

# CMPD POLICE LAW BULLETIN

## A Police Legal Newsletter

Spring 2009

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**Forward:** The October 2007-2008 term for the United States Supreme Court has ended. Once again a Justice's previous ideology was no prediction on how he or she would rule on a particular case – particularly when it came to issues relevant to policing. In *Gant*, the Court all but put to rest the “bright line” rule which previously allowed an automatic search of a vehicle incident to a custodial arrest. Yet in *Montejo*, the court opened the door to officers approaching a suspect for questioning - even after the suspect has been appointed counsel. No matter what one's beliefs, the Court left us with several decisions that we all must take the time to read and begin applying to our day to day work. Also, in this edition we include a section for comments from the D.A.'s office and some suggestions for turning in and releasing firearms from the property room. We conclude this edition with a selection of recently enacted North Carolina statutes. As always, if you have a legal question, please do not hesitate to contact our office at 704-336-2406. Be Safe.

### BRIEFS:

#### UNITED STATES SUPREME COURT

**Vehicle / Search Incident to Arrest / Fourth Amendment:** *Arizona v. Gant*, 129 S. Ct. 1710, U.S. LEXIS 3120 (April 21, 2009)

**Facts:** Gant was arrested for driving with a suspended license after exiting his vehicle in a private driveway and walking approximately 10-12 feet away from his vehicle. He was handcuffed and secured in a patrol car. Officers then searched his vehicle and located a firearm and a bag of cocaine in the pocket of a jacket on the backseat. He was charged with possession of drugs and paraphernalia.

**Issue:** Was the warrantless search of Gant's vehicle authorized as a search incident to arrest of an occupant or recent occupant?

**Holding:** No. The warrantless search of Gant's vehicle was not justified by the search incident to arrest exception as Gant could not have accessed his vehicle to retrieve weapons and posed no threat to the officers, nor could evidence of a traffic offense be found in his vehicle.

#### Discussion:

- **What does this case change?**
  - We may no longer **automatically** conduct a search incident to arrest of the passenger compartment of a vehicle. The “bright line” rule under *Belton* ceases to exist.

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- **Why did the U. S. Supreme Court hold the search incident to arrest in this case was unconstitutional?**
  - The Supreme Court did not agree with several lower courts that the *Belton* case actually allowed officers to automatically conduct a search incident to arrest of the passenger compartment of a vehicle. Rather than adopt the “bright line” rule followed by some lower courts, (i.e. If the person is under arrest you can always search the vehicle), the Supreme Court adopted a rule that requires officers to articulate a specific reason for conducting a vehicle search incident to arrest. In this case, Gant was arrested on an outstanding warrant for driving while his license was suspended. Since he was handcuffed and secured in the back of a locked patrol car, there was no reason for the officer to believe that he could reach into the vehicle to retrieve a weapon. In addition, there was no reason to believe that there was evidence of the offense in the car (Gant was arrested for driving while his license was suspended). Based on these facts, the Court held that the officer had no authority to conduct a search incident to arrest.
  
- **When can I search a vehicle incident to an arrest?**
  - From this point forward, officers can search a vehicle incident to an arrest **only** if
    - The arrestee is within reaching distance of the passenger compartment of the vehicle at the time of the search; **or**
    - It is reasonable to believe the vehicle contains evidence of the offense of the arrest.
  
- **What has not changed:**
  - The plain view doctrine: We can continue to seize all contraband in plain view so long as the officer is in a place where the officer is legally entitled to be. If the officer believes he/she has probable cause that the vehicle contains contraband, then he/she may search the vehicle in any area where the contraband may be located. Remember, you do not need a search warrant if the vehicle is on a public road or PVA so long as you have probable cause.
  - The car itself is evidence: We can seize a car and search the car if we have probable cause to believe the car itself is evidence and the car is located on a public street or PVA.
  - A search based on consent: We can conduct a search of the car based on valid consent given by the driver or someone who has apparent authority over the car.
  - Vehicle search based on probable cause: When a vehicle is located on a public road or PVA and we have probable cause to believe there is contraband in the car, then we may search for that item anywhere that item may be located.

