



The Fourword

Volume 43 Number 5

May 2015

Law Enforcement Officer Bill Of Rights

Over the past several months there has been much discussion about police misconduct, transparency and accountability of officers. This has been magnified by recent national and local events.

There have been outcries from some citizens and politicians blaming Maryland's Law Enforcement Bill of Rights (LEOBR) as the cause for these recent events. There has recently been a particular focus in the media and by Baltimore City's Mayor on statements and interviews of officers after an incident. There have been reports and statements that officers cannot be interviewed about an incident because the LEOBR mandates that an agency cannot interview an officer for ten (10) days. Therefore, investigators cannot get the information needed to complete an investigation. This is simply inaccurate.

There are two separate and distinct investigations involved in situations such as these, a criminal investigation and an administrative investigation. At times they may be parallel but sometimes they conflict and as always, the criminal investigation must take priority.

In a criminal investigation officers have the same rights under the United States Constitution as any other citizen. Just because they are police officers does not mean they lose constitutional rights that are afforded to all citizens. They have the same absolute right to remain silent and the right to an attorney for representation and advice. An officer may waive those rights at any time. A question often asked to police chiefs is "Why don't you just order the officer to answer questions or provide a statement?" The answer is that one can order an officer to answer questions and provide a statement. The result would be that none of those responses, no matter how compelling, can be used in court because those statements would be inadmissible under the United States Supreme Court decision *Garrity v. New Jersey* 1967. It is for this reason State's Attorney's and the Internal Affairs Divisions of Police Agencies choose not to have officers ordered by commanders to answer questions or give written statements in events that may lead to criminal charges. It has absolutely nothing to do with the Maryland Law Enforcement Bill of Rights.

In Maryland, administrative interviews or interrogations of law enforcement officers "for a reason that may lead to disciplinary action, demotion or dismissal" are governed by Public Safety Article 3-104 of the L.E.O.B.R. Specifically, 3-104J refers to an officer's right to representation. An officer "has the right to be represented by counsel or another responsible representative" available for consultation during an interrogation as stated in the United States Supreme Court decision *National Labor Relations Board v Weingarten* 1975.

Under the Supreme Court's *Weingarten* decision, the following rules apply to investigatory interviews:

- The employee can request union representation before or at any time during the interview.
- When an employee asks for representation, the employer must choose from among three options:
 1. Grant the request and delay questioning until the union representative arrives;
 2. Deny the request and end the interview immediately; or
 3. Give the employee a choice of: (a) having the interview without representation or (b) ending the interview.
- If the employer denies the request for union representation and continues the meeting, the employee can refuse to answer questions.

An officer may waive that right at any time and begin to answer questions immediately.

If the officer decides to consult with "counsel or another responsible representative" he or she has 10 days under the L.E.O.B.R. to have that representative available and present for an interrogation. In the vast majority of the cases these interrogations are conducted within a couple of days. But, there are times when interrogations may take a longer time to be conducted. This occurs mostly because of conflicting shift schedules with the officer and the investigator, scheduled court appearances, scheduled days off, availability of the representative and the refusal of agencies to pay overtime for these interrogations to be conducted expeditiously.

If the officer does not have representation available within the 10 days, the officer forfeits the right to representation under the L.E.O.B.R. and can be compelled to answer all questions. Any refusal may lead to disciplinary action up to and including termination. Under *Weingarten*, there is no ten (10) day limit. The ten (10) days in the L.E.O.B.R. is a deadline for the officer, not the agency.

Representing the Professional Police Officers of Baltimore County





**MEETING MINUTES
April 2015**

- The April General Business meeting was held on April 27, 2015 at FOP Lodge 4. President Weston called the meeting to order at 7:30 p.m. Chaplain Merkle gave the invocation. President Weston led the Pledge of Allegiance.

ROLL CALL OF OFFICERS

- All Officers were in attendance as well as Legal Advisor Mike Marshall.

APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

- A motion was made by Brother Grumbach to accept the minutes of the March General Membership Meeting. A second was made by Brother King. There was no discussion. The motion passed.

