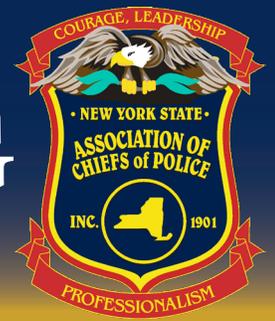


CHIEFLY SPEAKING



Monthly Newsletter for New York State Law Enforcement Leaders

FEBRUARY 2024

Forensic Investigative Genetic Genealogy – The Time is now, but why the delay?

By Adam N. Hornick Commander-Retired Bethlehem Police Department, Albany County NY

The answer seems obvious, but the windy road to using FIGG to solve cases in New York is not as easy. After a long, cold winter, an usually early 70 degree day, on April 3, 1981, prompted a farmer to set out to fix

police at 1145 AM, the beginning of a 41-year mystery was about to unravel in a location that would locally become known as “dead man’s cove”. While for me, sitting in my kindergarten classroom about six miles away, the mere existence of this case wouldn’t be known until 2013.



a fence that had been damaged by a fallen tree on his rural Delmar farm. When the farmer made it out to the back pasture he saw something that would stick with him and his family forever, the markedly decomposed remains of an adult man. As the farmer returned to his house to call

Yet, over a dozen years later while experiencing high school graduation, three cases would stick with me forever. These three cases took place over a 16-month period and would captivate the small suburban community of Bethlehem for several years, before they seemed to fall off the public’s radar. These cases involved middle-of-the-night burglaries, and violent sexual assaults.

While there were some unique modus operandi and trademarks, involving a chemical agent to subdue the victims, which even garnered the interest of the FBI Albany field office, these cases too would

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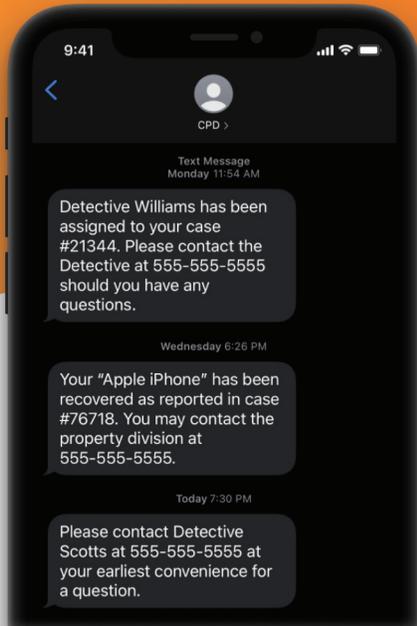
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 **Keep citizens informed**

"Deputy Karen went out of her way to help me find a ride after the accident."

"Officer Smith was very friendly and helpful."

"Thank you Officer Darby for caring and helping my father."

 **Boost officer morale**



 **Measure satisfaction**

The Ultimate Sacrifice in Service to Their Communities



Happy New Year! I trust that each and every one of you enjoyed the holiday season and got to spend lots of time with friends and family. During this season we recognize those that gave up time with their loved ones to ensure that our communities remained safe and secure during this festive season. We also pause to reflect on the 15 law enforcement officers across our country, including one from New York State, that gave the ultimate sacrifice in service to their communities during this past holiday season;



Sergeant Michael Moran

Cortez Police Department, CO
EOW: Wednesday, November 29, 2023

Trooper Alberto Felix

Nevada Department of Public Safety
Nevada Highway Patrol, NV
EOW: Thursday, November 30, 2023

Sergeant James Michael Russ

Chattanooga Police Department, TN
EOW: Saturday, December 2, 2023

Police Officer Paul Tracey

Waltham Police Department, MA
EOW: Wednesday, December 6, 2023

Sergeant Russell Earl Lavarl Jones

Pamlico County Sheriff's Office, NC
EOW: Wednesday, December 6, 2023

Deputy Sheriff Paul Martin

Mercer County Sheriff's Office, ND
EOW: Wednesday, December 6, 2023

Chief of Police

Christopher Byard Cummings

Samburg Police Department, TN
EOW: Sunday, December 10, 2023

Sergeant Stephen Gibson

Somervell County Sheriff's Office, TX
EOW: Wednesday, December 13, 2023

Police Officer Daniel P. DiDato

East Fishkill Police Department, NY
EOW: Monday, December 18, 2023

Deputy Sheriff Joshua Hamilton

Preble County Sheriff's Office, OH
EOW: Monday, December 18, 2023

Court Officer Robert J. Silver

St. Clair County 72nd District Court, MI
EOW: Thursday, December 28, 2023

Police Officer Tuan Le

Oakland Police Department, CA
EOW: Friday, December 29, 2023

Continued from page 3



Sergeant Marc Andrew McIntyre

Spalding County Sheriff's Office, GA

EOW: Friday, December 29, 2023

Sergeant Philip Dale Nix

Greensboro Police Department, NC

EOW: Saturday, December 30, 2023

Police Officer Dan DiDato was killed in a vehicle crash near Mile Marker 36.2 on southbound Taconic State Parkway at about 6:00 PM

He was enroute to the Westchester Medical Center to interview a pedestrian who had been struck by a vehicle near the East Fishkill police station. Officer DiDato's patrol car left the roadway and struck a tree as he drove along the parkway. He was transported to Mid-Hudson Regional Hospital where he succumbed to his injuries. Officer DiDato had served with the East Fishkill Police Department for 18 years and previously served with the New York City Department of Environmental Protection for 4 years. Officer DiDato was 47 years of age.

A total of 124 law enforcement officers lost their lives in the line of duty during 2023, including 9 from New York State.

(Courtesy of Officer Down Memorial Page - <https://www.odmp.org/statistics>)



“When a police officer is killed, it's not an agency that loses an officer, it's an entire nation.”

—Chris Cosgriff, ODMP Founder

The New Year is also a time to reflect our individual department's accomplishments and to formulate goals and objectives for the New Year. We will update our fleet replacement plans, possibly evaluate our fire-arms programs, update the multitude of technology that is ingrained in our profession, institute or expand our body worn camera programs amongst other great and important programs. Of these lofty goals and great programs that your agencies will be putting forward in the New Year, we should all remember to include a focus on officer

wellness. With the ever expanding list of priorities we all face, this one specifically seems to get overlooked time and again for other “must haves”. Officer wellness is one of the major issues facing police agencies in the modern area.

Programs do not have to be elaborate or cost thousands of dollars, some things that can be done cost

Continued from page 4

nearly nothing to institute and will go a long ways to ensure your officers are happier and healthier. Some low to no cost ideas include offering Police Chaplain programs, gym membership reimbursements, time allowed during shift to work out in the department’s training room and ensuring to debrief stressful situations. Of course, more formalized programs come with added costs, however the benefits greatly outweigh the cost. These are the programs that we, as Police executives, must put forth to our municipal leaders and elected officials to ensure that the men and women protecting our communities have a long and healthy career.

As we move into 2024 I want to wish each and every one a very healthy and happy New Year!

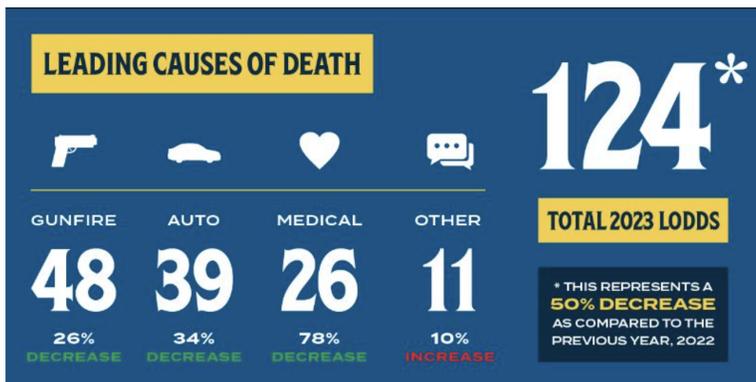


ODMP Roll Call January 2024 Edition

Line of Duty Death Statistics for 2023

In this month's *Roll Call*, we present an overview of the **2023** annual statistics for officer *Line of Duty Deaths (LODDs)*. The trend in declining LODDs has continued, but despite a notable drop from the numbers in **2022** and **2021**, law enforcement remains one of the most perilous professions in America. The following data underscores the significant sacrifices made by officers in protecting American citizens over the past year.

