

The Official Newsletter of the Southern States Police Benevolent Association, Inc.

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## South Carolina PBA

President	Dave Soderburg - Goose Creek PD	Vice President	Phil White - Charleston PD
Sr. Vice President	Phil Webster - North Myrtle Beach PD	Secretary/Treasurer	Paul Sweeney - North Myrtle Beach PD
Executive Director	Richard Banks		

### **High School Drug Bust turns ugly in Goose Creek**

by Joni Fletcher  
sspba Staff Attorney

Last November Goose Creek (South Carolina) police officers found themselves the focus of intense TV coverage and scrutiny when video from a drug investigation at a high school gained national news coverage. Twelve of the

Act to obtain records of complaints and disciplinary actions taken against sheriff's deputies. The court determined that the public's right to know about how state officers carried out their duties outweighed the deputies' desires to shield their personnel records from journalistic scrutiny.

Burton involved a reporter for The Herald newspaper, published in Rock Hill, who was investigating a complaint filed by a citizen against York County deputies. The reporter (Burton) submitted written requests to the Sheriff's Department for

The PBA needed a primary sponsor for the Federal Due Process Bill and it just so happened that South Carolina Sen. Lindsey Graham had been an acquaintance of Richard Banks dating back to their time serving together in the armed services. Sen. Graham was a JAG Officer in the Navy and Banks was a member of the National Guard. During their time in the service Sen. Graham's office was across the hall from Richard Banks' office and from that point a professional relationship developed and each have stayed in contact to this day.

- 7. H.3554 Companion Bill S. 275 (Solicitors participating in Police Retirement System) Rep. W. Smith
- 8. H.3546 Resolution-Joe McGary overpass, Horry County (Myrtle Beach Officer Killed/Line of Duty) Rep's Clemmons, Barfield, Edge, Keegan, Viers, Witherspoon
- 9. H.3571 Companion Bills S19, S339 (Workers compensation /Occupational Diseases, Presumption that Heart or Respiratory Disease/Cardiac Incident) Rep's Bingham, Toole
- 10. H.3452 Companion Bill S144 (Certain Leave For Law Enforcement/Admin rather than Sick,

involved officers are PBA members who requested PBA legal service when this matter quickly heated up, and PBA provided attorney representation as soon as it was requested.

The Goose Creek Police Department had been working with the principal of Stratford High School in an effort to combat the drug activity prevalent at the school. In the weeks leading up to the raid, suspicious activity had been visible on in-school video monitors. In addition, a cooperating student and faculty members had expressed concerns about activity they witnessed. At the principal's request, the Police Department conducted surveillance of the school for two days and then implemented a planned operation on November 5, 2003. K9 officers were involved to sniff for drugs. Also, due to the amount of drugs and money potentially involved, officers logically concluded that there was a potential to encounter drug dealers with weapons. As a result, some of the officers unholstered their weapons but kept them at a low trajectory so as not to point at any of the students. School surveillance video—which did not show the totality of the situation—soon appeared on local news and was

access to records the department possessed which were related to the citizen complaint. Burton requested reports regarding criminal complaints against deputies as well as personnel records of the deputies. The Sheriff's Department's response only provided information as to the date of hire, rank, and pay of the named deputies. The department claimed that all the other requested information was exempt from disclosure under the Freedom of Information Act (FOIA) because the information was of a personal nature and disclosing it would constitute an unreasonable invasion of personal privacy. The trial court determined that the Department had violated FOIA.

The Court of Appeals sought to determine whether the information sought by Burton fell within the privacy exemption of the state Freedom of Information Act. This privacy exemption excuses from disclosure "[i]nformation of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy." The Court held that the specific information sought by Burton did not fall within the scope of that exemption.

