

Chiefly Speaking...

Monthly newsletter of the
New York State Association of Chiefs of Police, Inc.



May 2020

FROM THE PRESIDENT

Pandemic: Enforcement, Discretion & Constitutionality

COVID-19 has certainly changed the world and at the same time created many challenges for law enforcement. As orders are issued by elected officials to control public actions and movement, these same officials look to the police to enforce these new rules. Police officers are caught in the middle between divergent public opinion – one segment feeling that these orders should be vigorously enforced and another segment convinced that these orders are an unjust overreach by government. After many years of the public perception of police officers being attacked, this situation threatens to create even greater division between the police and the public. As Chiefs we are faced with the challenge of deciding when it is in the best interest of the public to enforce an order, and when we need to protect the rights of our citizens.

Public health is certainly a paramount concern at this time. People are dying

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Chief Patrick Phelan
President—NYSACOP

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IMPORTANT CONFERENCE ANNOUNCEMENT

REGRETFULLY, DUE TO COVID-19 AND THE UNKNOWN STATUS
OF RETURN-TO-WORK AND PUBLIC GATHERINGS,
WE HAVE CANCELLED THE JULY CONFERENCE—SEE STORY INSIDE

and it is important that we do what we can to protect them. I would not be so bold as to give you direction, but I humbly offer my opinion as President of NYSACOP. We each have to make our own decisions on these matters based on the unique situations in our communities. This virus has affected different parts of New York State in different ways. I think it's important, now more than ever, that we remember our oath of office: "I solemnly swear that I will support the Constitution of the United States of America." Our founding fathers were amazing people. They cared so deeply for their liberty that they were willing to take on the largest, most accomplished army in the world to win their freedom. They also created a Constitution and Bill of Rights that has protected the liberties of Americans ever since. We are now faced with a situation in which elected officials are issuing executive orders that, at times, seem to be in conflict with the Constitution. While we can all agree that public health is important, I think we can also agree that images of police officers arresting mothers on a playground or people on a beach are not good for the public image or our relationship with the community. In my opinion, the Constitutional rights of our citizens should always come first. There is no clause in the Constitution that reads, "...unless there is a pandemic."

United States Attorney General William Barr recently issued a memo to all of our nation's U.S. Attorneys in which he stated, "...the Constitution is not suspended." Barr advised the U.S. Attorneys to "be on the lookout for state and local directives that could be violating the constitutional rights and civil liberties of individual citizens", and he reminded U.S. Attorneys that "the First Amendment and federal statutory law prohibit discrimination against religious institutions and religious believers."¹ I think we, as well as our elected officials, would be wise to listen to these directions from our Chief Law Enforcement Officer.

"Our founding fathers knew there would be a time when our leaders would seek to strengthen their power by taking away our liberties, they gave us the Constitution to defend those liberties."

The First Amendment may be in the most danger from executive order, as it protects our freedom of speech, our right to assemble, and our freedom of religion. We are seeing these rights come into conflict with executive orders. In other states we have seen religious leaders ticketed or arrested for holding religious services on private property. Is this enforcement of an executive order constitutional? I would submit to you that it is not, if a religious leader in your community decided to hold services in their place of worship I believe they would be engaging in constitutionally protected activity and you would be making a mistake by taking enforcement action against them. How about the right to assemble? If members of your community held a peaceful demonstration in a public place that was not closed, would you be justified in dispersing and/or arresting these peaceful demonstrators? I think not, that type of activity is clearly protected by the First Amendment and should be allowed.

The issuance of an executive order by a governor, county executive, or mayor cannot suspend the Constitution, nor should it. Our founding fathers knew there would be a time when our leaders would seek to strengthen their power by taking away our liberties, they gave us

From the Executive Director

The global pandemic and its effect on New York State law enforcement has been a priority focus for our office for the past two months. Earlier this week we conducted a survey of members to gather meaningful opinions to assist us in revealing the financial impacts on law enforcement operations as a result of the State-wide shutdown.