Leading Causes of Death in 2023



In 2023, 124 law enforcement officers died in the line of duty, a 50% **decrease** from 2022. The cause breakdown from our major cause categories are:



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AVON PD

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DEPUTY COMMISSIONER
ROBERT BARROWS

A publication of the New York State Association of Chiefs of Police, Inc. 3177 Latta Rd., #230, Rochester, NY 14612
Office 518-355-3371

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Forensic Investigative Genetic Genealogy – The Time is now, but why the delay?

soon grow cold. As publicity decreased, and before the age of social media, the cases were all but forgotten about by many, except two groups of people. The dedicated detectives that spent countless hours, days, weeks and months of their lives trying to solve these cases, for the ones who we truly took this job for, the victims and survivors of these heinous crimes.

These scenarios are similar in many municipalities across the state of New York. As of Christmas 2023, there are still 1,447 unidentified human remains cases (source NamUs). That’s correct, in our modern era of DNA and genetic genealogy there are still 1,447 people who are yet unidentified for the holidays and, countless numbers of families wondering if they would ever get the answers they were looking for. Similarly, there isn’t even a practical way to begin to count the number of unsolved violent sexual assaults which leaves many with traumatic scars for life, and countless others working to avoid being victimized by those who prey on our free society.

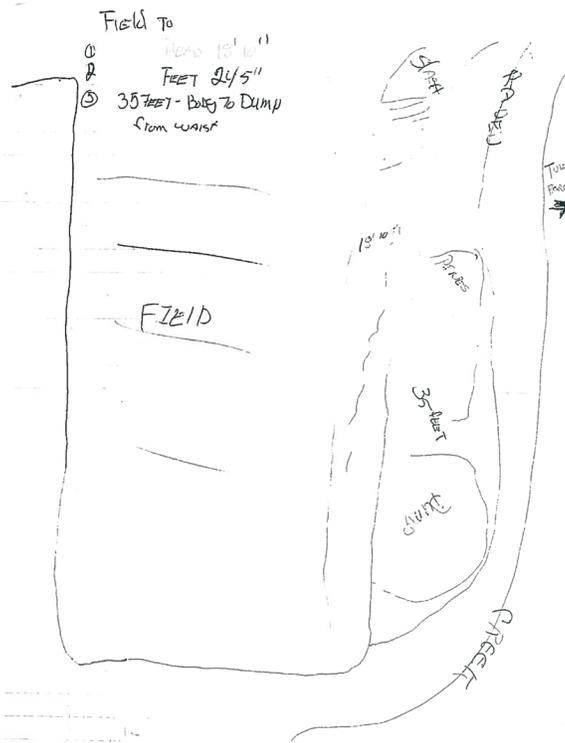
The big question comes down to, why are there so many cases still sitting in these “cold case” files? While without a doubt the quickest, and unarguably most accurate answer is cost, there are many factors that play into this. Technology is an undoubtedly close second for leading to the growing stacks of lingering cold case files, but the time is now to start clearing these files, and bringing answers to the victims and survivors of crimes and their loved ones.

While all of us have undoubtedly heard of forensic

investigative genetic genealogy and its rapidly evolving use in the criminal justice system, its notoriety seemed to expedite after the 2018 arrest of the Golden State Killer in California. But maybe it will be the arrest of a suspect in the Idaho 4 murders in 2022, that accelerates technology for law enforcement and crime victims. However, the implementation of Forensic Investigative Genetic Genealogy (FIGG) in New York has been moving at a glacier pace muddied by a field of roadblocks that has imperilled tenacious investigators and committed administrations. Being a true cold-case

investigator takes a unique and dedicated investigator, while some may dabble in the short-term excitement of aspects of a cold case, many do not take the time to truly understand the system and how it works in New York. We shouldn’t fault some of our best investigators for this. Being the lead investigator responsible for successfully closing the four aforementioned cases this article starts with, I still wonder if I fully understand the laws and changing environment of the New York Criminal Justice System in these aspects.

First and foremost it is important to understand the difference in New York State Familial DNA laws and Forensic Investigative Genetic Genealogy. Familial DNA testing was first implemented and authorized by the New York State Division of Criminal Justice Services on October 18, 2017 (DCJS memo M. Green 10/18/17). According to the DCJS website it is defined as, searching is a targeted method of searching an unknown forensic or unidentified human remains sample associated with a serious unsolved crime against a database of offenders with the intent to identify the best candidate(s) to



Original scene sketch from April 3, 1981.

Forensic Investigative Genetic Genealogy

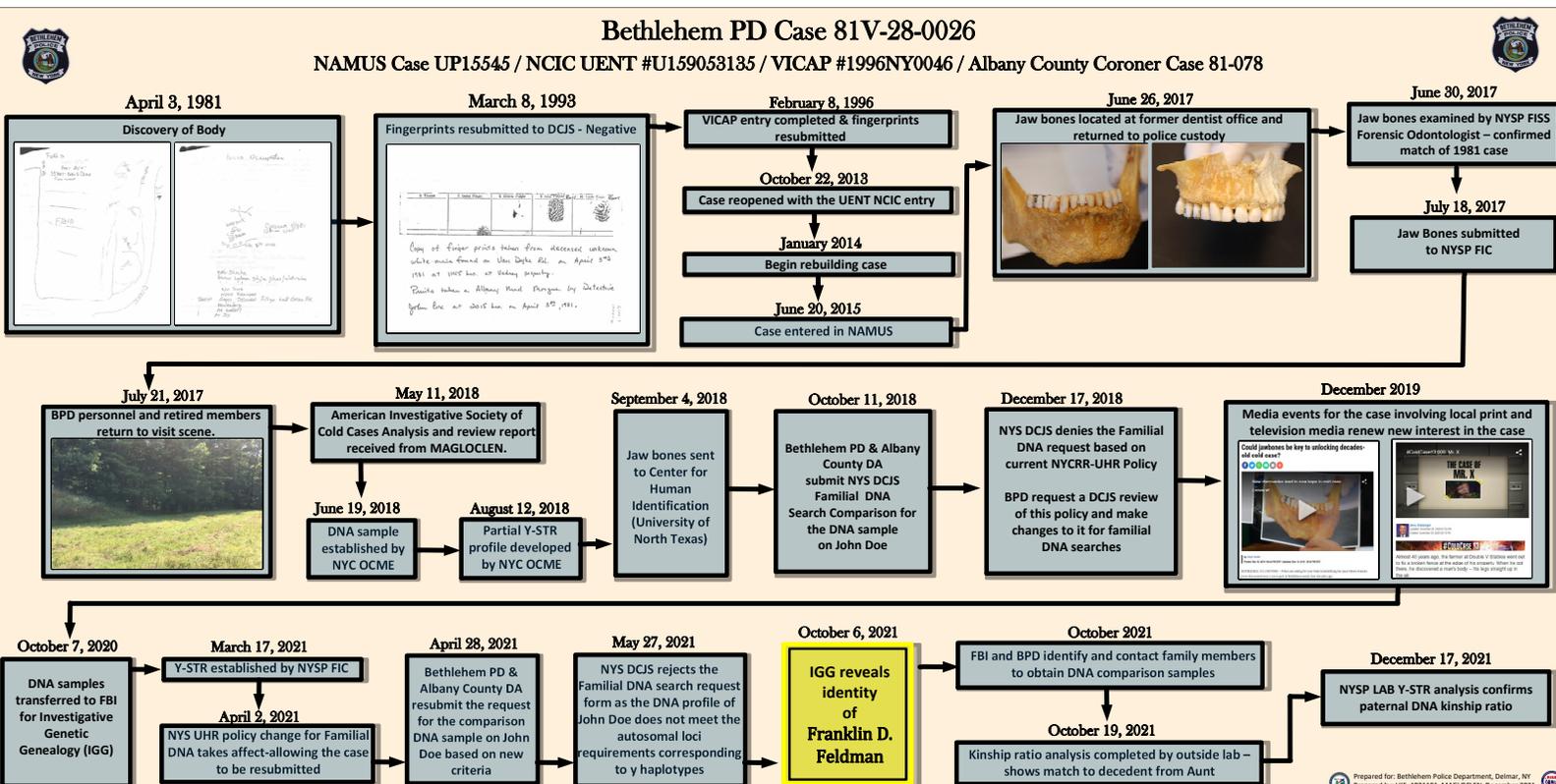
be a potential relative(s) of the unknown (<https://www.criminaljustice.ny.gov/forensic/familialsearch.htm>). In essence, it is the comparison of an unknown suspect DNA sample against the current CODIS DNA files to show comparisons and yield investigative leads.

