

CHIEF'S CORNER:

LEADERSHIP COLUMN:

GORDON GRAHAM:

COUNSEL'S CORNER:

School Reunification
Centers Driving
School Violence

Thinking About
Performance Appraisals

Holes in the
Swiss Cheese

From Chief/Ret.
Michael Ranalli

NEW YORK STATE ASSOCIATION OF CHIEFS OF POLICE, INC.

THE CHIEF'S CHRONICLE

DECEMBER 2022

Specialized Units Series: Motorcycles

**Motorcycles Foster Community Relations
and Bring Agility to the Police Fleet**

SUPPORTING NEW YORK STATE'S LAW ENFORCEMENT LEADERS SINCE 1901





HOW WELL DO WE PROTECT
ORGANIZATIONS LIKE YOURS?

OUR NUMBERS SPEAK FOR THEMSELVES.

15,430

Pieces of legislation and regulatory
changes reviewed last year

300 Million

In grant funding secured

3,300

High-quality accredited training
courses

99%

Of customers surveyed say Lexipol
helps them comply with state
and federal laws

SCHEDULE YOUR FREE DEMO TODAY





844-312-9500 | info@lexipol.com /nysacop |    

TABLE OF CONTENTS



4 PRESIDENT'S REPORT

**LOOKING BACK AT 2022
AND LOOKING FORWARD TO 2023**
By Chief Kevin Sylvester, President

6 EXECUTIVE DIRECTOR'S REPORT

THE 2023 NYSACOP LEGISLATIVE AGENDA
By Chief/Ret. Patrick Phelan, Executive Director

8 COUNSEL'S CORNER

**POLICY OR TRAINING?
A DELICATE BALANCE TO GUIDE OFFICER**
By Chief/Ret. Michael Ranalli, Esq.

14 COVER STORY

Photo courtesy of Colonie PD

SPECIALIZED UNITS SERIES: MOTORCYCLES
*By Chief/Ret. Mark Spawn, Director of Research,
Development and Training - NYSACOP*

18 CHIEF'S CORNER: REUNIFICATION CENTERS

By Chief/Ret. Stuart K. Cameron- Suffolk County PD

23 INTERSECTIONS TRAFFIC SAFETY COMMITTEE

By Asst. Chief/Ret. Bill Georges

27 GREED, FATIGUE, COMPLACENCY

By Gordon Graham

30 POST CRITICAL INCIDENT SEMINAR

COMING SOON, SEE STORY TO SIGN UP

New York State Association of Chiefs of Police

Staff

<i>Executive Director</i> PATRICK PHELAN CHIEF (RET.) GREECE PD	<i>Director of Research Development and Training</i> MARK SPAWN CHIEF (RET.) FULTON PD
<i>Traffic Safety Services Coordinator GTSC Liason</i> CHIEF (RET.) DANIEL DENZ	<i>Treasurer</i> STEPHEN CONNOR MTA ASSISTANT CHIEF (RET.)
<i>Traffic Safety Outreach Liason</i> WILLIAM GEORGES MICHAEL N. GERACI	<i>Art Director</i> Doris Bové Aresta apb@nychiefs.org

Board and Officers

<i>President</i> CHIEF KEVIN SYLVESTER OSSINING PD	<i>Third Vice President</i> CHIEF PAUL OLIVA MT. PLEASANT PD
<i>First Vice President</i> CHIEF JOESPH SINAGRA SAUGERTIES PD	<i>Immediate Past President</i> CHIEF TIMOTHY PARISI ILION PD
<i>Second Vice President</i> CHIEF SHAWN HEUBUSCH BATAVIA PD	<i>Past President</i> CHIEF JOHN ARESTA MALVERNE PD
<i>Zone 1 Rep.</i> CHIEF MARTIN FLATLEY SOUTHOLD PD	<i>Zone 6 Rep.</i> CHIEF MICHAEL WOODS COLONIE PD
<i>Zone 2 Rep.</i> COMM. KENNETH JACKSON GARDEN CITY PD	<i>Zone 7 Rep.</i> CHIEF MICHAEL CROWELL MANLIUS PD
<i>Zone 3 Rep.</i> ASST. CHIEF SEAN MONTGOMERY MTA PD	<i>Zone 8 Rep.</i> CHIEF PATRICK J. GARVEY ENDICOTT PD
<i>Zone 4 Rep.</i> CHIEF GREGORY AUSTIN RYE BROOK PD	<i>Zone 9 Rep.</i> CHIEF JOSEPH GEER AVON PD
<i>Zone 5 Rep.</i> CHIEF DOMINICK BLASKO CRAWFORD PD	<i>Zone 10 Rep.</i> CHIEF SHANE KRIEGER EAST AURORA PD
<i>SUNY Rep.</i> CHIEF CHRIS BARTOLOMEI	<i>U.S. Attorney's Liason</i> CHIEF/RET. SAMUEL PALMIERE FAIRPORT PD
<i>Retired Member Rep.</i> CHIEF/RET. MICHAEL GERACI	<i>NYPD Rep.</i> DEP. COMM. OLEG CHERNYASKY

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

Copyright 2022—New York State Association of Chiefs of Police, Inc.
All rights reserved. No part of this publication may be reproduced in any
form or by any means. No parts of this publication may be reproduced
or transmitted without the express permission of the publisher, New
York State Association of Chiefs of Police, Inc. The views and opinions
in the articles herein are not to be taken as the official expressions of
the publisher unless so stated. Publishers do not warrant the factual ac-
curacy of the articles herein nor do they warrant any views or opinions
offered by the authors of said articles. The New York State Association
of Chiefs of Police, Inc. assumes no responsibility for the content
and/or accuracy of submissions included herein. Submit your stories
and ideas to APB@nychiefs.org.

December 2022 • The New York Chief's Chronicle

FROM THE PRESIDENT

Chief Kevin Sylvester
OSSINING POLICE DEPT.



Looking Back at 2022 and Looking forward to 2023 for NYSACOP

As 2022 comes to a close we look back on a year of challenges but look forward with optimism as we continue a steady return to normal lives in a post-pandemic world. I'm thankful for opportunities to learn and train, grow as leaders, and connect with colleagues from around the state. Over the past twelve months we've sponsored training in various regions, hosted our Annual Training Conference, and partnered with the New York State Sheriffs Association for the Annual Leadership Summit. Our association was well represented at the International Association of Chiefs Annual Conference in Dallas and our membership continues to lead the way through work on various committees, sections, and IACP's State Association of Chiefs of Police where NYSACOP Past-President Mike Lefancheck was recently named Chair of the North Atlantic Region. This holiday season I'm grateful for the opportunity to be a part of this association and the privilege to lead during such a remarkable phase in our history.

While giving thanks, it's important for the membership to recognize that so much success wouldn't be possible without the tremendous effort of the NYSACOP staff, who work tirelessly (and often thanklessly) behind the scenes to make things happen. Our liaisons to the Governors Traffic Safety Committee, Assistant Chief Bill Georges (Ret.), Chief Dan Denz (Ret.), and Chief Mike Geraci (Ret.) work each day to ensure our

agencies have appropriate access to state funding for traffic enforcement. Beyond that, they're a phenomenal resource for all things law enforcement with invaluable institutional knowledge.

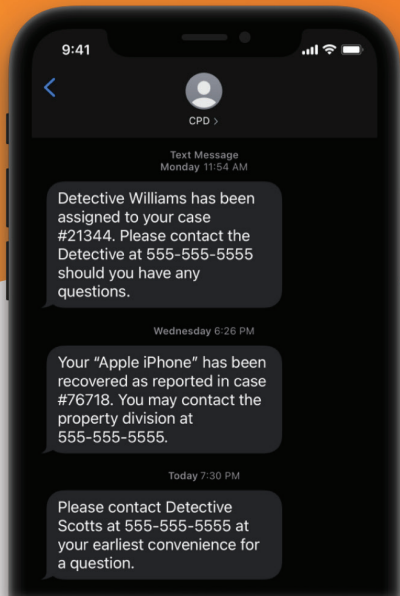
The biggest unsung heroes are our treasurer, Assistant Chief Steve Connors (Ret.) and Executive Director, Chief Pat Phelan (Ret.). These two people accomplish the work of a small army and do it all with grace and professionalism. Our future is bright, in

large part, because of their wisdom, professionalism, and good business sense. Being elected to leadership is such a privilege because of the people who work tirelessly behind the scenes to keep things going. We are truly fortunate to have such an amazing staff.

In the new year I look forward to expanding our reach. Together with our executive director, I plan to visit as many regional associations as possible so we can ensure this association is accessible to every law enforcement executive in our state and to fulfill our obligation of providing appropriate training and resources to each of our members

On behalf of the Board of Governors, I'd like to wish a safe and happy holiday season to all our members and a healthy and prosperous new year.





