

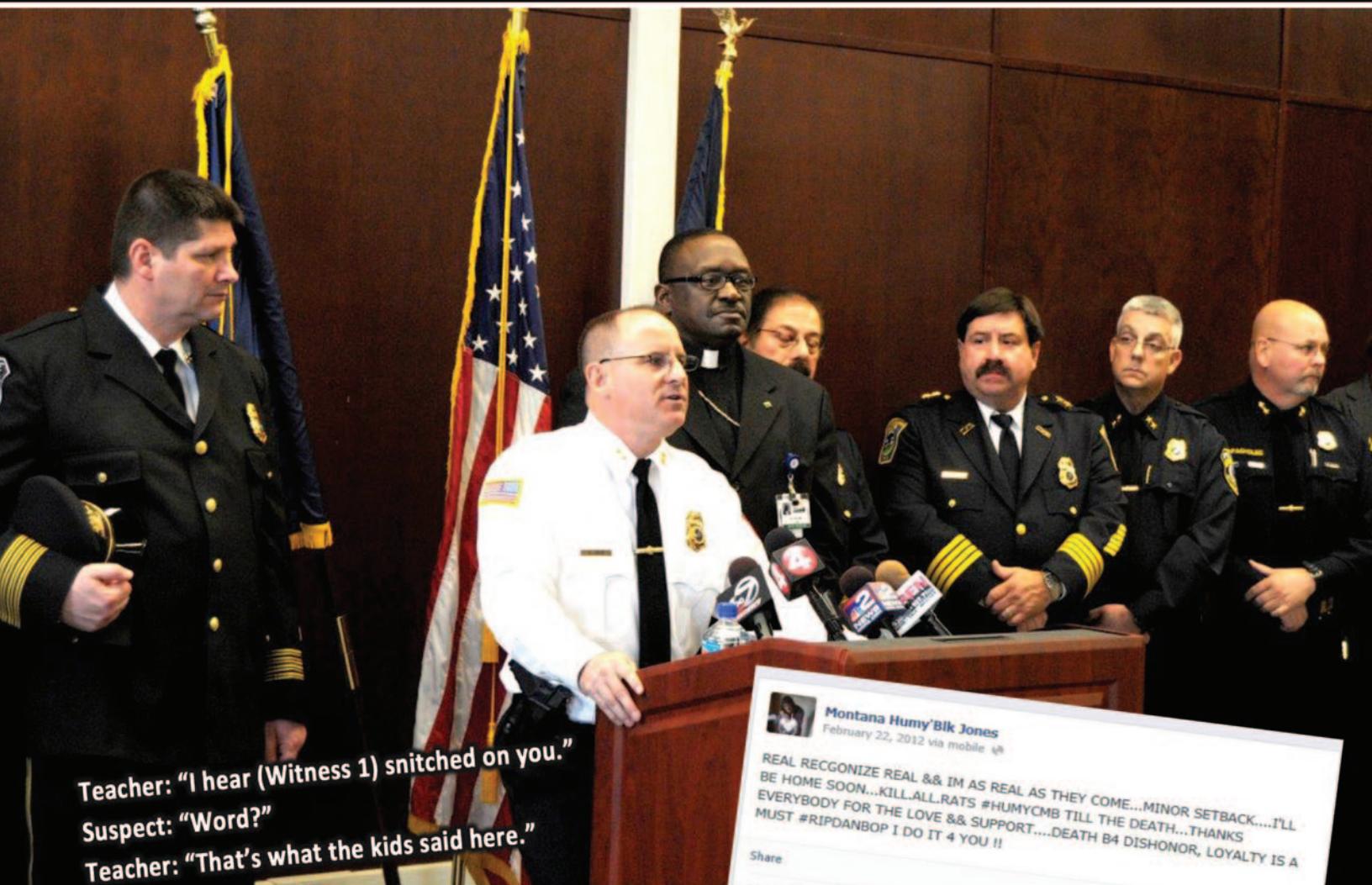
The New York State

Chief's Chronicle



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March 2014



Testify

Witness

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Office: 518-355-3371
www.nychiefs.org

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

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On the Cover:

Becoming (and Remaining) a Police Chief

See story on page 12.

Breaking the “Don’t Snitch” Culture – Anatomy of a Homicide Investigation

Chief David Zack (Cheektowaga PD) talks about a homicide case fraught with interference. After months of obstacles and legal challenges, a press conference (attended by an array of police officials and community members, pictured on cover) unveils some shocking information. A teacher identifies a “snitch” to the jailed suspect during class. Suspect’s Facebook posting on the day before his surrender includes, “Kill All Rats”, and “Death B4 Dishonor”. Story on page 16.

School Action Response Plans

See story on page 18.

The New York State
Chief's Chronicle

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Teacher: "I hear (Witness 1) snitched on you."
Suspect: "Word?"
Teacher: "That's what the kids said here."

Montana Honey Milk Jones
Montana Honey Milk Jones 2012 via mobile 09
REAL RECOGNIZE REAL & IN A REAL AS THEY COME...MINOR SETBACK...TLE
BE HOME SOON...I LOVE U SAYS #MURKIN TELL THE DEATH...THANKS
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Testify **Witness**

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SHARE YOUR STORIES AND PHOTOS:

Exciting, Heroic, Humorous

editor@nyciefs.org

AMITYVILLE FAMILY PRACTICE ASSOCIATES, PC

OFFICE HOURS BY APPOINTMENT

Danita Ionescu, DO, MD

Elena Plavnik-Stybel, DO, MD

Liliana Varela, RPA-C

100 West Oak Street
Amityville, NY 11701

631-264-1800

President's Report

BY CHIEF STEVEN H. HEIDER, COLONIE POLICE DEPARTMENT



PRESIDENT'S REPORT

By the time you read this article we will be well into the legislative session of which we just attended the State of the State Address in Albany on January 8, 2014. Some of the familiar topics that are being discussed are, of course, medical marijuana and raising the age of criminal responsibility that we have mentioned many times in these articles. There has also been much talk about the reentry systems for people coming from incarceration and returning into society and their problems reintegrating in a lawful, respectful manner. We will be debating all three of those issues in the coming months. In this very issue of *The Chief's Chronicle*, our Executive Director will be discussing the medical marijuana issue in a very detailed manner. As to the raising the age of criminal responsibility, we have been assured by the Governor's Office that the Chiefs of Police would have a seat at the table of any committee or commission formed that will look for true and positive reform that will not only impact those in the 16-18 age range, but also through the entire juvenile justice system of which we know has seen its problems in the past.

Additionally, we have been told by the Governor's Office that they have all intentions of revitalizing Operation IMPACT and making sure that it is funded and linking that with crime analysis centers that are located throughout the state which have clearly been a success since their inception. Additionally, the New York State Police are now currently embarking on an information gathering phase and looking at forming a statewide RMS system to replace their current SJS Records Management platform. We look at this very favorably in that it is quite possible that many agencies can benefit by either a change in their own systems or the upgrading of the current system that they share with the State Police platform.

It is interesting that the Governor speaks of the reentry situation involving prisoners within our criminal justice system. We do not need to look far for statistics that show that simply the incarceration of individuals many times does not serve the purpose for which it was originally designed. Many times prisoners who leave the facility have no additional skills and are often hardened by their years behind the penitentiary walls with society not adequately being able to service them upon their release. This undoubtedly leads to recidivism rates that far exceed what we desire. The overall cost of our incarceration system within New York State is \$2.8 billion annually and obviously the Governor's Office is interested in not only lowering those figures but to find realistic ways to reduce recidivism thereby making communities safer. We cautiously look at this approach because we in law enforcement know that much crime is attributed to the repeat offender and while we would hope that they would acclimate themselves back into society in a useful and purposeful way, we do not believe that a blanket release is the necessary route to that experiment. To that extent we cautiously wait and see what the Governor's Office and Legislature pursues, not only in terms of the programming but also in where the funding will go. Obviously any type of reentry programs will be very

Obviously any type of reentry programs will be very expensive to manage and maintain.

expensive to manage and maintain.

In terms of "Paying It Forward", I have had the occasion over the last several months to work with the wonderful partners at FIGHT CRIME: Invest In Kids in trying to help them in their efforts to lobby members of the Congress to adopt the Strong Start For America's Children Act that would establish a state-federal partnership to provide substantial resources for high-quality state preschool for low and moderate income 4-year olds. Whether in urban areas or in suburbia with their high graduation rates, school superintendents will tell you that without universal Pre-K many kids are left behind well before the third grade and that those kids have almost a predetermination to go on and not have a life of great success and very often wind up in the criminal justice system. I think that law enforcement needs to look at the "Pay It Forward" Model that places a high priority in diversion programs and prevention programs of our very young in order to prevent crime from happening generations from now. While this may not impact our crime rates today, those who follow us will feel the effects of a true model that enhances the educational systems and living conditions of those people who are not as fortunate and in many times wind up in a life of crime. I urge all members of the Association to be active in the FIGHT CRIME: Invest In Kids program and to assist them if they do call as they frequently do to ask local police chiefs to have discussions with legislative leaders in order to make sure that our message is being heard. Without such an organization and the programs that they propose, and with the limited funding that these programs often get, we are only looking at more in the future of frequent crime committed by our young people.

A major point of the Governor's address during the State of the State in 2014 was the need for communities to take a long and hard look at consolidation and the sharing of services. While the Chief's Association has long held opposition to many efforts of consolidation for some very obvious reasons, it is still wise for all of us to be looking at the option of sharing services and working with all our partners in law enforcement to provide the best law enforcement product at the most reasonable rate to our taxpayers.

In conclusion, once again I would like to give my support to ➤

MAGLOCLEN and those other members of the RISS Projects throughout the county as they continue their fight for additional funding through Congress and through the Office of the White House. As I have written in prior articles, their funding has been cut tremendously over the years while they still offer tremendous services of which Mark Spawn is devoting a great amount of space to in this issue of what they offer in terms of the action plans for school safety. I would urge all agencies to fully utilize the availability of the training, services, and other resources that MAGLOCLEN has been able to provide to their member agencies in order to strive for success. In these tough financial times, the small amount of dues that MAGLOCLEN requires can bring thousands of dollars in results

in not only monetary sharing but in the sharing of information and resources and the ability to work together for a common cause.

I look forward to serving you this coming year in all matters as discussed in this and previous issues. Not to be forgotten is our still adamant quest for the return of §207-m language to protect our chiefs throughout the state. These conversations are being held almost daily with the highest offices of state government and will continue in hopes of success in 2014.

PRESIDENT'S REPORT

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www.radicalmedia.com

Executive Director's Report



BY CHIEF/RET. JOHN P. GREBERT, COLONIE POLICE DEPARTMENT

EXECUTIVE
DIRECTOR'S
REPORT

Governor Cuomo introduced a relatively modest proposal for a medical marijuana program in New York prior to his State of the State address. The plan calls for a distribution network run by twenty hospitals in the state that would treat a limited number of patients suffering from a short list of diseases such as cancer and glaucoma. The plan is based on a 1989 law already on the books. The best current estimate on the number of patients that would be eligible for the program runs from 750 to 1500. However, it's easy to see how that number could be adjusted in the future as the medical community considers what patients could benefit. Questions also remain because reports indicate that a hospital's willingness to participate in the program could create a conflict with some of the federal funding they receive.

