The New York State
# Chief's Chronicle

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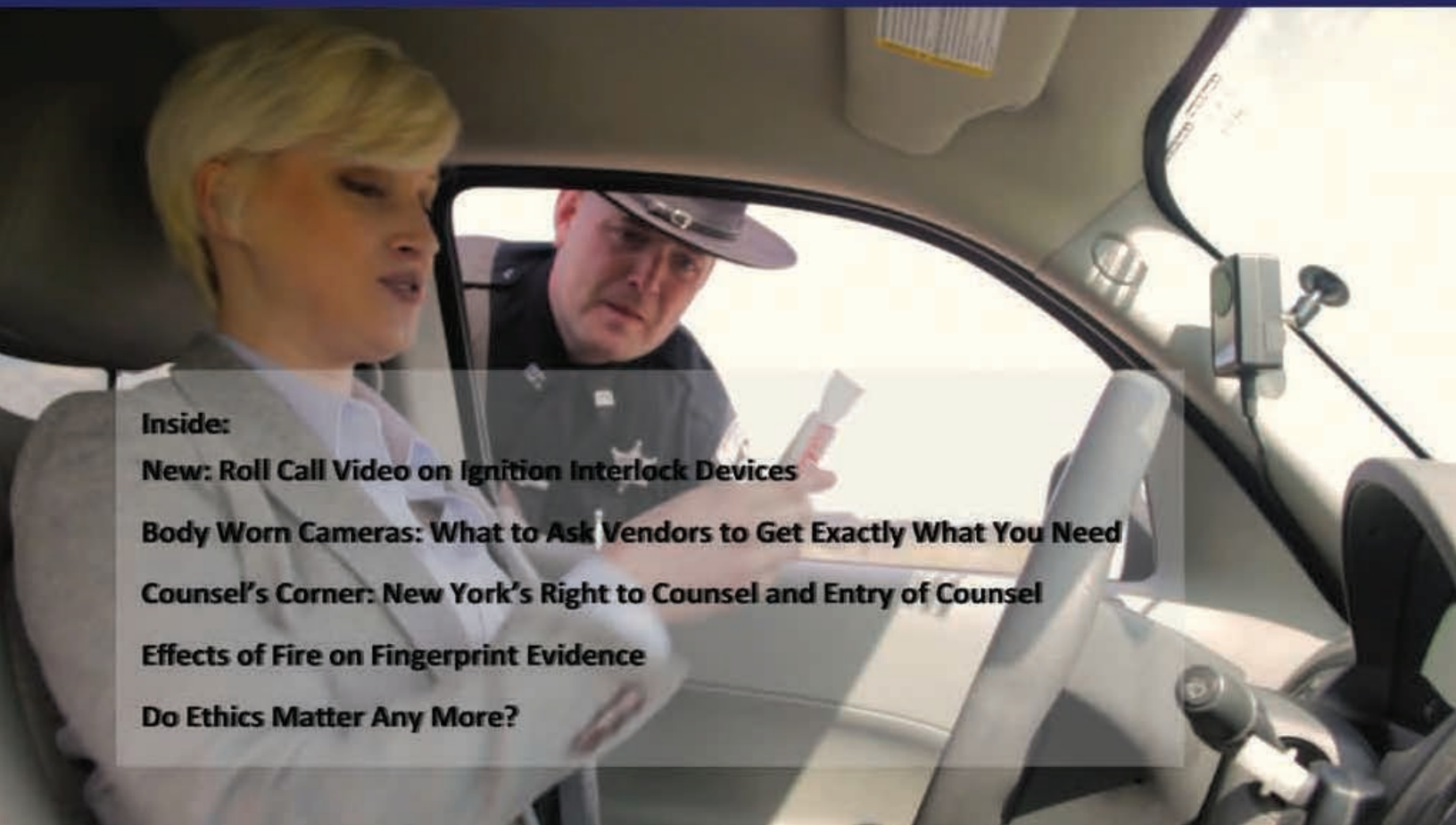
December 2015

## Ignition Interlock Devices:
## Information for New York State Law Enforcement



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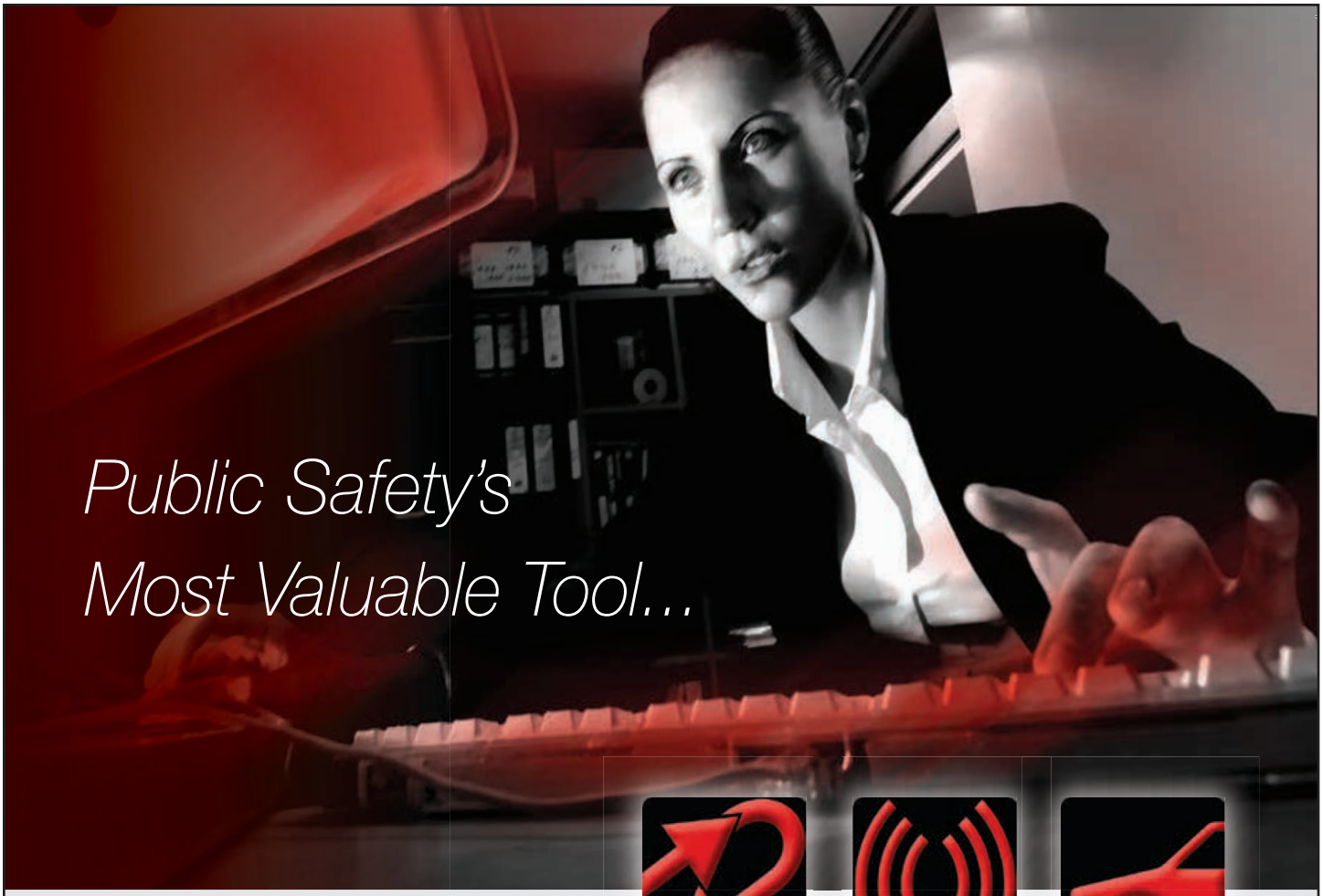

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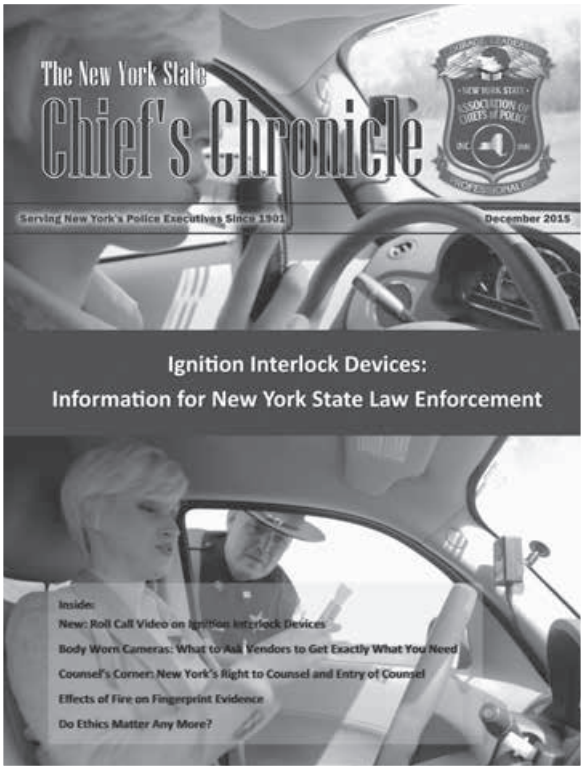
Do you have an interesting law enforcement story or research paper, photographs of member activities or field scenes? Call the Editor: Mark A. Spawn at 323-474-6651 or editor@nychiefs.org

# On the Cover:

Ignition Interlock Devices have been court-ordered since 2010 in New York State, even for first-time DWI offenders. Over the past five years, more than 51,000 interlocks have been ordered installed, but less than 15,000 have actually been installed. The Association recently released a comprehensive roll call training video which describes ignition interlock devices, their appearance, function, common circumvention tactics, and enforcement guidelines.

Also inside, is your department considering the purchase of body worn cameras? Read Chief Ken Wallentine's insightful article which includes a number of areas for consideration before you buy.



# President's Report

## *Ignition Interlock Devices – Progessive Technology*

PRESIDENT'S REPORT

**BY ASST. CHIEF STEPHEN W. CONNER, PRESIDENT**

We are at that time of the year again where we focus on highway safety – specifically, impaired driving. The Holiday Season *Drive Sober or Get Pulled Over* campaign is just around the corner. Due to the increase in drunk-driving-related fatalities around the holidays each year, law enforcement agencies across America will be actively searching for and arresting drunk drivers from December 16 to January 1. They have good reason to: in 2013, 10,076 people were killed in crashes involving a drunk driver. In December 2013 alone there were 733 people killed in crashes involving at least one driver or motorcycle operator with a blood alcohol concentration (BAC) of .08 or higher. Twenty three (23) of those deaths occurred on Christmas Day.

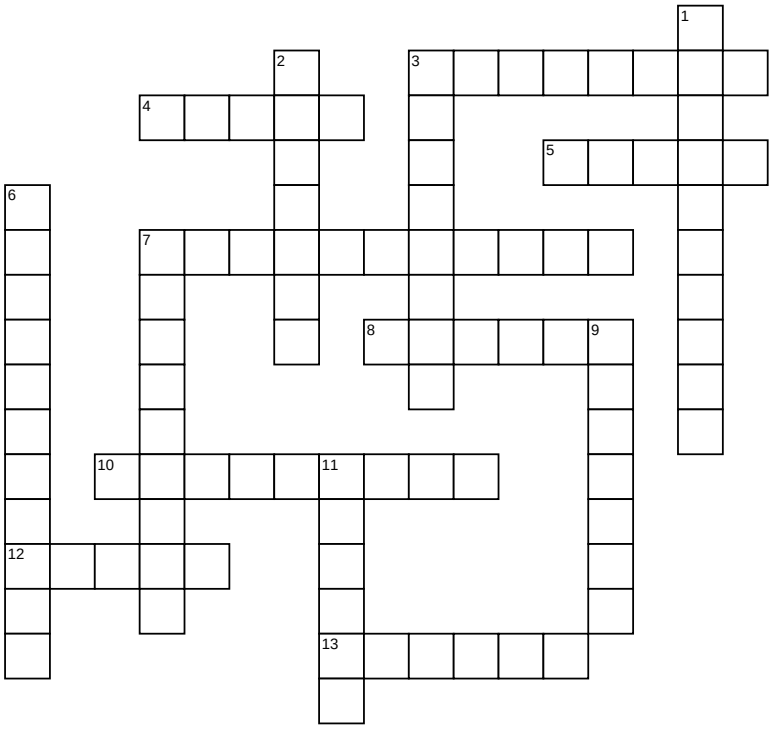
Detecting impaired drivers is just one part of a comprehensive approach to making our streets and highways safer. Once arrested and prosecuted, what are we doing to ensure that DWI drivers don't repeat their behavior? In New York State since 2010, we have had one of the most aggressive laws in the nation for ignition interlock devices. First time DWI offenders are required to install and maintain an interlock on their cars. Since the law was enacted here in New York State, there have been more than 51,000 orders to install the interlock, but less than 15,000 have been installed. There are some valid reasons why defendants have not installed interlocks – some may no longer have a car. But we know that we routinely encounter drivers whose licenses have been suspended or revoked for a variety of reasons. It is reasonable to assume that many drivers are simply ignoring the order to install an interlock much the same as those who drive with a suspended/revoked license.