REPORTS OF OFFICERS

~ PRESIDENT WESTON ~

- March 25– Addressed the In-Service Training class.
- March 31– Met with Captain Lilly who was recently assigned as the Commander of the North Point Precinct.
- April 1– Addressed the In-Service Training class.
- April 6– Participated in the Precinct Seven Explorers golf tournament fundraiser.
- April 7– Attended the Circuit Court hearing for Joe Harden

and attended the Retired Officer’s Association meeting.

- April 8– Addressed the In-Service Training class and met with Chief Johnson to discuss several issues which affect our membership.
- April 9– Met with a member of an alarm company who would like to offer services to our membership.
- April 14– Attended the Baltimore County Executive Budget Message.
- April 18– Attended the Maryland State Fraternal Order of Police meeting in Hagerstown, Maryland.
- April 20– Met with Chief Johnson and our two members who were involuntarily transferred to fill the vacancies at the communications center, attended the PAC meeting and attended the Executive Board of Directors meeting.
- April 22– Addressed the In-Service Training class and attended the Baltimore County Police Foundation Awards program.
- April 23– Attended a fundraiser for second district county council woman Vicki Almond.
- April 27– Chaired the FOP Lodge #4 General Membership meeting.

~ 1st V. P. COMEGNA ~

- March 27– Represented the lodge at the police departments promotional ceremony.
- March 31– Met with Captain Lilly, President Weston and Second Vice-President Rose.
- April 7– Attended a meeting of the Association of Baltimore County Retired Police.

LODGE 4 OFFICE

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www.foplodge4.org

ELECTED OFFICERS

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President
(443) 956-2679

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1st Vice President
F.O.P. Lodge 4
(410) 409-0293

David M. Rose
2nd Vice President
F.O.P. Lodge 4
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Donna M. Patterson
Lodge Secretary
PC-12
(410) 365-8481

Robert W. Caskey
Treasurer
CID-Robbery
(443) 956-2615

W. Don Patterson
State Trustee
Retired

Ryan Massey
Sergeant at Arms
CID - Homicide

Paul A. Merkle
Chaplain
Retired

L. Timothy Caslin
Past President
Retired

EXECUTIVE BOARD of DIRECTORS

Kenneth F. Schubert
Chairman
Retired
(410) 404-2788

Mike DiCara
Vice Chairman
PC-4

Thomas G. Scally
CID - Arson
Robert Graff
PC-6

Kathy Kraemer
PC-6
Michael Cortes
RATT

James P. Rommel, Jr.
PC-11
Joe Caskey
CID - Homicide

Ryan Franks
PC-1
Kathryn Greenbeck
PC-8

LODGE STAFF

Juanita Bouthner—Administrative Assistant
Nancy Skinner—Administrative Assistant

LEGAL ADVISORS

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Phone (410) 685-2022
IAS Cases Michael Marshall

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

***Fourword* Editors**

Donna Patterson
Don Patterson

The Fourword

- April 9– Attended the monthly meeting of the Police Assistance and Relief Fund.
- April 14– Attended the County Executives Annual Budget Message.
- April 17– Attended a training seminar sponsored by the Maryland State FOP.
- April 18– Attended the quarterly board meeting of the Maryland State FOP.
- April 20– Attended a meeting of the Political Action Committee and attended the April Executive Board of Directors meeting.
- April 22– Visited Precinct #3.
- April 23– Attended a fundraiser for Baltimore County Councilwoman Vicki Almond.
- April 27– Attended the April General Business Meeting.

