



The Fourword

Volume 38, Number 7

July 2010

FOP Lodge 4 Endorses the Baltimore County Circuit Court Sitting Judges



Judge Jan M. Alexander was appointed as an Associate Judge on the Circuit Court for Baltimore County, Third Judicial Circuit, in May of 2010. Until his elevation to the Circuit Court, Judge Alexander had served as an Associate Judge on the District Court of Maryland for Baltimore County since October of 2002. At the District Court he presided over a wide variety of cases such as civil, criminal, traffic, protective proceedings and landlord/tenant disputes.



Judge Bailey was appointed as an Associate Judge on the Circuit Court for Baltimore County, Third Judicial Circuit, in 2009. Prior to her appointment to the bench, Judge Bailey served as an Assistant State's Attorney for Baltimore City from 1984-2006. For five years, she was Chief of the District Court Division of the State's Attorneys Office, supervising over 25 attorneys and additional support staff. She was a member of the felony trial and narcotics trial teams, and prosecuted hundreds of cases. She served as an Assistant Public Defender in Baltimore County from 2006 until her appointment to the bench in 2009.



Judge Brobst was appointed as an Associate Judge on the Circuit Court for Baltimore County, Third Judicial Circuit, in December 2009. Prior to her appointment to the bench, Judge Brobst served as a prosecutor in the Baltimore County State's Attorney's Office. Judge Brobst joined the States Attorney's Office upon her graduation from the University of Maryland Law School in 1978. In 1986, she was personally chosen by Sandra O'Connor, multi-term State's Attorney, to serve as Chief of the Circuit Court Division, a position she held until her appointment to the bench.



Judge John J. Nagle III was appointed as an Associate Judge on the Circuit Court for Baltimore County, Third Judicial Circuit, in early December 2009. Prior to his appointment to the Bench, Judge Nagle was the President of the law firm of Bodie, Nagle, Dolina, Smith & Hobbs, P.A. in Towson and Reisterstown. He joined the firm in 1981 and acquired broad experience in general practice before focusing on civil defense litigation and corporate law. He formed and supervised the Bodie Nagle toxic tort practice section that included asbestos cases, construction defects, lead paint, mold and other products liability matters.



Representing the Professional Police Officers of Baltimore County





MEETING MINUTES

June 2010

recorded by

Ken Schubert

The June 2010 General Business Meeting was held on June 28, 2010 at FOP Lodge 4. First Vice President Comegna called the meeting to order at 7:30 p.m. Chaplain Merkle led the invocation. First Vice President Comegna led the Pledge of Allegiance.

ROLL CALL OF OFFICERS

President Weston was on vacation and Secretary Folderauer was working. All other elected officers and board members were present. Legal advisor Mike Marshall was also in attendance.

APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

A motion was made by Brother King to accept the minutes of the May 2010 General Membership Meeting. A second was made by Sister Greenbeck. There was no discussion. The motion passed.

REPORTS OF OFFICERS

~ **PRESIDENT WESTON** ~

- May 24 Attended the retiree health care subsidy argument in the Baltimore County Circuit Court, and met with a member concerning retirement planning.
- May 26 Addressed the In-Service training class.
- May 27 Attended the County Council Legislative Session and the Budget Adoption.

- June 2 Attended the Promotional Ceremony, and addressed the In-Service training class.
 - June 7 Met with County Councilman Gardina.
 - June 8 Attended the Pension Board of Trustees meeting and a fundraiser for County Councilman Bartenfelder.
 - June 9 Addressed the In-Service training class.
 - June 10 Attended the Police Assistance and Relief Fund meeting.
 - June 14 Met with States Attorney Schellenberger.
 - June 15 Range qualification.
 - June 16 Addressed the In-Service training class, and met with members of the office of retirement concerning DROP calculations.
 - June 17 Met with Cal Bowman who is running for the Maryland House of Delegates in the 8th District.
 - June 22 Addressed the members of the 130th recruit class.
 - June 23 Attended a fundraiser for Delegate Dana Stein of the 11th District.
 - June 24 Attended a meeting concerning the medical questions used for the narcotics polygraph, and attended the graduation of the 130th recruit class.
 - June 25 Met with the Labor Commissioner.
- ~ **1st V. P. COMEGNA** ~
- May 27 Attended the last meeting of the FY '2011 Negotiations Committee.
 - June 21 Worked at the Lodge office, entering campaign finance data from April and May of 2010.

