



Fraternal Order of Police

BlueNote

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January - February 2021

President's Message

By Randy Hagler – State President

Welcome to the January/February 2021 issue of the official publication of North Carolina Fraternal Order of Police, The BlueNote. If you receive this publication via email or download it from the ncfop.org website, please share it with all your law enforcement friends, family, and supporters. It contains important information concerning our organization and law enforcement across the State.

My hope is each one of you had a Merry Christmas and Happy New Year with some time off to spend with family and friends. It seems like only yesterday it was Thanksgiving, and we were all looking forward to the Christmas season and what it would bring. I know many of you had to work long hours over the holidays and it is sometimes difficult to enjoy them but please do not take anything for granted. We just never know what is around the corner.

Unfortunately, December was a deadly month for law enforcement officers in North Carolina. We tragically lost three officers in the Line of Duty. On December 1st, Nash County Sheriff Deputy Jared Michael Allison succumbed to injuries sustained in a motor vehicle crash on Thanksgiving Day which occurred while he was attempting to stop a motorcycle. Then on December 11th, Mount Holly Police Officer Tyler Avery Herndon was shot and killed while responding to a burglary in progress call at a car wash. Other officers returned fire and wounded the suspect, who is currently in jail charged with First Degree Murder. Then on December 16th, Concord Police Officer Jason Shuping was shot and killed while investigating a car crash and attempted carjacking. Another officer was also wounded by the suspect but is expected to make a full recovery. Responding officers exchanged gunfire with the suspect and he was killed. Our thoughts and prayers go out to the families of these fine young men who were trying to make a difference in this world by serving as law enforcement officers. We also pray for the officers who worked with Deputy Allison, Officer Herndon, and Officer Shuping and the others in those respective agencies. All three young men have left a positive mark on our profession by the way they lived their lives and carried out their mission as law enforcement officers. We will never forget them and their service to their community.



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The Voice of Law Enforcement

Chaplain's Corner

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On December 15th, I joined many law enforcement officers at First Baptist Church in Kings Mountain, N.C. to pay our respects to Officer Tyler Avery Herndon, who was shot and killed in the line of duty. On December 16th about 11:00 PM there was breaking news that a Concord Police Officer was shot and killed, and another officer shot with non-life threatening injuries. Concord PD is a short distance from Kings Mountain. Two tragedies so close together in space and time.

These incidents of law enforcement officers being killed in the line of duty by violence is not only heart breaking for the families, but for law enforcement families across the country. These are happening too frequently.

We add to this total, 302 line of duty deaths to officers from COVID as of December 16, 2020. We need positive ways to get our inward feelings out, and not bottle them up which will lead to all types of sickness.

In many areas of our lives, we are daily reminded of the possibility of some type of crisis. How are we to remain focused in a positive way and keep ourselves healthy physically, mentally, emotionally and spiritually. We certainly know that it is helpful to stay active with exercise, eating right, communicating with family and friends, and reading good books which will help maintain some type of good health.

I have looked at what has encouraged me and others in crisis, and I found that knowing God is still on the throne can help our focus. Many times, when crisis strikes, some of the most basic truths are forgotten in the panic of the moment. In Psalm 46:1, "*God is our refuge and strength, an ever-present help in trouble.*"

When you are in trouble and you are feeling pain, loss, hurt and frustration, it is easy to forget God still rules. With all that is going on in our lives, our circumstances appear to be unbearable. Remember God has not forgotten about us, and He is at work. God tells us to rejoice in everything. In the book of James, He certainly is not suggesting you should rejoice because you hurt or that you rejoice because you have suffered loss; but you rejoice because even in the midst of difficulty, God is at work.

"James, a servant of God and of the Lord Jesus Christ: To the twelve tribes scattered among the nations. Greetings. When all kinds of trials crowd into your lives, don't resent them as intruders, but welcome them as friends! Realize they come to test your faith and to produce in you the quality of endurance. But let the process go on until that endurance is fully developed, and you will become a person of mature character and integrity with no weak spots." James 1:1-6

God's Word can be great counsel for us. The psalmist said, "*Before I was afflicted, I went astray.*" Psalm 119:67. But when afflictions came, he found the Word to be a light unto his path. God's word gives us the information we so desperately need to make right decisions about every part of life.

God's Blessing,

Chaplain Phil Wiggins
NC State Lodge Chaplain
Cell: 919-451-2801

President's Message

By Randy Hagler – State President Continued From Page 1

NCFOP State Lodge Committees

The committee assignments have all been made. For those who asked and were appointed to a State Lodge Committee, we appreciate your willingness to serve. The only bad thing about making committee assignments is we are unable to place every person on a committee who requested to serve. Vice President Gaddy and I worked extremely hard to make the right assignments and if we can do anything to assist please let us know.

Awards

Rodney James - Lodge 10 – Chairman
Jeff Brewer – Lodge 40
Byron Highland – Lodge 69
Greta Philbeck – Lodge 18
Jimmy Wingo – Lodge 1
Scott Gerson – Lodge 9

Constitution and By-Laws

Kevin Hornaday – Lodge 46 – Chairman
Danny Graham – Lodge 9
Reginald Harvey – Lodge 59
Carl Pope – Lodge 26
Dontario Hardy – Lodge 69
Frank Sanciento – Lodge 41

Legal Aid

Terry Mangum - Lodge 2 – Chairman
Tom Lance – Lodge 16
Mark Michalec – Lodge 9
Chris Schenk – Lodge 87
Lynn Wilson – Lodge 1
Kelli Jones – Lodge 76

Membership and Recruiting

Greg Brown – Lodge 46 – Chairman
Dan Bignall – Lodge 9
Maria Stevenson – Lodge 2
Mike Evans Jr – Lodge 79
Johnny Overby – Lodge 83
Byron Highland – Lodge 69

Political Endorsement

Dontario Hardy – Lodge 69 – Chairman
John Fish – Lodge 58
Mike Schwartz – Lodge 6
Chris Schenk – Lodge 87
Ed Gulka – Lodge 9
Brian Roland – Lodge 5

Technology

Thomas Navarre – Lodge 2 – Chairman
Dan Redford – Lodge 9
Kevin Hornaday – Lodge 46

Again, I would like to thank each member for serving on a committee. We will all be looking for the good work that come from each of these committees.

