



# The Fourword

Volume 45 Number 7

July 2017

## BODY CAMERA VIDEO ANALYSIS

### The United States Supreme Court

The standard for the use of force remains *Graham v. Connor* – is the officer’s conduct “objectively reasonable.” 490 US 386 (1989), *reaffirmed* in *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014).

In other words, would a reasonable officer perceiving the same things have acted in the same manner, taking into consideration the fact that officers are “forced to make split-second decisions?”

The Supreme Court and other federal courts have repeatedly cautioned against over-reliance on the “20/20 vision of hindsight.”

However, body camera evidence invites precisely such scrutiny.

Bodycam video is but one piece of evidence, recorded from one vantage point under stressful and rapidly-changing circumstances.

However, the tendency is to give bodycam video disproportionate weight compared to other evidence.

Another tendency is to conflate bodycam video with an officer’s perceptions. The two are likely to differ, and the officer’s perceptions have legal significance under *Graham v. Connor*.



Representing the Professional Police Officers of Baltimore County





## MEETING MINUTES June 2017

- The June General Business meeting was held on June 26, 2017 at FOP Lodge 4. President Weston called the meeting to order at 7:30 p.m. Chair of the Board Schubert gave the invocation. President Weston led the Pledge of Allegiance.

## ROLL CALL OF OFFICERS

- Chaplain DiCara, Past President Caslin, Sister Kraemer, Brother Rommel and Brother Massey were excused. All other officers were in attendance as well as Legal Advisor Carl Rach.

## APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

- A motion was made by Brother Folio to accept the minutes of the May General Membership Meeting. A second was made by Brother Speed. There was no discussion. The motion passed.

## REPORTS OF OFFICERS

### ~ PRESIDENT WESTON ~

- May 23– Met with representatives from Prudential to discuss financial educational seminars.
- May 24– Addressed the In-Service Training class.
- May 25– Attended the Baltimore County Council Budget Adoption and the Police Department Promotion ceremony.

- May 26– Met with County Councilman Todd Crandell of the seventh district.
- June 1– Attended a fundraiser for Senator Delores Kelly from the tenth legislative district and met with our health care consultant concerning a grievance and rate projections.
- June 5– Met with the evaluators for the CALEA recertification.
- June 7-9– Attended the LRIS Rights of Police Officers seminar.
- June 12– Met with representatives from Nationwide concerning fees and investment selections.
- June 13– Attended a fundraiser for Delegate Steve Lafferty from legislative district 42A, the Pension Board of Trustees meeting, and addressed the 145th recruit class who all joined the FOP.
- June 14– Attended the 145th Recruit Class graduation.
- June 15– Met with House of Delegates candidate Carl Jackson for the eighth legislative district.
- June 19– Met with House of Delegates candidate Aaron Penman for the seventh legislative district, attended a Political Action Committee meeting and the Lodge #4 Executive Board of Directors meeting.
- June 21– Addressed the In-service Training class and met with County Councilman Tom Quirk.
- June 22– Attended a fundraiser for Speaker Pro Tem Adrienne Jones from the tenth legislative district.
- June 26– Chaired the Lodge #4 General Membership meeting.

## LODGE 4 OFFICE

9304 Harford Road  
Baltimore, Maryland 21234  
Phone (410) 668-0004  
FAX (410) 668-8126  
Toll Free (888) 313-3501  
www.foplodge4.org

## ELECTED OFFICERS

Cole B. Weston  
**President**  
(443) 956-2679

Steven G. Comegna  
**1<sup>st</sup> Vice President**  
*F.O.P. Lodge 4*  
(410) 409-0293

David M. Rose  
**2<sup>nd</sup> Vice President**  
*F.O.P. Lodge 4*  
(443) 956-2643