With 120 members responding, we learned that:

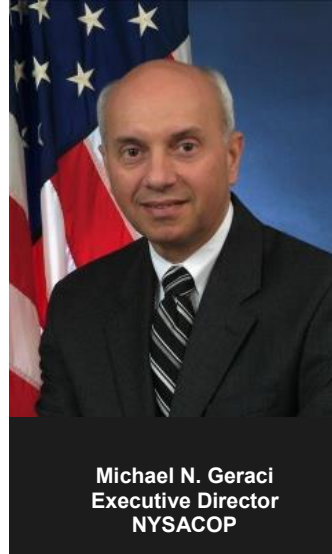
- There will be actual or anticipated layoffs of sworn personnel amounting to an average of 8 per agency, as well as layoffs of non-sworn personnel averaging 9 per agency
- Custodial arrests have been dramatically reduced by 70% of responding members
- Discretionary spending has affected 85% of respondents
- Training has been impacted in 70% of responding agencies
- 95% said that traffic enforcement operations have been curtailed or suspended

Additionally, it appears that agencies with personnel vacancies are not filling those positions, with an average of 6 unfilled positions per responding member.

These are dramatic impacts on the administrative and operational functions of law enforcement agencies across the State. While we are hopeful that additional Federal funding may provide a measure of relief to our communities, we will closely monitor the results of these significant impacts on public safety and police/community relations.

We made a difficult, but most responsible decision to cancel the 2020 Annual Training Conference (see story on page 5). We were optimistic in recent weeks that we would be able to hold the conference as scheduled, however, there were too many unknown factors relating to public gatherings, lodging, and food service. I'm pleased to announce that our Board has decided to honor our commitment to the Lake George Region and will return to the Queensbury Hotel next July for the 2021 Conference, the specific dates will be announced within the next few weeks.

Finally, I encourage you to visit our [website](http://www.nychiefs.org) www.nychiefs.org often. We routinely update Members Only sections that will provide you with a myriad of timely and valuable information. As always, please let us know how we can better serve you.



“While we are hopeful that additional Federal funding may provide a measure of relief to our communities, we will closely monitor the results of these significant impacts on public safety and police/community relations.”

Traffic Safety Highlights

■ Police Traffic Services Grant Deadline Extended to June 1

■ Memorial Day DWI Crackdown Resources Are Available

■ Traffic Activities from the Field:
·Traffic Volume is Down, But Speeds Are Up;
·Street Bikes and ATVs Occupy the Streets

■ Traffic Safety Training Still Available from our "Take-Out Menu":
·Ignition Interlock Devices
·Distracted Driving
·Driver Fatigue

Traffic Safety Report

Traffic Tuesdays-The National Traffic Safety Resource Prosecutors (TSRP) Webinar Series: As part of the ongoing National TSRP Traffic Tuesdays initiative, the next scheduled webinar on Tuesday June 9, 2020 from 2:00 p.m. – 3:30 p.m. (EST) will feature a presentation entitled **"Jury Selection in a DUI Case: Not Part of a Trial – It Is the Trial!"** The webinar presenter will be Sarah Garner, North Carolina Traffic Safety Resource Prosecutor.

Not all jurisdictions have latitude in jury selection. But for those that do, jury selection in a DUI case is your only opportunity to educate the panel on the law, forecast the facts, and prepare them to reach the right verdict. This webinar will offer some ideas on how people learn and how to develop your DUI case before the jury is sworn.

There is no cost to join this webinar however you must register in advance; the link to register is: <https://attendee.gotowebinar.com/register/431427877819518219>

After registering you will receive a confirmation email containing instructions on how to join the webinar. To ensure that you are able to log on, please register *at least 4 hours in advance*. Also, please make sure you retain the confirmation email sent to you and please be careful to enter your email address correctly. **You will not be able to join the webinar if you do not receive a confirmation email.**

If you are unable to attend this webinar at the scheduled time but would still like to watch it, please go ahead and register as indicated. Everyone who is registered will receive a link to the recording of the webinar regardless of whether they attended. If you have any questions or need any assistance registering please feel free to contact Vin Petty at VinPetty@FloridaTSRP.com.

