



# FLORIDA ON PATROL



Winter/Spring 2006

## From the President



As I am writing this message we are preparing for the February Board Meeting. For those of you that are attending the board meeting I want to again thank you for your commitment to our membership and taking the time to come and help conduct the business of the Florida State Lodge.

As many of you know I have decided not to seek reelection as president of the Florida State Lodge. From time to time we all should stop and reevaluate our life and situations. Over the past few months I have done just that and made the decision not to seek reelection. This decision was not an easy one, however, for personal and professional reasons I believe it is the right one.

I have been honored to serve you as president this past two years. The presidency of our great order, if it is to be done right, is a full time job. It is a job that I sought in order to serve our members at another level, and I have thoroughly enjoyed the challenges of this office. I have also enjoyed working for our membership. The reputation of the order and what is best for the organization has always guided my thoughts and decisions. Putting what is best for the membership and the organization as a whole first and letting that guide my decisions instead of what may be best for me professionally, politically, hasn't always been the easiest course. But it has been the right course, and with the benefit of hindsight I believe that I made the right decisions.

Those of you that have supported, and continue to support me, I thank you. I find it humbling to have earned that support. To those that have supported me in the past and felt that they could not do so in the future, I regret that and am sorry that I let you down. I will be available to help our new president and executive board in any way they feel that I can.

I have just returned from the state presidents meeting held in Phoenix, AZ. During the meeting the Grand Lodge reported that they received a grant to do train the trainer seminars for CISM. The chairman of the CISM committee can be contacted for additional information if your lodge or agency is interested. For those new members that may not be familiar with CISM, it stands for Critical Incident Stress Management. There are teams throughout the state and nation. They respond to provide

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# Florida On Patrol

Winter / Spring 2006

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assistance after critical incidents such as a line of duty death, mass casualty, and other incidents. There are peer support people from police, fire, and EMS. These teams also provide debriefings for USAR teams that FEMA and the State Department send into areas around the world.

At the previous state presidents meeting I spoke about the need to try and get on the list with FEMA in order that our humanitarian efforts can be reimbursed, and more importantly, respond into an area without interference from the federal government claiming that our teams are not authorized. Grand Lodge President Chuck Canterbury reported that the Grand Lodge is in the process of being recognized by FEMA. The national Disaster Relief Committee is also looking at developing regional response teams that can be sent in to assist after an incident. The idea is to be able to have a team on site within eight hours. I'm not sure if that will be feasible, but at the least have teams situated so that they can be on sight within twenty-four hours.

The Grand Lodge is also working in partnership with Freddie Mac. The Freddie Mac group has put together a program called CreditSmart. There are eight cities around the country that are going to be test cities, Miami has been selected as one of those cities. The idea of this program is to train trainers to put on seminars (Freddie Mac will provide the class material) to educate our members about credit, its importance and how to repair your credit. I have received the materials to review. The concept is a good one, many of our young officers get into credit trouble when they join a department and begin making more money than they have before, and others get into trouble as a result of a divorce. Many times officers allow themselves to become distracted by their debt, some resort to working as many extra details as they can. This can result in their not getting the proper rest, which can cause accidents and injury. It can also lead to domestic situations that can adversely impact their careers.

We are approaching the beginning of the legislative session in Tallahassee, senate and house committees have been meeting the past several months. I urge everyone to become involved and informed. If you can, I hope you will find the time to attend the Legislative Committee meeting. You can help the FOP and the state lodge succeed in our legislative program by being informed and speaking with your representatives when they come back home. As important as it is to have a voice in Tallahassee, it is just as important for senators and representatives to know that the FOP back home is informed and supportive of the state lodge's efforts.

I hope that you and your loved ones stay safe.

*James Mann*

## ***Hurricane Relief Donations***

National Fraternal Order of Police

410 Donelson Pike, Suite A-17

Nashville TN 37217

Make checks payable to the Fraternal Order of Police Foundation. In the memo section please write "Hurricane Relief."

## VICE PRESIDENT'S MESSAGE

### *2nd Vice President*

#### *Jim Preston*



The New Year is well underway and there is much going on in the FOP. I had the honor of installing the 2006 Elected Board of Tampa Lodge 27. Congratulations to newly elected President Dan Lyons. I have been visiting many Districts and Local Lodge Meetings and I've been impressed with the amount of energy in our Florida FOP.

From District 4, Palm Beach Lodge held their annual Ball at Mar-A-Lago where they received a donation from Donald Trump to their Scholarship Fund of \$100,000. District 2, with so much leadership talent, is working hard on recruitment and legislative issues. In District 3, I welcomed 3 new members to Temple Terrace Lodge 101. I attended Pinellas Lodge 43's Annual Awards Banquet where President Tim Ingold presented awards to Officer David Webb and Kent Johnson as Deputies of the Year. The FOP Member of the Year Stanley Gams was recognized for his excellent recruiting efforts, bringing Pinellas Lodge 43 up to 1500 active members. It was great to see 5 local Police Chiefs and the Pinellas Sheriff together with the State Attorney and County Administrator attending and recognizing the FOP in Pinellas as the premiere police organization in the County. Tim Ingold has done an outstanding job in organizing several departments under the Lodge 43 banner and is well respected for the results being achieved. He has a model that many would envy. District 1 Director Rob Bell is working hard on building membership and on labor contracts. Ralph Dean in District 5 is rebounding from last summer's hurricane damage and Martin Garcia from District 6 reports they are also recovering, thanks to the efforts of their Disaster Response Team. Dave Scott in District 7 reports the District is doing well.

Our Disaster Response Teams performed well last summer and we continue preparing for the next hurricane season. Our second Response Team mobile cargo trailer is ready and will be stored in a central

location for immediate response and relief with supplies and equipment. A third trailer is being worked on and each District Director should have a list of volunteers ready to deploy. Florida is the leader in Disaster Relief. Preparedness is the key. Be a volunteer and add your name to your District list. Our focus is on our members and "First Responders".

By now many of you have heard that State President James Mann will not be seeking another term. I have formally announced that I will be running for President at the 57<sup>th</sup> Annual State FOP Conference in June at the Tradewinds Beach Resort in St. Pete Beach. I am looking forward to the challenge and will speak with as many of you as possible. I've been honored with the endorsement of President Mann and with a tremendous amount of support and endorsements in this endeavor from across the state. Together, we can move forward for all of our members.