I am pleased to announce that our Association has just released a training video for police on the topic of ignition interlock devices. If you are unfamiliar with the operation and appearance of an interlock, this video will show you what they are, how they work, and how some drivers may circumvent or tamper with the devices. The video also provides an overview of the enforcement sections of the New York State Vehicle and Traffic Law, especially §1198. By the time you finish watching this 15 minute video, you will have a working knowledge about ignition interlock devices. I urge all of our members to share this video with their officers, especially those involved in traffic enforcement.

At a time when we are looking for alternatives to incarceration, the ignition interlock provides drivers with an opportunity. An opportunity to maintain their legal driving privilege, go to their job, drive for groceries, child care and other daily responsibilities (consistent with any restrictions that might be imposed on them). The interlock is not a magic bullet, but it is a safety switch – literally. I would like to personally thank all of the individuals who were involved in the production of the video. When you view it I am sure you will be pleased. Be sure to read the story on page 12 for more information about ignition interlock devices and our new video.

With the holiday season upon us, on behalf of our Association I would like to wish all members season's greetings and hope for a very prosperous New Year. Be safe!

# Ignition Interlock Devices



**ACROSS**

**3** - Under New York State law, even first-time DWI offenders, in addition to any other penalties prescribed by law, must install and maintain an _____ interlock device as a condition of their probation or conditional discharge. (Section 1198, subd. 1, 2 VTL)
**4** - An ignition interlock device requires a passing breath sample in order to _____ a car.
**5** - When an alcohol-free breath sample is given and verified by the interlock system, the ignition interlock will provide power to the vehicle. If the breath test registers _____ the set point or a person does not provide a breath sample, no power will reach the starter circuit, preventing the vehicle from starting. (Ignition Interlocks - What You Need to Know, U. S. Department of Transportation, NHTSA, 2nd Ed., Feb. 2014, p.21)
**7** - Most ignition interlocks collect and record a significant amount of information each time the interlock is accessed. Data related to vehicle use, driver alcohol use, and attempts to circumvent the technology provide important information for driver control and sanctioning authorities, ensuring offenders comply with the program and identifying noncompliant offenders who will require more intensive _____ and, perhaps, the imposition of additional fines/sanctions. Using the data to monitor offender behavior is critical to the effectiveness of the program and, ultimately, roadway safety. (Ignition Interlocks - What You Need to Know, U. S. Department of Transportation, NHTSA, 2nd Ed., Feb. 2014, p.13)
**8** - Research shows that ignition interlocks reduce recidivism among both first-time and _____ DWI offenders, with reductions in subsequent DWI arrests ranging from 50-90% while the interlock is installed on the vehicle. (Ignition Interlocks - What You Need to Know, U. S. Department of Transportation, NHTSA, 2nd Ed., Feb. 2014, p.22)
**10** - To determine whether a driver is required to install an ignition _____ device, officers can check their driver license and look for the A2 or A4 restriction code, or check DMV files from their MDT or through dispatch.
**12** - An ignition interlock device will _____ stop a car that is in motion.
**13** - After the initial start-up of a car with an ignition interlock device, the driver is required to provide an initial rolling test within 5-15 minutes, and then rolling re-tests at random intervals not to exceed 30 minutes for the duration of _____.

**DOWN**

**1** - There are two ways in which a driver may be required to install an ignition interlock device: an order from the court for a _____ of DWI, or the Problem Driver Restriction requiring an ignition interlock device.
**2** - The "set point" is the pre-set BAC setting at which the device will _____ the ignition of a motor vehicle from operating. In New York State, the set point for an ignition interlock device is .025%
**3** - Families of offenders with ignition interlocks were in favor of the technology, indicating that while the devices were an inconvenience, they provided a level or reassurance that the offender was not driving while _____. (Ignition Interlocks - What You Need to Know, U. S. Department of Transportation, NHTSA, 2nd Ed., Feb. 2014, p.6)
**6** - Agencies monitoring ignition interlock devices can include: Probation _____, STOP DWI, Traffic Safety Boards, and Drinking Driver Programs.
**7** - Research has demonstrated that many alcohol-impaired drivers continue to drive illegally regardless of the fact that their driver's license has been _____ or revoked. An ignition interlock is designed to prevent that by permitting an offender to continue to drive so long as he/she passes the interlock's breath test. (Ignition Interlocks - What You Need to Know, U. S. Department of Transportation, NHTSA, 2nd Ed., Feb. 2014, p.22)
**9** - Enforcement sections for various violations of the requirements for ignition interlock devices can be found under Section 1198 of the Vehicle and _____ Law.
**11** - If a driver fails a rolling re-test, in addition to recording the violation, the interlock device may sound an alarm inside the vehicle, flash directional/hazard _____ on the car, and/or sound the vehicle horn.

**WORD BANK:** Above, conviction, departments, ignition, impaired, interlock, lights, never, prevent, repeat, start, supervision, suspended, traffic, travel.

**Solution on page 26**

# Executive Director's Report

## *The Consequences of Smartphone Encryption*

EXECUTIVE DIRECTOR'S REPORT

**BY MARGARET E. RYAN**

We all know that criminals grow more technologically sophisticated by the day, and that it takes resources and training to keep up with ever-changing technology. But today, we have a new force working against us, making it more difficult to investigate and prosecute across the state, country and the world. Many of us probably have the culprit on our desks or in our pockets. In September 2014, Apple Inc. announced that its new operating system for smartphones and tablets would employ full disk encryption, making data on its devices completely inaccessible without a passcode. Google then quickly followed suit.

Apple's and Google's decision means that law enforcement officials with judicial warrants can no longer access evidence of crimes stored on most smartphones. At the time of the announcement, NYPD Commissioner Bill Bratton said: "The harm that they're going to cause with their greed, basically in terms of trying to increase sales, is disgraceful." Now, just one year after the new encryption practices were implemented, Apple reports that eighty-seven percent of all devices are running the newest operating systems. Technology companies such as Apple and Google are not tasked with keeping the public safe. That is our job, as members of law enforcement. But the consequences of these companies' actions – whether intended or not – are severe and are borne by the public. That's why law enforcement partners around the world are working together to craft a solution, led by one of our own New York District Attorneys, Manhattan DA Cy Vance. He believes, and I agree, that there is a responsible way to balance safety and security.

It is incumbent upon all of us to reshape this debate, and to set the record straight. We need to explain to our lawmakers and to our stakeholders that our need to access the contents, contacts, text messages, photos and videos on handheld smartphones is not about mass surveillance or bulk data collection – things that our agencies do not do. This is about targeted requests for information, authorized after an impartial, judicial determination of probable cause leading to a search warrant for particularized evidence on mobile devices.

These encryption practices are hindering serious investigations and prosecutions around the nation, and will continue to do so until legislative action is taken. In the meantime, you might be wondering, what can law enforcement offices do about this? You can track every case in your office that involves an iPhone or another full-disk encrypted device that you are unable to access. You can generate statistics to help demonstrate the threat posed by this kind of encryption. For example, between October 2014 and August 2015, 101 iPhones running iOS 8 were inaccessible to DA Vance's cyber lab, despite judicial warrants to search the devices. The investigations that were disrupted include the attempted murder of three people, the repeated sexual abuse of a child, a continuing sex trafficking ring, and numerous assaults and robberies.

You can provide case examples that that can be used to show the impact these decisions and policies are having for the safety of the communities you serve. You can write op-eds or open letters to the media. And you can tell your elected officials and community leaders how you feel about it.

In the coming weeks, police chiefs around the state will be receiving a survey that will ask them to look at how smartphone encryption has impacted their own cases. In the meantime, if you would like more information on how you can be involved in this effort to maintain our court-authorized ability to retrieve evidence from smartphones, please contact DA Vance's Senior Advisor for Public Policy, Erin Duggan Kramer: duggankramere@dany.nyc.gov.

# Counsel's Corner

## New York Right to Counsel Rules and Entry of Counsel: Welcome to the Twilight Zone

BY CHIEF MICHAEL D. RANALLI, ESQ.

In the June Edition of the *Chief's Chronicle*, I focused on the complexity of street encounter cases and how different courts may look at the same set of facts. The point of the article was to illustrate how difficult it can be for officers to make decisions which will ultimately be examined for their consistency with law. This article will focus on essentially the same difficulty, but in the area of the New York Constitutional right to counsel rule. Our first step will be to review the relevant rule and compare New York and federal law. This article is not intended to be a comprehensive overview of all the issues pertaining to the right to counsel. It will instead focus on the entry of counsel when a suspect, in custody, does not actually request one.

### EFFECT OF THE ENTRY OF COUNSEL ON A MATTER UNDER INVESTIGATION

My first step in explaining the complexity of this area will be to state the relevant rule. In New York, under our state constitution, "…once the police have been apprised that a lawyer has undertaken to represent a defendant in custody in connection with criminal charges under investigation, the person so held may not validly waive the assistance of counsel except in the presence of the lawyer."[1] This is true even if the defendant does not know that an attorney has entered the case on his/her behalf. It does not need to be specifically stated that police are not to question the subject without the attorney present.[2]

In *People v. Garofolo*, Garofolo was a suspect in a homicide who was being questioned in a precinct house after waiving his *Miranda* rights. Garofolo's father learned of his sons detention and notified an attorney, who then started calling precincts to find Garofolo. He was unsuccessful. During the initial questioning by police, Garofolo made a series of emotional oral admissions which started at 8:30 p.m. and ended about 8:55 p.m. The officers then reduced his statement to writing, which finished by 9:40 p.m. when Garofolo signed the three page statement. Records showed that the attorney called the central headquarters at 9:10 p.m., although the suspect was not located and the attorney not advised of Garofolo's location until 11:00 p.m. The Court of Appeals ruled the oral statements, made prior to the 9:10 p.m. call, were admissible. But the entire written statement was suppressed since by the time of the call no significant amount of his confession would have been reduced to writing. While the officer taking the attorneys' call made a diligent effort to locate Garofolo, the police are expected to have a system in place to ensure the proper officers get the message from an attorney. So if a desk officer fails to give the message to the interrogating officer, any statement given after the call will still be suppressed.[3]

Does it matter who advises the police that an attorney will be representing the suspect? In *People v. Grice*[4], the answer is 'yes'. Grice was arrested after he was implicated in a shooting. He was given his Miranda warnings, which he waived at 11:20 a.m. Grice gave two incriminating written statements which were signed at 1:45 p.m. and the other at 2:00 p.m. At 12:30 p.m. the defendant's father had arrived at the station and advised a detective that he had an attorney coming to the station and that they should not question his son. The detective refused to allow the father to see his son and the questioning continued until 2:10 pm. At that time, the attorney called and advised the officers of his involvement. All questioning ceased at that point. The Court of Appeals reiterated the rule that the right to counsel can attach is when an attorney actually enters the case, and the only sure way to be sure this has occurred is to require the "personal involvement of an attorney or law firm."[5] This can be done by an actual physical appearance or some other communication by the attorney him/herself, not by a third party as in this case.[6]

Under federal constitutional principles, however, the rules are different. Under the ruling of the Supreme Court of the United States in *Moran v. Burbine*,[7] once a suspect waives his/her rights the analysis is over. Even if the police deliberately withhold from the suspect that an attorney is attempting to intervene on his/her behalf, the waiver stands and any subsequent admissions will be admissible. In fact, in *Burbine* the police actually lied to the attorney, telling him that they would not interrogate his client. The court found this deception, as questionable as it may be, did not rise to the level of a due process violation. While the federal

> *"While the federal focus is on what the suspect wants, New York treats a suspect who requested counsel the same as a suspect who has counsel intercede in the case, without any effort on his/her part."*

focus is on what the suspect wants, New York treats a suspect who requested counsel the same as a suspect who has counsel intercede in the case, without any effort on his/her part.