Despite the governor's plan there still are other laws being proposed in the legislature ranging from one that substantially expands the list of those eligible for treatment to another that legalizes recreational use of the drug. Our Board of Governors has clearly staked out our complete opposition to legalized recreational use and we have communicated this to the Governor through his Deputy Secretary for Public Safety Thomas Abt. The reasons are simple and are perfectly spelled out in position papers filed by the American Medical Association and the American Psychiatric Association. Both are available on our website and members are encouraged to familiarize themselves with their content. We also want any medical marijuana program to be left to the medical community to determine its value and also how to carefully regulate the distribution of the substance.

Unfortunately, the trend in the country is toward a wider acceptance of marijuana both for medical and recreational use despite what doctors have to say about casual use of the drug. Part of the reason for the growing acceptance is the public's perception regarding the federal government's stance on the use and distribution of pot. In August, the Department of Justice announced that federal prosecutors would not stand in the way of marijuana legalization in the states that opt for it. However, what is not widely talked about is that the feds also stated in the same memo that the government would still aggressively enforce eight areas of concern surrounding the drug regardless of a state's own laws on legalization.

Those eight areas are:

- Preventing distribution to minors;
- Preventing revenue from marijuana sales from going to criminal enterprises, gangs and cartels;
- Preventing diversion of marijuana from states where it is legal to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation

The City of Denver released results of their own audit that found serious problems with how the city licenses, tracks and manages the business in the City.

and distribution of marijuana;

- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands;
- Preventing marijuana possession on federal property.

Colorado has legalized recreational use of marijuana in that State. In a somewhat encouraging example of the government's resolve, the DEA conducted a large raid on businesses in the Denver, Colorado area in November of last year confiscating large amounts of pot and business records without making arrests. Without citing specifics, the government only stated that production and distribution in Colorado had raised serious problems among some of their eight areas of concern spelled out above. The raid followed an audit recently conducted by the State of Colorado that said regulators charged with watching over the medical marijuana industry fell short on everything from tracking inventory and managing their budget to keeping potential bad actors out of the business. Around the same time, the City of Denver released results of their own audit that found serious problems with how the city licenses, tracks and manages the business in the City. Based on accounts of how medical marijuana programs in other states have performed, this was nothing but foreseeable. When you think hard about the federal government's eight areas of concern, you have to wonder why any responsible adult would ever seriously consider legalizing recreational use in the first place. Add this to the increasing outcry about the heroin and opioid problem and you have to conclude that the last thing we need right now is expanded use of a gateway drug like marijuana. But then responsible adults may somehow allow for recreational drug use these days and

personal responsibility has given way to letting government be left to solving serious public health problems. Knowing how heavily elected officials rely on polling for decision making is probably a major problem then. Chances that are own State Legislature will do the right thing in the interests of public health and safety rather than what may be popular should be of great concern to all of us.

“Lone Survivor” is the recently released and hugely popular movie about a team of Navy SEALS in Afghanistan. The SEALS were on a mission in 2005 when they were ambushed by a much larger force of Taliban soldiers. Three of the SEALS died as well as sixteen other American military personnel who were attempting to rescue the SEALS. Chief Dan Duggan (Chief, Old Westbury PD) had a special connection to Lt. Michael Murphy, the team leader of the four man SEAL unit who died in the battle. Lt. Murphy was engaged to Chief Duggan’s daughter, Heather, and was due to be married only four months after he was killed. For his actions on June 28, 2005, Lt. Murphy posthumously received the Congressional Medal of Honor and was the first sailor to receive the Nation’s highest honor since the Vietnam War. The Navy also named a brand new highly sophisticated destroyer after him which was commissioned in 2012.

Michael Murphy was a close childhood friend of Heather Duggan’s and was a frequent visitor in the Duggan household for over a decade. Michael and Heather only became close after both graduated from Penn State. Heather has been able to rebuild her life, is now married and has two boys, ages 7 and three months. She is a guidance counselor at a Brooklyn high school. The Duggans have two other children, Dan and Brianna, and four other grandchildren.

CORRECTION

In the last edition, Chief Lefancheck’s (Baldwinsville PD) wife was incorrectly identified in the Executive Director’s report. His late wife’s name was Bridgett Lefancheck.

We apologize for the error.

EXECUTIVE DIRECTOR'S REPORT

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Sex Offender Registry Includes Multiple Photos of Offenders

Governor Cuomo Announces Expansion of New York's Sex Offender Registry to Include Multiple Photos of Convicted Offenders

Released: November 11, 2013

Additional photographs detailing changes in appearance will allow for enhanced monitoring by law enforcement and greater public awareness.

Governor Andrew M. Cuomo today announced that the state's Sex Offender Registry will now display multiple photographs of convicted sex offenders, in an effort to make offenders more recognizable to law enforcement personnel and the public.

"Expanding New York's Sex Offender Registry to include multiple photographs helps ensure that we are providing the most accurate and up-to-date information on offenders living in the state," Governor Cuomo said. "This important expansion is designed to make offenders more recognizable and account for changes in appearance, which increases public awareness and makes the Registry an even better resource for law enforcement agencies to monitor their communities. These are necessary additions that will help keep our neighborhoods safe and better protect our children."

The state Division of Criminal Justice Services (DCJS) maintains the Registry and its online subdirectory, which is posted to the agency's website: www.criminaljustice.ny.gov/nsr. Multiple photos of offenders will be posted to the Registry and subdirectory as they become available, with the ultimate goal of having multiple photos posted of every registered offender. Prior to this change, only one photo of an offender could be included.

DCJS Executive Deputy Commissioner Michael C. Green said, "The Sex Offender Registry is an important tool for local law enforcement professionals, and the inclusion of multiple photos provides officers with additional information that they can use to better monitor offenders who live in their communities."

Monroe County Sheriff Patrick M. O'Flynn, president of the New York State Sheriffs' Association, said, "The ability to post and display multiple photos of registered sex offenders is an important upgrade to the system, which will clearly aid law enforcement and better protect our citizens."

Colonie Police Chief Steven H. Heider, president of the New York State Association of Chiefs of Police, said, "The expansion of the Registry to include multiple photographs of an offender will help the police and the public. The Sex Offender Registration Act has been amended over the years to make the Registry a better resource. The physical appearance of a person can change over time and the inclusion of various images of an offender will help law enforcement in their monitoring responsibilities, and will help the public in better recognizing a subject from prior years."

Mary Haviland, executive director of the New York City Alliance Against Sexual Assault, said, "The Sex Offender Registry is a tool that communities can use to be aware of the offenders who are living in their area. These additional pictures provide useful information in the event that an offender's appearance has changed. The New York City Alliance supports the Division of Criminal Justice Service's program to make this information publically available within the parameters of current law."

There are currently 36,336 registered sex offenders in New York State, classified by risk level: Level 1, which is a low risk of re-offense; Level 2, medium risk of re-offense; and Level 3, high risk of re-offense.

An offender's risk level dictates what information is available and how that information can be accessed by the public. By law, only information about medium and high-risk offenders can be posted to the online subdirectory. The public can search for an offender according to the individual's last name, county or zip code.

Level 1 and Level 2 offenders must update their photographs every three years, while Level 3 offenders are required to update their photographs annually. Level 3 offenders and those offenders who have been designated sexual predators also must personally verify their addresses every 90 days with law enforcement; if an offender's appearance has changed at that time, police may photograph the offender and submit the updated photo to the Registry.

To view samples of some of the sex offenders on the Registry with multiple photos, go to offender ID numbers 39482, 8508, 9549.

Offenders under Parole supervision must also be photographed if their appearance has changed, and Parole officers are required to submit those photos to the Registry.

By law, the state can only provide information about Level 1 offenders or those whose risk level has not yet been set by the courts through a toll-free number (1-800-262-3257); information about Level 2 and 3 offenders also is available via phone. Callers to the toll-free number must have an individual's name and at least one other identifier – an exact address or date of birth, for example – to learn if that person is a registered sex offender in New York.

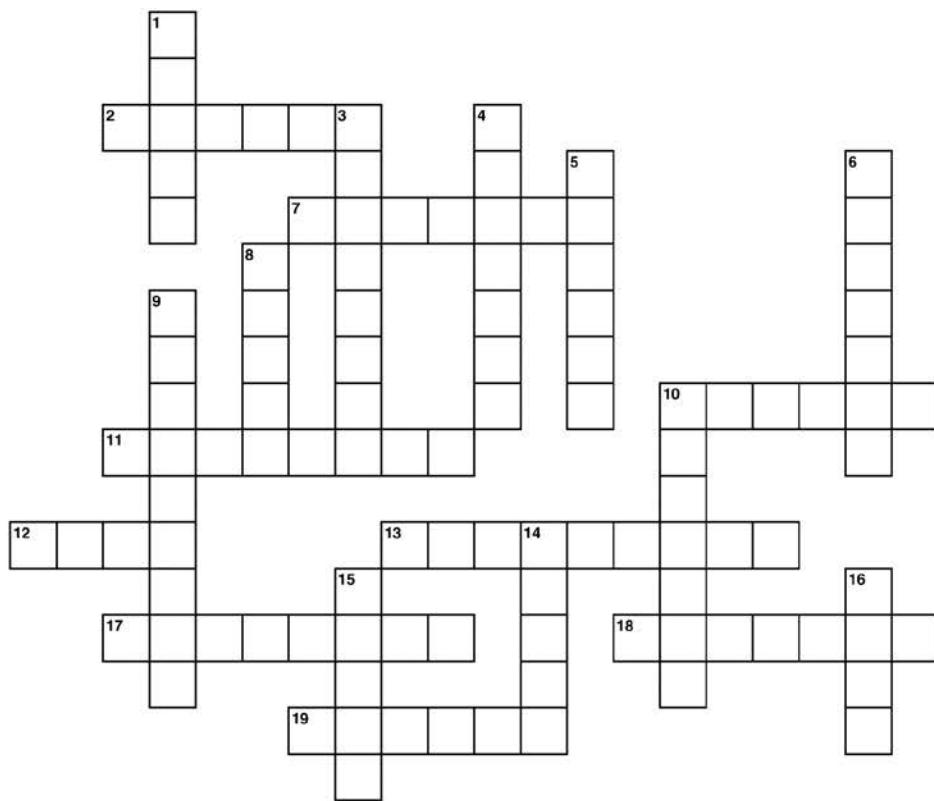
Home address information about Level 1 offenders is limited to zip code. Complete home and work addresses – street number and name, as well as municipality and zip code – are available for Level 2 and Level 3 offenders. The Registry also includes multiple home and work addresses if an offender has more than one job or residence, as well as information about conviction charge, sentence, supervision conditions if the offender is on Parole or Probation, and vehicle information.

The Registry is continuously updated, with staff typically processing any change of information the same day the changes are received. In 2012, the Sex Offender Registry staff processed more than 38,000 forms submitted by offenders notifying the Registry of changes to their address, employment, Internet and motor vehicle information; 30,000 annual address verification forms; and more than 13,000 photographs.

Information about Level 2 and 3 offenders also can be accessed via the New York State Public Safety Facebook page: www.facebook.com/nyspublicsafety. New Yorkers can also sign up to receive alerts via e-mail, text, fax or telephone whenever Level 2 or 3 sex offenders move to or from a community of interest to them. Those alerts are made possible through the state's NY-ALERT system; visit www.nyalert.gov and click on the "Sign up for NY-Alerts" link in the left menu to learn more and register.

The New York State Division of Criminal Justice Services (www.criminaljustice.ny.gov) is a multi-function criminal justice support agency with a variety of responsibilities, including law enforcement training, collection and analysis of statewide crime data; maintenance of criminal history information and fingerprint files; administrative oversight of the state's DNA databank, in partnership with the New York State Police; administration of federal and state criminal justice funds; support of criminal justice-related agencies across the state; and administration of the state's Sex Offender Registry.