On December 7th I sent a letter to the NC House Select Committee on Community Relations, Law Enforcement and Justice expressing concerns NCFOP has with some of the draft recommendations. You will likely see more in this issue from our Legislative Agent, Jeff Gray, regarding this issue. This committee, appointed by NC Speaker of the House, Tim Moore (R-Cleveland County) consist of 32 members, 19 of which are State Legislators and 13 from communities across the State.

While some of the recommendations have already been implemented in some police agencies across the state, other recommendations cause NCFOP great concern. One of the most concerning strategies suggested by the Committee would allow for, among many things, “Giglio” violations to be maintained in a statewide database by the NC Criminal Justice Training and Standards Commission and the NC Sheriffs’ Training and Standards Commission and made available to any law enforcement agency for employment purposes. On nothing more than a misunderstanding, or a very plausible reason for a misstatement of fact, an officer can be subjected to a letter or order stating that the officer is guilty of dishonesty and thereby barred from testifying in a criminal case in a particular judicial or prosecutorial district. For working officers, it is a career ender. The problem with the “Giglio” practices currently utilized is that in most instances the officer does not receive any type of hearing.

Another area of concern we expressed to the Committee was regarding the “Mandate the Duty to Intervene and to Report Misconduct”. We are genuinely concerned that some Chiefs of Police and Sheriffs will discipline and or terminate officers anytime they feel like the officer “should have” seen more than he or she reported regardless of the merits of the incident. Again, this could result in officers being disciplined or terminated with no hearing.

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President's Message By Randy Hagler – State President Continued From Page 3

The last recommendation, and in all honesty one the Committee recommended additional study and consideration, was quite simply a laundry list of bad ideas. Things such as eliminating SROs, ending partnerships between law enforcement and ICE, ending qualified immunity, creating third-party review boards with subpoena power, such as citizens review boards, to name just a few.

This is an extremely tough time to be a law enforcement officer and we, as an organization, must stay abreast of all the efforts being made that will make our jobs even tougher. It will absolutely take everyone of us to keep fighting for the things we need to make our job safer, less stressful, and far better paying than what we have now.

BlueNote Information and Submission Dates for 2021

By Terry Mangum – Executive Editor

I certainly hope everyone had a very Merry Christmas and will have a safe, healthy and prosperous New Year. Many thanks to everyone who contributed articles, photographs, and Lodge activities for this issue of the BlueNote.

The BlueNote is your publication so help the NCFOP by contributing articles, photographs, and suggestions for improvement. We need you and I encourage everyone to submit articles and photos of your Lodge's activities.

And remember, any FOP member can submit an article for the BlueNote. You do not have to be a Local Lodge or State Lodge officer. And I promise you that it is an extremely simple and easy process. You just write an article and e-mail your article to my e-mail address TerryMangum@frontier.com by the due date. You can also send photos to accompany your article if you like. If editing is necessary, it will be handled and your article will become publication worthy. When submitting photographs, please select one or two of your best and include the names of the individuals in the picture.

Remember to **read** and then **share** the BlueNote with your fellow law enforcement officers, both members and non-members. Articles about your lodge activities can generate interest in the FOP from any non-FOP law enforcement officers in your area. And this interest may generate new members.

Below are the Article Submission Due Dates for the 2021 issues of the BlueNote. Clip these dates out and post them on your computer, refrigerator, etc., where they will be visible as a reminder.

Article Submission Due Dates for 2021:

March/April issue: Due by February 19, 2021

May/June issue: Due by April 16, 2021

July/August issue: Due by June 18, 2021

September/October issue: Due by August 20, 2021

November/December issue: Due by October 22, 2021

As always, I am here to serve you and our membership. If I may be of assistance to you, or if you have any questions or concerns, please contact me.



Grand Lodge Update

By Dennis McCrary – NC National Trustee

Brothers and sisters, by the time you read this 2020 will be history and what a story it has been. I hope all of you have made it through this challenging year with your mental and physical health still intact.

We all know by now that the year of Covid-19 has been a horrible time. We have lost friends, family and many other citizens to this horrible virus. Over 300 law enforcement officers have died this year as a result of Covid-19. North Carolina did not suffer the worse officer loss to COVID-19 but we have lost 9 officers so far. The vaccine is now being given so we certainly hope that the worse of the pandemic is over and everyone can soon start to return to some pre COVID-19 behavior.

The local, state, and national elections are now over and we have to now move forward working with those that were successful. It certainly appears that Joe Biden will be our next President. Some of our Washington FOP staff have been meeting with members of the Biden transition team and we are having a voice with this group. Time will tell as to how effective the relationship we are building will be in this new administration. The State FOP and many local lodges were involved in numerous endorsements and a lot, but not all, of our candidates won. We have almost 6000 members and when they get their family and friends to support our candidates that is a loud voice for their election. Perhaps one of the most notable of our State elections was that of Chief Justice of the North Carolina Supreme Court. The State Lodge Conference delegates voted to endorse Justice Paul Newby for that position and he won that seat by 401 votes out of the almost 6 million that were cast. There is no doubt the NCFOP made a difference in this election! The challenge facing all FOP members now is to work with all candidates that were elected, whether we supported them or not, to accomplish what needs to be done in the State and nation for our members.