LODGE 4 OFFICE

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ELECTED OFFICERS

Cole B. Weston
President
(443) 956-2679

Steven G. Comegna 1st Vice President <i>PC3 - Traffic</i> (410) 409-0293	David M. Rose 2nd Vice President <i>F.O.P Lodge 4</i> (443) 956-2643
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David J. Folderauer, Sr. Lodge Secretary <i>PC 4 - IST</i> (410) 382-2075	Robert W. Caskey Treasurer <i>CID-Robbery</i> (443) 956-2615
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W. Donald Patterson State Trustee <i>Materials & Facilities</i>	Richard J. Bergin Sergeant at Arms <i>VNS - CDVIT</i>
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Paul A. Merkle Chaplain <i>Retired</i>	L. Timothy Caslin Past President <i>Retired</i>
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EXECUTIVE BOARD of DIRECTORS

Kenneth F. Schubert Chairman <i>Employment</i> (410) 416-2800	Mike DiCara Vice Chairman <i>PC 6</i>
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Thomas G. Scally <i>CID - Arson</i>	Louis J. Lagna <i>Retired</i>
Donna Patterson <i>Planning & Research</i>	Patrick Zito <i>PC 7 - Traffic</i>
James P. Rommel, Jr. <i>K9</i>	Ryan Massey <i>Homicide</i>
Joe Caskey <i>Homicide</i>	Tony DiCara <i>PC 12</i>

LODGE STAFF

Larry Sibley—Office Manager
Juanita Bouthner—Administrative Assistant
Regina Ecker—Administrative Assistant

LEGAL ADVISORS

Schlachman, Belsky & Weiner, P.A.
Phone (410) 685-2022
IAS Cases Michael Marshall

The Fourword is the official monthly publication of Baltimore County Fraternal Order of Police Lodge 4.

Kathryn Greenbeck
Fourword Editor

The Fourword

- June 25 Attended the quarterly meeting of the Maryland State FOP Lodge, which was held in Aberdeen, Maryland.
- June 28 Worked at the Lodge office and attended meetings of the Legal Advisory Committee and Political Action Committee; Attended the June Executive Board of Directors Meeting and General Membership Meeting.

~ 2nd V. P. ROSE ~

- May 26 Attended a Retired Officers Association meeting.
- May 27 Attended the promotional draft; met with Capt. Rosier about a personnel issue; met with Major Evans in Internal Affairs; attended a dinner with the Negotiations Committee members.
- June 1 Attended a County Council work session.
- June 4 Attended a meeting with members of Planning and Research and the Legal Division to discuss the creation of a Garity Waiver Form.
- June 6 Attended a fundraiser for County Executive candidate Kevin Kamenetz.
- June 8 Attended a Patrol Shift Committee meeting at Precinct 2; attended a fundraiser for County Executive candidate Joe Bartenfelder.
- June 14 Met with Baltimore County State's Attorney Scott Shellenberger.
- June 16 Met with members of the Baltimore County Pension office to discuss pension issues.
- June 21 Participated in a fundraiser golf tournament for Councilman Olszewski.
- June 22 Attended the range for phase 1 qualification.
- June 24 Attended a meeting at

- Headquarters in reference to polygraph exam questions.
- June 25 Met with Labor Commissioner George Gay.
- June 26 Attended the quarterly State FOP meeting in Aberdeen, Maryland.
- June 28 Chaired a Legal Advisory Committee meeting; attended the Executive Board of Directors and General Membership meetings; responded to an officer involved shooting.