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- A vehicle “frisk”: We can continue to search the passenger compartment for a weapon when we have reasonable suspicion that an individual, **whether they are arrested or not**, is dangerous and might have access to a weapon.
- A search incident to arrest of a person: Officers may continue to thoroughly search a person after the person has been arrested for weapons and evidence related to the arrest.
- An inventory search: We can continue to conduct inventory searches, but only if the search is consistent with CMPD policy.
- **Suggestions on vehicle stops:**
  - Continue to follow your tactical training as to how and when you approach a vehicle and how and when you handcuff a suspect.
  - When approaching a vehicle continue to look carefully for any contraband in plain view.
  - When talking to the driver, try to get consent to search prior to making an arrest.
  - When placing a person under arrest, do a thorough search of the individual: If you find weapons or drugs, determine whether you have P/C to search the vehicle and any containers therein. Remember a search incident to arrest can only be conducted pursuant to the above guidelines.
- **What not to do:**
  - Sacrifice officer safety by delaying handcuffing or positioning a suspect simply to keep the suspect within “reaching distance” of the passenger compartment.
  - Tow a car in violation of CMPD policy solely for the purpose of conducting an inventory search.
  - Ignore this important decision.

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**Interrogation / Right to Counsel / Voluntary Waiver / Sixth Amendment:** *Montejo v. Louisiana*, 129 S. Ct. 2079, 2009 U.S. LEXIS 3973 (May 26, 2009)

**Facts:** Montejo was arrested for robbery and murder. While in custody, but before he was arraigned, Montejo was interrogated by police after waiving his rights under *Miranda v Arizona*. Montejo eventually admitted that he had shot and killed the victim during a botched burglary. Pursuant to Arizona state law, Montejo was brought before a judge for a preliminary hearing. The record clearly noted that the charges were read to him and that the Office of Indigent Offender was appointed to represent him.

Later that day, even though the court had appointed a lawyer for Montejo, officers went to Montejo’s place of incarceration and asked if he would show them where the murder weapon was located. Officers read Montejo his *Miranda* rights again and he agreed to show the location of the murder weapon. While en route, officers convinced him to write a letter of apology to the victim’s widow.

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Upon return he was met by his lawyer who was quite upset that officers interviewed Montejo without him being present.

At trial, the letter was admitted into evidence over the Montejo's objections. The jury found him guilty and he appealed arguing the letter should be suppressed under *Michigan v. Jackson* ("If police initiate interrogation after a defendant's assertion, at an arraignment or similar proceeding, of his right to counsel, [then] that police-initiated interrogation is invalid.") The Arizona Supreme Court refused to suppress the letter and upheld the conviction. The Court reasoned that even though the trial court appointed Montejo a lawyer, since he did not affirmatively assert his right to counsel the officers could interrogate him about the murder so long as they obtained a valid waiver of his 6<sup>th</sup> Amendment right to counsel.

**Issue:** Can a defendant waive the 6<sup>th</sup> Amendment's right to counsel after it attaches?

**Rule:** Yes. "The 6<sup>th</sup> Amendment right to counsel may be waived by a defendant, so long as the relinquishment of the right is voluntary, knowing, and intelligent. The defendant may waive the right whether or not he is already represented by counsel; the decision to waive need not itself be counseled."

**Discussion:** The 6<sup>th</sup> Amendment provides that in "all criminal prosecutions, the accused shall have the Assistance of Counsel for his defense." This language has been interpreted by the United States Supreme Court to mean that once the adversarial judicial process has started, the defendant has the right to have counsel present at all "critical stages" of the criminal proceeding. Under the recent case of *Rothgery v. Gillespie County*, the United States Supreme Court held the adversarial judicial process was initiated when the defendant appeared before a magistrate or other judicial official.

