
MEMORANDUM OF UNDERSTANDING
and PROPOSED AGREEMENT
Sheriff of Wake County and
City-County Bureau of Identification

Parties:

The Office of Sheriff of Wake County (hereinafter “the Sheriff”) is a constitutional office having exclusive powers and authority granted under our State constitution. The Sheriff has specific responsibilities and duties at common law as well as those codified pursuant to NCGS Section 162. Two of these duties involve fingerprinting. Article 54B of Chapter 14 governs the concealed handgun permitting process. As part of the permitting process, G.S. § 14-415.13 requires the applicant to submit a full set of fingerprints to the Sheriff and the fingerprinting must be “administered by the Sheriff.” Further, pursuant to N.C. Gen. Stat. § 14-208.7(b), the Sheriff is responsible for collecting the initial fingerprints for those required to register in North Carolina’s Sex Offender and Public Protection Registration Programs.

The Raleigh/Wake City-County Bureau of Identification (hereinafter “CCBI”) was established by the North Carolina General Assembly in 1937 in an effort to provide for better enforcement of criminal laws in Wake County. This specialized fingerprint identification bureau functions as an independent agency ensuring the highest level of forensic services are provided to support the criminal justice system of Wake County. The director of CCBI is under the direct leadership of the District Attorney of the Tenth Prosecutorial District and the County Manager. Historically, CCBI has performed all criminal and civil fingerprinting in Wake County, including sex offender registration fingerprinting as well as concealed handgun permit fingerprinting.

Wake County is a body politic and corporate, created by the General Assembly of North Carolina for certain public and political purposes. Its powers as such, both express and implied, are conferred by statutes, enacted from time to time by the General Assembly, and are exercised by its Board of Commissioners. Wake County provides funding to both the Sheriff and CCBI. (The City of Raleigh also funds CCBI, but Wake County contributes in excess of 80% of the total CCBI budget.) The Wake County Board of Commissioners has the power to set the number of employees hired by the Sheriff.

Background

In May of 2012, CCBI moved operations from the Wake County Public Safety Center to the Wake County Detention Center at Hammond Road. Up until May 2012, while housed in Wake County Public Safety Center, CCBI staff had performed all criminal and civil fingerprinting functions to include sexual offender registration fingerprinting as well as fingerprinting for concealed handgun permit applications. These two functions fall under the legislative responsibility of the Sheriff of Wake County.

In anticipation of CCBI's move to the Detention Center, then Wake County Sheriff Donnie Harrison requested that CCBI assign one employee to remain at the Public Safety Center accompanied by the necessary technology to continue performing those functions on behalf of the Sheriff, and CCBI agreed.

In the years following, responding to an increase in concealed handgun permit requests and the ability to increase operational time, former Wake County Sheriff Donnie Harrison requested an FTE expansion for additional pistol permitting staff in the Sheriff's office as well as one additional FTE for CCBI to add an Identification Specialist, so two employees could be assigned full-time in a fingerprinting capacity at the Public Safety Center. With the approval and creation of this new position, and in addition to the CCBI staff member already working there, two CCBI Identification Specialist positions were assigned in a full-time capacity to support the Sheriff's office at the Public Safety Center in their fingerprinting requirements.

The work performed by CCBI staff at the Public Safety Center continues to involve the completion of fingerprints for concealed handgun permit applicants and the collection of fingerprints for sexual offender registration. Further, as a matter of convenience since the Public Safety Center is adjacent to the Wake County Courthouse, CCBI staff have also performed criminal fingerprinting for juvenile offenders. This is a statutory requirement to be completed by CCBI.

Facing the recent unprecedented number of pistol permit requests and concealed handgun applications, current Wake County Sheriff Gerald Baker recently requested CCBI Director Sam Pennica authorize overtime work for the CCBI staff at the Public Safety Center in order to modify the hours of operation to better accommodate the growing number of citizen permit requests.

Director Pennica reviewed the request for CCBI employees to work overtime. Having not budgeted for overtime funds appropriated within CCBI salary budget for this purpose, Director Pennica proposed transferring two Identification Specialist positions to the Sheriff, as well as transferring the existing technology and infrastructure from CCBI's operation/budget for the purposes of allowing the Wake County Sheriff's Office to directly manage the existing resources. While CCBI has historically provided fingerprinting services to the Sheriff as a matter of convenience to fulfill functions statutorily required of the Sheriff, this has also required CCBI to manage two separate locations to accommodate these activities.