Donna M. Patterson  
**Lodge Secretary**  
*PC-12*  
(410) 365-8481

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

W. Don Patterson  
**State Trustee**  
*Retired*

Ryan Massey  
**Sergeant at Arms**  
*CIB - Homicide*

Anthony DiCara  
**Chaplain**  
*PC-8*

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  
*Retired*

Kathy Kraemer  
*PC-6*

David Sweren  
*PC-6*

Chris Hodnicki  
*CIB-GET*

James P. Rommel, Jr.  
*PC-3*

Ryan Franks  
*CIB-Property*

Robert Graff  
*PC-6*

Patrick Zito  
*Retired*

## LODGE STAFF

Nancy Skinner—Administrative Assistant

## LEGAL ADVISORS

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

\*\*\*\*\*

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

## **Fourword Editors**

Donna Patterson  
Don Patterson

## The Fourword

~ 1<sup>st</sup> V. P. COMEGNA ~

- May 23– Visited Precinct #8, Parkville.
- May 25– Attended the Police Department Promotion ceremony.
- May 31– Visited Precinct #3, Franklin.
- June 1– Met with President Weston, Second VP Rose, John Ripley (President of F.P.E.) and Randy Hart.
- June 2– Attended a wrap up meeting for the P.A.R. Fund's Tractor Trot.
- June 7– Responded to Precinct #12, Dundalk, in reference to a police involved shooting.
- June 8– Attended the monthly meeting of the Police Assistance and Relief Fund (P.A.R.).
- June 12– Met with President Weston, Second VP Rose and representatives from Nationwide Retirement Solutions.
- June 13– Along with President Weston and Second VP Rose, addressed the 145th Recruit Class and signed up all 38 officers.
- June 19– Along with President Weston and Second VP Rose, met with Harford County Deputy Sheriff Sgt. Aaron Penman in reference to his bid to become a State Delegate in District #7 in the 2018 elections. Also attended a Political Action Committee meeting and the Lodge #4 Executive Board of Directors meeting.
- June 20– Attended an event for Baltimore County Councilman David Marks (District #5).
- June 26– Attended the Lodge #4 General Membership meeting.

~2<sup>nd</sup> V. P. ROSE~

- May 24– Attended an investment presentation.
- May 31– Attended the officer transfer draft.
- June 1– Attended the show cause hearing for the Hannig case in circuit court and met with our health care consultant.
- June 5– Met with the CALEA representatives.
- June 7 – Addressed the In-service Training class and responded to Precinct #12 and Shock Trauma in reference to a police involved shooting and wounded officer.
- June 8 – Met with the Director of Police Personnel, met with the Matthews family to discuss the status of the Line of Duty Death benefits and met with members of the planning unit to discuss an SOP draft for the disciplinary process.
- June 9 – Attended the hearing board for Pfc. Hannig so the department could dismiss all charges on the record.
- June 12 – Met with representatives from Nationwide Retirement Solutions.
- June 13– Attended the Pension Board of Trustees meeting and the presentation to the 145th Recruit Class.
- June 15– Met with members of the planning unit and Major Warren to discuss the SOP draft for the disciplinary process.
- June 16– Assisted a member with a resignation.
- June 19– Attended the Lodge #4 Executive Board of Directors meeting.
- June 20– Attended a fundraiser for Councilman David Marks.
- June 21– Met with representatives from Schlachman, Belsky and Weiner.

- June 26– Attended the Lodge #4 General Membership meeting.

**~SECRETARY PATTERSON~**

- June 7– Responded to Shock Trauma with Second VP Rose in reference to an officer involved shooting and injured officer from Precinct #12.
- June 11– Attended retirement celebration for Sister Darlene Peters.
- June 19– Attended the Lodge #4 Executive Board of Directors meeting.
- June 26– Attended the Lodge #4 General Membership Meeting.

~TRUSTEE PATTERSON~

- June 11– Attended retirement celebration for Sister Darlene Peters.
- June 19– Attended the Lodge #4 Executive Board of Directors meeting.
- June 26– Attended the Lodge #4 General Membership Meeting.

~TREASURER CASKEY~

- June 26– Gave the Lodge #4 Financial Report.