Prior to this case, if the defendant asked for a lawyer during the initial appearance, officers were prohibited from contacting the defendant to ask questions about the specific crime for which the defendant was charged. However, based on the holding in *Montejo*, officers may now approach the defendant and ask questions, whether in custody or not, even if the defendant has retained a lawyer so long as the defendant has waived his right to counsel. The waiver can be accomplished by reading the standard *Miranda* waiver form, but should include a reference that the subject is represented by counsel and the name of counsel, if known.

It is important to remember that there are times when an officer may contact the defendant under the 6<sup>th</sup> Amendment, but is prohibited from doing so under the 5<sup>th</sup> Amendment. For example, a suspect has just been arrested for homicide and is in custody at the LEC. Officers approach the subject and read to him his *Miranda* warnings, whereupon he asserts his right to counsel. At this point, officers must stop questioning the suspect for any crime and cannot approach him and question him about this crime or any other crime while he is in continuous custody, unless the suspect contacts us and waives his rights.

In conclusion, this case dramatically changes the rules of engagement with a person who has either asked and/or been appointed counsel at the initial appearance. On the next page you will find a chart that outlines both the 5<sup>th</sup> and 6<sup>th</sup> Amendment rights as pertains to legality of questioning a suspect.

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### INTERROGATION/QUESTIONING OF SUSPECTS 5<sup>TH</sup> AND 6<sup>TH</sup> AMENDMENTS

#### **FIFTH AMENDMENT RIGHT TO SILENCE:** (Applies while suspect is in custody for all offenses)

##### Right to Silence:

- If suspect invokes, then you must scrupulously honor invocation and stop questioning.
- You may re-initiate contact, but only after leaving suspect alone for several hours, and you must obtain waiver first.
- Suspect can initiate contact with you, but you must obtain a waiver before questioning.

#### **FIFTH AMENDMENT RIGHT TO COUNSEL:** (Applies while suspect is in custody for all offenses)

##### Right to Counsel:

- If suspect makes an unequivocal request for counsel, then you must STOP interrogation on ALL crimes until:
  - Counsel is present, or
  - Suspect initiates contact; and
  - Suspect signs waiver form.
- All law enforcement officers are bound by invocation while suspect remains in custody even on unrelated crimes. (not crime specific)
- Prior to interviewing suspect, officers should verify that suspect has not invoked right to counsel to another officer while in continuous custody.
- Does not apply when suspect is not in custody even if previously invoked.

#### **SIXTH AMENDMENT RIGHT TO COUNSEL:** (Applies to suspect whether in or out of custody and is limited to formally charged offense)

- Sixth Amendment guarantees the defendant the right to counsel once adversarial judicial proceedings have begun, which is the magistrate hearing or indictment, whichever occurs first.
- Officers are no longer prohibited from approaching a defendant after the First Appearance simply because counsel is appointed for the defendant.
- Officers may approach the defendant even after the Sixth has attached so long as the defendant has not previously invoked his right to counsel during questioning.
- Officers should use the Sixth Amendment waiver of counsel, either in or out of custody.
- If the attorney is unknown, include the organization (such as the Public Defender's Office) that is representing the defendant on the 6<sup>th</sup> waiver.

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**Criminal Process / Right to Confrontation / Sixth Amendment:** *Melendez-Diaz v Mass.*, \_\_\_\_. S.Ct. \_\_\_\_, 2009 U.S. LEXIS 4734 (June 25, 2009)

**Facts:** Police arrested Melendez for distributing and trafficking in cocaine. The cocaine was seized and forwarded to the state lab for chemical analysis. After analyzing the substance, the lab analyst sent three sworn reports to the prosecutor which stated that the substances submitted were found to contain cocaine. At trial, the lab technician did not testify; however pursuant to state statute, the lab reports were offered into evidence. Melendez objected to the admission of the reports into evidence asserting that he has a 6<sup>th</sup> Amendment right to confront and cross-examine the lab technician in court. The trial court overruled Melendez's objection and admitted the reports as prima facie evidence that the substance officers found on Melendez was indeed cocaine. Melendez was found guilty and appealed on the grounds that the technician's statements in the lab report were testimonial in nature and therefore he had a right to confront and cross examine the lab technician.

