
Coates' Canons Blog: When can a flag be flown at half-staff?

By David Lawrence

Article: <https://canons.sog.unc.edu/when-can-a-flag-be-flown-at-half-staff/>

This entry was posted on October 16, 2009 and is filed under **Miscellaneous, Ordinances & Police Powers**

After the death of Dale Earnhart, I received a phone call from a local government attorney asking whether it was permissible for the local government to fly its American and state flags at half-staff as a tribute to the NASCAR driver. As we puzzled through the relevant statutes, the answer surprised me.

Basically, there are no *mandatory* rules – federal or state – about flying government flags at half-staff. The relevant federal statute is **4 U.S.C. § 7**, and it consistently uses the term “should” in setting out the rules for display of American flags. (This was a major disillusionment to me. When I was a boy scout, we were taught the “rules” of displaying the flag, with all manner of punishment if we broke any of them.) The few courts that have interpreted the statute have recognized the force of those “shoulds” and have consequently characterized the statutory provisions as recommendations rather than requirements.

The state rules are found in [G.S. Chapter 144](#) and essentially say nothing about the appropriate display of the North Carolina flag.

The bottom line is that any owner of an American or North Carolina flag can decide that some person’s death or other event appropriately calls for lowering the flags for some period of time. (In the federal statute the most common period is from a person’s death until his or her interment.) It seems to me that any such decision by a government should be taken with care and in the spirit of the federal rules, but it is the government’s decision to make.

David Lawrence is retired from the faculty of the School of Government. For questions about the subject of this blog post, please refer to our **list of faculty expertise** to identify the appropriate faculty member to contact.

Links

- www.law.cornell.edu/uscode/4/usc_sec_04_00000007---000-.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_144.html
- www.sog.unc.edu/node/1553