Engage

SCAN THE QR CODE TO LEARN MORE



Keep citizens informed

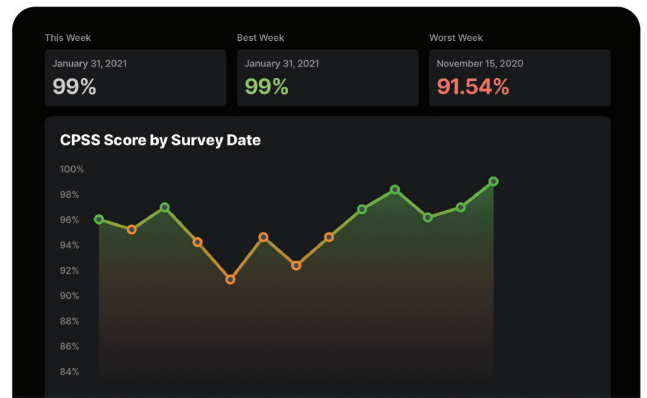
"Deputy Karen went out of her way to help me find a ride after the accident."

"Officer Smith was very friendly and helpful."

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



Boost officer morale



Measure satisfaction



FROM THE EXECUTIVE DIRECTOR

Chief/Ret. Patrick Phelan

The 2023 NYSACOP Legislative Agenda

The 2023 NYSACOP Legislative Agenda Remedies to the failed bail and discovery reforms; NYSACOP will continue to press for changes to bail and discovery reform. We will continue to push for the consideration and adoption of our proposed legislation. You can view the legislation on our website with this link;
<https://www.nychiefs.org/assets/docs/LegislativeCenter/Bail%20Proposed%20Amendment.pdf>

In summary the legislation calls for;

Bail

- a. Eliminate cash bail altogether by eliminating the inequities that allow wealth to determine freedom.
- b. Allow judges to consider a defendant's public safety risk, so that the people who pose the biggest threat to our communities can be taken off the street.

Discovery

- a. Stagger the discovery schedule to ease administrative burdens while at the same time providing enough information to defendants to make

informed decisions.

- b. Limit discovery to relevant and material information and not to all information that is tangentially related to the case and provides no probative value.

- c. Allow the prosecution to answer ready for trial if they have substantially complied with discovery, preventing cases from being dismissed because duplicative and non-material information is provided later in the discovery process.

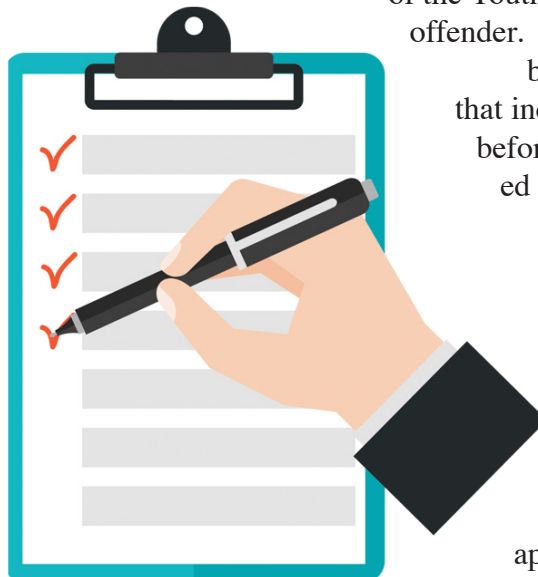
Raise the Age

- a. Allowing judges in Youth Part to see family court records so individuals do not appear in front of the Youth Part judge as a perpetual first time offender.
- b. Amend the statute of limitations so that individuals who commit crimes days before their 18th birthday can be prosecuted after their 18th birthday.

Appearance Tickets

- a. Expand the list of crimes for which police are not required to issue appearance tickets to include some serious offenses.
- b. Limit the ability for chronic offenders to continually receive appearance tickets.

NYSACOP will also be working with the NYS



Sheriffs Association to promote reforms to the New York State Civil Service System;

Testing

We will be working to change the testing system and facilitate more frequent testing. Possibly with a pass/fail result. Expanding the pool of candidates to increase options for hiring. We will also seek changes to the physical agility exam process.

Rule of 3

We will also be asking to eliminate the “rule of 3” for both hiring and promotion. Possibly expanding to a field of 10 or eliminating the restriction entirely. We will also seek a remedy to the issue of not being able to remove unsuitable candidates from the list. The goal will be to simplify the hiring process allowing us to hire qualified candidates more efficiently.

NYSACOP is supporting proposed legislation to

increase in retiree earnings from \$35,000 to \$65,000. Senate bill S9576 <https://www.nysenate.gov/legislation/bills/2021/S9576> is sponsored by Senator John Manion and co-sponsored by Senator Michelle Hinchey (46th senate district) and Senator Shelly Mayer (37th senate district). While this legislation

is specifically intended to benefit retired officers working as school resource officers and will allow municipalities to hire retired officers as school resource officer at reasonable rate, NYSACOP will continue work to raise the cap for retired officers working in any capacity.

Finally, NYSACOP will be working to Change to labor law to explicitly allow random drug/cannabis testing of police officers and a prohibition on use. Cannabis legalization has created multiple problems for law enforcement. Prohibition on cannabis use for law enforcement officers is an important issue to maintain the integrity of our departments and testing is vital to that effort.

2023
HAPPY NEW YEAR

Visit www.nychiefs.org
for the latest NYSACOP

- News
- Events
- Resources
- Bulletins
- Podcasts



COUNSEL'S CORNER

Chief/Ret. Michael Ranalli, Esq.
LEXIPOL PROGRAM MANAGER



Policy or Training? A Delicate Balance to Guide Officer Behavior

In prior articles I have discussed the application of the five pillars of organizational risk management – People, Policy, Training, Supervision and Discipline – to the duty to intercede and root cause analysis in day-to-day operations. The pillars work together to provide overlapping layers of protection that can keep officers and the public safe while mitigating risk. In this article, I will address the difficult and delicate balance that must be made when determining whether something should be incorporated into policy or training.

A recently published study and article entitled, “A comparative interrupted time-series assessing the impact of the Armstrong decision on officer-involved shootings”¹ serves as the inspiration for this article.

The decision referenced in the title is the 4th Circuit Court of Appeals’ decision in *Estate of Armstrong ex rel. Armstrong v. Village of Pinehurst*² (*Armstrong*), which dealt with the application of a controlled energy device (CED) on a person with mental illness who was in crisis. The two hypotheses proposed by

the authors were:

1. States in the 4th Circuit will experience a statistically significant increase in officer-involved shootings following *Armstrong*.
2. Comparison states³ will not experience a statistically significant increase in officer-involved shootings following *Armstrong*.

The authors used a database of violent firearm-related incidents and compared the shootings in the 4th Circuit to those of specified comparison states for the period of January 2014 to October 2021. They found both hypotheses were supported by the data. Before we go any further, we need to review the *Armstrong* case.

Armstrong v. Pinehurst

Ronald Armstrong had been diagnosed with paranoid schizophrenia and bipolar mental illness. After he stopped taking his medication, his sister persuaded him to self-admit to a hospital; however, Armstrong left the emergency department prior to completing the admission process.

A doctor began the process for an emergency mental health commitment order, and hospital security called local police. Responding police officers found Armstrong wandering in traffic at an intersection near the hospital. An officer persuaded Armstrong to move out of the road. Armstrong then



started eating grass and dandelions, chewing on a “gauze-like substance” and extinguishing cigarettes on his tongue.

Up to this point, all was relatively calm. But then the officers learned the commitment order had been completed and they immediately tried to take Armstrong into custody. His sister stood nearby, asking Armstrong to go with the officers. Armstrong, a large man (5’11”, 262 lbs.), wrapped himself around a signpost and held fast. The police officers could not pry him from the post.

Only 30 seconds after telling Armstrong they had a commitment order, an officer warned Armstrong he would use a CED if Armstrong did not submit. Armstrong did not heed the warning. The officer deployed his CED in “drive stun” mode five times in approximately two minutes. Armstrong still held fast.

Two hospital security guards joined the three police officers in prying Armstrong from the post and placing him in handcuffs and leg shackles. They placed him face down on the ground. A few moments later, Armstrong’s sister noticed Armstrong seemed unresponsive, and she asked the officers to check him. Armstrong had turned blue, and he did not seem to be breathing. He received immediate medical attention but was pronounced dead a short time later at the hospital.

The district court granted qualified immunity to the officers in the subsequent lawsuit. Qualified immunity protects officers who reasonably believe their actions were lawful under clearly established law. The court of appeals ruled that the force used by the officers was excessive but affirmed the granting of qualified immunity because it determined the law was not clearly established.