In sum, once an attorney has entered a case in New York the indelible right to counsel attaches, regardless of whether the suspect in custody asked for one. Further, notice of entry must come from an attorney or firm, and not a third party. Now that we have reviewed the rule in New York regarding entry of counsel, there does not seem to be much need to continue with this article. The rulings and language of *Garofolo* and *Grice*, along with the numerous other cases citing this rule, seem definitive and not subject to interpretation, correct? This sounds like it should be as clear as "don't touch the hot stove", or "never get involved in a land war in Asia", but the nature of case law is that it is never that simple.

### WHAT IF THE SUSPECT DOES NOT WANT THE ATTORNEY?

Generally speaking, the authority of a court extends to issues of the specific law and facts of the specific case that is before it. Each court, in both the federal and New York court systems, have specific limitations as to their authority[8]. A different set of facts can, under the same issue and rule of law, lead to a different conclusion. Because of the facts that differ from a precedential ruling, a court may "distinguish" the case at issue and decide contrary to the rule which appeared to apply.

Another issue to understand as we proceed through the following material is the fact the state is divided into four Appellate Divisions. The law enforcement agencies within each are bound by that court's decisions, while agencies in other appellate divisions may not be. Once the New York Court of Appeals rules on an issue, the decision is binding on all of the law enforcement agencies within the state. But again, such rulings are on the specific facts and the specific law of each case, and therefore are binding only on similar situations.

Which brings us to this question – what if we changed the facts of a *Garofolo* situation? The case of *People v. Lennon*[9] did just that. Lennon was a suspect in her husbands' murder and agreed to accompany the police to their station. While she was there, her father called an attorney who had represented her in the past due to her tendency to be arrested on drug and prostitution charges. The attorney called the police and said he was on his way. The officers testified that they advised Lennon the attorney was on his way in and asked if she wanted to speak with him and/or have him

*Photo: pond5/graja*

represent her. They further testified that in response she adamantly rejected using the attorney, calling him a "pansy ass". When the attorney arrived, an officer advised him Lennon did not want to see him nor did she want him to represent her. The attorney then left and Lennon subsequently confessed to killing her husband along with assistance from her "biker" boyfriend.

The Second Department Appellate Division distinguished *Garofolo,* and other similar cases, because in those cases the defendants were **never told** of the fact an attorney was attempting to enter the case on his/her behalf, and the defendant was not given a choice. It was, therefore, assumed that an attorney-client relationship existed and that the defendants would have accepted the representation. Here, Lennon was advised of the attorney and asked if she wanted him to represent her, which she very clearly rejected. "Here, the defendant made it quite clear that she did not wish to extend her relationship with the attorney to include the matter in question, despite being given the opportunity to have him represent her. The detectives in this case did not interfere with the defendant's relationship with the attorney, and in no way impeded her opportunity to receive the benefit of counsel. The decision to retain counsel rests with the defendant"[10]. The court, therefore, affirmed the lower courts' decision to allow the statements into evidence.

*Lennon* is the ruling precedent within the Second Department Appellate Division[11], which has reaffirmed the rule of *Lennon* at least three time since it was decided[12]. In the latest case decided by the Second Department on the issue, *People v. Borukhova*[13], the court refined the *Lennon* rule by holding the defendant must clearly repudiate the representation of the attorney attempting to enter the case on his/her behalf or *Lennon* will not apply. In *Borukhova*, the defendant's sister retained an attorney without her knowledge. When the officers told her about the attorney she responded that she did not have an attorney, did not call an attorney, and did not know who the attorney was that had called the police. She was then questioned and subsequently confessed. The court distinguished *Lennon* since the defendant did not actually unequivocally repudiate the attorney's representation, instead she merely stated she did not call him and she did not know who he was.

While the *Lennon* case is precedent in the Second Department, the status of the rule in the other three Appellate Divisions is still a question. The best thing that could happen would be for the Court of Appeals to directly decide the issue, which would clarify the law throughout the state. This has not happened. In *People v. Platten* and *People v. Anderson*[14], the Fourth Department Appellate Division[15] introduced additional issues to consider in cases where an attorney attempts to enter a case, ruling the attempt in both cases was ineffective. In both cases the defendant voluntarily waived their Miranda rights and gave statements to the police. In both cases a public defender contacted the police but neither record indicated any prior relationship between the attorneys and the defendants, nor was there any indication that the defendant or anyone on their behalf requested the public defenders to intervene. Neither of the defendants were advised by the police of the attempted intervention by the attorney. It was also not clear on the stated facts in the cases how the attorney found out the defendants were in custody. It appears as if the Fourth Department has differentiated the principle of *Garofolo* based on the absence of these two stated factors – evidence of a prior relationship and whether someone associated with the defendant called the attorney on his/her behalf.

To further complicate the matter, the Monroe County Court, located within the Fourth Department Appellate Division, recently disagreed with the reasoning of both the *Lennon* and *Platten* cases in *People v. Rankin*. "Furthermore, inasmuch as Lennon's appeal was dismissed by the Court of Appeals… it is distinguishable from the facts here, which are more analogous to Borukhova. That is, defendant here, unlike in Lennon, did not repudiate the prospect of being represented by the Public Defender's Office, but meekly declined. If distinctions are to be drawn in accord with the Second Department's rationale, defendant's reaction here is much more akin to Borukhova's, thereby preserving his indelible right to counsel. *In any event, the Court of Appeals jurisprudence on*

*this issue says nothing of the indelible right to counsel hinging on the suspect or defendant's approval or past relationship with the attorney who enters the case*[16]. (emphasis added). The latter part of this sentence appears to be the court expressing its disagreement with its own Appellate Division in the *Platten* and *Anderson* decisions. The first part of the sentence, along with additional language in the decision, makes it clear the Monroe County Court disagrees with the rule of *Lennon*. This case would be binding on any law enforcement agencies within Monroe County and *Lennon* would not, therefore, apply to those agencies.

In a different but related context, the recent Court of Appeals case of *People v. Washington*[17], involved the right to legal consultation with counsel for a person who is under arrest for driving while intoxicated (DWI) and has been asked to submit to a chemical test. A person arrested for DWI has a limited right to counsel in the sense that police must let an arrestee attempt to contact an attorney to assist them with the decision, if they choose to do so. This right is not absolute and if they cannot contact one, they must make the decision on their own. This case, however, did not involve a situation where the arrestee asked to contact an attorney, and Washington did in fact consent to the chemical test. As this was happening, an attorney hired by her family called the station and told the officers not to question her and that she was not going to consent to any testing. Based on the timing of this, the consent had already been given and the breath was actually taken when the attorney was still on the line. The Court ruled the results to be inadmissible, holding that when police are aware of the entry of an attorney, they must make reasonable efforts to inform the arrestee of the attorney as long as it will not unduly interfere with the timely administration of the test. While the context of this case, DWI procedures that are regulated by statutes, is different than what has been cited previously in this article, the language used by the Court of Appeals shows, in my opinion, the common inconsistencies that occur in case law. "In our view, the statutory right to legal consultation applies when an attorney contacts the police before a chemical test for alcohol is performed and the police must alert the subject to the presence of counsel, whether the contact is made in person or telephonically."[18] This quote is entirely consistent with the rules stated so far. But the court, however, concluded that paragraph with the following sentence: "The police therefore must advise the accused that a lawyer has made contact on the accused's behalf… Once so informed, the accused may *choose to consult with counsel or forgo that option and proceed* with the chemical test."[19] (emphasis added). Granted, this deals specifically with the decision to submit to a chemical test designed to help the police combat the public menace caused by impaired drivers. The test results themselves can become a charge [Vehicle and Traffic Law §1192(2)] and the results can lead to increased penalties and criminal charges when there is injury or death to another person. The decision to take the test, with such test results admittedly not subject to right to counsel rules, seems to possess as much potential risk to the defendant that a confession does. Regardless, the Court of Appeals, in this context, has ruled the defendant, after being advised an attorney is entering the case on their behalf, may proceed with their own personal decision to take the chemical test.

In sum, we started out with what appeared to be a clear cut rule, discussed in the *Garofolo* decision and first established in *People v. Arthur* in 1968. But in 1991 the Fourth Department Appellate Division qualified that rule by focusing on the prior relationship of the attorney and the defendant and also on who contacted the attorney. Since 1997, the Second Department Appellate Division has distinguished *Arthur* and *Garofolo* in situations where the defendant was advised of and clearly rejected the attempted representation of an attorney. The decisions in both Appellate Divisions also remain, at a minimum, as persuasive authority in the other appellate divisions[20]. In addition, in the DWI context, the police may proceed with a chemical test once the defendant choses to ignore the fact an attorney has entered the case on his/her behalf. We are at a point in this article, as we were in the June edition discussing complexity of the law pertaining to street encounters, facing a dilemma. How is any law enforcement officer, in the middle of a rapidly unfolding and dynamic interview, supposed to know what to do when the courts cannot even agree with each other?

### THE IMPACT OF THE RULES

In the 1990 case of *People v. Bing*[21], the Court of Appeals overruled a prior precedent that called for the right to counsel to attach to any suspect in a crime who, while not in custody, was being represented by an attorney in an unrelated matter. For those who were not in law enforcement when the old rule existed, you could probably imagine how difficult that made it to solve crimes. The more someone was in trouble, the more protected they would be. In a lengthy decision, the court found the prior precedent to be unworkable and not justified as a matter of policy. The court reasoned, "As a people we have elected to strike a balance between society's need to investigate and prosecute crime and the right of individuals to be free from the police intimidation and harassment that can result from it."[22] The court went on to state, "The right to assistance of counsel is one of the important means of protection against police harassment afforded individuals. But the right recognized must rest on some principled basis which *justifies its social cost*…The *decision to retain counsel rests with the client, however, not the lawyer*…"[23] (emphasis added)

*"How is any law enforcement officer, in the middle of a rapidly unfolding and dynamic interview, supposed to know what to do when the courts cannot even agree with each other?"*

There has been much attention brought to the area of wrongful convictions over the past two decades. This attention is justified and necessary, as law enforcement gains nothing by contributing to the conviction of an innocent person. Aside from the obvious harm to the individual wrongfully convicted, the harm to society is the fact the true perpetrator of the crime is free to re-offend and cause additional harm.

Now let us take that same harm to society and apply it to the context of this article. A suspect in a violent sex offense is located and is now in custody. He has waived his rights and is being interviewed by detectives on video. He is clearly not under any coercion and the detectives have offered him beverages and the use of the restroom. An attorney calls the police indicating he is representing the suspect and the suspect is immediately informed by a detective. The suspect then, on video, adamantly refuses the services of the attorney and indicates a willingness to proceed.

The interview continues and the suspect subsequently gives a full confession. In a federal investigation, the rule is simple and the detectives would know exactly how to proceed. The confession would be admissible in a federal court, and the detectives would not have even had to tell the suspect about the attorney. If this was a police agency in the jurisdiction of the Second Department Appellate Division, any subsequent confession would likely be ruled admissible under the precedent of *Lennon.* The Fourth Department, under the rulings of *Platten* and *Anderson*, may examine any prior relationship of the attorney and the suspect and also who had retained the attorney on the suspect's behalf. But if it is in Monroe County, the confession would likely be suppressed. In the 1st and 3rd Departments these facts would allow a court to use *Lennon* as persuasive authority to distinguish the rule of *Garofolo* and *Arthur*. Or they may not, and rule the right to counsel indelibly attached at the time of the call from the attorney, resulting in the suppression of what may be the only evidence – the confession. As a result, a suspect who was treated properly and his rights otherwise scrupulously protected, who voluntarily and knowingly waived his rights, who chose to refuse the services of an attorney, could either go free or be convicted depending upon who arrested him and in what jurisdiction.