The Grand Lodge Board of Directors met by teleconference on December 15 and I want to discuss some of the issues that were addressed. One of the primary items on the agenda was the purchase of the building that adjoins our office in DC. This building that shares a common wall with ours became available for purchase recently. We do not have to have the space but many of our staff are working out of the basement in our current office and there are problems moving between floors because of a very narrow staircase. Other issues make this not the greatest working conditions for our great staff. The building next door has been offered to the FOP at less than market value. The 1.45 million price tag seems high but for DC property in that area it is a good buy. After much research and study, the executive board was recommending we purchase the property and finance it through the National Police Credit Union. The Board of Directors were split on the purchase but after much discussion and data prior to our meeting on December 15, the entire Board voted to approve with the exception of one member. The other decision was to purchase the building outright or finance. We currently have a mortgage on our current building with the same credit union. We can join the current and new mortgage together at a 3.375 interest rate for 15 years. The recommendation of our Treasurer Penozza and investment advisor were to finance instead of purchase. The conservative projected income we would receive from the money we would use for the purchase would be 3.5 times greater than the interest we would pay on the mortgage. The property in that area is appreciating greatly in price and we would probably not get a chance on this building again. We currently rent an office space in our building's 3rd floor and would rent the basement our staff moves out of to help pay the mortgage payment. The purchase and financing were approved. I have many more details available if anyone wants to contact me.

The issue of the FOP Journal magazine coming out in December will be the last hardcopy issue to be published. All future issues will be online and will be released monthly instead of quarterly. You must have your email address on file with the National FOP office to receive the online edition of the Journal. Many members do not and the Grand Lodge is having a contest to get members to provide their email. There will be a drawing for \$1000 each month for four months to go to a member that provides or updates their email address. Please take care of the information to get your Journal and maybe win \$1000. Go to FOPConnect.com to register. There will be some provisions to provide a hardcopy to those members that do not have internet but the details have not been finalized.

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Grand Lodge Update Continued From Page 5

Members are still signing up for the FOP Mobile app and if you have not done so please get on it soon. Also, free FOP email addresses are available to members just contact mphillips@fop.net to get yours. Our new National webpage is still under construction but should be available soon.

We all know the severe issues involving Brady that are facing our officers. The FOP has appointed a task force to address Brady issues and best practices in that area. We will hear more from them in the future.

COVID-19 has played havoc with our FOP events now for numerous months and we do not know what the future holds. Leadership Matters is still on schedule for now but the attendance had to be capped at 200 and many are on a waiting list. Day on the Hill will most likely be some type of virtual event but more will come out on this later. The Labor and Legal seminar is still on schedule for now but time will tell if it is held. The National Police Memorial Service in DC is still the big unknown for the year. We have over 400 heroes to honor and, as of now, we cannot get a permit to hold the event. It may be that only the families of the fallen can attend live and all others will have to do so virtually. More will come on this soon.

These are just some of the issues that are being handled by your National FOP. Please make certain you follow recent activity by using the FOP app and visiting the Grand Lodge website.

I am honored to serve as your National Trustee. Please let me know if I can do anything for you or your lodge.

Time to Submit Your Local Lodge 2020 Minutes

By Kevin Hornaday – Constitution & By-laws Chairman

It is hard to believe that it is 2021 already. I am sure many of us are looking forward to a different year than 2020 turned out to be.

One thing that is the same, just as it has been for years, is the requirement for all local lodges to submit a copy of their 2020 meeting minutes to the NC State Lodge Constitution and By-Laws Committee. These minutes are due by the last day of February each year, but you can submit them as soon as your December minutes are approved.

You should have either six or twelve sets of minutes for the year. Even if you did not hold a meeting, you must document that fact on its own document, citing the reason.

Minutes are just one of the ways your lodge remains in compliance. The other, taxes, are due annually.

Also, this year the Constitution and By-Laws Committee will be reaching out to you to obtain a copy of your latest Lodge Constitution and By-Laws.

The members of the Constitution and By-Laws Committee are listed below. We are here to assist you and your lodge. Should you have questions or need assistance, please let us know.

Committee Members and Assigned Lodges

Kevin Hornaday (46), kjhornaday@gmail.com

1, 6, 19, 40, 58, 79, 84, 97

Carl Pope (26), legend022858@yahoo.com

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Dontario Hardy (69), dontario.hardy@gmail.com

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Frank Sancineto, (41) F6978@aol.com

5, 24, 62, 70, 76, 81, 87

Reginald Harvey, (59) rharvey903@gmail.com

16, 51, 52, 72, 78, 83, 89

Danny Graham (9) danny@ncfoplodge9.com

14, 18, 23, 36, 53, 68, 73

Rocky Mount Lodge 46 Cops and Kids 2020

By Greg Brown - State Trustee Lodge 46

It is always a wonderful feeling when you see a child's face on Christmas morning as they see the first present that has been placed around the Christmas Tree for them to open. For many children they never have that feeling because they never have any presents to unwrap. Most of these children are in a situation which is out of their control and cannot be helped.

This is where the N.C. Fraternal Order of Police Rocky Mount Lodge 46 has stepped in throughout the years to assist parents who find themselves unable to provide for their children this holiday season. Twelve families and twenty-five children came out to participate in our annual Cops and Kids event on December 12th at the FOP Lodge located in Rocky Mount.

Lodge 46 was able to provide each child with wrapped gifts which included necessities such as clothes, coats, shoes, and bedroom linens, as well as toys which the family may not have been able to provide for them. Each child was given the opportunity to sit with Santa and Mrs. Claus and tell him what they wanted for Christmas. After the children in each family finished unwrapping their gifts the family was given a box of food and a turkey so they could have a Christmas dinner.

Lodge 46 and our local law enforcement believe that this event breaks down the barrier between law enforcement and the community. It shows them the more personal side of law enforcement officers and shows them that we are human as well. It is very humbling to see the smiles on the faces of the children when they are unwrapping their gifts.

Lodge 46 President Tim Braddy has been participating for more than a decade in this annual holiday event. President Braddy said, "this day is one of several good things that law enforcement do in the community. The experience also allowed children to see officers in a different light other than cases where police are called to a home in an emergency. The purpose of this is to bring the community closer to the police department and law enforcement. We want our children to see that everything we do isn't bad. We also want them to know that no matter where we are in uniform they can walk up and talk to us anytime because there is no reason to be scared of us. The joy that it brings to the children is priceless. That's why we work so hard fundraising, to help the children experience a wonderful Christmas."