While Armstrong was clearly resisting the officers’

efforts to take him into custody pursuant to the commitment order, the court determined the level of force used – five CED applications – was excessive after doing a Graham objective reasonableness analysis.⁴ For sake of brevity, I will not describe the full analysis in detail, instead focusing on points relevant to this article.

First, the court reasoned that Armstrong’s mental health was one of the facts and circumstances that must be considered by an officer. The tactics used to take an unarmed, emotionally disturbed person into custody, the court noted, are “ordinarily different” from the tactics an officer uses when attempting to “subdue an armed and dangerous criminal who has recently committed a serious offense.” Second, the court took into account that in creating the commitment order, a doctor determined Armstrong was only a danger to himself. Using force likely to harm him would be contrary to the government’s interests in initiating that seizure.

The court acknowledged that, under these circumstances, some degree of force would be objectively reasonable to prevent the risk of Armstrong running out into the roadway. But the fact that the officers only waited 30 seconds for him to comply with their commands

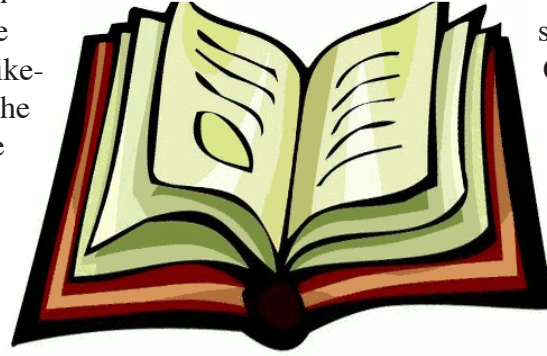
also weighed on the decision. Immediately using the TASER device was not a proportional response under these circumstances: “Noncompliance with lawful orders justifies some use of force, but the level of justified force varies on the risks posed by the resistance ... even purely passive resistance can support the use of some force, but the level of force ... is dependent on the factual circumstances underlying that resistance.”

The court reasoned that while the officers did not have any constitutional duty to stand idly by and hope that Armstrong would change his mind, there was no urgency during the incident. Armstrong was stationary, non-violent, and surrounded by people



**A TASER, LIKE “A GUN,
A BATON, ... OR OTHER
WEAPON,” ..., IS EXPECTED
TO INFLICT PAIN OR INJURY
WHEN DEPLOYED.**

willing to help him return to the hospital. Finally, one additional quote from the court will, in my opinion, help to explain how agencies reacted to the Armstrong decision and the findings of the study: A taser, like “a gun, a baton, ... or other weapon,” ..., is expected to inflict pain or injury when deployed. It, therefore, may only be deployed when a police officer is confronted with an exigency that creates an immediate safety risk and that is reasonably likely to be cured by using the taser. The subject of a seizure does not create such a risk simply because he is doing something that can be characterized as resistance – even when that resistance includes physically preventing an officer’s manipulations of his body.



in thousands of use-of-force incidents during which a firearm would have been legally justified. Thus, when the option to use CEDs is restricted only to encounters that pose an ‘immediate danger,’ officers may more often resort to the use of firearms and thus more OISs.

Think about this. Prior to Armstrong, a study showed officers used CEDs in thousands of use of force incidents where a firearm would have been justified. But when you restrict the use of CEDs to only situations that pose an “immediate danger,” the officers will instead use their firearms. Huh. If the use of a firearm would have been justified, then the officer or others would have necessarily been

in serious “immediate danger” and the use of a CED would have been justified even after Armstrong.

The Study

As discussed previously, the authors of the study confirmed their hypotheses – the number of officer-involved shootings increased in the 4th Circuit after the Armstrong decision while there were no statistically significant increases in the comparison states. The article also noted changes made by police agencies within the 4th Circuit post-Armstrong, including:

- Almost all respondents to a survey indicated they placed CEDs higher on their “force continuums”
- Some law enforcement agencies completely removed their CEDs from their officers
- CED use significantly decreased while firearm threats (officer pointing a firearm) significantly increased

If these findings are a reaction to Armstrong, then they indicate, in my opinion, an overreaction to the Armstrong decision and may be indicators of inadequate training in response to it. To remove CEDs from officers because of Armstrong is disturbing and unjustified.

The following quote from the article was also bewildering to me:

The findings support hypothesis one which suggested that Armstrong would be associated with increases in OISs in the Fourth Circuit states. Ho et al. (2007) ⁵ found that CEDs were used

This is not intended to be critical of the study authors; without such a study this issue would have remained hidden. But their findings lead me to conclude that the impact Armstrong had on these agencies may have resulted from a lack of understanding of the interpretation of case law and a need for more thorough training.

Analysis

The logical implication of this study is that, at least in some parts of the country, Armstrong led to more people being shot by the police. This outcome was almost certainly not what the court intended. The courts under our constitution are limited to the “case of controversy” requirement, which requires an active dispute over federal or constitutional law, among other things. When a court has jurisdiction over a case, the court is limited to determining how the specific facts apply under specific laws implicated by it. Yes, this means a court can create law – case law – to a degree, but it is limited to the law and facts implicated in any given case. In other words, the law of a particular case is only binding on future incidents if the facts of the future case are the same or very similar. This jurisdictional limitation is why courts sometimes grant qualified immunity –



We understand the importance of a good partner.

Congratulations to the 2022 Officer Wellness Grant Recipients:

- Town of Vestal Police Department
- Village of Scotia Police Department
- Town of Manlius Police Department

PERMA and NYSACOP award funding each year to members who apply to provide their personnel with **CordicoShield**, a wellness & mental health mobile app for law enforcement officers.

COMING SOON: 2022 Bulletproof Vest Grant Recipients

PERMA subsidizes the purchase of new body armor and outer carriers for members that apply. Since the program started, more than \$46,000 has been awarded to 15 agencies.

Learn more about PERMA membership:

perma.org/quote | solutions@perma.org | 518-220-1111 Ext. 140

Public Employer Risk Management Association, Inc.

PERMA & NYSACOP: Partners Since 2020

PERMA partners with more than 600 public entities across New York State – including over 100 police departments – to provide Workers' Compensation coverage while proactively working with members on comprehensive workplace safety and risk management solutions in order to reduce claims and limit costs.

PERMA
Your Source for Solutions

they determine the law was not clearly established as to the specific facts of the case they are considering.

The law created by a case is found in the court's decision. Sometimes, judges will go beyond the decision and author dicta, which are opinions or comments not necessary to decide the case at hand. While dicta can provide some guidance to officers on how the court may decide future cases, they are not legally binding.

So, what did the 4th Circuit do in the Armstrong decision? They applied the objective reasonableness standard of *Graham v. Connor* to the specific facts of the case. And they determined that under those specific facts, the use of the CED was unreasonable force. That is it. They did not create a new law restricting police officer use of CEDs, instead they applied the longstanding *Graham* criteria and then expressed in dicta what they felt would justify the application of a CED in future qualified immunity proceedings. A case could be very similar to *Armstrong*, but have one fact different, and that might be sufficient to distinguish it and make *Armstrong* inapplicable.

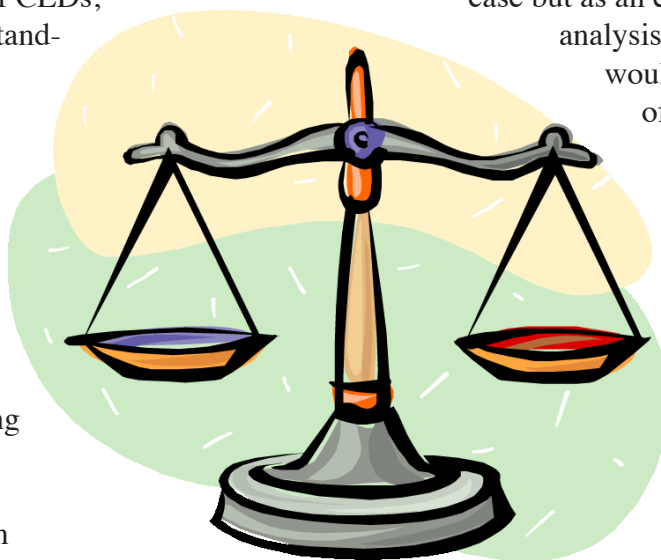
A good example of this can be found in the 4th Circuit holding in *Cansler v. Hanks*.⁶ Cansler had stolen a pair of sunglasses and was confronted by Officer Hanks. Hanks ordered Cansler to remove his hands from his pockets, revealing what appeared to be a pocketknife. Hanks grabbed Cansler's right hand and moved Cansler against the police car. This led to some jostling between the men and Cansler pulled his hand free from Hanks. Hanks then backed away from Cansler and pulled his CED. Upon seeing the CED, Cansler raised his hands and turned away. But then Cansler lowered his hands and Hanks, believing Cansler was going to retrieve the knife, applied the CED to his back.