*Photo: pond5/Bialasiewicz*

To apply this to the language of *Bing*, quoted above, does the fictional attachment of counsel against the wishes of a suspect justify the potential societal cost? Would society not have the same right to be free from the potential of such a suspect being set free to re-offend? Or is that concern only limited to the context of wrongful convictions? The *Arthur* and *Garofolo* rule essentially gives a benefit to a suspect who has family or friends that are aware he/she is in custody, and officers (and society) may have to rely on the choices others have made for the suspect. A suspect without such a benefit of family or friend intervention, is, by irrational contrast, free to fend for him/her self as long as the waiver is voluntarily and in accordance with *Miranda*. Further, a DWI suspect facing possible manslaughter charges may refuse the offer of the attorney and make their own individual choice to provide the evidence that may convict him/her. There seems to be an obvious inconsistency in these results. Finally, officers cannot be expected to know exactly what to do in these situations when courts still disagree. These rules also lead to wasted courtroom resources by resulting in litigation over the issue of whether counsel did successfully intervene and when.

The rule of *Arthur* and *Garofolo* was created in a different era in many different ways. The speed of communication with cell phones and email has far surpassed what was capable at the time of those decisions. The days of the police being able to take a suspect into custody without someone knowing and keeping them secluded is essentially over. As for the ability of an individual to exercise their own rights and decisions, the internet provides a wealth of information in seconds from a cell phone. As I was writing this article, I did an internet search for "criminal attorneys in the NY capital district" and I received 2,370,000 hits that I could review to find an attorney. The ability of an attorney to be contacted and to intervene is dramatically increased now and individuals are far more aware of their rights. The level of awareness of the potential for false confessions and wrongful convictions has gone from virtually nonexistent at the time of *Arthur* to it now being a weekly media story. Police training and accountability has also dramatically increased in that time period. Finally, recording systems in police interview rooms are now more common than not. Judges and juries have the opportunity to see for themselves what happened inside an interview room. The rule of *Arthur* in general needs to be reevaluated in light of modern times, police practices and societal impact. At the very least, the principle of *Lennon* should be adopted by the Court of Appeals.

## SOME SUGGESTIONS FOR LAW ENFORCEMENT OFFICERS

In some of my legal issues classes I discuss the *Lennon* case in light of the rule of *Arthur*. In some interview and interrogation classes the instructor will only discuss the *Arthur* rule and not *Lennon*, *Platten* or *Anderson*. This is not wrong in the sense that you cannot overly protect a person's rights. But there is a potential cost of being so generous when it is not required. Ignoring the differences in the way the *Arthur* rule is applied in the Second and Fourth Departments can unnecessarily compromise a case and allow a suspect the opportunity to re-offend. And because of the uncertainty in the case law in a *Lennon* type situation – clearly and unequivocally rejecting the intervention of counsel – in the other Appellate Divisions, the possibilities Lennon creates should not be lightly disregarded. At least until the Court of Appeals definitively decides the issue one way or another.

I will now offer the same suggestions that I offer in my classes but, as I do when instructing on this matter, emphasize that these are just suggestions based upon the *Arthur* rule and the exceptions discussed in *Lennon*, *Platten*, and *Anderson* appellate division cases. **They should not be considered legal advice and you should discuss these issues with your district attorney for applicability in your jurisdiction.**

The first thing that law enforcement should do is, cognizant of the *Arthur* rule and the fact an attorney may intervene, if you have

a suspect at a scene that, after appropriate warnings are given, is willing to start talking, let him/her do so. Stopping them and transporting them in could lead to the intervention of an attorney by the time you arrive at your station. Carefully document any oral admissions made on a Criminal Procedure Law §710.30/oral admission form.

If an attorney does call and or otherwise indicated their efforts to enter the case, *do not hide it* from the detective or officer conducting the interview and *immediately* notify them and the suspect. Document the time of everything carefully – time interview started, time of the warnings, time of the end of the verbal question and answer and when a typewritten confession is started, and the time of the intervention of the attorney. If the suspect indicates they want the attorney, or are otherwise ambiguous about it, immediately stop the interview and document everything said to that point as a CPL §710.30/oral admission. Be aware that if there is any question about the intent of the suspect in such a case, the courts will presume the entry of counsel.

If the suspect clearly and unambiguously rejects the attempted intervention of counsel, carefully document exactly what the suspect said and when. If you are in the middle of typing a statement then print it out immediately as it is at the time of the attorney notification. Put that partial statement aside as it would now be considered an oral admission given prior to the attempted entry of counsel. Anything else said to that point but not yet added to the statement should be documented on an oral admission form. Then type right into your statement what had transpired, that an attorney called and indicate exactly what the suspect said in response. Then continue with the statement. Of course, if this is all on video then much of your work is done for you as the entire event with the times will be memorialized.

Whoever takes the call from the attorney should ask and document how he/she was notified and if the attorney had represented the suspect previously. In addition, whether the attorney even knew the suspects name can be relevant, at least in the Fourth Department. Again, understand that asking these questions getting negative responses will not relieve you of the obligation to advise the suspect of the attorney. The issues raised in *Platten* and *Anderson* are not as substantive as that of *Lennon*. Any doubt will always be decided in favor of the suspect.

Following these suggestions will define and protect the admissions you have already received from the suspect prior to the entry of counsel. If you do then continue with the interview and obtain further admissions and/or a full confession, you have set your case up as much as you possibly can to give a court the opportunity to apply *Lennon, Platten* or *Anderson* principles. At the hearing, you will have two separate and distinguishable pieces of evidence – the oral admissions prior to the attempted intervention of counsel, and whatever occurred subsequent to the rejection of the entry of the attorney. As a result, even if a court does rule that the right to counsel attached, you will have protected the admissions already obtained as much as possible.

Again, remember the context in which these suggestions are offered. Law enforcement officials reading this will be from all over New York State. The case law is uncertain in this area and where you are may dictate what suggestions you should or should not follow. Further, your individual district attorney may disagree with them and not be willing to litigate the issue in a hearing. This article is lengthy but the issue is complex and important. A major case could depend on these principles and while officers should protect a person's rights, we also have an obligation to our communities to prosecute offenders to the best of our ability in accordance with law, understanding that case law is not always clear.

(Endnotes)

[1] *People v. Garofolo,* 46 N.Y.2d 592, 599 (1979) citing *People v. Hobson,* 39 N.Y.2d 479 (1976) and *People v. Arthur,* 22 N.Y.2d 325 (1968)

[2] *Garofolo,* at 600

[3] *People v. Pinzon,* 44 NY2d 458 (1978)

[4] 100 N.Y.2d 318 (2003)

[5] Id, 322

[6] see also *People v. McCray,* 121 A.D.3d 1549 (4th Dept. 2014), lv. denied 25 N.Y.3d 1204 (2015), notice by a community activist that the defendant had and attorney was insufficient under prior rulings including *Grice.*

[7] 475 U.S. 412 (1986)

[8] A detailed analysis of these concepts is beyond the scope of this article, but for New York courts the sources of authority are generally found in Article VI of the Constitution of the State of New York, the Criminal Procedure Law, and the Civil Practice Law and Rules.

[9] 243 AD2d 495 (2d Dep't. 1997) *app. dismissed* 91 N.Y.2d 942 (1998)

[10] Id, 497, citing *People v Bing*, 76 NY2d 331, 349 (1990) and *People v Davis*, 75 NY2d 517, 522-523 (1990).

[11] The Second Department Appellate Division has jurisdiction over the following counties: Dutchess, Kings, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester.

[12] *People v. Martino,* 259 A.D.2d 561 (Second Dept. 1999); *People v. Pulliam,* 89 A.D. 399 (Second Dept. 2002); and *People v. Allenye*, 66 A.D.3d 1039 (Second Dept. 2009)

[13] 89 A.D.3d 194 (Second Dept. 2011), *lv. to appeal denied* 18 N.Y.3d 881 (2012)

[14] *People v. Platten*, 175 A.D.2d 561 (4th Dept. 1991), *app. denied* 78 N.Y.2d 1129 (1991) and *People v. Anderson,* 233 A.D.2d 900 (4th Dept. 1996), *app. denied* 89 N.Y.2d 983 (1997).

[15] The 4th Department Appellate Division has jurisdiction over the following counties: Allegany, Cattaraugus, Cayuga, Chautauqua, Erie, Genesee, Herkimer, Jefferson, Lewis, Livingston, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Wayne, Wyoming and Yates.

[16] *People v. Rankin,* 46 Misc.3d 791, 808-809 (Monroe Co. Court 2014)

[17] 23 NY3d 228 (2014)

[18] Id, at 233

[19] Id.

[20] For any attorneys reading this article, to add yet even another layer of complication to this whole area of law, would the Monroe County Court in *Rankin* have been bound to the *Lennon* rule by *stare decisis* pursuant to the principle of *Mountain View Coach Lines, Inc. v. Storms,* 102 A.D.2d 663 (Second Dept. 1984) If the defendant had been more unequivocal about his repudiation of the entry of the attorney? This is beyond the scope of this article but just adds to the question – how are police officers in the middle of an interview supposed to know exactly what to do in all circumstances?

[21] 76 N.Y.2d 331 (1990)

[22] Id, at 348

[23] Id, at 348-349

# Peer Support Programs

## *Trust and Credibility Important to Cops Seeking Help*

Law enforcement is a difficult profession and has the potential to cause significant stress in an officer's professional and home life. The rates of divorce, Post Traumatic Stress Disorder, and suicide in policing are staggering. Often the officer does not know where help and support services are available. In recognition of the unique needs of officers combined with their reluctance to access traditional mental health or employee assistance program services, Erie County, New York developed a 24/7 Police Helpline that was operationalized on February 1, 2008.

The Police Helpline is a peer-driven program for working and retired law enforcement officers, dispatchers, retirees, and family members and provides assistance for any issue that may impact home and work life. Specially trained Police Peers representing a broad base of law enforcement disciplines are available 24/7 for anyone needing to contact the Helpline. The Police Peers represent 15 local, county, and state police departments and have generously volunteered their time to this program. There are no paid members involved in this project and the Helpline is sustained solely by contributions.

Bonita "Bonnie" Frazer of Police Helpline Steering Committee has been working with first responders in the Erie County area for several years. She said, "Our intent is not to supplant any employee assistance programs or services. We just want to offer an alternative." Police Chief Dennis Gleason (Village of Hamburg Police Department), noted, "This is a very important resource. Not only for officers who have been involved in shootings, but for officers with marital problems. It gives them someone to talk to."

The Police Peer offers a distinct and important perspective in critical incident stress management; specifically, it is the Peer who rapidly establishes trust, credibility, and general rapport. Experience has shown that members of police agencies often perceive mental health professionals as too academic or "removed" from the realities of their work. As such, officers are far more likely to talk to a Peer rather than access traditional services. In the early days of the Erie County program, Frazer noticed that the Critical Incident Stress Management (CISM) program serving Erie County was regularly serving volunteer firefighters, but that law enforcement was noticeably missing. "The cops weren't seeking help from this resource", she said. "Trust was a major issue. The Police Helpline was developed as an affiliate program to the existing CISM team. The cop-to-cop approach helped us to establish that rapport and build trust."

The benefits of Peer support are numerous and include the following:

- Given low utilization rates of EAP services, working and retired police officers, dispatchers and their families are provided with an alternative for receiving assistance
- When additional care is necessary, the Peer can provide referrals to individuals who have special experience and training in issues affecting law enforcement
- The Helpline is available 24/7

Since the program's inception, countless officers in Erie County have been helped. Police Peers have provided assistance and support for issues involving critical incident stress, family discord, grief and bereavement, officer-involved shootings and suicidal emergencies. The program is capable of offering phone and face-to-face contacts for individuals and group intervention for incidents that affect three or more departmental members.