President Braddy acknowledged that the Cops and Kids was a positive event for the officers as well. "This is also a great experience for the officers because if they didn't care, they wouldn't be here. Like myself, they're not getting paid to do this, but they're here because they want to help out our community. That's why you do this job because it's not about money or glory. This is showing we're out here making a difference. Not only is this a special event for these children but it is also special for the officers and their families who attend every year. Some say that this is the highlight of their year and that they will continue to come as long as they are able."



Rocky Mount Lodge 46 Cops and Kids 2020

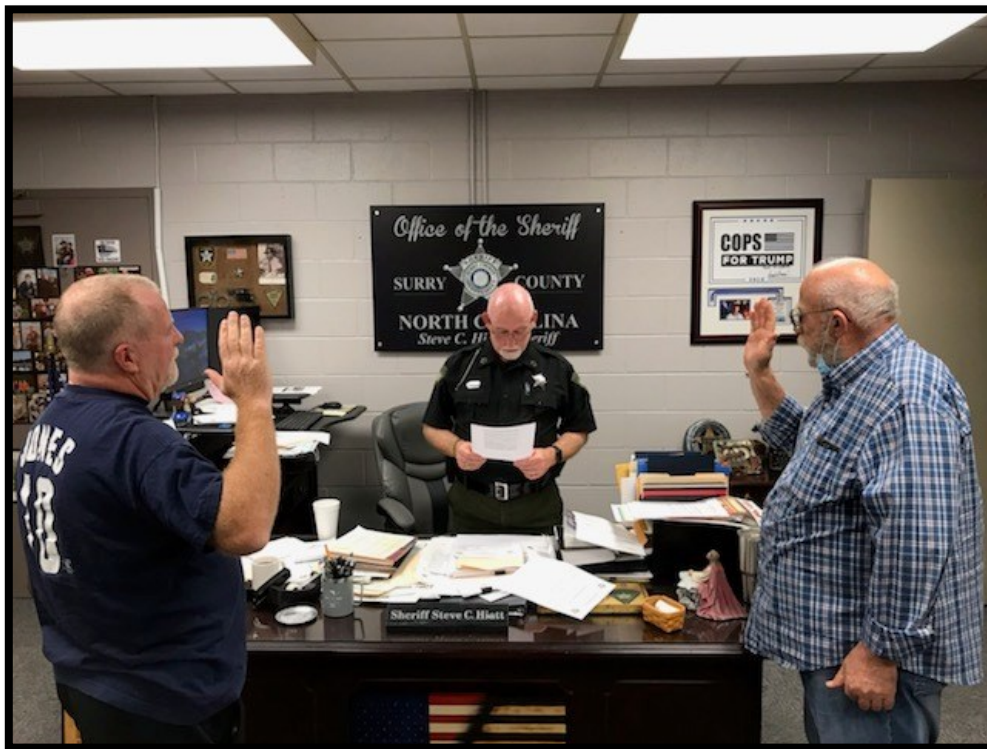
Lodge 46 Auxiliary President Pam Braddy said, "The children experience joy and happiness and we just wish for them to have a carefree Christmas. The children were chosen with assistance from the Down East Partnership for Children in Rocky Mount. All the families resided in the Nash, Edgecombe and Wilson County area. The children that were selected for our program were truly deserving and are ones that their parent or parents are trying their very best to make ends meet but have had some sort of setback in life."

Lodge 46 would like to thank the following agencies that came to the lodge to be with the children and families while they unwrapped their gifts and help make this event such a special experience. These agencies are the Rocky Mount Police Department, Pinetops Police Department, Nash County Sheriff's Office, as well as NC Blue Knights Chapter XXI of Rocky Mount and the families of our lodge members present for this event.

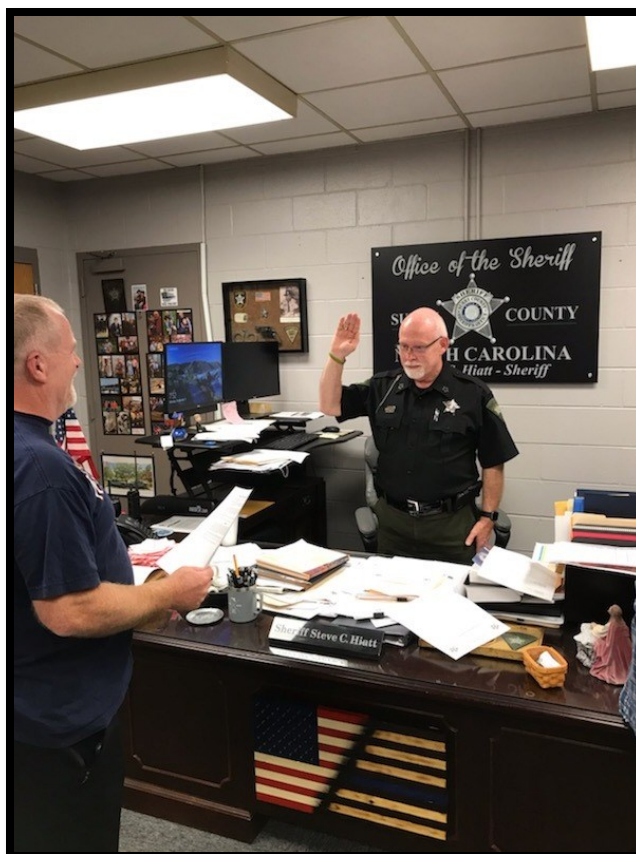


Lodge 24

Surry County Lodge 24 Past President Steve Hiatt (center) installs returning President Kelly Hiatt (left) and returning Vice President and Lodge 24 State Trustee Bob Hodge for their next two-year terms.