**Issue:** Are statements in a lab report intended to be offered at trial against the defendant testimonial in nature?

**Rule:** Yes, a lab report that contains statements from the analyst intended to be offered at trial as evidence against the defendant is testimonial in nature.

**Discussion:** Testimonial evidence is evidence offered by a witness in court or a statement that is prepared out of court for the purpose of being introduced at trial. In this case, the lab report was specifically prepared as evidence to be introduced in court against Melendez for the purpose of establishing that the substance seized by officers was indeed cocaine.

**Issue:** Is a testimonial statement prepared out of court but offered in a criminal trial against a defendant subject to the 6<sup>th</sup> Amendment's confrontation clause?

**Rule:** Yes, "the Sixth Amendment to the United States Constitution provides that in all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him."

**Discussion:** In this case the lab reports contained out of court statements in a formalized report similar to an affidavit and were offered as a substitution for the lab analyst actually appearing and testifying in court. Consequently, the lab analyst is actually a witness for purposes of the 6<sup>th</sup> Amendment and must be subjected to cross examination unless the defense stipulates to the admissibility of the report or the prosecutor has followed a "notice and demand" statute. A "notice and demand" statute permits the prosecutor to timely notify the defense of its intent to introduce the report. The report will then be admitted without testimony from the lab analyst unless the defendant files a timely objection to the report. North Carolina is one of several states that currently have notice and demand statutes that apply to the admission of various types of forensic evidence. When applicable, we will continue to rely on the current process of notice and demand as opposed to calling the lab analyst in each and every case.

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**Fourth Amendment / Stop and Frisk / Vehicle Stop / Passenger:** *Arizona v. Johnson*, 129 S. Ct. 781, 2009 U.S. LEXIS 868 (January 26, 2009)

**Facts:** Officers, who were members of a gang task force, stopped a vehicle at 9:00 p.m. near a neighborhood associated with the Crips gang. Officers stopped the vehicle for a civil infraction after a license plate check indicated that the vehicle's registration had been suspended for an insurance related offense. In the car were two passengers; one located in the front seat and other in the back. At the time of the stop, officers did not suspect any of the passengers of criminal activity.

Three officers approached the car. The first officer instructed all occupants to keep their hands visible and asked if there were any weapons in the car. He then directed the driver to get out of the vehicle. A second officer approached the front seat passenger and spoke to him while he remained in the vehicle for the remainder of the stop. A third officer kept an eye on the back seat passenger, Johnson and noticed that Johnson was intently watching the officers as they approached the car. As the third officer approached Johnson, she observed he was wearing clothing consistent with gang membership and that a scanner was in his coat pocket. Although Johnson was unable to provide any identification, he volunteered his name and date of birth and that he lived in Eloy, Arizona, a town known to be home to the Crip's gang. Finally, he told the third officer that he served time in prison and that he had been out for about a year.

The third officer asked Johnson to get out of the car so she could question him away from the driver. Based upon Johnson's clothing and answers to her questions, the officer suspected that "he might have a weapon on him" and therefore "patted him down for officer safety." During the pat down of Johnson's outer clothing, the officer felt the butt of a gun near Johnson's waist. Johnson began to struggle with the officer and she handcuffed him.