Release of the GTSC 2021 Police Traffic Services Grant Applications with a New Online PTS Application Example: The Governor's Traffic Safety Committee (GTSC) has released and extended the deadline for its 2021 grant applications that now must be submitted no later than June 1, 2020. A new PTS Application Example is available as a resource on the website under the Application Materials Section at <https://trafficsafety.ny.gov/highway-safety-grant-program>. We recommend and encourage every agency



Dominick Macherone
NYSACOP-GTSC
Liaison

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the Constitution to defend those liberties.

I am not suggesting that we ignore executive orders from elected officials. I am only suggesting that we should be very careful, cautious, and deliberate about enforcement that borders on being unconstitutional, or is clearly unconstitutional. At some point our courts will open and we will be called to answer for our actions. We will also have to deal with the effects on our relationships with our communities that result from our decisions during this time. We will also have to live with our conscience and the choices that we make. Remember that we are all Americans and we hold the sacred responsibility of protecting the rights of our fellow Americans. Our society is a fragile one, but it is also proud and honorable. It has been said that America is a great social experiment. Our choices during this crisis could decide if our union holds together, or if it unravels. It's that important. May God bless you and keep you safe.

¹ John Malcom and Charles "Cully" Stimson; "Constitution Isn't Suspended" for COVID-19, Attorney General Barr Warns Public Officials; Heritage Foundation; The Daily Signal. <https://www.heritage.org/the-constitution/commentary/constitution-isnt-suspended-covid-19-attorney-general-barr-warns-public> ; Accessed May 5, 2020;

Annual Conference Cancelled Due to COVID-19

In light of the pandemic and associated travel and distancing restrictions, the New York State Association of Chiefs of Police regrets to announce that the 2020 conference has been cancelled. Executive Director Michael Geraci said, "This is a time when we would prefer to assemble in order to discuss public safety priorities, but the current public health situation does not appear that it will be adequately resolved for our members to meet in July." Chief of Police Patrick Phelan, President of the Association noted that this cancellation is historic. "In the 120 year history of our proud organization, the only other time we cancelled our annual conference was during World War I." The conference is the premier training event for New York State law enforcement executives featuring renowned speakers and presenters on contemporary topics in public safety.

Members and exhibitors who previously registered have been notified by the NYSACOP office. Watch for more news and information as we plan on rescheduling the annual training conference in 2021.



Honoring New York's Fallen Police Officers

DCJS, ALBANY NY - Every year in May, law enforcement professionals, families, loved ones and friends gather in Albany for the New York State Police Officers' Memorial Remembrance Ceremony, which honors those brave men and women who made the ultimate sacrifice in service to their communities.

This video tribute recognizes the 55 officers whose names will be added to the Memorial's black granite wall this year, and remembers the 1,567 other officers honored during past ceremonies at the Memorial on the Empire State Plaza. A new date for the 2020 ceremony, postponed due to the COVID-19 global pandemic, has not yet been announced.

The 51 men and four women recognized this year served with the following agencies: the Cayuga County Sheriff's Office, Harrison Police Department, New York City Police Department, New York State Department of Environmental Conservation, New York State Police, Port Authority Police Department, and Suffolk County Police Department. Two NYPD officers were killed in the line of duty in 2019 and 53 officers died from illnesses resulting from their work at Ground Zero in the wake of the 9/11 terrorist attack at the World Trade Center.

Every officer honored at the Memorial – and their families and loved ones they have left behind – will never be forgotten.