Surry County Lodge 24 President Kelly Hiatt installs returning Secretary and Treasurer Steve Hiatt for his next two-year term.



Greetings from the Immediate Past President

By Terry Mangum

As we begin a new year, I would like to wish all of my Fraternal Order of Police Brothers and Sisters across the great State of North Carolina a prosperous and safe 2021. Let us all continue to work to promote and protect our most noble profession and the FOP.

President Randy Hagler and Vice President Bobby Gaddy have completed and announced the State Lodge committee assignments on December 7. The Committees, Chairpersons and Committee Members, and Executive Board Advisors are listed below:

Awards

Chairman Rodney James, Jeff Brewer, Byron Highland, Greta Philbeck, Jimmy Wingo, and Scott Gerson. Advisor: Phil Wiggins

Constitution and By-laws

Chairman Kevin Hornaday, Danny Graham, Reginald Harvey, Carl Pope, Dontario Hardy, and Frank Sancio. Advisor: Terry Mangum

Legal Aid

Chairman Terry Mangum, Kelli Jones, Tom Lance, Mark Michalec, Chris Schenk, and Lynn Wilson. Advisor: Randy Hagler

Membership and Recruitment

Chairman Greg Brown, Dan Bignall, Michael Evans, Maria Stevenson, Byron Highland, and Johnny Overby. Advisor: Bobby Gaddy

Political Endorsement

Chairman Dontario Hardy, Jon Fish, Mike Schwartz, Chris Schenk, Ed Gulka, and Brian Roland. Advisor: Dennis McCrary

Technology

Chairman Tom Navarre, Dan Redford, and Kevin Hornaday. Advisor: James Shores

Congratulations to all of our Brothers and Sisters on their appointments to these Committees. And thank you for your willingness to serve our members.

If I may be of assistance to you, or if you have any questions or concerns, please do not hesitate to contact me. As always, I am here to serve you and our membership.



Catawba County Lodge 26 Activities

Photos by Jammie Pope



Lodge 26 getting ready to take treat bags to local retirement homes, Covid-19 may have put a curve in our plans but we still took treat bags to the homes. This is the first time in 29 years that Mr. and Mrs. Claus were not able to go. We were able to give out 140 bags.



Getting ready to deliver 230 boxes of food to needy families in Catawba County for Christmas. This marks our 30th years during Christmas food boxes within Catawba County.

Catawba County Lodge 26 Activities

Photos by Jammie Pope



Jammie and Carl Pope stopping off at of our retirement home with treat bags.



Ready for our 30th years to load Christmas food boxes within Catawba County. This year we will be taking food to 115 families.

Public Records Exceptions for Law Enforcement Officers Information

By Jeff Gray - State Legislative Agent

A few months ago I received an inquiry from Brother Jon Fish, State Trustee of Lodge 58, as to whether we could seek legislation which would require the county tax office to remove a law enforcement officer's residential address, upon request, from publicly accessible records. Obviously, this would be for officer (and officer-family) related reasons. I explained that the FOP had attempted this years ago and received strong opposition. This was in the early days of the internet – before you could find out almost anything about anyone on-line – and government sources were one of the few places to locate personal information about someone. Although unsuccessful with that bill, we were successful in obtaining passage of other legislative to address some of these same concerns. And a county tax office can still remove the information...if it wants to.

I thought a “reminder” might be useful to some of you.

Concern about the safety of law enforcement officers and their families led North Carolina's General Assembly to consider over several years various proposals to protect from public disclosure personal information of officers and other officials who are involved in the criminal justice system. The FOP's proposal in 2014 would have authorized law enforcement officers to request that their personal information be removed from city and county websites. As mentioned, that bill did not pass, but the legislature revived the issue in 2015, eventually settling on a provision that protects certain specific information about sworn law enforcement officers. It also created a new exception to the public records law for the government-issued mobile phone numbers for law enforcement and certain other employees. Also, in the State Budget for that year new exceptions in the public records law were created for certain security information.

S.L. 2015-225 (SB 699) amended the city and county personnel records privacy statutes (i.e., G.S. 160A-168 and G.S. 153A-98) to provide that, “even if considered part of an employee's personnel file” certain information regarding a sworn law enforcement officer “shall not be disclosed to an employee or any other person.” The law lists three exceptions to this nondisclosure rule, but first let's look at what information is covered by the nondisclosure law, and then the provisions that allow disclosure in certain situations.

The law prohibits disclosure of the following information related to officers:

- Information that might identify the residence of a sworn law enforcement officer;
- Emergency contact information; and
- Any identifying information as defined in G.S. 14-113.20.

This is the list of identifying information from G.S. 14-113.20 (which makes it a felony to use this information for identity theft): (1) Social security or employer taxpayer identification numbers; (2) drivers license, State identification card, or passport numbers; (3) checking account numbers; (4) savings account numbers; (5) credit card numbers; (6) debit card numbers; (7) personal identification (PIN) code as defined in G.S. 14-113.8 (6); (8) electronic identification numbers, electronic mail names or addresses, Internet account numbers, or Internet identification names; (9) digital signatures; (10) any other numbers or information that can be used to access a person's financial resources; (11) biometric data; (12) fingerprints; passwords; and (13) parent's legal surname prior to marriage.

The main thrust of the new law is to protect an officer's information from disclosure, but it identifies three situations in which an officer's information can be disclosed: (1) “in accordance with G.S. 132-1.4” (the statute that exempts most criminal investigation records from the public records law), (2) “in accordance with G.S. 132-1.10” (the statute that generally prohibits the disclosure of social security numbers and “identifying information”), or (3) “for the personal safety of the sworn LEO or any other person residing in the same residence.”

The first exception probably refers to the provisions under G.S. 132-1.4(c). That subsection requires the release of certain criminal investigation information. For example, a public agency might be required to release information under the section that requires the release of the name and address of a person arrested, charged or indicted if the officer is the person arrested, charged, or indicted (G.S. 132-1.4(c)(2)), or the name and address

Public Records Exceptions for Law Enforcement Officers Information

of a complaining witness if the officer is a complaining witness (G.S. 132-1.4(c)(2)).