We have an exciting opportunity to build on the foundation in place and increase our recruitment efforts in the labor arena while building a bridge to bring together our fraternal and labor lodges, our active and retired members. I am concerned by an undercurrent of turmoil that suppresses our positive energy at the state level and I want to refocus that energy toward realizing the mission of the State Lodge.

There is still much work to accomplish before the June Conference and I will continue to work hard for President Mann and the membership. We must make our presence known during the upcoming legislative session both in Tallahassee and locally. We will honor those we have lost at the State and National Memorials. Our committees have work to complete and new goals to set for the future. I firmly believe a quote from President Reagan so aptly applies to the FOP, "Our brightest days lay ahead of us." I am looking forward to seeing everyone at the June Conference. Bring the family and join us at the beach. ■

## NATIONAL LAW ENFORCEMENT MUSEUM SCHEDULED TO OPEN IN 2009

### *Museum Will Tell The Stories Behind The Names* by Craig W. Floyd

The enormity of the sacrifice is clear to any visitor to the National Law Enforcement Officers Memorial in Washington, D.C. There are more than 17,000 names on the marble walls of this national monument, with hundreds more added every year. Each of those officers paid the ultimate price to preserve public safety. They deserve to be honored and remembered.

But, unless you were a friend, colleague or loved one of the fallen, their inspiring stories are mostly unknown. All of that will change when a new museum, which was approved by Congress in the year 2000, opens its doors right across the street from the Memorial.

The importance of building the National Law Enforcement Museum is clear. The Memorial permanently and solemnly tells an important part of the story of service and sacrifice. But as one law enforcement leader recently said, "The Memorial focuses on the *end* of the story... We need to tell the *rest* of the story."

The Museum is being built by the National Law Enforcement Officers Memorial Fund, which is the same nonprofit organization that established the Memorial in 1991. Fundraising and planning for the museum are in the early stages (a 2009 opening is projected), but when it is finished, the combined Museum and Memorial are sure to become one of Washington, D.C.'s top visitor destinations.

With cutting-edge interactive exhibits and eye-catching audio-visual props, the National Law Enforcement Museum will serve as an important bridge between law enforcement's past and present, between the fallen heroes and those who continue to follow in their footsteps, and between the officers and the public they serve. Visitors will discover the broad view of law enforcement's essential and historic role in our society. The common thread throughout will be the extraordinary service and sacrifice of the men and women behind the badge.

In addition to changing exhibits pertaining to unique

aspects of law enforcement, the Museum's permanent exhibits will include:

- *Introductory Theatre:* Where visitors will be introduced to the story of the National Law Enforcement Museum. The 12-15 minute experience will open, enrich, challenge and inspire visitors. It will educate their awareness of the invisible net that law enforcement provides in maintaining the delicate balance between freedom and ensuring safe, secure lives under our form of government.
- *Being an Officer:* This exciting section of the Museum gives visitors a chance to involve themselves in real-life training scenarios, including a "shoot/don't shoot" scenario, and will also focus on corrections, an often-overlooked segment of law enforcement. Visitors will begin their experience in the Academy.
- *History of Law Enforcement:* This section examines the role of law enforcement during our nation's history, and focuses on the increasing prominence in law enforcement of women and minorities.
- *Reel to Real* exhibits let visitors discover how different newspapers or electronic media have covered the same story from varying political or social viewpoints. Plus, the importance of communication in law enforcement will take visitors into the Motorola Dial 911 Emergency Call Center where they will learn how dispatchers skillfully evaluate desperate calls from the public and decide which personnel to send.
- The *Hall of Remembrance* will feature multimedia stations and thousands of personal mementos left at the Memorial throughout the years. The Hall of Remembrance can be thought of as the heart of the Museum—a powerful reminder that law enforcement service must never be taken for granted.

*Continued on page 5*

*Museum continued*

Each exhibit area will include personal stories of the heroism and sacrifice of law enforcement officers throughout our nation's history, leading up to September 11, 2001 and beyond.

The next article in this series will take readers on a behind-the-scenes tour of some of the National Law Enforcement Museum's exhibits. For more information, please contact The National Law Enforcement Officers Memorial Fund at 202-737-3400 or visit our website at [www.nleomf.com](http://www.nleomf.com). ■

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## **CUBA—SECOND TERM AS FOP PRESIDENT**

by Miranda G. McLeod, Staff Writer

The Fraternal Order of Police swore in the first minority president of the union again, as Nelson Cuba was re-elected to the FOP Jacksonville Consolidated Lodge 5-30. Cuba was sworn in by past-president Jimmy Holderfield at a ceremony last week.

Other members elected to the board include First Vice President Robbie Freitas, Second Vice President Lonnie Miller Jr., Secretary Steve Amos, Conductor David Harvey, Treasurer David Kilcrease, Chaplain C.E. Jarrell, Inner Guard David Meacham and Outer Guard Mike McCall.

The installation ceremony for the 2006-2007 officers and awards banquet included retired and active duty members of the Jacksonville Sheriff's Office and families.

Cuba recognized JSO Chaplain James Crosby for his "charitable and benevolent services" to the FOP. Cuba also recognized City Council member Glorious Johnson with the President's Award and thanked all elected officials for their dedication to the union.

In an address to union members, Cuba stressed the importance of family, especially his, quipping they keep him sane.

He also said he was ready for the challenge that faces the union on the issue of health care. Cuba said retired officers are spending as much as 35 percent of their pension on health care and he would like to see policy changes so that health care is more manageable for members. ■

## **DISTRICT 1 LABOR NEWS UPDATE**

*By Rob Bell, District One Director*

We are rapidly increasing our labor efforts in District 1. We have four departments under contract and a fifth on the way.



Since becoming District Director, the Pensacola Police Department (my department), Santa Rosa Sheriff's Office, Milton Police Department and the Pensacola Airport Police (currently working on a contract) have all recognized the need and elected to become labor lodges to better represent their members. The Gulf Breeze Police Department was the only labor lodge in District 1 for many years and they have recently completed negotiations, receiving another good contract.