## **EXECUTIVE BOARD OF DIRECTORS REPORT**

~ Ken Schubert~

- An Executive Board of Directors meeting was held on June 19, 2017. The meeting was called to order at 1:30 pm. Brother Franks was excused, all other board members were in attendance. Legal Advisor Mike Marshall was also 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~

- The Lodge #4 Annual Golf Tournament will be held on Friday, August 18, 2017. The start time will be 8:00am at Rocky Point Golf Course in Essex. The cost of the tournament will be \$100.00. Call the lodge to reserve your foursome.



### **BY-LAWS COMMITTEE**

~Tim Caslin~

- Brother Tom Scally submitted a proposed change to Article IV of the Constitution. The proposed change was read at the April 2017 General Membership meeting and was posted in the April issue of the Fourword. The By-law Committee made a motion at the May Executive Board meeting to not support the change. It was voted on by the Board and

the Board concurred with the Committee to not support the change. The vote was 12-6. It was read again and discussed at the May 2017 General Membership meeting. The by-law was voted on at the June 26, 2017 meeting and the membership voted to not approve the by-law change.

### **DONATION REVIEW COMMITTEE**

~Mike DiCara~

- The Donation Review Committee met and discussed the following motions:
- To make a \$35.00 donation for a one half page sponsorship to St. Issac Jogues presentation of Godspell.
- To donate \$500.00 to the Central Alarmers.

### **GRIEVANCE COMMITTEE**

~Dave Rose~

- On March 9, 2016, we filed a notice of intent to arbitrate as per Article 8, Section 8.3, step #4 paragraph (b) of the MOU in our healthcare subsidy grievance. On June 15, 2016, we met with our labor attorney and healthcare consultant to discuss and prepare for the grievance as we move forward into arbitration. We have tried to arrange a meeting with the County Administration to try and resolve the issue outside of arbitration but the County has not expressed a desire to do so. We selected an arbitrator from the AAA. We have not scheduled a hearing date. The County has communicated to us that they have declined to participate in the arbitration of this grievance.
- We have filed our notice of in-

tent to arbitrate the Section 6.1c class grievance. On April 19, 2017, I met with OHR Director Gay to discuss the settlement options for the grievance. At the conclusion of the meeting it was apparent there was going to be no settlement. An arbitrator has been selected to hear the grievance. The hearing was scheduled for July 11, 2017. On June 13, 2017 the County Administration communicated to the FOP that they will not be participating in the arbitration hearing.

### **LEGAL ADVISORY COMMITTEE**

~Dave Rose~

- On June 1, 2017, we presented our request for medical records from Franklin Square Hospital for the suspect in the Hannig case. We presented our case to Judge Ensor, who was well prepared for the hearing. Our case premised on the fact that Pfc. Hannig needed those records for that admission only to prove he was correct in his observations of the suspect and his actions. These records are critical to his defense to retain his job and professional reputation. Franklin Square's attorney argued that they cannot release the records because of privacy concerns to the patient. After hearing both parties positions, Judge Ensor ordered Franklin Square to release the records to Hannig for the use in his defense in a hearing board only. Those records were given to Hannig on June 8, 2017.
- On Friday June 9, 2017, the Department convened the hearing board members for the Hannig case that was originally scheduled for Monday June 12, 2017. While on the record, the Department's attorney made a preliminary motion to dismiss all charg-



es “after additional information came to light”. Hannig was reinstated immediately after the charges were dropped and he is working in the same assignment he was in when the incident occurred.

- It was Hannig’s contention all along that his actions were proper and he did not “embellish” the suspects actions in his report of the incident. Hannig and the FOP were prepared to successfully defend his actions should this case have gone forward. In fact, the complainant witness, a local tow truck driver was located by Hannig’s defense and was subsequently interviewed by a member of the Department’s legal division. The witness was able to corroborate Hannig’s and another officer’s recollection of the events leading to the tasing of the suspect on that date.
- The FOP has no issue with an officer’s use of force being reviewed. In fact, all uses of force by officers should be reviewed to ensure the public’s trust, policy compliance and to identify proper training issues. But the fact this incident was sustained is troubling. This incident resulted in the use of a taser on a member of the public. The incident was partially recorded on the taser camera which is activated when the taser is turned on. However, actions by the officer and suspect that occurred before the taser was activated were not recorded but were reported by Hannig. These types of incidents can be uncomfortable to watch. The agency has gone to great lengths to educate members of the public of the limitations of taser/body worn cameras and not to jump to conclusions or make immediate opinions based only on the recordings. It appears Hannig’s supervisors and commanders did just that in this case. They made con-

