

STATE
OF
NORTH CAROLINA
GENERAL COURT OF JUSTICE

MAGISTRATE
POLK COUNTY
C/O COC
COLUMBUS, N.C. 28722
828-894-8119

W. Lionel Gilbert

D. Marche Pittman

Martha Sonenberg

To: Legislative Oversight Committee Members on Justice and Public Safety
From: Magistrate W. Lionel Gilbert
Date: 02/09/2012
Re: Confusion related to Magistrate Minimum Numbers

The intent of this letter is to clear up any confusion that may have occurred as a direct result of misinformation. However, first allow me to introduce myself, my name is W. Lionel Gilbert and I have been a North Carolina Magistrate for twenty-nine years. During this time I have served as Vice President then as President of the North Carolina Magistrate Association. Currently, I am a member of the North Carolina Judicial Council and as such represent all North Carolina Magistrates.

Recently it was been brought to my attention that information had been delivered stating that the North Carolina Magistrates Association (NCMA) had made recommendation to decrease the minimum number of county Magistrates to a total of three (3) rather than five (5). This statement holds no merit and is most unreasonable. There has not been nor would there ever be a consideration by the NC Magistrates Association to decrease the number of local county magistrates to a lesser number than those as of 01/01/2010 as this would cause emotional turmoil, in terms of undue stress, to those of us who deal daily with crime victims, defendants who allegedly have committed unlawful atrocities some so gruesome we have no desire to speak of. The demise of any professional association

such as the NCMA would be imminent if the association advocated for unreasonable increases in work hours for its members.

Unfortunately, no one has considered the responsibilities local Magistrate faces on a daily basis. When one takes to time to consider the following, it is easy to see the challenges a small county Magistrate faces.

- Small County Magistrates are twenty four hours x 365 days per year just like the larger counties who have staffing suitable for vacations and sick leave without additional work hours being placed on others. This means for an office of four (4) magistrates the work time is divided to equal 42 hours per person every week of the year if 1 of the 4 is out sick the other 3 work 56 hours.
- Some small county Magistrate offices have already seen a work force reduction to (3) three magistrates. This becomes 56 hours per week per individual 52 weeks a year. (*no vacations, no holidays*)
- Please keep in mind that labor laws were structured for a forty hour work week with scheduled time off. (*Magistrates are not included*)
- Small County Magistrates currently receive no paid time off. This includes NO annual leave for family vacations, holidays or sick time. (*State Employees without the benefits*)
- Small County Magistrates like large county Magistrates must attend mandatory training; however, they must attend on their own time without pay and many times must have someone work for them and then pay the time back.

Ladies and Gentlemen, on March 1st my county will experience this ill advised work force reduction. There will be three (3) individuals who will share this unreasonable grueling schedule, in Polk County. I personally experienced this schedule the first twenty years of my career and I can attest to the toll it placed on me and my family. I ask you, can we reasonably be expected to maintain a cordial and professional manner with the ever increasing stress of this of job coupled with long hours and no hope of actual time off as all other state employees are granted. Magistrates are the gateway to the court system and are responsible to those citizens in need as well as the law enforcement community. The moral of Small County Magistrates is at an all time low with only a darkening horizon.

Magistrates in small counties across the state work incredibly long hours and for lack of a better description function as "where the rubber hits the road" for the court system with regard to conflict, turmoil and drama. It is important to note that *The North Carolina Courts* acknowledges the office of Magistrate as the initial entry point for almost all criminal process. In addition to this, the Office of Magistrate hears civil cases when the amount in controversy is \$5000.00 or less. The Magistrates Office is the entry point for Involuntary Commitments, and serves as a sounding board for citizens who have been or feel they have been victimized as well as performs weddings. Smaller county Magistrates when time allows, often provide mediation services to those dealing with conflict as well as law enforcement many times mediating issues to a resolution without a process ever being issued thus saving court time and tax payer money. These resolutions have saved countless dollars but have reduced the process numbers the bean counters use to determine the mathematical number of Magistrates needed and now we are somewhat penalized for being frugal with tax dollars. Process numbers can not and do not accurately reflect the role of a Magistrate.

Small County Magistrates provide all the services named above without vacation and sick time and have done this since the inception of the Magistrates program. Each and every Magistrate has endured sickness, loss of love ones and missed important family events with their children and grandchildren without benefiting from the promised State Employee benefit package. Small County Magistrates are dedicated to their role in the community and to their fellow Magistrates and will work when sick or injured just to avoid placing a burden on their fellow Magistrates.

Personally during my career, I have seen several instances where all state employees were granted days off in lieu of a pay raise however, as a small county magistrate we were required to continue to work the excessive hours receiving no additional compensation or time off simply because there is no one to fill in. Small Counties with only 1 person available to work, he or she can't take a holiday or furlough day or just call in sick. The general consensus of the small county Magistrate is one of a "second class" state employee, and with these newly imposed hourly demands we have no reason to believe otherwise. *Magistrates are providing the citizens with the first level of Judicial*

contact whether it's in the middle of the night, on a holiday, weekend its -365 days a year!