~SECRETARY FOLDERAUER~

- May 27 Attended the last meeting of the FY '2011 Negotiations Committee.
- June 6 Attended a fundraiser for Councilman Kamenetz.
- June 28 Attended a Legal Advisory Committee meeting, a Political Action Committee meeting, the June Executive Board of Directors Meeting and responded to an officer involved shooting.

~TREASURER CASKEY~

- June 26 Attended the State FOP meeting in Aberdeen.
- June 28 Attended a Legal Advisory Committee meeting and the General Membership meeting.

STATE TRUSTEE ~Don Patterson~

- June 10 Attended Law Enforcement Torch Run at PSB.
- June 13 Attended retirement Party for Lt. Bill Cordwell at Parkville American Legion.
- June 21 Played in Golf Tournament Fundraiser for Councilman John Olszewski, Sr.

- June 26 Attended State Lodge Board meeting in Aberdeen.
- June 28 Attended Lodge 4 EBOD and General Business meetings.
- On Saturday, June 26, 2010 the State Lodge Board meeting was held in Aberdeen. Congressman Frank Kratovil spoke to the group prior to the start of business.
- Maryland State FOP President Bartlett talked about a policy the State Police have when working secondary employment. They have no powers of arrest unless a felony occurs in their presence. Trooper Brown's family and fellow troopers feel that if he could have made an arrest for disorderly conduct he may still be alive. After Trooper Brown's death, President Bartlett called the Governor and asked him if he could sign the Blue Alert bill into law immediately as opposed to waiting until October 1. This bill is similar to Amber alert, but the alert is activated when a law enforcement officer is killed or wounded in order to assist in locating the suspects. Governor O'Malley signed the bill on Friday June 25, 2010 in front of officers and survivors from all over the state.
- Lodge 4 asked the State Lodge for endorsements for Brothers John Cluster and Steve Deboy in their respective Delegate races and the State Lodge did so.
- Lodge 89 asked for and received a grant for \$10,000 from the State Lodge for partial reimbursement for money they put out for SB 1123, the statewide collective bargaining/binding arbitration bill.

All Members Please Note

The FOP calendar book states that the August 2010 Executive Board of Directors and General Membership Meetings will be held on August 30, 2010. This date is incorrect. Both meetings will be held at FOP Lodge 4 on **Monday August 23, 2010.**

EXECUTIVE BOARD OF DIRECTORS REPORT

~ Kenny Schubert~

- An Executive Board of Directors meeting was held on May 17, 2010. The meeting was called to order at 5:00 p.m. Brother Joe Caskey was working. All other elected officers and board members were present.
- Motions that were made, after receiving a proper second, were discussed, voted upon, and appear in this issue under the appropriate committee reports.

REPORTS OF COMMITTEES

ATHLETIC COMMITTEE

~ Don Patterson ~

- The 2010 FOP Lodge 4 Golf Tournament is scheduled for Friday, August 27 at Rocky Point in Essex. At the time of this report there was 1 available foursome remaining. If you are interested in playing, contact Brother Patterson at x4940 to be put on a waiting list.

GRIEVANCE COMMITTEE

~Dave Rose~

- A grievance was filed by a member over a call back issue.

The time in question was a discrepancy over thirty minutes during a call back that totaled seventeen hours of overtime. The committee discussed the circumstances leading to the grievance. Several past grievances were also researched to form arguments for and against the grievance. The details were given to our labor counsel for an opinion. The opinion of counsel was that the particular facts and circumstances of this case did not make it a viable case to take forward to arbitration which is where this case would likely have gone. As a result, the member was contacted and agreed to withdraw the grievance.

- The FOP received confirmation from the payroll division that all of the mileage reimbursement that was owed as a result of the class action grievance filed by the FOP has been paid. If anyone believes they have not been paid, he or she should contact the payroll division.