The second exception probably refers to the provision in G.S. 132-1.10(c)(1). That subsection allows the release of social security numbers and other identifying information to other governmental agencies if disclosure is “necessary for the receiving entity to perform its duties.” This provision requires the receiving agency to maintain the confidentiality of any such information that is shared.

Third, it seems possible that officer information could be released internally or externally with the express consent of the law enforcement officer. The law does not address this, although the personnel privacy statutes do. *See*, G.S. 160A-168(c)(6) and G.S. 153A-98(c)(6).

There is a fundamental question that the law does not clearly address: What records does it cover? One element of its wording – “*even if it is part of the personnel file*” – is puzzling. The wording mirrors an existing provision in the personnel records privacy statutes. When the wording appears there, however, it sets out exceptions to an employee’s right of access to records in his or her personnel file. So it is clear in that context that the records at issue are those of a particular employee of the city or county. The language in the 2015 law, by contrast, establishes a broad restriction on the release of a potentially broad set of records, some of which might not necessarily reside in the personnel file. Indeed, the wording and location of this law raise two key questions that may not be answerable short of a judicial interpretation or legislative clarification.

The first question is whether the law applies only to information that is part of the personnel file or whether it applies more broadly to all kinds of records a city or county may have. The second question is whether it applies only to records of officers who are employees of a particular city or the county, or whether it applies to the records of any law enforcement officer that any city or county may have in its possession.

The law certainly applies to officer information that is part of the personnel file. It also specifically authorizes the release of officer information under G.S. 132-1.4. This suggests that the prohibition would otherwise apply to criminal investigation records, and possibly to other records outside of the personnel file. The apparent purpose of the new law – to protect the safety of law enforcement officers and their families – suggests that a broad reading would be appropriate. Such a reading, however, would require cities and counties to identify law enforcement officer records and information that might exist outside of the personnel file. Examples of such records might include tax and land records, utility bills, and recreational or other city or county program rosters. A broad reading of the statute would require county tax departments to remove officer information from their websites just as we sought originally in 2014. (And it is the opinion of the School of Government at UNC-CH that they are free to do this even without a statutory directive since there is no legal requirement to post this information.) And although utility billing information is not generally subject to public access, the law does not prohibit its release. Cities and counties with policies that allow access to utility billing information may need to exclude officer information from those policies. Such an exclusion would have been allowed even without this law.

The second question is whether the requirement applies only to a city or county’s own law enforcement officer employees. Since the requirement to protect officer information is housed in the personnel records privacy statute, it is reasonable to assume that it is intended to apply to the law enforcement officer employees of a particular unit of government. (Because the personnel privacy statutes apply to applicants and former employees, it would apply to records and information about these categories of officers as well.) A broader reading would place upon cities and counties the responsibility of identifying information they have about law enforcement officers employed by other local governments or the state. This would be a significant challenge, requiring a particular city or county to research or request information about officers who might live in or do business with units other than the ones in which they are employed.

A narrow reading is that the prohibition applies only to records in the personnel files of the very city or county that employs the officer. A broad reading is that it applies to any record or information that any city or county possesses about any law enforcement officer, including those who do not work for the city or the county.

Public Records Exceptions for Law Enforcement Officers Information

Under any reading, though, it appears that the requirement applies only to cities and counties, and not to any other public agency that might possess officer information, as in the State.

At the same time the legislature also created several additional exceptions to G.S. 132-1.7, a statute that deals with sensitive public security information. S.L. 2015-225 added a new section that protects from public access the mobile telephone numbers issued by a local or state government agency to (1) a sworn law enforcement officer or nonsworn employee of a public law enforcement agency, (2) an employee of a fire department, or (3) any employee whose duties include responding to an emergency. These telephone numbers are not public records, but they are not confidential. So the public agency is free to release them as it deems appropriate. The protection does not appear to extend to the numbers of privately owned mobile telephones, which employees sometimes use in conducting public business. If a public agency has a record of private numbers that are used for work purposes (outside of the personnel file), they remain subject to public access.

Also, that year's State Budget Act (S.L. 2015-241, section 16A.5), amended G.S. 132-1.7 creating three new categories of records that are not public: (1) plans, schedules, or other documents that include information regarding patterns or practices associated with executive protection and security; (2) specific security information or detailed plans, patterns, or practices associated with prison operations; and (3) specific security information or detailed plans, patterns, or practices to prevent or respond to criminal, gang, or organized illegal activity.

The law enforcement officer information and mobile phone exceptions enacted in S.L. 2015-225 were effective October 1, 2015, and the security information provisions that were enacted in the 2015 State Budget were effective July 1, 2015.

A Message From Your Chairman of Trustees

By John R. Byrd Sr.

Brothers & Sisters,

I hope this issue of the Blue Note continues to find you staying safe and well as we continue to deal with this COVID-19 situation.

It was good to finally get to see everyone at the State Conference October 22 – 25 in Carolina Beach. I think Lodge #58 did a great job with this conference especially under the unique circumstances and uncertainties they had to deal with.

I am not going to mention the things I have sent out in my Trustee Update emails in this article but if you haven't been getting those emails please get up with me and make sure I have your accurate email.

Some of the things I have done since my last message are:

Attended the State Conference in Carolina Beach October 22nd – 25th.

Attended Lodge #74's bi-monthly meeting Torre's Mexican Restaurant in Oxford, NC.

Meet President Hagler at State Office and got up leaves on November 9th.

Sent out emails about the Building Committee and State Lodge Inventory on November 12th.

Attended a virtual State E-board meeting on Saturday November 21st.

Meet with Jeff Gray and some other E-Board Members at State Office on November 30th.

Attended virtual BOD meeting on December 5th to vote on amended State budget.

Attended Lodge #74's bi-monthly meeting and CHRISTmas Dinner at Brooklyn Eats Restaurant in Roxboro, NC on December 15th.