FIGG is contrastingly different than this. FIGG is a scientific method that combines genetic testing with traditional genealogical research to generate investigative leads. This application uses both government maintained databases and direct-to-consumer companies for assisting in identifying and generating leads. This is probably the best time to reinforce that familial DNA and FIGG do NOT directly generate your suspect or immediately identify who the deceased is. It generates leads to assist you as an investigator with a path that may help lead to a successful identification.

By this time I was tasked as the lead investigator in the four cold cases described earlier and had already been tracking DNA developments and capabilities of private labs using NYC genealogy. However, without a clear grasp of this, I immediately thought that the Familial DNA searches would be the proverbial “slam dunk”

for these cases, in hopes of bringing an end to years of mysteries and hundreds of hours of work in recent years since revitalizing these cases.

Shortly after the authorization for use of Familial DNA In New York, the sexual assault cases were submitted for familial DNA searches (DCJS FS-11); as the Bethlehem Police Department had identical John Doe DNA samples in two of the three cases. These samples had been developed due to the excellent work of the New York State Police Forensic Investigation Center in Albany a few years earlier, after resubmitting original case evidence. As there was no CODIS match for this suspect and no partial match, we had recently been concentrating our efforts on a list of 82 key people identified by the original investigation as potential persons of interest. Yes, 82 people, this daunting task seemed insurmountable as we worked with State Police to surreptitiously obtain DNA samples from the top few “prime suspects”. Yet each sample was returned as not matching our John Doe suspect. These developments had led us to wonder if the case would ever be solved as even the retired detectives who worked tirelessly and took years off their lives working on the case, were astonished at some of the suspects that we were able to definitively eliminate.



Forensic Investigative Genetic Genealogy

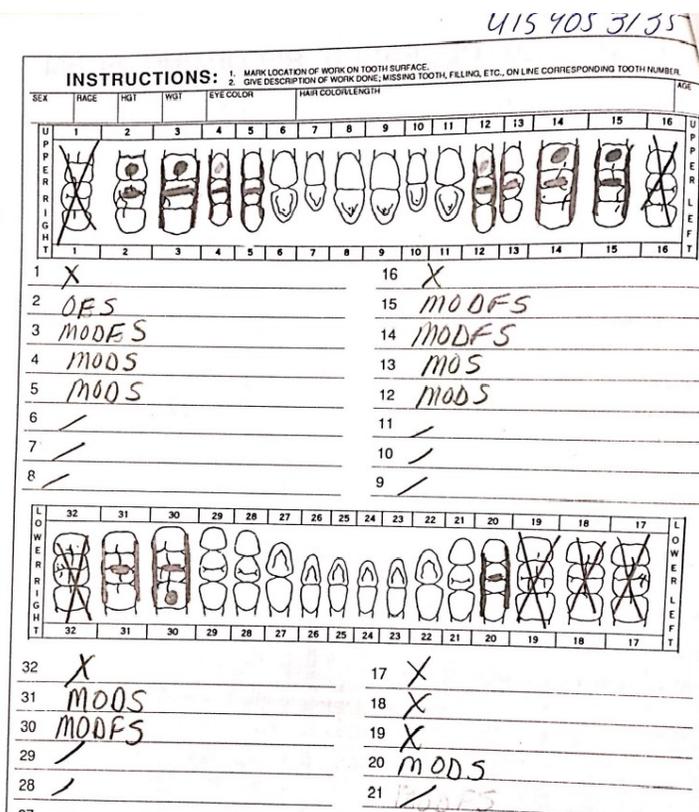
To submit a sample for familial testing in New York State, an Application to Request a Familial Search of the NYS DNA Databank must be completed. This form includes the endorsement of the law enforcement agency head, as well as the County District Attorney. In addition to completing the form and attesting to the fact that a reasonable investigative effort has taken place or that there is an allegation that exigent circumstances may exist; the CODIS Specimen ID number, and the name of the laboratory that generated that profile is needed. This information can be obtained from the State Certified Laboratory which was used for the original sample or from the State CODIS Administrator. To follow a best practices model, developing and submitting this application should involve a team of people discussing the submission beforehand. Working as a team with Laboratory personnel and the State CODIS Administrator, DCJS staff, investigators and district attorneys will help prevent problems with sample analysis down the road. There is valuable insight that each of these groups bring to the table and the team approach really allows investigators to capitalize on having the best submission that meets all legal regulations.

What is also key to know about New York's Familial DNA testing is that currently it only tests the Y-STR profile, therefore it will only be beneficial for cases involving male suspects. Additionally, it is only as effective as those family members having some criminal tie to the DNA convicted offender database and having a

CODIS sample. Only in UHR cases the familial sample can be compared to the missing and unidentified CODIS files as well. Another important aspect to understand is what is referred to as the kinship ratio, or the kinship coefficient. This means the probability that two homologous alleles drawn from each of two individuals are identical by descent. The proximity of the kinship ratio was only in that of first blood relatives, meaning only siblings, parent, and children would reveal matches. This will place a limit of the potential matches that exist. This kinship ratio is expanding to improve searching capabilities as well.

This search (FS-11) returned no results for possible investigative leads in this case. It was the first case where testing and a legally required post-testing meeting was conducted in state history. While this was surely disappointing, we once again wondered what if we funded the testing of the DNA samples to an outside laboratory. At the time there was no laboratory that was certified by the New York State Department of Health to complete this testing (currently there are now laboratories that have received this certification). This translates to, if the case is solved through this method, the results would most likely be the fruits of the poisonous tree and inadmissible in a New York Courtroom. While the desire to solve the case was stronger, the desire to do it the right way, and in a manner that would be completely admissible in a civil or criminal court was even stronger. Take the time to determine the path of your case, if there are potential criminal charges involved, ensuring a state compliant lab is a must.

Has anything been happening with the unidentified



Copy of 1981 Dental Chart of decedent when the case was first entered into NCIC.

Forensic Investigative Genetic Genealogy

human remains (UHR) case you may be wondering? This case too was submitted for a Familial DNA search with DCJS in October of 2018, and was labeled as FS-16, only the 16th submittal in the state so far, one year after the authorization of familial DNA). However, this request was denied in totality, and no search was conducted. DCJS explained that the original statutes that authorized the use of Familial DNA were done only for samples that had been obtained by something that was left behind at the crime scene. Meaning, a weapon, a cigarette butt, a condom, an article of clothing, etc, were the only permissible items that the DNA sample could be taken from for testing; and therefore the request did not meet the case requirements as outlined in 9 NYCRR 6192.3. After opining that the decedent had been left behind at the scene, I knew that we needed yet another track for this case as well. This December 2018 denial was also the basis to make a stand on this issue to benefit all other investigators.

DCJS was very willing to listen to the argument presented on UHR cases and coupled with a recent media push on the John Doe case, work commenced to amend the application requirements to allow for UHR cases to be tested under the Familial DNA regulations. Another roadblock came when these efforts were slowed by the COVID pandemic in 2020. However, effective April 21, 2021, NYS guidelines now allow for the testing of Familial DNA in UHR cases. I resubmitted FS-16 on April 26, 2021, with renewed hopes of identifying leads in the

UHR case. This statutory change was in my mind a massive accomplishment as it would allow all law enforcement agencies in the future to be able to submit UHR cases for familial DNA testing. Being able to use a decades old UHR mystery in the Town of Bethlehem as the catalyst and driving force behind changing the statute was a “solve” in and of itself, in my opinion.



Mandible and maxilla in 2017, when they were located by Bethlehem Police after being out of police custody for 36 years.

As both cases had hit yet another roadblock, I knew that FIGG was potentially the only way to solve these cases. Contemplating that the UHR case may have no living relatives in the next 5-10 years based on the decedent’s age range, and that the serial sexual assailant may be deceased, incarcerated, or living under the radar somewhere, all other avenues had truly been exhausted.