Johnson was arrested and charged with unlawful possession of a firearm. He moved to suppress the handgun as fruits of an unlawful search. The trial court denied the motion because the stop was lawful and the officer had a reason to suspect that Johnson was "armed and dangerous." The Arizona Court of Appeals reversed Johnson's conviction holding that even though Johnson was initially seized when officers stopped the vehicle, his detention "evolved into a separate consensual encounter" concerning possible gang affiliation. The court further reasoned the officer could not pat down Johnson even if she suspected that he was armed and dangerous because she no longer had a reason to detain him. The United States Supreme Court overturned the Arizona Court of Appeals and held that the detention of the passengers began the moment the vehicle was stopped and that the officer had reasonable suspicion to pat Johnson down.

**Issue:** Did officers have the authority to "stop and frisk" a passenger in a car temporarily stopped for a traffic violation?

**Rule:** Whenever officers stop a car containing passengers, it is lawful for the police to detain the passengers and control their movement while officers conduct activities related to the initial stop even without additional independent suspicion that one or more passengers are involved in criminal activity. An officer may then conduct a pat down of a passenger if the officer has reasonable suspicion to believe that the passenger is armed and dangerous.

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**Discussion:** The Court made it clear that once a vehicle is stopped all passengers are seized from that point on until the stop is completed or the officer indicates the passenger is free to go. If the reason for the stop is legitimate, then the seizure of all of the passengers is lawful even though they did not commit the traffic violation. Moreover, officers do not need any additional reason(s) to detain the passengers for the time it takes to conduct an inquiry into the reason for the stop. During the detention, officers are permitted to control the movement of passengers and ask them questions about criminal activity unrelated to the stop. The stop itself “communicates to a reasonable passenger that he or she is not free to terminate the encounter and move about at will.”

The Court then reviewed the reasons for conducting a pat down of passengers for weapons. It noted that a traffic stop closely resembles a *Terry* pedestrian stop and emphasized that traffic stops are “especially fraught with danger to police officers . . . the risk of harm to both the police and the occupants of a stopped vehicle is minimized . . . if officers routinely exercise unquestioned command of the situation.” However, the Court refused to permit a pat down for weapons simply because a traffic stop is inherently dangerous.

Instead, the Court relied on the holding in *Terry* which requires an officer to be able to articulate specific objective reasons why a specific person may be armed and dangerous. Here, the Court agreed that the officer had reasons to believe that Johnson was armed and dangerous based on the officer’s specific observations and the answers provided by Johnson in response to the officer’s questions. (While looking back at the officer, Johnson continuously monitored the officer’s movement. In addition, the officer observed that Johnson wore gang clothing associated with a particular gang and he possessed a police scanner. Finally, Johnson told the officer that he lived in an area associated with gang activity and that he was an ex-con.)

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### NORTH CAROLINA SUPREME COURT

**Police Officer / Lay Opinion / Cocaine:** *State v. Llamas-Hernandez*, 363 N.C. 8, 673 S.E. 2d 658 (N.C. 2009)

**Facts:** After executing a search warrant and finding cocaine at one location, two CMPD officers obtained consent to search another residence and found a white powdery substance weighing approximately 55 grams. Although a chemical analysis conducted on the substance indicated that it was cocaine, the report was never admitted at trial. Over defendant’s objection, CMPD detectives were permitted to testify as lay witnesses that the substance found at Craig Avenue was cocaine. The defendant was convicted and appealed. The Court of Appeals in *State v. Llamas-Hernandez*, 189 N.C. App. 640, 651 (N.C. Ct. App. 2008), upheld the admission of the detectives testimony under Rule 701 of the *North Carolina Rules of Evidence*, which allows admission of lay witnesses opinion. The North Carolina Supreme Court reversed citing the reasoning in the dissenting opinion in the Court of Appeals case.

**Issue:** Can an officer offer an opinion as to the nature of white powder without the admission of a lab report?



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**Rule:** No, while it might be permissible for an officer to render a lay opinion as to the identification of crack cocaine, it cannot be permissible to render such an opinion as to a non-descript white powder.