Police work is a dangerous job that can put stress on an officer's physical and psychological health. Given today's intense scrutiny of law enforcement and the high rate of police suicide, the level of stress facing police officers may be at an all-time high. The stress the officer experiences frequently has a negative impact on the health of his/ her family. The Helpline is dedicated to providing special care, attention and resources to those who protect and serve our communities. Helpline assistance is strictly confidential. Both Gleason and Frazer said they are pleased with the help that the program provides in their region. Gleason noted, "This program is very important and has been very helpful to the officers in our region." Frazer added, "The program has received high marks from the cops we serve, and we're happy that our program is being replicated in other parts of the state."

Given the success of the Helpline and current trends in support of Peer Support Programs, the Police Helpline is available to provide consultation and guidance to other departments interested in creating such a program. For more information or to speak to someone directly, you may send an email to wnypolicehelpline@gmail.com and someone will be respond to your inquiry as soon as possible.

# Ignition Interlock Devices

## *Association Releases Video for Law Enforcement*

The New York State Association of Chiefs of Police (NYSACOP) recently released a 15 minute video for law enforcement on Ignition Interlock Devices in New York State. Since 2010, the New York State Vehicle and Traffic Law has required that, "… in addition to any other penalties prescribed by law, the court shall require that any person who has been convicted of a violation of

subdivision two, two-a or three of §1192… or any crime defined by this chapter or the penal law of which an alcohol-related violation of any provision of §1192… is an essential element, to install and maintain, as a condition of probation or conditional discharge, a functioning ignition interlock device…".[1] This requirement even applies to first-time DWI offenders.

The merits of ignition interlock devices have been touted for years. According to one publication, "Ignition interlocks have been used to prevent impaired driving in the United States for more than 20 years. Over the years they have become more accurate, reliable, available, and less costly to install and maintain, making them a valuable tool to separate a driver who has been drinking from operating his/her motor vehicle, thereby decreasing the incidences of driving while impaired and increasing public safety."[2]

DCJS Deputy Commissioner Robert Maccarone is the State Director of the Office of Probation and Correctional Alternatives. A former prosecutor and STOP DWI Coordinator in Westchester County, Maccarone has been instrumental in the development of New York's ignition interlock program and regulations. He said, "The ignition interlock device is an effective piece of technology that prevents drinking driver behavior."

Some of the learning points in the video include:

- The ignition interlock device requires a passing breath sample to start a car;
- The 'set point' for devices in New York State is .025%, so even one drink will generally prohibit a person from starting a car;
- Devices use technology to detect circumvention – some use cameras to record the person providing the breath sample, some use hum-tone validation to detect the human voice when a breath sample is delivered, some require a blow-suck-blow pattern;
- Once an initial start-up test is provided, the driver is required to provide periodic rolling re-tests. This helps to ensure that a driver's BAC is not climbing after the initial start-up;
- Depending on the settings and features of a particular interlock device, if a driver fails a start-up test, the ignition of the vehicle can become locked. If they fail a rolling re-test, an alarm may sound inside the car, or external hazard lights may flash on the car and the horn might sound;
- All breath samples and other activity relating to the ignition interlock device are recorded by the device and can be downloaded by the monitoring agency (i.e. probation, STOP DWI, drinking driver program, traffic safety board);
- In some areas, notification of a failed rolling re-test along with GPS data can be transmitted from the device to the manufacturer and then onto a police dispatcher;
- If a driver fails a rolling re-test, the interlock will not stop the car. An ignition interlock device will never stop a car that is in motion;
- In addition to the mandate for drivers with DWI convictions to install an interlock on their vehicle, persons with a Problem Driver Restriction may also be required to install and maintain an interlock.

At the onset of the video project in 2013, two working groups were assembled consisting of practitioners and device manufacturers. The practitioner group included members of police agencies, district attorneys, probation, DCJS, DMV, NHTSA, STOP DWI and traffic safety board representatives. Filming took place at various locations throughout New York State and in Washington, DC with participation by officials and manufacturer representatives who spoke about the interlocks, how they work, and legislation pertaining to the devices.

> *"The ignition interlock device is an effective piece of technology that prevents drinking driver behavior." Dep. Comm. Robert Maccarone, DCJS*

Police agencies from Syracuse, Rensselaer, the New York State Police, and Madison County Sheriff's Office assisted in the dramatizations.

The comprehensive video is designed in chapters, providing a basic introduction about ignition interlock devices, their appearance and operation, common circumvention techniques, and sections of law for enforcement of violations. As with any new legislation, enforcement requires proper training and resources for those responsible for enforcement. Baseline statistics from 2010-2011 showed few charges for Section 1198 ignition interlock offenses. Executive Director Margaret Ryan (NYSACOP) said, "We anticipate that through this video, law enforcement officers will have a better understanding of ignition interlock devices, the responsibilities of drivers, and the proper sections of law to enforce violations."

Maureen McKeown is a Community Correction Representative with DCJS and oversees the ignition interlock device program. She suggests that police officers should be aware of tactics by some drivers to avoid the interlock installation. "Some drivers have used an old driver license without the interlock restriction code to display to a police officer." McKeown recommends that officers check their mobile data terminal or verify license status with dispatch to ascertain any restrictions.

Ignition interlock devices are typically monitored by a probation

*Continued on page 18* ▶

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# Buying Body-Worn Cameras

## *What to ask vendors to get exactly what you need*

**BY: CHIEF KEN WALLENTINE**

Lawmakers in Virginia, Utah, Texas, California, Arizona, Illinois and other states are considering mandates for officers to wear body-worn cameras. President Obama's request to Congress for $263 million in grant funds to help local agencies purchase body-worn video technology has yet to see any meaningful congressional action. Agencies in every state are scrambling to figure out what works for their needs and how to pay for cameras.

First ask yourself the following: Does my agency have discretionary funds to equip every officer with a camera and the supporting backend software? Do we have solid supporting policies in place? If not, take a look at other law enforcement agencies that do and see if you can follow their lead.

*Photo courtesy of Taser*

For example, if your agency does not have a research and development position or division (that's most of us!), look at some law enforcement agencies who do, such as LAPD, Las Vegas Metro, NYPD or Phoenix PD—or look abroad to the London Metropolitan Police, an agency with a very robust research arm. Look at the systems those agencies or any of the other IACP Major Cities or National Sheriffs Association Major Counties have evaluated and selected and see if they will meet your needs.

### CRITICAL QUESTIONS

Most agencies look immediately at the price point to begin the search for a body-worn video system. Price is important, but remember that you get what you pay for, so be sure that you are getting what you need. Finding a hole in system security or realizing six months after purchase that you're running out of server space for storage isn't a happy ending.

*"Price is important, but remember that you get what you pay for, so be sure that you are getting what you need. Finding a hole in system security or realizing six months after purchase that you're running out of server space for storage isn't a happy ending."*

To help select a body-worn video system for your agency, ask each vendor the following questions:

- What metadata does your system capture?
- Will your future technology provide for automatic activation when a gun, electronic control device or other weapon is deployed?
- Does your backend technology allow remote viewing (helpful for prosecution and defense agencies)?
- Who else uses your technology? Will you provide peer contacts for references?
- Does your system offer pre-event capture (a buffer)?
- Do you offer mounting choices that work for all of our officers? Officers wearing a tactical vest may want an option that doesn't mean moving the camera every time the officer puts the vest on and takes it off. A shoulder or eyeglass mount offers line-of-sight video capture.
- Is your system suited for my climate? What works well in Florida sunshine might not have the weather resistance essential in snowy Colorado.
- Give me examples of where your camera took a beating and kept on recording.
- What is the battery life?
- Can the battery be hot-swapped?
- Can we choose recording quality options (impacts file size)?
- What are the recording time options?
- How do we show the court that no one had the ability to tamper with this video from the moment of capture to presentation in court?
- How does your backend system help the clear and efficient workflow of sharing the video with a prosecutor, command ▶

> *The vendor's system must have an unassailable security suite that ensures confidence in the chain of custody, security and integrity of the evidence.*

staff, risk manager and/or defense attorney? Will we have to make copies on digital media and hand-carry or distribute by mail, or do you have a secure and easy software solution for secure sharing?

- How long have you been in the body-worn camera game?
- Will you provide me with an iTunes or Amazon experience (does your system have a big "easy" button?)?
- What tools do you have to help us meet public records requests (e.g., blurring or shadow tools)?
- What expansion options are available?
- What are you doing to enhance our future experience?

Chain of custody and audit is critical. If evidence does not favor the defense, defense attorneys attack the technology (remember the O.J. Simpson trial defense?). The vendor's system must have an unassailable security suite that ensures confidence in the chain of custody, security and integrity of the evidence.

If you're considering a hybrid solution—buying a decent camera and managing your own backend video management and storage—ask your staff and your IT support these tough questions:

- What was your last major IT project?
- Did it come in on time and on budget?
- How many bug fixes before it worked?
- How much downtime?
- Is your IT department dependent on one person?
- If he/she left, can IT still support your system efficiently?

## CONCLUSION

Have more questions than answers? There are resources. The Institute for the Prevention of In-Custody Deaths recently held the first national symposium that brought together legal experts, policy planners, technical experts and users to discuss body-worn camera issues (including how to select a system for your agency). More information and a list of presenters—any of whom would be a good contact if you're considering body-worn cameras—is available at http://ipicd.com/ceer/symposium.php. Comprehensive notes from a presentation I gave at the symposium are available at http://www.aele.org/wallentine_ipicd_bwc.pdf. Finally, if you have not had the opportunity to attend one of the Body-Worn Camera Policy and Practice webinars presented by Lexipol, reach out to me either via LinkedIn or at kwallentine@lexipol.com and I will make sure that you receive an invitation.

*Ken Wallentine is the Vice President and Senior Legal Advisor for Lexipol, the nation's leading provider of public safety risk management policies and resources. He is the former Chief of Law Enforcement for the Utah Attorney General and served as Bureau Chief of the POST Investigations Bureau and as Administrative Counsel for Utah Department of Public Safety. Wallentine consults on use of force issues nationally and can be contacted at kwallentine@lexipol.com.*

***Chief Ken Wallentine***

# Officer's Wife Sends Thanks

Utica Police Officer John Scaramuzzino received the Association's Medal of Honor Award at the annual training conference in Saratoga Springs this past July. Scaramuzzino's wife, Chelsea, sent a special note thanking the Association "…for all you have done to recognize and support my husband and the law enforcement community." She continued, "It was an honor for John to receive such an impressive award, yet also humbling. The ceremony was wonderful and we were so glad to be in attendance."

Scaramuzzino was one of two officers who received the Medal of Honor this year. He was patrolling a high crime area with Trooper Christopher Swienton. As the officers turned near the bar parking lot, they heard gunfire and witnessed a man shooting at people. Scaramuzzino chased the shooter, running around a building where he came face to face with the shooter. When the suspect aimed his gun at Scaramuzzino, the officer fired, putting him down. It was determined that the suspect had shot four victims in the parking lot.

***John & Chelsea Scarmuzzino; photo: Andrew Ranalli***

# Child Car Seat Credited for Saving Girl's Life

## *Rear-Ended by Dump Truck, Girl Sustains Only Minor Injuries*

It was a harrowing call for police and other first responders on the afternoon of August 26. Just after 3:00 PM police received a call of a crash between a dump truck and a passenger car, a 2015 Toyota Camry. Jaime Smith was a passenger in the front seat of the Toyota, with her daughter, Zoey in a child car seat in the back. Jaime's daughter, Adrianna, was driving the car. Camillus Police Captain Steve Rotunno described the crash, saying, "The Smith's were eastbound on Route 5 when they observed wooden debris and 2x4's falling from an open utility trailer that was travelling just ahead of her. Unable to move from her lane due to other traffic, Adrianna stopped to avoid the debris." Captain Rotunno continued, "A few seconds later, a fully loaded dump truck came around the corner, in the same direction as the Smith car, and noticed the vehicle stopped on the roadway. The driver of the dump truck immediately began to brake, but was unable to stop. The dump truck collided with Smith's car, pushing the vehicle about 50 feet forward and completely crushing the rear end of the sedan." Rotunno, a longtime traffic safety advocate, noted that Zoey only suffered minor injuries. He credits Zoey's mother for that. "The sound judgment of her mother, Jaime Smith, to properly secure her daughter in an approved car seat clearly prevented her daughter from sustaining more serious injuries." In October, Chief Thomas Winn and Captain Steve Rotunno presented Ms. Smith with the departments Saved by the Belt Award.