DISTRACTED DRIVING - TEST YOUR KNOWLEDGE



ACROSS

2 - The number of people _____ in distraction-affected crashes decreased slightly from 3,360 in 2011 to 3,328 in 2012. (Distraction.gov)
 7 - As of December 2012, 171.3 _____ text messages were sent in the US (includes PR, the Territories, and Guam) every month. (CTIA)
 10 - An estimated 421,000 people were injured in motor vehicle crashes involving a distracted _____, this was a nine percent increase from the estimated 387,000 people injured in 2011. (Distraction.gov)
 11 - Young drivers are less likely to pull over then send their _____ than older age groups, but sometimes hand the phone to a passenger. (NHTSA Office of Behavioral Safety Research, Traffic Safety Facts, April 2012)
 12 - A quarter of teens respond to a _____ message once or more every time they drive. 20 percent of teens and 10 percent of parents admit that they have extended, multi-message text conversations while driving. (UMTRI)
 13 - Because text _____ requires visual, manual, and cognitive attention from the driver, it is by far the most alarming distraction. (Distraction.gov)
 17 - Sending or receiving a text takes a driver's eyes from the road for an average of 4.6 seconds, the equivalent-at 55 mph-of driving the length of an entire _____ field, blind. (VTTI)
 18 - Engaging in visual-manual subtasks (such as reaching for a phone, dialing and texting) associated with the use of hand-held phones and other portable _____ increased the risk of getting into a crash by three times. (VTTI)
 19 - The best way to end distracted driving is to educate all Americans about the _____ it poses. (Distraction.gov)

DOWN

1 - Young drivers under age 25 were more aware than older age groups that they _____ out of the lane or roadway and were more likely to report that they drive slower when texting. (NHTSA Office of Behavioral Safety Research, Traffic Safety Facts, April 2012)
 3 - All distractions endanger driver, passenger, and bystander safety. These types of distractions include texting, using a cell phone or smartphone, eating and _____ talking to passengers, grooming, reading (including maps), using a navigation system, watching a video, adjusting a radio, CD player, or MP3 player. (Distraction.gov)
 4 - Only about 1 out of 5 young drivers think that texting makes no difference to their _____ performance. (NHTSA)
 5 - 68 percent of young drivers 18 to 20 are willing to _____ incoming phone calls on some, most, or all driving trips. (NHTSA)
 6 - For drivers 15-19 years old involved in fatal _____, 21 percent of the distracted drivers were distracted by the use of cell phones (NHTSA)
 8 - Drivers under age 25 are much more likely to text while driving than all other age groups, and the incidence of texting while driving _____ with every age group to less than 1% for those 65 and older. (NHTSA Office of Behavioral Safety Research, Traffic Safety Facts, April 2012)
 9 - Distracted driving is any activity that could divert a person's _____ away from the primary task of driving. (Distraction.gov)
 10 - At any given daylight moment across America, approximately 660,000 drivers are using cell phones or manipulating electronic _____ while driving, a number that has held steady since 2010. (NOPUS)
 14 - Headset cell phone use is not substantially _____ than hand-held use. (VTTI)
 15 - 11% of all drivers under the age of 20 involved in _____ crashes were reported as distracted at the time of the crash. This age group has the largest proportion of drivers who were distracted. (Distraction.gov)
 16 - Young drivers are _____ likely to say something to a driver who is sending a text message while driving than older age groups. (NHTSA Office of Behavioral Safety Research, Traffic Safety Facts, April 2012)

WORD BANK: Answer, attention, billion, crashes, danger, devices, drift, drinking, driver, driving, drops, fatal, football, killed, less, messages, messaging, safer, text.

SOLUTION ON PAGE 29

Governor Cuomo Announces Tough New DWI Laws

Released on November 1, 2013

Governor Andrew M. Cuomo announced that individuals who drive drunk with a conditional license will now face a felony, which is the same penalty for those who drive drunk with a revoked license. Prior to today, driving drunk with a conditional license was only a traffic infraction.

"Today, tough new laws are going into effect to keep drunk drivers off our roads," Governor Cuomo said. "Strengthening Leandra's Law and increasing penalties will continue the State's efforts to keep dangerous and irresponsible drivers from getting behind the wheel and putting themselves and others at risk. Drinking and driving have no place in New York, and we will make sure those who break the law will be properly penalized for it."

Conditional licenses are issued to drivers who lose their license for drunk driving but have enrolled in an alcohol and drug rehabilitation program run by the Department of Motor Vehicles. A conditional license may be used only for driving to and from essential destinations such as work, school and medical appointments.

Also taking effect are several provisions that strengthen Leandra's Law, specifically those that deal with the required installation of an ignition interlock device on vehicles owned, or operated, by a person convicted of misdemeanor or felony driving while intoxicated or

other alcohol-related offenses. Ignition interlock devices prevent a driver under the influence of alcohol from operating a motor vehicle.

Leandra's Law, which took effect in December 2009, is named after 11-year-old Leandra Rosado, who was killed in a crash while riding in a car driven by a drunken driver. In addition to the ignition interlock requirement, the law also made it a felony to drive drunk with a child under the age of 16 in a vehicle. Since the law took effect to October 22, 2013, more than 3,300 individuals across New York State have been arrested under Leandra's Law.

The new provisions that took effect November 1, 2013:

- Limit the circumstances in which a court can waive the installation of an interlock device to only when a person under oath attests that he or she is not the owner of a motor vehicle and will not operate any vehicle during the period of the interlock restriction. Lying under oath would be considered perjury. As of June 2013, more than 14,000 drivers had ignition interlock devices installed in their vehicles.
- Clarify that youthful offenders are subject to the same ignition interlock requirements that are applicable to adults.
- Authorize the imposition of ignition interlock devices prior to sentencing as a preventive measure.
- Increase the minimum requirement for installation of an ignition interlock device from six months to one year.

Underage Drinking Partnerships and Support for Training and Enforcement

The New York State Office of Alcoholism and Substance Abuse Services (OASAS) partnered with the New York State Association of Chiefs of Police, Inc., NY State Police and New York State Sheriffs' Association in 2013 to conduct three conferences on environmental change and underage drinking prevention. Three regional conferences on environmental prevention were held in Albany, New York City and Rochester. The goal of the regional training sessions was to teach participants about population level change or how community groups could alter the environment to reduce and prevent underage alcohol consumption. The conferences were paid for by the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Enforcing Underage Drinking Laws grant which is administered by OASAS. Some funds were made available to police agencies to pay overtime costs that resulted

from officers attending the training sessions.

The EUDL grant is once again being used in 2014 to support laws that prohibit the sale or consumption of alcohol by individuals under the age of 21. Six regional OASAS-funded Prevention Resource Centers (PRC) will continue the underage drinking prevention training emphasizing evidenced-based enforcement strategies in New York during 2014. In addition, some funds will be provided to police agencies to conduct enforcement details such as compliance checks, DWI patrols checkpoints, party patrols, etc. The goal of this training/enforcement initiative is to sustain the vital partnerships between prevention providers, law enforcement and community coalitions to prevent, combat and reduce underage drinking in New York State.

If you have questions, call Walt Davies at the New York State Office of Alcoholism and Substance Abuse Services at 518-485-2115.

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Legal Issues: The Hazards of Becoming (And Remaining) A Police Chief

A Discussion About the Repeal of the Police Chief's Law and the Effect of the Term Limits Doctrine



BY CHIEF MICHAEL D. RANALLI, ESQ.

As all police chiefs in New York State should now be aware, the Legislature repealed General Municipal Law (GML) §207-m effective June 24, 2011. This provision of law had protected the basic compensation of police chiefs and served to prevent salary compression with lower ranks. By ensuring that police chiefs received the same dollar value raise as the next lowest rank of represented personnel, §207-m helped to protect chiefs from possible political influence and interference. This benefit was of critical importance since police chiefs had no other source of protection.

The Taylor Law [Civil Service Law (CSL), §201(7)(a) & §205(5)(b)] essentially prohibits most chiefs from entering or forming collective bargaining units without the permission of their governing municipal body. Without the statutory requirement to keep the chief's compensation apace with what is granted represented members of the department and with no requirement to negotiate terms and conditions of employment with the chief, some municipalities are either freezing or reducing their chief's compensation. Needless to say, the loss of GML §207-m has been devastating, causing many chiefs to retire prematurely rather than face substantial loss of pay and benefits.

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Police executives have, unfortunately, attained a relatively unique status. The position of Chief of Police is generally statutory [see Civil Service Law §58(1-c) & Village Law §8-800] and, pursuant to Civil Service Law, is within the competitive class of civil service. Any competitive chief of police has job protection pursuant to CSL §§75 & 76, or other applicable statute (see for example, Town Law §155) and can generally only be removed from the position for cause after a hearing. The fact is that the vast majority of police chiefs are career police officers who have risen through the ranks to attain their position. As officers rise through the ranks, they willingly take on more responsibility and accountability. They also typically continue to be members of a collective bargaining unit during this rise through the ranks. But finally, when an officer reaches the pinnacle of his or her career and becomes the person who is the most responsible to the community his or her agency serves, the officer now loses all financial stability. As Chief, the officer can no longer be a member of a collective bargaining unit and now, no longer has the benefit protection afforded under former GML §207-m. So while police chiefs cannot be fired or formally disciplined without cause, they can now

be effectively disciplined in place, without cause, through the loss of pay or benefits. It is true that public servants who fall within the classification of Management/Confidential (M/C) also generally have no salary or benefit protections. Most employees within the M/C classification, however, are also typically "exempt", "at will" employees, who were not appointed as a result of a competitive examination and need not be career civil servants and thus, do not have civil service status and job protection. This is the nature of the M/C classification. While many who are so classified can have a successful career in public service, they know and understand the tenuous positions in which they work. This is what makes police chiefs now so unique – they have statutorily required positions, with the same civil service status they have enjoyed their entire careers, but with no effective ability to protect their pay and benefits. Unfortunately, this is not the end of the problems facing police chiefs.

But finally, when an officer reaches the pinnacle of his or her career and becomes the person who is the most responsible to the community his or her agency serves, the officer now loses all financial stability.

Police Chief Employment Contracts and the impact of the "Term Limits" Rule

After the repeal of GML §207-m, the New York State Association of Chiefs of Police (NYSACOP) encouraged all chiefs to attempt to enter into employment contracts with their municipalities. The initial problem with this is that a governing body does not, of course, have to enter into such a contract. But, for those that do, at least those chiefs have some protection.

Gleason v. Village of Hamburg

On November 29, 2012 the Supreme Court of the County of Erie issued a decision entitled *Gleason v. Village of Hamburg*. This decision is 28 pages long and a number of facts and legal issues were developed within it. This article, however, will focus exclusively on a legal concept called the "term limits" rule. I will begin by giving a brief overview of the most pertinent facts, then give an explanation of the term limits rule itself, and then turn to guidance for police chiefs who are fortunate enough to enter into a contract with their municipal board.

Chief Gleason of the Village of Hamburg Police Department

had been working under a Memorandum of Understanding that originated in 2004 and was subsequently amended in 2006 and again in 2007. Both of these amendments only served to modify the original 2004 terms as to specific areas, leaving the unmodified terms intact. In May 2011, Chief Gleason received written notice from the Mayor of the Board's intent to terminate the existing Memorandum of Understanding as of May 31, 2011. Chief Gleason was then given written terms of a new agreement, which would have diminished his compensation. Chief Gleason then instituted an action for breach of contract, resulting in this decision of the Supreme Court.