**Discussion:** Crack cocaine has a unique color, texture and appearance. The 55 grams seized by officers; however was a white powdery substance with no other distinguishing factors. According to the Court, officers lay testimony can not be used to establish that the substance is in fact cocaine.

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### OFFICER REMINDER: FIREARMS

- Firearms (including rifles or shotguns) seized for “safekeeping” cannot be released to the owner/possessor of the firearm **without a court order** authorizing their release either pursuant to G.S. 15-11.1 or G.S. 15-11.2.
- If the firearm is seized in conjunction with an arrest, incidental to the arrest or a call for service, it also cannot be released without a court authorizing the release and the District Attorney indicating that it is no longer necessary or useful as evidence in a criminal trial.
- If you are in court when a case is disposed of and it involved a firearm, please endeavor to get the District Attorney to request a disposition of the firearm at that time.
- Property Control, the Police Attorney’s Office and the District Attorney’s office have regularly scheduled hearings before a District Court judge regarding the release or destruction of these firearms after verifying the firearms are not stolen and that the individual is not ineligible to possess the firearm. (i.e. no DV conviction, felony conviction, etc.)
- Please refrain from instructing citizens that they may come to Property Control and recover their firearm. After a court order is secured by the CMPD, Property Control notifies the individual of when and how they can retrieve their firearm, which also requires proof of ownership or a permit from the sheriff before it can be released to them even if the firearm was seized from that same individual.

### OFFICER REMINDER: SECONDARY EMPLOYMENT

- Officers acting in a secondary employment capacity are permitted to enforce criminal laws and keep the peace but are not permitted to enforce the employer’s rules or regulations which are not violations of the law. (i.e. if you could not or would not perform the same function while on-duty, you cannot perform that action for the employer.) This includes acting as the employer’s agent for banning purposes or trespass purposes. (See 300-007, Secondary Employment Directive)

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### DISTRICT ATTORNEY CORNER

**Property Team:** The Property Team of the DA's office has asked that we remind officers of the following based on concerns or questions from jurors as they endeavor to strengthen prosecutions.

These are issues that were brought to their attention after jury verdicts.

- When possible, an officer should take photographs to include in the file to illustrate such things as popped ignitions, points of entry for B&E cases and for any other matters that would help to illustrate an officer's testimony in front of the jury.
- If officers elect not to call CSS for B&E/Burglary cases or if CSS is unable to respond to the scene, officers should indicate those reasons to eliminate the impression to jurors that the matter was unimportant.
- In auto theft cases, officers should attempt to get statements from the driver as well as all passengers, which would assist in showing knowledge that a vehicle was stolen.
- The need to record statements from in custody defendants as well as to note the length of time spent with the suspect. Transcripts of any statements will only be needed if the case goes to trial.
- In cases that are made solely on the basis of fingerprint matches and are going to trial, the DA's office would like an additional set of fingerprints taken by CMPD for purposes of having a witness who can identify the defendant. This is based on an issue that arose due to a fraudulent PID number/identity that remained with a defendant throughout his prosecution and conviction. This will be limited to cases going to trial.

**Drug Team:** The Drug Team would like to remind officers that one photograph "show ups" should not be use by officers to identify suspects in buy walk operations. If the suspect is not known to the officer, then a double blind sequential lineup must be shown to the officer in order to comply with G.S. 15A-284.50.

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### RECENTLY ENACTED LEGISLATION

Although the North Carolina General Assembly remains in session, several bills have been signed into law that impacts the law enforcement community. A selection of those new statutes is summarized below, along with a link to the text of the bill in the General Assembly's website.

