no consideration of probation, parole, good time credits or any other reduction of time. The minimum term of imprisonment must be double (24 months), day for day, with no reduction of time if the defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process of violation of said order commits domestic violence in the first degree.

Under the revised Code section 13A-6-131 **domestic violence in the second degree** is a second degree assault pursuant to 13A-6-21 or:

- a. 13A-10-123 intimidating a witness;
- b. 13A-6-90 stalking;
- c. 13A-7-6 or 13A-7-7 burglary in the second or the third degree;
- d. 13A-7-21 criminal mischief in the first degree and the victim is in the class of persons set out above.

Domestic violence in the second degree is a Class B felony. If convicted of domestic violence in the second degree the defendant must serve a minimum sentence of six months day for day with no consideration of probation, parole, good time credits or any reduction in time for any second or subsequent offense under this section. The minimum term of imprisonment shall be double (12 months) if the defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process commits domestic violence in the second degree.

Under revised Code section 13A-6-132 **domestic violence in the third degree** is a third degree assault pursuant to 13-6-22 or:

- a. 13A-6-23 menacing;
- b. 13A-6-24 reckless endangerment;
- c. 13A-6-25 criminal coercion;
- d. 13A-11-8 (a) harassment;
- e. 13A-11-32 criminal surveillance;
- f. 13A-11-8 (b) harassing communications;

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g. 13A-7-4 trespass in the third degree;

h. 13A-7-22 and 13A-7-23 criminal mischief in the second or third degree;

i. 13A-7-43 arson in the third degree and the victim is in the class of persons set out above.

Domestic violence in the third degree is a Class A misdemeanor. The minimum time of imprisonment imposed under this section shall be thirty (30) days, day for day, with no consideration of any reduction in that time if the defendant willfully violates a protection order by a court of competent jurisdiction and in so violating commits domestic violence in the third degree. A second conviction under this statute, regardless of whether there is an order of protection in place or not, requires that the defendant serve a minimum of ten (10) calendar days in a county or city jail with no consideration of reduction in time.

A third or subsequent conviction for domestic violence in the third degree is a Class C felony. When computing whether a conviction for domestic violence in the third degree is a second, third or subsequent offense all convictions in municipal courts are counted.

As many law enforcement officers are aware, the offense of domestic violence takes place frequently, and is often accompanied by alcohol abuse on the part of the 'aggressor' violator. When a complaint of domestic violence is received, it must be fully investigated and a complete report submitted to supervisory authority. □

Alabama's New DUI Penalties

(Effective 09-01-2011)

1ST OFFENSE:

- ☑ **Jail term** up to one (1) year (*probation is authorized at the discretion of the court*); **and**
- ☑ **Fine** not less than \$600.00 and up to \$2,100.00 **plus** court costs; **and**
- ☑ **90-day driver license suspension** OR **one year driver license revocation**. No "work permit" is available at all.
- ☑ **Ignition Interlock device** installed on the defendant's vehicle for two years if convicted under "**Aggravating Circumstances**"

2ND OFFENSE WITHIN FIVE YEARS:

- ☑ **Jail term** of not less than five (5) days and up to one (1) year (*mandatory 5 day sentence* OR 30 days community service); **and**
- ☑ **Fine** not less than \$1,100.00 and up to \$5,100.00 **plus** court costs; **and**

- ☑ **One year driver license revocation** – No "work permit" is available at all.
- ☑ **Two-Year Ignition Interlock requirement** on defendant's vehicle starts **after** the driver license revocation period ends.

3RD OFFENSE WITHIN FIVE YEARS:

- ☑ **Jail term** of not less than sixty (60) days and up to one year (*mandatory 60 day sentence; probation is NOT authorized*); **and**
- ☑ **Fine** not less than \$2,100.00 and up to \$10,100.00 **plus** court costs; **and**
- ☑ **Three year driver license revocation** – No "work permit" is available at all.
- ☑ **Three-Year Ignition Interlock requirement** on defendant's vehicle starts **after** the driver license revocation period ends.

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continued

4TH OR SUBSEQUENT OFFENSE WITHIN FIVE YEARS: (CLASS C FELONY)

- ☒ **Imprisonment** for a term of not less than one year and up to ten (10) years; **and**
- ☒ **Fine** not less than \$4,100.00 and up to \$10,100.00 *plus* court costs; **and**
- ☒ **Five year driver license revocation** – No “work permit” is available at all.
- ☒ **Five-Year Ignition Interlock requirement** on defendant’s vehicle starts after the driver license revocation period ends.

“DOUBLE MINIMUM PUNISHMENT” Penalty: If convicted of DUI with a **test result .15% or greater**, the court is required to impose “*double minimum punishment.*” Fines and jail terms automatically double. **If convicted of first offense DUI with a test result of .15%**, the driver license is *revoked* for one year.

AGGRAVATING CIRCUMSTANCES: “Aggravating Circumstances” require ignition interlock on first DUI offense for any of the following: (1) Refusing the breath test; (2) Breath alcohol test result is .15% or greater; (3) A child under 14 years of age was in the vehicle at the time of the DUI offense; or (4) Someone other than the offender was injured at the time of the offense. *Ignition interlock is required on all second and subsequent DUI convictions, without regard to circumstances or conditions.* □