The Court found "the manner in which the employees of the Sheriff's Department prosecute their duties to be a large and vital public interest that outweighs their desire to remain out of the public eye." According to the Court, "The newspaper, in fulfilling its obligation to report on and hold to account those in public service, had a legitimate need to access the records Burton requested." The Court also found that the deputies'



When the time came for the PBA to find a primary sponsor for the due process legislation, it only felt natural to Richard Banks to ask his long-time acquaintance for his endorsement on the bill. Although, Joe Wilson, Wes Hayes and Lindsey Graham co-sponsored the bill back in the mid 90's, it needed a final push that Sen. Graham provided by offering his full endorsement of the bill in November of 2003. "He has been true to his word from the very beginning," said Banks about Sen. Graham's work ethics. This is a fluid area of law, and it appears that the best way to obtain protections for law enforcement officers' personal information may be through legislative efforts as opposed to relying on the courts.

Before signing on as primary sponsor to the bill, Sen. Graham took the bill and rewrote it numerous times until both parties were happy with the outcome. Banks said, "we rewrote the bill so many times until it is what it is today." During the rewriting process there were many other obstacles to maneuver around like the fall of Enron and the war in Iraq. "These things had to be resolved some what before we could move on with the bill," said Banks. Banks said that it is necessary to educate people about the bill. Especially the senators and politicians voting on the bill. "Most legislators have never been cops and do not know what it is like. We have to educate them on what law enforcement officers have to deal with," said Banks.

Line of duty) Rep's Toole, Bingham, Harrison 11. S.0023 (Retired LE Officer return to active duty) Sen. Reese

12. S.0026 (Criminal Justice Academy Funding / SC Education Lottery) Sen.'s Knotts, Reese

13. S.0124 (Retirement Systems Disputes) Sen.'s Leatherman, Elliott, Reese

14. S.0125 Similar bill H3336 (Transfer of Duty Weapon/Active Officer Killed/Line of Duty/immediate family member) Sen.'s Knotts, Reese

15. S.0127 Similar bill H3328, H3932 (Tuition Free education Children Law Enforcement/extend benefit to Spouses) Sen.'s Knotts, Elliot, Reese

16. S.0134 Similar bill H3334 (State Health/Dental-disabled Law Enforcement Officers) Sen.'s Knotts, Reese

17. S.0141 (Participate state paid premiums/disability, performance of official duties, Law Enforcement Officer) Sen.'s Knotts, Reese

18. S.0144 Similar H.3252 (Admin leave instead of sick leave Line of duty Injury, Law Enforcement Officer) Sen.'s Knotts, Reese

19. S.0195 (Retirement Income Deduction all amounts/age 65) Sen. Reese

20. S.0275 Similar H.3554 (Probate Judges/Police Retirement system) Sen. Reese

21. S.0301 Similar H3482 (Transferring a Pistol Sen.'s Vardin, Kuhn, Reese

22. S.0384 (Police Officer Retirement increase/25 years @ 75% 30 years @ 103%) Sen. Reese

### Chapter Meeting Schedule

**Grand Stand** - Second Tuesday 7:00

quickly picked up nationally as the media focused on police officers supposedly drawing their weapons on children. What was not shown in the media was video taken by police officers at the scene which clearly demonstrates that weapons were pointed at the floor, never at students.

As of this date, five PBA attorneys are representing the involved members in the ongoing criminal investigation of their actions as well as in the defense of the lawsuits which have been filed against them. Attorneys Andrew Savage and Lionel Lofton became involved in the matter very early on and have worked to keep the situation under control. Upon their recommendation, three additional attorneys have come on board in this case—Wells Dickson, Francis Cornely, and Peter Brown—to assist in the PBA’s efforts to protect our members’ rights.

This has become a politically charged, widely publicized situation where the involved officers have already been tried in the court of public opinion. PBA continues to provide legal service for these officers to ensure that their rights do not get trampled by the efforts of those who seek to present this situation as something different from what it actually was.

Fourteenth Amendment privacy rights under the U.S. Constitution did not provide a right of an individual to have his performance of his public duties be free from public scrutiny.