Cansler's attorneys wanted the district court to give a jury instruction that would capture the essence of the *Armstrong* "exigency that creates an immediate safety risk" language as the applicable law. The

district court refused to do so. This was upheld by the 4th Circuit, which distinguished the facts of *Armstrong* and emphasized that the law of *Graham* was not changed by *Armstrong*: "Put succinctly, neither *Armstrong* nor *Yates* established a rule for taser usage that is applicable to every situation. Although Instruction No. 7 could be a correct legal statement in limited circumstances, *Armstrong* and *Yates* do not usurp a trial judge's obligation to give a jury charge that complies with *Graham*."

Policy or Training? Policy and Training

Immediately after *Armstrong* was decided, I included it in my training classes – not just as a CED case but as an example of a use of force analysis under *Graham*. It arguably would have been the same if the officers pepper sprayed him or used a baton. The key factor to me was the impact the commitment order had on the officers. As soon as they learned it had been signed, they immediately discontinued any attempt at verbal persuasion, which had worked so far, and instead resorted to orders and then the CED on a person in obvious crisis.



So why not just put the exact language from the *Armstrong* decision – CED use requires an exigency that creates an immediate safety risk – directly into policy, especially if you are in the 4th Circuit?⁷ Consider that, according to this study, inclusion of that concept in continuums may have driven the increase in OISS. I believe this is an example of how including continuums in policy can be confusing. Likewise, simply putting "words" in a policy may not provide sufficient guidance. Objective reasonableness under *Graham* does not fit into neat categories; every case is different, with multiple variables. If officers don't understand the true issues, then using a continuum as a fix will leave officers and the public at a disadvantage. How can you try to capture all possible scenarios into a concise policy statement or some

type of “if – then” continuum?

The Armstrong case also included language in a footnote explaining that Graham’s test is dependent on the facts and circumstances of each particular case. The footnote went on: “Our holding, therefore, does not rule out the possibility that taser use could be justified in some cases where an arrestee’s non-compliance could be described as non-violent.” Now, try to reconcile this quote with the “immediate safety risk” language in clear and concise policy language that will answer all an officer’s questions.

Thorough and repetitive training should be used to supplement policy language and help officers understand the need to assess all the facts and circumstances of each incident they face.

The five pillars of organizational risk management act together to support sound officer decision-making. The long-term impact of the Armstrong holding serves as an example of how important this understanding is.

¹ Boehme, H., Kaminski, R., Leasure, P. (2022) A comparative interrupted time-series assessing the impact of the Armstrong decision on officer-involved shootings, *Police Practice and Research*, Vol. 23, No. 5, 614-622.

<https://doi.org/10.1080/15614263.2022.2079508>

² 810 F.3d 892 (4 th Cir. 2016); see also *Yates v. Terry*, 817 F.3d 877 (4 th Cir. 2016). The 4th Circuit is comprised of Maryland, North Carolina, South Carolina, Virginia and West Virginia.

³ The comparison group consisted of geographically proximate states and consisted of Georgia, Kentucky, Tennessee, New Jersey, Ohio and Pennsylvania.

⁴ *Graham v. Connor*, 490 U.S. 386 (1989)

⁵ Ho, J. D., Dawes, D. M., Johnson, M. A., Lundin, E. J., & Miner, J. R. (2007). Impact of conducted electrical weapons in a mentally ill population: A brief report. *The American Journal of Emergency Medicine*, 25(7), 780–785.

<https://doi.org/10.1016/j.ajem.2007.02.030>

⁶ 777 Fed.Appx. 627 (4 th . Cir. 2019)

⁷ . Policy changes based on law should only be made in consultation with your legal advisor. Nothing in this article should be considered as legal advice.

RETIRING SOON?

**Be sure to update your
NYSACOP profile
with your new contact
information.**

**Many active members
use their department
email and
mailing addresses.**

**Make sure that you
don’t miss any of
our communications,
publications and other
useful opportunities.**



Specialized Units Series:

Motorcycles From Traffic Enforcement to Ceremonial Events, Motor Cops Play Key Role in Public Safety and Community Engagement

By Chief/Ret. Mark A. Spawn

The police motorcycle holds a distinctive and hallowed place in several of our NYSACOP member police agencies. While the motorcycle enjoys a popularity akin to a cult following, the number of police agencies with motorcycle units has dwindled from many decades ago when the two-wheeler was commonplace in both the largest and smallest municipalities.

Motorcycles offer benefits of speed, agility, fuel economy, and the ability to traverse areas inaccessible to traditional police vehicles. And there's something to be said about motorist compliance in the presence of a motor cop.

bikes which have evolved from heavy duty workhorses to performance vehicles with the functionality of a small office. Police agencies throughout New York State are using motorcycles in a variety of assignments from traffic enforcement, escorts,



Photo courtesy of Brighton PD

In 1932, the Indianapolis Motor Company noted, “the mere presence of a motorcycle officer will make your highways safer and cut your accident rate.” Police Chief Edward Baker (West Seneca PD) agrees that a marked police motorcycle can certainly have a deterrent effect. “It’s hard to measure, but a black-and-white police bike gets noticed. Whether on the road or patrolling a parking lot, people react when they see a marked patrol,” he said.

Training for today’s motorcycle officer is rigorous. Motor officers must be physically fit and display exceptional proficiency in the operation of police

Brighton Police Department motorcycle unit lead a homecoming parade.

dignitary protection, and at ceremonial events.

In the Town of Manlius in Onondaga County, police have been using a motorcycle for the past 20 years. Chief Michael Crowell (Manlius PD) said that their motorcycle officer is deployed for traffic enforcement, parades and ceremonies. Crowell added that the motorcycle officer helps with community relations. “It’s a great way to break down barriers, always prompting conversation with citizens, which leads to more effective and meaningful communication.”

Chief Crowell said that the motorcycle unit is a coveted assignment for officers. “It’s one more opportunity for officer growth, career development, and retention.”

The use of motorcycles by Brighton Police dates back to 1907, with a brief hiatus in their use from 1985 to 1999. In the early history of Brighton, According to the history page of the Brighton PD website, “Law enforcers for the Town were primarily volunteers until 1907 when the Town Board passed a resolution to purchase a motorcycle and hire an individual to enforce the speed limit on Town roads.”¹ Chief David Catholdi’s department (Brighton PD) uses two motorcycles for duties ranging from patrol, traffic enforcement, parades, escorts, and dignitary protection. “Motorcycles are an added resource for vehicle and traffic law enforcement. Also, many times motors are the best option for parades and escorts.” Chief Catholdi said that he believes his department has the only female motorcycle officer in all of Monroe County.

Rye Brook Police have also been using a single motorcycle in their department for the past 21 years.



Manlius Police use their motorcycle in traffic enforcement.

Chief Greg Austin said that the motorcycle officer helps to show their department in a positive light and frequently participates in various events in the county. Because of the proximity to New York City, Rye Brook also participates in events in the City. “People like seeing the motorcycle at parades and events. Our local elementary school principal recently requested that our motorcycle officer lead the annual Halloween parade for school children.” Chief Austin said that their motorcycle unit also draws the attention of aficionados of classic motorcycles as they use a 2002 Kawasaki. “It is considered a collector’s item, so whenever it is out, other motorcycle enthusiasts are interested in the bike.”

Chief Edward Baker (West Seneca PD) also said they are using a single motorcycle and motorcycle officer in their fleet. In addition to patrol, traffic enforcement and parades, they also use the motorcycle during National Night Out, escorting 5k runs, and various motorcycle runs for charity. Baker said that the use of the motorcycle is typically reserved for day shift due to visibility reasons. He is considering adding another officer to the Motorcycle Unit to allow them to deploy it more frequently. One of the advantages of the motorcycle, said Baker, is that it provides an additional vehicle for a part of the year. He also said it is a great tool for community policing activities. “It’s also a morale booster for those officers who enjoy riding, and the citizens love to see it around the town.” Baker noted the agility of the police motorcycle, recalling an incident where members of his department were pursuing a suspect. “The man fled into an area along railroad tracks. Our cruisers couldn’t follow, but it was the motorcycle officer who was able to intercept and capture the suspect.”