*Photographs courtesy of Camillus Police Department.*

***The 2015 Toyota Camry in which three year old Zoey Smith was secured in car seat.***

***The dump truck that collided with the Smith car, pushing it about 50 feet before coming to rest.***

***Presentation of the Saved By The Belt Award at Camillus Police Department. From left, Captain Steve Rotunno, Jaime Smith, Zoey Smith, and Chief Thomas Winn.***

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department, STOP DWI program, drinking driver program or traffic safety board. Delaware County (NY) Probation Director Scott Glueckert said, "Real offender accountability comes with the monitoring." He added, "Probation departments supervise many of the ignition interlock devices that are court ordered. If a police officer stops a motor vehicle with an ignition interlock device installed in it and they have any questions regarding the operator of the motor vehicle, they should call their probation department or the monitoring agency."

The effectiveness of interlock technology is proven. According to *Ignition Interlocks – What You Need to Know: A Toolkit for Policymakers, Highway Safety Professionals, and Advocates*, "Research has demonstrated that many alcohol-impaired drivers continue to drive illegally regardless of the fact that their driver's license has been suspended or revoked. An ignition interlock is designed to prevent that by permitting an offender to continue to drive so long as he/she passes the interlock's breath test. Ignition interlocks effectively deter impaired driving while they are on the offender's vehicle. In fact, recidivism is reduced by 50 to 90 percent while the device is installed."[3]

Maccarone added, "For people with alcohol addiction, locking them up does not address the problem. Counselling, supervision and technology such as the ignition interlock device is the key. Incarceration is expensive and does not address the root cause of addiction. The ignition interlock device helps us change behaviors."

> *"Watch the video: nychiefs.org – click the 'APB Podcast' page"*

Association President Stephen Conner noted, "We are pleased to provide this training video to our statewide partners. With a working knowledge about this lifesaving technology, New York State's law enforcement officers can help to ensure that drivers required to have the device are complying with their restriction." Conner added, "We continue to experience alcohol-related fatalities throughout our state and nation. Ignition interlock devices help to keep our highways safer. By arming our cops with the critical information found in this video, we can help to avoid more senseless tragedies."

***Dep. Comm. Robert Maccarone, DCJS***

A link to the video can be found on the Association website at nychiefs.org – click on the *APB Podcast* page. It can also be found on the Association's YouTube Channel and in the iTunes Store. Search for "Ignition Interlock Devices in New York State" or "New York State Association of Chiefs of Police."

The project was funded by the National Highway Traffic Safety Administration by a grant from the Governor's Traffic Safety committee.

[1] Section 1198(2) NYS Vehicle and Traffic Law.
[2] Ignition Interlocks – What You Need to Know: A Toolkit for Policymakers, Highway Safety Professionals, and Advocates, (2nd Edition); Mayer, Robin; U.S. Dept. of Transportation; National Highway Traffic Safety Administration; February 2014
[3] Ibid.

# Do Ethics Matter Anymore?

## *When those at the top start talking about "ethics," they too rarely examine themselves*

**BY: JIM GLENNON**

About the author: *Lt. Jim Glennon (ret.) is the owner and lead instructor for Calibre Press. He is a third-generation LEO, retired from the Lombard, Ill. PD after 29 years of service. Rising to the rank of lieutenant, he commanded both patrol and the Investigations Unit. In 1998, he was selected as the first Commander of Investigations for the newly formed DuPage County Major Crimes (Homicide) Task Force. He has a BA in Psychology, a Masters in Law Enforcement Justice Administration, is the author of the book Arresting Communication: Essential Interaction Skills for Law Enforcement.*

What cops hate more than anything else—at least when it comes to training—is being assigned to sit in a class knowing full-well that the only reason they are there is to check a box in order to prove they attended.

Ethics training all too often finds itself in that category.

Why?

Because ethical behavior doesn't seem to matter anymore.

Oh yeah, generally, people say and believe that ethics matter. Many who have mass media platforms regularly point fingers and scream "Lie!" at their political opponents and/or people who hold opposing views. And if an activist point need be made, the pundits and analysts always rush to appear as though they are standing firm on the moral and ethical high ground.

### A SULLIED RECORD

In law enforcement, we have to admit, we've had historical issues with unethical behavior and corrupt cultures, at least episodically we have.

From the whole Serpico period in the NYPD during the 1960s and 70s; the Joe Burge torture disgrace in the Chicago PD through the 70s and 80s; to the LAPD Rampart scandal in the CRASH unit of the LAPD in the late 1990s (just to name a few), our profession has definitely contributed to those who want proof of unethical and

corrupt behavior in our ranks.

I have been asked many times to teach a course or a segment of a course addressing ethics. After the request I always ask the particular administrator why they want training in ethics. The responses are usually along the lines of: "One of our line level personnel [took a free cup of coffee, got drunk at a ball game, fudged some hours on an overtime slip, called in sick to play golf, was found sleeping in his/her squad car …] blah, blah."


I add the "blah, blah" not to dismiss the infractions, but rather to point out two things:

1. None of the above are ethics violations, they are rules violations.
2. I've never had a chief, mayor or sheriff say: "We're wildly unethical here at the top of the food chain, it's bleeding down into the ranks, and we need help finding our moral compass."

## POLITICS AND LEADERSHIP

Plenty of the leaders in police organizations walk the ethical walk—hopefully the majority. But a common theme of complaint among street cops—all around this country, and I do this for a living—is the double standards they see, on an all-too-frequent basis, at the top of their organizational food chains.

I bring this up now because I listen to hordes of cops (including mid-level supervisors, directors, chiefs and sheriffs) from all over this country every week, and it seems as if more and more are just plain fed up with the hypocrisy they see coming from the media, their bosses and civilians in political leadership roles.

In their view the real ethical violations are happening above their pay-grade: at the nexus of media and politics—where real power lies.

"The top brass doesn't care at all about the truth! Keeping their jobs is all they really care about," said one command officer at a recent seminar. "So why would the guys care about the mission of the organization? If they avoid proactivity they are left alone. If they go out and try to chase bad guys they risk putting themselves in the spotlight, facing political wrath and losing their jobs."

He continued, "Listen, I'm not stupid. I've been around for over 20 years and I know the chiefs have to play a political game. But throwing cops under the bus at the first sign of trouble is unacceptable. Then they want to initiate ethics training because the media presents a totally false narrative of who we really are? That's nuts! *And the chief knows it.* But he folds to people with political agendas. He just doesn't see what it's doing to the overall morale. Or maybe he does, but just doesn't care."

Another supervisor joined in the discussion.

"We have bosses that are in love with power so they use it to settle scores with those they don't like. Not a hint of ethical behavior while they look for the smallest infractions in order to punish. My lieutenant told me that if I don't suspend at least one officer a year then I'm not doing my job. This is the same guy that preaches ethics in our department! It's pathetic. No one trusts him, but he doesn't care."

What drives the average cop nuttier than Aunt Sally's Christmas fruitcake is when their own bosses don't walk their ethical talk. In addition, many politicians—and make no mistake about it, they are the real bosses—display disingenuous and unethical conduct all the time and that behavior sets the standard for the conduct of everyone who works under that administration.

If politicians lie, avoid answering questions, and refuse to ever take responsibility for their own actions, why in God's name would the people at the line level in government jobs think that they would have to?

Consider this: When was the last time you saw a politician take responsibility for unethical behavior prior to a mountain of evidence documenting their misdeeds being exposed in the media?

Exactly. It was the same time you saw that unicorn playing cards with the Tooth Fairy.

Let's take it one step further. How often, even after evidence is revealed, and videos of that particular person saying something is uncovered, do you see them still refuse to take responsibility, deny what you saw and heard is what you actually saw and heard and/or lie about the lie?

But, if a police officer finds himself at the center of a controversy, even if he/she didn't actually do anything wrong, the hounds from hell are unleashed. … Many cops are feeling abandoned.

This political blather and hypocritical behavior just doesn't compute to the rank-and-file. What they passionately believe is that those at the top are more concerned about keeping their own jobs and preserving power than doing the right thing.

In too many cases it's "ethics be damned, expedient political correctness is all that really matters."

## A FEW EXAMPLES

Following are a few examples of what I'm talking about.

1. Last year a police officer in Hearne, Texas, shot and killed a 93-year-old woman. He was fired four days after the incident—four days! Why? The Texas Rangers hadn't even had a chance to start the investigation.
2. A chief in the middle of a media firestorm over an officer pulling a gun at a pool party, almost immediately said publicly that the officer's behavior was "indefensible." Again, no investigation had been complete, not at all.
3. Baltimore Mayor Stephanie Rawlings-Blake referred to burglars (looters), arsonists and people who assaulted hundreds of police officers with rocks and bottles as "misguided young people" and then said that they "also need our support."

At the same time she impugned the entire Baltimore Police Department by saying that she would "continue to be relentless in changing the culture" of the agency while talking about corrupt, brutal and racist Baltimore cops. Then she asked the Department of Justice to investigate her police department.

So the cops in Baltimore are doing less. Consequently their ethics and values are being questioned because they refuse to be proactive. Meanwhile their chief, who tried to explain how his officers were confused about their purpose and lack of support, was fired. Why do you think that happened?

Ethics?

## CONCLUSION

The true measure of ethical leadership is when those leaders make the mission of the organization and the lives and careers of their officers more important than their own.

To me the biggest violation of ethics is when leaders wield power to settle scores, fail to take responsibility, and display obvious hypocrisy.

Remember this, bosses: Ethics absolutely begins at the top.

And by the way, the word ethics isn't a noun, it's a verb.

# The Examination of Sexual Assault Evidence Collection Kits

**A MESSAGE FROM MIKE GREEN, EXECUTIVE DEPUTY COMMISSIONER, NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES**

As those of you on the front lines of protecting your communities know, sexual assault is a horrific and underreported crime. Victims of sexual assault not only suffer the trauma of the attack, but they must re-live the experience if they report it, describing the attack to investigators, having their clothing or personal items seized for evidence and enduring an invasive forensic exam.

Now imagine the pain of being a sexual assault victim and knowing your attacker remains at large because a key piece of evidence remained on a shelf in an evidence room for years, uninspected and essentially forgotten. This is a reality for some survivors of sexual assault.

Earlier this year, New York Times opinion writer Nicholas Kristof told the story of a woman who was sexually assaulted in a Chicago suburb in 1991. After the attack, she did what police investigators ask victims to do: She underwent an exam resulting in the collection of a rape kit. But instead of the kit being submitted to a crime lab for DNA testing, it sat unexamined at the police department for years.

When the kit was finally tested more than two decades later, the resulting DNA evidence identified her attacker and revealed that he had committed other crimes following the rape. How do we explain this apparent oversight to the woman and other victims of this rapist?

*"Now imagine the pain of being a sexual assault victim and knowing your attacker remains at large because a key piece of evidence remained on a shelf in an evidence room for years, uninspected and essentially forgotten."*

What happened in that case is not unique.

A recent series by USA Today, Gannett Newspapers and TEGNA television stations identified at least 70,000 untested rape kits at more than 1,000 police agencies nationwide. Published in July, the series found that while large metro police agencies are often the target of backlog clearing efforts, untested kits continue to accumulate at rural and smaller city departments. While these backlogs have made recent headlines, most states and law enforcement agencies don't have written guidelines for processing sex-crime evidence.

When rape kits are tested, the results lead to arrests. In Houston, 6,000 old kits – some roughly three decades old – resulted in

*"Testing of a portion of the 4,000-plus kits backlogged in Cleveland resulted in 209 indictments."*

850 hits to the national DNA database and charges being filed against 29 people. Testing of 12,000 kits in Memphis yielded 495 investigations and 76 criminal indictments. Detroit tested 8,500 old kits, convicting 10 rapists. Testing of a portion of the 4,000-plus kits backlogged in Cleveland resulted in 209 indictments.

We in law enforcement owe it to the victims of sex assault to ensure this evidence is given proper scrutiny. I urge you to make it a priority to identify whether a backlog exists in your agency and then consult with district attorneys' offices to determine the best course of action to address it, including developing a plan for handling this evidence as expeditiously as possible.