Proposed Agreement

1. It has been agreed upon by CCBI Director Sam Pennica and Wake County Sheriff Gerald Baker that it is in the best interest of both agencies, and will provide the most efficient delivery of services, as well as will give the Sheriff operational control of these functions through a transfer of resources without the need for expansions or requests for additional resources, subject to the approval of the Wake County Board of Commissioners.
2. **FTE / EMPLOYEE TRANSFER:** If this agreement is approved by the Wake County Board of Commissioners, two positions, Position Numbers 49-4910-04074 and 49-4910-04114 will be transferred from CCBI to the Sheriff.


- a. These two positions are currently held by two CCBI employees, Janette Penã and Tracey Mayo. Both employees have signed an agreement that they understand their positions are being transferred to the Sheriff and that they will serve at the will of the Sheriff. The proposed date of the employee transfer is **November 2, 2020**.
 - b. As of November 2, 2020, these two employees will become members of the Sheriff's office. They will enjoy the same benefits as other Sheriff employees.
 - c. The Sheriff agrees not to reassign these positions to non-related functions. The Sheriff may assign additional duties to these positions appropriate to the position classification.
 - d. In the event that both of these employees are absent at the same time due to unforeseeable circumstances, CCBI agrees to provide one employee to work as a substitute in the absence of these employees for up to ninety (90) days after the November 2, 2020 transfer date.
3. **JUVENILE FINGERPRINTING:** CCBI's legislative authority requires the collection and maintenance of criminal arrest fingerprints and as such, CCBI is currently in the process of arranging the capability of completing criminal juvenile processing at the Wake County Detention Center at Hammond Rd. While CCBI is working expeditiously to get equipment installed at their offices at the Detention Center, it is possible that this may not occur by November 2, 2020. If it does not, CCBI will move the juvenile fingerprinting function as soon as practicable. Additionally, completing this task at the Wake County Detention Center will allow for 24/7 service availability whereas it is currently restricted to business hours. This will ensure that the primary fingerprinting functions occurring at the Public Safety Center are for the purposes of sexual offender registration and concealed handgun permit applications for which both functions fall under the statutory requirements of the Sheriff.
4. **TECHNOLOGY:** As part of this agreement, CCBI will transfer ownership of equipment necessary for the two Identification Specialists to capture and maintain fingerprints.
- a. As the fingerprints collected for sexual offender registration and concealed handgun permits are statutorily authorized to be collected and maintained in criminal AFIS databases and are transferred to the SBI for those purposes, CCBI also maintains those fingerprints within our local fingerprint database for criminal searching purposes. In order to ensure continued functionality and compatibility for this purpose, it is imperative that the technology utilized be maintained in a system allowing compatibility with CCBI AFIS retention and fingerprint searching systems.
 - b. The Sheriff understands the need to maintain the equipment in a manner that retains compatibility with the comprehensive system that is managed by CCBI and agrees his office will do so to the best of its capabilities, up to and including replacement of equipment upon a reasonably agreed to replacement cycle.

- c. Payment to DataWorks for maintenance of the technology has been paid for the fiscal year 20-21 by CCBI.
- d. ~~The Sheriff will assume this payment in fiscal year 21-22 and ongoing,~~
CCBI's budget will be reduced by this amount for fiscal year 21-22 and these funds will be reallocated to the Sheriff for maintenance of equipment, subject to annual appropriations.
5. **BUDGET:** Wake County Budget and Management Services (BMS) will work with CCBI to calculate and transfer the amount for the staffing costs for the two employees / FTE's, as well as supplies and consumable costs, which are being transferred for the remainder of the fiscal year 20-21. BMS will coordinate with Wake County Human Resources on transfer of the authorized FTEs.
6. After this Memorandum of Understanding and Proposed Agreement has been signed by the Sheriff, the Director of CCBI and the District Attorney, the Wake County Board of Commissioners will consider this proposal. If approved by the Wake County Board of Commissioners, the County Manager shall affix his signature.

This the 2 day of OCT 2020.


Gerald Baker, Wake County Sheriff


Sam Pennica, Director of CCBI


Lorin Freeman,
Tenth Prosecutorial District Attorney

David Ellis
County Manager