LEGAL ADVISORY COMMITTEE

~Dave Rose~

- The jury in the Blake case rendered its verdict on April 27,

2010. The jury found that former Chief Sheridan violated Blake's rights under the Americans with Disabilities Act and awarded him \$225,000 in emotional distress damages. On June 23, 2010 Judge Legg entered an Order of Judgment in the case. On the issue of retaliation, the County, on June 7, 2010, finally notified the court in writing that "Baltimore County will not pursue any sort of testing or inquiry stemming from: 1) Detective Blake's 1996 medical event; and 2) his 2006 testimony at the Crumbacker hearing. Upon receiving that formal notification, Judge ruled the retaliation issue "moot."

The case continues through legal formalities to resolve the issue of the monetary damages awarded by the jury and the reimbursement of legal fees. The County is contesting the jury's \$225,000 award, saying they "abandoned analysis for sympathy." The County feels the award is "excessive" and is asking Judge Legg to reduce the award or schedule a trial on the damages.

- At this time Judge Legg is reviewing the legal motions from both sides and we are awaiting a decision on these final matters.
- The Employee Relations Act case was argued in Circuit Court on May 10, 2010 in front of Judge Martin. He was familiar with the case and it was apparent that he had read all of the submissions thoroughly. He said that he would issue his decision in a timely manner. As of this report we are still waiting for a decision.
- The retiree subsidy case was argued in Circuit Court on May

24, 2010 in front of Judge Finifter. Judge Finifter stated he would review the facts and render a decision. As of this report we are still waiting for a decision.

- The Michele Starks retirement appeal case is scheduled for a hearing at the Board of Appeals on July 29, 2010.
- On June 28, 2010 the committee members met to discuss a request for funding for an officer who was charged criminally for assault. The requesting member, Pfc. Wright, is from Precinct 6. On June 3, 2010 Pfc. Wright was off duty and driving in the area of Md. 702 and East Homberg Ave in Essex when he was involved in a property damage accident with a civilian. Both subjects placed calls into 911 to report the accident. When the on-duty officer arrived, he took the information from both drivers and went back to his vehicle to fill out the forms. Pfc. Wright was taking pictures of the damage to his vehicle with his camera phone. When he went to the other driver's vehicle to take pictures of the damage, an altercation ensued. The on-duty officer, upon seeing the altercation, intervened and called for a supervisor. After a preliminary investigation, it was determined that the civilian would be arrested for assaulting Pfc. Wright and taken back to Precinct 11. The on-duty supervisor then ordered Pfc. Wright to respond to the precinct to handle the arrest. Once at the precinct, the on-duty shift commander, along with the assistant precinct commander, contacted IAD for an

“advice and opinion.” Shortly after their conversation, Pfc. Wright was ordered to release the suspect without charge. Pfc. Wright contacted the FOP and an inquiry was started. Pfc. Wright was paid 4 hours “call back” to complete paperwork for an arrest for a crime committed in his presence in Baltimore County. He was then ordered not to complete the arrest. Additionally, he was ordered not to file an application for charges. After some consultation with the Legal Division and Acting Major Wilson, it was decided that Pfc. Wright could charge the suspect. The suspect was later served a criminal summons and decided to contact internal affairs. After his initial interview, he then went to the commissioner's office and obtained a summons for Pfc. Wright for an alleged assault. That criminal summons was subsequently served and a trial date of August 16, 2010 is set for district court.

- Pfc. Wright was compensated for four hours for an arrest he was not permitted to complete. As a result, he was subsequently charged by a suspect who otherwise would not have been able to do so if the arrest was allowed to be completed. This is an officer who was acting in an on-duty capacity to effect an arrest for an assault committed on his person.
- A motion was made to fund the case and the motion passed. The committee recommendation was presented to the Executive Board of Directors and the motion passed.

Congratulations to all July Promotees!