To assist you with this work, DCJS Office of Public Safety staff are working with law enforcement professionals to develop a model policy aimed at standardizing the processing of sexual assault evidence collection kits, including cases where no suspect is identified. The work is being done at the request of the state's Municipal Police Training Council, which will consider the proposed policy at its meeting in December.

No law enforcement professional wants a rapist to remain free, another individual victimized or a sexual assault survivor waiting for justice. Developing a comprehensive plan for getting rape kits tested is a critical step toward helping ensure those things don't happen in your community.

Thank you for your attention to this important issue.

Press release provided by the New York State Division of Criminal Justice Services, Albany, NY.

# Chief Takes Off-Duty Action

## *Chief Intercepts Suspected DWI Driver*

Police Chief Kevin Beach (Rome, NY) was still on vacation with his wife when they took their daughter to college in Plattsburgh on a Saturday in late August. It was about 6:00 PM when Beach was driving through Plattsburgh and witnessed the driver of a Pontiac sedan drive up and over a curb. The driver came back onto the roadway, swerved between lanes, and nearly struck another car. The Chief followed the vehicle, observing even more erratic driving. At an intersection, he pulled alongside the Pontiac and looked over at the driver. Chief Beach said the male driver had a glazed look and did not appear to be alert. Beach dialed 911 to report the possible DWI driver, his location, and license plate number of the car he was tailing. The driver then pulled into a parking lot, stopped for a moment, and then drove back onto the main roadway. When the driver of the Pontiac attempted to make another U-turn, he was now alongside Chief Beach's car. Beach yelled to the man to stop his car. The driver stopped. Beach got out of his vehicle, identified himself as a police officer, and displayed his ID while telling the 911 dispatcher of his current location. The Chief told the driver to put the car in park, but when the driver tried, he instead turned on his windshield wipers and looked at the Chief with a blank stare. When Beach again told him to put the car in park and give him the keys, the man said, "I did." Eventually, the driver did put the car in park and gave Beach the keys. While awaiting the responding police, Beach spoke with the driver asking him whether he suffered from any medical conditions or if he needed an ambulance. The driver said, 'no.' Beach asked whether the man was on any medications, and again, the driver replied, 'no.' Trooper A. R. Cordick of the New York State Police arrived on the scene. Beach briefed the Trooper about his observations. Then, the Trooper spoke with the driver, ran him through some field sobriety tests, and eventually arrested the man for DWI. Beach commended the response by Trooper Cordick saying, "he arrived on the scene within a minute after I stopped the car. He was very professional in dealing with the suspected DWI driver, and was also very respectful of me…", the Chief quipped, "…even though I was dressed in shorts and a T-shirt with a few days growth of beard," noting that he was at the end of his vacation.

> *"I believe that any officer, on or off duty, would have taken action if presented with the same circumstances. It was nothing special, it was the right thing to do."*

Ironically, the Chief 's intervention took place during the first few days of the National Labor Day Drunk Driving Crackdown, *Drive Sober or Get Pulled Over*. According to the National Highway Traffic Safety Administration, "Approximately one-third of all traffic crash fatalities in the United States involve drunk drivers with blood alcohol concentrations of .08 or higher. In 2013, there were 10,076 people killed in these preventable crashes."

When asked about his decision to take action that day, Chief Beach said, "I was just in the right place at the right time. Everyone who has taken the oath knows that we do not have a 9:00 - 5:00 job. It's a lifestyle, we are never off-the-clock." Beach noted the importance of detecting impaired drivers saying, "They are a danger to society and need to be removed from our roadways. The fact that this driver was intoxicated, in a college town, with thousands of students arriving that day, makes the scenario that much more appalling." He added, "I believe that any officer, on or off duty, would have taken action if presented with the same circumstances. It was nothing special, it was the right thing to do."


***Chief Kevin Beach***

At the time of this publication, another crackdown period will be in progress for the Holiday Season. Police agencies can find a number of resources to assist them in their prevention, outreach and enforcement efforts at nychiefs.org/traffic or at trafficksafetymarketing.org.

[1] 2015 *Drive Sober or Get Pulled Over* Fact Sheet; National Highway Traffic Safety Administration.

# The Effects of Fire on Fingerprints Evidence

BY: CHIEF/RET. MARK SPAWN

## FINGERPRINT SCIENCE

Fingerprint have been used for the purpose of criminal identification for years because of their unique, individual characteristics. These characteristics form before birth and can remain identifiable throughout one's life and even after death.

***Above: Soot deposits can cover fingerprints causing them to blend in with the substrate. Below: The water rinsing technique can remove deposits revealing identifiable fingerprint ridge detail.***

Upon our hands and feet we have *friction ridge skin*. This skin contains sweat pores that constantly exude perspiration. Aside from the natural oils, salts, proteins and water exuded through the skin, these ridges may also become contaminated with other mediums such as paint and blood. When an object is touched, the perspiration or other matter on the raised ridges may transfer to the object. The outline of these ridges leave a fingerprint impression.

The search for fingerprint impressions are a routine part of most major criminal investigations. Cases such as murder, robbery, burglary and forgery are commonly investigated by fingerprint examination. Because of the permanent characteristics of our fingerprints, and because they can provide direct proof of a person's contact with an object, they can be an exceptional piece of physical evidence when connected to a crime scene. After all, a successful criminal prosecution requires that sufficient evidence be established beyond a reasonable doubt that a particular person participated in the commission of a crime. Fingerprints, an objective piece of forensic evidence, can help to establish this proof.

## ARSON

Arson presents itself as one of our nation's most costly crimes. Arson, however, seems to attract a lesser degree of attention when it comes to fingerprint evidence. This is likely due to the formidable forces that are present at fire scenes: intense heat, tremendous damage, and excessive black soot. The investigator may not entertain the possibility of a scene examination for fingerprints because of the destructive nature of fire.

## FINGERPRINT PROCESSING

The techniques used to develop and visualize fingerprints are varied. An old fingerprint development technique involves the use of camphor. The burning of camphor crystals yields a fine black smoke. When this smoke is allowed to envelop a non-porous article, it adheres to fingerprint ridge detail. If an item is overdeveloped (too much smoke/soot applied), the item can be rinsed under water, clearing the excess soot from the background and leaving the developed outline of a fingerprint. The technician controls the amount of heat and soot that are applied for this fingerprint development technique. Conversely, at a fire scene, there are no controls - temperatures can reach into the thousands of degrees, and the soot and smoke may be thick, coarse and oily. Those circumstances notwithstanding, a fire scene may still yield fingerprint evidence. The rinsing technique for an overdeveloped camphor-processed print can be applied to a fire scene even though the heat may have been excessive and the soot oily or coarse.

## FINGERPRINTS AT THE FIRE SCENE

As a fire investigator working an arson scene, putting the case together usually means assembling circumstantial evidence. Classifying a fire as an "arson" may be proven by eliminating electrical and natural causes of fire, thus concluding human involvement. To proceed with a criminal investigation it is necessary to identify the suspect. Without a witness, this would be done by establishing motive and opportunity. Interviews, surveillance, financial background, modus operandi and other investigative procedures might be used. Fingerprint evidence can bring more weight to the circumstantial evidence available, or even change a circumstantial case to a direct evidence case. In most fire investigations, proving that an arson was committed is not nearly as difficult as proving that a particular person committed the arson or was involved with the scene. Fingerprints can change that. For instance, if the fingerprints of a particular subject are identified on an object at the arson scene, the investigator can conclude that the subject had physical contact with the item. If that object happens to be an instrument of the arson, a gasoline can for example, then the subject must provide a valid explanation for the contact. Depending on the other facts present in the investigation, such an identification can provide an extremely valuable interview tool, and perhaps aid in eliciting a confession. Of course, there is also the possibility that

the subject will provide a valid explanation as to why his or her fingerprints are on an item. A thorough investigation can confirm or refute such an assertion.

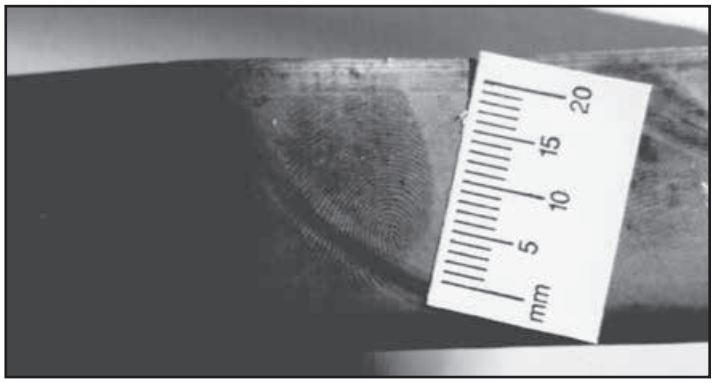
## RESEARCH PROJECT

As part of this research project, four separate incendiary fires were set at the burn building at the New York State Academy of Fire Science in Montour Falls, New York. A kerosene-gasoline mixture was used in each fire. Ordinary household items were placed within each scene. Typical gasoline containers were also placed in these settings, such as those which may be left behind by an arsonist. Other items were also placed in the scenes and all were handled by the author prior to the fire to provide undeveloped, latent fingerprints on the items. Fires were set and allowed to burn. The fires resulted in the kind of intense heat and thick black smoke that would be encountered in the field. The fires were extinguished through ordinary suppression efforts. The items were recovered and examined for fingerprints. Initially, none of the items showed any obvious, visible fingerprint impressions. They were then processed using the cold water rinsing technique, and then reexamined. The process of rinsing and reexamination continued, with each stage being photographed and documented.

*"Items which were a few feet from the point of origin, receiving smoke and soot prior to flame, retained prints more often. It appears that layers of soot upon an object tends to protect the residue components of the latent prints, thus developing the print and in some instances "baking" the print into the surface."*

## FINDINGS

It was found that items which were closest to the point of origin bore no identifiable fingerprints. In many instances, damage to the substrate was so significant that the preservation of any trace evidence was not probable. Items which were at least a few feet from the point of origin were more likely to retain fingerprint ridge detail, but did not always result in identifiable fingerprints. The most notable results were of a metal light fixture which was directly over the point of origin in one fire. Several excellent quality fingerprints were developed by using the cold water rinsing technique. Once this item was allowed to dry, fingerprint lifting tape was used which resulted in the removal of even more residues from the object, leaving a better contrast between the surface and the fingerprint. The fingerprints appeared as black




***Metallic light fixture recovered from test fire scene. Item was completely covered in soot and located above point of origin. Fingerprints shown became etched into the metal, making them permanent.***

on the gray surface (pictured at left). The fixture and fingerprints were photographed before processing and at each stage of the development process. The most significant finding was that fingerprints on this particular metal fixture were found to be fixed upon the surface. Aggressively rubbing the fingerprints had no affect on their appearance whatsoever.

Another notable result was found in rooms adjacent to the point of origin. Items in these nearby rooms which received extensive heat and smoke, but little or no flame, yielded identifiable fingerprints when the cold water rinsing technique was used.

The findings from this research indicates that generally, non-porous objects that were within or very close to the point of origin tended not to retain identifiable fingerprints. Items which were a few feet from the point of origin, receiving smoke and soot prior to flame, retained prints more often. It appears that layers of soot upon an object tends to protect the residue components of the latent prints, thus developing the print and in some instances "baking" the print into the surface. The processes that occur in a fire scene mimic the camphor processing technique which employs the same concepts in that heat and pigment are applied to a non-porous object, with the soot adhering to the perspiration or other components of a latent fingerprint.

## SUMMARY

Investigators should always consider the potential for fingerprint evidence at the fire scene. By carefully inspecting items that may have been handled by a suspect, this investment of time could alleviate months of follow-up investigation by providing an earlier identification of the suspect. A timely identification can also help in recovering other evidence before it deteriorates or can be concealed.