~2nd V. P. ROSE~

- March 26– Attended range phase I qualification and met with Colonel Evans to discuss and update various cases and policies.
- March 27– Attended the promotion ceremony at police headquarters.
- March 31– Met with Captain Lilly, President Weston and First Vice-President Comegna.
- April 6– Participated in the Precinct Seven Explorers golf tournament fundraiser.
- April 7– Attended a worker's compensation hearing for a member in Harford County and attended a Baltimore County Circuit Court hearing for Joe Harden also attended the Retired Officer's Association meeting.
- April 9– Met with two members to discuss retirement options.
- April 13– Attended a grievance hearing in reference to two separate grievances involving questions on the Corporal's exam.
- April 14– Attended the County Executive's Budget Message.
- April 15– Addressed the In-Service Training class.
- April 18– Attended the quarterly board meeting of the Maryland State Lodge in Hagerstown, Maryland.
- April 20– Attended Lodge #4 Executive Board of Directors meeting.
- April 22– Attended the Baltimore County Police Foundation awards program.
- April 27– Attended Lodge #4 General Membership meeting.

SECRETARY PATTERSON

- April 7– Attended the Association of Baltimore County Retired Officers meeting.
- April 17– Attended training sponsored by the Maryland State FOP.
- April 18– Attended the Maryland State FOP meeting in Hagerstown, Maryland.
- April 20– Attended the Lodge #4 Executive Board of Directors meeting.
- April 22– Attended the Baltimore County Police Foundation awards program.
- April 27– Attended Lodge #4 General Business meeting.

~TREASURER CASKEY~

- Worked at the Lodge 4 on the following dates: April 2, 10, 19, 22 and 28
- April 20– Attended the Lodge #4 Executive Board of Directors meeting.
- April 27– Attended the General Membership meeting and reported the financial status of the lodge.
- Spoke with a member on April 28, who wishes to remain anonymous,

who coordinated with the Outback Steakhouse in Canton to donate 120 meals for officers deployed to the riots in Baltimore. Picked up the meals and delivered 60 to Baltimore City Headquarters and 60 to our members who were staging at the Timonium Fairgrounds awaiting deployment. If you visit the Canton Outback, ask to speak with Damien Fleischer and thank him and his staff for their support of the officers deployed at that time.

~TRUSTEE PATTERSON~

- April 6– Participated in the Precinct Seven Explorers golf tournament fundraiser.
- April 7– Attended the Association of Baltimore County Retired Officers meeting where I served as the Sgt-at-Arms.
- April 17– Attended a training sponsored by the Maryland State FOP.
- April 18– Attended the quarterly meeting of the Maryland State FOP.
- April 20– Attended Lodge #4 Executive Board of Directors meeting.
- April 22– Attended the Baltimore County Police Foundation awards program.
- April 27– Attended Lodge #4 General Business meeting.
- During the State FOP meeting, Pennsylvania State FOP President Les Neri and Ohio State FOP President spoke about the 2015 National Conference to be held in Pittsburg. The website www.PAFOP100.com gives the schedule of conference events. At this time there are no prices because the committee is attempting to obtain corporate sponsorship.

**EXECUTIVE BOARD
OF DIRECTORS REPORT**

~ Ken Schubert ~

- An Executive Board of Directors meeting was held on April 20, 2015. The meeting was called to order at 5:00 p.m. Sgt at Arms Massey was working, Chaplain Merkle, Brother Cortez and Brother Franks were excused. All other board members and legal advisor Mike Marshall were in attendance.
- 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 ~

- Annual Golf Tournament is scheduled for Friday August 21, 2015. The tournament will be held at Rocky Point Golf Course in Essex. Shotgun start at 0800 hrs. The cost is \$360 per four-some. Call the lodge to reserve your group.

**DONATION REVIEW
COMMITTEE**

~ Paul Merkle ~

- The committee met on March 16 and March 23 and made the following motions:
- Donate \$500.00 to Maryland Law Enforcement Hockey team for the upcoming World Police Games.
- Purchase a Silver Sponsor for \$500 for the PAR Fund 5K on June 7, 2015.
- Purchase 10 tickets at a cost of \$400 for the Lodge 70 Bull Roast to benefit their fallen officers.