clusions and assumptions based on the contents of the video and not the important facts that a thorough investigation may reveal before such conclusions and assumptions are made. A camera can never replace a thorough investigation. A recording should be weighed and tested against witness testimony, forensics, the officer’s statement and other elements in a fair, thorough and impartial investigation that takes human factors into consideration. The recordings have great value, but should not be given undue, if not exclusive weight in the judgment of an officers actions.

- Perhaps the agency should avail its supervisors and commanders to the many available training seminars that encompass body worn camera investigations and the pitfalls to avoid. This training should also include the Supreme Court decision in Connor v. Graham which established the “objective reasonableness” standard when reviewing uses of force by officers. The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The question is whether the officer’s actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. Additional training and education on these subjects may help prevent a lot of wasted man hours and agency resources. More importantly it may prevent an exemplary officer from having to fight for his job against baseless allegations.
- Officer Hannig’s case is the very reason Maryland’s General Assembly enacted the Law Enforcement Officers Bill of Rights in 1974. Its purpose is to protect good professional officers from

unfair allegations that could ultimately result in some form of discipline up to and including termination of employment. It does not exist to protect dishonest or bad officers as some have proclaimed. Had the LEOBR not permitted Hannig the opportunity to review the agency’s case against him and present his own defense and provide additional evidence to the agency for their review he would have been wrongly terminated and the citizens of Baltimore County would have lost an exemplary officer with over 15 years of experience.

- We currently have three (3) hearing boards pending. These are pending because there is a show cause petition filed in at least one (1) of them at the moment. This could affect any hearing dates causing them to be rescheduled. These are the first hearing boards since January 2013.
- Pfc. Spivey’s case was transferred to Circuit Court by Assistant State’s Attorney Coffin. It is scheduled for September 12, 2017.
- The Erica Schneider-Barnes appeal of her discontinued spousal death benefit has been scheduled for August 17, 2017.
- Mike Marshall and his staff are working on the Marvin Haw pension appeal to the Office of Administrative Hearings. No date is set.

**Association of  
Baltimore County  
Retired Police  
Meetings 2017**

\*\*\*\*\*

**September 5  
November 7**

\*\*\*\*\*

**Heritage Parkville Gardens  
is closing and at this time we  
are trying to finalize Colum-  
bus Gardens as the new  
meeting site.**

## **PENSION COMMITTEE**

**~Dave Rose~**

- At the June 13, 2017 Pension Board of Trustees meeting, the Trustees approved thirty-five (35) retirements, three (3) from the police department.
- Stephen Matthews spouse Donna was approved for his ordinary death benefit, pending review for LOD under presumption. The County has the death certificate and autopsy report. They have now requested a release for his complete medical history. A release was delivered to the pension office on June 20, 2017.

## **POLICY REVIEW COMMITTEE**

**~Dave Rose~**

- The committee members reviewed three (3) new or revised policies this month. Each policy was a mandatory subject for bargaining. Two have been resolved through open communication with involved parties. The Planning Unit is currently working on an SOP involving the discipline section of the Administrative Manual. They are attempting to incorporate changes made over the last couple of years in Annapolis as well as our MOU to bring the section up to date. There was another meeting scheduled for June 29, 2017.

## **POLITICAL ACTION COMMITTEE**

**~Steve Comegna~**

- The Political Action Committee met on Monday, June 19, 2017. The committee brought forth two (2) recommendations for expenditure. That motions were as follows:
- To purchase a \$250.00 sponsorship to an event for State Delegate Adrienne Jones (District #10) on Thursday June 22, 2017.
- To purchase a \$100.00 ticket to an event for State Delegate Joe Cluster (District #8) on Sunday June 25, 2017.
- There were also three (3) requests the committee did not take any action on.
- The Executive Board of Directors approved this expenditure on Monday, June 19, 2017. The expenditure was approved by the membership on Monday, June 26, 2017.