*The author served as the Chief of Police for the City of Fulton, New York. Research for this paper was conducted when Chief Spawn served as an Investigator in the Criminal Investigations Division at the Fulton Police Department. He is a New York State Fire Investigator II, Latent Fingerprint Examiner, State Fire Instructor, and has testified as an expert witness in criminal identification. He collaborated in the development of the state's Fire Scene Evidence curriculum which includes a section on detecting fingerprints at the fire scene. In 2008, Spawn was appointed by the Governor to serve on the New York State Arson Board.*

*Funded by a grant by Factory Mutual Insurance with support from the New York State Academy of Fire Science and the City of Fulton, New York. For more information, contact the author at mark@spawngroup.com.*

# NYSACOP CUSTOM LICENSE PLATES


The Department of Motor Vehicles offerS a custom license plate for the New York State Association of Chiefs of Police. If you are interested, here are the details:

Must be active or retired member in good standing.

Member may request, without additional charge, a three number series between 100-999 if it has not already been assigned. (e.g. – Member requests "234" – would appear as "234CHF" as shown above). If no preference is stated, next number in series will be assigned by DMV.

Member may request personalized plates at additional fee.

Member may request handicap symbol. Members must first call the Custom Plates office at 518-402-4838. Submit MC664.1 if first time applicant for handicap plates.

Complete the MV413 form (available on-line). Do not enter anything in the bold black outlined section. NYSACOP will complete that section and forward to DMV.

Enclose check or money order payable to COMMISSIONER OF MOTOR VEHICLES, or indicate credit card information on the MV413 form.

SEND THE MV413 FORM, REQUEST FORM (SEE NEXT PAGE) AND PAYMENT TO OUR OFFICES AT:

**NYS ASSN. OF CHIEFS OF POLICE**
**2697 HAMBURG ST.**
**SCHENECTADY, NY 12303**

PLEASE NOTE:

- Only one set of custom plates per member
- Plates must be surrendered upon death of member
- Commercial and motorcycle plates are not available.

# REQUEST FOR CUSTOM LICENSE PLATES

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| To: | New York State Association of Chiefs of Police, Inc. |
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☐I verify that I am currently an ☐Active ☐Active Retired member in good standing. I am requesting the custom NYSACOP license plates for my personally owned vehicle, registered in my name.

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☐I am requesting handicap plates. ☐Yes ☐No (Call Custom Plates Office at 518-402-4838 before submitting your application to NYSACOP) If requesting handicap plates for the first time, submit MV664.1 form. ¨Enclosed I understand that in addition to my regular DMV registration fees that I will be charged 31.25 per year for the custom plates, and will be charged an additional 62.50 per year if I selected a personalized custom plate. I understand that DMV registration fees are subject to change.

Enclose the following:
If upgrading old "NYSACP" plates to the new plates, submit 28.75.
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If requesting personalized new plates, submit 91.25

I have enclosed my check or money order for the above amount payable to the COMMISSIONER OF MOTOR VEHICLES.

**Send all** of the above **to the New York State Association of Chiefs of Police** offices at 2697 Hamburg St., Schenectady, NY 12303.

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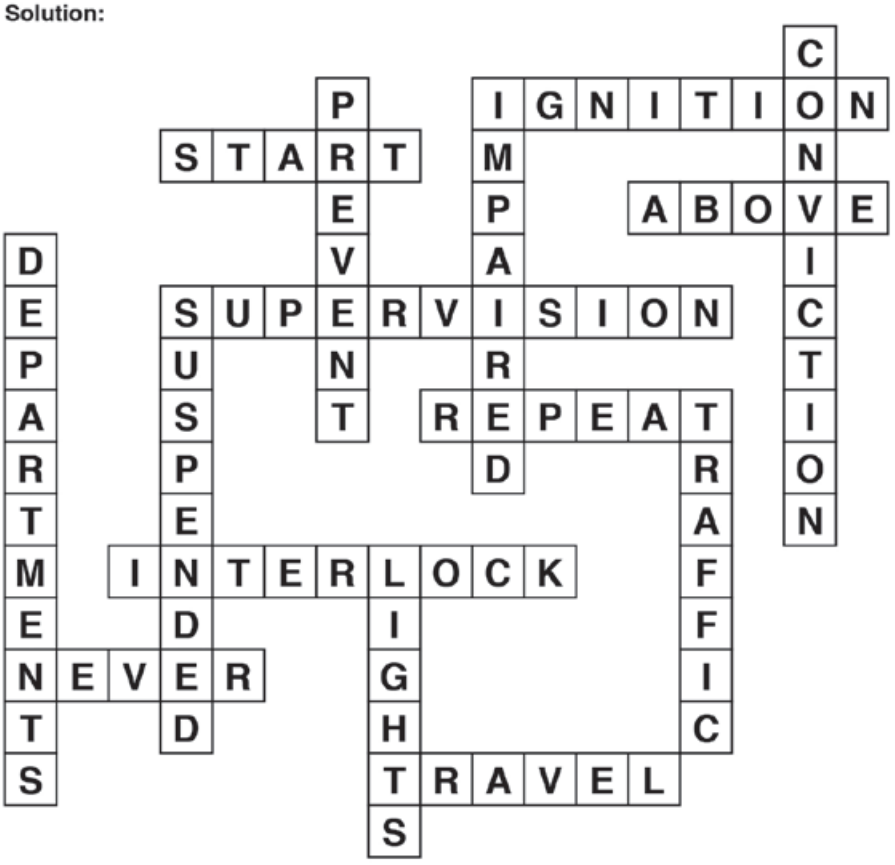
| **PRINTED NAME** | |
| **DAYTIME TELEPHONE** | |

PUZZLE ON PAGE 4

# Ignition Interlock Devices

**Solution:**



FIGHT CRIME: Invest in Kids **UPDATE** ★★★★

# Nurse-Family Partnership, Afterschool Programs, Conference Invitation

***Jenn O'Connor***
***State Director***

### HOME VISITING ADVOCACY

We are hard at work advocating for increased funding for the four research-based maternal, infant, and early childhood programs active in New York State—Healthy Families New York, Nurse-Family Partnership, Parents as Teachers, and The Parent-Child Home Program, Inc.

We recently testified at two hearings in support of these programs, which prevent child abuse and neglect.

Together with our partners in the statewide home visiting workgroup, we are meeting this month with the Governor's Office, Division of Budget, Division of Criminal Justice Services, State Education Department, Office of Children and Families Services, and Senate Finance.

We will be in touch with members soon to enlist you in our work—including testifying at the upcoming legislative budget hearings and meeting with policymakers both in district and in Albany.

Check out the new resources we are using in our work this year: http://www.scaany.org/policy-areas/maternal-infant-and-early-childhood/

### AFTERSCHOOL SURVEY

We have received support from the Afterschool Alliance to survey law enforcement leaders across the State about your involvement with local afterschool programs. If we have not contacted you but you have a story to tell, please contact us. We want to collect as much data and anecdotal evidence as possible to show that these programs are a benefit to children, families, and the communities in which they live.

### CONFERENCE INVITATION

On behalf of the National Alliance on Mental Illness-New York State (NAMI-NYS), it is our pleasure to invite you to attend the criminal justice track at the 2015 NAMI-NYS Education Conference-*Redefining Recovery: New Challenges, New Opportunities, New Hopes* on Friday, November 13th at the Desmond Hotel in Albany.

NAMI-NYS is committed to building a relationship with state law enforcement leaders and to improve the mental illness-criminal justice interface in New York in order to ensure the safety of our dedicated law enforcement officers and people living with a mental illness.

The featured speaker during the lunch plenary session is Thomas Dart, Sheriff, Cook County Illinois. Sheriff Dart has received national accolades for his transformative work in reforming Chicago's jails to address the needs of those with mental illness that enter the criminal justice system. Along with Sheriff Dart, the other featured speaker is Judge Robert Russell, who formed that nation's first veteran's court, mental health court and drug treatment court in Buffalo.

Along with the plenary session with Sheriff Dart and Judge Russell, the focus track will feature workshop sessions on: Exploring Mental Health in Prison and Forensic Units; How Jail Diversion Programs Can be a Tool to Guide Recovery; and Understanding the Mental Health Impact of Solitary Confinement.

NAMI-NYS will cover your registration cost and your lunch on Friday. If you need a hotel room, you can call the Desmond Hotel at (518) 869-8100 to reserve a room at the conference rate of $126. You can contact Matthew Shapiro at 518/462-2000 to register.

### OUTREACH

If you are not a member, we urge you to join us! The more law enforcement voices we have around New York State, the better positioned we are to influence change and provide more high-quality supports to children and families. You can join by contacting Tamae Memole, Associate Director, at tmemole@fightcrime.org. Thank you!

**SHARE YOUR STORIES AND PHOTOS:**

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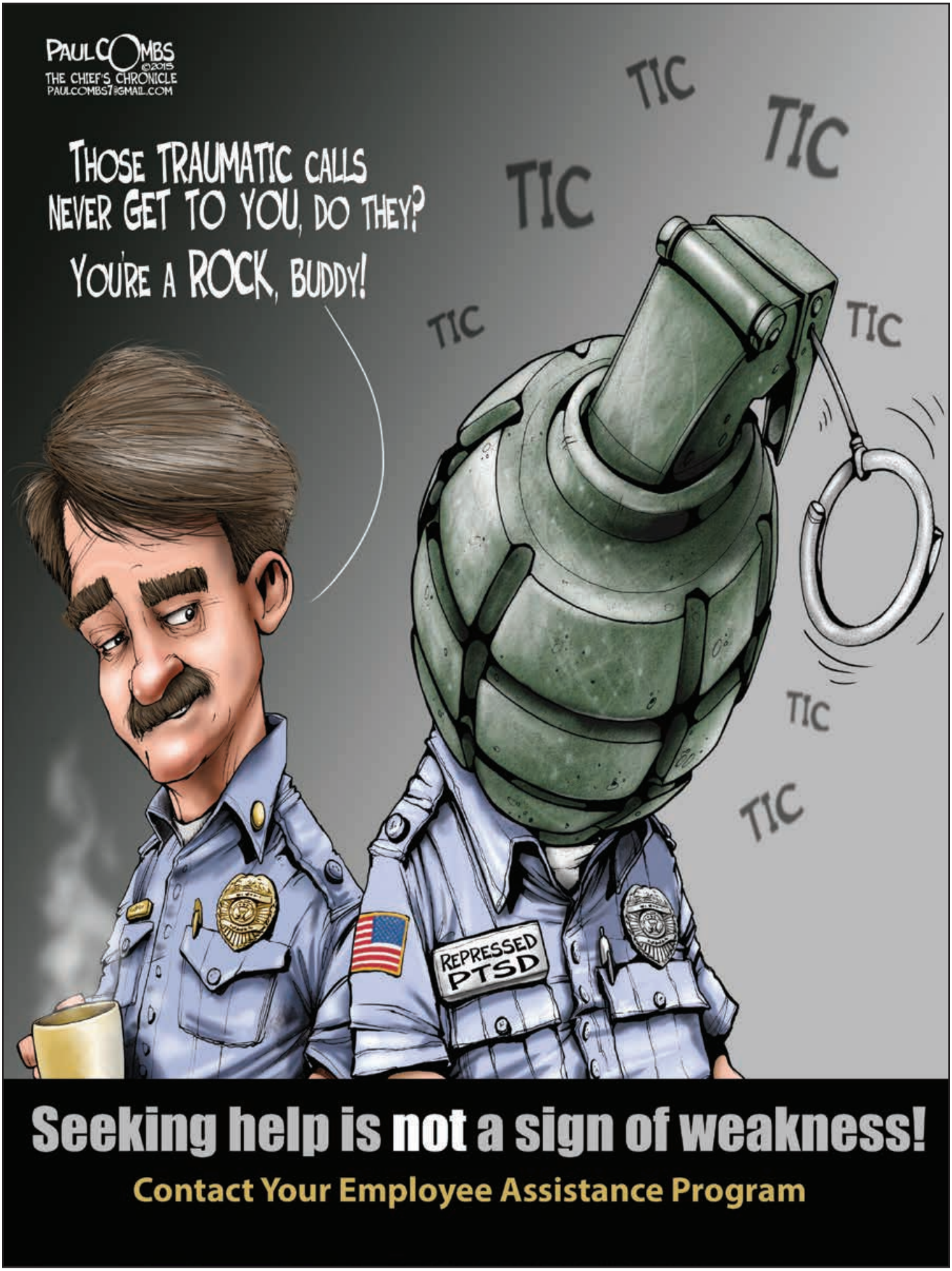
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