GRIEVANCE COMMITTEE

~ Dave Rose ~

- On April 13, 2015 hearings were conducted at the Office of Administrative Hearings for the two grievances that were filed for questions #62 and #80 on the Corporal exam. The grievants contested the answers that the creators of the test chose as the correct answers for both questions. Their position is that there is more than one correct answer listed as a choice for each question. Judge Stahl heard the evidence from both sides and will render a decision on each question.

**LEGAL ADVISORY
COMMITTEE**

~ Dave Rose ~

- The County filed for a Writ of Certiorari to the Maryland Court of Appeals in the retiree health care subsidy case on January 30, 2015. On April 17, 2015 the court granted the petition. Baltimore County, Maryland v. Baltimore County Fraternal Order of Police, Lodge No. 4 – Case No. 25, September Term, 2015. The issue is whether public policy, as clearly delineated in the Baltimore County Charter, the Baltimore County Code, controlling Maryland case law, and the separation of powers doctrine, provides an exception to the enforcement of the arbitration award in this case? The case will be heard in the fall of 2015.
- In the Brandt Bradford case, the ERS/County has filed an appeal to the Court of Special Appeals. No briefing schedule has been set.
- On April 7, 2015 a trial was heard in Circuit Court for Pfc. Joseph Harden. The State's Attorney called two witnesses before breaking for lunch. Before

starting the afternoon session, the State's Attorney offered a plea to Pfc. Harden and his attorney. The State's Attorney's plea offer was to drop the felony charge to a misdemeanor and that he resigns. After some consultation with his attorney, he agreed to accept the plea and resign within five business days. Arrangements were made to have his back pay reimbursed as required under Article 16 of the Memorandum of Understanding. He has since been reimbursed and has resigned.

- There are currently two disciplinary hearing boards scheduled in 2015. One is for September 1, 2015 and the second is for November 2, 2015. There have only been two hearing boards since January 2011. The last was January 2013.

LEGISLATIVE COMMITTEE

~ Cole Weston ~

- There were 17 Bills introduced in the House of Delegates which would have altered the LEOBR and a few on body camera's. The attack came from the Mayor and some Delegates from Baltimore City. FOP leaders throughout the state have worked very hard meeting delegates and senators to defeat the bills.

MEMBERSHIP COMMITTEE

~ Tom Scally ~

- Brother Scally made a motion to accept Stacie Sullivan as an associate member. She was sponsored by Brother Pat Gibbs. The motion passed.

MEMORIAL COMMITTEE

~Don Patterson~

- The May 1, 2015 Fallen Heroes Memorial Day to be held at Dulaney Valley Memorial Gardens was postponed and has been rescheduled for June 12, 2015.
- On May 8, 2015, the Baltimore County Police Memorial Ceremony was held in Towson, at the Patriot Plaza. A reception was held immediately following the ceremony at Parkville Heritage Gardens, 7631 Harford Road, 21234.
- On May 15, 2015 the National Police Officers' Memorial Service was held in Washington, DC.

PENSION COMMITTEE

~Dave Rose~

- At the April 13, 2015 Pension Board of Trustees meeting the Board approved 31 total retirements. Six of those was from the police department.
- Bolton Partners did report that in calendar year 2014 there were no excess earnings over the 7.875% needed to go into the PRIF Account.
- Under the provisions of Section 5-1-235(c), if the funds accumulated in the PRIF as of December 31, 2014 are insufficient to provide a 1% increase, then no increase shall be granted. The estimated cost of a 1% increase in retirement allowances effective July 1, 2015 is \$13,022,315, based on the 7% interest discount rate. The final PRIF account balance of \$10,526,113 as of December 31, 2014 is not sufficient to cover this estimated cost. Therefore, no increase will be granted on July 1, 2015.

POLICY REVIEW COMMITTEE

~Dave Rose~

- The committee members reviewed six (6) policies this month. There were no bargaining issues identified.
- In January the department convened a Body Camera Workgroup at the direction of the County Executive to discuss Body Worn Cameras. The committee has concluded its meeting and a report has been given to Chief Johnson and the County Executive.