Sergeant to Lieutenant

Craig A. Mitchell
Joseph L. Peach

Corporal to Sergeant

Joseph M. Ciampaglio, Jr.
Raymond G. Mullaney, Jr.
Stephen W. Suprik

Officer to Corporal

Matthew T. Jackson
William D. McGladrie
Bobbie J. Zalewski

PENSION COMMITTEE

~ Cole Weston ~

- The Pension Board of Trustees met on June 8, 2010 and approved 58 service, drop, and early retirements. One accidental retirement, one ordinary disability retirement, and two over 60 work extensions were also approved.

POLICY REVIEW COMMITTEE

~Dave Rose~

- The committee has reviewed seven new policies this month. Of those seven policies, the committee members found two which they felt were mandatory subjects of bargaining.
- The first was sent to the Lodge on May 28, 2010. The Department was constructing a new Form #317, Garrity Waiver.

Bereavements

**Retired Brother
Paul L. Harp**

**Retired Brother
Stanley J. Merritt**

**Vivian F. Whitby
Mother of Retired Brother
Richard "Hoss" Whitby,
Grandmother of Sister Dorothy
Dupree, Aunt of Brother
Michael McCleese, and
Mother-in Law of Retired
Brother Richard Scott**

**Edward Matthews
Father of
Brother Luke Matthews**

**John A. Parsons
Father of Brother Jeffery J.
Parsons and Grandfather of
Brother Jeffery S. Parsons**

**Carmela B. Lucadamo
Mother of
Brother Tom Lucadamo**

**John T. Gaither, Sr.
Father of Retired Brother
John T. Gaither, Jr.**

**Dennis Roche
Father of
Brother Mark K. Roche**

**Sheila Leonard
Wife of Retired Brother
William J. Leonard, Sr. and
Sister-in-Law of Brother
Stephen Fox**

**William A. Taylor
Father-in-Law of
Brother Matthew P. Flanary**

**Gary Arthur
Father of
Brother Alexander D. Arthur**

**Doris Hanke
Wife of Retired Brother
Charles P. Hanke**

The Garrity Rule or Garrity Waiver is a protection for law enforcement officers that stems from a United States Supreme Court case, Garrity v. New Jersey, 385 U.S. 493 (1967). In the case, allegations were made against officers and during the investigation. The officers were advised they had to answer questions, which subjected them to criminal prosecution, or be terminated for disobeying an order by not answering the questions. After answering the questions, the statements given by the officers were used to convict them on criminal charges. The United States Supreme Court held this was unconstitutional, citing the Fifth Amendment to the United States Constitution, and reversed the convictions because the officers had been compelled to give the statements with the threat of discipline looming over their heads. As a result of this case, under the Fifth and Fourteenth Amendments of the United States Constitution, an officer has the right, as does any citizen, to remain silent if he or she could face possible criminal prosecution and he or she is protected from self incrimination under the doctrines set forth in Garrity v. New Jersey.

- The new Form #317 was created to look similar to the Form #14 Miranda Waiver and the Johnson Waiver form. In reviewing the language on the form, our attorney Mike Marshall felt some of the language was not clear. Additionally, the top of the form stated, "If asked, the interviewing officer will inform the employee that nothing

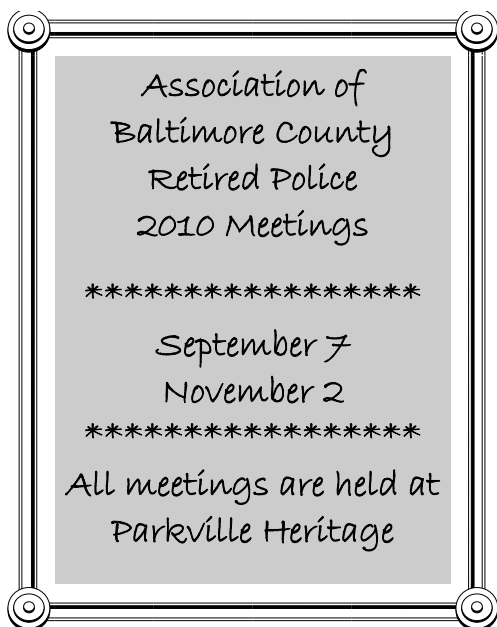
will happen if he/she refuses to answer questions.