## **GOOD OF THE ORDER**

- During the month of June, FOP Lodge #4 sent four (4) cards and flower arrangements to bereaving members. Three (3) fruit baskets were sent to members recovering from illness or surgery. Nine (9) thank you cards were received. Four donations were made in lieu of flowers.
- First Vice President Comegna made a motion to send 4 members to the 2017 Concerns of Police Survivors National Conference in Grapevine, Texas.
- The 2017 Baltimore County Police Reunion will be held on September 15, 2017 at Columbus Gardens.

- As of July 1, 2017, Heritage Parkville Gardens is closed. A new location for Association of Retired Baltimore County Police Officers has not been found at this time. Retirees should keep a check of emails and messages for the new location.

## **Bereavements**

**Retired Brother William Poplowski**

\*\*\*\*\*

**Retired Brother Rick Johnston**

\*\*\*\*\*

**Retired Brother Kenneth Krouse**

\*\*\*\*\*

**Retired Brother James Robertson**

\*\*\*\*\*

**Rosie Mae Twigg Spielman,  
Grandmother of Brother Phil Sears**

\*\*\*\*\*

**Nicholas A. DeFelice, Father  
of Brother Scott DeFelice**

\*\*\*\*\*

**Gladys Gerben, Mother of  
Retired Brother Chuck Gerben**

\*\*\*\*\*

**Norman Hewick, Father of  
Sister Gladys Brown**

\*\*\*\*\*

**Frederick J. Kreiger, Father  
of Brother Jon Krieger**

\*\*\*\*\*

**Eugene Dennis, Father of Sister  
Rebecca Borowski**

\*\*\*\*\*

**Doris Helena Butt, Grandmother  
of Sister Samantha Beale**

\*\*\*\*\*

**Donald Shrader, Father of  
Brother Kevin Shrader**

## Membership Passes to the National Aquarium

The Executive Board of Directors of Baltimore County Fraternal Order of Police, Lodge #4 has entered into a one year business partnership under the Corporate Membership program with the National Aquarium. This means we have four transferable passes for use by our members. If you are interested in using the passes: You can call or email the Office at (410) 668-0004, or [office@foplodge4.org](mailto:office@foplodge4.org).

If they are available on the date you have requested they will be reserved for you.

It will be your responsibility to pick up and return the passes.

On the occasions when different members have passes reserved on adjacent dates we ask the parties to communicate and agree upon a drop-off/pickup location for transferring the passes.

Should the passes become lost or stolen while they are in the member's possession we will require the member to pay for the replacement cost.

These passes grant access to the aquarium through the corporate membership entrance which should reduce if not eliminate any waiting in line. We are pleased to be able to offer this as an additional benefit to the members of FOP Lodge #4.

### ***Births***

***Ryan W. Franks Jr., Son of  
Brother Ryan Franks***

***Myah Marie Winston,  
Daughter of Brother Trevor  
Winston***

***Lochlan Scot Wood, Son of  
Sister Kristina Wood***

***Ace Watson, Son of Sister  
Angie Watson and Brother  
Josh Watson***

***Madelyn Elizabeth Decker,  
Daughter of Brother Ray  
Decker***

***Mollie Caroline Rudacille,  
Daughter of Brother Scott  
Rudacille***

***Nolan Beck, Son of Brother  
Jeff Beck***

### ***Promotions***

***Lieutenant  
Keith T. Fruhling***

***Sergeant  
James D. Gill  
Thomas J. Morehouse***

***Corporal  
Jessica N. Beale  
Eric A. Brennan  
Melinda R. Mori***

The July

**FOP Lodge 4  
GENERAL  
BUSINESS  
MEETING**

will be held on

**Monday,  
August 21, 2017  
7:30 p.m.**

at  
FOP Lodge 4  
9304 Harford Road

The August

**FOP Lodge 4  
GENERAL  
BUSINESS  
MEETING**

will be held on

**Monday,  
September 25, 2017  
7:30 p.m.**

at  
FOP Lodge 4  
9304 Harford Road