POLITICAL ACTION COMMITTEE

~Steve Comegna~

- The Political Action Committee met on Monday, April 20. The committee made the following motions:
- To purchase a \$1,000 sponsorship to a fundraiser being held by Baltimore County Councilwoman Vicki Almond (District #2) on Thursday, April 23, 2015
- To purchase a \$200 Bronze sponsorship to a fundraiser being held by State Delegate Susan Aumann (District#42B) on Saturday, May 9, 2015.
- These motions were presented to the Executive Board on April 20 and was approved by the general membership on April 27, 2015.

NEW BUSINESS

- Brother Folio brought up the topic of the 2016 Maryland State FOP Conference to be held in Baltimore City. He felt we should think about not attending due to the way the city government treated the police during the disturbance as well as their attacks on police officers rights in Annapolis.

GOOD OF THE ORDER

- During the month of April FOP Lodge #4 sent one (1) card and flower arrangement to a bereaving member. Two (2) donations were made in lieu of flowers at the request of bereaving members. Three (3) fruit baskets were sent to members recovering from hospitalizations. Fourteen (14) thank you cards were received.
- Retired Brother Buddy Johnson wanted to make the members aware of a benefit concert he is involved in. The Special Operations Warrior Foundation Benefit Concert will be held June 20, 2015 at Jarrettsville VFW Post 8672, Forest Hill, MD 21050. This is an outdoor concert to raise money for children of fallen soldiers and also to provide financial assistance to severely wounded military members who served in Special Operations Units. Tickets are \$10 in advance through Eventbrite.com and \$12 at the door.

Bereavements

Laura McCann, Mother of Retired Brother Lonnie Roberts

Retired Brother William A. White

Ida McCormick, Mother of Retired Brother John McCormick

Yogesh "Joe" Sheth, Uncle of Brother Mahindra Saywack

Jennie Ruffino, Grandmother of Sister Stephanie Sodd

Baltimore County Police Memorial Fund, Inc.

In August of 2005, the Baltimore County Police Memorial Fund was reestablished for the purpose of making the existing Baltimore County Police Memorial pedestrian accessible. The project was successful and provides a pathway to the Memorial which continues in a circular fashion around the Memorial that includes two granite benches. These changes allow family, friends and coworkers of our officers to spend time at the Memorial whose theme was designated as a “private moment touching our past, present and future.”

Since the completion of the project, the Fund has been able to provide \$57,885.24 supporting some very important efforts whose description you will see below:

\$5,158.24 – June 2010

To support the construction of Baltimore County Police Memorial Wall in honor to the Fallen Officers who lost their lives in the line of duty. This Memorial is located in the lobby of the Public Safety Building.

\$25,000.00 – January 2011

To the National Law Enforcement Museum which will be the nation’s largest most comprehensive museum about U.S. law enforcement. The museum will be a place where visitors can honor, remember and learn about the heroes who keep us safe and provide the backbone of our democratic society.

\$10,000.00 - February 2012

To the John Armiger Public Safety Scholarship Fund established to provide scholarships to assist Maryland college students pursuing a career in public safety. John Armiger was the former owner and president of Dulaney Valley Memorial Gardens. He established the annual Fallen Heroes Day ceremony honoring fallen police officers, firefighters, correctional officers and paramedics in 1986.

\$900.00 – May 2014

To support the effort to put a memorial bench at Dulaney Valley Memorial Gardens in honor of Baltimore County Police Officer Charles Huckeba who was killed in the line of duty on 07/07/77. Eight of nine Baltimore County Police Officers killed in the line of duty are buried, entombed, or represented at Dulaney Valley Memorial Gardens.

\$1,500.00 – September 2014

To support Angel Park, a new all-inclusive playground in Perry Hall. The concept from Angel Park began from an idea that came to a family after the loss of their baby boy. From tragic circumstances, they decided they wanted to build a place for laughter, activity and fun, for families and friends. The Baltimore County Police Memorial Fund donated funds to provide a replica of a police station in memory of officers who lost their lives in the line of duty.