- After discussing our concerns with the Legal Division, the modifications requested by the FOP were made to the form. The Form #317 now states "The interviewer will inform the officer there is no administrative penalty if he/she refuses to answer questions." Additionally, #2 was rewritten to state "I am not and cannot be ordered, or otherwise compelled under threat of disciplinary action related to employment in Baltimore County to answer questions or make statements." The Form #317 will also be given to an officer along with the Miranda Waiver Form #14.

- At the moment, Internal Affairs investigators will not interview an officer until the State's Attorney has "signed off" on all criminal charges and agreed not to prosecute. In an IAD interview, officers should still request an order from a superior ranking officer prior to answering any questions or making any statements.

- The new Form #317 Garrity Waiver will mainly be used by CID Detectives when they wish to interview an officer about his/her possible involvement in a crime. Again, before making any statements or answering any questions, officers should invoke their right to remain silent until consulting with an attorney.

- If you are ordered to make a statement, you should write the following on the top of the statement: "I have been ordered to write this statement and failure to do so would subject me



to disciplinary actions. I am not waiving any of my rights under the United States Constitution by submitting this statement.”

- The second policy the committee discussed was sent to the Lodge on May 17, 2010. This proposed change of the property reimbursement policy dealt with the removal of “flashlights not issued by the Department” from the list of items eligible for reimbursement if they are damaged in the performance of the employee’s duties. The committee members feel this is a mandatory subject of bargaining and is a violation of Article 5 Section 5.12, Personal Property Reimbursement, of the Memorandum of Understanding. A letter stating such was sent to the Chief of Police by President Weston. On June 24, 2010 Colonel Kelly informed the FOP in writing that the Department will be deleting the proposed change to the policy and flashlights will remain on the list of eligible items.
- Finally, about a month ago, the Lodge was contacted about the

questions asked on the polygraph examination questionnaire. The concern was the questions relating to the health of the officer and the necessity and depth of those questions. President Weston and I met with Major Price, Major Burris, Capt. Moxley, Lt. White and members from Personnel Services. After extensive discussions, several questions were removed and the remaining 3 questions were reworded.

POLITICAL ACTION COMMITTEE

~Steve Comegna~

The Political Action Committee met on Monday June 28, 2010. The following motions were presented to the Executive Board of Directors:

- To purchase two tickets to a fundraiser being held by State Senate Candidate Al Redmer (District # 7) on Saturday July 24, 2010 at Conrad’s Ruth Villa. The ticket cost is \$50.00 each, for a total PAC expenditure of \$100.00.
- To endorse State Delegate Adrienne Jones (District # 10) in her fall 2010 re-election campaign.
- To endorse the Sitting Judges of The Baltimore County Circuit Court (Judge Alexander, Judge Bailey, Judge Brobst and Judge Nagle) in their Fall 2010 election campaign.
- These motions were presented to the Executive Board and to the General Membership on Monday June 28, 2010. Each motion received a proper second. They were discussed and voted upon. The Executive Board of Directors and the Gen-

eral Membership approved these motions.

GOOD OF THE ORDER

- During the month of June, the Lodge sent five (5) flower arrangements and seventeen (17) sympathy cards to bereaving members. Five (5) donations were made in lieu of flowers (at family members’ request) in the name of a member or loved one. Two baskets were sent to members following surgery. Five (5) “Thank You” cards were received.
- The meeting was adjourned at 8:25 pm.



The August

**FOP Lodge 4
GENERAL
BUSINESS
MEETING**

will be held on

**Monday,
August 23, 2010
7:30 p.m.**

at
FOP Lodge 4
9304 Harford Road

The September

**FOP Lodge 4
GENERAL
BUSINESS
MEETING**

will be held on

**Monday,
September 27, 2010
7:30 p.m.**

at
FOP Lodge 4
9304 Harford Road