Roll of Honor:

Luis G. Alvarez - NYPD
June 29, 2019

Scott R. Blackshaw - NYPD
May 20, 2018

James B. Boyle - NYPD
May 31, 2019

John Brant - Port Authority PD
July 19, 2018

Craig L. Capolino - Suffolk County PD
January 30, 2013

Audrey P. Capra - NYPD
December 24, 2018

Yolanda Cawley - NYPD
October 22, 2016

Jeffrey M. Cicora - NYSP
August 10, 2019

Christopher E. Cranston - NYPD
July 20, 2019

Michael O. Diamond - NYPD
October 9, 2018

Kenneth X. Domenech - NYPD
January 19, 2019

Keith A. Ferrara - NYPD
May 29, 2019

John P. Ferrari - NYPD
June 18, 2018

Edward J. Fitzgerald - NYPD
September 19, 2008

Gary M. Franklin - NYPD
August 15, 2018

Sean P. Franklin - NYPD
May 22, 2017

Thomas J. Gallagher - NYPD
March 12, 2018

Anthony R. Hanlon - NYPD
October 21, 2018



Photo: NYS DCJS

Remember Our
Nation's Fallen
Heroes

National
Police Week:
May 10–16, 2020

May 15:
National Peace
Officers Memorial
Day

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President Phelan Announces Podcast Series

The New York State Association of Chiefs of Police in partnership with the Public Employer Risk Management Association (PERMA) have released the first five audio podcasts in a series addressing the topic of law enforcement suicide. Phelan said, “The stresses that officers face can be devastating. We need to take care of our own. I am pleased that we can take this small step in helping to provide our officers with information and resources that could save their life.” The issue of police suicide is the focus of NYSACOP President Patrick Phelan’s term and in the first podcast, he speaks with Chief/Ret. Mark Spawn about stress, warning signs, police culture, and resources for cops. Jerry Faiella, PERMA Interim Executive Director said, “On behalf of the PERMA Board of Trustees, we are excited to announce this new partnership and work alongside NYSACOP to enhance our training and workshop opportunities for our membership and others in the public safety community. PERMA has been at the forefront of promoting a culture of workplace safety through our robust risk management programming, targeted interventions, personalized claims handling and high caliber member service support. As we face the challenges of the future, our partnerships become more critical to achieving our outreach and claimant care objectives.” The second podcast is a discussion about the scope of the problem. Professor John Violanti (SUNY Buffalo) is a former State Trooper and an often-cited source on the topic of law enforcement stress and suicide. Deputy Jim Banish joins in this discussion to talk about a training program for supervisors.

Be sure to read, “*Police Suicide: Taking Care of Our Own; Confronting Stress, Reducing Risk*” in the March edition of *The Chief’s Chronicle* magazine, available on the nychiefs.org website..

“The stresses that officers face can be devastating. We need to take care of our own. I am pleased that we can take this small step in helping to provide our officers with information and resources that could save their life.”

***Chief Patrick Phelan
President***

PODCAST SERIES: LAW ENFORCEMENT OFFICER SUICIDE A NYSACOP—PERMA PARTNERSHIP

- APB177 Taking Care of Our Own
- APB178 The Scope of the Problem
- APB179 Peer Support and Stigma
- APB180 Searching for Signs: Police Chief Shares a Story of Tragedy
- APB181 Risk Management, Data, and Dogs: What Virginia Police Are Doing
- APB182 Another Tragedy: Discussing Suicide Myths & Police Culture (coming May 19)



PERMA

◀ **CLICK ON THE LINKS ABOVE TO LISTEN TO PODCASTS**

(Continued from page 6)