As to the issue of whether the Village Board had the right to void the contract unilaterally, the court decided in favor of the Village, citing the "term limits doctrine". The Court explained that the term limits doctrine prohibits one municipal board from contractually binding a successor board in matters relating to "governance", or those matters that have been historically performed by the government. The Court further explained that law enforcement is a traditional function of the government. As is the hiring and establishment of the terms and conditions of employment of all department members, including its chief. Pursuant to a provision of the Taylor Law [CSL §201(12)], collective bargaining agreements fall within an exception to the term limits rule and are valid for their stated duration. The court noted this, then explained how Chief Gleason was a managerial employee and not represented by a union, and therefore his Memorandum of Understanding is not a collective bargaining agreement. As noted previously in this article, Chief Gleason in all likelihood would be prohibited from forming or joining a union by the Taylor Law.

Impact of the decision: What is a "successor board"?

The *Gleason* decision clearly just added more troubles upon police chiefs – and upon any non-union, higher level supervisory police personnel working under a contract. As this was an issue that could impact many other chiefs across the state, the NYSCOP Board of Governors authorized financial assistance to explore the filing of an appeal on behalf of Chief Gleason. For a variety of reasons that are not relevant to the purpose of this article, including the fact that Chief Gleason was eventually given a new, comprehensive contract, a decision was made not to file for the appeal. This does not mean, however, that this issue cannot be taken up again under the right set of circumstances.

The first thing to understand is that this was an Erie County Supreme Court case. It is technically only legally binding and precedential in that county. This does not mean that other courts cannot cite *Gleason* as persuasive, and rule accordingly. You can assume that it will certainly be cited by municipal attorneys as authorization to void existing contracts. The term limits rule in general is well established, and in some cases makes sense. For example, without it, an outgoing board could bind the municipality to multi-year contracts for professional services (i.e. municipal attorney or engineer) and force an incoming board to use them. But that is, of course, quite different than an employment contract with a civil service career employee who happened to make chief of police. But that is the term limits rule – when it is appropriately applied.

The purpose of the term limits rule was succinctly stated in *Matter of Karedes v Colella* (100 N.Y.2d 45, 760 N.Y.S.2d 84 N.Y. (2003)): "Elected officials must be free to exercise legislative and governmental powers in accordance with their own discretion and ordinarily may not do so in a manner that limits the same discretionary right of their successors to exercise those powers." This begs the question – what is a successor board? After explaining the term limits rule, the court then went on to apply it to the facts of this case. The court noted:

The record establishes that members of the Board are elected for

four-year terms, with two of the five officials having been up for re-election in 2008 and the other three having stood for re-election in 2010. Thus, all five officials who had been in office at the time of the execution of the 2007 second Amendment had been replaced or re-elected by the time of the Board's disavowal of the Memoranda of Understanding in May 2011. Under the circumstances, the 2011 Board was a successor board that was not bound by the contract as made in 2004 and amended in 2006 and 2007 by its predecessor board(s)..." (Page 19)

With only a basic understanding of the term limits rule and why it exists, applying common sense, one could reasonably conclude that the term limits rule should apply only when the majority of a board is replaced by *new* members.¹ And a quick read of the quote from the *Gleason* case above could lead you to the conclusion that is what happened in the Village of Hamburg. That is, however, not the case. In May of 2011, when notice was given to Chief Gleason of the termination of his contract, three of the five members of the 2004 board that approved his original contract were still serving on the board. In addition, four of the five existing board members in May of 2011 had been serving when the 2007 amendment was made. So while the term limits rule is established law, the manner in which it was applied to these particular facts could be surprising to many. This case stands for the proposition that the term limits rule can apply to terminate a chief's contract any time a majority of the board is merely reelected into their existing positions, and not "succeeded" by different people.

An example may help understand the significance of this holding. Assume a chief retired and, because of the repeal of GML §207-m, the next highest ranking members of the department were hesitant to take the position (this is in fact happening). In an effort to get one of the eligible candidates to take the job, the municipality's board offers to enter into a two year contract in June of that year. In November of that same year, three out of five board members are re-elected into the same positions and the other two are still in their existing terms. So there was effectively no change in the individuals serving on the board. Under the logic of the *Gleason* case, the "new" board, consisting of the same five individuals who approved the contract in June of the prior year, in January of the next year can void the existing two year contract.

The potential for abuse under the holding of *Gleason* is not something that NYSCOP or police chiefs individually can ignore. If a case arises, similar to the Village of Hamburg, where a majority of

While the term limit rule itself will not go away, police chiefs at least need to attempt to, by case law, carve out a new exception to the rule because of their unique status.

dent also clearly establishes – and this is a critical point – that such contracts are not *automatically* void, but instead are *voidable* by a “successor board”.² In other words, such contracts may be inappropriately entered into, but the new board must take affirmative action to make it void. This would normally mean the passing of a resolution authorizing it to be voided, just as is needed to enter into the agreement in the first place. While the term limit rule itself will not go away, police chiefs at least need to attempt to, by case law, carve out a new exception to the rule because of their unique status. Granted, Chief Gleason went four years under the last amendment in 2007 and none of the MOU’s provided for any expiration. In terms of employment contracts, that is admittedly a long time. But the court did not allow the disavowal of the MOU because it was of an indefinite duration. The court upheld the actions of the Village because of the term limits rule. It is the nature of case law, and the ruling of the *Gleason* case, that regardless of whether it had been four years from the MOU amendment or four months, a municipality can disavow such a contract as long as a majority of the board stood for election/re-election in the intervening period. If the board actually changes, then so be it. But if they stay the same it seems inherently unfair and inappropriate to allow the same board members to disavow a contract solely because of the intervention of an election.

Timing of contracts under the term limits doctrine

The final portion of this article will attempt to briefly provide some *basic* guidance for the timing and duration of employment contracts for chiefs, conservatively in accordance with the *Gleason* decision. All chiefs are advised to seek the assistance of an attorney prior to executing any contract.

The most critical point would be to ensure the initial term of the agreement does not exceed the first period of time where a majority of a board, after an election, begins their new term. A chief would simply need to look at the first date a “new” board would have a majority of the members up for re-election. If it is not for two years, then the contract can be for two years. If it is four, then it can be a four year duration. The contract should, however, have a fixed end period.

If, for whatever reason, you chose to have the term of the agreement extend past the first day of the term of the “new” board, the chief could seek to have the “new” board ratify the agreement, in effect making it theirs and eliminating the possibility of a later

resolution to void the agreement. As mentioned earlier, the contract in such a case is not void *per se*, but is voidable, requiring an affirmative act by the governing municipal board. This should require the passage of a resolution as the board would be taking action which would affect a contract. (see, for example, Town Law §64(6) and generally, Village Law §4-412).

This is a limited discussion of the issues involved, but in general, the key to a valid contract will depend upon when the majority of the board’s terms end and begin. If it is the January after a November election, and a majority of the board was just elected, then the contract can last as long as their terms. Once signed, they are legally bound by the provisions of the contract. On a final note, remember that these concepts do not just apply to chiefs of police. Any non-union, supervisory officer working under a contract would have the same concerns.

ABOUT THE AUTHOR: *Michael Ranalli is Chief of Police of Glenville PD in Schenectady County. He is the First Vice President of NYSACOP. A graduate of Albany Law School, Ranalli is a frequent presenter on legal issues for law enforcement officers in topics ranging from use of force, street encounters, search and seizure, and officer safety.*

¹ In fact, a review of the relevant case law, including cases cited by the Court in the *Gleason* case, indicates that is what has happened in some prior cases – a change in all or a majority of the board – with the review revealing no cases, except *Gleason*, where it was evident from the facts the board stayed the same. *Matter of Lake v. Binghamton Hous. Auth.* 130 A.D.2d 913 (3rd Dept. 1987) [only one of the original members of the board was still serving at the time of the termination of the contract]; *Matter of City of Utica Urban Renewal Agency v. Doyle*, 66 A.D.3d 1495 (4th Dept. 2009) [all board members had changed by the time of the termination]; *Center State Security Consultants, Inc. v. Syracuse Housing Authority*, 104 A.D.3d 1334 (4th Dept. 2013). In each of these cases, the court makes a point of emphasizing the fact that a majority of the board had changed.

² *Matter of Ramapo Carting Corp. v. Reisman*, 192 A.D.922 (3rd Dept. 1993); 2004 N.Y. Op. (Inf.) Att’y Gen. 8.

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Anatomy of A Homicide Investigation

**An interview with David Zack,
Cheektowaga Police Chief about the murder of Ira Watkins**



Chief David Zack,
Cheektowaga Police Dept.

BACKGROUND

On May 31, 2011 in the Cheektowaga Town Park, 19-year-old Ira Watkins was killed, shot in the chest in broad daylight with hundreds of others gathered in the park. Cheektowaga Police descended on the scene, intercepted the murder weapon and soon had a strong suspect. What transpired over the next nine months was an intensive investigation,



fraught with varying levels of cooperation, gang ties and interference. On February 22, 2012, Donte Jones was arrested and charged with shooting Watkins. On June 4, 2013, Jones was convicted of manslaughter and criminal possession of a weapon. The following story was developed from press notes provided by Cheektowaga Police and an interview with Cheektowaga Police Chief David Zack.

Donte Jones

Chief Zack described the circumstances leading up to the shooting. "It was Memorial Day weekend. Through Facebook, a bunch of kids from a local high school announced a water balloon fight at the town park. Where you would normally have about 100 people in the park, you had 400-500, the majority of which were youth. But what that social media did, some city gangs learned there was going to be a gathering. Rival gangs showed up when one group learned the other group was there, there was conflict."

Zack added, "The innocent victim, Ira Watkins, knew people on both sides and was actually trying to mediate the dispute when one of the gang members shot him point blank in the chest. The victim was trying to keep the situation calm and was shot in cold blood."

THE POLICE RESPONSE

Chief Zack noted that dispatchers had taken note of the large number of people in the park from security cameras. He added that police were on the scene quickly. "Our patrols were on scene within 30 seconds of the shots being fired. We picked up a lot of video of fleeing suspects and witnesses from the park cameras as well as our in-car cameras. From that video we were able to identify many witnesses," he said.

The Chief described the police response, "Officers stopped a group of kids – one ran. Officers gave chase. It turns out the gun that the suspect used was in the fleeing subject's book bag. So we recovered the gun within minutes and we identified the person who ran who turned out to be the shooter's brother. It was big success with respect to response time, cameras in public spaces and in-car cameras. We had a suspect, Donte Jones, age 18, and a murder weapon early on. But now it was a question of securing witnesses. When we tested for DNA on the gun we didn't get an exact match – it didn't exclude the shooter, but it wasn't an exact match, so it wasn't going to be the evidence that solved the case. What was going to solve the case were witness statements. We were never able to interrogate the suspect as he invoked his right to counsel."

"We don't get a lot of homicides in the Town of Cheektowaga, maybe 2-3 per year. Sometimes we'll go years without any," said Zack. He continued, "This case drew a considerable amount of attention because it happened in our town park where there's very few instances of trouble. It's a heavily used park that borders our city line with Buffalo. There was a considerable amount of media attention right off the bat. We knew very early on in the investigation that there were gangs involved. It was a difficult investigation in

regards to cultivating witnesses because of gang affiliations and the reluctance of people to come forward. But we trudged through it. It was about a 9-month investigation before we were able to make an arrest, but we knew our suspect within hours."