**No Texting While Driving:** Makes it unlawful for motorists to either send or receive text messages while operating their motor vehicles. Exceptions for first responders while performing their official duties and for motorists legally parked or standing. **Effective Date: 12/1/2009.**

<http://www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H9v5.pdf>

**Nicholas Adkins School Bus Safety Act:** Allows the use of automated cameras and recording equipment on school buses to catch motorists who pass stopped school buses. Also makes it a Class H felony if the motorist strikes another person which results in that person's death. **Effective Date: 12/1/2009.**

<http://www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H440v5.pdf>

**School Violence Protection Act:** Defines bullying and harassing behavior and prohibits both school employees and students from engaging in such activity against other school employees and students. **Effective Date: Beginning of the 2009-2010 school year.**

<http://www.ncga.state.nc.us/Sessions/2009/Bills/Senate/PDF/S526v5.pdf>

**Amend Survivor's Alternate Benefits:** Provides a retirement benefit for survivors of law enforcement officers killed in the line of duty, after 15 years of service as a law enforcement officer, (formerly 20 years of service.) **Effective Date: Applies to beneficiaries of officers killed in the line of duty on or after 1/1/2007.**

<http://www.ncga.state.nc.us/Sessions/2009/Bills/Senate/PDF/S411v4.pdf>

**Charlotte-Mecklenburg School Board Police:** Permits CMS to establish a campus law enforcement agency and to employ campus police officers. **Effective Date: 6/10/2009.**

<http://www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H538v4.pdf>

**Wearing of Medals by Public Safety Personnel:** Allows uniformed public safety officers (police, fire, EMS) to wear military service awards during the business week prior to Veterans Day, Memorial Day, July 4<sup>th</sup>, and the day of Veterans Day, Memorial Day, July 4<sup>th</sup>, along with the next business day following these three holidays. **Effective Date: 6/30/2009.**

<http://www.ncga.state.nc.us/Sessions/2009/Bills/House/PDF/H631v4.pdf>

**Prevent the Theft of Scrap Metals:** Strengthens the record-keeping and reporting requirements of secondary metal recyclers in order to prevent the theft of such metals. **Effective Date: 10/1/2009.**

<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H323v5.pdf>

**Preservation of Biological Evidence:** Amends statutes dealing with the collection, testing, and preservation of DNA evidence collected during the course of a criminal investigation. **Effective Date: 12/1/2009.**

<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H1190v6.pdf>

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**Schools Notified of Criminal Intelligence:** Allows law enforcement agencies to provide criminal intelligence information to a public or private school principal, when necessary to avoid imminent danger to the life of a student or school employee or damage to public school property. **Effective Date: 12/1/2009.**

<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H1327v5.pdf>

**Allows Mutual Aid Between State and Local Governments:** Enables the Governor to establish mutual aid agreements with political subdivisions in the State for the purpose of carrying out the State's emergency management program and plans. **Effective Date: 6/26/2009.**

<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H379v3.pdf>

**Use of Deadly Force by Law Enforcement Officers / Collect and Publish:** Requires the North Carolina Division of Criminal Statistics to collect, maintain, and annually publish the number of deaths, by law enforcement agencies, from the use of deadly force by sworn law enforcement officers, while performing their official duties. **Effective Date: 1/1/2010.**

<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H266v4.pdf>

**Local Government Objections to ABC Store:** No local ABC board may establish an ABC store within a municipality if the municipality's governing body has passed a resolution objecting to the location of the proposed store, basing its decision on information and evidence gathered at a public hearing. Local ABC boards may then request the State ABC board to approve the store. **Effective Date: 10/1/2009.**

<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H186v4.pdf>

**Prohibit Smoking in Certain Public Places:** Prohibits smoking in all enclosed areas of restaurants and bars excluding cigar bars, private clubs, and designated smoking rooms in hotels and motels. Violation is an infraction with no more than a \$50.00 fine and no court costs. **Effective Date: 5/19/2009.**

<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H2v10.pdf>

**Targeted Picketing:** Prohibits picketing, with or without signs, that is specifically directed toward a residence, either single-family, or multi-family, or one or more occupants of that residence. Violation is a Class 2 misdemeanor. **Effective Date: 12/1/2009.**

<http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H885v5.pdf>

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