\$327.00 – August 2014

To cover the cost of engraving the Precinct Twelve Fallen Officers memorial with name of Jason Schneider who was killed in the line of duty on 08/28/13.

\$10,000.00 - March 2015

To the John Armiger Public Safety Scholarship Fund in memory of John Armiger who passed away on 03/04/15.

\$5,000.00 – April 2015

To support the effort to build a Monument for those who lost their lives during the Gulf, Iraq and Afghan Wars. The monument is to be located on the south lawn of the Old Courthouse in Towson, Maryland.



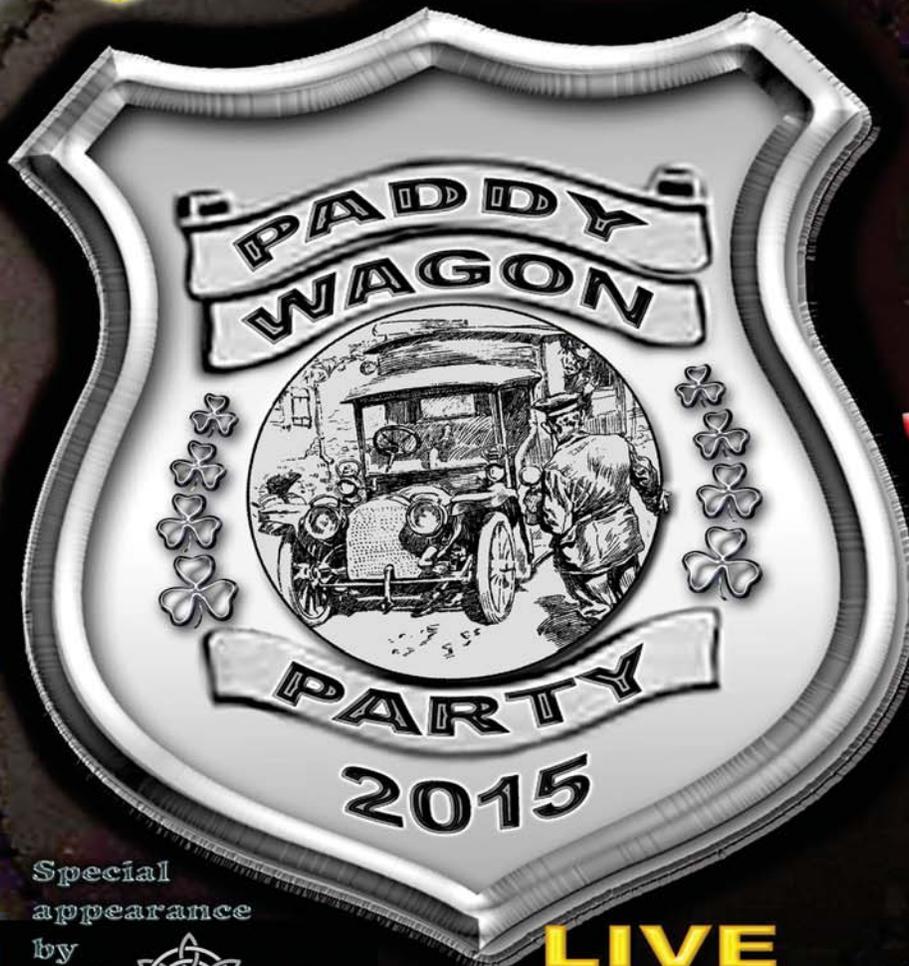
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To buy tickets contact Jared Stern at jstern3@gmail.com or purchase online with PayPal at www.pesbaltimore.org

The June

**FOP Lodge 4
GENERAL
BUSINESS
MEETING**

will be held on

**Monday,
June 22, 2015
7:30 p.m.**

at
FOP Lodge 4
9304 Harford Road

The July

**FOP Lodge 4
GENERAL
BUSINESS
MEETING**

will be held on

**Monday,
July 27, 2015
7:30 p.m.**

at
FOP Lodge 4
9304 Harford Road