Montana Humy'Blk Jones
February 22, 2012 via mobile

REAL RECONIZE REAL & IM AS REAL AS THEY COME...MINOR SETBACK...I'LL BE HOME SOON...KILL ALL RATS #HUMYCBM TILL THE DEATH...THANKS EVERYBODY FOR THE LOVE & SUPPORT....DEATH B4 DISHONOR, LOYALTY IS A MUST #RIPDANBOP I DO IT 4 YOU !!

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Screen shot secured by police in the homicide investigation. Cheektowaga PD identified Montana Humy'Blk Jones as the social media identity used by Donte Jones.

THE INVESTIGATION

The investigation continued. Police investigators concentrated on identifying witnesses. Chief Zack said, "It was basically a question of hunting down witnesses. We knew there were over a hundred witnesses to the actual shooting. Many of them were students at Cheektowaga High School. Now it was a question of whether we could get the kids to talk. It was a tall order. We were able to get a couple of these students who did see the shooting and we felt really good about the way the investigation was going. We made the arrest. Shortly after making the arrest, we began monitoring the shooter's phone calls from the jail. In the course of that, we began to intercept calls from the shooter to students at the Cheektowaga Central School. We found out that teachers were getting on the phone and talking with the accused murderer, which really caught the attention of our investigators. While we weren't pleased, the early calls weren't going to harm the investigation."

INTERFERENCE

As Donte Jones awaited trial for murder at the Erie County Holding Center, police say he repeatedly telephoned Cheektowaga Central School students during the school day. Chief Zack said, "Students were permitted to answer his calls, sometimes during class. Some calls lasted as long as fifteen minutes."

Chief Zack described the calls and how one teacher was concerned about contact between she and Jones. "All calls that were intercepted between Jones and two teachers were received on school property during the school day, sometimes when classes were actually in session. In one instance, a student answered a call from Jones during class. The student then put Jones on speakerphone so that Jones could say hello to the students present. Rather than confiscate the student's phone as required by the school's code of conduct, the teacher borrowed the student's phone to carry on her own conversation with Jones. During that conver-

Finally, in the most shocking conversation, that same teacher told Jones that she heard from other students that another student 'snitched' on him. The teacher actually identified the student by name...

sation, Jones asked the teacher if he could send her a personal letter addressed to her at the school. The teacher told Jones he could. Days later, Jones would telephone a student at the school requesting the school's address so he could mail the letter. The student then informed Jones that the teacher wanted the letter to be addressed to the student as the teacher did not want the school to be 'asking questions'."

Zack added, "In another conversation with a different teacher, the teacher told Jones that the police asked her to report any contact she was having with Jones. The teacher then informed Jones that she sent him a package that did not include her name on it. She said that she did not want the police to find out, saying, 'we'll just do it this way, okay.' " Zack continued, "Finally, in the most shocking conversation, that same teacher told Jones that she heard from other students that another student 'snitched' on him. The teacher actually identified the student by name to a seemingly surprised Dontre Jones. She cut the call short because, she laughingly stated, 'I'm in the middle of a class right now.' " Chief Zack noted, "This is where the line was crossed. There is no question that this teacher recklessly endangered the life of a witness who also happened to be a student at the school. Jones did not ask the teacher if she had heard rumors, the teacher offered the information. We had another witness who would eventually flee the state. So two of the witnesses that we were able to develop from the high school never actually made it to the courtroom. That was when I made the decision that we were not going to let that sort of interference stand. I decided the parents of the students needed to know how the class day was being conducted, how their children's classrooms were being interrupted with calls from an accused murderer who had gang connections."

TWO INVESTIGATIONS IN JEOPARDY

Zack said, "In fact, during the course of the investigation school administrators were expressing their frustration with us that there was an arrest coming and they were in fear the shooter was still a student at the school." While there were conversations occurring between Jones and teachers, the school administration was concerned about Jones still being a student at the school. The chief continued, "So while you had the administration expressing frustration with the speed of the investigation we got faculty revealing case information to this guy which was extremely troubling. In addition, one of the teachers involved was a part-time deputy at the holding center. He began having a relationship with the shooter inside the jail. During the course of his conversations with Jones this teacher/correction officer tells Dontre Jones that there is another inmate at the holding center that has been placed on his keep-away list. Jones assumes that the reason is because he is testifying against him in the homicide when, in fact, he was involved in a separate murder investigation who would be testifying for the People in a separate murder. So now, two murder investigations are in jeopardy because of these teachers."

PRESS CONFERENCE STALLED BY LEGAL ACTION

"When I first took the matter to the school board they were outraged. They said they were going to conduct an investigation and take action" said Chief Zack. He added, "The media got wind that something was going on as they were closely following the investigation. They heard



The press conference was attended by several news media outlets, community and neighborhood representatives and law enforcement officials.

In one instance, a student answered a call from Jones during class. The student then put Jones on speakerphone so that Jones could say hello to the students present.

Rather than confiscate the student's phone as required by the school's code of conduct, the teacher borrowed the student's phone to carry on her own conversation with Jones.

that it was something involving teachers. Rather than doing a bunch of separate interviews, I decided to hold a press conference. We advised the press we were going to hold a press conference, but the teachers involved contacted lawyers and that was when the legal battle began. We made the media aware that we had recorded conversations and that we were going to play them for the public. When this became common knowledge, the attorneys began the fight to make sure those recordings were never heard. For two to three months I battled with these lawyers. The attacks became personal on me, [saying] that I was conducting a witch hunt. One attorney who was a former police officer said that he had never seen such an abuse of power in his entire professional career, but he clearly did not know what we had. For any chief out there, don't read the blogs! There was an organized blog campaign against me, so I took my own advice. My town attorney and board were very supportive, and my local officials said that this was important enough; that everyone has a right to know."

PRESS CONFERENCE MOVES FORWARD

Attorneys for the teachers attempted to have the recordings sealed but were unsuccessful. Subsequently, Chief Zack moved forward with the press conference. "Ultimately we were able to get through the legal challenges and have our day in front of the media. And what a day it was. We were able to get the U.S. Attorney and the Erie County District Attorney's office to talk about the damage of the "don't be a snitch" culture. Several members of the minority community who work in the impoverished neighborhoods were also there and talked about how that culture affects those neighborhoods. Twenty police chiefs stood behind me during the press conference where I delivered the facts of the investigation. I made a two-hour, reporter-only briefing, putting each tape in context, and then went before the cameras for another hour session. I received overwhelming support through phone calls and cards that I received, feedback through social media and comments to our officers saying, 'Tell the chief, every parent should know what's going on in the schools'. The *Buffalo News* editorial page would eventually support the move saying we were in the right to make this public. It was a win for the police department and the community. "I went through some personal anguish, a lot of frustration but in the end, I think we did the right thing", said Zack.

SUMMARY

Chief Zack reflected on the case, saying, "We were able to get a successful conviction despite the obstacles in front of us. I made a vow to my investigators, after the conviction, we would let people know what they had to endure. That's what we did." He hopes that the case provided an inside look at a major case investigation too, noting, "People get frustrated when they hear about plea bargains and light sentences. What might appear to be cut and dried, there are a lot of moving parts to these investigations. They don't always understand the obstacles we face. We felt the public needed to know – this is why the investigation took nine months. They got an inside look at the man hours, the effort and the struggle in a homicide investigation."

Dontre Jones was sentenced to 25 years in prison for his convictions on manslaughter in the first degree and criminal possession of a weapon in the second degree.

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MAGLOCLEN stresses that the *Action Response Plans* created by MAGLOCLEN are not intended to replace a comprehensive tactical response strategy for local schools. Their sole intention is to provide first-in officers with a situational awareness of crucial information, locations and layouts that the agency deems to be important.

WHAT THEY'RE SAYING

The feedback MAGLOCLEN has received from agencies who have secured these plans has been overwhelmingly positive. Detective Tim Johnson of the Town of Hamburg Police Department said about MAGLOCLEN's service, "I would like to thank you and your organization for providing the Town of Hamburg Police with the *Action Response Plans* concerning the 12 schools within our jurisdiction. The photos and diagrams will be invaluable for training and should be an asset if the need ever arises in an actual emergency. As you know, financial issues are always a priority in every agency. Although I realize that MAGLOCLEN's

cost is not a true representation of what we would have paid, it is still a substantial amount. By the savings incurred and your generosity, the Town of Hamburg was able to defer their resources into the purchase of additional firepower for our officers. MAGLOCLEN has always been and continues to be there for us when they have been called upon. I would like to thank you and your organization for the devotion and dedication to law enforcement."

**-CHIEF BRIAN KILCULLEN,
SCHENECTADY POLICE DEPT.**

The plans provide us important information to respond expeditiously and effectively to any of the schools for which an action plan has been developed.

ACTION RESPONSE PLAN

MONT PLEASANT MIDDLE SCHOOL
1121 FOREST ROAD

Contact Numbers: Principal: Chuck Abba (518) 810-4711 Main Phone (518) 370-8160 Notes: Arrivals: 7:45am - 8:35am 1st period
Head of security: Steve Warner (518) 935-5958 Lunches: Begin at 11:45am and end at 1:15pm.
There are three lunches, 30 minutes each.

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Plans. Chief Brian Kilcullen said, "The response plans developed by MAGLOCLEN for the Schenectady Police Department are an invaluable resource both for training and for an emergency response to a campus incident. The plans provide us important information to respond expeditiously and effectively to any of the schools for which an action plan has been developed. The plans, containing aerial photos of our campuses, exterior photos, floor plans, diagrams, and other critical school district information, could not have been produced had it not been for MAGLOCLEN. With the Action Response Plans, we have enhanced the level of safety and security for nearly 4,000 students, faculty and staff in our schools."

REQUESTING THE SERVICE

MAGLOCLEN member agencies interested in this service should complete the Request for Analytical Products Form which is available on MAGLOCLEN's secure site, from their monthly intelligence bulletin, The Network or from MAGLOCLEN (see agent contact at end of article). This form must accompany the floor plans, exterior

Action Response Plans created by MAGLOCLEN are not intended to replace a comprehensive tactical response strategy for local schools. Their sole intention is to provide first-in officers with a situational awareness of crucial information, locations, and layouts...

-MAGLOCLEN

photographs, and special notations in order to get your request into the queue. While MAGLOCLEN has been inundated with requests for the *Action Response Plans*, they will be completed on a first come-first served basis and co-mingled with the other criminal casework.

REQUIREMENTS

Along with the request form, agencies need to submit floor plans, exterior photographs, notations, and location information:

Floor Plans – You should provide a general floor plan for each level (floor) of the school building. Ideally, the floor plan should be clean, with minimal extraneous text, and have the rooms labeled accordingly. If you provide architectural or engineering blueprints, be aware that MAGLOCLEN will be scanning these into a drawing program, so any extraneous text or irrelevant markings will therefore be included in the final product. They have found that generic floor plans like those provided to students & faculty work best. If you have special notations, text or symbols you would like included in the final product, please make copies of the floor plans and write on those copies, not on the originals.

Exterior Photographs – The digital exterior photographs you provide should be taken far enough away from each side of the school so you can get the whole elevation in one frame. MAGLOCLEN will then crop and zoom the photographs as needed. Save all of the digital photographs to a CD and mail to MAGLOCLEN.

Notations & Locations – Over the years, MAGLOCLEN has produced dozens of *Action Response Plans* for schools throughout our 8-state region. Listed below are some examples of the types of notations and key pieces of information that have been included on some plans. Your *Action Response Plan* will be unique to your jurisdiction and specific to your school. You can let MAGLOCLEN know exactly what you would like included on the *Plan* for your school.