Our FOP Staff Rep, Paul Johns, has done an excellent job in our area. We have kept him very busy these past couple of years and with negotiations about to begin for the Pensacola Police Department officers and sergeants on our second contract, Paul will continue to be busy in the coming months.

Labor has been contagious in District 1, as word spreads quickly among the rank and file. There has been talk of other agencies that might be considering collective bargaining. I have to commend the officers that have stepped up, made the sacrifice, and have taken on their departments to make things better for themselves and their fellow officers. I am proud of my FOP brothers and sisters.

We are well in District 1; however, we believe the Florida State Lodge is in need of some minor repairs. As many of you know, I have decided to run for the office of 2<sup>nd</sup> Vice President of the Florida State Lodge. I know with my years of FOP experience, I can help put the Florida State Lodge back on track.

District 1 has committed to and will support Jim Preston for the office of State Lodge President. We know that he will be an effective leader that will take the Florida State Lodge to new heights. I want to be a part of the change. As your 2<sup>nd</sup> Vice President, I will serve the members to the best of my ability. I am asking that you help repair the Florida State Lodge by supporting and voting for Jim Preston and I at the June Conference in St. Pete Beach. ■

*By Miller Norton, Past President, Atlantic-Neptune # 107*

*Frederick A. “Fritz” Meyne*



His name was **Frederick A. Meyne**, but known to all as “**Fritz**” around these parts.

If you knew him *very* well, you might have been able to get away with calling him the “Curl”.

Folks who lived around the “North Beaches” of Duval county remember the days when policemen were highly regarded and duly respected by the communities they served. Fritz was no exception. He had that “all business” look about him. We had seen him for years in the neighborhoods, a large strapping intimidating man with a slick head and one curl of hair on top that would be his trademark...

Prior to pinning on the badge, Fritz began a career with the U.S. Navy in January of 1942, serving for 20 years and 13 days – not that he was counting. Soon after his return to Atlantic Beach in 1962, Fritz began work as an Atlantic Beach Police Officer.

Fritz held devotion not only to his Department, but to the Fraternal Order of Police as well. In 1962, there was ONE lodge - Northeaster lodge # 17 in Jacksonville Beach. Brother Meyne joined in late 1962, and quickly involved himself in the Order. In 1964 and 1965, he served with honor as President.

In 1977, Atlantic – Neptune Lodge # 107 was formed, serving the needs of Mayport, Atlantic, and

Neptune Beaches. Brother Meyne was quickly elected to the office of President in 1978 and again in 1999 and 2000, many years after his retirement.

During his years serving in Atlantic Beach, Fritz worked his way through the Department, rising to the rank of Lieutenant. Highly respected by his peers and the citizens he served, Fritz was named Officer of the Year in 1981 and received many accolades throughout this second career which spanned 20 years. (Plus about 13 days)

Fritz held the distinction of being the FIRST Police Officer in Atlantic Beach history to make retirement, checking out on February 1<sup>st</sup>, 1982. Since that time he seldom missed a lodge meeting, and was present for the 2005 FOP Christmas dinner, held in December.

Brother Fritz passed away at 7:02AM Christmas Day, 2005. He was laid to rest on Wednesday, December 28th at the Mayport cemetery in Jacksonville, Florida.

His many family, friends, and Fraternal Brothers and Sisters will miss him dearly.

We have lost a great man.

Job well done, thou good and faithful servant.

Rest in peace Brother Fritz.



## PALM BEACH POLICEMAN'S BALL

By: Edgar Burroughs



Donald Trump & Edgar Burroughs

Some days are better than others! January 7, 2006 was one of those exceptional days. In the past, I've had the honor to chair our annual Palm Beach Policeman's Ball which would typically net

around \$12 to \$18 thousand dollars and was plenty to help pay the educational assistance we provided of \$1,000.00 a year to the children of officers attending institutes of higher education from our 501(c)(3) education fund. After several years and several venues, like the Country Club, the Beach Club and the Four Seasons Resort all of which were great fun; it was time for a big step up.

This year, with our FOPA, it was decided to make the gala a Policeman's Ball and to change the venue to Donald Trump's "The Mar-a-Lago Club" on Palm Beach. Our friends in the FOPA gave their full attention, hard work and support for the event. With their support and vision they helped produce a spectacular social event which turned out to be the event of the year in Palm Beach and a huge success for FOP #19. Our special guest, Donald Trump, spent the entire evening at the Ball which was opened with the Palm Beach Honor Guard and a piper. Invocation was by Chaplain Craig Gunkel and the master of ceremonies was President Fred Hess. FOPA President John Scarper gave a welcome and thanked everyone for making this event a huge success. A live auction was



held with a vacation on Nantucket, Jimmy Buffet concert tickets anywhere in the world, and an opportunity to be a character in the next James Patterson book. At the conclusion of the live auction Mr. Trump thanked everyone for the support of the FOP and graciously donated \$100,000 to the event. Mr. Trump also introduced four of "The Apprentice" candidates (pictured lower left) attending the event. At the FOPA meeting January 25<sup>th</sup> a check was presented to Treasurer Simmons for the full amount.

When talking of success, this event has to rate high on anyone's list and we are grateful to Mr. Trump, President Scarper and Vice President Ryan and the Committee for their wonderful efforts. ■

## WHERE ARE THEY NOW

By: Jim Preston



While visiting our second home in the beautiful north Georgia mountains of Blairsville, Georgia recently, my wife and I were at a local craft show. I was tapped on the shoulder and surprised to find retired Ft. Lauderdale Detective and FOP Lodge 31 Past President Tom Mangifesta and his wife Colleen. The "it's a small world" feeling immediately became the discussion. My wife Sarah says I find someone I know everywhere we go. Tom and Colleen have retired to Blairsville and purchased "Granny's Cottage" a popular local hand crafted log furniture store. The store is located between Blairsville, Georgia and Murphy, North Carolina on Hwy 19/129.

Colleen told us that after visiting the store she informed Tom he could buy her everything in the store

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## OLD COP /NEW COP: I'LL TAKE THE PAST

The modern police officers of today are certainly poles apart from the cop of twenty years ago. For one thing, many claim the progressive police are much more professional and educated than the dinosaurs that walked the streets two decades ago. That may be true, but is that what the public wants?