Joseph F. Heid - NYPD
July 20, 2016

Nathaniel Holland, Jr. - NYPD
April 5, 2013

Charles J. Humphry - NYPD
April 10, 2019

Paul J. Johnson - NYPD
July 22, 2018

Robert Jones - Port Authority PD
June 15, 2019

James W. Kennelly - Port Authority PD
June 17, 2017

Mark Lawler - NYPD
August 11, 2014

William J. Leahy - Port Authority PD
June 6, 2019

Jeffrey A. Le - NYPD
July 16, 2018

Thomas J. Lyons - NYPD
December 31, 2018

Walter L. Mallinson—Harrison PD
September 9, 2017

Robert P. Masci - NYPD
June 9, 2018

Patrick T. McGovern - NYPD
May 2, 2019

Stephen B. McLoud - Cayuga County SO
August 29, 2019

Jennifer Meehan - NYPD
December 17, 2018

Mark J. Meier - Port Authority PD
July 31, 2017

Gregory V. Melita - NYPD
March 9, 2019

Brian C. Mulkeen - NYPD
September 29, 2019

Jason H. Offner - NYPD
July 25, 2017

Vincent J. Oliva - Port Authority PD
November 27, 2013

Robert Ortiz - NYPD
July 10, 2018

Paul D. Pallas - Port Authority PD
March 14, 2011

Philip E. Panzarella - NYPD
April 25, 2019

William Parker - NYPD
September 27, 2012

Philip T. Perry - NYPD
March 14, 2019

Joseph L. Pidoto - NYPD
October 26, 2018

Stephen L. Raymond—NYS Dept. of EnCon
April 17, 2017

Lawrence J. Rivera - NYPD
July 5, 2018

Joseph M. Roman - NYPD
January 28, 2019

James E. Ryan - NYPD
April 29, 2018

Thomas Santoro - NYPD
July 21, 2019

Brian P. Simonsen - NYPD
February 12, 2019

Barbara J. Sullivan - NYPD
June 7, 2018

Michael E. Teel - Port Authority PD
March 21, 2019

Manuel Vargas, Jr. - NYPD
November 1, 2018

William T. Walsh - NYPD
January 11, 2016

Wade J. Williams - NYPD
November 18, 2018

Vehicle Theft Prevention Month Coming Up

NHTSA—This July, the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) is continuing its annual Vehicle Theft Prevention Campaign during National Vehicle Prevention Month. In 2018 alone, nearly three quarters of a million motor vehicles were stolen in the United States, costing vehicle owners more than \$6 billion. Motor vehicles include passenger cars, trucks, and multipurpose vehicles. Review these 2018 statistics on vehicle theft in the United States and NHTSA's tips on keeping your vehicle safe.

- Passenger cars made up more than 50% of all stolen motor vehicles.
- Only 59.3% of all stolen motor vehicles were recovered.
- Of all motor vehicles stolen, 74.8% were passenger vehicles.
- There were 748,841 motor vehicles stolen. This is a 3% decrease from the 773,139 vehicles stolen in 2017.
- A motor vehicle was stolen every 42.2 seconds.
- Help to spread the word in your community. Visit [TrafficSafetyMarketing.gov](https://www.traffic-safety.gov/traffic-safety-marketing) for a full range of resources including Fact Sheets, sample messages, social media badges, and an Infographic like the one here.

Looking Back...

*Mom always said,
"eat your vegetables!"
... and so did the
J. L. Prentiss Company,
one of the advertisers for the
New York State Assn. of
Chiefs of Police in 1914.*

A Chief's Nerves

must be sound if he is to be a successful officer. Doctors advocate eating plenty of vegetables to keep the nervous system in proper condition. In taking this splendid advice be sure you select

"Jipco" Canned Vegetables

They are clean and free from wilt and disease germs. We use only the finest vegetables grown and pack them as soon as gathered

Sold by Grocers

J. I. Prentiss & Company

—Proprietors—

*...revisiting the rich
history of the
New York State
Association of
Chiefs of Police*

*Nationally,
nearly*



41% of stolen vehicles
ARE NOT RECOVERED

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preparing and submitting a Police Traffic Services (PTS) grant proposal to review this example that will support their existing traffic safety enforcement activities and efforts in reducing motor vehicle crashes. Please take advantage of this resource and contact your agency's GTSC Program Representative or the NYSACOP LEL, [Nick Macherone](mailto:Nick.Macherone@nychiefs.org) at traffic@nychiefs.org with any questions you may have.