Notations might include the:

- Name and address of the school
- Emergency contact information for the school facility, including after-hours contacts. Name and cell phone number of Principal, Head Custodian, etc. Main phone number for the school.
- Key times of the day (student arrival/departure, start/end of school day, lunch periods, etc.)
- School's website (the public site and/or a secure site if your officers will have access to it while on scene)

Key Location Suggestions can be included in the plans and may include:

- Knox box
- Alarm panel (burglar and fire)
- Administrative office
- Security camera locations (front door, hallways, exterior, etc.)
- Security office where cameras can be viewed
- Roof hatches (are they padlocked from the inside or outside?)
- Utility shut-offs (gas, electric, water, phones, cable, etc.)
- Stairwells, elevators, etc.
- Labeling of building sides for aerial imagery (i.e.: Side A, B, C, D or 1, 2, 3, 4)
- Labeling of exterior doors (i.e.: A, B, C, D or 1, 2, 3, 4)

WHAT YOU GET

The final product MAGLOCLEN will create is either in hard copy, digital format, or both. The hard copy charts are 24" high by 36" wide, and printed on high gloss photo paper. If required, MAGLOCLEN can laminate the charts which will allow you to write on them with a grease pencil. There will be one chart, which contains the aerial imagery and a second (and third, if necessary) chart which will contain the floor plans and the exterior photographs. MAGLOCLEN can also provide a digital version of each chart in a jpg format. These files can then be shared with officers throughout the agency for use in their mobile data terminals, agency computers, and smart phones, as well as with mutual aid departments. Throughout the process the MAGLOCLEN analyst will be in contact with the requesting officer to confirm receipt of the necessary information, as well as to discuss the particulars of the request. Draft versions of the *Action Response Plans* will also be emailed for review. Once approved, the charts will be printed and shipped via UPS in a mailing tube to the requesting officer. Once completed, all hard copy materials provided to MAGLOCLEN will be returned to the requesting agency along with the final hard copy charts.

QUESTIONS

If you have questions about *Action Response Plans*, contact Steve Tori, Sr. Supervisory Intelligence Analyst, MAGLOCLEN, 140 Terry Drive, Suite 100, Newtown, PA 18940 at 800-345-1322, Ext. 1551 or by email at stori@magloclen.riss.net. Agencies with question or inquiries about other MAGLOCLEN services or membership should contact Law Enforcement Coordinator Dan Stevens (Northern New York) at dstevens@magloclen.riss.net or Law Enforcement Coordinator Ricky Smith (South New York, NYC, Long Island) at rsmith@magloclen.riss.net

ABOUT RISS AND MAGLOCLEN

Regional Information Sharing Systems® (RISS) was established almost 40 years ago and is a valuable and cost-effective program that is used and trusted by hundreds of thousands of officers and criminal justice professionals in all 50 states, the District of Columbia, U.S. territories, Australia, Canada, England, and New Zealand.

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RISS supports thousands of local, state, federal, and tribal criminal justice agencies in their efforts to successfully resolve criminal investigations and ensure officer safety. RISS consists of six regional centers and the RISS Technology Support Center. MAGLOCLEN serves the area covered by our New York State members, as well as other Middle Atlantic and Great Lake states.

RISS is congressionally funded and administered by the U.S. Department of Justice (DOJ), Bureau of Justice Assistance (BJA). BJA provides funding oversight and program management for the RISS Program. Although RISS is congressionally funded, it is locally managed.

MAGLOCLEN Contacts:

Action response plans: Steve Tori, Sr. Supervisory Intelligence Analyst, 800-345-1322 ext. 1551 or stori@magloclen.riss.net. Services/membership (Northern NY): Law Enforcement Coordinator Dan Stevens dstevens@magloclen.riss.net Services/membership (Southern NY, NYC, LI): Law Enforcement Coordinator Ricky Smith rsmith@magloclen.riss.net

Municipal Police Training Council

Curricula Updates and Model Policy Adoption

BY DEPUTY COMMISSIONER TONY PEREZ, DCJS OFFICE OF PUBLIC SAFETY

Deputy Commissioner Tony Perez announced two important curricula updates and a model policy for the recording of custodial interrogations which were recently adopted by the Municipal Police Training Council.

Curriculum Update: Basic Criminal Investigations

The Basic Criminal Investigations course received significant updates to prepare a new police investigator for the investigative challenges and crimes faced in 21st century policing. The updated curriculum holds to the course's original design; to teach new criminal investigators to solve crimes, as opposed to merely gathering facts. The course, developed by an advisory committee of police investigation professionals, consists of 67 hours of instruction comprised of 45 instructional topics and is available for law enforcement agencies to utilize.

Curriculum Update: DWI Detection and Standardized Field Sobriety Testing Course

The National Highway Traffic Safety Administration (NHTSA) periodically reviews and updates the DWI Detection and Standardized Field Sobriety Testing Course (SFST). In May, NHTSA released the 2013 Edition to ensure that front line officers receive the most up to date information to fight impaired driving. The new edition updates the statistical data on the effectiveness of the three standardized field sobriety tests and makes the manual more user-friendly.

The updated course, approved by the MPTC, is a component of the Basic Course for Police Officers and may be used as a stand-alone course for in-service officers. The new version will be distributed to SFST instructors across the state.

Model Policy: Recording of Custodial Interrogations

The MPTC occasionally adopts model policies to provide law enforcement agencies with guidance to assist them in developing their own policy and training. At the recent MPTC meeting, the Council adopted a "Recording of Custodial Interrogations Model Policy".

This model policy establishes broad guidelines for the electronic recording of suspect's statements in custodial interrogations and the

associated use, management, storage and retrieval of such recordings. The model policy was developed and reviewed by the New York State Association of Chiefs of Police, the New York State Sheriff's Association, the District Attorney's Association of New York State, the New York State Police and the New York City Police Department. It is mindful of the benefits of recordings balanced with the overwhelming public policy demands on police to solve crimes. While the guidelines within the policy endorse the practice of recording custodial interrogations, they also recognize the dynamics of police work, field operations, suspect encounters, and provides latitude for officers in conducting interrogations at times that may not lend themselves to the availability of recording equipment.

In addition to the model policy, DCJS offers an "Investigative Strategies and Skills for the Recorded Interview" online training. This training teaches the skills and strategies useful in conducting a recorded interview. It attempts to guide even the most experienced and skilled interrogator on the new "mindset" needed, as they begin recording interviews and interrogations. It also contrasts the similarities and differences between a recorded interview and the traditional non-recorded session. To access the training, go here: <http://www.criminaljustice.ny.gov/ops/training/other-recorded-interview/story.html>

If you have any questions about the content of the updated Basic Criminal Investigations material or would like a CD of the course material, or would like to request a copy of the MPTC Recording of Custodial Interrogations Model Policy, please contact Associate Training Technician (Police) Joshua Vinehout at 518-457-1595 or at joshua.vinehout@dcjs.ny.gov. You may also download the model policy or view additional MPTC model policies and guidelines on the eJusticeNY Integrated Justice Portal via accessing resources > reference library > law enforcement > MPTC.

If you have questions or concerns with respect to the DWI Detection and Standardized Field Sobriety Testing Course, please do not hesitate to contact Senior Training Technician (Police) Kevin Boehme at 518-457-3088 or at kevin.boehme@dcjs.ny.gov

FELDMAN, KRAMER & MONACO, PC
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Investigative Resources:

The Division of Field Investigation of the New York State Department of Motor Vehicles has a number of resources available to assist law enforcement in various types of cases. Document authentication, fraudulent documents, facial recognition, registration violations, in addition to LAWMAN searches for partial plate numbers and vehicle descriptors to name a few. DFI Director Owen McShane will provide an overview of the services available through DFI. Attendees will receive the DFI Law Enforcement Resource book which explains the investigative resources available to police. (law enforcement only – identification required)



Traffic Roundtable:

Law Enforcement Liaisons from the Governor's Traffic Safety Committee will speak on a variety of contemporary traffic safety issues of interest to the law enforcement community covering emerging state and national specific traffic safety priorities, enforcement strategies, and changes to GTSC grant funding programs. Ask questions about motorcycle safety and enforcement training, pedestrian safety and corridor enforcement initiatives, ARIDE to DRE training, the new NHTSA Speed Management Program, and the continued movement toward Intelligence-Led Policing and the implementation of the DDACTS (Data Driven Approaches to Crime and Traffic Safety) operation model to increase effectiveness and efficiency in the deployment of department resources. Learn about the upcoming Border-to-Border Initiative to bolster the May 2014 *Click It or Ticket* campaign through a nationwide law enforcement community partnership. If you are a grant recipient or are thinking about submitting a grant, this session will give you a comprehensive overview with the opportunity to ask questions of your state representatives.



The New York State Association of Chiefs of Police will provide Certificates of Attendance to attendees of the above sessions, a great opportunity to account for your in-service training requirements. Visit the Expo page of our website at nnychiefs.org for details and schedule along with a listing exhibitors at the Expo.



UPDATE



BY JENN O'CONNOR, STATE DIRECTOR

Big Federal Win

We thank you all for your support of the President's Strong Start for America's Children Act, which would increase funding for early learning. Because of your support through phone calls, e-mails, letters and media pieces, Congressman Hanna co-sponsored, making the legislation bi-partisan. Fight Crime members, including NYSACOP President, Chief Steven Heider, also met with Congressman Gibson to discuss his co-sponsorship and/or support of the bill. He has expressed a desire to introduce his own legislation. We anxiously await Congress's next steps.

State Budget and Policy Update

Following Governor Cuomo's mention of universal Pre-K in his State of the State address, we are looking forward to seeing what sort of investment New York State makes in the Executive Budget. In partnership with the education advocates, Fight Crime is asking for increased investments in maternal, infant and early childhood home visiting, Pre-K, child care and afterschool programs. Of the programs mentioned here, only Pre-K and the Nurse-Family Partnership (home visiting) program have received any new funding in recent years. Flat funding of the other programs has meant a decrease in services and supports to at-risk children and families.

Federal Early Learning Challenge Grant

Late last year, the Fight Crime co-chairs signed a letter to Governor Cuomo in support of the State's application for a federal Early Learning Challenge Grant. If awarded, the grant would've brought

millions in funding to New York to undertake early education initiatives. Unfortunately, New York was not successful in its application. We will explore other funding options.

Budget Hearings

We are pleased that, as of this writing, both NYSACOP's Executive Director, Chief (Retired) John Grebert and Massena's Chief of Police Timmy Currier will be testifying at February's legislative budget hearings in support of home visiting. We are working to secure Fight Crime members to testify in support of early learning, as well.



Jenn O'Connor
State Director

Chief Fowler

Syracuse Chief Frank Fowler graciously accepted our invitation to speak at the New York State Afterschool Network's *Summit on Afterschool, Summer and Expanded Learning Opportunities* on January 14th. Chief Fowler spoke about the importance of investing in afterschool programs, which help students become thriving, productive adults. He mentioned the local program he participates in, which takes youth through the criminal justice system so that they can experience firsthand what incarceration looks like. The Chief stressed that if we don't pay now, we will most certainly pay later. Pictures of the event are posted on our website and Facebook page.

Social Media

And speaking of Facebook...once again, we ask that you "like" our page and connect us to yours. This is an easy way to stay in touch and informed.

Outreach

And we are still missing the chiefs in many critical communities across New York State. If you are not yet a member, please contact us for information. Our goal is to have every city, town or village represented. There are no membership dues and your level of engagement is up to you.