In the Town of Colonie, police have been using motorcycles since 1990. Currently, five officers use two motorcycles in the township. Used for patrol,

traffic enforcement, ceremonies, crowd control and dignitary protection, the bikes have become an integral component of the police fleet. Chief Michael Woods said, “The challenge that affects us the most is the weather. Our riding season is usually May through September.” Woods said that they have recently upgraded the motorcycles to include a tablet, scanner and printer which had been donated to the department. While Colonie’s population is 85,000, with a busy commercial and industrial district that number realistically swells to 300,000 on most days. “Traffic congestion has become a real problem. With the help of the motorcycles, our officers can get through the congestion and respond in a timely manner.” Colonie also has several schools, parks and bicycle paths which are inaccessible to officers in a traditional patrol vehicle. “Motor units can get into those areas without delay.” Woods also noted that the motorcycle officers are every approachable which makes them a




Rye Brook Police say that kids are drawn to motorcycle cops.

great tool for community policing. “Our unit participates annually with the 9/11 ride in New York City. We have escorted military members home and participated in several other ceremonial events such as funerals, parades and Presidential visits. The motorcycles, along with patrol cars, fire and EMS, participated in several parades for children affected by the pandemic.”

In the early twentieth century, several upstate New York police departments incorporated motorcycles as an integral part of their patrol fleet. Advertisements in conference books of the New York State Association of Chiefs of Police from the Indian Motorcycle Company and Harley-Davidson sometimes included a long list of the municipalities using their products. While the use of motorcycles has decreased from ‘the old days’, they have remained a staple in some departments. The utility of the two-wheeler allows the motor officer to leverage the efficiency and versatility of the two-wheeler to respond to areas otherwise inaccessible by traditional police sedans and SUVs. While our chiefs are pleased with the positive aspects of their respective motorcycle units, they noted that there can also be challenges. In addition to weather restrictions which limit their use in a wintry climate, there can also be budgetary concerns on the local level. Training and maintenance costs were among the expenses associated with having a motorcycle unit.

“POLICE EQUIPMENT”

Means Special Equipment



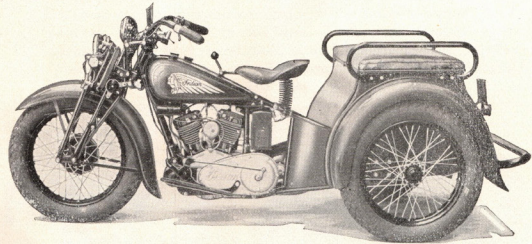
INDIAN

INDIAN has been making special motorcycle equipment for police work since 1905.

INDIAN pioneered the development of police motorcycles.

Police Special Indian 4

Whether you need motorcycle equipment to handle traffic regulation—to use in marking parked cars—to curb mob activities—or bring about greater safety in your community—INDIAN makes a special motorcycle unit for your requirements. When you purchase INDIAN equipment—you have the finest—you have equipment—designed for you—by you—to meet your own exacting requirements and specifications.



Police Dispatch-Car to Handle All Parking Problems

INDIAN MOTORCYCLE COMPANY

Springfield, Massachusetts

Ad from 1936 Conference Book for the New York State Association of Chiefs of Police Annual Conference.

¹ Town of Brighton website; <https://www.townofbrighton.org/291/Police-History>; Accessed Nov. 4, 2022

There's a good reason why NicheRMS365™
is the law-enforcement platform of choice
for the New York State Police, the Suffolk County
Police Department (County-wide RMS) and the
Orange County Department of Emergency
Services (County-wide RMS).

Find out why



See it for yourself.
Contact: Chris.Bushell@NicheRMS.com

**Honored to back the vital
work of the NYSACOP**

School Reunification Centers and their Role During School Violence

By Chief/Ret. Stuart K. Cameron- Suffolk County PD

A high school student enters his school while armed with a firearm. He intends to begin randomly killing his fellow students. Regrettably, this school could be located anywhere in the United States. Unlike a terrorist attack, which would be more likely to target a large city, random school violence has happened in rural, suburban and urban schools. Sadly, no area seems to be immune from this type of random violence. It truly can happen here, there or anywhere.

An individual's motivation for such an attack will be largely immaterial during the initial law enforcement response to the event. The officers who are responding will be solely focused on stopping the attacker. Then the focus will shift to saving as many of the lives of those who were injured as possible. Once investigators arrive on scene they will be concerned about motive, as will the cable news pundits as they speak about the event for hours on end. There may be speculation about bullying or the use of violent video games, but to the officers first to arrive, locating the attacker and stopping him will be their principal concern.

At some point the attack will end. The attacker may cease the attack himself, by fleeing or committing suicide, for example, he might be stopped by civilians or by the police, but eventually the attack will end.

Quite often there will be indications that an additional attacker or attackers were seen in the school. These reports, which are not at all uncommon during

these types of events, would complicate evacuation and casualty extraction, due to a perceived ongoing threat to responders.

As the event unfolds the law enforcement response will shift from immediate action rapid deployment to a more traditional slow and deliberate clearing process as officers methodically search the entire school building. Often this will involve a transition from the patrol officers who were first to

arrive on scene to members of highly trained tactical teams who will systematically go through the school room by room evacuating those who have sheltered in place, while determining that there are no additional hazards or suspects present. Despite their best efforts this operation will likely be very time consuming in a large school facility.

As students and teachers are released from their classrooms they must be brought to a safe location. Students and school staff may be interviewed by police to determine if they witnessed or may know anything that would be relevant to the investigation into this attack. In some cases, attackers have fled the school after the attack, which would add a dire



Some schools are conducting massive Reunification Drills. One parent volunteer said she was treated with compassion and professionalism.

SAVE THE DATE

The New York State Association of Chiefs of Police

NEW CHIEFS TRAINING IN

Niagara Falls, NY

MARCH 20TH THROUGH 24TH, 2023

Niagara Falls Air Force Base

Niagara County, NY



**Designed for the new Chief or Command Officer that aspires to be a Chief.
Executive Training for Police Chiefs by Police Chiefs.**

- Finance and Budgeting
- Leadership
- Program Planning and Evaluation
- Building a Critical Incident Police
- Media Relations
- Human Resources for Police Chiefs
- Risk Management
- Officer Wellness

sense of urgency to the investigation. Those present during the attack may also need to speak with mental health counselors. Ultimately those who endured the attack will need to be reunited with their parents or family members and everyone who was present when the attack began will need to be located and accounted for, a process that has not always gone well during previous school attacks. The location to which the non-injured are transferred for this process is referred to as a reunification center.

Parents of the students who attend the school that was attacked will likely be made aware of the ongoing events very early on, likely via cell phones calls, text messages or social media postings from students at the school. Word that your son or daughter's school has been the target of a school shooting is no doubt an extremely traumatic and harrowing experience, to say the least. Parents will not relax until they personally see and hug their children, certainly a natural reaction under the circumstances. If not properly addressed, parents may flock to the involved school thereby unwittingly hindering ongoing response efforts. It is unlikely that effective traffic control could be established rapidly enough to keep many of these parents from getting near the school, especially considering all of the other priorities that law enforcement must address initially. Parents will desperately seek information and rumor and speculation will abound.

Reunification centers, once established, will serve a myriad of important functions: reuniting parents with children, determining which students may have investigative information, aiding in the identification of injured students, providing parents with official information and assisting with the overall student and staff accountability process. The planning for reunification is one of the most overlooked yet critically important, components in a school district's emergency response plan.

Reunification often involves moving an entire school full of students and staff members to another facility. This movement may require a transportation plan which must be implemented outside of normal student transport times, often when buses are

being used to bring students to other schools or when drivers are no longer at work. Just selecting a site to serve as the reunification center may be daunting for some school administrators. Since the planning can be so challenging many school districts may simply throw in the towel and try to minimize the planning for this item in their emergency response plans. School administrators may not appreciate the critical importance of the reunification center or may be unfamiliar with how law enforce-

ment operations would be conducted during and immediately after a school-based attack. Clearly the difficulty encountered during planning is precisely why this function should receive enhanced attention. Items that are tough to plan out in ad-

vance are not likely to go smoothly without thoughtful and innovative consideration.

Many school emergency response plans are largely focused on getting through the initial aspects of the event. Clearly mitigating the harm and effectively sheltering students is of the highest priority, but once the attack itself has ended the event is often far from over. Properly managing the entirety of the event can go a long way to mitigating the long-term harm caused to a community; it can help with recovery and can help prevent the public from losing faith in school staff and in law enforcement.

Law enforcement must work hand in hand with schools on emergency planning efforts. This must include properly addressing the reunification issue. Plans will need to be viable under all conditions, such as during severe weather when students will be unable to stay outdoors for extended periods of time. Students who could walk across an athletic field during mild weather would find this challenging with snow on the ground, for example. Evacuating students outside onto the school grounds and massing them together may also increase their vulnerability to harm. Although they didn't function as intended, the Columbine attackers did position large improvised explosive devices in the parking lot of their high school, presumably to target first responders and evacuees. A reunification center must transition chaos into order to ensure accuracy and accountability. The quicker students can be verified

Evacuating students outside onto the school grounds and massing them together may also increase their vulnerability to harm.

as being safe and present at the reunification site, the easier it will be to rapidly identify students who are either injured or deceased. Accountability may be more difficult in a high school when compared to lower grade levels, as students may be more inclined to self-evacuate, which may result in students remaining unaccounted for extended periods after the event has occurred unaware that officials wish to locate them. Providing a method for those who self-evacuate to check in once they are safe can help to ease this burden. Frightened students and staff members have been found hiding in confined or unusual locations long after attacks have ended, terrified to come out.