Traffic Activities from the Field

Governors Highway Safety Association (GHSA) – Release April 16, 2020 -Speeding-Aggressive Driving -Absent Traffic Jams, Many Drivers Getting More Reckless: <https://www.ghsa.org/index.php/issues/speeding-aggressive>

The New York Times – Reported by Winnie Lu – 4/16/2020 – New York Streets are Nearly Empty, but Speeding Tickets Have Doubled: <https://www.nytimes.com/2020/04/16/nyregion/coronavirus-nyc-speeding.html>

The Today Show – Reported by NBC Reporter Erin McLaughlin – April 25, 2020 - Drivers Hitting Triple – Digit Speeds On Open Roads During Coronavirus Pandemic: <https://www.ghsa.org/about/news/Today-Show/CA-Speeding20>

Newsday – Special Report by Nicole Fuller – April 26, 2020 – Motorist Speeding on Virtually Empty Roads Catching the Attention of Police: <https://www.newsday.com/news/health/coronavirus/coronavirus-speeding-long-island-nyc-1.44086070>

New York Post – Reported by Craig McCarthy – April 27, 2020 – NYPD Cracks Down on Illegal Street Bikes and ATVs: <https://nypost.com/2020/04/27/nypd-cracks-down-on-illegal-street-bikes-and-atvs/>

Traffic Safety Take-Out Menu Online Training Opportunities & Resources

DCJS Online Training - Ignition Interlock Devices

This training will provide a comprehensive overview of Ignition Interlock Devices - how they appear, how they work, common circumvention tactics, and enforcement guidance for New York State police officers. It was produced by the New York State Association of Chiefs of Police and funded by the National Highway Traffic Safety Administration with a grant from the Governor's Traffic Safety Committee. <http://criminaljustice.ny.gov/ops/training/other/Ignition-Interlock/story.html>

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DCJS Online Training Distracted Driving Enforcement

This training video, produced by New York State Association of Chiefs of Police, highlights the problem of distracted driving, general statistics, and strategies for education and enforcement. Examples of successful enforcement programs are profiled in the video: <http://criminaljustice.ny.gov/ops/training/other/Distracted-Driving-Enforcement/story.html>

DCJS Fatigue and Healthy Lifestyle Practices Among NYS Law Enforcement Survey –

On April 20, 2020 DCJS distributed a survey request to law enforcement agencies across the state on behalf of Stony Brook University's School of Health Technology and Management; your completion and feedback from this short and anonymous survey will be beneficially in the future health and safety of those serving in the law enforcement profession.

National Law Enforcement Liaison Program Recorded Webinars: <https://www.nlelp.org/training/recorded-webinars/>

Governors Highway Safety Association (GHSA) Resources: <https://www.ghsa.org/resources>

NHTSA's Traffic Safety Institute (TSI) Online Training Resources: <https://tsi-dot.csod.com/client/tsi-dot/default.aspx>

For complete details of traffic programs, postponements and cancellations, read the GTSC Liaison Report at nychiefs.org—click on *Traffic*, and *GTSC Report*.

The Staff, Program Representatives, and Law Enforcement Liaisons of the Governor's Traffic Safety Committee are continuing to work remotely each day to provide resources and service to our valued traffic safety partners. The most convenient and efficient way to communicate with GTSC's staff is by email at safeny@dmv.ny.gov. In closing we also offer our concerns, best wishes and hope for everyone's health, welfare, and safety during these challenging times.



Follow us on Twitter
@nysacop

Membership Drive

Growing Our Association

Did you know of a fellow police executive who is not a member of our proud organization? Please encourage them to join and take advantage of the benefits of membership. Stay up-to-date on the latest news and information affecting New York State law enforcement, read our carefully selected news items and bulletins and other publications, and be the first to receive information on our annual training conference. Remember that second-in-command staff are also eligible, as are certain commanders of divisions. For more details, check out our [Join Now](#) page or call our office at 518-355-3371.



Contact Us

Share your stories, photographs, and questions:

Office: 518-355-3371

Fax: 518-571-1212

mgeraci@nychiefs.org

Visit us on the web at
www.nychiefs.org

New York State Association of
Chiefs of Police
24 Century Hill Drive
Suite 002
Latham, New York 12110

STOP-DWI NEW YORK Mobile App

The Governor's Traffic Safety Committee and representatives from the New York STOP-DWI Foundation wish to remind all partners of its free "**Have A Plan**" mobile application. The app encourages people to have a plan to get home safely if they are impaired by alcohol or drugs. We encourage and look to our law enforcement agencies to promote and market this free program in your communities. To download the app simply visit www.stopdwi.org/mobileapp