While FIGG was possibly the last chance for these cases, it was at the recommendation of a friend and colleague with the New York State Police Troop G Major Crimes Unit, to reach out to the FBI’s Genealogy unit at the Melville New York Field Office. The advantage of using the FBI was twofold, first they are covered under the laboratory certification aspect due to their federal powers. This meant even the use of a private lab by the FBI would be admissible, if it was ever needed. Additionally, it would cover the cost aspect, as the FBI agreed to cover the testing costs. This was partially due to their prior involvement in the sexual assault cases. At the time the going rate for a single sample genealogy with a private laboratory was still around \$10,000. The use of crowd funding and donations had been considered, and as hard as it was to decline, seemed like the correct

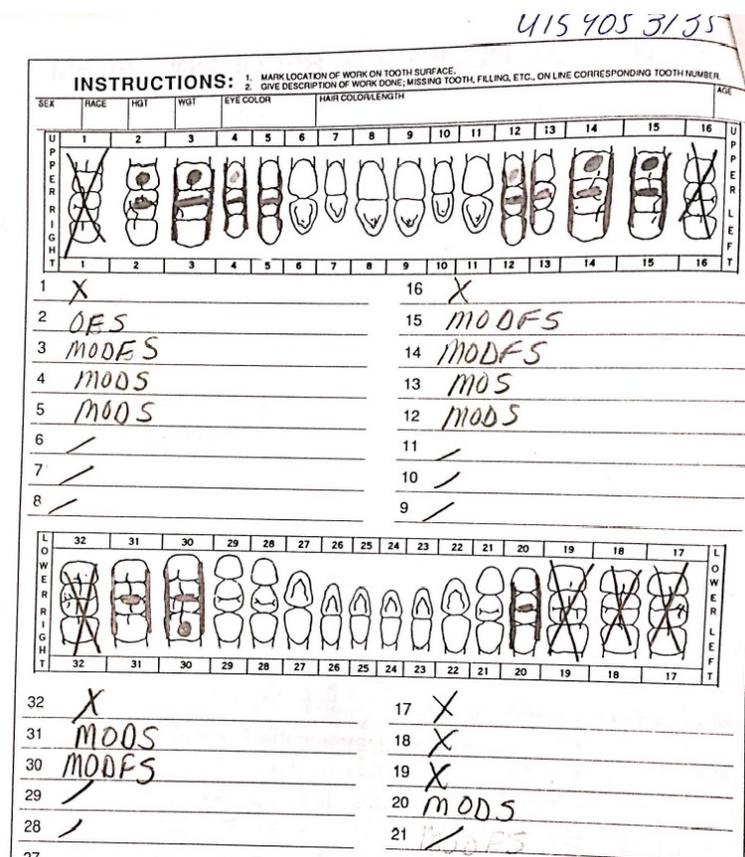
Forensic Investigative Genetic Genealogy

path for these cases to preserve their overall integrity.

The use of familial DNA in New York State was halted by a NYC Supreme Court Justice in the matter of *Stevens et al. v. DCJS* (Index No. 15122/18), as the individuals argued that they were more likely subjected to law enforcement contact despite not having any criminal history, because they had family members who were in CODIS. At the time of the May 2022 pausing of NYS Familial DNA, DCJS had approved only 30 applications from law enforcement agencies since the October 2017 inception of the practice. It had disclosed the names and investigative leads to police in only ten cases, and only two had resulted in arrest (CBS News <https://www.cbsnews.com/news/new-york-court-halts-family-dna-searches-crime-suspects/>).

The matter was appealed and upheld by the Appellate Division First Department in the Matter of *Stevens v. New York State Div. of Criminal Justice Srvs* (2022 NY Slip op 03062). In September of 2023, the New York State Court of Appeals heard arguments on the case, before issuing their October 24, 2023, 53 page decision in *Stevens et al., v. DCJS* (No 70). The Court of Appeals ruled that the rulemaking authority of the Commission on Forensic Sciences was sufficient to authorize the Commission's familial DNA search regulations codified in 9 NYCRR 6192.1 and 6192.3. Thus, giving the green-light to resume Familial DNA testing in New York. This was great news and a true victory for the victims and survivors of crime and law enforcement as they work to solve cases using this technology.

When making the determination to use FIGG or not, it is important to understand your DNA sample. How much of a sample do you have? How many nanograms of sample exist, and what is the degradation of the sample? The samples can degrade over time, and if not properly stored, while the amount of the sample may determine the limits of testing. As discussed earlier this is another reason for the teamwork approach by discussing the case and sample with all disciplines involved in the process. Just meeting the regulatory aspects of the case for submittal isn't enough, you need to understand and meet the scientific aspects of it as well. For example, will you be able to conduct any more tests, or is there only enough sample left for one last test. These are key factors in any DNA comparison testing situation.



Copy of 1981 Dental Chart of decedent when the case was first entered into NCIC.

The proliferations of cost dictating cold cases and the integration of technology is nothing new to municipal law enforcement. Many programs, equipment, and investigative resources are at the mercy of municipal budgets; while ping-ponging the public's trust in law enforcement's abilities to solve some of our oldest, and most violent crimes. With the increasing shortage of sworn law enforcement personnel, most times, resources and dollars are understandably pushed towards current crime prevention, analysis and solving. This raises the question, why isn't Familial DNA and FIGG technology being used on current cases often? Cost? Lack of understanding, both or are there other reasons?

Forensic Investigative Genetic Genealogy

The decision to have a dedicated cold case unit or member(s) may be official or simply ex-officio by default, but undoubtedly requires someone with tenacious investigative skills and patients that are beyond virtue. Once this is done and all cold cases (and current cases) are identified, each case should be analyzed for its true solvability. Ensure that all UHR cases are entered in NamUs (which is required by NYS Executive Law 837-e & f). Do fingerprints, DNA, or other tangible evidence exist? Further, never dismiss the possibility that the UHR person may not be currently entered in NCIC, for a variety of reasons (in this UHR case the person was never entered into NCIC). For example, the person was never reported missing due to their transient lifestyle, an agency did not maintain their validation records, an agency that had the original report may have since closed, and files were not transferred, the reasons are numerous. The use of off-line historical searches of NCIC by the FBI is a valuable resource.



As we all know many witnesses are unreliable for one reason or another, twenty- and forty-year-old witnesses are even less reliable if they are even around today. Remember to determine the amount and degradation of any DNA samples and clearly define the options that exist. Are there ways to get further DNA. Can current evidence be resubmitted to the lab to generate profiles, talk to your lab and find out. Is it necessary to do an exhumation for a UHR case if there are no other ways to obtain DNA. Who legally has custody of the decedent's remains and can give consent at that point or is there a recent development that will allow for a search warrant in criminal cases. Most likely the cemetery association or the County who is charged with the burial of those in paupers graves may have the legal right to grant consent. In prioritizing cold cases (and/or current investigations) be cognizant that given the age of the cases, any potential family members that could be used for kinship ratio verification may be

nearing end of life as well.

In the end, a family tree was constructed based on the UHR DNA snp profile, and potential relatives were identified in Massachusetts. However, there were no records of a potential person fitting the profile of our decedent ever existing. It wasn't until FBI agents assisting in the investigation visited an 86-year-old relative outside Boston Massachusetts that we would first hear the name of our John Doe. This aunt stated he had been missing for "about 50 years" and no one in the family had heard from him since. As investigative resources, and a membership to ancestry.com would

help with the family tree, we were able to find the only other living relative; a 74-year-old first cousin who had never actually met our John Doe. DNA samples were secured from both potential relatives and submitted to two separate labs. A private lab used by the FBI as well as the New York State Police Laboratory

in Albany, both yielded test results that showed the correct kinship ratio of our John Doe in the family tree that had been created.

Once the identity was confirmed a search with the assistance of the US Social Security Office of the Inspector general confirmed that the decedent's social security number had no earning reported since 1979 and hadn't been used anywhere since 1980. This was the one time in my career that requesting searches from Crime Analysis Centers and multiple state Fusion Centers returned negative results, and we were happy with that, as it helped prove the identity of our UHR case. In January of 2022, we held a press conference in close proximity to Dead Man's Cove and announced the closing of this decade's long mystery.

While simultaneously, a family tree had been constructed from the sexual assault cases and generated some excellent leads. After one more surreptitious DNA sample was secured, it was determined to be an exact match for our suspect. On a cool March morning in 2022, myself and an Investigator with the Troop G

New York State Police Major Crimes Unit, approached the man on a public roadway in Albany NY and had a conversation on an orange metal picnic table at the dead-end of the roadway in the industrial area. While the person we spoke to was not even listed on our “82 persons of interest” list for the cases, after only a short time he spoke of his violent misdeeds decades previous. Knowing that he could not be criminally charged, had never changed the fact that he was always looking over his shoulder for over 27 years. While his confessions rang with a sense of accomplishment, the greater deed was in calling the victims and their families and letting them know that the mystery had ended as well. This is why we do this job, the victims and survivors of crime. These people should not need to wait 27 years for the answers, the answers are possible now.