Many schools may opt to utilize another school building for their reunification center. Some important considerations when making this decision include the travel time between the two buildings, the ability of the proposed site to handle a large increase in traffic volume, how the influx of people would impact the existing students and staff already occupying another school building, and how people will be moved between these locations. If buses are in short supply and the round trip is lengthy, the speed with which evacuation can occur will be compromised. The layout of the reunification center should be planned out in advance, especially if it is another school already full of students and staff. Plans should clearly identify suitable locations for relocated students and for their parents. The plan should specify what entrances will be used and consider the traffic flow into and out of the venue, all while maintaining the security of those already in the building. Some large high schools may have well over a thousand students who will need to be relocated. Areas will be required for mental health personnel to work, as well as police investigators who seek to interview people. A method to communicate with students, staff and parents, who may be clustered in gyms or cafeterias, should be considered. Are public address

equipment, variable message signs or even grease boards available?

Effectively managing a reunification center will require close cooperation between school staff, law enforcement, EMS agencies and hospitals. Injured students must be identified so that their parents can be located, notified and sent to the appropriate hospital. Injured students that appear at the hospital



Upon arrival to the Reunification Center, the parent/guardian will be directed to the check-in area where his/her identification will be verified.

unconscious and without identification will be challenging to identify. Many younger students might not carry identification on their person, a fact that will confound efforts to identify them if they are unable to speak. Positively identifying any deceased students will also be taxing, especially in schools with large student populations.

Parents should be made familiar with the concept of the reunification center and made to see the advantage to going to this site rather than the involved school. A method to rapidly notify the parents where the reunification center will be located should be established. Phone lines into the school will likely be overloaded. Text messaging or on the fly changes to the school district's website may be viable options. As parents arrive at the site a method to vet them should exist as it is very likely non-family members, including the media, may try to get inside.

Once inside parents should be given regular official briefings on the status of the event and how law enforcement is responding to it. For example, parents may not understand why it is taking so long to evacuate the school, so an explanation regarding the method used to clear the building may be relevant. These briefings may counter rumor and allay fear, however it is likely that what is said may go public rather quickly as parents post updates via social media. Parents may also be a source of information as they receive messages from their children still within the school.

Law enforcement will need to employ detectives as they plan to staff the reunification center. Many departments may have entirely focused their active shooter response planning on patrol officers, but detectives will be a key resource as the event unfolds. Among the items that detectives will be tasked with is the interviewing students and staff, seeking out cell phone photos or video of the attack and assisting with the identification of casualties and the deceased.

Detectives who are more accustomed to commu-

nicating via cell phone than their patrol counterparts may be stymied during an event of this nature due to the cellular overload caused by parents, students, media personnel and others overtaxing the cell phone infrastructure. Wireless Priority Service, known as WPS, gives law enforcement preferred access to cell sites; however it must be configured in advance of an incident in order to function when an event occurs. Detectives who expect to utilize cellular aircards for their computers may be hampered for the same reason. Redundant, yet equally secure, communication plans should be developed.

Investigators will need to closely coordinate with school staff members to account for students and staff. Schools may wish to include school rosters and even student photos in their go bags or preposition this information at the designated reunification center. Remote access to a computer portal containing student information could also be very useful. Having presorted lists, such as separate lists of male and female students, may be helpful to work off. Keeping

Detectives will be a key resource as the event unfolds.



HAPPY *Holidays*

from



2022 NYSACOP Silver Partner





CivicRMS Software For Law Enforcement

"CivicEye streamlines everything we do from the first incident of that traffic stop to a warrant to arrest that individual, to then going to court and the DAs office."

- Detective Nick Dunn, Sparta PD

Schedule a Demo

- Advanced Integrations with CAD & JMS
- Modern, Easy to Use Interface
- NIBRS Report Validation
- 24/7/365 Tech Support



students together as a class with their instructor may also assist in the identification process. Access to records that include to whom students can be released must be available. Generally EMS agencies will have a designated transportation officer who should be consulted to establish who was transported to which medical facility. The medics who transported casualties may also be a source of valuable information. Detectives will need to respond to each hospital and coordinate their efforts back to the reunification center. Large numbers of detectives will be required, so mutual aid should be addressed in advance and drills should be conducted to formalize this type of planning.

Consideration should be given to the fact that some of those at the reunification center may require medical care. Whether they are parents suffering physical effects from the ongoing trauma caused by the event or students who suddenly realize that they have been injured once the adrenaline rush wears off, various medical needs will likely emerge. EMS resources will undoubtedly be stretched thin already, so planning for this will be important.

Reunification centers serve a critical, yet often underappreciated, role in the overall response to large scale school shootings. If properly implemented, they

can go a long way toward mitigating the harm caused to a community and lessen the trauma caused by the event. The close coordination required to effectively operate a center of this nature requires advanced plan-



ning and interdisciplinary cooperation.

This facet of active shooter response is rarely included in exercises and detective personnel are infrequently asked to participate in preparedness efforts. The collaboration required to successfully perform these tasks is unlikely to occur in a vacuum. Law enforcement professionals should ensure that this aspect is addressed in school emergency plans, seek out participation with hospitals and EMS agencies and endeavor to include this part of the response effort in ongoing exercises and training.

Do You Have and Innovative Program You Would Like to Share?

Let us know!

apb@nychiefs.org



Traffic Safety Committee

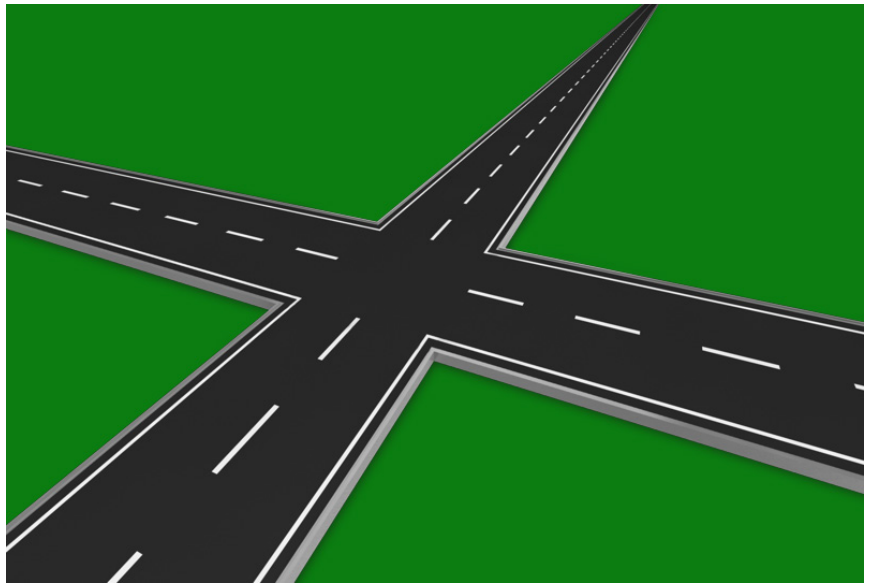
By Asst. Chief/Ret. Bill Georges, Chair NYSACOP

The NYSACOP Traffic Safety Team and Traffic Safety Committee (TSC) remain busy both serving our members and promoting traffic safety engagement throughout the State. The Traffic Safety Team consists of Chief (ret.) Dan Denz (West Seneca PD), Traffic Safety Services Coordinator, Chief (ret.) Mike Geraci (Schenectady PD), Traffic Safety Outreach Liaison and Assistant Chief (ret.) Bill Georges (Albany PD), Traffic Safety Outreach Liaison and TSC Chairman. The team, working in concert with the TSC, possesses a wealth of knowledge and works tirelessly to provide information, resources and assistance to all our members, their agencies and allied organizations. In addition to the personnel above, members of the TSC include Chief, and NYSACOP 1st Vice President, Joseph Sinagra (Saugerties PD), Inspector David Regina (Suffolk County PD) and Director of Public Safety Richard Tantalo (Monroe County). If you would like assistance re: your agency's traffic safety matters please don't hesitate to contact us at Traffic@nyschiefs.org.

In addition to our regular duties, we also attend numerous conferences and meetings. Along with many NYSACOP members, we recently attended the IACP Conference in Dallas, Texas and the New York Highway Safety Symposium which was held in Albany. Both provided useful information and opportunities to network with other law enforcement professionals and learn about what programs/initiatives they were conducting.