Submitted this "Blue Note" article on December 16th.

As always, I am here to serve you and your lodge. You can call me anytime at 336-504-8173 or email me at person7454@yahoo.com. I hope you are finding my periodic email updates to be a useful tool to keep your membership informed. It is an Honor to serve as your Chairman of Trustees.

House Select Committee Releases Final Recommendations; Others Do As Well

By Jeff Gray – State Legislative Agent

I have been reporting, first by e-mail blast, then a BlueNote article, on a House committee created in response to the police shooting of George Floyd. After five public meetings where input was received from various sources its final Recommendations were released on Monday, December 14th. The House Select Committee on Community Relations, Law Enforcement and Justice has now wrapped up months of discussions and hearings, and Co-chairman Rep. John Szoka, R-Cumberland, said his office will coordinate efforts to file bills featuring the policy recommendations in next year's long Session. He said he does not think it is wise to put all the Committee's suggestions into one bill, because "an omnibus bill might drag everything down," so numerous bills should be expected.

The draft report from the Committee was released last month for a public comment period. President Randy Hagler, on behalf of all law enforcement, provided public comment. Of particular concern were recommendations regarding *Giglio* letters and orders and a "mandate" that the agency head intervene anytime he or she feels the officer should have seen or done more than the officer reported. However, there were only a few tweaks to the final Recommendations, which Rep. Szoka described as "mostly technical." One amendment, from Cabarrus County Sheriff Van Shaw, would clarify that the recommended protections for law-enforcement whistleblowers is "not intended to allow the whistleblower protection to be used by bad officers to shield themselves." A copy of President Hagler's letter is available at the end of the BlueNote. His letter was also an Addendum to the final Recommendations.

Among the notable policy changes suggested in the Recommendations are banning law enforcement from using chokeholds, requiring law enforcement agencies to have detailed policies for reporting officer misconduct, reclassifying low-level crimes to avoid arrests, and funding new mental health resources to help officers better respond to mental health crises. Co-chair Rep. Kristin Baker, R-Cabarrus, described this provision as an important beginning to "making some substantive progress."

A copy of the House Select Committee's Recommendations, and the Addendum, are available by clicking [\(here.\)](#)

Also on Monday the 14th Governor Roy Cooper's Task Force on Racial Equity released dozens of recommendations in a report that called for widespread changes to address racial bias within the State's policing and criminal justice systems. "North Carolina can re-imagine public safety to provide accountability for victims and safety for communities without grotesque racial disparities that manifest in so many ways in our criminal justice system," states a letter from Attorney General Josh Stein and Supreme Court Associate Justice Anita Earls, Co-chairs of the Task Force for Racial equity in Criminal Justice. Both are Democrats.

The 125 recommendations address policies and laws that disproportionately affect people of color, from traffic stops to protest responses, arrests, and reentry into the community after prison. Other recommendations in the report include decriminalizing marijuana, revising the role of School Resource Officers, and increasing oversight and accountability for law enforcement. "This is just the start of a public conversation," Stein said. "We are committed to working alongside leaders across the state to turn these ideas into action."

During a news conference when the recommendations were released Stein said the report is suggesting a rethinking of law enforcement, to focus more on community policing in which police should see themselves more as guardian, not warriors. The report also makes recommendations to address gaps in community service that result in officers and deputies dealing with issues that Stein said should be handled by health care providers and social workers. "We put too much on the shoulder of law enforcement," he said.

Criminal justice reform has bipartisan support, Stein said, citing several reforms the Republican-led state legislature passed earlier this year. He said he expects that momentum to continue. "There have been important reforms implemented by the Republican General Assembly, and I compliment them for their leadership on this issue," Stein said.

House Select Committee Releases Final Recommendations; Others Do As Well

North Carolina has worked on specific criminal justice reforms before, but this is the most expansive effort in recent memory. At least four different entities are looking at the issues, and all will be seeking legislative changes. In the 34 years I have been here in Raleigh working on law enforcement related issues I have not seen anything comparable.

Not everything the Task Force recommended won unanimous support, officials have said. The group's law enforcement members thought some parts went too far, and the more activist members thought some parts did not go far enough. But in the end, all 24 members voted to approve the report and send it to Governor Cooper to get the ball rolling. Task Force members will continue to meet through 2022 and work to implement the recommendations.

As you will note from reading the report, and the accompanying chart, some of the suggestions in the Governor's Task Force's report will require the legislature to act, while other pieces can be accomplished by local or state agencies changing their own rules and policies.

A copy of the Governor's Task Force on Racial Equity's report, consisting of 166 pages, plus a separate Executive Summary and a recommendations chart, are accessible at <http://www.doj.gov/tree/>.

The same week the House Select Committee released its draft Recommendations, the North Carolina Sheriff's Association released its own report. Entitled, "Report on Law Enforcement Professionalism," their report was much more detailed but contained many of the same recommendations as the House Select Committee's final Recommendations and the Governor's Task Force's report. A copy of the Sheriff's Association report is available by clicking ([here.](#))

A fourth report has also been released. The North Carolina Association of Chiefs of Police has released their document "Evolution of 21st Century Policing Principles.."

Needless to say, all of these reports, with their many recommendations, will engender a mass of bills of interest to law enforcement and the criminal justice community. The vast majority of recommendations are a positive step forward, and in the right direction, but many will require close scrutiny and possibly even active opposition in the interest of law enforcement officers.



TRIVIA

Extra!!! Extra!!! Read All About It!!! We Have A WINNER!!!

For this Trivia contest we have a winner. **Mike Evans**, Immediate Past President of Durham County Lodge 2, is the **grand prize winner** of the November/December BlueNote **TRIVIA** contest. Mike correctly identified the two individuals in the photograph as Jimmy Holderfield and Terry Mangum.

Many thanks to everyone who played **TRIVIA** and sent in a response.