Having learned about the John Doe case in 2013 and being able to publicly announce its closure in 2022, was a rather short period of time in the grand scheme of the case. The hours and time dedicated to the case were often done after regular working hours or from home on a laptop using atypical investigative tactics. Despite being a Commander mostly responsible for administrative duties during the final seven years of my career, still managing these cold cases was something I took pride in, and found purpose in.

This article only summarizes some of the obstacles in these cold cases that were presented, including the UHR cases where no case file was ever found in Department custody and even that had to be reconstructed. However, the reward in being able to hear the confession of the offender and then being able to call the victim’s and their families of these heinous crimes 27 years later was all worth it. The journey of these cases through the understanding of the process of familial DNA and FIGG is truly what lead to their success. There is a path to success for many of these cases, how-

ever it is not a clear and concise model case after case. The chronicles of the UHR case have already been released in a podcast done by the Albany Times Union newspaper (Eagle podcast <https://podcasts.apple.com/us/podcast/the-case-of-the-bethlehem-john-doe/id1506637079?i=1000554462076>) ; and will also be featured in a podcast by the Spawn Group, APB Cold Cases (<http://www.spawngroup.com/podcasts.html>), and is scheduled for release in early 2024.



Commander Adam Hornick at January 13, 2022, Press Conference announcing the identity of John Doe.

Commander-Retired - Adam N. Hornick - started his career with the Bethlehem Police Department as a Telecommunicator in 1996, and rose through the ranks from Officer, to Detective, to Detective Sergeant to Commander. He retired in 2022 after spending 7 years as a Commander, and having overseen the patrol, detectives and administrative services divisions. During his tenure with the Department he was a state certified fire investigator, FBI certified crisis negotiator, and served as the public information officer for over 5 years. After earning his Master’s Degree in Public Administration Hornick taught criminal justice

classes for four years at Columbia-Greene Community College and for SUNY Delhi. Hornick was the emergency manager for many large-scale incidents including a multi-day hazardous materials incidents, and a double fatal airplane crash into a train. Hornick spent three years as the Region 3 Vice President for the New York State Association of Traffic Safety Boards, and was a member of the Zone 5 Law Enforcement Academy Advisory Board, having taught police recruits and supervisors for over 18 years. Additionally, he presented at the 2016 FBI WMD Radiological Workshop, was the Keynote Speaker at the 2017 NYS Arson Seminar, was a panelist at the 2019 New York State Conference of Mayors on Marijuana Regulation, presented on discovery and bail reform to the Albany County Law Enforcement Executive Team in 2019, and was a guest speaker on Forensic Investigative Genetic Genealogy for the NYS DCJS Public Safety Symposium in 2023.



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Bills of Concern for the Upcoming Legislative Session

The 2024 Legislative session has begun and there are multiple bills proposed that are of concern to law enforcement. As we always say, you are our best weapon in the fight against anti-law enforcement legislation. Please speak to your assemblyperson and/or senator and explain the damage that these bills can do to public safety.

A194 (Magnarelli)/S4650 (Kennedy)

Summary: Sets regulations for use of drones. Provides that drones may be operated in a manner that is consistent with federal law. This would supersede any local law or rule.

A505 (Gonzalez)/S449 (Gianaris)

Summary: Provides that a person arrest must be arraigned within 24 hours or else be immediately released. Mandates that the city establish a detained persons registry of all persons being held accessible by defender organizations.

A517 (Rosenthal L)/S3271 (Sepulveda)

Summary: Provides that access to electronic toll and fair information may only be obtained by warrant or judicial subpoena and not be administrative subpoena.

A543 (Joyner)/S4205 (Sanders)

Summary: This bill prohibits police from using deception during the questioning of a person under 18 years old.

A641 (Hunter)/S2192 (Bailey)

Summary: Enacts the “criminal forfeiture process act” to replace the process for the criminal forfeiture of certain property in certain instances.

A677 (Hunter)/S1990 (Jackson)

Summary: This bill provides that an officer who turns off a body camera or deletes a recording is guilty of tampering with physical evidence, a class E felony.

A710-A (Hunter)/S182-A (Jackson)

Summary: This bill creates a cause of action that may

be brought by an individual or the Attorney General and strips qualified immunity as a defense for lawsuits alleging deprivation of rights against a person acting under the color of the law, including police officers.

A739 (Carroll)/S6474 (Chandler-Waterman)

Summary: This calls for terminating an officer for unjustifiable physical force even when the incident does not result in harm to another or no complaint was filed against the officer.

A854 (Carroll)/S1922 (Sepulveda)

Summary: This bill mandates that any person who has served 25 years in prison be eligible for parole. It also prohibits a person from serving consecutive sentences that exceed 25 years.

A1063 (Bichotte Hermelyn)/S2754 (Bailey)

Summary: This bill would require a police officer notify the parents when a juvenile offender, adolescent offender, or youth, unless doing so would put the teen in danger. Furthermore, if the parent or legal guardian is unavailable, the police officer is required to contact another adult; if no adult is available, the officer must give the teen a ride home upon request.

A1156 (Vanel)/S2303 (Myrie)

Summary: This would prohibit police from using any means of deception during questioning.

A1263-A (Forrest)/S1976-A (Ramos)

Summary: This bill would make a defendant charged with any crime eligible for diversion provided that defendant has a functional impairment, which means “a condition that involves clinically significant distress or disability in social, occupational or other areas of functioning due to a mental health disorder, including: substance-related and addictive disorders, neurodevelopmental disorders, neurocognitive disorders, or other disorders as defined in the most recent version of the diagnostic and statistical manual of mental disorders.”



The court will defer to licensed mental health care professionals in determining whether a person has a functional impairment.

A1307 (Aubry)/S469 (Sepulveda)

Summary: This bill provides for automatic expungement of arrest records when the individual was released without the filing of formal charges; a determination was made that the arrest was without probable cause; or when the proceedings were dismissed against the individual.

A1320 (Joyner)/S2120 (Bailey)

Summary: This is discovery reform for the family court and it would apply to juvenile proceedings.

A1492 (Clark)/S5104 (Cleare)

Summary: This bill directs DCJS to promulgate safety standards and training requirements for the protection of law enforcement against biological hazards (spit-

ting) posed by persons in custody.

A1880-A (Dinowitz); S2710 (Parker)

Summary: This bill prohibits law enforcement from compelling the production of or access to electronic device information from any person or entity other than the authorized possessor of the device without a warrant.

A1891 (Glick)/S1609 (Hoylman-Sigal)

Summary: This bill prohibits the use of biometric surveillance technology by law enforcement. Specifically, the bill provides that a police agency cannot acquire, possess, access, install, activate or use any biometric surveillance system, or any biometric information or surveillance information derived from the use of a biometric surveillance system by any other entity, while in the course of their job duties or with regard to any information obtained, processed, or accessed in the course of those duties.

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greatest change since
DNA - what this system
does is a game-changer.

- Chief Matt Murray
Yakima Police Department

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A1963 (Joyner); S2615 (Parker)

Summary: This bill provides that a juvenile must consult with an attorney before a custodial interrogation. This cannot be waived.

A2035 (Davila)/S2423 (Hoylman-Sigal)

Summary: This bill provides that anyone 55 or older and has served 15 years of their sentence will have a parole board interview to determine if he or she should be released to community supervision.

A2036-A (Meeks)/S6471 (Myrie)

Summary: This legislation eliminates mandatory minimum sentences. For instance, for attempted first degree murder, the minimum sentence is 20 years. This does away with a mandatory minimum. It also eliminates harsher penalties for persistent violent felony offenders, second violent felony offenders, persistent felony offenders and second felony offenders.

A2092 (Meeks)/S1044 (Cooney)

Summary: This bill provides that no police officer shall arrest, restrain, or otherwise subdue a child who is 13 or less while effecting the arrest of the parent or guardian of such child; provides that all police officers present at the scene of arrest shall have an affirmative duty to keep such child safe, and shall permit the person being arrested to communicate with such child up until such person is removed from the scene.