Currently, I live in the Phoenix, Arizona area and have been teaching criminal justice students who reside in the valley of the sun. In the last five years, I have instructed over 1500 students while discovering their attitudes towards the police is less than distasteful. In some cases, the word hate comes to mind. These students are from all walks of life and all ages. They are not felons or they would not be in a criminal justice program. They are members of the general public.

So, let's differentiate between the public in general and the criminal element of society. In the world of policing, these two categories are certainly separate. The public in general mostly commit crimes of domestic violence, disturbances, and a traffic violation or two. But, in the world of the criminal, he or she commits crime after crime, probably on a weekly basis.

Thus, the above facts places the individual students of criminal justices programs in the group of general public and not in the category the police refer to as the criminal element of society. One would expect the criminal element to hate the police because they are the individuals who strips away the freedom of the common criminal. So, why this bad taste for the modern cop of today from many members of the general public?

The today cop lacks the three most important traits a police officer must have to survive, common sense, compassion, and a sense of humor. All these characteristics should be stressed in every police academy in the country. I am not generalizing that all modern police officers do not posses these necessary traits. I certainly claim many do enjoy the gift, but many have not yet begun to even open the wrappings.

The number one problem of today's modern cop is simple. They follow the law to the letter. I once saw a friend arrested for D.U.I in front of his house dur-

ing a birthday party. His car was parked on the street and he and some friends were getting some ice from the trunk. An officer arrived, asked for the owner of the car, and if he had the keys to the vehicle in his pocket. He did, but had no intentions of leaving his party. Because he was in the area of the auto and the officer said he had control by having the keys in his pocket, he was arrested. The whole incident cost him three thousand dollars for an attorney to beat the ticket. Now, that is one member of the general public, not the criminal public, who does not like to the police. The letter of the law officers are slowly letting the politicians and police administrations distract a treasured value the old time cop cherished, **Discretion**. Giving up this right is a big mistake in my view and in the view of most criminologists and experts in the criminal justice field. By not utilizing this precious gift it is obvious that the "Letter of the Law Officer" will undoubtedly achieve more arrest. So, what is this officer accomplishing? Certainly, by not making discretionary arrest would give the officers hundreds of man hours of street time to answer calls and patrol in general. It has been shown time and time again; the mere presence of the police deters crime (O.W.Wilson, Cal. Berkley). The truth of the matter is these officers who are wasting their time by following the letter of the law and making minor arrest are actually putting the general public at risk because their presence in the police stations for hours causes other officers to cover twice the amount of beat space.

But, let us not put all the blame on the beat officer alone. Every arrest must be approved by a supervisor at one time or another, either on the field or during check out time. So, why are these supervisors, during some arrest, not recommending the officer re-think his or her choice, if ever there was a choice at all? It all boils down to the mighty buck and the lack of aggression by the field sergeant. Questioning officer's decisions, or lack of a decision, might make waves and that is the last thing a sergeant wants on his personnel record. Why? The main goal of all sergeants is to get promoted to lieutenant, no matter what the

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age. An exception, one has less than one year to retire. The pensions of all police officers are always based on the amount of salary one earns during the last three to five years prior to retirement. I suggest there is a large percentage of sergeants that posse the traits I mentioned earlier in the article. But, being a sergeant is like being in limbo; one cannot wait to get to those pearly gates of lieutenant.

Another reason for the tamed attitude of supervisors and policy makers concerning letter of the law police is probably the main and most important one. It is the money. Eight-five percent of all arrest in this country are settled by plea agreements. In every agreement money is involved. It may be in the form of restitution to the victim, court cost, fines, and fees paid to sub- contracted agencies for the purposes such as anger management, drug testing after conviction, and so on and so on. Many cities and states now charge incarcerated people in jail waiting for trials and guilty parties in prison a dollar amount a day for the pleasure of their stay. Where I live you even have to pay to be on probation, parole, or a diversionary program out of your pocket.

Now, some might say who cares. They committed the crime, admitted guilt to the crime, and now they have to pay for the crime. Those who think in this manner are over looking one crucial issue. If not one person visited a probation department funded by our tax dollars for six months, would that probation officer still get a paycheck. The answer is yes. Why, because the salaries of all public employees are mandated in the appropriate budget prior to the beginning of the fiscal year. The money is already there and a portion of that money has already been paid by the convicted taxpayer. So, if the convicted are now required to pay so much a month for probation or parole, where does the money go that was already budgeted? Oh, that's right; they give it back to us. Yeah, in your dreams. This money goes into the general fund. The politicians are in charge of the general fund and they spend it as if it was their own. So, the next time you letter of the law officers are making an arrest and acting like robots, just think how thrilled your local politicians are for your donations.

Written by Richard J. Solita

Author of *“Twenty Years of Vaudeville and a Pension/ What really Happen Behind the Badge.”*

[www.funnypolicenovel.com](http://www.funnypolicenovel.com)

## PITTSBURGH FOP FILES OVERTIME LAWSUIT

From WTAE TV, January 4

PITTSBURGH, PA – In an unexpected twist to Pittsburgh's money crunch for incoming Mayor Bob O'Connor, leaders of Pittsburgh's police union have filed a class action lawsuit against the city.

The lawsuit claims the city failed to provide officers with all of the back pay for overtime which the union said is required by federal law.

The Fraternal Order of Police said it had negotiated payments with the city law department, but that the checks covering 2004 that were sent to officers fell short of that agreement.

FOP Pittsburgh President Mike Haven said the union will now seek the back pay for 2003, as well as 2004 and 2005.

Haven said the bill could add up to millions of dollars.

The back pay is the result of a federal circuit court ruling on overtime – which the city admits in writing also applies to Pittsburgh police. ■

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Tom & Colleen continued from page 7

or buy the store. So in September 2005 they became the new owners, specializing in Amish furniture, mountain crafted quality furniture, gifts, arts and crafts and hand painted home accessories done by local artists.

They have many one of a kind items by talented local craftsmen and craftswomen. If you are in the area stop by and say hello. They love the store and get to talk to lots of nice people.

Quite a change for the former Ft. Lauderdale Detective and FOP Union President.