The TSC recently recommended to the Board of Governors that NYSACOP write a Letter of Support for the Coalition Against Big Trucks (CABT) re: our support for not increasing the size/weight of trucks. The recommendation was approved by the Board and the letter was written and released. A copy of the letter can be found under the "Traffic" tab of the NYSACOP website under the "Documents and Information" section.

Let's talk training! Both GTSC and DCJS provide ongoing training in traffic safety related areas. Training courses are routinely announced in the NYSACOP weekly bulletins and also on the website so please be on the lookout for them. Drug Recognition Expert (DRE) training is being offered often as impaired driving, especially drug impaired driving, is on the rise, and thus more DREs are needed state-



wide. One important point re: DRE training is that proficiency in Standardized Field Sobriety Training (SFST) is critical so if you are considering becoming and/or sending personnel to DRE training you should consider attending an SFST refresher course first. Additionally, both Commercial Vehicle and Motorcycle Enforcement/Safety trainings are ongoing.

A reminder that we work closely with the New York State Sheriff's Association's (NYSSA) Law Enforcement Liaison and recently they have released a County Crash Dashboard where you can easily get crash data for your jurisdiction. If you haven't seen/used it yet please take a look! We sent out information on how to access the dashboard to all NYSACOP Traffic Safety Points of Contact (POC) so if you need additional information you can contact your agency's POC or us directly.

Have you seen the NYSACOP Traffic Safety Position Statement and Talking Points? If not, please take a look at them on our website. They were developed to assist our members re: why traffic safety engagement/enforcement is an important component of public safety. While the pandemic, along with other issues, resulted in a temporary decrease in enforcement for many agencies, data now clearly shows that both nationally, and here in New York State, traffic fatalities have increased while enforcement has decreased. These days it is commonplace to see unsafe/illegal driving on our roadways! Despite all of the hardship and death that the pandemic has caused, people are still dying and/or being seriously injured in traffic crashes and the proven best way to combat this critical issue is data-driven, fair and balanced enforcement with companion public information & education. We must all continuously strive to remedy this dangerous situation and recent polls have shown that the public supports traffic safety.

**These days it is
commonplace to see unsafe/
illegal driving on our roadways!**

December 14th – January 1st is the Holiday Season Impaired Driving National Enforcement Mobilization. While impaired driving enforcement should always be a priority, we urge you to make this a priority in your agency during this period.

As always, we welcome your comments, suggestions and involvement and also would

very much like to hear about what your agency is doing to promote traffic safety so please let us know so we can showcase your efforts. For further information or if you would like our assistance, please contact Dan Denz, Mike Geraci and/or me at Traffic@nychiefs.org.

Happy holidays and best wishes to you and your families! Thank you for all you do and stay safe!

Bill Georges, A/Chief (ret.) Albany PD
Traffic Safety Outreach Liaison Chair,
NYSACOP Traffic Safety Committee

THE NEW ELSAG® STREET SENTRY

LPR for City and Suburban Streets

The ELSAG Street Sentry is an economical, solar-powered LPR system that allows police to create LPR safety nets in their communities by finding suspect vehicles faster. It reads plates 24/7, even in extreme hot and cold temperatures. Trust the LPR experts with over 20 years of experience.



Made in the USA

leonardocompany-us.com



LEONARDO

**Please Support Our Partners
Who Support Us Throughout the Year
Best Wishes for a Happy Holiday Season
From the New York State Association of Chiefs of Police, Inc.**

Platinum Partners

**Lexipol
PERMA**

**NicheRMS365
Power DMS by NEOGOV**

Gold Partners

Axon

LexisNexis Coplogic Solutions

Silver Partners

CivicEye

PULSIAM

Flock Safety

SW24

GUNBUSTERS

Total Technology Solutions

Haloid Fleet

Toughbook

Harbor of Grace

Tyler Technologies

Intellicheck

University of San Diego

Institute of Scrap

VCS

Recycling Industries, Inc.

Verizon Frontline

Leonardo

Would you like to become a Partner?

**Contact Partner Outreach Coordinator William Georges at
TheGeorgesGroup@nycap.rr.com**



Greed, Fatigue, Complacency & Other Holes in the Swiss Cheese

By Gordon Graham

Gordon Graham here! Madame Editor has been very patient with me on this article. I had it prepared several weeks ago, but then I thought of something else to enhance the reading—and then again and then again. Then yesterday Mrs. G and I went out in the Pacific on our boat to watch the Pacific Airshow from the water and my head was swimming (note the clever play on words) as I watched a lot of very stupid people avoid serious injury or death only because “all the holes in the Swiss cheese did not line up.” So here are some more thoughts on maritime disasters.

In the September issue of this fine magazine, I wrapped up with a promise that my next article would include a summary of the NTSB investigation of the fatal wreck of Taki-Tooo. First, a quick word about the work of the National Transportation Safety Board. When there is any major event involving transportation—plane crash, ship sinking, pipeline rupture (yes, they are transporting fluids)—the NTSB does an INVESTIGATION.

If you have been to any of my live programs over the decades, I am critical of many of the “after action reports” prepared by public safety agencies when they are involved in some tragedy. While a few are excellent, most are not really investigations but rather reports that focus on “proximate cause” vs. the real “problems lying in wait” that led to the tragedy. I have a feeling too many are written at the direction of lawyers who are trying to protect the involved organization from a lawsuit. We do not learn the lessons that should be learned from past tragedies in our profession.

There are very, very few (if any) Black Swans (unknown unknowns) in the world of police work. Most of our tragedies are “Gray Rhinos” (massive beasts running right at us and we can see them coming)—yet we refuse to get out of the way. I am currently working on a massive project with a working title of “Your Black Swan is someone else’s Gray Rhino.” Just because it has not happened in your agency does not mean it has not happened in our profession—yet we are not learning. Part of my goal in this project is improving the quality of investigations when we have a line-of-duty death or a death of a person caused by police personnel.

But back to the closing comments in my last writing. Here is a summary of the final NTSB report on Taki-Tooo.

On June 14, 2003, the small passenger vessel Taki-Tooo, a U.S. charter fishing vessel with 2 crewmen and 17 passengers on board, was enroute from the marina at Garibaldi, Oregon, to the Pacific Ocean for a day of fishing. A small craft advisory was in effect for the northern Oregon and southern Washington coasts, and personnel at U.S. Coast Guard Station Tillamook Bay had activated the rough bar warning signs based on their assessments of existing hazardous conditions. At the Tillamook Bay inlet, the Taki-Tooo operator waited in the channel for an opening in the ocean swells so that he could cross the bar. After

the Taki-Tooo exited the inlet and turned northward around the north jetty, a wave struck and capsized the vessel. As a result of this accident, the master and 10 passengers died; the deckhand and 7 passengers sustained minor injuries....



A Coast Guard helicopter hovers over the wreck of the Taki-Tooo shortly after the boat rolled twice while trying to cross the Tillamook Bar on June 14, 2003. Eleven people on board the fishing boat died. AP

The National Transportation Safety Board determines that the probable cause of the capsizing of the Taki-Tooo was the decision of the master to attempt to cross Tillamook Bay bar despite the hazardous sea state that existed at the time. Contributing to the severity of the accident was the failure of the Taki-Tooo master to ensure that he, the deckhand, and the passengers donned life jackets before crossing the bar. Also contributing to the severity of the accident was the failure of the U.S. Coast Guard to enforce the regulatory requirement at 46 Code of Federal Regulations 185.508, which stipulates that vessel masters shall require passengers to wear life jackets when transiting a hazardous bar.” (NTSB. MAR. Capsizing of U.S. Small Passenger Vessel Taki-TOOO, Tillamook Bay Inlet, Oregon, June 14, 2003. 2005, p. vi.)

A full read of the final report—or the summary you can read in the various newspapers that covered this tragedy—is valuable for every boater. But the point of this article is that the story of the Taki-Tooo can be of value to everyone one in public safety,

too. Of particular note was the failure by most of the people on this boat to wear personal flotation devices (PFDs). How many cops have died because of a failure to wear seat belts, protective vests and high-visibility vests while out of their vehicle on or near a roadway? How many firefighters have died because of a failure to wear personal protective equipment while fighting fires and during post-fire salvage operations?

A full read of this final report (and the news articles) will show you “the money factor” involved. The captain did not want to turn around and return to dock because of the payments he had already received from the people on this charter—money he did not want to return. How many big-rig tragedies involve sole operators trying to make ends meet?

In future articles I plan on covering vehicle tragedies but let me give you a primer on that issue. In upstate New York in 2018 you had a massive tragedy (20 deaths) involving a limousine. I have not looked at the NTSB report on this event in a

BE A FORCE FOR CHANGE

EARN YOUR M.S. IN LAW ENFORCEMENT & PUBLIC SAFETY LEADERSHIP 100% ONLINE

The prestigious MS-LEPSL program is a rigorous and highly practical degree program that has become the choice of law enforcement professionals who want to develop the skills to lead more effectively and prepare for the challenges ahead. All courses are taught by career law enforcement and military leaders who have walked in your shoes and are dedicated to helping you reach your career goals while improving your effectiveness as a leader.