A2220 (Hyndman)/S3515 (Fernandez)

Summary: This bill would require police officers to carry liability insurance with the city covering the base rate of the policy. It provides that police officers have to maintain liability insurance for the length of their careers with the city covering the base rate.

A2442 (Gonzalez-Rojas)/S2322 (Bailey)

Summary: This bill would eliminate FOIL exemptions for law enforcement personnel records for an unwarranted invasion of privacy, documents compiled for law enforcement purposes, or are inter-agency or intra-agency materials, or are designated as confidential by agreement.

A2587 (Vanel)/S4201 (Sanders)

Summary: This bill would enact the New York Data Protection Act. This would provide an individual a right to request disclosure of the categories and specific places of information a government entity has collected

and a right to request deletion of personal information, which includes biometric information. It also requires a government entity that collects an individual's personal information, at or before the point of collection, inform such individual as to the categories of personal information to be collected and the purposes for which such categories of personal information will be used.

A3177 (O'Donnell)/S963 (Bailey)

Summary: This bill provides that following submission to a grand jury of a criminal charge or charges and the grand jury dismisses all charges presented or directs the district attorney to file an information, an application can be made for disclosure of certain grand jury records including the testimony of all public servants.

A3306 (Solages)/S217 (Myrie)

Summary: This bill prohibits the search, with or without a warrant, of geolocation and keyword data of a group of people who are under no individual suspicion of having committed a crime, but rather are defined by having been at a given location at a given time or have searched particular words, phrases, character strings, or websites. It would also bar courts from issuing reverse location search warrants and create a private right of action.

A3712 (Epstein)/S3226 (Hoylman-Sigal)

Summary: This bill prohibits facial recognition technology to be used in connection with an officer camera, including the storage of biometric data. This would include use of still image would could impact criminal investigations.

A3744 (Epstein) and S4054 (Salazar) (not same as but very similar bills)

Summary: This bill would impose criminal liability on the theory of negligence to a police officer for the failure to obtain medical care for a person in custody displaying medical distress, which includes breathing difficulties, migraines and muscle pains.

A3793 (Taylor)/S3510 (Sanders)

Summary: This bill establishes a special prosecutor, appointed by the Governor, to investigate and prosecute matters involving the death of an unarmed civilian caused by a law enforcement officer.

A4157 (Paulin)/S3165 (Hoylman-Sigal)

Summary: This bill requires the Municipal Police

Training Council to establish a minimum standards policy for the use of license plate readers.

A4216 (O'Donnell)/S3511 (Sanders)

Summary: This bill requires police officers to be licensed and a licensing review board may review any alleged police misconduct and issue penalties, suspend and revoke licenses, issue fines, and mandate therapy or treatment or additional continuing education courses.

A4238 (O'Donnell)/S3426 (Myrie)

Summary: This bill allows an individual who has been convicted of an armed felony to still receive youthful offender status. It also creates a "Young Adult" classification for those who have been charged with certain crimes between the ages of 19 and 25. Upon determining to grant young adult status, the court will direct that the conviction be deemed vacated and replaced by a young adult status finding; and the court will sentence the young adult as a youthful offender.

A young adult adjudication is not a judgment of conviction and the person will not have a criminal record. This furthers the ability of some of the major drivers of crime in this city to evade responsibilities for their actions.

A4369 (O'Donnell)/S4820 (Sanders)

Summary: This legislation would ban no-knock warrants when trying to prevent the destruction of evidence and for controlled substances.

A5118 (Thiele)/S5174 (Jackson)

Summary: This bill would permit the assessment of certain fees and costs upon wrongful denial of access to records under FOIL.

A6033 (Chandler-Waterman)/S2818 (Salazar)

Summary: This bill provides for the indefinite suspension of New York city police officers without pay for an indefinite period pending the disposition of charges of incompetence or misconduct in certain cases. The suspended officer is entitled to a sufficiently prompt post-suspension hearing.

S226 (Gianaris)/A4965 (Rosenthal)

Summary: This bill prohibits the use of DNA phenotyping in criminal prosecutions and proceedings.

S1764 (Cleare)/A4638 (Mamdani)

Summary: This bill adds a new article to the criminal procedure law to prohibit agents of law enforcement to create a fake social media account to find information regarding criminality. It also creates a cause of action.

S4162 (Ramos)/A5251 (Kim)

Summary: This bill provides that police may only use drone for search and rescue and examining conditions after natural disasters. Police would be prohibited from using a drone for documenting, recording, investigating, or collecting of data at concerts, protests, demonstration or other First Amendment activities.

S4313 (Sepulveda)/A6650 (Chandler-Waterman)

Summary: This bill requires that every police officer involved in the execution of a search warrant have a functioning and unobstructed body camera recording the entirety of the execution.

S5825 (Brisport)/ A6143 (Carroll)

Summary: This bill would ban law enforcement use of cell site simulators and does not include an exception for obtaining a warrant. It also creates a cause of action.

OBITUARY

With deep regret we announce the passing of Captain Eugene

Burke, NYPD at the age of 95. Over the



years Captain Burke made many contributions to the New York State Association of Chiefs of Police. Captain Burke was appointed to the NYPD October 1st, 1952, promoted to Sergeant May 1959, Lieutenant July 1963, and Captain August 1974. Captain Burke served in the 112th precinct, Personnel Bureau, Community Affairs, and police academy. Captain Burke also served as the commanding officer of the 30th Precinct (Manhattan North), 19th Precinct (Manhattan South), and 20th Precinct. Captain Burke retired as the Commanding officer of the NYPD Drug Abuse Resistance Education (DARE) Unit.



BROOME COUNTY SHERIFF'S LAW ENFORCEMENT ACADEMY

Dear Chiefs and Sheriffs:

On behalf of Sheriff Frederick J. Akshar II, I would like to announce the tentative dates for the Broome County Sheriff's Law Enforcement Academy 2024 Basic Course for Police Officers commencing on March 25th and ending on October 25th of 2024. This course will consist of 1,184 hours of training; 705 hours of mandated topics. Additional courses include, but not limited to:

- A 32 hour Radar/Lidar Course – at the completion, student will be a certified radar operator
- A 24 hour Breath Analysis Course – at the completion, student will be a certified breathalyzer operator
- An 80 hour Reality Based Training Course – an intensive scenario based course featuring real life situations the student can expect to encounter during his police career
- An 80 hour Emergency Vehicle Operators Course-involving low and high speed maneuvers
- A 16 hour Conducted Energy Device Course-at the completion, student will be certified to carry and deploy a TASER or other conducted energy device.

- Multiple courses in a variety of topics such as: Landlord/Tenant Disputes, Child Passenger Safety, K-9 uses and handling, Gang Awareness, Search and Rescue and Child Abuse.

The fee for this course is \$1,200.00. This course includes all course materials and uniforms.

Free lodging is available for Recruits outside Training Zone 6; this is offered on a first come-first serve basis and space is limited to 20 Recruits.

The Academy runs Monday thru Friday, 0800-1600 hrs. daily.

For further information or reservations, please contact Lieutenant Jan Cower, Director of Training, at 607-778-8726 or by email at jan.cower@broomecountyny.gov.

Jan J Cower
155 Lieutenant Van Winkle Drive
Email: jan.cower@broomecountyny.gov
Director of Training
Binghamton, NY 13905
Phone: 607.778.8726
Fax: 607.778.6519

Sincerely,
Lieutenant Jan Cower
Training Director

**ENROLLMENT FORM
IS ON THE NEXT PAGE**



BROOME COUNTY SHERIFF'S LAW ENFORCEMENT ACADEMY

ENROLLMENT FORM

Basic Course for Police Officers March 25th to October 25th, 2024

NAME OF RECRUIT (LAST, FIRST MIDDLE): DOB LAST 4 OF SOC# APPOINTMENT DATE

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

AGENCY: _____

ADDRESS: _____

OFFICE PHONE: _____ CELL PHONE: _____

CONTACT PERSON: _____

CONTACT EMAIL: _____

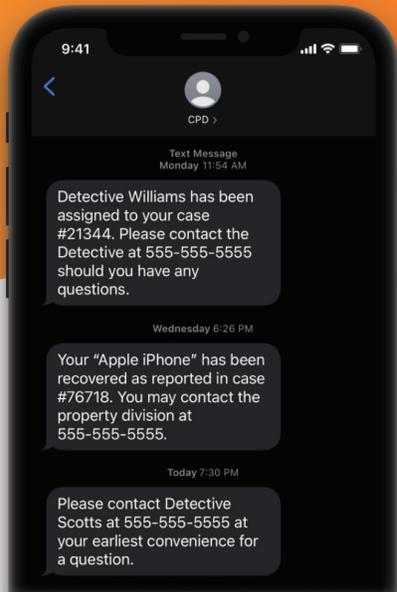
ENROLLMENT REQUIREMENTS: All Recruits attending the Broome County Sheriff's Law Enforcement Academy must be employed (conditional, probationary, etc.) by a Law Enforcement Agency. The following items listed below must be received by the Academy to complete the enrollment process.