Our Thanks

We could not do the work we're doing without you. Please accept our appreciation and gratitude for taking time out of your busy schedules to join us for events, submit Op-Eds, or sign letters with your colleagues. Your voices are important, respected and well-received. Kudos to our unique messengers!



Chief Frank Fowler speaks at the New York State Afterschool Network's Summit on Afterschool, Summer and Expanded Learning Opportunities.

The Debate On Preventing Wrongful Convictions



BY CHIEF MARGARET E. RYAN, DRYDEN POLICE DEPT.

As quoted from a Justice Task Force (JTF) recommendation release, "The New York State Justice Task Force was convened on May 1, 2009 by New York Court of Appeals Chief Judge Jonathan Lippman. Its mission is to eradicate the systemic and individual harms caused by wrongful convictions and to promote public safety by examining the causes of wrongful convictions and recommending reforms to safeguard against any such convictions in the future. Because it is a permanent task force, it is charged not only with the task of implementing reforms, but monitoring their effectiveness as well. Task Force members include prosecutors, defense attorneys, judges, police chiefs, legal scholars, legislative representatives, executive branch officials, forensic experts and victims' advocates. The differing institutional perspectives of Task Force members allow for thorough consideration of the complex challenges presented by the occurrences of wrongful convictions and the evaluation of recommendations to prevent them in the future, while also remaining mindful of the need to maintain public safety."

During the JTF Forensic Subcommittee review of biological evidence within the criminal justice system, the topic of disclosure and discovery was examined. The subcommittee considered whether changes to the Criminal Procedure Law should be made governing

a defendant's right to discovery and the Discovery Subcommittee was introduced. Timing of extrajudicial discovery, automatic versus demand discovery, timing of civilian witness and law enforcement witness identification, definitions of identifying civilian and law enforcement information, witness integrity, witness safety, nature of witness statements and the ability to redact all of the above have been part of the discussions. The full JTF met in December and again in January to vote on these discovery issues.

Although a formal statement from the JTF will outline the issue in its entirety once the voting is completed, some of the voting outcomes are as follows: After an initial 3 way split vote, a re-vote favored that certain categories of discovery should be provided automatically, without a request by the defendant or prosecutor, and certain categories of discovery should be provided upon request. The New York State Association of Chiefs of Police (NYSACOP) was one of three votes against the timing of discovery. The majority voted that discovery should proceed in stages, with certain materials provided to the defendant within a specified number of days tied to a specific event or date. For example, materials, statements, or tangible objects, may be required to be provided within X days after arraignment. The majority of the voting favored accelerated discovery for civilian witness identification 30 days before the first scheduled trial date after all motion practice is complete and 90 days prior for law enforcement witness identifying information. Although the JTF as a whole is in favor of enhanced penalties for witness intimidation and tampering, there is a complete split on the details of those enhancements.

Several things are apparent. First, the make-up of the JTF is 22 voting members, one of which is NYSACOP and one of which is JTF permanent Task Force member Ray Kelly, former Commissioner of NYPD. No other sworn law enforcement agency or group is represented during the votes. Second, it is clear that New York State encompasses a large area in addition to a large number of law enforcement agencies, judges, prosecutors and defense attorneys and practices across the state are not uniform. Lastly, of the 22 voting members in the room, there is a large amount of discussion that continued throughout the last two full Task Force voting meetings - discussion that needs to continue, regarding discovery reforms in New York State. The decisions made by the JTF have potential consequences far beyond the JTF as it may redefine how we interact with our community members and how community members interact with us. More information may be turned over to the defense much earlier than current laws mandate. More protective orders may be drafted. As NYSACOP President Chief Steve Heider said in the December *Chief's Chronicle*, "All great things typically start at the local level."



TRAINING: Click "Podcast" at nycchiefs.org

Meet the IACP Candidates

Two Vying for 4th Vice President

Louis M. Dekmar, Chief of Police, LaGrange, Georgia



Chief Louis Dekmar

to over 300, I have always tried my best to meet those requirements.

My career has provided me numerous occasions to serve in leadership positions in both the state and national level. I am a life member of IACP, having served on the Police Image and Ethics Committee and presently on the Private Sector Liaison Committee. For the last decade, I have been the IACP's appointed designee for the Commission on Accreditation for Law Enforcement Agencies, serving as its Chair/President for the past five years. In addition, I assisted the IACP in developing police leadership training and I have presented numerous training seminars, both nationally and internationally.

As the Past President of the Georgia Association of Chiefs of Police, I was the spokesperson for its over 550 police chiefs in a variety of state and national forums. I am a member of the National Organization of Black Law Enforcement Executives and of the FBI National Academy Associates and FBI LEEDS.

Like many of you, I have received a number of honors and recognitions, but by far the greatest and most humbling honor that I will ever receive is your support and vote for me as your IACP Fourth Vice President. Visit my website at www.dekmar2014.com and join me in Orlando this October.

I offer my 36 years of experience as a police officer, including 22 years as a police chief, to the membership of the International Association of Chiefs of Police (IACP) as a candidate for 4th Vice President. During my police career I have learned how important it is for law enforcement professionals to have confident leaders with clear vision and the highest degree of personal and professional integrity. As a police officer, investigator, detective, division commander and police chief in agencies ranging from 12 officers

Paul Cell, Chief of Police, Montclair State University Police Department

It is an honor to address my colleagues and neighbors in the New York State Association of Chiefs of Police as a candidate for the 4th Vice President of the International Association of Chiefs of Police.

As a chief since 2001, I understand the importance of our state associations and know their success is based on active and visionary leadership. Currently serving as the President of the NJ State Association of Chiefs of Police, IACP Executive Committee Member and SACOP Representative, I believe I have exhibited those leadership qualities necessary to represent you as Vice President of the IACP.

My vision for the IACP is that, as a team, we can enhance the hard work of the association to ensure that membership is more than simply a card and a conference, while keeping the focus at all times on service to our core membership – the Chief of Police. I would be honored to serve as your advocate in this association by providing an open line of communication in addressing your needs and concerns at the executive level of the IACP. I want to take this opportunity to thank all the retired chiefs for paving the way, all active chiefs for standing their ground and all associate members for the support you provide. I believe in you and in what we do. I hope you will endorse me as your state's candidate and vote CELL in Orlando this October.

Learn more about me at www.paulcelliacp2014.com



Chief Paul Cell

Member Directory, Resources & Policies at nycchiefs.org

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BlueLine

A new professional network for law enforcement

“The continuing struggle in law enforcement is to find better ways to communicate with each other,” says Bill Bratton, former Chief of the Los Angeles Police Department, one-time Commissioner of the Boston Police Department and who recently returned to be Commissioner of NYPD. Thanks to Bratton, there is now a solution to this struggle: BlueLine, the first online professional network built exclusively for law enforcement.

Founded by Bratton and two former colleagues from the Kroll Security Group, BlueLine is a free networking platform that creates opportunities for law enforcement members to connect, collaborate, share insights, and learn from one another. Unlike other networking platforms, BlueLine is built for the exclusive use of law enforcement. Authentication hurdles are in place to ensure that only sworn and civilian employees of US-based agencies are allowed access. (Sworn employees of any agency and civilian employees of agencies that focus primarily on law enforcement can become members of BlueLine.)

“We’re not looking to be Facebook for cops,” explains Bratton. “This is not a site designed to share family photos or stories.” With the entire membership coming from the law enforcement family, BlueLine is a natural place to share tips on policing strategies, ask about new technology, exchange recommendations on policing gear, and learn about developments in the law.

BlueLine launched at the International Association of Chiefs of Police Conference in October 2013. Since then, thousands of law enforcement personnel – from every state in the country, all different ranks, and a range of local, state, and federal agencies – have registered and started using the site. “This is a site that was built *for* cops, and it will be developed *by* cops,” says Bratton. The platform provides the opportunity to connect with officers from around the country and to join relevant regional or topical groups. Members have the opportunity to create groups, invite people to join, and post content. Knowing that even among the



law enforcement family, levels of privacy are desired, members can select whether the groups they create are open to all BlueLine members, limited to members who are invited, or invisible to everyone except members of that group.

Uniquely, BlueLine offers members secure video conferencing with up to 12 users at a time. Members are taking advantage of this capability and initiating new regional video-calls aimed at sharing information or cutting down on in-person meetings (and therefore eliminating the travel time) and holding the meetings through video call on the BlueLine platform. Chief Dean Esserman from New Haven, Connecticut, immediately saw the benefit of this platform. Seeking to enhance the amount of information sharing among the five major city chiefs in his state, Chief Esserman has initiated a new, standing video call on BlueLine. Each month, the chiefs connect by video on BlueLine and share information about recent events and trends.

To become a member of BlueLine and join this free professional network, visit www.bluelineconnect.com. Your email address is used to verify your status as an active law enforcement officer. If your email address is not identifiable as one dedicated for use by a law enforcement agency or if you have any questions or seek additional information, contact Alison Shames, BlueLine Research Director, at ashames@brattontech.com or 917-831-4562.

OBITUARY

Earl M. Macholl, Jr. (Former Camillus Police Chief)

February 2, 1946 - December 9, 2013

Earl M. Macholl, Jr., 67, of Baldwinsville, passed away at University Hospital. A lifetime resident of the Syracuse area, he was a graduate of Marcellus High School and Onondaga Community College. He was a Vietnam Army veteran and member of the Vietnam Veterans of America. Earl retired in 1999 as police chief after 26 years with the Town of Camillus Police Department.

He loved spending time with his family and enjoyed watching football and was an avid NASCAR fan.

Earl was predeceased by his sister, Ellen Bradshaw in 2012; and brother, Edward in 2011. Surviving are his wife of 48

years, the former Patricia O’Connor; sons, Brian (Dawn) of Camillus, Kevin (Tammy) of Rivera Beach, Florida, Timothy (Danielle) of Camillus and Dennis (Shena) of Constantia; grandchildren, Amanda, Alexandra, Mariah, Kevin, Joshua, John, Michael, Archer, Thomas and Bowen; and several nieces and nephews.

In lieu of flowers, contributions may be made to Vietnam Veterans of America, CNY Chapter 103, P.O. Box 675, Liverpool, NY 13088.

(Buranich Funeral Home, Liverpool, New York)

Chief Biasotti Appointed to IACP Committee

Committee to Review Impact of Mental Illness on Crime and Safety

Chief Michael Biasotti, Immediate Past President of the New York State Association of Chiefs of Police, has been appointed by International Association of Chiefs of Police (IACP) President Yost Zakhary to serve on the Advisory Committee to review all aspects of suspect and offender mental health. The IACP initiative is called *Mental Health of Arrestees and How It Impacts Our Officers*. President Zakhary said, “Around the globe, our officers continue to experience interactions with people who have mental illnesses, are in crisis, are undergoing mental health treatment, are under an emergency detention order or who are suicidal. Failure to provide appropriate care to those with mental illness can lead to lives of confusion, frustration and anger. Tragically, these situations can lead to incidents which result in the loss of their lives and others. It is truly my belief that this also falls into what we strongly support which is officer safety.”

Chief Biasotti said, “It is my hope to be able to influence some change within law enforcement at a national level. I would like to cultivate examples of how mental health services are coordinated in other countries. We need to look for better ways at controlling volatile behavior, while balancing individual rights and dignity and enhancing public safety.” Biasotti has testified on the topic



**Chief Yost Zakhary,
President IACP**

To get a handle on the problem requires all disciplines to come together: psychiatry, inpatient treatment, courts, advocates and police. No one agency can attack the issues that face us.

**— CHIEF MICHAEL BIASOTTI,
NYSACOP IMM. PAST PRESIDENT**

Failure to provide appropriate care to those with mental illness can lead to lives of confusion, frustration and anger.