But wait, there's more. Retired Manatee Sheriff's Office Director Jim Huffstutter and his wife Carolyn, retired Wildlife Officer Lee Crews, Hillsborough Sheriff's Captain Craig Latimer and retired Tampa Detective George Lease and many many more Florida cops all have homes in the Blairsville area. If you know more, let me know. Seems we may have discovered the dinosaur's resting place. ■

## PROTECTIVE SEARCHES BUILDING UPON *TERRY V. OHIO*

*By: David Waksman  
Assistant State Attorney,  
Miami-Dade County, FL*

In *Terry v. Ohio*, which was decided by the United States Supreme Court in 1968, the *Stop and Frisk* was legalized and became a part of the lexicon of American law enforcement. The need to protect the nation's police officers, as well as the public was finally recognized.

Detective Martin McFadden, a thirty-nine year veteran of the Cleveland, Ohio, Police Department, assigned to the downtown beat for thirty years, saw three men walking back and forth in front of the same store numerous times. He testified that he suspected *they were casing a stick-up*. The officer testified that he only patted the men down to see whether they had weapons; he did not put his hands beneath their outer garments until he felt guns on two of them.

*Recognizing the need to protect the officer, the court stated:*

Certainly it would be unreasonable to require that police officers take unnecessary risks in the performance of their duties. American criminals have a long tradition of armed violence, and every year in this country many law enforcement officers are killed in the line of duty, and thousands more are wounded.

*Striking a balance between those risks to our police officers, with the rights of our citizens, they went on to hold:*

Our evaluation of the proper balance that has to be struck in this type of case leads us to conclude that there must be a narrowly drawn authority to permit a reasonable search for weapons for the protection of the police officer, *where he has reason to believe that he is dealing with an armed and dangerous individual*, regardless of whether he has probable cause to arrest the individual for a crime. The officer need not be absolutely certain that the individual is armed; the issue is *whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger*.

Now that we know when we can *pat down* a person,

how about his car --- or his house --- or someone near him? Let's follow the cases and see where they take us.

In *Michigan v. Long*, the court applied the principles of *Terry* in the context of a vehicular roadside encounter stating:

The search of the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, is permissible if the police officer possesses a reasonable belief based on *specific and articulable facts which, taken together with the rational inferences to be drawn from those facts, reasonably warrant* the officer in believing that the suspect is dangerous and the suspect may gain immediate control of weapons.

The court in *Long* took that language right out of *Terry v. Ohio*.

Let's see what those facts were.

Deputy Sheriffs Howell and Lewis were on patrol in rural Barry County, Michigan, when they observed a speeding and erratically driven car go into a ditch shortly after midnight. When the deputies approached the scene of the accident, they met David Long at the rear of the car. The driver's door was open. He was the only person present. Long had difficulty responding to repeated requests to produce his driver's license and registration and appeared to be 'under the influence of something.' As Long started walking towards the open car door, the deputies followed and observed a large hunting knife on the floorboard of the driver's side of the car. They shined their flashlights into the car and saw 'something' protruding from under the armrest. Their intention was 'to search for other weapons.' At this point, Deputy Howell entered the vehicle to examine the armrest, and saw a pouch of marijuana on the front seat. After Long was convicted, he asked the U.S. Supreme Court to determine 'the authority of a police officer to protect himself by conducting a *Terry*-type search of the passenger compartment of a motor vehicle during the lawful

investigatory stop of the occupant of the vehicle.’

*The court held:*

Deputy Sheriffs Howell and Lewis were on patrol in rural Barry County, Michigan, when they observed a speeding and erratically driven car go into a ditch shortly after midnight. When the deputies approached the scene of the accident, they met David Long at the rear of the car. The driver’s door was open. He was the only person present. Long had difficulty responding to repeated requests to produce his driver’s license and registration and appeared to be ‘under the influence of something.’ As Long started walking towards the open car door, the deputies followed and observed a large hunting knife on the floorboard of the driver’s side of the car. They shined their flashlights into the car and saw ‘something’ protruding from under the armrest. Their intention was ‘to search for other weapons.’ At this point, Deputy Howell entered the vehicle to examine the armrest, and saw a pouch of marijuana on the front seat. After Long was convicted, he asked the U.S. Supreme Court to determine ‘the authority of a police officer to protect himself by conducting a *Terry*-type search of the passenger compartment of a motor vehicle during the lawful investigatory stop of the occupant of the vehicle.’

*The court held:*

Our past cases indicate ... that protection of police and others can justify protective searches when police have a reasonable belief that the suspect poses a

Let’s change the facts a bit. Let’s say Long was already in handcuffs, having been placed under arrest. Could you still *pat down* the car? Is there still a danger? That’s just what happened in Texas to Richard Wallen. Wallen was stopped for speeding. As the police officer was requesting his license and registration, he noticed several weapons in the vehicle. Wallen kept walking around the car and looking into it. Eventually a records check revealed an outstanding traffic warrant and Wallen was handcuffed and placed in the rear of the patrol car. Was there any need for a protective search of the car? Could Wallen get to those guns and hurt the officer? The United States Court of Appeals for the Fifth Circuit (Texas, Louisiana and Mississippi) ruled that ‘suspects in handcuffs can remain a danger to the

police, particularly when weapons are present.... The rule of *Long* and *Terry* applies here to legitimize this sweep, although Wallen was in handcuffs at the time.’

A few years after Deputy Howell *frisked* David Long’s car for weapons, detectives in Prince George’s County, Maryland, obtained arrest warrants for two men suspected of a recent armed robbery of a Godfather’s Pizza restaurant in their jurisdiction. One of the robbers had been wearing a red running suit. The first to be arrested, two days later, was Jerome Edward Buie. A team of six or seven officers went to his home after calling first to make sure he was there. After gaining entry, the officers fanned out through the first and second floor looking for him. A Corporal Rozar shouted into the basement, ordering anyone there to come out. When a male voice answered, Rozar announced: *This is the police, show me your hands.* Finally Buie, and those hands, came up. He was arrested, searched and handcuffed by Cpl. Rozar. So why did he have to *pat down* the house?

The second robber had not yet been apprehended. Who else was in the house that might attack the officers as they were taking Buie away? A Det. Frolich entered the basement (after Buie came up) to see if anyone else was down there. He noticed a red running suit lying in plain view and seized it. It was moved into evidence at Buie’s trial and he was convicted.