1. Initial Police Officer Certification of Employment Form (DCJS-2214-a)
OR
2. Initial Peace Officer Registry Form (DCJS)
AND
3. Letter from Chief/Sheriff authorizing your Recruit to attend the Academy
4. Broome County Sheriff's Law Enforcement Academy ENROLLMENT FORM
5. Military Veterans
 - a. Copy of recent DD Form 214

ADDITIONAL:

1. A confirmation letter and/or invoice will be issued when all enrollment paperwork has been received. This letter will have specific guidance for the agency.

Copies of these items are acceptable



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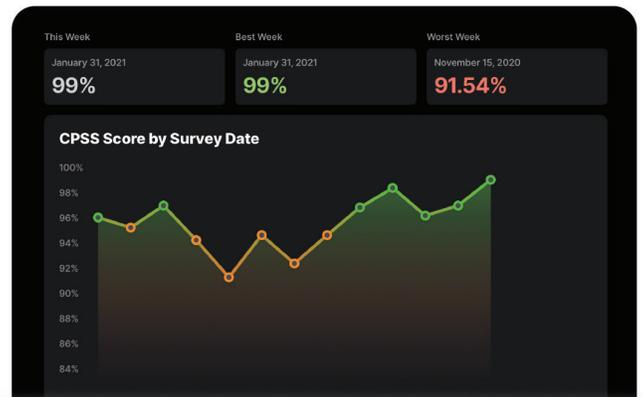
✓ **Keep citizens informed**

"Deputy Karen went out of her way to help me find a ride after the accident."

"Officer Smith was very friendly and helpful."

"Thank you Officer Darby for caring and helping my father."

✓ **Boost officer morale**



✓ **Measure satisfaction**

Colonie Chief Walked Out of the Station for the Last Time

Chief Michael Woods recently retired from the Colonie Police Department. Chief Woods served as the Zone 6 representative for the capital district and north country on the NYSACOP Board of Governors. Chief Woods is a past president of the Northeast Chiefs and member of the MAGLOCLLEN policy board. On January 19th, 2024 the Colonie Police Department held a walkout ceremony where Chief Woods was honored by the municipality, police department and members of the community. Chief Woods served 32 years with the Colonie Police Department, his hometown where he always wanted to be a cop.



New Chief is Lifelong Colonie Resident

Lifelong Colonie resident James “Jay” Gerace is stepping into a new role: Police Chief. With nearly 25 years of experience in law enforcement, he said he has a hometown advantage.

“I think if you live in the community that you police right, you’re connected to it, you’re a part of it,” Gerace said. “These are my friends and neighbors, I’m their friend and neighbor.”

Gerace said he wants to take a proactive approach to some of the town’s problems. “We’re going to try to take our police department on a quest to solve problems before they start,” Gerace said. “Really try to, instead of dealing with the aftermath of an issue, let’s try to intervene.”

One of those issues is an uptick in retail crime. “I think we do need to bring all the stakeholders together,” Gerace said. “All of the retail establishments, the district attorneys, our legislators, and try to look at what interventions can you make. So there’s a lot to look at, there’s a lot to do, but I would acknowledge that retail crime theft is one of our major problems in the town of Colonie.”



Richard DePalma Named Long Beach's Acting Police Commissioner

The City of Long Beach, NY, announced today that Police Commissioner, Ronald J. Walsh, has tendered his resignation in order to pursue other professional opportunities. His official last day was January 20th. Inspector Richard DePalma will assume the position of Acting Police Commissioner until a permanent replacement is named.

During Commissioner Walsh's tenure, the Department saw a marked increase in hiring, adopted a Police Reform Plan and the first approval of negotiated contracts by the Police Benevolent Association and Commanding Officers Association in decades. "It has been my honor and privilege to serve this Department and the residents of Long Beach," said outgoing Commissioner Walsh. "I am immensely proud of the progress we have made over the past three years and offer my respect and gratitude to the dedicated individuals who comprise the Department".

In addition to his role as Police Commissioner, Walsh served as Long Beach's Acting City Manager from January 2023, until January 2024. On January 2, 2024, the Long Beach City Council appointed Daniel Creighton as the new City Manager.

"On behalf of the City, I thank Commissioner Walsh for his unwavering dedication to the City of Long Beach

and its residents," said Long Beach City Manager Daniel Creighton. "Under his leadership, the City made tremendous progress on enhancing safety and delivering an efficient and effective model of policing. He has been invaluable and selfless during our administrative



Richard DePalma has been appointed as Acting Police Commissioner of the City of Long Beach Police Department.

transition and we wish him nothing but the best moving forward".

Acting Police Commissioner DePalma began his career with the New York Police Department in 1997. He joined the Long Beach Police Department in January of 2002 and has held the position of Officer, Sergeant, Lieutenant, Deputy Inspector, Executive Officer and Inspector.

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Leadership Spotlight: Improving the Promotional Process

By Captain James Nightingale

*FBI Law Enforcement Bulletin
January 2024*



To visit the *FBI Law Enforcement Bulletin*'s website go to **leb.fbi.gov**. When you visit our site you can view current content or previously published material under Archive. You can also register to receive alerts each month with links to newly posted articles on the site.

Continued on page 14

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Leadership Spotlight: Improving the Promotional Process

By Captain James Nightingale

When choosing new leaders, agencies should avoid overemphasizing exam scores and be sure to weigh a candidate's experience heavily.

1/10/2024

Regardless of size or location, police departments across America deal with many of the same challenges. One issue has been how to determine the best process to promote qualified officers to first-line supervisors.

Often, a promotional exam is the first step.

One of the most difficult tasks in the promotional process is creating standardized testing, a system employed in such areas as collegiate admissions, government civil service, psychological measurement, and high school academic proficiency. As a means of bringing fairness and equality to all who take them, the exams seek to measure, through written words, a person's skill or personality.¹



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 AXON

[4:3] [160° FOV]



However, those who take these exams may only need a certain number of years of police experience, depending on the state or municipality.

Overemphasizing the Scores

Typically, agencies only interview the three officers with the highest scores on the exam. The candidate fourth on the list is no longer in consideration for continuing the process. An interview is possible only if one of the top three officers drops out, moving the officer in the fourth slot to the third and allowing them to proceed.

Because supervisors are forced to choose from among this small pool of candidates who — regardless of police experience — scored highest on the exam, the demonstrated ability to lead receives less value. As a result, if a young, inexperienced officer is selected, the lack of on-the-job knowledge can create not only a rift among supervisors but also an environment that opens the department up to unnecessary litigation and/or civil lawsuits. Such a situation can also lead to agency morale issues among the officers who must work with the new, inexperienced leader.

In some departments, this practice does not stop at first-line supervisor positions but continues through all ranks, leading up to and including the chief. For every promotion, those making the top three scores get interviews. This results in leadership positions throughout the agency being filled by less qualified personnel.

Use of the civil service exam as a beginning point for promotions follows the bureaucratic, machine-like rigidity embedded in modern police culture, which still focuses on the routine and predictable. Rather than continuing to use the reason “this is how we have always done things,” law enforcement agencies should look for ways to improve the process in which officers are selected to first-line leadership positions.



Police organizations should offer a roadmap to success for members to follow and establish additional criteria to consider when choosing new leaders.