If you have not won a **TRIVIA** contest, do not give up. Keep submitting your answers and maybe you too can be a BlueNote **TRIVIA Grand Prize Winner** like **Mike Evans**.

Remember, it is never too late to submit your guess. But lately the responses have been coming in lightning fast so you should send in your responses as quickly as possible. I hope to see your name listed as the Blue-Note **TRIVIA** grand prize winner in the next issue.

DRUM ROLL AND TRUMPET FANFARE!!!

Now here is your chance to participate in another exciting round of BlueNote **TRIVIA**.

Put on your thinking caps. Can you identify the three (3) individuals in the photograph.

Remember to send me your answer as quickly as you can.

If you can identify the three (3) individuals in this photograph, send an email to terrymangum@frontier.com with your answer along with the name and number of your Lodge.

The correct Trivia answer will be posted in the March/April 2021 issue of the BlueNote along with the name of the **first** individual submitting the correct answer.





NORTH CAROLINA STATE LODGE FRATERNAL ORDER OF POLICE

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Randy L. Hagler
State President

Lynn S. Wilson
State Secretary

December 7, 2020

Representative Kristen Baker
300 N. Salisbury Street, 306A3
Raleigh, NC 27603-5925

Representative John Szoka
16 W. Jones Street, Rm. 2207
Raleigh, NC 27601-1096

Representative Howard Hunter, III
16 W. Jones Street, Rm. 2121
Raleigh, NC 27601-1096

Dear Representative Baker, Representative Szoka and Representative Hunter:

I am writing on behalf of the 6,500 active and retired law enforcement officers who are members of the North Carolina State Lodge, Fraternal Order of Police, as well as the thousands of other dedicated active law enforcement officers in our State who are not members.

The FOP has closely followed the presentations and discussions during the meetings of the House Select Committee on Community Relations, Law Enforcement and Justice and deeply appreciate Speaker Moore's prompt response to the concerns raised by recent national events and public protests over actual and perceived police misconduct. I particularly want to thank the three of you, as Co-chairs, and all the members of the Select Committee for your leadership in seeking to address the broad range of issues which have brought us to this critical juncture.

The Executive Board of the FOP and I have reviewed and debated the draft Recommendations released on November 18th. While we have some generalized concerns, we are overall in agreement with the Recommendations as proposed and are supportive of them, and will be supportive of the majority of recommendations made by the North Carolina Sheriffs' Association in its "Report on Law Enforcement Professionalism" released on October 21, 2020. Our concerns with the Select Committee's draft Recommendations and the Sheriffs' Association's recommendations are the same.

First and foremost is the issue of allowing a "Giglio letter" or order to be used as a grounds for suspension or revocation of a law enforcement officer's certification.

The issue of the increased issuance of *Giglio* letters by district attorneys nationwide over the past few years has become a strong concern for working officers. We have even discussed seeking legislation here in North Carolina to create some guidelines for the issuance. Currently there are no controls whatsoever.

On nothing more than a misunderstanding, or a very plausible reason for a misstatement of fact, an officer can be subjected to a letter or order stating that the officer is guilty of dishonesty and thereby barred from testifying in a criminal case in that particular judicial or prosecutorial district. For working officers, it is a career ender. The problem with the *Giglio* practices currently utilized is that in most instances the officer does not receive any type of hearing. (It should be noted that some elected district attorneys do have a review panel type system.)

If alleged *Giglio* violations are reported to an officer's respective Commission, and the Commission is allowed to take action against the officer's certification, the only hearing is after the fact and on the issue of disqualifying the officer from serving. This is much akin to investigating the underlying crime after the person alleged to have committed the crime has been hung.

On behalf of law enforcement in our State, we ask that if you proceed with the Select Committee's Recommendation (draft Recommendation 2), and the similar, but more detailed recommendation from the Sheriffs' Association, procedures be established by statute that will afford an officer an investigation into the factual basis of the alleged dishonesty and a hearing by an independent judicial official prior to issuance of a *Giglio* letter or order.

Our next concern relates to draft Recommendation 11, "Mandate the Duty to Intervene and the Duty to Report Misconduct." We are concerned the Sheriffs and chiefs of police will intervene and discipline officers anytime they feel the officer "should have" seen more than he or she reported regardless of the merit of the incident. This could -- like our *Giglio* concern above -- result in officers being disciplined or terminated with no hearing.

We are also concerned with many of the items in 14. We realize this is a laundry list of ideas, but a number of them are plainly and simply bad ideas. Eliminating SROs, ending partnerships between law enforcement and ICE, creating third-party review boards with subpoena power such as citizen review boards are just a few. There are some really good ideas on this list, but a large number of them will make an officer's job even harder and leave them in some dangerous area. Please proceed with due caution in considering the items on this list.

Our other concerns with the draft Recommendations are more generalized. Over the past two decades law enforcement officers have been expected to be knowledgeable in a broader array of issues and be trained in skills beyond those of traditional enforcement of the law, but with no commensurate increase in pay or benefits. The effect on recruitment is evident as both State and local law enforcement agencies struggle to recruit, hire and retain suitable, committed officers. Both the Select Committee and the Sheriffs' Association's recommendations substantially increase the initial hiring and training requirements, and add additional occupational burdens to an already challenging, high-stress job. For over 20 years the FOP has sought a 25 year retirement, with no

reduction, for law enforcement officers without success.

We do not doubt that the vast majority of these recommendations will be a positive benefit for our citizens and officers alike, but ask in return that the General Assembly recognize the additional duties that will be given an officer by providing the means for that officer to enthusiastically fulfill those obligations.

We respectfully request that the House leadership support a true 25 year retirement for both State and local law enforcement officers in North Carolina.

With highest regards

A handwritten signature in blue ink, appearing to read "Randy Hagler". The signature is fluid and cursive, with a long horizontal stroke at the end.

Randy Hagler, President
State Lodge, Fraternal Order of Police

cc: Tim Moore, Speaker of the House
FOP Executive Committee Members
Jeff Gray, FOP Legislative Agent