As a result, the Court held that the newspaper was entitled to have access to reports of all complaints or allegations of illegal conduct made against the named deputies as well as employment information, including their “dates of employment, title, rank, pay-rate schedule, copies of disciplinary letters, records of suspension and all other information as provided by law.” Obviously, release of detailed information about a police officer has the potential to put that officer in harm’s way. PBA has put forth efforts and is continuing to pursue protections for the personal information of law enforcement officers in our member states. In Georgia, PBA successfully promoted an amendment to the Open Records statute which set limitations on the types of information which could be released to the public about a law enforcement officer. In Tennessee, PBA brought forth a civil challenge to the release of photographs of law enforcement officers to a Chattanooga newspaper; the courts ruled against PBA in this matter.

**Senator Lindsey Graham sponsors S1818 Due Process bill**

by Dave Soderberg  
South Carolina PBA Division President

The Federal Due Process Bill has been ten years in the making. The

Now that the Federal Due Process Bill has a primary sponsor, it is important for every member to get involved at the local level. “It is about building and maintaining relationships,” Banks said. “It is every members responsibility to go out and talk to their senators and educate them about the issues we are faced with.” Banks explains that the first thing that every member should do is to register to vote and join a political party if they have not done so already. Start attending political meetings and writing your local politicians, educating them on the issues. A lot of politicians do not even know that law enforcement officers are not afforded due process. It is up to you to inform them.

**SCPBA supported legislation**

We have been very successful with three of the four bills in our 2003 Legislative Agenda, along with a number of companion bills for enforcement also being introduced. They are in various stages of the legislative process. The South Carolina Police Benevolent Association Supported Legislation is as follows:

1. H. 4175 (Due Process) Sponsor: Rep. P. Sinclair
2. S.468 (Retired Officers retaining status and weapons) Sponsor Senator D. Thomas
3. S.64 (State health/dental plan retained/dependants officer killed/line of duty) Sen. Gregory & Reese
4. H.3597 (Sick Leave increase) Rep’s McLeod, J. Smith, Bales, Davenport, Parks
5. H.3596 (Sick Leave/care of immediate family member) Rep’s McLeod, J. Smith,

p.m.  
Holiday Inn Express Restaurant  
Restaurant Row, N. Myrtle Beach  
**Coastal Last Monday 7:00 p.m.**  
Radisson Inn Airport, N. Charleston  
**Low Country - 4th Wednesday 7:00 p.m.**  
Goose Creek P.D. (Training Room)  
519 Goose Creek Blvd.  
**Piedmont - Third Thursday 7:00 p.m.**  
Holiday Inn Express, 895 Soartan Blvd Spartanburg

**Piedmont Chapter Endorsements**

**Spartanburg County Sheriff**  
Chuck Wright



L-R Reginald Spurgon, Wes Berkeley, Chuck Wright, Paula Brewtser, James Sutton

**Spartanburg County Coroner**  
Mike Smith



L-R Reginald Spurgon, Wes Berkeley, Mike Smith, Paula Brewtser, James Sutton

**SC Senate - John Hawkins (Incumbent)**

**South Carolina decision  
poses danger for law  
enforcement officers**

*By Joni J. Fletcher  
SSPBA Staff Attorney*

The South Carolina Court of Appeals recently issued a decision which has the potential to damage law enforcement officers in the state by having their personnel records open to public scrutiny. In *Burton and East Coast Newspapers v. York County Sheriff's Department*, the Court of Appeals decided that privacy considerations did not bar a newspaper from using the South Carolina Freedom of Information

South Carolina PBA has pushed it one step closer to a reality by getting South Carolina Sen. Lindsey Graham to sponsor the bill. Federal due process is something that the Southern States PBA has been lobbying for since the early 1990's and, until recently, has had little success. South Carolina Executive Director, Richard Banks, had a lot to do with finding a sponsor for this bill by being involved in this process since the mid 90's.

Bales, Davenport, Parks, Clark, Sinclair 6. H.3596 (Retirement Systems/ increase number of accumulated sick leave/credited service) Rep's McLeod, Bales, J. Smith, Davenport, Parks, Clark



L-R Reginald Spurgon, Wes Berkeley,  
John Hawkins, Paula Brewtser, James  
Sutton