*The Supreme Court, building upon Long and Terry, held:*

We conclude that the Fourth Amendment would permit the protective sweep undertaken here *if* the searching officer possessed a reasonable belief *based on specific and articulable facts* which, taken together with the rational inferences to be drawn from those facts, *reasonably warranted the officer in believing that the area swept harbored an individual posing a danger to the officer or others.*

*They further explained:*

A ‘protective sweep’ is a quick and limited search of a premises, incident to an arrest and conducted to protect the safety of police officers or others. It is

*Continued on page 12*

narrowly confined to *a cursory visual inspection of those places in which a person might be hiding.*

Since the running suit was in plain view where the officer had a legal right to be, its seizure was lawful.

Let's extend this a bit. Suppose Buie was not in his home, but arrested in the neighborhood tavern. Who else could you *pat down* there? An earlier case, *Ybarra v. Illinois*, gives us the answer.

In March of 1976, a special agent of the Illinois Bureau of Investigation applied for and received a search warrant for the Aurora Tap Tavern, in Aurora, Illinois. The warrant was to search the tavern and the bartender, one "Greg, a white male with blond hair, about 25 years of age," for tin foil packets of heroin that "Greg" was alleged to be selling in the tavern.

On the date the warrant was issued, seven or eight officers entered the tavern and announced that all present would have to submit to a 'cursory search for weapons.' One officer patted down 9 to 13 customers while the remaining officers conducted the search of the premises. Ventura Ybarra was found to have a 'cigarette pack with ... six tin foil packets of heroin in it.'

Upon entering the tavern, the police did not recognize Ybarra and had no reason to believe he was committing a crime. He made no gestures indicative of criminal conduct, and made no movements that might suggest an attempt to conceal contraband, and said nothing suspicious to the officers. His hands were empty and the police had no reason to believe he might assault them. All the police knew about Ybarra was that he was in a public tavern at a time when the police believed the bartender was selling heroin. (Compare his actions to those of Terry and his associates.)

The court held that, even though the police had a search warrant to search the tavern and Ybarra was in the tavern at that time, *neither a person's mere presence in that tavern, nor his closeness to the person to be searched (Greg) gives rise to probable cause to search that person.* There was no probable cause *particularized* to Ybarra. The court explained:

Each patron who walked into the Aurora Tavern ... was clothed with the constitutional protection against

unreasonable search or ... seizure.... Although the search warrant ... gave the officers authority to search the premises and to search "Greg," it gave them no authority whatever to invade the constitutional protections possessed individually by the tavern's customers.

What have we learned from the line of cases beginning with Terry and continued by Long, Buie and Ybarra?

As dangerous as the police officer's job is, the courts have allowed him/her to adequately protect themselves, if there are specific and articulable facts which would warrant a reasonable person in believing that the suspect is armed or dangerous.

David M. Waksman, J.D., a nationally known homicide prosecutor with vast experience in trying violent offenders, is a former sergeant with the NYPD and a thirty-year prosecutor with the Miami-Dade State Attorney's Office, in Florida. Mr. Waksman teaches at the Southern Police Institute in Louisville, Ky, and the National College of District Attorneys, in Columbia, S.C. This article is excerpted from his new book, *The Search and Seizure Handbook*, available from Prentice Hall or Pearson Custom Publishing. © 2005 ■

## Return to Sender

A police officer attempted to stop a car for speeding and the guy gradually increased his speed until he's topping 100 mph. He eventually realizes he can't escape and finally pulls over. The cop approaches the car and says, "It's been a long day and my tour is almost over, so if you can give me a good excuse for your behavior, I'll let you go."

The guy thinks for a few seconds and then says, "My wife ran away with a cop about a week ago. I thought you might be that officer trying to give her back!"



*By: Tim Ingold, President Lodge 43*

### *Recognizes Deputies of the Year for 2005*



(l-r) Kent Johnson, David Webb, Tim Ingold

On November 8, 2005, Pinellas County Deputy David Webb was flagged down on East Lake Road shortly after 8:15 in the morning by a citizen who reported a person firing a gun in a wooded area near the entrance to the

Grey Oaks Subdivision. Deputy Webb moved his car to investigate the subject and soon found himself taking gunfire from the armed and dangerous felon. Deputy Webb's patrol car was immediately disabled by gunfire taking multiple hits in the engine compartment and windshield. Deputy David Webb exited and took a defensive posture, summoned assistance and began returning gunfire on the subject with his department issued .45 caliber handgun. Corporal Kent Johnson arrived on scene and arming himself with his .223 police carbine began returning fire as well. The suspect, who utilized cover and concealment, and who had reloaded several times was subsequently killed in the exchange of gunfire from a distance of some 80 yards being struck by both Deputy Webb and Corporal Johnson's gunfire. Neither deputy suffered any injury in this violent encounter. Each Deputy exhibited extraordinary courage, heroism, intelligent action and performance above and beyond the call of duty.

To select a law enforcement officer to be recognized for the Officer of the Year Award is often a difficult and complex task. Between lives being saved and lives being taken, the message found within this entire amazing story is that these law enforcement officers went home to their families, to their spouses, their children, parents and friends. They faced grave personal danger, yet they continue their duties today, demonstrating modesty mixed with pride and give thanks for their training that kicked in automatically.

For engaging an armed subject, trading deadly gunfire and managing to hit a target at 80 yards that many of us sometimes have trouble with at 8 feet; The Board of Directors of Pinellas Lodge 43 proudly honors Deputy David Webb and Corporal Kent Johnson as Deputy of the Year for 2005.



### *Pinellas Lodge 43 Member of the Year*

Our award for Pinellas County FOP Lodge 43 Member of the Year is reserved for an FOP member who serves our organization with distinction during the previous year. I have often thought I should rename this award the Brian Beery Award because he has so often set the bar high for personal service to this organization.