The North Carolina Magistrates Association has worked hard to bring these issues to the forefront; however, it appears that no one seems to care. It should be noted that NC Magistrates are sensitive to the current state budget issues and are willing to do our part to survive these economic times. Please consider this fact, magistrates offices statewide vary in size, in terms of the number of on duty magistrates at any one time. Those larger offices with greater than four magistrates have absorbed losses of 1 or 2 magistrates without forcing the remaining Magistrate to work an excessive number of hours. Understandably law enforcement and defendants as well as victims will have a longer wait time for processing, but the magistrate will still be able to process the defendant in a reasonable amount of time. However, when you cut a magistrate position in a smaller county the burden is placed on the remaining Magistrates to work ridiculous hours that adversely affect the job performance, the publics perception of the Judicial System and the ability to get law enforcement back on the road.

It should be noted that as a direct result in the work force cuts, numerous seasoned Magistrates are preparing to leave their positions. These planned and already implemented reductions will affect both the citizens and the state of North Carolina, as we will experience a great loss in valuable knowledge and experience that cannot be easily and adequately replaced with qualified individuals at anytime in the near future. North Carolina will have a difficult time finding college graduates who are willing to work the extended hours, holidays, nights and weekends for the small starting salary currently in place. Ultimately, the court system will see a revolving door of individuals who will take a Magistrates position and continue to search for a better job with true benefits and reasonable hours.

We at the North Carolina Magistrates Association are soliciting your help to rectify these issues and respectfully request your support and advocacy for those small counties who currently have or previously had six (6) or fewer Magistrates as of 01/01/2010. The most

immediate need is to fill staffing to at the very least a minimum of 4 Magistrates in counties who have lost positions or will loose positions in the coming year. Once again with only 4 Magistrates each Magistrate is required to work 42 hours per week 52 weeks a year. The North Carolina Magistrates Association recommended 5 Magistrates per county to allow continuing education, vacations and personal time like all other jobs. The immediate need of 4 Magistrates as stated above is today. We feel we have no one to turn too in this and other matters and are in desperate need of your timely support. We respectfully request your recommendation of legislation that will rectify this situation immediately and recognize the need of adequate staffing for the citizens and the health and welfare of the employees.

Respectfully,

Magistrate W. L. G. Galt



Magistrates Staffing Reductions, 2011 - 2012

6/24/2011 Version

Overall Summary

As of 6/30/2011, at least 70 counties will be at or below the workload formula recommended number of Magistrates.

I. 1/1/2011 Non Nomination/Re-Nomination

Judicial Officials in these 14 counties did not nominate/re-nominate 18 Magistrate positions as of 1/1/2011 to move into or toward alignment with the workload formula recommended staffing level.

• Ashe • Carteret • Chatham (2) • Duplin (3) • Gaston • Halifax (2) • Hoke • Montgomery
• Moore • Orange • Robeson • Rockingham • Watauga • Yadkin

II. 3/1/2011 Voluntary Reduction in Force

Judicial Officials in these 10 counties reduced 11 Magistrates positions via the 3/1/2011 Voluntary Reduction in Force that moved them into or toward alignment with workload formula recommended staffing level.

• Bertie • Caldwell • Caswell • Columbus • Harnett (2) • Hoke • Randolph • Richmond
• Robeson • Sampson

Additionally, local Judicial Officials in these 6 counties approved 8 Magistrates to participate in the 3/1/2011 Voluntary Reduction in Force although they were already at or below workload recommended staffing levels.

• Buncombe • Cleveland • Davidson(3) • Iredell • Union • Wake

III. 6/30/2011 Vacancy Eliminations

These 18 counties will have 19 vacancies eliminated 6/30/2011 due to the FY2012-13 budget adopted by the General Assembly.

• Bertie • Bladen • Burke • Craven • Davie • Halifax (2) • Haywood • Johnston
• Lee • McDowell • Moore • Orange • Pasquotank • Pender • Rockingham • Stanly
• Swain • Washington

IV. 12/31/2012 Position Eliminations

These 32 counties will have the following positions eliminated 12/31/2012 to reach the specified cut of 61 Magistrate positions in the FY2012-13 budget adopted by the General Assembly. Vacancies up to the budget cut target below that occur in these offices before 12/31/2012 will be held vacant for 12/31/2012 elimination.

County	Positions to be eliminated 12/31/2012	County	Positions to be eliminated 12/31/2012	County	Positions to be eliminated 12/31/2012	County	Positions to be eliminated 12/31/2012
Alexander	1	Columbus	2.5	Jackson	1	Northampton	2.25
Anson	1	Currituck	1	Lincoln	1	Polk	1
Avery	1	Dare	2	Macon	1.5	Robeson	1
Beaufort	1	Franklin	3	Madison	1	Sampson	1
Bladen	1	Granville	1.75	Martin	1	Stokes	2
Brunswick	1	Greene	1	McDowell	1	Surry	3
Carteret	1	Haywood	1	Mitchell	1	Transylvania	1
Cherokee	1	Hertford	2	Montgomery	1	Warren	0.5

Of these positions to be eliminated 12/31/2012, one position each in Franklin, Haywood, and Jackson counties is already vacant as of 6/10/2011.

The calculations are based on FY2007-FY2010 filings data, which was the most recent data available when the General Assembly adopted the FY2012-13 budget.

If the Magistrates' Association decides to use more recent case filings statistics in assigning the 12/31/2012 staffing reductions: for each county whose cut is decreased, another county's cut will have to be increased to remain at the 61 Magistrate cut in the FY2012-13 budget adopted by the General Assembly.