- Nationally ranked master's degree program
- All coursework completed 100% online
- Proud NYSACOP Partner
- Transfer credit provided for SLI, Command College, FBI-LEEDA's Trilogy and FBI National Academy



criminaljustice.sandiego.edu | (877) 898-8365

while, but my recollection is there were many “problems lying in wait” with respect to the involved vehicle, the driver and the company. A lot of people knew about these problems—and yet they failed to act. My guess is there was a “money factor” involved in this tragedy also.

In my last article I talked about the “Titanic of the Mississippi”—the Sultana. If you want to read a quick piece on this, you can go to Wikipedia; the article prepared there is accurate. What will you learn is that the Sultana was designed to carry 376 passengers, but the captain decided to load it up with over 2,100



The damage of the right side of the USS Fitzgerald. AP

passengers—again “the money factor” is at play. And again there is a lesson for public safety: Many cops are heavily dependent on overtime to make ends meet; they will work every available overtime shift for the money. They are grossly fatigued most of the time – and their fatigue likely plays a prominent role in many situations that end up in tragedy.

Also in my last article, I made reference to the USS Fitzgerald tragedy in 2017 southwest of Tokyo, where seven U.S. Sailors died. What should be learned from this final report? There was a lack of knowledge by those driving the ship regarding rules of navigation. Again, many people knew about this, but no one did anything about it. There was a close call shortly before the fatal collision that was not properly reported, crew members refused to talk to each other because of bad interpersonal relationships, many pieces of electronic equipment were not functioning correctly—and again fatigue is part of this story.

Another delay in my preparation of this writing was a news article referencing the Joola maritime tragedy along the coast of Senegal in 2002. A passenger ferry with over 1,900 people on board hit a predicted storm, the ferry capsized and only 64 people survived. As you have probably guessed, the Joola was overloaded; it was designed to carry 580 people. Of note were the actions of the Sengalese military prior to the tragedy. They ran the ferry operations, and they had tied the boat’s life jackets together so they could not be taken by “skittish passengers” who would grab them over “small incidents.” The tied together life jackets were found during the recovery portion of the tragedy—still tied together 39 feet under the water.

This brings my thinking up to yesterday, when Mrs. G and I sat off the coast of Huntington Beach watching the Airshow with literally hundreds of other boats. Many were overloaded. We observed lots of drinking, loud music, small kids swimming without parents paying attention, boat propellers spinning near swimmers, speeding jet skis and lots of distracted boaters looking at the planes above. Somehow no one got killed. The lesson for all of us: Just because things end up without tragedy does not mean we do not have problems lying in wait. We cannot rely on luck—we must rely on proven systems to prevent tragedies from occurring.

In my next article I want to move to aviation tragedies. If you want to get a jump-start, pick up the great book *Darker Shades of Blue* by Dr. Tony Kern. He is the go-to guy on aviation safety—and you will find the book fascinating.



Until then, thanks for your work in New York, please be safe—and try to learn from past tragedies. The errors you are going to make can be predicted from the errors already made.

Gordon Graham is a 33-year veteran of law enforcement and is the co-founder of [Lexipol](#), where he serves on the current board of directors. A practicing attorney, Graham focuses on managing risk in public safety operations and has presented a common-sense approach to risk management to hundreds of thousands of public safety professionals around the world. He holds a master’s degree in Safety and Systems Management from University of Southern California and a Juris Doctorate from Western State University.

Post Critical Incident Seminar Administrator Level Course Coming Soon

Post Critical Incident Seminar
Administrator Level (Free)
January 30-February 1, 2023
[CLICK HERE](#)

On January 30 th through February 1, 2023, The New York Law Enforcement Assistance Program (NYLEAP) <https://www.nyleap.org/>, will be hosting a Post Critical Incident Seminar (PCIS) – Administrator Level. NYLEAP has been offering The Post Critical Incident Seminar for quite some time, but this is only the second Administrator Level course that NYLEAP has offered.

The free training seminar is designed to assist first responder administrators, rank of Lieutenant and above, that have been involved in on-duty critical incidents, suffer from cumulative career stress, or have been exposed to traumatic life events unrelated to their law enforcement career, and has adversely affected their life as a result.

PCIS – Administrator Level is a peer-based program, where clinical staff will accompany peer-to-peer assistance, to assist the attendees in finding healthy ways to cope with stress and manage PTSD. All peers will be active or retired members that have attained the rank of Lieutenant or above. The PCIS has been used successfully in Georgia, South Carolina, North Carolina, and Virginia, to help our law enforcement and first responder communities understand and cope with the events that have adversely affected their lives.

This workshop is for administrators who have experienced a critical incident. Despite helpful support immediately following a critical incident, there can be long lasting effects. Going through a critical incident has been described as crossing a fence with no opportunity to jump back. A critical incident can rupture an officer's basic worldview often leaving him/her with a sense of vulnerability that the uninitiated cannot understand. The job, the street, and one's weapon may be perceived differently following such an incident. Patterned on a format that has been used by the FBI for over 25 years, the PCIS will provide education on trauma, patterns of resolution, and field-tested coping strategies that promote recovery and resilience. Peer support is an important element of PCIS. Discussion of incidents with fellow officers who have "been there" promotes normalization and recovery.

The course is intended for administrators who have ob-

tained the rank of Lieutenant and above, who have experienced a critical incident and that are still experiencing some type of daily impairment or lesser quality of life related to the traumatic exposure they experienced. The incident could have been recent or more distant, but if some level of diminished functioning still exists in your daily/home/family life, this seminar can be of great benefit to you.

Registration is limited to 30 participants, spouses and significant others are strongly encouraged to attend with their family member. Jim Banish is the President and founder of NYLEAP. A Deputy with the Warren County Sheriffs Office, Jim discovered a need for assistance for law enforcement officers after a personal tragedy. In 2008 Jim's brother, Joe Banish a Lieutenant with the New York State Police, took his own life. Jim found himself struggling

with the loss of his brother, as well as the traumas he experienced in his own career. Jim took action and began providing training for law enforcement officers through a class called TRAUMA. Partnering with DCJS, NYLEAP has provided TRAUMA all over the state. Jim continues his mission with the PCIS class and PCIS for Administrators. NYLEAP recently held the first PCIS Administrator Level class in Saratoga County. Jim Banish said after the training "It was amazing! We had so much buy in after it."



Dep. Jim Banish (left) pictured with his brother, Sgt. Joe Banish (NYSP).

As Chiefs, we have done a great job raising awareness of trauma in law enforcement and the adverse effects trauma has on our mental health. In New York we have made wellness a priority for our officers. Wellness programs are being implemented all over our state and we are beginning to address trauma and treat our officers for the trauma they experience. But what about us? Chiefs are generally very experienced, long tenured members of law enforcement. Over our long careers we have experienced significant trauma, possibly more than anyone else in our department. But do we address it, usually we take care of our officers but not ourselves. It is important to address the trauma you have experienced because it will affect your quality of life both now and after your law enforcement career is over.

Register for PCIS Administrator Level at the link below.
https://www.surveymonkey.com/r/PCIS13_Admin_ROC

News Around New York

Special Delivery: Troop NYC members donated food to the Missionaries of Charity to help those who need it most this Thanksgiving holiday. Troopers helped pack and personally deliver the food to help spread some Thanksgiving cheer.



Sleepy Hollow PBA and the Tarrytown PBA

A family that was nominated to the Adopt-a-Family for the holidays drive hosted by Pack 22 Tarrytown, the Sleepy Hollow PBA and the Tarrytown PBA received a Christmas Tree today along with decorations and lights donated by the members of **Riverside Hose #4, Engine 80 - Tarrytown FD.**



Pictured are TPD Officer Samantha Schubert, TFD Logan Spector, TFD Lt. Patrick Derivan Jr. and TPD Officer Christine Williams making spirits bright!

Village of Liberty Police Department: A big thank you to the Liberty Central School District for hosting the 1st Annual Cops Vs Teachers basketball game. Everyone had a great time and it was a great game! The cops pulled ahead in the end with a few more points but the real winner was the Liberty Community! The event also raised over a thousand dollars for the Ron Francisco Scholarship



New York State Association of Chiefs of Police



Save the Dates:
July 16-19, 2023
New York State Association of
Chiefs of Police
Annual Training Conference
The Desmond Crowne Plaza



Headquarters & Offices
3177 Latta Road # 230
Rochester, New York 14612
518- 355-3371 • <https://www.nychiefs.org>