Tim Ingold, Stanley Gams

During this year we have brought many new members into our FOP family. Our FOP member of the Year this year honors a current member of our organization who has consistently sold the importance of FOP and union membership within our lodge, and to those new young law enforcement officers bringing many of them onboard. He has routinely attended our monthly meetings for as long as I can remember and assisted us in the defense of several members with his expertise in Use of Force issues. To this day, he continues to provide useful information and insightful data that assists our membership and Board. In sharing relevant facts to our law enforcement officer members, promoting the philosophy and goals of the FOP and actively recruiting new membership after 14 years with the Chicago Police Department and 16 years with the Pinellas County Sheriff's Office, all as an FOP member. Pinellas County FOP Lodge 43 proudly recognizes Deputy Stanley Gams as our Member of the Year for 2005. ■

## 2006 POLICE MEMORIAL—SPONSORSHIP PROGRAM

*Donna Suereth, Florida State Lodge, Chaplin*

On May 8, 2006, the Florida State Fraternal Order of Police and Auxiliary will be hosting the Twenty-fourth Annual Police Memorial Service.

The Memorial Service has grown from a few hundred participants to over a thousand. With any event of this size expenses continue to grow. The Memorial Committee is striving to be self supporting and last year began a program for survivor sponsorships.

The sponsorship program was successful and each room occupied by family members of our 2004 fallen officers was sponsored. We are again asking for your support in our Survivor sponsorship program for the 2006 Memorial Service. The Memorial Committee provides two rooms for each current survivor family at the host hotel in Tallahassee. Each family receives Memorial shirts, pins and other items at registration prior to an informal reception and seminar.

All meals from the event are provided for the survivors, including the barbeque in the park on Sunday, breakfast and lunch on the day of the service.

A donation of \$250.00 will cover most of the expenses

for a family during this event. For your donation, a rose and card will be placed in both rooms for the family prior to their arrival letting them know that you, your agency or lodge recognizes their sacrifice and is providing the rooms during the service.



There were 6 line of duty deaths during 2005 in Florida and we will strive to allow you to choose which officer you would like to recognize. Several Lodges have already made pledges and request for sponsorships for the families of Officers from their areas. If you have a certain family that you would like to sponsor please indicate this on the attached form and return it with your donation to the Florida State Memorial Committee, Sponsorship Program, 242 Office Plaza, Tallahassee, Florida 32301. We will also be accepting sponsorship donations during the February Board Meeting.

On behalf of the Memorial Committee, I would like to thank you for your continued support in making the Memorial service possible. ■

-----Would like to sponsor the family of

(This name will go on the card to the family)

Check Number-----

Amount-----

_____ Deputy Wayne Koester	Lake County SO—February 9th
_____ Sgt. Kevin Kight	Panama City Bch PD—March 27th
_____ Deputy Mariano Lemus	Orange Co SO—May 6th
_____ Officer Roy L. Nelson, Jr.	New Smyrna Beach PD—August 13th
_____ Cpl. Mario Jenkins	University of Central Florida PD—September 24th
_____ Officer Jose Diaz	Ft. Lauderdale PD—October 8th

*Nationally there were **150** Line-of-duty deaths in 2005 and **17,929** total.*

# FOP State Memorial Fund (501(c)3 Charity) Order Form

Please help support the Law Enforcement Officer State Memorial,  
held in Tallahassee by purchasing memorial merchandise.  
Advanced Memorial Pin orders have a built in savings. Place your orders now!

Make check payable to **FOP State Memorial Fund**.  
Thank you for your support.

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Phone: \_\_\_\_\_ (w) \_\_\_\_\_ (c) \_\_\_\_\_ (p)

Send orders and payment to Paul Blanchard at 23255 Burlingame Avenue, Port Charlotte, FL 33980,  
Advanced order can also be sent to [blanchard35@comcast.net](mailto:blanchard35@comcast.net) , payment due prior to delivery.

	Small	Medium	Large	XL	XXL	XXXL	Total Quantity	\$Total	
T-Shirt \$10	—				—	—			
Tank Top \$10	—					—			
Memorial Pins									
Orders prior to 2/06 100 or more = \$3.00	—	—	—	—	—	—			
Orders less than 100 = \$4.00	—	—	—	—	—	—			
All orders from 2/1—5/1 2006 \$4.00	—	—	—	—	—	—			
Orders after 5/1/06 \$5.00	—	—	—	—	—	—			
							Total		

Staple Check Or Cash here



Photo enlarged to show detail. Actual size is 7/8" x 1 3/4"

## OFFICER SAFETY

On December 22, 2005, the BLOC/GCHIDTA received the following information from the Scottsdale, Arizona Police Department:

The FBI has located a website, <http://www.locatecell.com>, which sells detailed cellular and land line phone information. The availability of detailed telephone records over the internet to **anyone** willing to pay represents a very significant backstopping concern and is a sobering example of the amount of information that any target can easily collect on an undercover phone number (cell or fixed). The FBI tested the service, buying the subscription information and undercover cell phone. The price: \$160.00. Less than three hours later, accurate information was reported back via e-mail. For officers who sometimes call home or the office on their UC phone this could be particularly problematic.

The exact range of coverage (whether the company can provide records from any and all cell telephones providers) is not evident from the site. The cell phone tested was a Cingular phone (i.e. Cingular records are available).

SIS has also confirmed that the service exists and is able to provide the information that they advertise. Our test was conducted on an existing Nextel account. After the "order" was placed, the UC "user" of the requested phone received a phone call. The caller reported that he was from Nextel, stated that there was going to be a "service outage" and asked if the phone was used for business purposes. When the caller was told that the phone was used for business, he asked whom the employer was and what department the UC worked in. The caller then advised that it would be taken care of and hung up.

Several hours later the requested call records were delivered via email. From these records, simple investigation conducted by a suspect would allow the UC's true identity to be compromised.

Investigation is ongoing to determine if this service is legal, what measures should be taken to prevent compromise and the extent of this problem.

Locatecell.com is operated by DATA FIND SOLUTIONS, INC., Knoxville, Tennessee and its website offers the following information.

## All Search Results:

- 1 to 4 hours during business days on orders received by 5 pm
- Guaranteed to be accurate, and current
- No data returned, No charge for the search

### Reverse Cell Phone Number \$65.00

Find Name and Address from number. Additional cell reverses available

### Find Current Cell Phone Number \$95.00

Give us the name and any combination of address or SSN and we will send you the working cell phone number.