— CHIEF YOST ZAKHARY, IACP PRESIDENT

of Assisted Outpatient Treatment and his Master's thesis was on the topic of how the severely mentally disturbed have been deinstitutionalized to the point that law enforcement is the agency of last resort when certain persons are in crisis. “There have been many times when we look at a homicide or mass shooting and say, ‘that case fell through the cracks’. To get a handle on the problem requires all disciplines to come together: psychiatry, inpatient treatment, courts, advocates and police. No one agency can attack the issues that face us.”

Chief Biasotti and his wife, Barbara, have been advocates for better mental health services, including closing loopholes in Kendra's Law, which provides for Assisted Outpatient Treatment in New York State. President Zakhary noted that in addition to reviewing offender and suspect mental health issues, they will also review the difficulties police face when they encounter a person with mental illness that negatively affects appropriate behavior, or results in violent behavior that endangers the individual, the officer and the public.



**Chief Michael Biasotti, Imm.
Past President
NYSACOP**



**CONSIDER SHARING YOUR
RESEARCH PROJECTS AND THESES
WITH COLLEAGUES**

editor@nyciefs.org



ALBANY LAW SCHOOL

Albany Law School Students File Amicus Brief in Supreme Court Representing Association on Domestic Violence Law

After drafting and successfully filing an amicus curiae brief for the U.S. Supreme Court case *United States v. Castleman*, Mary Armistead (Albany Law School Class of 2014) and Jamie Dughi (Class of 2015) have been invited by the Supreme Court Marshal's Office to travel to Washington, D.C., to observe oral arguments on January 15, 2014.¹

With the assistance of Professor Sarah Rogerson and Professor

Section 921(a)(33)(A) of Title 18 defines a “misdemeanor crime of domestic violence” to include any offense that:

- (i) is a misdemeanor under Federal, State, or Tribal law; and*
- (ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.*

Ray Brescia, the two students completed the brief on behalf of the New York State Association of Chiefs of Police through their work as student interns in the Family Violence Litigation Clinic and Immigration Project. Their work presents a public safety argument for restricting abusers' access to firearms by highlighting the connection between domestic violence, firearms and police officer safety.¹

At issue in *United States v. Castleman* is whether or not the respondent's conviction in Tennessee for misdemeanor domestic assault by intentionally or knowingly causing bodily injury to the mother of his child qualifies as a conviction for a “misdemeanor crime of domestic violence.” The case has significant implications for federal gun restrictions for abusers convicted of misdemeanor domestic violence. It also impacts hiring standards for police chiefs, who currently have the discretion to exclude convicted applicants from the force.¹

The brief states the position and interest of the Association, citing, “*Amici* have a strong interest in this case based on their familiarity with the training of officers and officers’ purposes in responding to domestic violence calls. *Amici* are in a position to assist the Court in this case because its importance is not limited to the parties. The outcome of the case will affect all law enforcement agencies across their State and across the country. Victims of domestic abusers legitimately demand effective law enforcement and look to the *Amici* to provide protection from abusers.”²

Professor Rogerson and Professor Brescia served as counsel of record and collaborated with the students on the brief, providing in-depth feedback on the drafts and coordinating the logistics and procedural details.¹

¹Albany Law School News, <http://www.albanylaw.edu/about-news/current/Pages/Clinic-Students-Submit-Amicus-Brief-for-Supreme-Court-Domestic-Violence-Case.aspx>

²Amicus curiae brief on file with the United States Supreme Court

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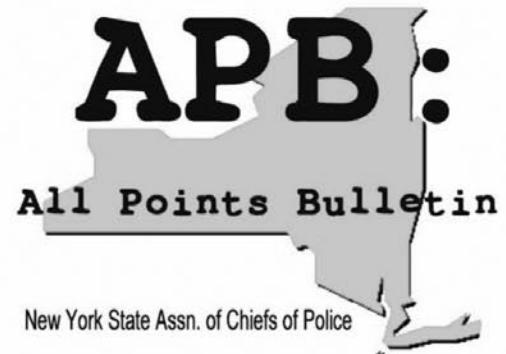
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1 Use of Force	6 min	Nov 18, 2012	Officer Safety and Risk Management
2 Building Searches	4 min	Nov 18, 2012	Officer Safety and Risk Management
3 Foot Pursuits	4 min	Nov 18, 2012	Officer Safety and Risk Management
4 Off Duty Arrests	3 min	Nov 18, 2012	Officer Safety and Risk Management
5 Executing Warrants	4 min	Nov 18, 2012	Officer Safety and Risk Management
6 Arrest Situations	4 min	Nov 18, 2012	Officer Safety and Risk Management
7 Motor Vehicle Stops	4 min	Nov 18, 2012	Officer Safety and Risk Management
8 Police Vehicle Crashes	4 min	Nov 18, 2012	Officer Safety and Risk Management
9 Body Armor	4 min	Nov 18, 2012	Officer Safety and Risk Management
10 Ambushes and Surprise Attacks	5 min	Nov 18, 2012	Officer Safety and Risk Management
11 Primary Circumstances of Officer Deaths: Introduction	5 min	Nov 18, 2012	Officer Safety and Risk Management
12 Intellectual Disabilities	11 min	Nov 18, 2012	Disability Awareness for First Responders
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14 Disability Awareness for Police - Tips	5 min	Nov 1, 2012	Disability Awareness for First Responders
15 Disability Awareness for Police	21 min	Nov 1, 2012	Disability Awareness for First Responders
16 Nighttime Belt Enforcement	2 min	Jun 18, 2012	Resources for nighttime seat belt enforcement.
17 Detecting Impaired Drivers - After The Stop	3 min	Jun 18, 2012	Tips for detecting impaired drivers after the stop.
18 Detecting Impaired Drivers	9 min	Jun 18, 2012	Tips for detecting impaired drivers before the stop.
19 Raising Kids	8 min	Apr 24, 2012	Kinship care involves grandparents and other relatives who ...
20 Detecting Impaired Motorcyclists	11 min	Apr 7, 2012	Learn the cues to help determine the probability of impaire...
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The NYS Division of Criminal Justice Services Office of Public Safety is pleased to announce the availability of a Standardized Field Sobriety Testing (SFST) Refresher course. This National Highway Traffic Safety Administration (NHTSA) program is designed to update law enforcement officers who are currently certified in DWI Detection and Standardized Field Sobriety Testing using proper procedures and protocols requisite within the NHTSA DWI Detection and Standardized Field Sobriety Testing program. All officers currently certified in DWI Detection and SFST are strongly encouraged to attend. This course will consist of classroom presentation and practical exercises. Mandatory prerequisites for attending this training are listed below:

Prerequisite: Previous successful completion of the 21 hour DWI Detection and Standardized Field Sobriety Testing Course.

It is strongly recommended that officers attending upcoming ARIDE courses attend this training. Failing the SFST Proficiency Examination may be cause for dismissal from ARIDE courses.

This four (4) hour training course will be held at the follow-

ing locations:

Suffolk County:	March 4, 2014
Niagara County:	April 1, 2014
Clinton County:	April 29, 2014
Schenectady County:	May 6, 2014

Please note that additional DWI Detection and SFST courses may be announced later in the year.

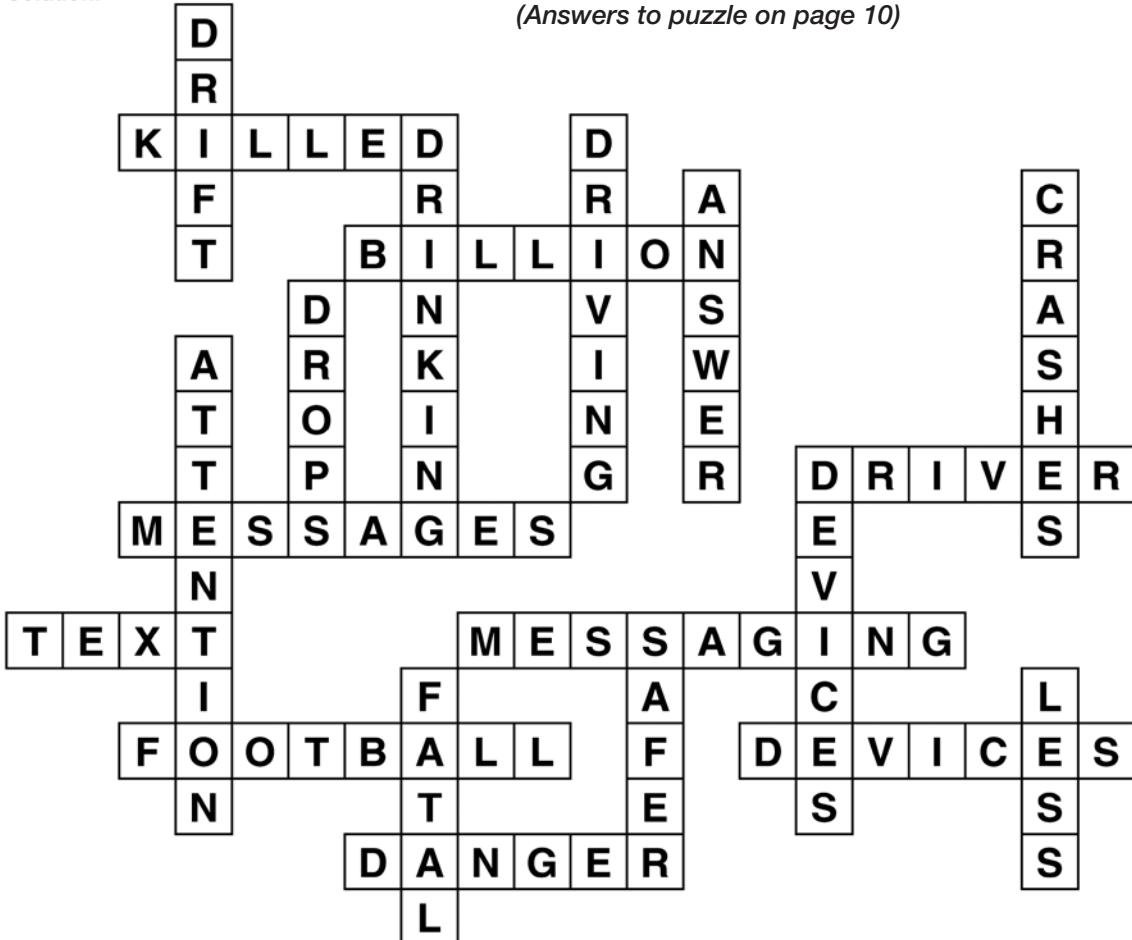
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Directions to the training site and additional course information will be included in your confirmation notice. If you have any questions about the training, please contact Kevin Boehme at 518-457-3088 or via email at kevin.boehme@dcjs.ny.gov.

DISTRACTED DRIVING - TEST YOUR KNOWLEDGE

Solution:

(Answers to puzzle on page 10)





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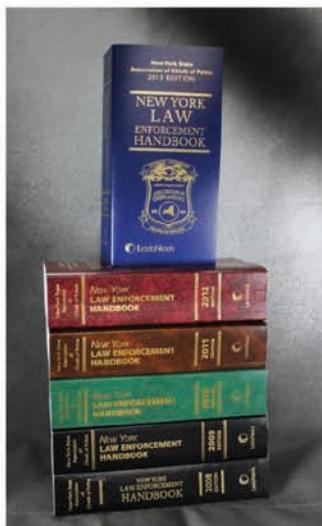
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