Establishing Additional Criteria

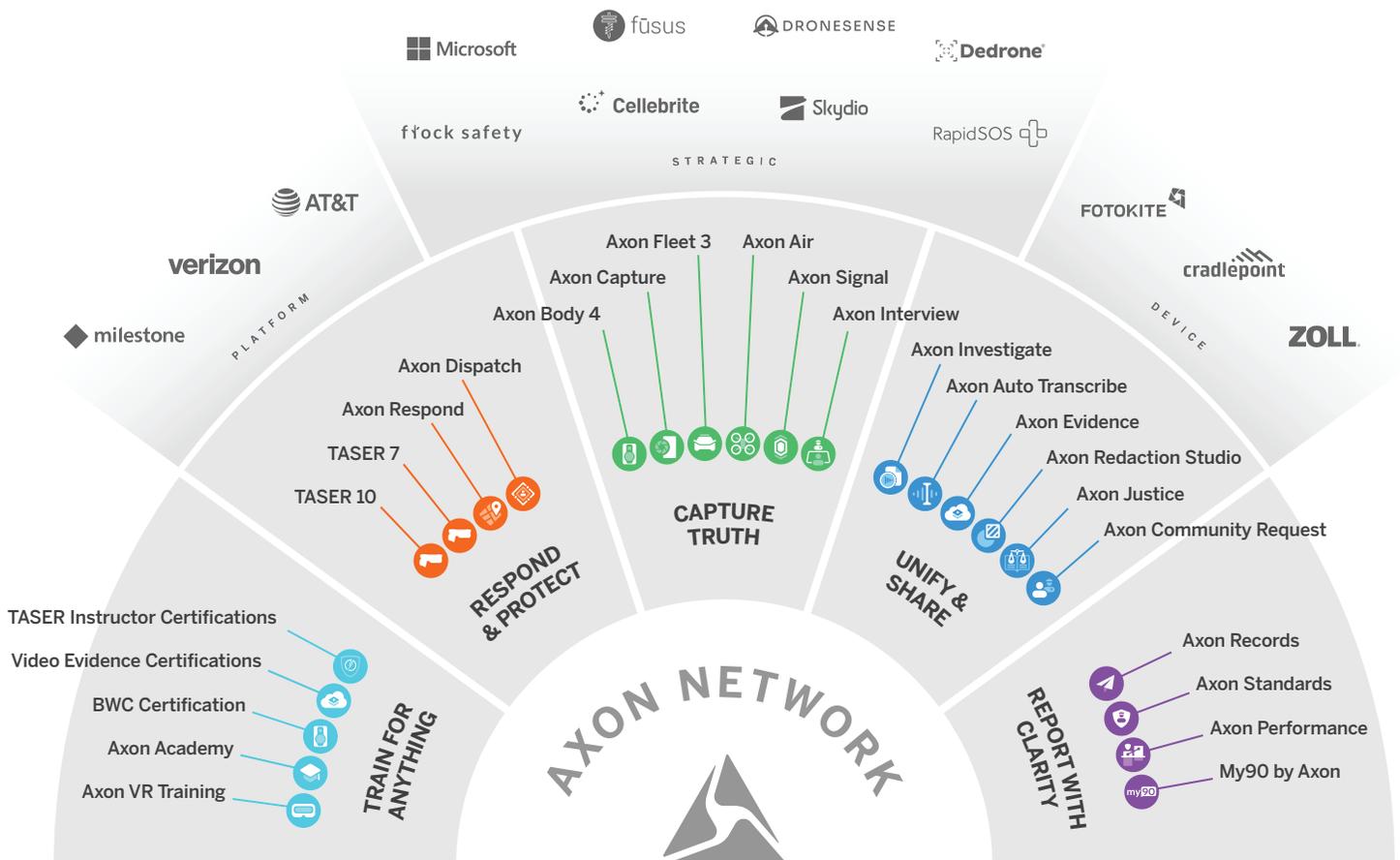
When one looks at the organization as a machine, a deeper understanding of its nature and functionality can truly be attained. Exam scores are a necessary component, but these alone should not dictate the promotion. Agencies should consider the amount of emphasis placed on the exam versus the rest of the process.

A more fair and unbiased process will allow for additional focus on candidates with work knowledge. This can be accomplished through oral interviews with “in-basket” type questions that require interviewees to recall their training and experience to give an appropriate answer. Also, agencies can use outside evaluators with no knowledge of the candidates. Any promotion process must not include strategies that increase bias, whether real or perceived, during the interviews as interviewers seek to validate their initial thoughts or impressions of the officer.

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Conclusion

Agencies should not overanalyze the final decision but balance it with an open-minded approach. Avoiding machine-like practices can improve the final product of leaders for departments. Police organizations should offer a roadmap to success for members to follow and establish additional criteria to consider when choosing new leaders.

Endnotes

¹ Patrick J. Hughes, "Increasing Organizational Leadership Through the Police Promotional Process," *FBI Law Enforcement Bulletin*, October 1, 2010, <https://leb.fbi.gov/articles/featured-articles/increasing-organizational-leadership-through-the-police-promotional-process>.

Captain James Nightingale of the Camillus, New York, Police Department, a graduate of FBI National Academy Session 279, prepared this Leadership Spotlight. He can be reached at jnightingale@townofcamillus.com.

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Brookville Police Department, NY is at Mill Neck Manor School for the Deaf.
 January 30 at 4:57 PM · Locust Valley ·

On Friday January 26 the Brookville Police Department partnered with the Mill Neck School to give a presentation on "Emotional Intelligence and Effective Choices". This course was given to both the middle school and high school students, the content was tailored for each age group. Kudos to Police Officers Robinson and Roth for their outstanding Community Policing efforts! #communitypolicingworks #policeandcommunitytogether #copscountpolicematter #millneckschoolforthe deaf



Quogue Village Police Department
 February 2 at 2:48 PM ·

Today our members participated in our annual department training and refreshed their skills in Taser, de-escalation, defensive tactics, CPR/AED and Standard Field Sobriety testing.



Irvington NY Police Department
 January 23 at 4:32 PM ·

Today the Irvington PBA hosted the annual Senior Citizen Breakfast. This year was special because the event was renamed in honor of the late Detective David Walsh, who during his career helped cultivate a strong relationship between the Police Department and the Irvington Senior Citizen Community. Each year the senior citizens of this village look forward to this amazing community event where breakfast is cooked and served by members of the Police Department. We look forward to continuing this tradition for many years.



CHAPTER 1 POLICE UNITY TOUR

We Ride For Those Who Died



PEEKSKILL POLICE DEPARTMENT

The primary purpose of the Police Unity Tour is to raise awareness of Law Enforcement Officers killed in the line of duty. The secondary purpose is to raise funds for the National Law Enforcement Officers Memorial and Museum.

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FOR MORE INFORMATION PLEASE VISIT:

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 ANY DONATION OVER \$1,000 WILL INCLUDE THE BUSINESS LOGO ON THE SHIRT AND WILL ALSO INCLUDE A COMMEMORATIVE PLAQUE SENT BY THE FOUNDATION WITH THE BUSINESS/DONORS NAME ON THE PLAQUE.



NYPD
 17h · 🌐

This afternoon, officers from the Mounted Unit and Emergency Service Unit apprehended a sheep that was found roaming the streets of Brooklyn. The animal was safely transported to Brooklyn Animal Control.

Not baaaaad for a group of cops with no experience shepherding a sheep.



New York State Police
 January 22 at 10:46 AM · 🌐

The Troop G Underwater Recovery Team endured frigid temperatures at the Grafton Lakes State Park 39th Winter Festival over the weekend. After cutting and clearing the ice, they stood by while the community participated in a polar plunge, ensuring everyone was safe and cheering the participants on.



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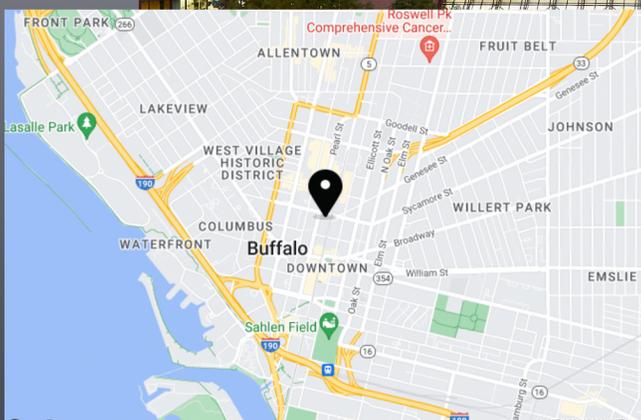
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NYSACOP TRAINING CONFERENCE 2024



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BUFFALO, NY**