### Cell Phone Call Records \$110.00

Give us the cell phone number and we will send you the calls made from the cell phone number. ■

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## PRAYERS AND CONCERNS

On December 29th Ed and Anita Kelly's son Edward Jr., seriously injured his leg at home with the explosion of a fire extinguisher. Ed Jr., had surgery in the early evening of the 29th. The injuries were severe. He was hospitalized for several days and finally able to come home on January 12<sup>th</sup> after several additional operations. Ed Jr. will have a long and hard rehabilitation to rebuild his ability to use his leg. Both Ed and Anita are encouraged and helped by your kind words and prayers.

Ed Kelly is a member of Lodge 93, Anita is a member of Lodge 25, and the District 7 Secretary.

\*\*\*\*\*

Past State President and long time FOP member, Bob Spiegel underwent heart surgery in Tallahassee on January 12<sup>th</sup>. A pacemaker and defibrillator were implanted. President Mann has been visiting and providing updates on Bob. Hopefully, by the February Board Meeting, the recovery will find Bob up and able to join us. He appreciates your calls and prayers.

## JUDGE SHOTS DOWN COUNTY'S SECOND ATTEMPT TO OBTAIN IDENTITY OF DEPUTIES POSTING COMMENTS ON WEB SITE

From The Tampa Tribune, January 4

TAMPA, FL – A judge has shot down a second attempt by the Hillsborough County Sheriff's Office to get the names of deputies making anonymous postings on a law enforcement Web site.

Circuit Judge Marva Crenshaw quashed subpoenas that would have allowed the sheriff's office to identify the authors of anonymous messages left on [www.leoaffairs.com](http://www.leoaffairs.com). The privately run site says it's a sounding board for law enforcement officers who want to discuss their departments.

The sheriff's office filed a lawsuit in August that claims several "John Doe" deputies were posting sexist and racist messages anonymously, in violation of department policy. It seeks to prevent deputies from posting messages that violate policy.

Crenshaw said she would not prevent the deputies from posting messages but that racist and sexist messages had to be removed, which the Web site owners did.

The lawsuit also asks for help identifying the deputies so they can be disciplined. Crenshaw initially allowed the sheriff's office to issue subpoenas that would force the owners of [www.leoaffairs.com](http://www.leoaffairs.com) to reveal the Inter-

net service provider addresses used by the anonymous message posters.

The Web site was not named in the suit, but attorneys for the site argued that the First Amendment protects anonymous speech and protects the site from having to reveal the addresses.

Sheriff's attorneys argued that the department's need to keep order in its ranks overrides the First Amendment.

Crenshaw agreed with Web site's attorneys and repealed the subpoenas.

Her decision comes four months after a similar ruling by Judge William Levens regarding the same Web site.

In a separate case, sheriff's attorneys argued that deputies on the site made reference to the investigation of Steve and Marlene Aisenberg's missing baby and that the information was vital. The Aisenbergs are suing the sheriff's office, alleging malicious prosecution.

In that case, Levens also ruled that the sheriff's office could not secure the names of deputies posting on the site. ■



Over 40 Million hits in 2005  
*“The Voice of Law Enforcement On Line”*

## LEAA TARGETING F.O.P. MEMBERS IN NEW FUND-RAISING EFFORT

*Chuck Canterbury, National President*

The Law Enforcement Alliance of America (LEAA) is sponsoring a new fund-raising effort targeting F.O.P. members and other law enforcement officers. Their pitch is centered around H.R. 218, the "Law Enforcement Officers' Safety Act," and the implementation problems the law has experienced at the State and local level and the implementation problems the law has experienced at the State and local level.

Like most partisan appeals, the fund-raising appeal is inflammatory and plays fast and loose with the facts, particularly with regard to the involvement LEAA had in the adoption of the legislation in the 108th Congress, which was practically nil, and their efforts to aggressively address the problems that have arisen at the State and local level, which are nonexistent as far as we know.

To set the record straight:

- It was principally through the efforts Fraternal Order of Police, not LEAA. that H.R. 218 was signed into law.
- It is the Fraternal Order of Police that is aggressively pursuing regulatory and legislative remedies in States and localities experiencing problems with the law's implementation.

- It is the Fraternal Order of Police that worked with Senator Jon Kyl (R-AZ) and his staff to craft the language that was incorporated into S. 1605 to address the law's shortcomings with respect to retired officers--shortcomings which have their origin in amendments attached to H.R. 218 by that bill's primary opponent, Representative F. James Sensenbrenner, Jr. (R-WI), Chairman of the House Judiciary Committee.

I further ask our membership note that the LEAA's fund-raising ploy does not contain any information about what they are doing to address the problems they enumerate or even what they plan to do. I suspect this is because they have no plan and haven't the stature or the influence to affect policy makers at the Federal, State, or local level even if they did.

While the LEAA rightly claims credit for supporting the idea to allow active and retired law enforcement officers to carry in any jurisdiction, that is the extent of their contributions on this issue. I urge all of our members to consider this before making a donation to an organization that is so quick to claim credit for a success that rightly belongs to the grassroots membership of the F.O.P. ■

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regarding the education and implementation of various retirement and estate plans. Mr. Peggs is registered with the National Association of Securities Dealers, and is a registered representative of Woodbury Financial Services, Inc., a member of the National Association of Securities Dealers, 500 Bielenberg Dr., Woodbury, MN., 800-800-2000. Woodbury is a member of the Hartford Financial Services Group, one of the largest financial services companies in North America. He was admitted to the International Association of Registered Financial Consultants as a Registered Financial Consultant (RFC), in 1998 Larry Peggs is a licensed registered Representative in AZ, FL, IN, MI, NC, NY, OH, and is a Florida resident.

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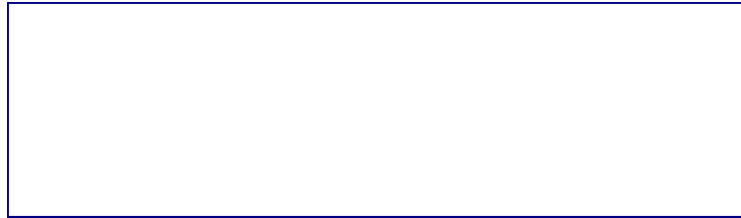
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