



NORTH CAROLINA POLICE BENEVOLENT ASSOCIATION, INC.

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June 6, 2012

The Honorable Jim Davis, Chairman
State & Local Government Committee
North Carolina General Assembly
Raleigh, N.C.

Re: Senate Bill 939; An Act To Disclose Police Personnel Information

Dear Chairman Davis and Members of the Committee:

We are writing on behalf of our statewide membership and particularly our membership in Fayetteville. We have grave concerns about Senate Bill 939, which is scheduled to be heard before your Committee on Thursday.

This bill presents serious dangers for the several hundred members of the Fayetteville Police Department and their families. This bill seeks to allow dissemination of the most confidential and personal information regarding the employment, safety and lives of Fayetteville Police Officers to a purported committee designed to review police activities. Several review entities already exist to review conduct of Fayetteville Police Officers.

This bill arises in a dangerous environment in Fayetteville where police officers are under attack by drug dealers, lawyers representing drug dealers and by the City of Fayetteville. The City recently imposed an illegal moratorium precluding Fayetteville Police Officers from conducting consent searches, which had to be enjoined in Superior Court. The City has been attempting to take away police procedures necessary for officer safety. This committee will be yet another tool to obstruct police operations.

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This bill would be extremely harmful to the law enforcement community and the public for several reasons. Information contained in personnel files of all municipal law enforcement officers is highly confidential by statute and by decisional law. See N.C.G.S. 160A-168; *Toomer v. Garrett*, 155 N.C. App. 462 (2002). Fayetteville Officers should be treated no differently, and protected from harassment.

Allowing disclosure of such enormously important and confidential information to a body of appointed persons who are not government officials without an oath of office will create unnecessary risks of harm to officers.

Efforts by a handful of anti-police individuals in Fayetteville are attempting to create a Board with an effective mission of interfering with and obstructing traditional police operations. The Fayetteville Police Department (FPD) has long had an internal review process and procedures whereby police behavior is constantly monitored and regulated. In addition to the internal FPD review operations, the N.C. Criminal Justice Education and Training Standards Commission also specifically regulates Fayetteville Police Officers and the Commission often conducts significant review proceedings and hearings when the conduct of officers is in issue. Some in Fayetteville now want officers to have to also answer to a Committee, and for the Committee to have detailed information on police operations which will be subjected to leaks and other abuse.

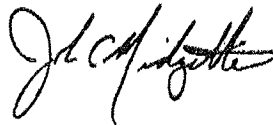
The review Committee being contemplated by the City of Fayetteville has been tried in other municipalities and virtually all of those have resulted in serious obstruction of police operations. To allow a committee to have privileged and confidential information creates extraordinary risks which are unnecessary and inappropriate. This very kind of risk materialized recently in Winston-Salem where its police review committee had to be legally stopped from publicly disclosing confidential police personnel records. See *In Re: Silk Plant Forest Citizens Review Committee*, 719 S.E. 2d 54 (N.C. App. 2011).

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The Fayetteville Police Department is a fully accredited police agency with an excellent record of success that is now targeted to be undermined.

We strongly urge your Committee to oppose Senate Bill 939 and stand with the police officers.

Sincerely,



John C. Midgette
NCPBA Executive Director

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